



# Federal Register

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# Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## POSTAL SERVICE

### 39 CFR Part 111

#### Nonletter-Size Business Reply Mail Categories and Fees—Final Rule

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is terminating the experimental nonletter-size business reply mail categories and fees effective February 5, 2000, and will implement a permanent classification and fees for weight-averaged nonletter-size business reply mail on February 6, 2000. This is in accordance with the Decision of the Governors of the Postal Service on the Recommended Decision of the Postal Rate Commission on Establishment of Permanent Classification and Fees for Nonletter-Size Business Reply Mail, Docket No. MC99-2; Board of Governors Resolution 99-12 (November 1, 1999). The Postal Service was authorized to conduct the experiment until as late as February 29, 2000. The extension was granted in order for the experiment to be extended beyond its original expiration date of June 7, 1999, to allow the Postal Service additional time to resolve certain administrative and technical issues which could not be resolved before the original June 7, 1999, experiment expiration date. These issues have been resolved and it is possible to proceed with permanent implementation. The permanent fees for bulk weight averaging are the same as those placed into effect when the experiment was extended on June 8, 1999. The extension was approved pursuant to the Decision of the Governors of the Postal Service on the Recommended Decision of the Postal Rate Commission on the Classification and Fees for Nonletter-Size Business Reply Mail, Docket No. MC99-1; Board of Governors Resolution 99-6 (May 26, 1999). See 64 FR 31325-

31326. This final rule also sets forth the Domestic Mail Manual (DMM) standards adopted for permanent implementation.

**EFFECTIVE DATE:** February 6, 2000.

**FOR FURTHER INFORMATION CONTACT:** Paul Lettmann, (202) 268-6261; or Michael T. Tidwell, (202) 268-2998.

**SUPPLEMENTARY INFORMATION:** The Postal Service is terminating the experimental classification and fees for nonletter-size business reply mail (BRM) and establishing permanent classification and fees because appropriate levels of management oversight and sufficient technical resources are now available to ensure that revenue protection standards can be met. Earlier, the experimental period was extended beyond the two-year period that was to end on June 7, 1999, in order to give the Postal Service additional time to eliminate technical and administrative obstacles to permanent implementation.

The weight-averaging experiment will end at midnight on February 5, 2000, and the permanent classification and fees will become effective on February 6, 2000. The limitations that were in effect during the experiment with respect to the number of participants, mail volumes, geographic locations, and abilities to implement and maintain quality control procedures for accounting and documentation have been eliminated.

The per piece accounting fee for bulk weight-averaged nonletter-size BRM pieces will be 1 cent, plus the appropriate First-Class Mail or Priority Mail postage. Mailers will be required to pay an annual business reply mail permit fee and an annual business reply mail advance deposit accounting fee, which are currently \$100.00 and \$300.00, respectively. In addition, a monthly audit and maintenance fee of \$600.00 will be assessed for each BRM account at a postal facility where the weight-averaging accounting method is employed.

Mailers who want to take advantage of the lower per piece fees for qualifying nonletter-size BRM pieces must submit a letter of application to the postmaster at the post office where their BRM will be received. Those who receive approval for the bulk weight-averaging method will be required to enter into a service agreement with the Postal Service.

## Background

As a consequence of Postal Rate Commission Docket No. MC97-1, the United States Postal Service engaged in an experiment that started on June 8, 1997. It was designed to test the feasibility of two alternative methods of accounting for nonletter-size business reply mail: the reverse manifesting method and the bulk weight-averaging method. A maximum of 20 participants could participate in the experiment, with no more than 10 participants allowed for each of the two accounting methods. Separate set-up/qualification, monthly auditing or sampling, and per piece fees were established for each method.

