[2] Between 6 a.m. and 12 midnight on any day for any radio or television broadcast station not described in paragraph (1). 

Id. section 16(a). The provision further states that the regulations required under this subsection shall be promulgated in accordance with section 553 of the Administrative Procedure Act, 5 U.S.C. 553, and shall become final not later than 180 days after the date of enactment of the Act. In conformity with the statute, we propose to adopt the rule set forth in the Amended Text.

3. The focus of this proceeding is quite narrow and will be confined to the matter of updating the Commission's record pertaining to the governmental interest in restricting the broadcasting of indecent material. Accordingly, we invite the public to update the data considered in the Commission's 1990 Report on broadcast indecency (5 FCC Rcd 5297) with regard to the presence of children in the viewing and listening audience.

4. Initial Regulatory Flexibility Analysis. As required by Section 603 of the Regulatory Flexibility Act (Pub. L. 96-354, 96 Stat. 1164, 5 U.S.C. section 601 et seq. (1981)), the Commission has prepared the following Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document.

Reason for Action: This proceeding is being initiated pursuant to Public Law 102-356, section 16(a) and seeks public comment on the implementation of that statutory provision.

Objectives: Our goal in this proceeding is to supplement the Commission's record to support the implementation of Congress' enactment of a "safe harbor" time period for the broadcast of indecent material.

Legal Basis. Authority for this proposed rule making is contained in Sections 4(i) and (j), 303 and 312 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), 303, 312, and in Section 16(a) of the Public Telecommunications Act of 1991, Pub. L. No. 102-395 (1992).

Reporting, Recordkeeping and other Compliance Requirements: None.

Description, Potential Impact, and Number of Small Entities Involved: The rules proposed in this proceeding could affect certain small entities including radio and television broadcasters who choose to air indecent broadcast materials at times which will subject them to enforcement action by the Commission.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives: None.

Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this Notice of Proposed Rule Making, but they must have a separate and distinct heading, designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

List of Subjects in 47 CFR Part 73

Radio broadcasting and Television broadcasting.

Proposed Rule Changes

Part 73 of chapter I of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:


2. Section 73.3999 is revised to read as follows:

§ 73.3999 Enforcement of 18 U.S.C. 1464 (restrictions on the transmission of obscene and indecent material).

(a) No licensee of a radio or television broadcast station shall broadcast any material which is obscene.

(b) No licensee of a public broadcast station, as defined in 47 U.S.C. 397(b), that goes off the air at or before 12 midnight shall broadcast on any day between 6 a.m. and 10 p.m. any material which is indecent.

(c) No licensee of a radio or television broadcast station not described in paragraph (b) of this section shall broadcast on any day between 6 a.m. and 12 midnight any material which is indecent.

[FR Doc. 92-24457 Filed 10-6-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Parts 672 and 675

(Docket No. 911215-2251)

RIN 0648-AD50

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; proposed regulatory amendment; request for comments.

SUMMARY: NMFS publishes a proposed rule that would implement a revision of Amendment 18 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands (BSAI) if the amendment is approved by the Secretary of Commerce (Secretary) after review and consideration of public comments. Revised Amendment 18 to the FMP was prepared by the North Pacific Fishery Management Council (Council) and has been submitted to the Secretary for review under provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

In addition, NMFS publishes a proposed regulatory amendment to clarify regulations that were published June 3, 1992 (57 FR 23321), implementing portions of Amendment 18 to the BSAI FMP and Amendment 23 to the FMP for Groundfish of the Gulf of Alaska (GOA).

The proposed rule would continue an allocation of pollock between inshore and offshore components in the BSAI during the years 1990 through 1995. Also, these proposed regulations would revise the catcher vessel operational area (CVOA) established in the BSAI (57 FR 23321, June 3, 1992) to allow only catcher vessels and motherships to operate within the CVOA during the non-roe (or "B") season (June 1–December 31). The Council intends these actions to promote management and conservation of groundfish and other fish resources and to further the goals and objectives contained in the FMPs that govern these fisheries.

DATES: Comments are invited on or before November 4, 1992.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21666, Juneau, AK 99802 or delivered to the Federal Building Annex, Suite 6, 9100 Mendenhall Mall
Road, Juneau, Alaska. Individual copies of the revision of Amendment 18 and the regulatory impact review/initital regulatory flexibility analysis (RIR/IRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter, Fishery Management Biologist, Alaska Region, NMFS at 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) off Alaska are managed in accordance with the BSAI and GOA FMPs. Both FMPs were prepared by the Council under authority of the Magnuson Act. The GOA FMP is implemented by regulations appearing at 50 CFR 611.92 for the foreign fishery and at 50 CFR part 672 for the U.S. fishery. The BSAI FMP is implemented by regulations appearing at 50 CFR 611.93 and 50 CFR part 675. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620. The fishery for walleye pollock (Theragra chalcogramma) and the affected human environment are described in the FMPs and in the environmental impact statements prepared by the Council for each FMP and the RIR/IRFA prepared for this action.

