TABLE 1.—COST ESTIMATES FOR INERT INGREDIENTS TOLERANCE PETITIONED ACTIONS

	A	B	C	D	E	F	G	H	I	J	K	L
	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	OPP Total FTEs/Tol.	$/FTE	Overhead rate	Total Cost/Tol.	Tols. per year	Total Annual Cost	Adjm't factor	Calculated Fee
	RD	HED	EFED	SRRD								
Inert Tolerance	0.08	0.13	0.04	0.00	0.25	89,000	1.57	$57,182.00	1	$57,182.00	1.24	$70,905.68
Inert Exemption w/ Science rev.	0.04	0.04	0.01	0.00	0.09	89,000	1.57	$20,585.70	2	$41,171.40	1.24	$25,526.27
Inert Exemption w/min. Science rev.	0.01	0.00	0.00	0.00	0.01	89,000	1.57	$2,287.30	6	$13,723.80	1.24	$2,836.25
TOTAL ...									9	$112,077.20		

TABLE 2.—COSTS ESTIMATES FOR INERT INGREDIENT TOLERANCE REASSESSMENT ACTIONS

	M	N	O	P	Q	R	S	T	U	V	W	X
	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	FTEs/Tol./ Division	OPP Total FTEs/Tol.	$/FTE	Over-head rate	Total Cost/Tol.	Tols. per year [1]	Total Annual Cost	Adjm't factor	Calculated Fee
	RD	HED	EFED	SRRD								
Inert Tolerance	0.06	0.12	0.02	0.30	0.50	89,000	2.18	$141,510.00	1	$141,510.00	1.29	$182,547.90
Inert Exemption w/ Science rev.	0.04	0.04	0.01	0.08	0.17	89,000	2.18	$48,113.40	230	$11,066,082.00	1.29	$62,066.29
Inert Exemption w/min. Science rev.	0.01	0.00	0.00	0.00	0.01	89,000	2.18	$2,830.20	26	73,585.20	1.29	$3,650.95
TOTAL									257	$11,281,177.20		

[1] Projected estimates for the years 2003 through 2006.

VI. Do Any Regulatory Assessment Requirements Apply to this Action?

Yes. This action discusses and requests comments on additional data and/or information related to a proposed rule that was previously published in the **Federal Register** on June 9, 1999 (64 FR 31039) (FRL–6028–2). For information about the applicability of the regulatory assessment requirements to the proposed rule and this supplemental proposal, please refer to the discussion in Unit VII of that document.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 17, 2000.

Susan H. Wayland,

Acting Assistant Administrator Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 00–18646 Filed 7–21–00; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF DEFENSE

48 CFR Part 215

[DFARS Case 2000–D018]

Defense Federal Acquisition Regulation Supplement; Changes to Profit Policy

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to make changes to DoD profit policy that would reduce and eventually eliminate emphasis on facilities investment, increase emphasis on performance risk, and encourage contractor cost efficiency.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before September 22, 2000, to be considered in the formation of the final rule.

ADDRESSES: Interested parties should submit written comments on the proposed rule to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD (AT&L) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted via the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 2000–D018 in all correspondence related to this proposed rule. E-mail correspondense should cite DFARS Case 2000–D018 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0288.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes amendments to the profit policy in DFARS Subpart 215.4. The existing structure of DoD profit policy was established as a result of the report published in 1985 on the Defense Financial and Investment Review (DFAIR). Since 1985, the defense industry has downsized and consolidated due to substantial reductions in the defense budget. While a key DFAIR objective was to encourage defense contractors to invest in productivity-enhancing facilities, the defense industry now has excess capacity and under-utilized facilities. In this environment, rewarding contractors for investing is counter-productive and acts as a disincentive to the further rationalization of the defense industry.

The primary purpose of this rule is to reduce and, over time, eliminate facilities invesment as a factor in establishing profit objectives on sole-source, negotiated contracts. The changes in the rule include—

- Adding general and administrative expense to the cost base used to establish profit objectives.
- Reducing the values assigned to facilties capital investment by 50 percent.
- Offsetting these changes by increasing the values for performance risk by 1 percentage point and decreasing the values for contract type risk by 0.5 percentage point.