All experimental classifications and fees were originally scheduled to expire on June 7, 1999. However, on March 14, 1999, the Postal Service requested the Postal Rate Commission to approve an extension of the experiment until as late as February 29, 2000, or sooner if circumstances permitted. The request was made to allow the Postal Service additional time for the resolution of administrative and technical issues that stood in the way of implementing weight averaging on a permanent basis. The Postal Service also asked that the experimental reverse manifesting classification and fees be allowed to expire as originally scheduled, because the operational feasibility of the method was unproven. At the same time, the Postal Service requested the establishment of a permanent classification and fees for weight-averaged nonletter-size Business Reply Mail.

The proceedings for consideration of these requests were designated by the Postal Rate Commission as Docket No. MC99-1 and Docket No. MC99-2, respectively. On May 19, 1999, pursuant to 39 U.S.C. 3624, the Commission recommended the extension of the nonletter-size BRM experiment until February 29, 2000, or until the Postal Service implemented permanent fees, whichever came first. The Commission also recommended the experimental weight-averaging classification and fees that were proposed in a Joint Stipulation and Agreement by the parties in Docket No. MC99-1.

After reviewing the Commission's Recommended Decision and its consequences for the Postal Service and postal customers, the Governors of the

Postal Service, pursuant to 39 U.S.C 3625, acted on the Commission's recommendations on May 26, 1999. (Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on the Renewal of Experimental Classification and Fees for Nonletter-Size Business Reply Mail Categories and Fees, Docket No. MC99-1.) The Governors approved the Commission's recommendations and established June 8, 1999, as the date on which the experimental classification and fees were to take effect.

Accordingly, on June 8, 1999, the following fees were implemented for weight-averaged nonletter-size BRM:

1. A \$600 monthly maintenance fee.
2. A \$0.01 per piece accounting fee.

The one-time set-up/qualification fee that was assessed when the experiment began was also eliminated at this time.

Four customers participated in the original weight-averaging experiment at four sites, enabling the Postal Service to develop sufficient data to support the filing with the Postal Rate Commission of the Docket No. MC99-2 request for establishment of a permanent classification and fees for the bulk weight-averaging method. After the experiment was extended beyond the original June 7, 1999, expiration date, three other bulk weight-averaging sites were added, at the request of one of the original customer participants, bringing the total number of experimental sites to seven.

### Weight-Averaging Method

Weight averaging is a method of counting, rating, and billing non-letter size BRM in bulk based on mathematical statistics, instead of individually rating each piece. The use of weight averaging as an alternative to slower, less efficient manual weighing and rating of each piece is not new. A few mailers and local postal officials devised various forms of bulk weight averaging years ago when faced with counting and rating large volumes of incoming mail.

The bulk weight-averaging methodology that is now being adopted for nonletter-size BRM has significant advantages over other methods that have been used. The new methodology relies on a personal computer with statistical sampling software linked with

an electronic scale that provides individual piece weights. The system allows a post office to collect and store statistically valid sample data on incoming BRM, to calculate average pieces per pound and average postage per pound factors, and to use the calculated factors as the basis for determining postage due for the entire volume of incoming BRM. As a result, the postage and fees that postal customers pay will be determined with a high degree of precision, while the Postal Service improves the efficiency of its operations and promotes customer satisfaction.

Bulk weight averaging requires periodic sampling and monitoring of a postal customer's nonletter-size BRM to ensure that any changes in the characteristics of incoming pieces are reflected in the postage due calculations. The administrative overhead required to manage the method generates postal costs that are not covered by the current \$100.00 annual BRM permit fee and \$300.00 annual BRM advance deposit accounting fee. For this reason a monthly maintenance fee is being assessed.

### Implementation

On June 1, 1999, the Commission issued the Recommended Decision of the Postal Rate Commission on the Classification and Fees for Weight-Averaged Nonletter-Size Business Reply Mail, 1999, Docket No. MC99-2. The Governors approved the Commission's recommendations on November 1, 1999, and set an implementation date of February 6, 2000, to make the classification and fees permanent.