The problems and issues resulting in Amendments 18/23 are discussed in the proposed rule notice for the amendments (58 FR 6609, December 20, 1991; corrected at 57 2814, January 23, 1992) and the final rule implementing Amendment 23 and the approved portions of Amendment 18 (57 FR 23321, June 3, 1992). Briefly, early in 1990, several catcher/processor vessels harvested large amounts of pollock from the GOA. This contributed to an early closure of the GOA pollock fishery and prevented inshore components from realizing their anticipated economic benefit from pollock later in the fishing year. At the April 1989 Council meeting, fishermen and processors from Kodiak Island requested that the Council consider inshore-offshore allocations to prevent future preemption of resources by one industry sector over another. The Council considered the issues of coastal community development and shoreside preference, and in December 1989 adopted management alternatives for analysis. The Council amended the alternatives and continued its analysis, review, and discussion throughout 1990 and early 1991. After receiving advice from its advisory bodies and hearing public testimony at its meeting of June 24–29, 1991, the Council adopted its preferred alternative.

As originally proposed by the Council, Amendments 18/23 allocated the total allowable catch (TAC) of pollock between inshore and offshore sectors in the BSAI and GOA in the years 1992 through 1995 as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>BSAI Inshore (percent)</th>
<th>BSAI Offshore (percent)</th>
<th>GOA All Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>35</td>
<td>65</td>
<td>100</td>
</tr>
<tr>
<td>1993</td>
<td>40</td>
<td>60</td>
<td>70</td>
</tr>
<tr>
<td>1994</td>
<td>45</td>
<td>55</td>
<td>35</td>
</tr>
<tr>
<td>1995</td>
<td>45</td>
<td>55</td>
<td>37.5</td>
</tr>
</tbody>
</table>

Secretarial review of the amendments began on December 1, 1991. Public comment on the proposed rule ended February 3, 1992. On March 4, 1992, the Secretary approved the proposed pollock and Pacific cod allocations for the GOA and the proposed pollock allocation for the BSAI for 1992. These allocations were implemented on June 1, 1992 (57 FR 23321, June 3, 1992). The proposed pollock allocations for the BSAI in 1993 through 1995 were disapproved.

The action of the Under Secretary for Oceans and Atmosphere (Under Secretary) disapproving the 1993–1995 BSAI pollock allocations was based, in part, on a cost-benefit analysis prepared by NMFS that indicated a significant net economic loss under these proposed allocations. The Council had not supplied sufficient evidence of social or other benefits to offset that loss. As a result, the disapproved measures violated national standard 7 and E.O. 12291. In a March 4, 1992, letter to the Council, the Under Secretary stated that the net economic effects in 1993 through 1995 were "not fully understood" at the time the Council took its action, and that it would be necessary for the Council to evaluate further the economic effects of each reasonable alternative before the additional years could be approved.

Under section 304(b) of the Magnuson Act, the Council may submit a revised amendment to the Secretary for consideration under an expedited review schedule. At its April 21–26, 1992, meeting, the Council considered the actions and recommendations of the Secretary and decided to submit a revised Amendment 18. The Council supplemented its previous analysis of management alternatives for the original Amendments 18/23. The allocation alternatives considered for revised Amendment 18 included (1) no action, (2) allocations in 1993 through 1995 or 30 percent and 70 percent inshore and offshore components, respectively, and (3) inshore and offshore allocations, respectively, of 35 and 65 percent in 1993, 40 and 60 percent in 1994, and 45 and 55 percent in 1995. The Council reviewed the draft analysis of these alternatives at its meeting of June 22–28, 1992. The draft analysis was made available for public review on July 10, 1992.

At a special meeting to discuss the issue of allocation August 4–5, 1992, the Council again considered the comments of its advisory bodies and the public, and adopted its preferred alternative, recommended to the Secretary as revised Amendment 18. The preferred alternative would make allocations of pollock in the BSAI area between inshore and offshore components, respectively, of 35 and 65 percent in 1993, and of 37.5 and 62.5 percent in 1994 and 1995. In addition, the Council elected to create a CVOA for pollock only in the "B" season in the years 1993 through 1995. Further, the Council recommended allowing vessels in the offshore component that process only (i.e., motherships) to operate in the CVOA, so the catcher vessels that deliver to these vessels can also operate in the CVOA.

