ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that an EFP application from the University of New Hampshire (UNH) Cooperative Extension contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP), and does not detrimentally affect the well being of any stock of fish likely to be taken during the experiment. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow one vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for an exemption from the Gulf of Maine (GOM) Rolling Closure area restrictions, and for an exemption from the NE multispecies days-at-sea (DAS) notification requirements. The exempted fishing activity would support research to design, develop and test a soft species separation system for commercial flatfish trawls in the GOM. The system is intended to separate roundfish (particularly cod) from flatfish in trawl nets by exploiting behavioral differences between the species. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before February 26, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on UNH Species Separation System EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Jason Blackburn, Fishery Management Specialist, 978–281–9326.

SUPPLEMENTARY INFORMATION: The application for an EFP was submitted by the UNH Cooperative Extension for research being funded through NMFS' Cooperative Research Partners Program. The applicant is requesting an exemption for one commercial vessel from the NE multispecies DAS notification requirements at 50 CFR 648.10(c) and 648.82(a) for 32 days of at-sea gear testing, and from the GOM Rolling Closure area restrictions specified at 50 CFR 648.81 for the same duration. Twelve (12) of the 32 days are carry-over from the first phase of the study which began in September 2002, and will be fished during the 2002 fishing year (through April 30, 2003). The remaining 20 days will be restricted to the 2003 fishing year (May 1, 2003 to April 30, 2004) and are the subject of this EFP request.

The objective of the research is to test a soft species separation system for the purposes of separating flatfish from roundfish in trawl nets and reducing the inadvertent bycatch of roundfish (particularly cod) when fishing for flatfish. The separation device is designed to separate roundfish from flatfish by exploiting behavioral differences that exist between the species. The experimental design consists of a trawl net with a soft species separation panel, or ramp, that would be positioned in front of a double codend. It would take advantage of the tendency of flatfish to swim towards the ocean bottom after encountering the separation panel and thereby into the lower codend portion of the net. Roundfish, which are not expected to swim towards the sea floor after encountering the panel, would swim into the upper codend portion of the net, which could be left open if roundfish were not being retained.

Underwater video equipment would be employed to observe fish behavior and functioning of the experimental selectivity device. Catch and bycatch are proposed to be sampled from each tow. If available, 100 each of cod, haddock, yellowtail flounder, whiting (silver hake), American plaice and witch flounder (including both legal and sub-legal sizes) would be measured from the catch in both the control net (commercial trawl net) and from the experimental trawl net, using alternating tows. The total weight of roundfish and flatfish would be determined from the upper and lower codends of the experimental trawl net, and from the control net. Finally, the catch of each species in the upper and lower codend of the experimental net would be analyzed using statistical methods to calculate a separation index to determine whether the experimental system is effective at separating the species.

The sea trials would be conducted in shallow water (30 to 50 fathoms (54.9 - 91.4 meters)) off the coasts of New Hampshire, southern Maine, and a small portion of northern Massachusetts. UNH researchers would be aboard the vessel during all experimental work. All undersized fish, and/or protected species, would be returned to the sea as quickly as possible after measurement. However, legal-sized fish that would otherwise have to be discarded would be allowed to be retained and sold. The overall catch levels are not expected to have a detrimental impact on the NE multispecies resource. Estimated total landings for the 32 days are: Cod - 9,600 lb (4354.5 kg); flatfish (witch flounder, American plaice, winter flounder, yellowtail flounder) - 9,600 lb (4354.5 kg); and other groundfish (haddock, cusk, white hake, silver hake, red hake, ocean pout, wolffish, etc.) - 6,400 lb (2903 kg). This is approximately one-half the level of landings that would be expected for 32 days of normal commercial fishing for this vessel. The participating vessel would be required to report all of its landings in its Vessel Trip Reports.

This experimental work is important because it could lead to the development of gear that could reduce the inadvertent bycatch of species that are subject to restrictive trip limits, such as cod, when fishing for species which are not subject to restrictive trip limits. The successful development of a soft species separation device could provide the fishing industry with more flexibility in conducting fishing activities, while simultaneously providing additional conservation for overfished species.

Based on the results of the EFP, this action may lead to future rulemaking.