This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the Governors' Decision. Many of the DMM provisions placed into effect during the experimental phase are being continued, with the exception of such restrictions as the number of participants, geographic location, annual volume of nonletter-size BRM pieces, and the time frame and duration of participation. The Postal Service is continuing to limit the use of the nonletter-size BRM bulk weight-averaging method to those pieces that are outside the parameters of current automation-compatible letter-size BRM. Reply mail letters that cannot

qualify for qualified business reply mail (QBRM) because they weigh too much also are eligible for the weight-averaging method. Any piece accounted for under the weight-averaging method may not exceed 5 pounds.

The Postal Service finds no need to solicit comments on the final rule setting forth the DMM standards for nonletter-size BRM because of the multiple filings with the Postal Rate Commission as well as the limited purposes of the experiment that was conducted for a period over two years in length.

### List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

### PART 111—[REVISED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. § 552(a); 39 U.S.C 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise the Domestic Mail Manual as follows:

#### G General Information

\* \* \* \* \*

#### G090 Experimental Classifications and Rates

\* \* \* \* \*

[Remove G092.]

#### G092 Nonletter-Size Business Reply Mail

\* \* \* \* \*

#### PR RATES AND FEES

\* \* \* \* \*

#### R900 SERVICES

\* \* \* \* \*

### 2.0 BUSINESS REPLY MAIL (BRM)

\* \* \* \* \*

#### 2.2 Per Piece Charges

[Amend 2.2 to add the nonletter-size BRM fee to read as follows:]

Each piece is charged the applicable First-Class Mail or Priority Mail postage plus a per piece fee upon return to the permit holder:

Type	Postage (per piece)	Fee with BRM advance deposit account (in addition to postage)	Fee without BRM advance deposit account (in addition to postage)
Regular BRM .....	\$0.33 first ounce or fraction \$0.22 each additional ounce or fraction. Postcards: \$0.20	*\$0.08	\$0.30

Type	Postage (per piece)	Fee with BRM advance deposit account (in addition to postage)	Fee without BRM advance deposit account (in addition to postage)
Qualified BRM .....	\$0.30 first ounce or fraction \$0.22 second ounce or fraction ..... Postcards: \$0.18	*\$0.05	N/A
Nonletter-size BRM (Weight-averaged in accordance with S922.7.0).	\$0.33 first ounce or fraction \$0.22 each additional ounce or fraction.	*\$0.01	N/A

\*BRM accounting fee required.

[Add new 2.3 to read as follows:]

### 2.3 Monthly Maintenance Fee

A maintenance fee must be paid for each month, or part of a month, in which the postage and fees charged to an account are determined using the bulk weight-averaging method for nonletter-size BRM described in S922.

\* \* \* \* \*

#### S Special Services

\* \* \* \* \*

#### S900 Special Postal Services

\* \* \* \* \*

#### S920 Convenience

\* \* \* \* \*

#### S922 Business Reply Mail (BRM)

\* \* \* \* \*

### 3.0 POSTAGE AND FEES

\* \* \* \* \*

[Add new section 3.4 to read as follows:]

### 3.4 Nonletter-Size BRM Fees

A mailer must pay the annual BRM permit fee and the annual BRM advance deposit account fee. In addition, a maintenance fee must be paid monthly for each account to which postage and fees are charged for nonletter-size BRM on the basis of the bulk weight-averaging method described in 7.0. Payment is due on the first day that postage and fees are determined using the bulk weight-averaging method and each succeeding monthly payment is due on the anniversary date of the initial payment or previous fee payment, whichever is later.

[Redesignate 3.4 through 3.10 as 3.5 through 3.11; amend redesignated 3.5b to read as follows:]

### 3.5 Charges

Charges are as follows:

\* \* \* \* \*

b. Fee Per Piece. The applicable BRM fee must be collected for each returned piece of BRM in addition to the applicable single-piece First-Class Mail or Priority Mail postage. Lower per piece fees apply to mail paid through a BRM advance deposit account, QBRM pieces (R900), and nonletter-size BRM pieces that are rated by means of the

approved bulk weight-averaging method described in 7.0.