The Council has submitted revised Amendment 18 to the Secretary for review, approval, and implementation under section 304(b) of the Magnuson Act. A notice of availability of revised Amendment 18 and request for public comment was published on October 2, 1992. Preliminary determination that revised Amendment 18 is adequate to initiate Secretarial review should not be interpreted to mean that this amendment will be approved by the Secretary. Public comments on the consistency of the amendment and the proposed regulations with the Magnuson Act’s national standards and other applicable law are invited. Comments are specifically requested on the adequacy of the analysis in the RIR/IRFA to support findings of compliance with national standards (fair and equitable allocations), 5 (justification for economic allocations), and 7 (net benefits to the Nation). Information and analysis that bolster or contradict the conclusions in any of the supporting documents are also requested.

In addition, changes are proposed to clarify and improve the effectiveness of existing regulations that implement Amendments 18 and 23. Public comment is requested on the proposed changes.
Description of Proposed Management Measures

Revised Amendment 18

The definitions of “inshore” and “offshore” components of the industry remain unchanged from those implementing Amendment 23 in the GOA and the approved pollock allocation in the BSAI area for 1992. In addition, this action proposes no change to the western Alaska community development quota (CDQ) program. Proposed regulations to implement CDQ allocations of pollock in the BSAI area are the subject of a separate rulemaking ([insert citation to CDQ proposed rule notice if known]).

The principal new provisions of revised Amendment 18 include (1) the proportional allocation of the pollock TAC between inshore and offshore components, and (2) the CVOA.

1. Inshore-Offshore Allocation of Pollock in the BSAI Area

Under revised Amendment 18, the BSAI pollock TAC would be allocated between the inshore and offshore components for a 3-year period, 1993 through 1995. The amount of TAC to be allocated to each component would be calculated after a reserve ($675.20(a)(3)] is subtracted. The reserve is specified annually as 15 percent of the TAC of all species categories. One half of this amount (7.5 percent) would be designated as the CDQ reserve and made available to western Alaska communities under the approved CDQ program. If it appears that the CDQ program will not be able to harvest the amount designated for this program, the reserve would be reapportioned to the non-CDQ fishery in accordance with the specified proportional allocation for that year. In addition, if, during a fishing year, the Director of the Alaska Region, NMFS (Regional Director), determines that either the inshore or offshore component will not be able to catch and process the entire amount of pollock allocated to it, then the amount that the Regional Director projects will be unused by the component will be reallocated to the other component by notice in the Federal Register.

The proposed allocations of pollock for each subarea in the BSAI area and each pollock season defined at § 675.20(a)(2) are as follows:

<table>
<thead>
<tr>
<th></th>
<th>Inshore (percent)</th>
<th>Offshore (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>BSAI:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1993</td>
<td>35.0</td>
<td>65.0</td>
</tr>
<tr>
<td>1994</td>
<td>37.5</td>
<td>62.5</td>
</tr>
</tbody>
</table>

The allocation percentages developed in revised Amendment 18 are intended to achieve an equitable apportionment of the pollock resource without needlessly impeding the efficiency of either component.

During Secretarial review of the original Amendments 18/23, NOAA expressed concern that the analysis of potential economic effects of the allocations was not complete. The Council assessed the potential distributive effects of the proposed allocations and qualitatively described the potential net benefits to the Nation. The Secretary subsequently performed a quantitative economic analysis, which concluded there would be a total net loss to the Nation of $178 million during the last half of 1992 and 1993 through 1995.

For the GOA alone, the Secretary calculated a potential net economic loss of about $23 million. This potential economic loss under the proposed allocation of Amendment 23 was offset by nonquantified, positive social benefits to coastal communities in the GOA. This finding was not possible for the allocations proposed in Amendment 18 for the BSAI in 1993–1995. In partially disapproving Amendment 18, the Under Secretary urged the Council to identify countervailing social or other benefits or modify the allocation to minimize economic loss to the Nation if it submitted a revised Amendment 18.

2. Analysis Submitted by the Council for Revised Amendment 18

The RIR/IRFA prepared by the Council in consideration of the revised Amendment 18 alternatives again demonstrates a potential net loss to the Nation of $34 to $60 million depending on whether transfer of benefits to foreign entities is included in the estimates [RIR/IRFA Table 8.1]. However, the RIR/IRFA and public testimony to the Council include other information that the Council believes offsets any potential economic losses to the Nation.

