

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

[Docket No. 970806191-7191-01; I.D. 072297A]

RIN 0648-AJ71

**Fisheries of the Exclusive Economic Zone off Alaska; Improved Retention/Improved Utilization**

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

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

**SUMMARY:** NMFS proposes regulations to implement Amendment 49 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This proposed rule would require all vessels fishing for groundfish in the Gulf of Alaska (GOA) to retain all pollock and Pacific cod beginning January 1, 1998, and all shallow-water flatfish beginning January 1, 2003. This proposed rule also would establish a 15-percent minimum utilization standard for pollock and Pacific cod beginning January 1, 1998, and for the shallow-water flatfish species group beginning January 1, 2003, that would be applicable to all at-sea processors. This action is necessary to respond to socioeconomic needs of the fishing industry that have been identified by the North Pacific Fishery Management Council (Council) and is intended to further the goals and objectives of the FMP.

**DATES:** Comments on the proposed rule must be received at the following address by October 2, 1997.

**ADDRESSES:** Comments must be sent to Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the proposed FMP amendment and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 49 are available from NMFS at the above address, or by calling the Alaska Region, NMFS, at 907-586-7228. Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and to the Office of Information and Regulatory Affairs, Office of Management and

Budget (OMB), Washington, DC 20503, Attn: NOAA Desk Officer.

**FOR FURTHER INFORMATION CONTACT:** Kent Lind, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The domestic groundfish fisheries in the exclusive economic zone of the GOA are managed by NMFS under the FMP. The FMP was prepared by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the groundfish fisheries of the GOA appear at 50 CFR parts 600 and 679.

The Council has submitted Amendment 49 for Secretarial review and a Notice of Availability of the FMP amendment was published (62 FR 40497, July 29, 1997) with comments on the FMP amendment invited through September 29, 1997. Comments may address the FMP amendment, the proposed rule, or both, but must be received by September 29, 1997, to be considered in the approval/disapproval decision on the FMP amendment. All comments received by September 29, 1997, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision on the FMP amendment.

**Management Background and Need for Action**

In September 1996, the Council adopted an Improved Retention/Improved Utilization (IR/IU) program for the Bering Sea and Aleutian Islands Management Area (BSAI) as Amendment 49 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. A proposed rule to implement Amendment 49 in the BSAI was published on June 26, 1997 (62 FR 34429). During development of the IR/IU program for the BSAI, the Council began to consider a parallel IR/IU program for the GOA, also designated as Amendment 49. Amendments 49/49 are the result of over 3 years of analysis and debate by the Council of alternative solutions to the problem of discards occurring in the groundfish fisheries off Alaska. Additional information on the IR/IU regulations proposed for the BSAI and the alternatives considered by the Council during development of the program is found in the preamble to the proposed rule for the BSAI and in the EA/RIR/IRFA prepared for Amendment 49 in the BSAI (available from NMFS, see **ADDRESSES**).

In connection with development of Amendment 49 in the BSAI, the Council appointed an industry working group to examine some of the key

implementation issues associated with the development of an IR/IU program. In September 1996, following its final action on the BSAI IR/IU program, the Council reconfigured this industry working group to better reflect GOA interests and concerns. The Council asked that the group meet and report back to the Council with specific recommendations for the GOA version of IR/IU.

In December 1996, the Council adopted the following Problem Statement for Amendment 49 in the GOA:

The objective of the Council in undertaking improved retention and improved utilization regulations for Gulf of Alaska groundfish fisheries centers on the same basic concern that motivated an IR/IU program in the BSAI groundfish fisheries; that is, economic discards of groundfish catch are at unacceptably high levels. An IR/IU program for the GOA would be expected to provide incentives for fishermen to avoid unwanted catch, increase utilization of fish that are taken, and reduce overall discards of whole fish, consistent with current Magnuson-Stevens Act provisions.

