

Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations as set forth below:

PART 18—MARINE MAMMALS

1. The authority citation for 50 CFR Part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Revise § 18.123 to read as follows:

§ 18.123 When is this rule effective?

Regulations in this subpart are effective February 3, 2000 through March 31, 2000, for oil and gas exploration, development, and production activities.

Dated: January 28, 2000.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991210331-0017-02; I.D. 102899B]

RIN 0648-AN34

Fisheries of the Exclusive Economic Zone off Alaska; Inshore Fee System for Repayment of the Loan to Harvesters of Pollock from the Directed Fishing Allowance Allocated to the Inshore Component Under Section 206(b)(1) of the American Fisheries Act (AFA)

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

ACTION: Final rule.

SUMMARY: NMFS issues final regulations implementing an inshore fee system for all pollock harvested under the inshore component (IC) of the Bering Sea/Aleutian Islands directed fishing allowance under section 206(b)(1) of the AFA. The AFA authorized a \$75 million loan to reduce fishing capacity for offshore component (OC) pollock and an inshore fee system as the means of repaying the loan. The proceeds of the loan partly paid the cost of removing nine OC catcher-processors from all commercial fishing in the U.S. exclusive economic zone (EEZ). The intent of this rule is to implement the inshore fee system.

DATES: This final rule is effective February 10, 2000.

ADDRESSES: Copies of the Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis (EA/RIR/FRFA) may be obtained from Michael L. Grable, Chief, Financial Services Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments involving the reporting burden estimates or any other aspects of the collection of information requirements contained in this final rule should be sent to both Michael L. Grable, at the above address, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer). Comments sent by e-mail or the Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Michael L. Grable,
(301) 713-2390.

SUPPLEMENTARY INFORMATION:

Background

The President signed the AFA into law on October 20, 1998, as part of the Omnibus Appropriations Bill for fiscal year 1999 (Pub. L. 105-277). The AFA required the Federal Government to pay, not later than December 31, 1998, \$90 million to the owners of nine large catcher processors harvesting OC pollock. In return, eight of these vessels had to stop all commercial fishing in the EEZ immediately and be scrapped by December 31, 2000. Although the ninth vessel did not have to be scrapped, it also had to stop all commercial fishing in the EEZ immediately and the owner had to certify that neither the owner nor anyone who purchased the vessel from the owner intended to use the vessel outside the EEZ to harvest any fish that also occur within the EEZ.

On December 30, 1998, NMFS paid the required amount to the owners of these vessels. In accordance with the AFA, NMFS paid \$15 million of this amount from an AFA appropriation and the remaining \$75 million from the proceeds of a fishing capacity reduction loan under sections 1111 and 1112 of Title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and g) (Title XI). The AFA requires the loan to be repaid by fees under section 312(d)(2)(C) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(d)(2)(C)) (Magnuson-Stevens Act).

Upon payment of the \$90 million, NMFS revoked all nine vessels' domestic fishing permits, one owner provided the certificate required for the

ninth vessel, and the other owners began preparing for scrapping the remaining eight vessels. All eight vessels are presently undergoing scrapping. Scrapping is scheduled to be completed before December 31, 2000.

Under the AFA and section 312(d)(2)(C) of the Magnuson-Stevens Act, all vessel owners harvesting IC pollock (fish sellers) are required to pay the fee and all parties making the first ex-vessel purchase of IC pollock (fish buyers) are required to collect the fee and account for and forward the fee revenue to NMFS for the purpose of repaying the loan. The fish sellers pay, and the fish buyers collect, the fee when the fish buyers deduct the fee from the ex-vessel value of all IC pollock before paying the net ex-vessel value of the fish to the fish sellers.

The fee is six-tenths (0.6) of one cent for each pound, round-weight, of all IC pollock that fish sellers land. The AFA provides that fee payment and collection shall begin on or after January 1, 2000. Under this final rule, the fee must be paid and collected for all landed fish that were harvested after February 10, 2000.