• Adding a special factor for cost efficiency to encourage cost reduction efforts.

Two years after the date this rule becomes effective, DoD will eliminate buildings as a factor used to establish profit objectves and will reduce the value of equipment by 50 percnet. This will be offset by an increase to performance risk values of 1 percentage point.

Four years after the date this rule becomes effective, DoD will eliminate facilities capital employed as a factor used to establish profit objectives and will offset this elimination with another 1 percentage point increase to performance risk values.

Excluding the addition of the special cost efficiency factor, these changes have been developed with the objective of reorienting profit incentives from facilities investment to contract performance risk factors without causing a significant impact to overall profit levels on DoD contracts. However, contracting officers will be able to use the special cost efficiency factor to reward companies that undertake meaningful efforts to reduce contract costs with additional profit not available under the current profit guidelines.

In addition to these changes, the rule proposes a number of other clarifying and editorial amendments and includes changes proposed under DFARS Case 2000–D300, Profit Incentives to Produce Innovative New Technologies, published at 65 FR 32066 on May 22, 2000.

This rule was not subject to Office of Management and Budget review under Executive order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are below $500,000, are based on adequate price competition, or are for commercial items, and do not require submission of cost or pricing data. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2000–D018.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information colelction requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 215

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 215 as follows:

1. The authority citation for 48 CFR Part 215 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 215—CONTRACTING BY NEGOTIATION

215.404–4 [Amended]

2. Section 215.404–4 is amended by removing paragraph (c)(2)(C)*(1)(i)* and redesignating paragraphs (c)(2)(C)*(1)(ii)* through *(iv)* as paragraphs (c)(2)(C)*(1)(i)* through *(iii),* respectively.

3. Sections 215.404–71–1 and 215.404–71–2 are revised to read as follows:

215.404–71–1 General.

(a) The weighted guidelines method focuses on the following profit factors:

(1) Performance risk;

(2) Contract type risk;

(3) Facilities capital employed (through September 30, 2004); and

(4) Cost efficiency.

(b) The contracting officer assigns values to each profit factor; the value multiplied by the base results in the profit objective for that factor. Except for the cost efficiency special factor, each profit factor has a normal value and a designated range of values. The normal value is representative of average conditions on the prospective contract when compared to all goods and services acquired by DoD. The designated range provides values based on above normal or below normal conditions. In the price negotiation documentation, the contracting officer need not explain assignment of the normal value, but should address conditions that justify assignment of other than the normal value. The cost efficiency special factor has no normal value. The contracting officer must exercise sound business judgment in selecting a value when this special factor is used (see 215.404–71–5).

215.404–71–2 Performance risk.

(a) *Description.* This profit factor addresses the contractor's degree of risk in fulfilling the contract requirements. The factor consists of two parts:

(1) Technical—the technical uncertainties of performance.

(2) Mangement/cost control—the degree of management effort necessary to—

(i) Ensure that contract requirements are met; and

(ii) Reduce and control costs.

(b) *Determination.* The following extract from the DD Form 1547 is annotated to describe the process.

Item and contractor risk factors	Assigned weighting	Assigned value	Base (item 20)	Profit objective
21. Technical	(1)	(2)	N/A	N/A
22. Management/Cost Control	(1)	(2)	N/A	N/A
23. Reserved.				
24. Performance Risk (Composite)	N/A	(3)	(4)	(5)

(1) Assign a weight (percentage) to each element according to its input to the total performance risk. The total of the two weights equals 100 percent.

(2) Select a value for each element from the list in paragraph (c) of this subsection using the evaluation criteria in paragraphs (d) and (e) of this subsection.

(3) Compute the composite as shown in the following example:

	Assigned weighting (percent)	Assigned value (percent)	Weighted value (percent)
Technical	60	5.0	3.0
Management/Cost Control	40	4.0	1.6
Composite Value	100		4.6

(4) Insert the amount from Block 20 of the DD Form 1547. Block 20 is total contract costs, excluding facilities capital cost of money.

(5) Multiply (3) by (4).

