

[Federal Register: September 26, 1994]

=====

DEPARTMENT OF COMMERCE National Oceanic and Atmospheric Administration
50 CFR Part 675

[Docket No. 940958-4258; I.D. 081894A] RIN: 0648-AG92

Groundfish Fishery of the Bering Sea and Aleutian Islands Area AGENCY:
National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric
Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to delay the opening of the first (roe) directed fishing season for the offshore component pollock fishery in the Bering Sea and Aleutian Islands (BSAI) management area from January 1 to January 26 of each fishing year. This action is necessary to achieve optimum roe quality and increase revenues from the BSAI pollock processed by the offshore component during the roe season. The proposed action also would prohibit vessels used to fish for BSAI or Gulf of Alaska (GOA) groundfish or BSAI king or Tanner crab prior to January 26 from participating in the offshore component pollock fishery until February 5. This 10-day prohibition on entry into the offshore component fishery would not apply to vessels used to participate in the Community Development Quota (CDQ) program prior to January 26 and is necessary to discourage participants in the offshore component pollock fishery from contributing to increased fishing effort in other fisheries prior to the start of the offshore component roe season. This action is intended to promote the fishery management objectives of the Fishery Management Plan (FMP) for the Groundfish Fishery of the BSAI.

DATES: Comments must be received by October 26, 1994.

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 (Attn: Lori Gravel). Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) may be obtained from the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by vessels in the exclusive economic zone of the BSAI is managed by the Secretary of Commerce (Secretary) according to the FMP for the Groundfish Fishery of the BSAI. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 620 and 675.

Current regulations authorize all BSAI trawl fisheries, including the pollock fisheries, to start on January 20 of each year. Existing regulations at Sec. 675.20(a)(2)(ii) also authorize the establishment of separate pollock total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands subareas and the Bogoslof District.

Through 1995, the pollock TACs specified for each subarea and district initially are allocated among the Western Alaska CDQ reserve (7.5 percent), the BSAI operational reserve (7.5 percent), and the open access fisheries (85 percent, of which 35 percent is allocated to the inshore component and 65 percent to the offshore component). The portion of the TACs allocated to the inshore and offshore components is further apportioned into two seasonal allowances. The first allowance (roe season) is available for directed fishing

from January 1, until April 15, and the second allowance (non-roe season) is available for directed fishing from August 15, until December 31.

The Bering Sea pollock fishery has experienced increased harvesting and processing capacity and increased effort in recent years under the existing open access management regime. While the TAC annually specified for pollock in the last few years has remained fairly stable between 1.2 and 1.3 million metric tons, the increase in harvesting and processing capacity has led to increasing daily catch rates and reduced season lengths for both the inshore and offshore components.

Three major factors affect the length of the pollock roe season: Annual TAC, the amount of pollock TAC apportioned to the pollock roe season, and amount of fishing effort. Regulations authorizing the seasonal apportionment of pollock TACs have been effective since 1991. In 1991 and 1992, 40 percent of the Bering Sea pollock initial TAC was apportioned to the roe season, and 45 percent was apportioned in 1993 and 1994. Since 1991, the length of the Bering Sea pollock roe season has decreased each year. The roe season pollock quota was harvested in 52 days in 1991 and 46 days in 1992. Effective June 1, 1992, through December 31, 1995, pollock TACs are apportioned among the offshore component, inshore component, and CDQ pollock fisheries. The 1993 roe season allowance apportioned to the offshore component was harvested in 33 days. The inshore component roe fishery lasted 63 days from January 20, through March 24. However, a strike by vessels delivering onshore delayed fishing until the first week of February. The inshore component's roe season pollock apportionment was harvested in about 48 days. In 1994, the offshore component roe season closed on February 18 (29 days), and the inshore component roe season closed on March 2 (41 days).

Pollock roe produced from the roe season harvests represents a substantial portion of the gross wholesale value of the pollock fishery and roe maturity is one of the most important factors in determining product value. Good quality mature roe receives the highest price, followed by immature and over-mature roe. Therefore, in order to maximize the value of roe production, industry prefers to harvest as much roe as possible during the period of peak roe maturity and to minimize the harvest of immature and over-mature roe. Although the timing of peak roe maturity varies depending on the age of the fish, the location where fish spawn, and ocean conditions, industry sources report that the period of peak roe maturity usually occurs between February 10 and February 20.