Although the loan's scheduled maturity is 30 years, the AFA also provides that fee payment and collection "shall * * * continue without interruption until such loan is fully repaid * * *" (section 207(b)(2)). Whether the loan is repaid before, at, or after its scheduled maturity depends on when fee payment begins, the rate at which loan principal bears interest, annually determined total allowable pollock catches after December 31, 1999, and IC pollock allocations after December 31, 2004.

NMFS has determined the loan's principal will bear interest under the statutory formula at the rate of 7.09 percent per annum. Under the AFA, the loan's interest rate is 2 percent plus the percentage rate of interest that the U.S. Treasury charges NMFS for the \$75 million that NMFS borrowed from the U.S. Treasury. The latter percentage rate is 5.09 percent.

The other variables controlling the time required to fully repay the loan are not presently determinable. Several assumptions are, consequently, necessary to project how long repayment will take. The first assumption involves the time at which fee payment begins. For projection purposes, NMFS assumes that the fee will be paid on all IC pollock harvested in calendar year 2000 and in each year thereafter until the loan is fully repaid. The second assumption involves the annual total allowable catch (TAC) of pollock after December 31, 1999, which

may vary from year to year. For projection purposes, NMFS assumes that the average annual TAC of pollock after December 31, 1999, will be the same as the average annual TAC of pollock over the 14-year period from the beginning of 1985 through end of 1998. This was 2.769 billion pounds, which equals 1.256 million metric tons. The third assumption involves IC pollock allocations after December 31, 2004. This depends on whether the North Pacific Fishery Management Council maintains IC pollock allocations after December 31, 2004, at the same level as IC pollock allocations under the AFA from January 1, 1999, to December 31, 2004. The AFA level is 42 percent of TAC. For the purposes of this projection, NMFS assumes that IC pollock allocations after December 31, 2004, will be at the same level as IC pollock allocations from January 1, 1999, to December 31, 2004.

Under these 3 assumptions, the loan will be repaid in 21 years. This is 9 years less than the loan's scheduled maturity. Actual conditions different than those NMFS assumes for the purpose of this projection may, however, cause loan repayment to occur sooner or later than here projected. Future TAC may be the biggest determinate of the time actually required to repay this loan.

Under this rule fee payment and collection begin on February 10, 2000 and continue without interruption until the loan is fully repaid, without regard to whether this is a period longer or shorter than the loan's scheduled maturity of 30 years.

On December 30, 1998, NMFS disbursed all \$75 million of the loan's original principal amount. Interest at the rate of 7.09 percent per annum has been accruing since that date. NMFS will apply all fee receipts, first, to the payment of accrued interest and, second, to the reduction of loan principal.

Section 312(b)–(e) of the Magnuson-Stevens Act provides for fishing capacity reduction programs, which may be funded by loans under sections 1111 and 1112 of Title XI. Although the IC pollock loan is authorized by the AFA rather than by section 312(b)–(e) of the Magnuson-Stevens Act, the AFA specifies that the IC pollock loan is repayable under section 312(d)(2)(C) of the Magnuson-Stevens Act. NMFS has already proposed a framework rule for implementing section 312(b)–(e) of the Magnuson-Stevens Act (64 FR 6854, February 11, 1999). The proposed framework rule would establish detailed provisions for paying, collecting, disbursing, accounting for, and

reporting about fees repaying fishing capacity reduction loans.

NMFS had hoped to implement the fishing capacity reduction framework rule before NMFS had to provide for payment and collection of the IC pollock fee. NMFS intended to provide for payment and collection of the IC pollock fee by making the loan subject to the framework rule provisions about fee payment and collection. Because NMFS has not yet adopted and promulgated the framework rule, however, NMFS must now separately provide for payment and collection of the IC pollock fee by adding a temporary subpart G to 50 CFR part 679 (subpart G). NMFS has drawn most of the procedural provisions of subpart G from the proposed framework rule. After a framework rule is adopted and promulgated, NMFS will revoke subpart G and concurrently provide, by a program implementation rule under the framework rule, for the continuing payment and collection of the IC pollock fee.

This action adds subpart G to 50 CFR part 679 establishing regulations to implement an inshore fee system for IC pollock. The proposed regulations which preceded this action were published on December 21, 1999 (64 FR 71396–71400), with a public comment period that ended on January 5, 2000.