(c) *Values: Normal and designated ranges.*

	Normal value (percent)	Designated range (percent)
Through September 30, 2002:		
Standard	5	3 to 7.
Alternate	6	4 to 8.
Technology Incentive	9	7 to 11.
October 1, 2002—September 30, 2004:		
Standard	6	4 to 8.
Technology Incentive	10	8 to 12.
After September 30, 2004:		
Standard	7	5 to 9.
Technology Incentive	11	9 to 13.

(1) *Standard.* The standard designated range should apply to most contracts.

(2) *Alternate.* Through September 30, 2002, contracting officers may use the alternate designated range for research and development and service contractors when these contractors require relatively low capital investment in buildings and equipment when compared to the defense industry overall. If the alternate designated range is used, do not give any profit for facilities capital employed (see 215.404–71–4(c)(3)).

(3) *Technology incentive.* For the technical factor only, contracting officers may use the technology incentive range for acquisitions that include development or production of innovative new technologies.

(d) *Evaluation criteria for technical.*

(1) Review the contract requirements and focus on the critical performance elements in the statement of work or specifications. Factors to consider include—

(i) Technology being applied or developed by the contractor;

(ii) Technical complexity;

(iii) Program maturity;

(iv) Performance specifications and tolerances;

(v) Delivery schedule; and

(vi) Extent of a warranty or guarantee.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value in those cases where there is a substantial technical risk. Indicators are—

(A) Items are being manufactured using specifications with stringent tolerance limits;

(B) The efforts require highly skilled personnel or require the use of state-of-the-art machinery;

(C) The services and analytical efforts are extremely important to the Government and must be performed to exacting standards;

(D) The contractor's independent development and investment has reduced the Government's risk or cost;

(E) The contractor has accepted an accelerated delivery schedule to meet DoD requirements; or

(F) The contractor has assumed additional risk through warranty provisions.

(ii) Extremely complex, vital efforts to overcome difficult technical obstacles that require personnel with exceptional abilities, experience, and professional credentials may justify a value significantly above normal.

(iii) The following may justify a maximum value:

(A) Development or initial production of a new item, particularly if performance or quality specifications are tight; or

(B) A high degree of development or production concurrency.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value in those cases where the technical risk is low.

Indicators are—

(A) Requirements are relatively simple;

(B) Technology is not complex;

(C) Efforts do not require highly skilled personnel;

(D) Efforts are routine;

(E) Programs are mature; or

(F) Acquisition is a follow-on effort or a repetitive type acquisition.

(ii) The contracting officer may assign a value significantly below normal for—

(A) Routine services;

(B) Production of simple items;

(C) Rote entry or routine integration of Government-furnished information; or

(D) Simple operations with Government-furnished property.

(4) *Technology incentive range.*

(i) The contracting officer may assign values within the technology incentive range when contract performance includes the introduction of new, significant technological innovation. Use the technology incentive range only for the most innovative contract efforts. Innovation may be in the form of—

(A) Development or application of new technology that fundamentally changes the characteristics of an existing product or system and that results in increased technical performance, improved reliability, or reduced costs; or

(B) New products or systems that contain significant technological advances over the products or systems they are replacing.

(ii) When selecting a value within the technology incentive range, the contracting officer should consider the relative value of the proposed innovation to the acquisition as a whole. When the innovation represents a minor benefit, the contracting officer should consider using values less than the norm. For innovative efforts that will have a major positive impact on the product or program, the contracting officer may use values above the norm.

(e) *Evaluation criteria for management/cost control.*

(1) The contracting officer should evaluate—

(i) The contractor's management and internal control systems using contracting office information and reviews made by field contract administration offices or other DoD field offices;

(ii) The management involvement expected on the prospective contract action;

(iii) The value added by the contractor;

(iv) The contractor's support of Federal socioeconomic programs;

(v) The expected reliability of the contractor's cost estimates (including the contractor's cost estimating system);

(vi) The adequacy of the contractor's management approach to controlling cost and schedule; and

(vii) Any other factors that affect the contractor's ability to meet the cost targets (*e.g.,* foreign currency exchange rates and inflation rates).

