

Cooperatives are allowed to contract with a non-member vessel to fish for the cooperative for a certain period of time, or to harvest a certain tonnage of pollock. The contract form also must indicate how any harvest overages by the contract vessel will be treated. A vessel contract form is not valid unless it is signed by the cooperative's designated representative, the contracted vessel owner, and the designated representative for the vessel's home cooperative. These signatures are necessary to ensure that all affected parties are in agreement as to the terms of the contract and to avoid any disputes about how a contract vessel's catch is to be attributed.

Fishing for multiple cooperatives. A vessel owner may enter into simultaneous contracts with more than one cooperative. This may occur, for example, at the end of a fishing season when several cooperatives have very small remaining allocations and it is more cost-effective for a single vessel to conduct "mop up" operations for several cooperatives at one time than for each individual cooperative to send a separate vessel to harvest the small remaining tonnages of pollock. If a vessel owner wishes to enter into contracts with more than one cooperative at the same time, then all the affected cooperatives are required to submit their contract applications together, and the contract applications must specify how the contracted vessel's harvest and any overages are to be assigned among the various cooperatives.

Recordkeeping and reporting requirements. Inshore processors are currently required to report in their shoreside electronic delivery reports the name and co-op code of each vessel that makes a delivery to that processor. Under this final rule, this requirement does not change. However, each vessel operator must correctly identify for the processor, the co-op code that should be assigned to each delivery. In the event that a vessel is making a single delivery on behalf of more than one cooperative, the processor must submit a separate delivery report for each cooperative that identifies the tonnage of pollock that is assigned to each cooperative. Cooperatives must report any contracted landings by non-member vessels on their weekly reports to NMFS. Cooperatives also must provide a summary of all contracted fishing by non-member vessels in their preliminary and final annual reports.

Liability. For the purpose of liability, a non-member vessel under contract to a cooperative is considered to be a member of the cooperative for the

duration of the terms of the contract. This means that the members of the cooperative may be held jointly and severally liable under § 679.61 for certain fishing violations made by the operator of the contracted vessel.

Effects of contract fishing on future qualification for membership. Under this final rule, BSAI pollock landings made by a vessel while under contract to another cooperative would not be used to determine the vessel's qualification for future membership in a cooperative. Only landings attributed to the vessel's home cooperative will be used to determine which cooperative the vessel is eligible to join in a future year. The purpose of this measure is to prevent contracted fishing activity from affecting which cooperative a vessel is eligible to join in the subsequent fishing year.

Response to Comments

A Notice of Availability of Amendment 69 was published in the **Federal Register** on July 5, 2002 (67 FR 44794), inviting comments on the FMP amendment through September 3, 2002. NMFS received two comment letters on Amendment 69, both of which supported approval of the Amendment. On October 3, 2002, after consideration of the comments received, the Secretary approve Amendment 69 in its entirety.

A proposed rule to implement Amendment 69 was published in the **Federal Register** on August 23, 2002 (67 FR 54610), with comments invited through October 7, 2002. NMFS received two comment letters on the proposed rule which are summarized in the following three comments:

Comment 1: The commenters believe it is important to note that Amendment 69 would actually relax regulatory requirements on participants in the fisheries to allow more operational flexibility. This flexibility is very important to independently-owned catcher vessels, which in many cases do not have adequate options in their own cooperatives. Amendment 69 would provide that flexibility.

Response: The Final Regulatory Flexibility Analysis prepared for Amendment 69 came to the same conclusion.

Comment 2: The commenters believe it is important to note that this amendment has been supported by substantially all affected harvesters and processors throughout the Council process. Furthermore, throughout the entire Council process no opposition to this action arose.

Response: NMFS has not received any indication of opposition to this action.

Comment 3: The commenters noted that two major goals of the AFA were the rationalization and de-capitalization of the Bering Sea harvesting fleet. Amendment 69 will further both goals by providing inshore cooperatives with necessary flexibility and the ability to employ the optimum number and type of harvesting vessels.

Response. Comment noted.

Changes from the Proposed Rule

The structure and numbering of the paragraphs in this final rule were revised from the supplemental proposed rule published on August 23, 2002 (67 FR 54610). These changes were necessary to ensure that the paragraph numbering in this final rule is consistent with the final rule implementing AFA-related Amendments 61/61/13/8 (67 FR 79692, December 30, 2002), which this final rule amends. No other changes were made from the supplemental proposed rule.

Classification

The Administrator, Alaska Region, NMFS, determined that Amendment 69 is necessary for the conservation and management of the BSAI pollock fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), which describes the impact this final rule may have on small entities. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA) and its findings. A copy of the FRFA is available from NMFS (see **ADDRESSES**). No comments on the IRFA were received during the comment period that would result in findings that differ from those previously described. A description of the impacts of this action on small entities was provided in the proposed rule (67 FR 54610, August 23, 2002). In summary, this final rule modifies an existing form to allow a cooperative to identify a non-member vessel with which the cooperative intends to contract. None of the cooperatives impacted by this final rule are small entities. NMFS is aware of no existing relevant Federal rules which duplicate, overlap, or conflict with this final rule.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under Control Number 0648-0401.