The pollock roe season length has shortened to the degree that some offshore processors participating in the open access fishery believe that the fishery closes before or during the timing of peak roe maturity. Consequently, the value of the pollock harvest is significantly lower than it could be if the season were delayed. This trend likely will continue under the open access management system.

Concerns about a shortened roe season do not appear to be shared by participants in the inshore component pollock fishery or some of the offshore processors who also participate in the CDQ pollock fisheries, which occur after the close of the open access fishery. Inshore processors report that peak roe maturity generally occurs during the first 2 weeks of February and, because the 1994 roe season extended into early March, the fishery fully encompassed the period of peak roe maturity. Delay of the inshore component roe season would likely increase the harvest of pollock with lower valued, over-mature roe.

At the request of offshore component processors, the Council first considered alternatives for delaying the pollock roe season at its June 1993

meeting. Lack of industry consensus on a preferred alternative prevented the Council from taking action. The continued shortening of the roe season in 1994 prompted the Council again to consider alternative season opening dates for the pollock roe season.

At its June 1994 meeting, the Council considered the testimony and recommendations of its Advisory Panel, Scientific and Statistical Committee, fishing industry representatives, and the public on alternative dates for the start of the pollock roe season. For the reasons given below, the Council determined that delaying the offshore component roe season opening date to January 26 would provide the most benefit to the fishing industry and recommended that NMFS initiate rulemaking to delay the opening of the offshore component pollock roe season until this date.

To discourage a shift in fishing effort into other fisheries by pollock vessels prior to January 26, the Council also recommended that vessels used to fish for BSAI or GOA groundfish or BSAI king or Tanner crab prior to January 26 be prohibited from participating in the offshore component pollock fishery until February 5. This prohibition would not apply to vessels participating in a CDQ fishery.

Section 14.3 of the FMP requires that the Council consider the following criteria when recommending a regulatory amendment to change season opening dates: Biological, bycatch, exvessel and wholesale prices, product quality, safety, cost, other fisheries, coordinated season timing, enforcement and management costs, and allocation effects. The EA/RIR/IRFA prepared for this action addresses anticipated effects of the proposed delay relative to these criteria. The following discussion summarizes these effects relative to how the Council's objectives for an offshore component roe season delay are met under the proposed action.

Biological or bycatch effects. A delay of the roe season opening date for the offshore component pollock fishery to January 26 would affect neither the amount of pollock harvested during the roe season nor the overall duration of the fishery. Although the proposed action would result in a 6-day shift of trawl effort, significant spatial differences in trawl effort distribution would not be expected because the location of spawning stocks of pollock likely would not vary significantly during this 6-day period. Similarly, a 6-day delay in the opening date of the pollock roe season would not affect the size of pollock taken in this fishery. When female pollock are entering a spawning condition, their energy is going into the production of eggs and maintenance, and not into growth.

In the BSAI, Pacific halibut, red king crab, *C. bairdi* Tanner crab, and herring are prohibited species for which bycatch limits are established and apportioned each year to the pollock and other groundfish trawl fisheries based on Council recommendations. Pacific salmon also are prohibited species that may not be retained in the groundfish fisheries; however, no salmon bycatch limits currently are established. Few data exist to suggest that the proposed change in the pollock roe season would have any positive or negative impact on the prohibited species bycatch amounts. Observer data indicate that an opening date later into the season could help to reduce chinook salmon bycatch in the trawl fisheries. However, the effects of a change of less than 1 week for a start date are difficult to measure.

The proposed action would not have an adverse effect on marine mammals or seabirds, because it would not increase pollock harvests or significantly change the temporal or spatial distribution of this harvest.

Product quality and value. The proposed delay of the offshore component pollock roe season is intended to increase the value of the pollock harvested

during the roe season by delaying the offshore component fishery so the season fully encompasses the period of optimum roe maturity. This action likely would affect the roe product quality and value experienced in the CDQ pollock fisheries.

Participants in the CDQ pollock fisheries include the Western Alaska community groups that have been allocated pollock quota and the processors with which they contract for the harvest and processing of the quota. In 1993 and 1994, the roe season CDQ pollock fisheries occurred immediately after the close of the open access roe season, when the proportion of mature roe produced was still quite high. Under the proposed action, CDQ harvests likely would occur between January 20 and January 26 and after the offshore component fishery closed. In either case, if the offshore component roe season delay achieves the primary objective of allowing this fishery to be prosecuted when pollock roe maturity is optimum, the overall gross wholesale value of the pollock CDQ fishery would be reduced. However, based on the volume of pollock harvested and the number of participants in the fisheries, an increase in the value of roe production during the offshore component fishery (due to increased roe quality) probably would be greater than the decrease in the value of roe production in the CDQ fisheries.