NMFS received comments from 2 entities. The following summarizes the comments and gives NMFS' responses.

Comments and Responses

Comment 1: One comment questioned the necessity of setting up a separate account for the collected funds and suggested that fee payments be made from a regular corporate account.

Response: This is the first loan that will be repaid from fees generated by a fishery resource. We believe that it is important to the fish sellers who will repay this loan that we maintain the credibility of the collection process. Separate accounts are preferable because the fee receipts can be easily segregated from the fish buyer's normal cash flows. We also want to reduce the administrative costs of the loan collection process and separate accounts will make the audit process simpler and less expensive.

Comment 2: One comment asked if it would be possible for NMFS to be authorized to make regular wire transfer withdrawals from the separate account instead of the company sending in a check each month.

Response: We do not believe it is possible to set up a system whereby NMFS could make regular wire transfer withdrawals for several reasons. The

amounts deposited in the accounts will differ from month to month. If the account was simply swept to zero, there would be no way to differentiate between funds deposited and interest earned. The contractual mechanism we set up with the bank would have to be turned on or off as the seasons begin and end. We would also encounter administrative difficulties in making separate contractual agreements with the different banks used by the companies. Finally, the rule requires the fish buyer to provide a settlement sheet tied to the amount of money transferred. This would not be possible if the account was periodically swept.

Comment 3: One comment questioned whether deposits into the separate account have to be made on a weekly basis or could be made biweekly or monthly.

Response: As we discussed in our first response, it was incumbent upon us to set up a credible system to assure the fish sellers that their payments were applied against the loan accurately and on a timely basis. One way of achieving this credibility was to set up a system that segregates the collected funds from the fish buyer's normal cash flow. Ideally, such a system should require daily deposits. We attempted to be sympathetic to operational problems daily deposits would create for the fish buyers by allowing weekly deposits.

Comment 4: One comment suggested a 5-day grace period before late payment penalties would be imposed.

Response: NMFS has amended § 679.64 of the final rule to allow a 5-day grace period before late charges will accrue.

Comment 5: One comment suggested a 2-week grace period for submission of the annual report.

Response: NMFS has amended section 679.63 of the final rule by making the due date January 15, thereby providing a 2-week grace period after year end.

Comment 6: One comment questioned the meaning of the term "business week" for fee collection purposes, since the fishing industry does not operate on a normal Monday to Friday "business week".

Response: NMFS has added a definition of "business week" in § 679.60 which designates Friday as the end of a business week.

Comment 7: One comment involved the effective date of the fee collection and suggested that fees should be paid for all inshore pollock harvested in 2000, regardless of when the fee system becomes effective.

Response: NMFS is not authorized to collect any fees until this rule is

finalized. Although we made our best effort to have the system in place before the FY 2000 season starts, we were unable to do so.

Comment 8: One comment sought the clarification of the rule to indicate that the fee and any future appropriations would be the exclusive source of loan repayment.

Response: The proposed rule states that the fee shall be the exclusive source of loan prepayment. Future appropriations could over ride this.

Comment 9: One comment suggested that any late charge or penalty should be the responsibility of the fish buyer.

Response: NMFS agrees that the fish seller should not be obligated for any late charges and has added language in section 679.64 to clarify this point.

Comment 10: One comment objected to the possibility that fish buyers may earn interest on fees paid by fish sellers.

Response: State law may or may not permit such accounts to earn interest. If the accounts can earn interest, the time limitations on transferring the funds to the Government's lock box will allow for minimal interest accrual. Nevertheless, the fish buyers collecting will incur administrative expenses in the process. Any interest earned by fish buyers would help defray the administrative costs incurred.

Summary of Revisions

The following sections of this final rule revise the proposed rule:

(1) *Section 679.60.* This section has been amended to include a definition of "business week" which designates Friday as the end of a business week.

(2) *Section 679.61.* This section is revised to state the loan's actual interest rate.

(3) *Section 600.63.* This section is revised to change the due date for the annual report from December 31 to January 15, thereby effectively providing a 2-week grace period for submission of the annual report.