In addition, the Council recognizes the potential risk of preemption of certain existing GOA groundfish fisheries which could occur in response to economic incentives displacing capacity and effort from BSAI IR/IU fisheries. This risk can be minimized if substantially equivalent IR/IU regulations are simultaneously implemented for the GOA.

In April 1997, the industry working group recommended that the Council approve for the GOA, the same IR/IU program it had approved for the BSAI. The industry working group recommended only one difference from the BSAI program; that the shallow-water flatfish species complex be substituted for rock sole and yellowfin sole, which are not managed as separate species in the GOA. In April 1997, the Council released for public review an EA/RIR/IRFA for Amendment 49 in the GOA that analyzed the same suite of options that were previously analyzed for the IR/IU program in the BSAI, and that relied heavily on the analysis already completed for the IR/IU program in the BSAI.

In June 1997, after debate and public testimony, the Council voted unanimously to extend the IR/IU program to the GOA as Amendment 49 to the FMP. The Council accepted the recommendations of the IR/IU industry working group and adopted a program identical to that already approved for the BSAI with the only distinction being the substitution of the shallow-water flatfish species complex in the GOA for rock sole and yellowfin sole in the BSAI.

The program adopted by the Council would require full retention of pollock and Pacific cod beginning January 1, 1998, and full retention of shallow-water flatfish beginning January 1, 2003. In the GOA, shallow-water flatfish are managed under the FMP as a species group that is defined as all flatfish other than arrowtooth flounder, rex sole, flathead sole, and deepwater flatfish (Greenland turbot and Dover sole). The predominant species in the shallow-water flatfish species group are rock sole, yellowfin sole, butter sole, English sole, starry flounder, petrale sole, sand sole, and Alaska plaice. Some of these species are currently marketable, while others are not.

The utilization option adopted by the Council, the least restrictive of the three options under consideration, would allow retained pollock, Pacific cod and shallow-water flatfish to be processed into any product form, regardless of whether the resulting product is suitable for direct human consumption. Of present products, only meal and bait are regarded as not suitable for direct human consumption. Offal is considered to be processing waste rather than a product form. The other utilization alternatives considered and subsequently rejected by the Council would have limited product forms to those suitable for direct human consumption, or would have placed limits on the percentage of fishmeal produced from IR/IU species.

The Council established a 15-percent minimum utilization rate or aggregate product recovery rate (PRR) that would apply to all species covered by the IR/IU program. NMFS has calculated average PRRs for each species/product combination produced in the groundfish fisheries off Alaska. These standard PRRs are set forth at Table 3 of 50 CFR part 679. Because the lowest NMFS PRR for a non-roe, primary product produced from an IR/IU species is 16 percent (for deep skin pollock fillets), the IR/IU Industry Working group concluded that a 15 percent minimum utilization rate was achievable for all sectors of the industry and would allow for variations in actual PRRs by size of fish and season. If, under certain circumstances, a processor falls below 15 percent for a particular primary product, the vessel operator would be able to meet the minimum utilization requirement by retaining sufficient ancillary products to bring the aggregate utilization rate above 15 percent.

On October 11, 1996, the President signed into law the Sustainable Fisheries Act of 1996 (Public Law 104-297), which reauthorized and amended the Magnuson-Stevens Act. As

amended, the Magnuson-Stevens Act now provides statutory authority for regulatory programs to improve retention and utilization in the groundfish fisheries off Alaska. Section 303(a)(11) of the Magnuson-Stevens Act requires the Council to "establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—(A) minimize bycatch; and (B) minimize the mortality of bycatch which cannot be avoided." In implementing this provision of the Act, the Council is further required under section 313(f) to "submit conservation and management measures to lower, on an annual basis for a period of not less than 4 years, the total amount of economic discards occurring in the fisheries under its jurisdiction." The proposed IR/IU program, submitted by the Council, is intended to meet these statutory requirements.