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value when there is a high degree of management effort. Indicators of this are—

(A) The contractor's value added is both considerable and reasonably difficult;

(B) The effort involves a high degree of integration or coordination;

(C) The contractor has a good record of past performance;

(D) The contractor has a substantial record of active participation in Federal socioeconomic programs;

(E) The contractor provides fully documented and reliable cost estimates;

(F) The contractor makes appropriate make-or-buy decisions; or

(G) The contractor has a proven record of cost tracking and control.

(ii) The contracting officer may justify a maximum value when the effort—

(A) Requires large scale integration of the most complex nature;

(B) Involves major international activities with significant management coordination (*e.g.,* offsets with foreign vendors); or

(C) Has critically important milestones.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value when the management effort is minimal. Indicators of this are—

(A) The program is mature and many end item deliveries have been made;

(B) The contractor adds minimal value to an item;

(C) The efforts are routine and require minimal supervision;

(D) The contractor provides poor quality, untimely proposals;

(E) The contractor fails to provide an adequate analysis of subcontractor costs;

(F) The contractor does not cooperate in the evaluation and negotiation of the proposal;

(G) The contractor's cost estimating system is marginal;

(H) The contractor has made minimal effort to initiate cost reduction programs;

(I) The contractor's cost proposal is inadequate;

(J) The contractor has a record of cost overruns or another indication of unreliable cost estimates and lack of cost control; or

(K) The contractor has a poor record of past performance.

(ii) The following may justify a value significantly below normal:

(A) Reviews performed by the field contract administration offices disclose unsatisfactory management and internal control systems (e.g., quality assurance, property control, safety, security); or

(B) The effort requires an unusually low degree of management involvement.

4. Section 215.404–71–3 is amended as follows:

a. In paragraph (b), in the table, by removing the heading ''Base (Item 18)'' and adding in its place ''Base (Item 20)'';

b. By revising paragraph (b)(2);

c. In paragraph (c) by revising the table; and

d. By revising paragraph (e)(2) introductory text to read as follows:

215.404–71–3 Contract type risk and working capital adjustment.

* * * * *

(b) * * *

(2) Insert the amount from Block 20, *i.e.,* the total allowable costs excluding facilities capital cost of money.

* * * * *

(c) * * *

Contract type	Notes	Normal value (percent)	Designated range (percent)
Firm-fixed-price, no financing	(1)	4.5	3.5 to 5.5.
Firm-fixed-price, with performance-based payments	(6)	3.5	2 to 5.
Firm-fixed-price, with progress payments	(2)	2.5	1.5 to 3.5.
Fixed-price incentive, no financing	(1)	2.5	1.5 to 3.5.
Fixed-price incentive, with performance-based payments	(6)	1.5	0 to 3.
Fixed-price with redetermination provision	(3)		
Fixed-price incentive, with progress payments	(2)	.5	0 to 1.5.
Cost-plus-incentive-fee	(4)	.5	0 to 1.5.
Cost-plus-fixed-fee	(4)	0	0 to .5.
Time-and-materials (including overhaul contracts priced on time-and-materials basis)	(5)	0	0 to .5.
Labor-hour	(5)	0	0 to .5.
Firm-fixed-price, level-of-effort	(5)	0	0 to .5.

* * * * *

(e) * * *

(2) Total costs equal Block 20 (*i.e.,* all allowable costs excluding facilities capital cost of money), reduced as appropriate when—

* * * * *

5. Section 215.404–71–4 is amended as follows:

a. In paragraph (b)(2)(ii), in the first and last sentences, by removing ''Block 18'' and adding in its place ''Block 20''; and

b. By revising paragraphs (c) and (d) to read as follows:

215.404–71–4 Facilities capital employed.

* * * * *

(c) *Values: Normal and designated ranges.*

Notes	Asset type	Normal value (percent)	Designated range (percent)
(1)	Land	0	N/A.
(1)	Buildings	5	0 to 10.

Notes	Asset type	Normal value (percent)	Designated range (percent)
(1)	Equipment	20	15 to 25.
(2)	Land	0	N/A.
(2)	Buildings	0	N/A.
(2)	Equipment	10	7.5 to 12.5.
(3)	Land	0	N/A.
(3)	Buildings	0	0.
(3)	Equipment	0	0.

(1) These are the normal values and ranges through September 30, 2002. They apply to all situations except as noted in paragraph (c)(3)(i) of this subsection.