(4) *Section 679.64.* This section is revised to provide for a 5-day grace period before late charges will accrue and to clarify that fish sellers should not be obligated for any late charges.

The final rule further revises the proposed rule to increase brevity, clarity, accuracy, and/or sufficiency.

Classification

The Assistant Administrator for Fisheries (AA), NMFS, determined that this final rule is consistent with the AFA, the Magnuson-Stevens Act, Title XI, and other applicable laws.

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

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) describing the impact of the action on small entities. In summary, the FRFA states that the rule would apply to about 100 fish sellers and about eight fish buyers. All of the fish sellers are small entities; none of the fish buyers are. The FRFA indicates that the average annual fee expense for each fish seller would likely be about \$60,000. Recordkeeping and reporting requirements would fall primarily on the fish buyers, who collect the fee. The estimated annual compliance cost to fish buyers is about \$5,568 per fish buyer. Several minimal recordkeeping and reporting requirements also apply to fish sellers. A fish seller must, for example, report to NMFS if a fish buyer refuses to collect the fee. The estimated compliance cost of this requirement is about \$25 per report. In specific and limited circumstances when a fish seller becomes a *de facto* fish buyer for recordkeeping and reporting requirements, the estimated compliance cost is the same as a fish buyer's compliance cost. The Paperwork Reduction Act (PRA) discussion further details these costs. This final rule does not duplicate or conflict with any other Federal rules of which NMFS is aware.

In the FRFA, NMFS considered two alternatives that might have lessened the economic impact on small entities. These alternatives were not collecting the fee and delaying fee collection. Not collecting the fee would both cost the Nation \$75 million and violate the AFA. Delaying fee collection would increase the ultimate cost to fish sellers because interest would continue to accrue on an unreduced \$75 million principal balance. It would also prolong the time required for fish sellers to repay the loan because the AFA requires that the fee system remain in effect until the loan is fully repaid. The FRFA further discusses these alternatives and their economic impact on IC pollock fish sellers and fish buyers. Although no comments on the IRFA were received, public comments led to changes from the proposed rule that we believe will benefit affected entities, e.g., grace periods for submission of late charges and the annual report.

The AA determined that there is good cause to waive the 30-day delay in effectiveness for this rule under 5 U.S.C. 553 (d)(3). While the AFA stipulates that an inshore pollock fee collection system be established by January 1, 2000, or thereafter, it is important to begin collecting the fee as early in the fishing season (which begins January 20, 2000) as possible, to avoid confusion, to treat all landings similarly, and to

minimize the accumulation of interest on the \$75 million loan. Therefore, the rule must be in effect as soon as practicable. NMFS believes that persons needing to comply with this rule should be afforded 7 calendar days to open accounts and otherwise prepare for the fee collection. The affected inshore fleet has been aware of the imposition of this fee in exchange for the buyout of certain factory trawlers for an allocation of catch since October 1998 when the AFA was enacted. Delaying this rule beyond 7 days after publication would be contrary to the public interest and unnecessary.

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

This final rule contains collection of information requirements subject to the PRA that have been approved by OMB under OMB Control Number 0648-0376. This PRA approval occurred in connection with proposal of the framework rule for implementing section 312(b)-(e) of the Magnuson-Stevens Act, including a collection of information burden for fee payment, collection, disbursement, accounting, and reporting under section 312(d)(2)(C) of the Magnuson-Stevens Act. The AFA provides that payment and collection of the IC pollock fee shall be in accordance with 312(d)(2)(C) of the Magnuson-Stevens Act.

The estimated response times for this collection of information are: 10 minutes per fishing trip to maintain records on transactions, 2 hours per fish buyer's monthly report, 4 hours per fish buyer's annual report, and 2 hours per fish buyer's or fish seller's report about fish sellers who refuse to pay, or fish buyers who refuse to collect, the fee.

These estimated response times include the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and revising the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS (see ADDRESSES) and to OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: January 28, 2000.