#### **Elements of the Proposed Rule**

This proposed rule to implement Amendment 49 to the FMP for Groundfish of the Gulf of Alaska would expand the geographical scope of the already published proposed rule to implement Amendment 49 to the FMP for the Groundfish Fisheries of the Bering Sea and Aleutian Islands. In order to extend the IR/IU program to the GOA, this proposed rule would make three changes to the provisions of 50 CFR part 679, as proposed to be revised by the BSAI proposed rule. First, existing proposed § 679.27(a),

*Applicability*, which currently would extend coverage to any vessel fishing for groundfish in the BSAI or processing groundfish harvested in the BSAI, would be modified to extend coverage to any vessel fishing for groundfish in the GOA or processing groundfish in the GOA as well. Second, existing proposed § 679.27(b), which lists species that would be covered, would be modified by adding the shallow-water flatfish species complex for the GOA. Third, existing proposed § 679.27(h),

*Minimum utilization requirements*, which currently sets forth utilization requirements that would be required for catcher/processors in the BSAI, would be modified to include vessels processing IR/IU species harvested in the GOA. To assist the public in reviewing and commenting on the proposed IR/IU program as it would apply to the groundfish fisheries of the GOA, all elements of the program are summarized below.

#### ***Affected Vessels and Processors***

The proposed IR/IU program would apply to all vessels fishing for groundfish in the GOA and all at-sea processors processing groundfish harvested in the GOA, regardless of vessel size, gear type, or target fishery. Because the Magnuson-Stevens Act does not authorize NMFS to regulate on-shore processing of fish, the requirements of this proposed rule would not be extended to shore-based processors.

The Council has assumed that the State of Alaska (State) will implement a parallel IR/IU program for shore-based processors. In testimony at the September 1996, April 1997, and June 1997 Council meetings, the State indicated its intent to implement parallel IR/IU regulations for the shore-based processing sector. Parallel State regulations are especially necessary to address the relationship between the processing plant and the delivering vessel. A shore-based IR/IU program must require a processor to accept all IR/IU species offered for delivery by a vessel fishing for groundfish in the GOA. Otherwise, rejection of deliveries by a processor would be the equivalent of discarding of IR/IU species by that processor.

#### ***IR/IU Species***

The proposed IR/IU program for the GOA would define pollock, Pacific cod, and the shallow-water flatfish species group as IR/IU species. The shallow-water flatfish species group is defined in the FMP and the annual harvest specifications as all flatfish species other than deep water flatfish (Dover Sole and Greenland turbot), flathead sole, rex sole, and arrowtooth flounder. Retention and utilization requirements would apply to pollock and Pacific cod beginning January 1, 1998. Shallow-water flatfish would be added to the program beginning January 1, 2003. The purpose of the 5-year delay for shallow-water flatfish is to provide industry with sufficient time to develop more selective fishing techniques and/or markets for these fish.

#### ***Minimum Retention Requirements***

The proposed rule would establish minimum retention requirements by vessel type (catcher vessel, catcher/processor, and mothership), and by the directed fishing status of the IR/IU species (open to directed fishing, closed to directed fishing, and retention prohibited). In general, vessel operators would be required to retain 100 percent of their catch of an IR/IU species unless a closure to directed fishing limits

retention of that species. When a closure to directed fishing limits retention of an IR/IU species, the vessel operator would be required to retain all catch of that

species up to the maximum retainable bycatch (MRB) amount in effect for that species, and to discard catch in excess of the MRB amount. The specific

retention requirements by vessel type and directed fishing status are set out in table format below:

| If you own or operate a * * * | And * * *                                                                                                                                                              | You must retain on board until lawful transfer * * *                                                                                                                                                                                                                                                                     |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (i) Catcher vessel .....      | (A) Directed fishing for an IR/IU species is open.<br>(B) Directed fishing for an IR/IU species is prohibited.<br>(C) Retention of an IR/IU species is prohibited.     | All fish of that species brought on board the vessel.<br>All fish of that species brought on board the vessel up to the MRB amount for that species.<br>No fish of that species.                                                                                                                                         |
| (ii) Catcher/processor .....  | (A) Directed fishing for an IR/IU species is open.<br>(B) Directed fishing for an IR/IU species is prohibited.<br><br>(C) Retention of an IR/IU species is prohibited. | A primary product from all fish of that species brought on board the vessel.<br>A primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.<br>No fish or product of that species. |
| (iii) Mothership .....        | (A) Directed fishing for an IR/IU species is open.<br>(B) Directed fishing for an IR/IU species is prohibited.<br><br>(C) Retention of an IR/IU species is prohibited. | A primary product from all fish of that species brought on board the vessel.<br>A primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.<br>No fish or product of that species. |

#### *Retention Requirements Under Directed Fishing Closures*

NMFS assesses each groundfish TAC annually to determine how much of a species' TAC is needed as bycatch in other groundfish fisheries. The remainder is made available as a directed fishing allowance. NMFS closes directed fishing for a species or species group when the directed fishing allowance for that species has been reached in order to leave sufficient portions of the TAC to provide for bycatch in other fisheries. However, if TAC is reached, retention of that species becomes prohibited and all catch of the species must be discarded. Under existing regulations, a species or species group may be open or closed to directed fishing, or retention may be prohibited.

Directed fishing is defined in existing § 679.2 as any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the MRB amount for that species or species group. The MRB amount for a species is calculated as a percentage (by weight) of the species closed to directed fishing relative to the weight of other species that are open for directed fishing and retained on board the vessel. On catcher/processors, which retain product rather than whole fish, the MRB amount is determined using round-weight equivalents, which are calculated using NMFS PRRs set forth at Table 3 of 50 CFR part 679. The MRB percentage for each species is set forth

at Table 11 of 50 CFR part 679. When directed fishing for a species is closed, bycatch amounts of the species may be retained on board a vessel up to the MRB amount in effect for that species, and catch in excess of the MRB amount must be discarded.

The MRB percentages serve as a management tool to slow down the rate of harvest of a species closed to directed fishing and to reduce the incentive for fishing vessels to target on that species. In most cases, an MRB of 20 percent is established to slow the harvest rate of a species yet avoid significant discard amounts of these species to the extent they are taken as bycatch in other open groundfish fisheries. Directed fishing closures are also made when a fishery reaches a prohibited species bycatch allowance, or to prevent overfishing of another groundfish species taken as bycatch.

Under the proposed regulations, if a vessel's bycatch of an IR/IU species exceeds an MRB amount in effect for that species, all catch in excess of the MRB amount would have to be discarded. This situation would be most likely to occur in trawl fisheries where bycatch of pollock is prevalent. The pollock TAC in the GOA is released in three seasonal allowances in January, July, and September. Each opening typically lasts a few days or less. During the remainder of the year, pollock may be a prevalent bycatch species on trawl vessels participating in Pacific cod and flatfish fisheries and could comprise

more than 20 percent (the MRB percentage for pollock) of total catch by some vessels. If this occurs, affected vessels would be required to simultaneously retain and discard portions of the catch of an IR/IU species. Additional discussion of the relationship between the proposed IR/IU program and directed fishing closures is contained in the BSAI proposed rule.

#### *Additional Retention Requirements*

*Bleeding Codends and Shaking Longline Gear.* The minimum retention requirements outlined above would apply to all fish of each IR/IU species that are brought on board a vessel. Any activity intended to cause the discarding of IR/IU species prior to their being brought on board a vessel, such as bleeding codends or shaking fish off longlines, would be prohibited. NMFS recognizes that some escapement of fish from fishing gear does occur in the course of fishing operations. Therefore, incidental escapement of IR/IU species, such as fish squeezing through mesh or dropping off longlines, would not be considered a violation unless the escapement is intentionally caused by action of the vessel operator or crew.