(2) These are the normal values and ranges from October 1, 2002, through September 30, 2004.

(3) Do not allow profit on facilities capital employed—

(i) Through September 30, 2002, when using a value from the alternate designated range for the performance risk factor (see 215.404–71–2(c)(2)); or

(ii) After September 30, 2004.

(d) *Evaluation criteria.*

(1) In evaluating facilities capital employed, the contracting officer—

(i) Should relate the usefulness of the facilities capital to the goods or services being acquired under the prospective contract;

(ii) Should analyze the productivity improvements and other anticipated industrial base enhancing benefits resulting from the facilities capital investment, including—

(A) the economic value of the facilities capital, such as physical age, undepreciated value, idleness, and expected contribution to future defense needs; and

(B) The contractor's level of investment in defense related facilities as compare with the portion of the contractor's total business that is derived from DoD; and

(iii) Should consider any contractual provisions that reduce the contractor's risk of investment recovery, such as termination protection clauses and capital investment indemnification.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value if the facilities capital investment has direct, identifiable, and exceptional benefits. Indicators are—

(A) New investments in state-of-the-art technology that reduce acquisition cost or yield other tangible benefits such as improved product quality or accelerated deliveries; or

(B) Investments in new equipment or research and development applications.

(ii) The contracting officer may assign a value significantly above normal when there are direct and measurable benefits in efficiency and significantly reduced acquisitions costs on the effort being priced. Maximum values apply only to those cases where the benefits of the facilities capital investment are substantially above normal.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value if the facilities capital investment has little benefit to DoD. Indicators are—

(A) Allocations of capital apply predominantly to commercial item lines:

(B) Investments are for such things as furniture and fixtures, home or group level administrative offices, corporate aircraft and hangars, gymnasiums; or

(C) Facilities are old or extensively idle.

(ii) The contracting officer may assign a value significantly below normal when a significant portion of defense manufacturing is done in an environment characterized by outdated, inefficient, excessive, and labor-intensive capital equipment.

6. Section 215.404–71–5 is added to read as follows:

215.404–71–5 Cost efficiency factor.

(a) This special factor provides an incentive for contractors to reduce costs. To the extent that the contractor can demonstrate cost reduction efforts that benefit the pending contract, the contracting officer may increase the prenegotiation profit objective by an amount not to exceed 4 percent of total objective cost (Block 20 of the DD 1547) to recognize these efforts.

(b) To determine if using this factor is appropriate, the contracting officer must consider criteria, such as the following, to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract:

(1) The contractor's participation in Single Process Initiative improvements;

(2) Actual cost reductions achieved on prior contracts;

(3) Reduction or elimination of excess or idle facilities;

(4) The contractor's cost reduction initiatives (*e.g.,* competition advocacy programs, technical insertion programs, obsolete parts control programs, spare parts pricing reform, value engineering, the use of metrics to drive down key costs);

(5) The contractor's adoption of process improvements to reduce costs;

(6) Subcontractor cost reduction efforts; or

(7) The contractor's effective incorporation of commercial items and processes.

(c) When selecting the percentage to use for this special factor, the contracting officer has maximum flexibility in determining the best way to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract. However, the contracting officer must consider the impact that quantity differences, learning, changes in scope, and economic factors such as inflation and deflation will have on cost reduction.

7. Section 215.404–72 is amended as follows:

a. In the first sentence of paragraph (b) (1) (i) and the first sentence of paragraph (b) (1) (ii) by removing ''Block 18'' and adding in its place ''Block 20''; and

b. By adding paragraph (b) (1) (iii) to read as follows:

215.404–72 Modified weighted guidelines method for nonprofit organizations other than FFRDCs.

* * * * *

(b) * * *

(1) * * *

(iii) Do not assign a value from the technology incentive designated range.

* * * * *

8. Section 215.404–73 is amended by revising paragraphs (b) (1) and (b) (2) (i) to read as follows:

215.404–73 Alternate structured approaches.

* * * * *

(b) * * *

(1) Consideration of the basic components of profit—performance risk, contract type risk (including working capital), facilities capital employed (through September 30, 2004), and cost efficiency. However, the contracting officer is not required to complete Blocks 21 through 30 of the DD Form 1547.

