

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 030128023-3023-01; I.D. 011503D]

RIN 0648-AQ44

**Fisheries of the Exclusive Economic Zone Off Alaska; Increase in Roe Retention Limit for Pollock Harvested in the Bering Sea and Aleutian Islands**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to increase the percentage of pollock roe that may be retained by operators of catcher/processors and motherships processing pollock harvested in the Bering Sea and Aleutian Islands. The proposed increase is from 7 to 9 percent. This action is necessary because catcher/processors and motherships have been able to increase their pollock roe recovery rate since the passage of the American Fisheries Act (AFA) through cooperative fishing practices and more precise timing of fishing activity. When fishing conditions are ideal, the operators of catcher/processors and motherships have demonstrated that they can recover roe in excess of the current 7-percent roe retention limit that was implemented a decade ago to prevent roe stripping in the directed pollock fishery. This action is intended to be consistent with the environmental and socioeconomic objectives of the Magnuson-Stevens Fishery Management and Conservation Act (Magnuson-Stevens Act) and other applicable laws.

**DATES:** Comments on the proposed rule must be received on or before March 13, 2003.

**ADDRESSES:** Comments must be sent to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall, or delivered to the Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Durall. Comments also may be sent by fax to 907-586-7557. Comments will not be accepted if submitted via email or the internet. Copies of the Categorical Exclusion and Regulatory Impact Review prepared for this action may be obtained from the same address.

**FOR FURTHER INFORMATION CONTACT:** Kent Lind, 907-586-7650, or kent.lind@noaa.gov.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the exclusive economic zone of the Bering Sea and Aleutian Islands Management Area (BSAI) under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMP under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations implementing the FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

**History of Roe Stripping Regulations**

In 1990, the Council identified pollock roe stripping as a management problem in the groundfish fishery of the BSAI and submitted Amendment 14 to the FMP to prohibit the practice of roe stripping. The final rule to implement Amendment 14 published on January 7, 1991 (56 FR 492), established a 10-percent limit on the amount of pollock roe that could be retained on board a vessel relative to the round-weight equivalent of primary products retained on board the vessel during the same fishing trip.

In 1994, after receiving information that vessels were continuing to practice roe stripping on a limited basis by "topping off" with roe to achieve the 10-percent limit, NMFS lowered the maximum retainable percentage to 7 percent in a final rule published March 25, 1994 (59 FR 14121). In determining that 7 percent should be the applicable limit, NMFS reviewed 1993 roe recovery information from vessels that were operating during the roe pollock fishing season, which was conducted between January 20 and April 15. Data from 12 participating vessels, which produced 1,422 mt of pollock roe from 31,772 mt of retained pollock catch, show that the average roe recovery was 4.5 percent during the roe pollock fishing season. The highest roe recovery percentage achieved by any of the 12 vessels was 7.2 percent, and the lowest was 2.0 percent. Therefore, NMFS determined that a maximum allowable rate of 7 percent would minimize amounts of roe that might be discarded as a result of regulations, while still complying with the intent of Amendment 14 and the Magnuson-Stevens Act to prohibit roe stripping.

Since 1994, the BSAI pollock fishery has continued to evolve. On December 3, 1997 (62 FR 63880), NMFS issued a

final rule to implement an improved retention/improved utilization (IR/IU) program under Amendment 49 to the FMP. Amendment 49 imposed a 100-percent retention requirement for vessels harvesting pollock in the directed pollock fishery. Under Amendment 49, catcher/processors and motherships must retain a primary product from each pollock brought on board the vessel during the directed pollock fishery. While this regulation was intended to address pollock discards, it also had the effect of tightening the prohibition on roe stripping because pollock roe by definition cannot be used as a primary product to meet the 100-percent retention standard.

**Evolution of the BSAI Pollock Fishery Under the AFA**

In 1998, Congress passed the AFA (Div. C, Title II, Pub. L. No. 105-277, 112 Stat. 2681 (1998)), which restricted participation in the BSAI pollock fishery to certain eligible vessels and processors, and authorized the formation of fishery cooperatives. Under the AFA, vessels in the BSAI pollock fishery have formed voluntary cooperatives that have eliminated the open access race for fish that characterized the BSAI pollock fishery before the AFA. Under these AFA cooperatives, participating catcher/processors and motherships have been able to dramatically improve product recovery rates by slowing down their operations, using more refined production techniques, and fishing more selectively. This increase in productivity under the AFA was examined in detail in the final Environmental Impact Statement prepared for AFA-related Amendments 61/61/13/8 to the FMPs for the groundfish, crab, and scallop fisheries off Alaska.

In addition to these general gains in productivity, catcher/processors and motherships have achieved higher roe recovery rates under the AFA through an increased ability to time their fishing activity to coincide with periods of peak roe recovery and through an increased ability to selectively target schools of large mature pollock. When circumstances are ideal, some catcher/processors and motherships have reached or exceeded the current 7-percent limit.

In 1999, the Council examined roe recovery rates by catcher/processors in the BSAI and concluded that sufficient rationale existed to raise the maximum retainable roe amount to 9 percent. After reviewing data on roe recovery rates,