\* \* \* \* \*

[Add new section 7.0 to read as follows:]

### 7.0 BULK WEIGHT-AVERAGING METHOD

#### 7.1 Description

Bulk weight averaging (WA) is a method of counting, rating, and billing eligible incoming nonletter-size business reply mail (BRM) based on principles of mathematical statistics. Probability sampling techniques are used to measure the characteristics of the total BRM volume by examining a fraction of the volume. Statistically valid samples that are drawn from the incoming BRM volume each postal accounting period are used by post offices to compute average postage due per pound and average piece count per pound factors. The net bulk weight of mail received is multiplied by these conversion factors to get the estimated volume received and postage and fee amounts. Only eligible BRM pieces rated by means of the approved WA method may qualify for the nonletter-size BRM per piece rate.

#### 7.2 Eligibility

Only eligible BRM pieces rated by means of the approved WA method may qualify for the nonletter-size BRM per piece rate. BRM pieces rated by the bulk weight-averaging accounting method must:

a. Be mailed as First-Class Mail or Priority Mail.

b. Meet the applicable physical standards for nonletter-size mail in C050 (i.e., flat-size mail, machinable parcels, irregular parcels, or outside parcels) and C100 for First-Class Mail, except any BRM piece accounted for under the weight-averaging method may not exceed 5 pounds.

c. Meet the basic standards for BRM in S922 other than those specified for letter-size pieces or pieces processed as QBRM.

d. Meet the addressing standards in A010 and bear a delivery address with the correct ZIP+4 code and barcodes assigned to the BRM permit holder by the USPS.

e. Comply with current or future USPS marking standards.

f. Be received at the post office that serves the permit holder.

#### 7.3 Fees

Bulk weight-averaged nonletter-size BRM is subject to a per piece fee (R900) in addition to single-piece rate First-Class Mail or Priority Mail postage. Payment of a monthly maintenance fee is required in addition to the annual business reply mail permit fee and annual advance deposit accounting fee.

#### 7.4 Application Procedures

A mailer who wants to have nonletter-size BRM rated by bulk weight averaging (WA) as described in 7.0 must submit a written request to the postmaster of the office where the BRM permit is held and where the BRM will be received. The postmaster will forward this information to the Manager, Operations Systems, USPS Headquarters, who will confirm the BRM pieces meet the requirements of 7.2 and WA is capable of producing the required level of precision in determining postage due amounts. The postmaster will be notified if these requirements are met and will receive instructions on how statistical sampling of the BRM is to be performed. A mailer's request must include the following information:

a. Mailer name and address.

b. Name and location of the post office at which BRM will be received, post office box number to be used, and a centralized automated payment system account number (CAPS), if available.

c. A description of the incoming BRM piece weight distribution (in nearest ounces or pounds) over a 24-hour period, e.g., total piece volume consists of x number of 3-ounce pieces, Y number of 4-ounce pieces, and Z number of 5-ounce pieces.

d. Piece volume information that includes the estimated average volume and postage for nonletter-size BRM received over a 24-hour period and monthly.



e. A statement indicating whether the piece volume is subject to seasonal variation and, if applicable, estimates of monthly volumes for a 12-month period.

#### 7.5 Authorization

After a mailer's request for bulk weight averaging has been reviewed and approved by the Manager, Operations Systems, USPS Headquarters, the post office that received the original request provides an authorization letter and has the mailer sign a service agreement for bulk weight averaging of nonletter-size BRM for a specified post office box. If the mailer does not appear to meet the requirements for bulk weight averaging, the post office sends the applicant a written notice advising of the reasons for denial. The applicant has 15 days following receipt of the notice to file a written appeal of the decision with the postmaster and to furnish further information explaining why the application should be approved. If the postmaster still finds that the application should be denied, the postmaster forwards the file to the Manager, Operations Systems, USPS Headquarters, who issues a final written decision to the mailer.

#### 7.6 Action

[Reserved.]