Penelope D. Dalton,

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

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

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. In § 679.1, a paragraph (k) is added to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(k) This part also governs payment and collection of the loan, under the American Fisheries Act (AFA), the Magnuson-Stevens Act, and Title XI of the Merchant Marine Act, 1936, made to all persons who harvest pollock from the directed fishing allowance allocated to the inshore component under section 206(b)(1) of the AFA.

3. A subpart G is added to read as follows:

**PART 679—FISHERIES OF THE
EXCLUSIVE ECONOMIC ZONE OFF
ALASKA**

**Subpart G—Inshore Fee System for
Repayment of the Loan to Harvesters of
Pollock from the Directed Fishing
Allowance Allocated to the Inshore
Component Under Section 206(b)(1) of the
AFA.**

Sec.

679.60 Definitions.

679.61 Loan.

679.62 Fee payment and collection.

679.63 Fee collection deposits,
disbursements, records, and reports.

679.64 Late charges.

679.65 Enforcement.

679.66 Prohibitions and penalties.

**Subpart G—Inshore Fee System for
Repayment of the Loan to Harvesters
of Pollock from the Directed Fishing
Allowance Allocated to the Inshore
Component Under Section 206(b)(1) of
the AFA.**

Authority: Pub. L. 105–277, 16 U.S.C. 1801, *et seq.*

§ 679.60 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in § 679.1 of this title, the terms used in this subpart have the following meanings:

American Fisheries Act (AFA) means Title II of Pub.L. 105–277.

Borrower means (individually and collectively) all persons who, after January 1, 2000, harvest fee fish from the IC directed fishing allowance.

Business week means a 7-day period, Saturday through Friday.

Delivery value means the gross ex-vessel value of all fee fish at fish delivery.

Deposit principal means all collected fee revenue that a fish buyer deposits in a segregated deposit account maintained in a federally chartered national bank for the sole purpose of aggregating collected fee revenue before sending the fee revenue to NMFS for repaying the loan.

Fee means the six-tenths (0.6) of one cent that fish buyers deduct at fish delivery from the delivery value of each pound of round weight fee fish.

Fee fish means all pollock harvested from the IC directed fishing allowance beginning on February 10, 2000 and ending at such time as the loan's principal and interest are fully repaid.

Fish buyer means the first ex-vessel fish buyer who purchases fee fish from a fish seller.

Fish delivery means the point at which a fish buyer first takes delivery or possession of fee fish from a fish seller.

Fish seller means the harvester who catches and first sells fee fish to a fish buyer.

IC directed fishing allowance means the directed fishing allowance allocated to the inshore component under section 206(b)(1) of the AFA.

Loan means the loan authorized by section 207(a) of the AFA.

Net delivery value means the delivery value minus the fee.

Subaccount means the Inshore Component Pollock Subaccount of the Fishing Capacity Reduction Fund in the U.S. Treasury for the deposit of all funds involving the loan.

§ 679.61 Loan.

(a) *Principal amount.* The loan's principal amount is \$75,000,000 (seventy five million dollars).

(b) *Interest.* Interest shall, from December 30, 1998, when NMFS disbursed the loan, until the date the borrower fully repays the loan, accrue at a fixed rate of 7.09 percent. Interest shall be simple interest and shall accrue on the basis of a 365-day year.

(c) *Repayment.* The fee shall be the exclusive source of loan repayment. The fee shall be paid on all fee fish.

(d) *Application of fee receipts.* NMFS shall apply all fee receipts it receives, first, to payment of the loan's accrued interest and, second, to reduction of the loan's principal balance.

(e) *Obligation.* The borrower shall repay the loan in accordance with the AFA and this subpart.

§ 679.62 Fee payment and collection.