*At-sea Discard of Products.* In addition to the retention requirements outlined above, the proposed rule would prohibit the at-sea discard of products from any IR/IU species.

*Discard of Fish or Product Transferred from other Vessels.* The retention requirements of this proposed

rule would apply to all IR/IU species brought on board a vessel, whether caught by that vessel or transferred from another vessel. Discard of IR/IU species or products that were transferred from another vessel would be prohibited.

*IR/IU Species Used as Bait.* IR/IU species could be used as bait provided the bait is physically attached to authorized fishing gear when deployed. Dumping IR/IU species as loose bait (i.e., chumming) would be prohibited.

#### *Minimum Utilization Requirements*

Beginning January 1, 1998, all catcher/processers and motherships would be required to maintain a 15-percent utilization rate for each IR/IU species. Calculation of a vessel's utilization rate would depend on the type of vessel (catcher/processor or mothership) and directed fishing status of the IR/IU species in question. The minimum utilization requirements by vessel type and directed fishing status are set out in tables at § 679.27(h) of the proposed regulations and are summarized below.

*Catcher/processors.* On a catcher/processor, when directed fishing for an IR/IU species is open, the total weight of retained or lawfully transferred products from IR/IU species harvested during a fishing trip would have to equal or exceed 15 percent of the round weight catch of that species during the fishing trip. When directed fishing for an IR/IU species is closed, the weight of retained products would have to equal or exceed either 15 percent of the MRB amount in effect for that species or 15 percent of the round weight catch of that species, whichever is lower. When retention of an IR/IU species is prohibited, there would be no minimum utilization rate and any retention of fish or products would be prohibited.

*Motherships.* On a mothership, when directed fishing for an IR/IU species is open, the total weight of retained or lawfully transferred products from an IR/IU species received during a reporting week would have to equal or exceed 15 percent of the round weight of that species received during the same reporting week. When directed fishing for an IR/IU species is closed, the weight of retained products would have to equal or exceed 15 percent of the MRB amount in effect for that species or 15 percent of the round weight catch of that species, whichever is lower. When retention of an IR/IU species is prohibited, there would be no minimum utilization rate and any retention of fish or products would be prohibited.

#### **Recordkeeping Requirements**

The proposed rule for the IR/IU program in the BSAI contains changes to existing recordkeeping requirements to aid the monitoring and enforcement of the IR/IU program. Because NMFS uses the same logbooks for both the BSAI and GOA, the recordkeeping requirements contained in this proposed rule were included in the collection-of-information request submitted to OMB for the BSAI IR/IU program. The IR/IU-related recordkeeping requirements contained in the BSAI proposed rule are as follows: Beginning January 1, 1998, all catcher vessels and catcher/processers that are currently required to maintain NMFS logbooks would be required to log the round weight catch of pollock and Pacific cod in the NMFS catcher vessel daily fishing logbook (DFL) or catcher/processor DCPL on a haul-by-haul or set-by-set basis. Motherships would be required to log the receipt of round weight of pollock and Pacific cod in the mothership DCPL on a delivery-by-delivery basis. Beginning January 1, 2003, this requirement would extend to rock sole and yellowfin sole in the BSAI and the shallow-water flatfish complex in the GOA. These changes are necessary to provide vessel operators and enforcement agents with round weight information for each IR/IU species in order to monitor compliance with the IR/IU program.

#### *Technical Changes To Existing Regulations*

Regulations at § 679.50 (c) and (d), which specify observer coverage requirements for motherships and shoreside processors based on "round weight or round-weight equivalent" of groundfish processed, would be revised by removing the term "round weight." Observer coverage requirements for motherships and shoreside processors during a calendar month would therefore be based only on the round-weight equivalent of groundfish processed. This change is necessary because the terms "round weight" and "round-weight equivalent" would no longer be synonymous under the proposed rule.