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

Dated: February 4, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service

[FR Doc. 03–3291 Filed 2–10–03; 8:45 am]

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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 Salveson, 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,

NMFS agreed with the Council's rationale.

To determine the appropriate roe retention limit under the AFA, NMFS examined roe recovery information from the 2000, 2001, and 2002 roe seasons, which were managed under AFA cooperatives. During this time period, AFA catcher/processors and motherships processed 26,286 mt of pollock roe and 826,913 mt round-weight equivalent of primary pollock products for an aggregate roe recovery rate of 3.2 percent for the 2000–2002 roe seasons. However, during each of the 3 years, certain vessels were able to achieve roe recovery rates that exceeded 7 percent during weeks of peak roe recovery. In 2000, one catcher/processor achieved roe recovery rates of 8.0 and 9.0 percent during two reporting weeks in March. In 2001, seven catcher/processors exceeded the 7–percent limit during the week of March 24. During that week, these seven catcher/processors achieved an aggregate roe recovery rate of 8.4 percent. In 2002, only one catcher/processor exceeded the 7–percent limit, with a roe recovery rate of 8.3 percent during the week of March 17. During this 3–year time period, a 7–percent limit would have required that catcher/processors discard a total of 185.6 mt of roe product, or 61.9 mt annually.

This action also would affect non-AFA catcher/processors that engage in directed fishing for other groundfish species in the BSAI and encounter incidental catch of pollock. The maximum retainable percentage of pollock is 20 percent for vessels engaged in directed fishing for other groundfish species. Existing 100–percent retention requirements at 50 CFR 679.27 require vessels engaged in directed fishing for groundfish other than pollock to retain their incidental catch of pollock up to the 20–percent limit, and such vessels are also allowed to recover roe from their incidental catch of pollock. The proposed 9–percent roe retention limit also would govern the amount of pollock roe these vessels could retain. In 2001, 58 non-AFA catcher/processors retained and processed pollock in the BSAI. These 58 vessels processed a round-weight equivalent of 11,837 mt of primary pollock products and 199 mt of pollock roe. The roe retention rates of non-AFA catcher/processors ranged from zero to 5.5 percent with an average rate of 1.5 percent. From these data, NMFS concludes that non-AFA catcher/processors are less able to maximize pollock roe recovery than AFA catcher/processors.

Based on these data, NMFS has concluded that, when conditions for roe recovery are ideal in mid to late March, some catcher/processors are able to achieve recovery rates that exceed 7 percent and that 9 percent is a standard that is sufficiently high to accommodate these peak periods of roe recovery without forcing vessels to discard excess roe. NMFS considered and rejected the alternative of eliminating the roe retention limit for several reasons. First, the AFA cooperatives that have produced a more rationalized fishery are not permanently established in regulation. AFA cooperatives, which are voluntary organizations, could dissolve at any point in the future if the members no longer believe that remaining in cooperatives is in their interest. The fishery then could potentially return to a race for fish. Second, non-AFA catcher/processors engaged in directed fisheries for other species are required to retain incidental catch of pollock up to the 20–percent maximum retainable percentage. The 9–percent maximum retainable roe percentage is an additional measure to prevent such vessels from roe stripping, even though the practice is also prohibited by IR/IU regulations. Therefore, the Council and NMFS believe that maintaining a regulatory limit on roe retention is prudent to prevent the potential for a return to the practice of roe stripping in the event that the current AFA cooperatives choose to dissolve and to continue to limit the practice in non-AFA fisheries.

Elements of the Proposed Rule

This proposed rule would amend 50 CFR 679.20(g) by raising the maximum allowable roe retention percentage from 7 to 9 percent. For pollock harvested in the Gulf of Alaska (GOA), the maximum retainable percentage would remain at 7 percent. This distinction is made because the AFA applies only to the BSAI and the conditions that have led to an increase in roe recovery rates in the BSAI do not exist in the GOA. No other regulatory changes are proposed.

Classification

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows: Two groups of vessels currently harvest pollock in the BSAI and retain roe product from the pollock harvested in the BSAI: (1) AFA catcher/processors and motherships that engage in directed fishing for pollock, and (2) non-AFA catcher/processors that encounter pollock as incidental catch in other fisheries.

