DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030320066–3066–01; I.D. 022103D]

RIN 0648–AQ78

Fisheries of the Exclusive Economic Zone Off Alaska; Delay of Full Retention and Utilization Requirements for Rock Sole and Yellowfin Sole

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

ACTION: Proposed rule; availability of supplemental information.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 75 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This amendment would delay the effective date of requirements for 100-percent retention and utilization of rock sole and yellowfin sole from January 1, 2003, until June 1, 2004. The purpose of Amendment 75 is to provide the Council and the affected industry with additional time to develop and assess alternatives to address groundfish discards in the groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI). An Initial Regulatory Flexibility Analysis (IRFA) was prepared to examine the effects of Amendment 75 on small entities. The purpose of this notice is to provide the affected public an expanded summary of the IRFA so that members of the public may provide more effectively comments on the effects of Amendment 75 on small entities.

DATES: Comments on the IRFA must be received by May 12, 2003.

ADDRESSES: Comments on the IRFA 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 Durall. Hand delivery or courier delivery of comments may be sent to the NMFS, Alaska Region, 709 West 9th St., Room 453, Juneau, AK, 99801. Comments also may be sent via facsimile (fax) to (907) 586–7557. Comments will not be accepted if submitted via e-mail or the Internet. Copies of Amendment 75 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action are available from NMFS at the above address, or by calling Lori Durall, Alaska Region, NMFS at (907) 586–7228. The EA/RIR/IRFA is also available online at: *http://www.fakr.noaa.gov/analyses/2003.htm*.

FOR FURTHER INFORMATION CONTACT: Sue Salveson, (907) 586–7228.

SUPPLEMENTARY INFORMATION: The Council prepared an IRFA for Amendment 75 that describes the economic impacts this proposed amendment and implementing regulations, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the proposed rule to implement Amendment 75 (68 FR 15144, March 28, 2003). This proposed rule does not duplicate, overlap, or conflict with other Federal rules. No new reporting or recordkeeping requirements are contained in any of the alternatives considered for this action. A total of 176 small entities (all catcher vessels) and 34 large entities (6 catcher vessels, 24 head and gut catcher/processors, and 4 surimi catcher/processors) are active in the BSAI groundfish fisheries. Because individual vessel costs are not available for these vessels, individual vessel profitability could not be estimated. Therefore, changes in gross revenue of the 176 vessels are used as a proxy for changes in individual vessel profitability. Furthermore, assumptions are made that revenue losses and gains are shared equally among these vessels and that discards represent a displacement of revenue tonnage if hold space is limited. The delay in implementing IR/IU flatfish retention rules for rock sole and yellowfin sole in the BSAI will prevent decreases in the profitability of small vessels while having little impact on the large vessels that participate in these fisheries. A summary of the analysis follows:

The preferred alternative would delay implementation of IR/IU flatfish regulations in the BSAI fisheries through June 2004. The economic impact of the preferred alternative on individual vessels is expected to be minimal. It is expected to provide industry and management agencies an additional 17 months before implementation to develop measures that could meet bycatch reduction goals, while allowing the industry to continue to operate effectively. The Council and NMFS are currently analyzing alternative approaches to IR/IU flatfish regulations that could be implemented in June 2004. The alternatives currently under consideration for future action by the Council are designed to achieve the management objective of reducing bycatch in a less economically burdensome manner.

Alternative 1, which represents a 100 percent retention standard, could lead to decreases in gross revenue for the affected fisheries and could yield substantial decreases in gross revenue associated with rock sole in the Pacific cod fishery. Assuming hold space is limited, the additional flatfish retained would displace fish of higher value, thereby decreasing per trip revenues. Many of the catcher vessels may experience a problem with damaged non-flatfish, such as Pacific cod, by mixing rough-scaled flatfish and soft-fleshed roundfish in the hold. This problem may be avoided if flatfish are segregated in a separate hold. However, most catcher vessels are unlikely to be able to dedicate an entire hold to the relatively small amount of flatfish that are likely to be taken. Furthermore, it is generally reported that many (perhaps most) of these catcher vessels do not have the capacity to sort their catch at sea, under any circumstances.

Historical catches and discards of IR/IU flatfish by trawl catcher vessels are highest in the BSAI Pacific cod fishery, both in terms of volume and percent by weight of retained groundfish. During the 1992–2000 period, discards of rock sole and yellowfin sole were 12.6 percent of the total amount of groundfish retained. Over 75 percent of trawl catcher vessel gross revenue was generated from landings of pollock and 20 percent was generated in Pacific cod fisheries. Only 3 percent of trawl catcher vessel gross revenue was generated from landings of flatfish. Moreover, since 1998, flatfish have accounted for only 1 percent of total gross revenue. Clearly, pollock and Pacific cod are the mainstays of trawl catcher vessels, and because bottom trawling for pollock was prohibited in 1999, IR/IU flatfish regulations are likely to affect only those trawl catcher vessels that participate in Pacific cod fisheries.

Alternative 2 would allow some discards of the IR/IU flatfish species. The percent retention requirement would be set independently for each species and would range from 50 percent to 90 percent. The analysis of the effects of alternative retention requirements on catcher vessels shows that virtually 100 percent of the catch of rock sole and yellowfin sole is discarded in all the fisheries in which rock sole and yellowfin sole are caught. Consequently, any retention requirement for rock sole and yellowfin

sole would be expected to result in adverse economic and operational impacts. This measure can be interpreted as a displacement of revenue tonnage. A full retention requirement for rock sole would have the greatest effect, and this requirement would result in less than a five percent displacement in revenue tonnage for all catcher vessel classes.

Alternative 3 would delay implementation of IR/IU flatfish rules for up to 3 years. Delaying implementation will postpone the economic consequences discussed under Alternative 1 and will allow the benefits of the economic activity associated with the operation of these vessels to accrue to vessel operators for the period of the delay. A delay in implementation could also provide time for assessment of the potential for rationalization within the IR/IU flatfish fisheries. These fisheries are characterized by a ''race for fish'' mode of operation that exacerbates the economic impacts of the IR/IU rules. Rationalization may ease some aspects of the ''race for fish'', but may not eliminate all aspects because IR/IU flatfish are targeted during specific roe seasons and times of highest quality. However, possibilities for fleet consolidation or cooperative operations that might ease the economic burden of IR/IU flatfish rules could be explored during a delay in implementation. In the past several years, discards of yellowfin sole have been trending downward. Industry sources indicate that they have been doing all that they can to utilize all the IR/IU flatfish that they harvest and are actively attempting to develop markets for smaller fish.

Alternative 4 exempts fisheries from IR/IU flatfish regulations if flatfish discards are less than 5 percent of total groundfish catch. This analysis used two different estimates of the discard rates for determination of the IR/IU exemption. One estimate is based on a weighted average discard rate for 1995–2001, and a second estimate is based on a weighted average discard rate for 1999–2001. Discards exceed 5 percent in most flatfish fisheries and in Pacific cod trawl fisheries in the BSAI. The revenue reductions of this alternative are similar to those of Alternative 1.

Dated: April 15, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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