#### **Classification**

At this time, NMFS has not determined that Amendment 49 is consistent with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule contains a revised collection-of-information requirement subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This revised collection-of-information requirement was included in the PRA submission to OMB for the proposed rule to implement IR/IU in the BSAI, and, consequently, a new submission is not being made for this rule to implement IR/IU in the GOA. Under the revision, vessel operators would be required to log the round weight of each IR/IU species on a haul-by-haul basis for catcher vessels and catcher/processers and on a delivery-by-delivery basis for motherships. The estimated current and new public reporting burdens for these collections of information are as follows: For catcher vessels using fixed gear, the estimated burden would increase from 20 minutes to 23 minutes; for catcher vessels using trawl gear, the estimated burden would increase from 17 minutes to 22 minutes; for catcher/processers using fixed gear, the estimated burden would increase from 32 minutes to 35 minutes; for catcher/processers using trawl gear, the estimated burden would increase from 29 minutes to 34 minutes; for motherships, the estimated burden would increase from 28 to 33 minutes. Send comments regarding reporting burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens to NMFS and OMB (see ADDRESSES).

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

An RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the social impacts of the alternatives. The RIR also estimates the total number of small entities affected by this action and

analyzes the economic impact on those small entities.

An IRFA was prepared as part of the RIR, which describes the impact this proposed rule would have on small entities, if adopted. In 1995 there were 221 vessels that participated in the various sectors of the GOA trawl fishery of which 165 vessels (75 percent) were determined to be small entities. The analysis concluded that the economic effects on longline, pot and jig gear vessels would not be significant. The economic effects on trawl vessels participating in the pollock, sablefish, deep-water flatfish, shallow-water flatfish, rockfish, and Atka mackerel fisheries also would not be significant. The analysis concluded that the economic effects on some trawl vessels participating in the Pacific cod, arrowtooth flounder, and rex sole fisheries could be significant. Finally, the analysis concluded that the economic effects on vessels participating in the flathead sole fishery taken as a whole, would be significant. The proposed rule would have a significant economic impact on an estimated 165 trawl vessels participating in various sectors of the GOA trawl fishery. This is the upper limit of a range of possible impacts.

The analysis also concluded that for fish for which markets are limited or undeveloped (e.g., small Pacific cod, and some flatfish species) 100-percent retention requirements would impose direct operational costs that probably cannot be offset (in whole or in part) by expected revenues generated by the sale of the additional catch. No quantitative estimate can be made of these costs at present. In general, the impacts on any operation will vary inversely with the size and configuration of the vessel, hold capacity, processing capability, markets and market access, as well as the specific composition and share of the total catch of the three IR/IU species. The burden will tend to fall most heavily upon the smallest, least diversified operations, especially

smaller catcher/processors. The ability of smaller catcher/processors to adapt to the proposed IR/IU program will be further limited due to programs such as the vessel moratorium, license limitation, and Coast Guard load-line requirements, which place severe limits on reconstruction to increase vessel size and/or processing capacity.

The economic impacts imposed by this rule would not be alleviated by modifying reporting requirements for small entities. Where relevant, this proposed rule employs performance standards rather than design standards and allows maximum flexibility in meeting its requirements. The Council also considered and rejected the following alternatives that might have mitigated impacts on small businesses. (1) An alternative that would have allowed exemptions or modified phase-in periods based on vessel size, was rejected because it would have diluted the reductions in bycatch and discards and would have provided an unfair advantage to a certain sector of the industry. (2) A "harvest priority program" that would have rewarded vessels demonstrating low bycatch was rejected because it would not reduce discard rates expeditiously enough. (3) A voluntary bycatch and discard reduction program was rejected because it would not have met statutory requirements of the Magnuson-Stevens Act.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Administrator, Alaska Region, NMFS determined that fishing activities conducted under this rule would not affect endangered and threatened species listed or critical habitat designated pursuant to the Endangered Species Act in any manner not considered in prior consultations on the groundfish fisheries of the BSAI.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: August 12, 1997.