Under the AFA, 21 catcher/processors and 3 motherships are eligible to engage in directed fishing for pollock in the BSAI. NMFS reviewed the size of these entities in the Environmental Impact Statement (EIS) prepared for AFA-related Amendments 61/61/13/8 to the fishery management plans for the groundfish, crab, and scallop fisheries off Alaska. The EIS concluded that all AFA-eligible catcher/processors are large entities under SBA size criteria because their annual receipts exceed $3.5 million. The 21 individual catcher/processors are owned by 12 companies with annual receipts that are estimated to range from $5 million for the smallest entity to several billion dollars for the largest entities. All three motherships engaged in the directed pollock fishery are also classified as large entities under SBA criteria because the companies that own these three motherships employ more than 500 individuals in their worldwide operations.

In 2001, 58 non-AFA catcher/processors harvested pollock incidentally while engaged in directed fishing for other species. Many of these vessels also retained pollock roe from their incidental catch of pollock. Although we do not have comprehensive knowledge of the ownership characteristics and gross receipts of the companies that own these 58 catcher/processors, we assume that many are small entities.

AFA catcher/processors and mothership production data from 2000–2001 indicate that roe recovery rates generally average between 3 and 5 percent. Vessels only rarely exceed the current 7 percent standard. From 2000–2002 the total annual production of roe in excess of 7 percent averaged 61.88 mt for the fleet, which represents 0.68 percent of the 9,166 mt average total annual roe production for those years. The effect of this action, therefore, is to allow catcher/processors and motherships to retain an additional 61.88 mt of pollock roe that existing regulations require to be discarded.

This action also would potentially affect non-AFA catcher/processors that engage in directed fishing for other groundfish species in the BSAI and encounter incidental catch of pollock. The maximum retainable percentage of pollock is 20 percent for vessels engaged in directed fishing for other groundfish species. Existing regulations at 50 CFR 679.27 require vessels engaged in directed fishing for groundfish other than pollock to retain their incidental

catch of pollock up to the 20–percent limit. Such vessels also are allowed to recover roe from their incidental catch of pollock. The proposed 9- percent roe retention limit would govern the amount of pollock roe these vessels could retain as well. In 2001, 58 non-AFA catcher/processors retained and processed pollock in the BSAI. These 58 vessels processed a round-weight equivalent of 11,837 mt of primary pollock products and 199 mt of pollock roe. The roe retention rates of non-AFA catcher/processors ranged from zero to 5.5 percent with an average rate of 1.5 percent. From these data, NMFS concludes that non-AFA catcher/processors are less able to maximize pollock roe recovery than AFA catcher/processors and, therefore, would gain no benefit, nor incur any cost, from increasing the maximum retainable roe percentage from 7 percent to 9 percent.

Certification of this action is appropriate because this proposed rule relieves a restriction and would result in no increased cost to any entity, small or large, and no adverse impacts on any entities. In addition, the only entities that are expected to benefit directly from this action are large entities. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: February 6, 2003.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec. 3027, Pub. L. 106–31, 113 Stat. 57.

2. In § 679.20, paragraphs (g)(1)(i), (g)(4)(i)(B), and (g)(4)(ii)(B) are revised to read as follows:

§ 679.20 General limitations.

* * * * *

(g) * * *

(1) * * *

(i) Pollock roe retained on board a vessel at any time during a fishing trip must not exceed the following percentages of the total round-weight equivalent of pollock, as calculated from the primary pollock product on board the vessel during the same fishing trip:

(A) 7 percent in the Gulf of Alaska, and

(B) 9 percent in the Bering Sea and Aleutian Islands.

* * * * *

(4) * * *

(i) * * *

(B) To determine the maximum amount of pollock roe that can be retained on board a vessel during the same fishing trip, multiply the round-weight equivalent by 0.07 in the Gulf of Alaska or 0.09 in the Bering Sea and Aleutian Islands.

* * * * *

(ii) * * *

(B) To determine the maximum amount of pollock roe that can be retained on board a vessel during a fishing trip, add the round-weight equivalents together; then, multiply the sum by 0.07 in the Gulf of Alaska or 0.09 in the Bering Sea and Aleutian Islands.

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[FR Doc. 03–3378 Filed 2–10–03; 8:45 am]

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