Allocation, coordinated season timing, and impacts on other fisheries. The proposed action is intended to discourage vessels participating in the offshore component pollock fishery from contributing to increased fishing effort in other fisheries prior to the start of the offshore component roe season on January 26. Under the proposed action, vessels used to participate in a BSAI groundfish fishery, a GOA groundfish fishery, or the BSAI king or Tanner crab fishery would be prevented from entering the offshore component pollock fishery until February 5--10 days after the opening of the offshore component roe season. The intent of this action is to encourage vessel owners to choose between fishing for pollock or for another species, thus minimizing any preemptive impacts on other fisheries that may otherwise occur under the proposed delay of the pollock roe season.

Costs. Vessels used to participate in a BSAI or GOA groundfish fishery or the BSAI king or Tanner crab fisheries prior to January 26 would be prohibited from participating in the offshore pollock fishery before February 5. This limitation could impose costs on those vessels that target on more than one species during the pollock roe season. These vessels would be precluded from participating in other fisheries prior to the roe season if they also wanted to continue their pollock target fisheries.

If approved by NMFS, the Council's recommended action to delay the offshore component pollock roe season would be effective only through December 31, 1995, when regulations authorizing the allocation of pollock between the inshore and offshore component expire. Continued effectiveness of the proposed delay would require new rulemaking contingent on the implementation of a separate FMP amendment that would authorize inshore/offshore groundfish allocations beyond 1995.

Classification

NMFS prepared an IRFA as part of the RIR, which concludes that this proposed rule, if adopted, could have significant effects on a substantial number of small entities (i.e., small businesses, small organizations, and small governmental jurisdictions with limited resources). The Western Alaska community groups that have received CDQs in the pollock fishery are considered small entities, because they are government jurisdictions with populations less than 50,000. The proposed action would delay the start date of the offshore pollock roe season in the BSAI in order to increase the wholesale

value of roe production in the open access fishery. If this action is successful in its purpose, the value of roe production in the CDQ pollock fisheries would probably decline, thereby reducing revenue to the Western Alaska community groups. The reduction in revenue generated from the CDQ program could have a ``significant impact'' on these small entities by reducing their annual gross revenues by more than 5 percent.

This proposed 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: September 20, 1994. Gary Matlock, Program Management Officer, National Marine Fisheries Service. For the reasons set out in the preamble, part 675 is proposed to be amended as follows:

PART 675--GROUND FISH 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 Sec. 675.23, paragraph (e) is revised to read as follows:

Sec. 675.23 Seasons.

* * * * *

(e) Directed fishing for pollock.

(i) Subject to other provisions of this part, and except as provided in paragraph (e)(ii) of this section, directed fishing for pollock is authorized from January 1, until noon, A.l.t., April 15, and from noon, A.l.t., August 15, through the end of the fishing year.

(ii) Applicable through December 31, 1995.

(A) Subject to other provisions of this part and except as provided in paragraph (e)(ii)(B) of this section, directed fishing for pollock by the offshore component, defined at Sec. 675.2 of this part, or by vessels delivering pollock to the offshore component, is authorized from noon, A.l.t., January 26, until noon, A.l.t., April 15 and from noon, A.l.t., August 15, through the end of the fishing year. Directed fishing for pollock under the Western Alaska Community Development Quota Program pursuant to Sec. 675.27 is authorized from January 1, through the end of the fishing year.

(B) Directed fishing for pollock by the offshore component or vessels delivering pollock to the offshore component is prohibited until noon, A.l.t., February 5, for those vessels that are used to fish prior to noon, A.l.t., January 26, for groundfish in the Bering Sea and Aleutians management area, groundfish in the Gulf of Alaska, as defined at Sec. 672.2 of this chapter, or king or Tanner crab in the Bering Sea and Aleutians Area, as defined at Sec. 671.2 of this chapter.

* * * * *

[FR Doc. 94-23754 Filed 9-23-94; 8:45 am] BILLING CODE 3510-22-W