**Rolland A. Schmitten,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

For the reasons set out 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:** 16 U.S.C. 773 *et seq.* 1801 *et seq.*, and 3631 *et seq.*

2. Section 679.27, which was proposed to be added on June 26, 1997 (62 FR 34437), is proposed to be amended by revising paragraphs (a), (b), and (h) as follows:

#### § 679.27 Improved Retention/Improved Utilization Program.

(a) *Applicability.* The retention and utilization requirements of this section apply to any vessel fishing for groundfish in the BSAI or GOA, or processing groundfish harvested in the BSAI or GOA.

(b) *IR/IU species.* The following species and species groups are defined as "IR/IU species" for the purposes of this section:

(1) Pollock.

(2) Pacific cod.

(3) Rock sole in the BSAI (beginning January 1, 2003).

(4) Yellowfin sole in the BSAI (beginning January 1, 2003).

(5) Shallow-water flatfish species complex in the GOA as defined in the annual harvest specifications for the GOA (beginning January 1, 2003).

\* \* \* \* \*

(h) *Minimum utilization requirements.* (1) *Catcher/processors.* The minimum utilization requirement for catcher/processors is determined by the directed fishing status for that species according to the following table:

|                                                           |                                                                                                                                                                    |
|-----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If you own or operate a catcher/processor and *           | Your total weight of retained or lawfully transferred products produced from the catch of that IR/IU species during a fishing trip must * * *                      |
| (i) Directed fishing for an IR/IU species is open         | Equal or exceed 15 percent of the round weight catch of that species during the fishing trip.                                                                      |
| (ii) Directed fishing for an IR/IU species is prohibited. | Equal or exceed 15 percent of the round weight catch of that species during the fishing trip or 15 percent of the MRB amount for that species, whichever is lower. |
| (iii) Retention of an IR/IU species is prohibited ..      | Equal zero.                                                                                                                                                        |

(2) *Motherships.* The minimum utilization requirement for motherships is determined by the directed fishing status for that species according to the following table:

|                                                   |                                                                                                                                                     |
|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|
| If you own or operate a mothership and * * *      | Your weight of retained or lawfully transferred products produced from deliveries of that IR/IU species received during a reporting week must * * * |
| (i) Directed fishing for an IR/IU species is open | Equal or exceed 15 percent of the round weight of that species received during the reporting week.                                                  |

|                                                           |                                                                                                                                                                               |
|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If you own or operate a mothership and * * *              | Your weight of retained or lawfully transferred products produced from deliveries of that IR/IU species received during a reporting week must * * *                           |
| (ii) Directed fishing for an IR/IU species is prohibited. | Equal or exceed either 15 percent of the round weight of that species received during the reporting week or 15 percent of the MRB amount for that species, whichever is lower |
| (iii) Retention of an IR/IU species is prohibited ..      | Equal zero.                                                                                                                                                                   |

3. In § 679.50, paragraphs (c)(3) introductory text, (d)(1), and (d)(2) are revised to read as follows:

**§ 679.50 Groundfish Observer Program applicable through December 31, 1997.**

\* \* \* \* \*

(c) \* \* \*

(3) *Assignment of vessels to fisheries.* At the end of any fishing trip, a vessel's retained catch of groundfish species or species groups for which a TAC has been specified under § 679.20, in round-

weight equivalent, will determine to which fishery category listed under paragraph (c)(2) of this section the vessel is assigned.

\* \* \* \* \*

(d) \* \* \*

(1) Processes 1,000 mt or more in round-weight equivalent of groundfish during a calendar month is required to have an observer present at the facility each day it receives or processes groundfish during that month.

(2) Processes 500 mt to 1,000 mt in round-weight equivalent of groundfish during a calendar month is required to have an observer present at the facility at least 30 percent of the days it receives or processes groundfish during that month.

\* \* \* \* \*

[FR Doc. 97-21833 Filed 8-15-97; 8:45 am]

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