(2) * * *

(i) The contracting officer shall reduce the overall prenegotiation profit objective by the amount of facilities capital cost of money. The profit amount in the negotiation summary of the DD Form 1547 must be net of the offset.

* * * * *

9. Section 215.404–74 is amended by revising paragraph (c) to read as follows:

215.404–74 Fee requirements for cost-plus-award-fee contracts.

* * * * *

(c) Apply the offset policy in 215.404–73 (b) (2) for facilities capital cost of money, *i.e.,* reduce the base fee by the amount of facilities capital cost of money; and

* * * * *

[FR Doc. 00–18510 Filed 7–21–00; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000714206–0206–01; I.D. 061400A]

RIN 0648-AM53

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to reduce observer coverage and experience requirements for some catcher vessels and shoreside processors participating in the Western Alaska Community Development Quota (CDQ) fisheries. This action is necessary to reduce costs associated with the observer coverage requirements in the CDQ fisheries. It is intended to further the objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Comments must be received by August 23, 2000.

ADDRESSES: Comments may be mailed to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Hand or courier delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Comments also may be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if submitted via e-mail or the Internet. A copy of the Regulatory Impact Review (RIR) prepared for this action can be obtained from the same address, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels and implementing the FMP appear at 50 CFR parts 600 and 679.

Through the CDQ program, NMFS allocates a portion of the BSAI groundfish, prohibited species, halibut, and crab total allowable catch (TAC) to 65 eligible Western Alaska communities. These communities must use the proceeds from the CDQ allocations to start or support commercial fishery activities that will result in ongoing, regionally based, commercial fishery or related businesses. The CDQ program began in 1992 with the allocation of 7.5 percent of the BSAI pollock TAC. The fixed gear halibut and sablefish CDQ allocations began in 1995, as part of the halibut and sablefish Individual Fishing Quota Program. In 1998, allocations of 7.5 percent of the remaining groundfish TACs, 7.5 percent of the prohibited species catch limits, and 7.5 percent of the crab guidelines harvest levels were added to the CDQ program. In 1999, the amount of pollock allocated to the CDQ program was increased to 10 percent of the BSAI pollock TAC as a result of the American Fisheries Act.

On June 4, 1998, NMFS published a final rule imposing catch monitoring and observer coverage requirements for all vessels and processors participating in the multispecies CDQ fisheries (63 FR 30381). On April 26, 1999, NMFS extended these requirements to vessels equal to or greater than 60 ft (18.3 m) length overall (LOA) that participate in the halibut CDQ fishery. These regulations were issued because, in the CDQ fisheries, all groundfish and prohibited species catch by vessels fishing for CDQ groups accrue against the individual allocations for each CDQ group (64 FR 20210). Because individual vessels, processors, and CDQ groups are accountable for the catch of groundfish and prohibited species, the catch monitoring standards must be more stringent than in many other fisheries. These final rules also impose experience and training requirements for observers that, in most cases, exceed the requirements in the non-CDQ fisheries.

Following completion of the first year of fishing under these regulations, NMFS reviewed the observer coverage and experience requirements and has determined that observers without gear-specific experience were able to perform their duties as well as observers with gear-specific experience on catcher vessels choosing to retain all catch and in shoreplants. Further, NMFS has determined that the data collected by the shoreplant observer were not necessary for effective program management when a CDQ observer from the vessel making a delivery was available to collect shoreside data. Thus, the observer coverage requirements can be reduced without affecting the ability of NMFS to collect the data necessary to monitor and manage the CDQ fishery.

Current CDQ Observer Requirements

The current CDQ catch monitoring and observer coverage requirements were imposed to provide accurate and verifiable catch estimates for all CDQ and prohibited species quota (PSQ) species. This led NMFS to issue catch accounting regulations that rely primarily on NMFS-certified CDQ observers to collect data necessary to estimate the catch of all CDQ and PSQ species, or to ensure that all catch was being retained and accounted for at a shoreside processor.

Table 1 summarizes the current observer coverage requirements for the CDQ fisheries. Table 2 summarizes the experience requirements necessary for a CDQ observer and a lead CDQ observer.