(a) *Payment and collection.* (1) The fee is due and payable at the time of fish delivery. Each fish buyer shall collect the fee at the time of fish delivery by deducting the fee from the delivery value before paying or promising later to pay the net delivery value. Each fish seller shall pay the fee at the time of fish delivery by receiving from the fish buyer the net delivery value or the fish buyer's promise later to pay the net delivery value rather than the delivery value. Regardless of when the fish buyer pays the net delivery value, the fish buyer shall collect the fee at the time of fish delivery;

(2)(i) Each fish seller shall be deemed, for the purpose of the fee collection, deposit, disbursement, and accounting requirements of this subpart, to be both the fish seller and the fish buyer—and all requirements and penalties under this subpart applicable to both a fish seller and a fish buyer shall equally apply to the fish seller—each time that the fish seller sells fee fish to:

(A) Any fish buyer whose place of business is not located in the United States, who does not take delivery or possession of the fee fish in the United States, who is not otherwise subject to this subpart, or to whom or against whom NMFS cannot otherwise apply or enforce this subpart,

(B) Any fish buyer who is a general food-service wholesaler or supplier, a restaurant, a retailer, a consumer, some other type of end-user, or some other fish buyer not engaged in the business of buying fish from fish sellers for the purpose of reselling the fish, or

(C) Any other fish buyer who the fish seller has good reason to believe is a fish buyer not subject to this subpart or to whom or against whom NMFS cannot otherwise apply or enforce this subpart,

(ii) In each such case the fish seller shall, with respect to the fee fish involved in each such case, discharge, in addition to the fee payment requirements of this subpart, all the fee collection, deposit, disbursement, accounting, recordkeeping, and reporting requirements that this subpart otherwise imposes on the fish buyer, and the fish seller shall be subject to all the penalties this subpart provides for a fish buyer's failure to discharge such requirements;

(b) *Notification.* (1) NMFS will send an appropriate fee payment and collection commencement notification to each affected fish seller and fish buyer of whom NMFS has knowledge.

(2) When NMFS determines that the loan is fully repaid, NMFS will publish a **Federal Register** notification that the fee is no longer in effect and should no

longer be either paid or collected. NMFS will then also send an appropriate fee termination notification to each affected fish seller and fish buyer of whom NMFS has knowledge;

(c) *Failure to pay or collect.* (1) If a fish buyer refuses to collect the fee in the amount and manner that this subpart requires, the fish seller shall then advise the fish buyer of the fish seller's fee payment obligation and of the fish buyer's fee collection obligation. If the fish buyer still refuses to properly collect the fee, the fish seller, within the next 7 calendar days, shall forward the fee to NMFS. The fish seller at the same time shall also advise NMFS in writing of the full particulars, including:

(i) The fish buyer's and fish seller's name, address, and telephone number,

(ii) The name of the fishing vessel from which the fish seller made fish delivery and the date of doing so,

(iii) The quantity and delivery value of fee fish that the fish seller delivered, and

(iv) The fish buyer's reason (if known) for refusing to collect the fee in accordance with this subpart;

(2) If a fish seller refuses to pay the fee in the amount and manner that this subpart requires, the fish buyer shall then advise the fish seller of the fish buyer's collection obligation and of the fish seller's payment obligation. If the fish seller still refuses to pay the fee, the fish buyer shall then either deduct the fee from the delivery value over the fish seller's protest or refuse to buy the fee fish. The fish buyer shall also, within the next 7 calendar days, advise NMFS in writing of the full particulars, including:

(i) The fish buyer's and fish seller's name, address, and telephone number,

(ii) The name of the fishing vessel from which the fish seller made or attempted to make fish delivery and the date of doing so,

(iii) The quantity and delivery value of fee fish the fish seller delivered or attempted to deliver,

(iv) Whether the fish buyer deducted the fee over the fish seller's protest or refused to buy the fee fish, and

(v) The fish seller's reason (if known) for refusing to pay the fee in accordance with this subpart.

§ 679.63 Fee collection deposits, disbursements, records, and reports.

(a) *Deposit accounts.* Each fish buyer that this subpart requires to collect a fee shall maintain a segregated account at a federally insured financial institution for the sole purpose of depositing collected fee revenue and disbursing the fee revenue directly to NMFS in accordance with paragraph (c) of this section.