NOAA notes that some assumptions and parameters were changed between those used in section 2.0 of the RIR/IRFA and those used in section 8.0. The key variables in the analysis in section 2.0 are described in section 2.4 of the RIR/IRFA. The summary in Table 8.1 uses essentially the same parameters as those used in Tables 2.10 and 2.11 except for three changes made in response to recommendations of the Council’s Scientific and Statistical Committee. These changes affect the estimates presented in Table 8.1 in that the underlying data and model assumptions for Table 8.1 as compared to those used in Chapter 2: (a) Do not assume a surplus or loss to fishing vessel crews; (b) assume a different discard rate for inshore processors that corrects a calculation error in the earlier analysis; and (c) assume different prices for certain pollock products that represent new and corrected price information not previously available to the analytical team.

The estimates in Table 8.6 are based on three changes in Table 8.1. These additional changes: (d) Assume an equal roe recovery rate between inshore and offshore processors; (e) assume a lower product recovery rate for surimi produced by offshore processors; and (f) assume higher variable costs in the offshore component, by increasing the variable costs from the 1989–90 OMB survey by 4 percent based on the Producer Price Index to update their value to 1991. If the effects of foreign ownership in processing firms are discounted, the estimates presented in Table 8.6 appear to show that net benefits to the Nation are possible. The RIR/IRFA analysis demonstrates that the calculation of net economic benefits is highly sensitive to assumptions made about the relative processing efficiency in the inshore and offshore components, the mix of products produced, their values in foreign and domestic markets, the effect of foreign ownership of fish processing firms, and the treatment of at-sea labor in the cost-benefit model. The impact of changing certain assumptions and parameters used to model the potential costs and benefits is illustrated in Tables 8.3 and 8.4 of the RIR/IRFA. The analytical team as a whole did not have the opportunity to review or endorse the data input changes suggested by the inshore industry. Public comment on the basis for and appropriateness of these changes in parameters and assumptions is requested.

3. Other Considerations Regarding the Allocations

Although offsetting social benefits are not as readily apparent for the BSAI as they were for the GOA, an established allocation to the inshore component operating in the BSAI area could foster social stability in several western Aleutian coastal communities. The Council received public testimony that the seafood processing industry accounts for about 49 percent of the community’s employment.
These revenues presumably were property taxes apparently are shared landings taxes and fisheries-related property taxes apparently are shared by other coastal communities. For example, the Council heard that groundfish processing in Akutan provided about 37 percent of the Aleutians East Borough's total tax revenues in fiscal year 1991. These revenues presumably were shared with other communities in the borough such as King Cove, Sand Point, and others. The Secretary is particularly interested in the amounts of fish tax revenues collected and their distribution to coastal communities.

Finally, the fact that the Secretary had approved an inshore allocation of 35 percent of the pollock "B" season TAC for 1992 was a significant factor in the decision calculus. In his March 4, 1992, letter to the Council, the Under Secretary observed that a 35 percent allocation to the inshore sector for the 1992 "B" season only "** does not appear to result in significant economic losses.** NMFS catch data indicate that the "B" season harvests of pollock by the shore-based operators increased from about 15 percent of the total "B" season pollock harvest in 1990 to about 29 percent of the total "B" season pollock harvest in 1991. At this rate of increase, the inshore component probably could have been predicted to harvest about 35 percent of the "B" season pollock in 1992 even without an inshore allocation. For all of 1990, shore-based operations harvested about 16 percent of the total pollock harvest and in 1991, this proportion increased to about 28 percent. The growth rate of this increase in shoreside harvest between 1990 and 1991 was about 74 percent. To achieve a 35 percent share of the total pollock harvest in 1992, shore-based harvests would need to realize a growth rate of only about 20 percent between 1991 and 1992.

4. Catcher Vessel Operational Area (CVOA)

Revised Amendment 18 would establish a CVOA between 163° and 168° W. longitude, south of 56° N. latitude, and north of the Aleutian Islands. Offshore catcher-processors would not be allowed to conduct directed fishing operations for pollock in the CVOA during the pollock "B" season (June 1 through December 31). Access to this area would be unrestricted during the pollock "A" season (January 1-April 15). This proposed CVOA is similar to that established by the approved portion of original Amendment 18 with the following two important differences.