#### 7.7 Reasons

A postmaster may terminate a mailer's authorization to have nonletter-size BRM bulk weight-averaged at any time if:

- The mailer provided incorrect or incomplete information when applying for the bulk weight-averaging method.
- The mailer's BRM pieces no longer meet the eligibility requirements of 7.2.
- USPS finds that bulk weight averaging no longer provides adequate revenue protection.
- The mailer no longer desires to have bulk weight averaging used.

#### 7.8 Notice and Appeal

A termination takes effect 15 days from the mailer's receipt of the notice unless the mailer files a written appeal within that period with the postmaster stating why use of the weight-averaging method should not be suspended or terminated. The mailer may continue to have the bulk weight-averaging method used pending a final decision on the appeal. If the postmaster does not uphold an appeal of a suspension or termination, the postmaster forwards the mailer's appeal together with all pertinent information to the Manager, Operations Systems, USPS

Headquarters, who issues a final agency decision to the mailer.

\* \* \* \* \*

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. As provided by 39 CFR 111.3, notice of issuance will be published in the **Federal Register**.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00-2020 Filed 1-27-00; 8:45 am]

BILLING CODE 7710-12-U

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 991228352-0012-02; I.D. 011100D]

RIN 0648-AM83

#### Fisheries of the Exclusive Economic Zone Off Alaska; Emergency Interim Rule To Implement Major Provisions of the American Fisheries Act

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

**ACTION:** Emergency interim rule; revisions to 2000 harvest specifications; sideboard directed fishing closures; request for comments.

**SUMMARY:** NMFS issues emergency interim regulations implementing major provisions of the American Fisheries Act (AFA). The elements of this emergency interim rule include: A new formula to allocate the Bering Sea and Aleutian Islands Management Area (BSAI) pollock total allowable catch (TAC) among the Western Alaska Community Development Quota (CDQ) program and the inshore, catcher/processor, and mothership industry sectors; new recordkeeping and reporting requirements for the BSAI pollock fishery and for processors that receive groundfish from AFA catcher vessels; new observer coverage and scale requirements for AFA catcher/processors, AFA motherships, and AFA inshore processors; new regulations to govern BSAI pollock fishery cooperatives formed under the AFA; harvesting restrictions on AFA catcher vessels and AFA catcher/processors to limit effort by such vessels in other groundfish and crab fisheries; crab processing restrictions on AFA

motherships and AFA inshore processors that receive pollock harvested by a cooperative in a BSAI directed pollock fishery, an excessive share harvesting cap that prohibits any single entity from harvesting more than 17.5 percent of the BSAI pollock TAC, and revised interim groundfish harvest specifications for the BSAI and GOA.

This emergency action also establishes interim 2000 harvest sideboard amounts for AFA catcher/processors and AFA catcher vessels, and issues sideboard directed fishing closures for AFA catcher/processor and AFA catcher vessels in various fisheries. This emergency action is necessary to provide inshore pollock cooperatives with allocations of pollock for the 2000 fishing year as required by the AFA. This emergency action also is necessary to implement sideboard restrictions to protect participants in other Alaska fisheries from negative impacts as a result of fishery cooperatives formed under the AFA.

**DATES:** Effective January 21, 2000 through July 20, 2000, except for § 679.5, paragraphs (a)(4)(iv), (f)(3), (i)(1)(iii), and (o) and § 679.60(d), which, upon approval under the Paperwork Reduction Act of the information collections in these provisions will be made effective through separate notification in the **Federal Register**. Comments on this emergency interim rule must be received by February 28, 2000.

**ADDRESSES:** Comments must be sent to Sue Salvesson, Assistant Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Comments will not be accepted if sent by e-mail or Internet. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for this action may be obtained from the North Pacific Fishery Management Council, 605 West 4th Ave, Suite 306, Anchorage, AK 99501, 907-271-2809. Send comments on collection-of-information requirements to the Alaska Region, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Kent Lind, 907-586-7228 or kent.lind@noaa.gov.