(b) *Fee collection deposits.* Each fish buyer, no less frequently than at the end of each business week, shall deposit, in the deposit account established under paragraph (a) of this section, all fee revenue, not previously deposited, that the fish buyer has collected through a date not more than 2 calendar days before the date of deposit. Neither the deposit account nor the principal amount of deposits in the account may be pledged, assigned, or used for any purpose other than aggregating collected fee revenue for disbursement to the subaccount in accordance with paragraph (c) of this section. The fish buyer is entitled, at any time, to withdraw deposit interest, if any, but never deposit principal, from the deposit account for the fish buyer's own use and purposes.

(c) *Deposit principal disbursement.* On the last business day of each month, or more frequently if the amount in the account exceeds the account limit for insurance purposes, the fish buyer shall disburse to NMFS the full amount of deposit principal then in the deposit account. The fish buyer shall do this by check made payable to "NOAA Inshore Component Pollock Loan Subaccount." The fish buyer shall mail each such check to the subaccount lockbox account that NMFS establishes for the receipt of the disbursements of deposit principal. Each disbursement shall be accompanied by the fish buyer's settlement sheet completed in the manner and form that NMFS specifies. NMFS will specify the subaccount's lockbox and the manner and form of settlement sheet by means of the notification in § 679.62(b)(1).

(d) *Records maintenance.* Each fish buyer shall maintain, in a secure and orderly manner for a period of at least 3 years from the date of each transaction involved, at least the following information:

(1) For all deliveries of fee fish that the fish buyer buys from each fish seller:

(i) The date of delivery,

(ii) The fish seller's identity,

(iii) The round weight of fee fish delivered,

(iv) The identity of the fishing vessel that delivered the fee fish,

(v) The delivery value,

(vi) The net delivery value,

(vii) The identity of the party to whom the net delivery value is paid, if other than the fish seller,

(viii) The date the net delivery value was paid, and

(ix) The total fee amount collected;

(2) For all fee collection deposits to and disbursements from the deposit account:

(i) The dates and amounts of deposits,

(ii) The dates and amounts of disbursements to the subaccount's lockbox account, and

(iii) The dates and amounts of disbursements to the fish buyer or other parties of interest earned on deposits.

(e) *Annual report.* By January 15, 2001, and by each January 15 thereafter until the loan is fully repaid, each fish buyer shall submit to NMFS a report, on or in the form NMFS specifies, containing the following information for the preceding year for all fee fish each fish buyer purchases from fish sellers:

(1) Total round weight bought;

(2) Total delivery value paid;

(3) Total fee amount collected;

(4) Total fee collection amounts deposited by month;

(5) Dates and amounts of monthly disbursements to the subaccount lockbox;

(6) Total amount of interest earned on deposits; and

(7) Depository account balance at year-end.

(f) *State records.* If landing records that a state requires from fish sellers contain some or all of the data that this section requires and state confidentiality laws or regulations do not prevent NMFS' access to the records maintained for the state, then fish buyers can use such records to meet appropriate portions of this section's recordkeeping requirements. If, however, state confidentiality laws or regulations make such records unavailable to NMFS, then fish buyers shall maintain separate records for NMFS that meet the requirements of this section.

(g) *Audits.* NMFS or its agents may audit, in whatever manner NMFS believes reasonably necessary for the duly diligent administration of the loan, the financial records of the fish buyers and the fish sellers in order to ensure proper fee payment, collection, deposit, disbursement, accounting, recordkeeping, and reporting. Fish buyers and fish sellers shall make all records of all transactions involving fee fish catches, fish deliveries, and fee payments, collections, deposits, disbursements, accounting, recordkeeping, and reporting available to NMFS or its agents at reasonable times and places and promptly provide all requested information reasonably related to these records that such fish sellers and fish buyers may otherwise lawfully provide. Trip tickets (or similar accounting records establishing the round weight pounds of fee fish that each fish buyer buys from each fish seller each time that each fish buyer does so) are essential audit documentation.

(h) *Confidentiality of records.* NMFS and its auditing agents shall maintain the confidentiality of all data to which NMFS has access under this section and shall neither release the data nor allow the data's use for any purpose other than the purpose of this subpart, unless otherwise required by law; provided, however, that NMFS may aggregate such data so as to preclude their identification with any fish buyer or any fish seller and use them in the aggregate for other purposes.