First, under revised Amendment 18, the CVOA would exist only during the pollock "B" season, whereas the "A" and "B" seasons as originally proposed. This represents a compromise between an exclusive, year-round CVOA, and no CVOA. The compromise is based on compelling arguments made by representatives of the offshore fleet that closing the CVOA during the "A" season would deprive it of prime fishing grounds on the largest roe-bearing fish, particularly since the Bogoslof area (adjacent to, and west of, the CVOA) fishery had been closed. Further, the ice edge would cause congestion and gear conflicts between factory trawlers and vessels using longlines and pots. They also reasoned that moving factory trawlers north of 56° N. latitude would result in lower recovery rates and higher discard of small pollock. The Council retained the CVOA during the "B" season because catcher vessels that deliver their pollock catch to shore-based processing plants in the Aleutian Islands have a limited range compared with catcher/processor vessels that can harvest pollock resources north and west of the CVOA. In addition, public testimony indicated the possibility of overcrowding and grounds preemption within the CVOA by the catcher/processor fleet.

Second, motherships operating in the offshore component would be allowed to operate in the CVOA under revised Amendment 18. This was not allowed during the "B" season in 1992 because the original Amendment 18 established this area exclusively for catcher vessels. The current regulations do not prohibit operators of catcher vessels from harvesting pollock in the CVOA and delivering their catch to motherships outside the area. This is impractical, however, because catcher vessels working with motherships cannot tow cod ends large distances. The Council was also concerned with safety. During the winter, the combination of ice edge, icing conditions, and severe storms are very hazardous for the catcher-boat fleet to operate outside the CVOA.

Proposed Regulatory Amendment

Experience in implementing inshore/offshore allocations under Amendments 18 and 23 during 1992 has prompted NMFS to propose several changes to existing regulations. The following changes are suggested to improve clarity and understanding of the regulations and their effectiveness. Descriptions of the proposed changes follow.

1. The "inshore component" definition currently at §§ 672.2 and 675.2 would be changed by reordering the sequence of types of processing operations that qualify as "inshore." The category of processor vessels operating at a single location within State of Alaska waters would be identified third instead of second. This change would juxtapose this category of processor vessels with the succeeding sentence, which explains how a single location would be determined.

2. The "prohibitions" section at §§ 672.7 and 675.7 would be changed by substituting a paragraph prohibiting the use of any vessel in more than one of the three categories included in the definition of "inshore component" during any fishing year for the paragraph regarding the first single location of processing by "inshore" processing vessels in Alaska State waters. This change would delete regulatory text that is redundant with the "inshore component" definition. Instead, the change would clarify that the category in which a vessel begins operating in an "inshore" directed fishery for Pacific cod harvested in the GOA or pollock harvested in either the GOA or BSAI area is the category that the vessel must continue to operate in for the remainder of the fishing year whenever it processes these species. For example, this would prevent a processor vessel that operates at a single location in Alaska State waters processing pollock, harvested in a directed fishery for pollock, from subsequently processing pollock or GOA Pacific cod in a different location as a "shoreside processing operation."

In the past, the Alaska Region, NMFS, has allowed vessel operators voluntarily to surrender permits, which relieves the operator of various obligations and responsibilities under 50 CFR parts 620, 672, and 675. By surrendering a permit, a vessel would not qualify as a "processor vessel," under existing regulations at §§ 672.2 and 675.2, during the same fishing year that it earlier qualified as such a vessel. This could result in a processor vessel being able to avoid the "single location" requirement specified at §§ 672.20 and 675.20 for processor vessels operating in State of Alaska waters and processing pollock and Pacific cod harvested under the inshore/offshore allocation regime. The Council intended to prevent this kind of mobility by processor vessels in the inshore component to assure equity between

processor vessels and stationary, shore-based processing plants. This change would also permit a shore-based vessel vessel from the fishing year as a non-permitted "shoreside processing operation" and then applying for and receiving a permit later that year to process groundfish in State waters at a single location other than the one used while the vessel was a "shoreside processing operation." This change would not prevent a processor vessel used in the offshore component from surrendering its permit to operate in the inshore component as a "shoreside operation." Rather, such a transition would be prevented by §§ 672.7(b) and 675.7(l), which prohibit operating in the "inshore" and "offshore" components during the same fishing year.

3. Finally, regulatory text at §§ 672.20 and 675.20 would be changed to clarify that allocations of pollock and Pacific cod would be made to vessels that catch pollock (or GOA Pacific cod) for processing by the inshore or offshore components. It follows from this clarification that vessels that catch these species are subject to the directed fishing allowances and retention prohibitions that the Regional Director is authorized to establish for either the inshore or offshore components. Without this change, such directed fishing allowances and retention prohibitions could be confusing when applied to a processor vessel that does not actually fish. The proposed change, however, clearly places the burden of complying with such prohibitions on the vessels that actually catch fish.

Classification

The schedule established by section 304(b)(3) of the Magnuson Act requires the Secretary promptly to publish regulations proposed by the Council to implement a revised fishery management plan amendment. At this time, the Secretary has initially determined that the amendment these regulations would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making final determinations, will take into account the data and comments received during the comment period.

A final supplemental environmental impact statement (FSEIS) was prepared for Amendments 18 and 23, and was reviewed under the requirements of the National Environmental Policy Act. Since the impacts of revised Amendment 18 are within the scope of the FSEIS, this proposed rule is categorically excluded from the requirement to prepare an environmental assessment under section 602.c.3(f) of NOAA Administrative Order 216-6. A copy of the FSEIS may be obtained from the council (see ADDRESSES).

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended, require the Secretary to publish this proposed rule 10 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The Assistant Administrator for fisheries, NOAA (Assistant Administrator), has initially determined that this proposed rule is not a "major rule", requiring a regulatory impact analysis under E.O. 12291. This determination is based on the revised RIR/IRFA prepared by the Council. The revised RIR/IRFA concludes that (1) the projected net effect on the economy is less than $100 million annually over the 3-year period, (2) the amendment does not directly affect the technical efficiency of processing operations, (3) consumer prices are unlikely to experience major changes, and (4) the proposed allocation of resource shares is not expected to lead to changes in the overall competitiveness or innovative capabilities of the industry, in either the domestic or international market. A copy of the revised RIR/IRFA may be obtained from the Council (see ADDRESSES).

The Assistant Administrator concludes that this proposed rule, if adopted, would have a significant economic impact on a substantial number of small entities. This determination is based on the revised RIR/IRFA prepared by the Council. The harvesting sector of this industry has expanded under an open access policy, to a point where capacity far exceeds what is necessary to take the TAC. Costs are high, and for many vessels, returns are marginal. For some vessels in the offshore component, revenue losses would likely induce business failure. The analysis in the revised RIR indicates that these revenue losses could be in excess of $20 million, in the aggregate. A copy of this document may be obtained from the Council (see ADDRESSES).

The proposed rule does not involve a collection-of-information requirement under the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12012.

NMFS has previously conducted a formal consultation on the original Amendment 18 under section 7 of the Endangered Species Act (ESA). The resulting biological opinion, dated March 4, 1992, concluded that the Amendment was not likely to jeopardize the continued existence of any endangered or threatened species or critical habitat. Since revised Amendment 18 is not expected to result in any effects to listed species that were not considered in the March 4, biological opinion, further consultation under section 7 is not required. NMFS will continue to evaluate the suitability of the existing management measures in the southeastern Bering Sea shelf to ensure adequate protection for Steller sea lions.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.


Samuel W. McKeen,
Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for 50 CFR part 672 continues to read as follows:

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

2. In § 672.2, the existing definition of "inshore component" is revised to read as follows:

§ 672.2 Definitions.

Inshore component [applicable through December 31, 1995] means that part of the U.S. groundfish fishery off Alaska that includes:

(1) All shoreside processing operations;
(2) All processor vessels that process, on a daily average during any weekly reporting period, less than 18 metric tons of Pacific cod harvested in the Gulf of Alaska and pollock in aggregate round weight equivalents, and are less than 125 feet (38.1 m) in length overall; and
(3) All processor vessels in Alaska State waters (waters adjacent to the State of Alaska and shoreward of the EEZ) that process, at a single geographic location during a fishing year, pollock harvested in a directed fishery for pollock, or Pacific cod harvested in a directed fishery for Pacific cod in the Gulf of Alaska, and that submit a check-in notice and weekly production report as required at § 672.5(c) of this part. For purposes of this definition, a single geographic location will be determined by the geographic coordinates reported on a check-in notice submitted by the vessel operator when that vessel engages in a directed fishery for Pacific cod in the Gulf of Alaska or pollock for the first time in a fishing year.

3. In § 672.7, paragraph (h)(1) is revised to read as follows:

§ 672.7 Prohibitions.

* * * * *

(h) * * *

(1) Operate any vessel in more than one of the three categories included in the definition of “inshore component,” at § 672.2 of this part, during any fishing year.

* * * * *

4. Section 672.20 is amended by removing paragraph (a)(2)(v)(C), and revising paragraphs (a)(2)(v) (A) and (B) to read as follows:

§ 672.20 General limitations.

(A) The DAP apportionment of pollock in all regulatory areas and for each quarterly reporting period described in paragraph (a)(2)(iv) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component after subtraction of an amount that is projected by the Regional Director to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species. The Regional Director may establish separate directed fishing allowances and prohibitions authorized under paragraph (c)(2) of this section for vessels catching Pacific cod for processing by the inshore component and for vessels catching Pacific cod for processing by the offshore component. If, during a fishing year, the Regional Director determines that either the inshore or offshore component will not be able to process the entire amount of Pacific cod allocated to vessels catching Pacific cod for processing by that component, then NMFS will publish a notice in the Federal Register that reallocates the projected unused amount of pollock to vessels catching pollock for processing by the offshore component.