(i) *Refunds.* When NMFS determines that the loan is fully repaid, NMFS will refund any excess fee receipts, on a last-in/first-out basis, to the fish buyers. Fish buyers shall return the refunds, on a last-in/first-out basis, to the fish sellers who paid the amounts refunded.

§ 679.64 Late charges.

The late charge to fish buyers for fee payment, collection, deposit, and/or disbursement shall be one and one-half (1.5) percent per month, or the maximum rate permitted by state law, for the total amount of the fee not paid, collected, deposited, and/or disbursed when due to be paid, collected, deposited, and/or disbursed within 5 days of the date due. The full late charge shall apply to the fee for each month or portion of a month that the fee remains unpaid, uncollected, undeposited, and/or undisbursed.

§ 679.65 Enforcement.

In accordance with applicable law or other authority, NMFS may take appropriate action against each fish seller and/or fish buyer responsible for non-payment, non-collection, non-deposit, and/or non-disbursement of the fee in accordance with this subpart to enforce the collection from such fish seller and/or fish buyer of any fee (including penalties and all costs of collection) due and owing the United States on account of the loan that such fish seller and/or fish buyer should have, but did not, pay, collect, deposit, and/or disburse in accordance with this subpart. All such loan recoveries shall be applied to reduce the unpaid balance of the loan.

§ 679.66 Prohibitions and penalties.

(a) The following activities are prohibited, and it is unlawful for anyone to:

(1) Avoid, decrease, interfere with, hinder, or delay payment or collection of, or otherwise fail to fully and properly pay or collect, any fee due and payable under this subpart or convert, or otherwise use for any purpose other than the purpose this subpart intends, any paid or collected fee;

(2) Fail to fully and properly deposit on time the full amount of all fee revenue collected under this subpart into a deposit account and disburse the full amount of all deposit principal to the subaccount's lockbox account—all as this subpart requires;

(3) Fail to maintain full, timely, and proper fee payment, collection, deposit, and/or disbursement records or make full, timely, and proper reports of such information to NMFS—all as this subpart requires;

(4) Fail to advise NMFS of any fish seller's refusal to pay, or of any fish buyer's refusal to collect, any fee due and payable under this subpart;

(5) Refuse to allow NMFS or agents that NMFS designates to review and audit at reasonable times all books and records reasonably pertinent to fee payment, collection, deposit, disbursement, and accounting under this subpart or otherwise interfere with, hinder, or delay NMFS or its agents in the course of their activities under this subpart;

(6) Make false statements to NMFS, any of the NMFS' employees, or any of NMFS' agents about any of the matters in this subpart;

(7) Obstruct, prevent, or unreasonably delay or attempt to obstruct, prevent, or unreasonably delay any audit or investigation NMFS or its agents conduct, or attempt to conduct, in connection with any of the matters in this subpart; and/or

(8) Otherwise materially interfere with the efficient and effective repayment of the loan.

(b) Anyone who violates one or more of the prohibitions of paragraph (a) of this section is subject to the full range of penalties the Magnuson-Stevens Act and 15 CFR part 904 provide (including, but not limited to: civil penalties, sanctions, forfeitures, and punishment for criminal offenses) and to the full penalties and punishments otherwise provided by any other applicable law of the United States.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000119015-0015-01; I.D. 012700E]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 outside the Shelikof Strait conservation area in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim 2000 pollock total allowable catch (TAC) for Statistical Area 620 outside the Shelikof Strait conservation area established by the 2000 Interim Specifications and amended by the emergency interim rule implementing Steller sea lion protection measures for the pollock fisheries off Alaska.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 28, 2000, until 1200 hrs, A.l.t., March 15, 2000.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The interim 2000 pollock TAC in Statistical Area 620 outside the Shelikof Strait conservation area as amended by the emergency interim rule implementing Steller sea lion protection measures for the pollock fisheries off Alaska (65 FR 3892, January 25, 2000) is 3,252 metric tons (mt), determined in accordance with § 679.20(c)(2)(i).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the interim TAC of pollock in Statistical Area 620 outside the Shelikof Strait conservation area will soon be reached. Therefore, the Regional Administrator is establishing a