(B) The DAP apportionment of Pacific cod in all regulatory areas will be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component and 10 percent to vessels catching Pacific cod for processing by the offshore component. The Regional Director may establish separate directed fishing allowances and prohibitions authorized under paragraph (c)(2) of this section for vessels catching Pacific cod for processing by the inshore component and for vessels catching Pacific cod for processing by the offshore component. If, during a fishing year, the Regional Director determines that either the inshore or offshore component will not be able to process the entire amount of Pacific cod allocated to vessels catching Pacific cod for processing by that component, then NMFS will publish a notice in the Federal Register that reallocates the projected unused amount of pollock to vessels catching pollock for processing by the offshore component.

46138 Federal Register / Vol. 57, No. 195 / Wednesday, October 7, 1992 / Proposed Rules

* * * * *

5. The authority citation for 50 CFR part 675 continues to read as follows:

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

6. In § 675.2, the definitions of “inshore component” and “offshore component” are revised to read as follows:

§ 675.2 Definitions

* * * * *

Inshore component (applicable through December 31, 1995) means that part of the U.S. groundfishery off Alaska that includes:

(A) All shoreside processing operations;

(B) All processor vessels that process, on a daily average during any weekly reporting period, less than 18 mt of Pacific cod harvested in the Gulf of Alaska and pollock in aggregate round weight equivalents, and are less than 125 feet (38.1 m) in length overall; and

(C) All processor vessels in Alaska State waters (waters adjacent to the State of Alaska and shoreward of the EEZ) that process, at a single geographic location during a fishing year, pollock harvested in a directed fishery for pollock, or Pacific cod harvested in a directed fishery for Pacific cod in the Gulf of Alaska, and that submit a check-in notice and weekly production report as required at § 672.5(c) of this part. For purposes of this definition, a single geographic location will be determined by the geographic coordinates reported on a check-in notice submitted by the vessel operator when that vessel engages in a directed fishery for Pacific cod in the Gulf of Alaska or pollock for the first time in a fishing year.

* * * * *

7. In § 675.7, the heading of paragraph (i) and paragraph (i)(1) are revised to read as follows:

§ 675.7 Prohibitions.

* * * * *

(i) Applicable through December 31, 1995. (1) Operate any vessel in more than one of the three categories included in the definition of “inshore component,” at § 675.2 of this part, during any fishing year.

* * * * *

8. In § 675.20, paragraph (a)(2)(iii) is revised to read as follows:

§ 675.20 General limitations.

(a) * * *

(2) * * *

(iii) Applicable through December 31, 1995. The 1993 DAP apportionment of pollock in each subarea, and for each seasonal allowance defined in paragraph (a)(2)(ii) of this section, will be allocated 35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the offshore component. The 1994 and 1995 DAP apportionment of pollock in each subarea, and for each seasonal allowance defined in paragraph (a)(2)(ii) of this section, will be allocated 37.5 percent to vessels catching pollock for processing by the inshore component and 62.5 percent to vessels catching pollock for processing by the offshore component. The Regional Director may establish separate directed fishing allowances and prohibitions authorized under paragraphs (a)(8) and (a)(9) of this section for vessels catching pollock for processing by the inshore component and for vessels catching pollock for processing by the offshore component. If, during a fishing year, the Regional Director determines that either the inshore or offshore component will not be able to process the entire amount of pollock allocated to vessels catching pollock for processing by that component, then NMFS will publish a notice in the Federal Register that...
reallocate the projected unused amount of pollock to vessels catching pollock for processing by the other component.

9. In § 675.22, existing paragraph (g) is revised to read as follows:

§ 675.22 Time and area closures.

(g) Catcher vessel operational area (applicable through December 31, 1995).

Processors vessels in the "offshore component," defined at § 675.2 of this part, may not catch pollock in excess of the directed fishing standard for pollock during the second seasonal allowance of pollock, defined in paragraph (a)(2)(ii) of this section, in the Bering Sea subarea south of 50°00' N. latitude, and between 163°00' and 166°00' W. longitude. Processors vessels in the "offshore component" that do not catch groundfish but process pollock that is caught in a directed fishery for pollock by catcher vessels, may operate within this area to process the second seasonal allowance of pollock. Offshore processor vessels that catch or process groundfish in directed fisheries for species other than pollock, may operate within this area.

[FR Doc. 92-24362 Filed 10-5-92; 10:14 am]

BILLING CODE 3510-22-M

50 CFR Part 675

(Docket No. 920944--2244)

RIN 0648-AE80

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement the Western Alaska Community Development Quota (CDQ) program pursuant to Amendment 18 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands (BSAI) Area. This action is necessary to describe management of the CDQ program. It is intended to promote the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to groundfish management in the BSAI area.

DATES: Comments on the implementation of this proposed rule during the balance of 1992 and for the year 1993 are invited until October 23, 1992. Comments on the implementation of this proposed rule during the years 1994--1995 are invited until November 18, 1992.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 or delivered to the Federal Building Annex, Suite 6, 9109 Mendenhall Mall Road, Juneau, AK. Individual copies of the environmental assessment/ regulatory impact review/initial regulatory flexibility analysis (EA/RIR/ IRFA) may also be obtained from this address. Comments on the environmental assessment are requested.

FOR FURTHER INFORMATION CONTACT: David C. Ham, Fishery Management Biologist, Alaska Region, NMFS, 907--586--7229.

SUPPLEMENTARY INFORMATION:

Background

Domestic and foreign groundfish fisheries in the exclusive economic zone of the BSAI area are managed by the Secretary of Commerce (Secretary) in accordance with the BSAI FMP. The FMP was prepared by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations for the foreign fishery at 50 CFR 611.93 and for the U.S. fishery at 50 CFR part 675. General regulations that also pertain to the U.S. fishery appear at 50 CFR part 620.

The FMP allows certain measures to be changed by regulatory amendments without amending the FMP itself. This action proposes a regulatory amendment which would implement the CDQ program that was approved in concept as part of Amendment 18 to the FMP for the BSAI area.

Amendment 18, or the "inshore/offshore" amendment for the BSAI, was partially disapproved by the Secretary on March 4, 1992. The approved portion of Amendment 18 included inshore/offshore allocations for 1992 and the CDQ program, in concept, for a temporary period from 1992 through 1995.

The final rule implementing Amendment 18 (57 FR 23321, June 3, 1992) provided only for the basic allocation of pollock for the CDQ program. The CDQ allocation provides for 5.7 percent of the pollock total allowable catch (TAC), or one-half of the non-specific reserve, for each BSAI subarea to be set aside for the CDQ program. This regulatory amendment would implement the CDQ program by providing regulations that specify the contents of Community Development Plans (CDPs) and the criteria and procedures for approval by the Secretary. Approval of a CDP by the Secretary would result in allocations of portions of the CDQ reserve to specific western Alaska communities.

The CDQ program was proposed to help develop commercial fisheries in western Alaska communities. These communities are isolated and have few natural resources with which to develop their economies. Unemployment rates are high, resulting in substantial social problems. However, these communities are geographically located near the fisheries resources of the Bering Sea, and have the possibility of developing a commercial fishing industry. Although fisheries resources exist adjacent to these communities, the ability to participate in these fisheries is difficult without start-up support. This CDQ program is intended to provide the means to start regional commercial fishing projects that could develop into ongoing commercial fishing industries.

Current regulations require publication of proposed and final specifications of the pollock TAC in the Federal Register under 50 CFR 675.20(a). Regulations at § 675.20(a)(3) require 15 percent of the amount of the TAC specified for pollock in each subarea defined at § 675.2 to be placed automatically in a reserve that is not specific to any species. Under the proposed CDQ program, one-half of this reserve amount for each subarea would be assigned to the CDQ reserve. During the years 1993, 1994, and 1995, the Secretary, consultation with the Council, would publish proposed and final seasonal allowances of the CDQ reserve in the Federal Register under procedures provided for at § 675.20(a)(7). For the 1992 fishing year, the CDQ reserve would be 101,445 metric tons (mt), which is one-half of the pollock component of the non-specific reserve established for 1992. Once established, the CDQ amounts will be separate from proposed and final seasonal allowances of the pollock TAC provided for in § 675.20(a)(7).

Vessels conducting directed fishing for any CDQ reserve would be subject to all regulations in 50 CFR part 675. Unless prohibited by regulations, vessel operators may conduct directed fishing for a CDQ reserve during times and in areas closed to directed fishing for pollock TAC. The Secretary, in consultation with the Council, may limit the amounts of CDQ reserve that may be harvested during the roe or "A" season (January 1--April 15) and the non-roe or "B" season (June 1--December 31) provided at § 675.20(a)(2)(ii). For 1992, all of the 101,445 mt CDQ reserve would...