**SUPPLEMENTARY INFORMATION:** NMFS manages the U.S. groundfish fisheries in the exclusive economic zone of the

BSAI and GOA under the fishery management plans (FMPs) for groundfish in the respective areas. With Federal oversight, the State of Alaska (State) manages the commercial king crab and Tanner crab fisheries in the BSAI and the commercial scallop fishery off Alaska under the FMPs for those fisheries. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR 600.

#### **American Fisheries Act—Background Information**

The AFA, Div. C, Title II, Subtitle II, Pub. L. No. 105-277, 112 Stat. 2681 (1998), made profound changes in the management of the groundfish fisheries of the BSAI and, to a lesser extent, the groundfish fisheries of the GOA and crab fisheries of the BSAI. With respect to the groundfish and crab fisheries off Alaska, the AFA—

- Established a new allocation scheme for BSAI pollock that allocates 10 percent of the BSAI pollock total allowable catch (TAC) to the CDQ Program, and after allowance for incidental catch of pollock in other fisheries, allocates the remaining TAC as follows: 50 percent to vessels harvesting pollock for processing by inshore processors, 40 percent to vessels harvesting pollock for processing by catcher/processors, and 10 percent to vessels harvesting pollock for processing by motherships;
- Provided for the buyout of nine pollock catcher/processors and the subsequent scrapping of eight of these vessels through a combination of \$20 million in Federal appropriations and \$75 million in direct loan obligations;
- Required a fee of six-tenths (0.6) of one cent for each pound round weight of pollock harvested by catcher vessels delivering to inshore processors for the purpose of repaying the \$75 million direct loan obligation;
- Listed by name and/or provided qualifying criteria for those vessels and processors eligible to participate in the non-CDQ portion of the BSAI pollock fishery;
- Increased observer coverage and scale requirements for AFA catcher/processors;
- Established limitations for the creation of fishery cooperatives in the catcher/processor, mothership, and inshore industry sectors;

- Required that NMFS grant individual allocations of the inshore BSAI pollock TAC to inshore catcher vessel cooperatives that form around a specific inshore processor and agree to deliver the bulk of their catch to that processor;
- Required harvesting and processing restrictions (commonly known as “sideboards”) on fishermen and processors who have received exclusive harvesting or processing privileges under the AFA to protect the interests of fishermen and processors who have not directly benefitted from the AFA; and
- Established excessive share harvesting caps for BSAI pollock and directed the Council to develop excessive share caps for BSAI pollock processing and for the harvesting and processing of other groundfish.

Since the passage of the AFA in October 1998, NMFS has begun to implement specific provisions of the AFA through a variety of mechanisms. For the 1999 fishing year, NMFS implemented the new AFA pollock allocations and harvest restrictions on catcher/processors through the interim and final BSAI harvest specifications (64 FR 50, January 4, 1999; and 64 FR 12103, March 11, 1999). Required changes to the CDQ program were implemented through an emergency interim rule (64 FR 3877, January 26, 1999; extended at 64 FR 34743, June 29, 1999). The increase in observer coverage levels for pollock catcher/processors and regulatory authority to manage AFA catcher/processor sideboard limits through directed fishing closures were implemented through a separate emergency interim rule (64 FR 3435, January 22, 1999; corrected at 64 FR 7814, February 17, 1999; and extended at 64 FR 33425, June 6, 1999). In December 1998, NMFS administered the buyout of the nine catcher/processors declared ineligible under the AFA, and is currently overseeing the scrapping of the eight vessels scheduled for scrapping under the AFA. The inshore fee system mandated by the AFA will be implemented in early 2000. A proposed rule to implement the inshore fee program was published on December 21, 1999 (64 FR 71396).

Since the passage of the AFA, the Council has taken an active role in the development of management measures to implement the various provisions of the AFA. The Council began consideration of the implications of the AFA during a special meeting in November 1998, during which it discussed AFA-related actions that were required for the 1999 fishing year. At its December 1998 meeting, the Council

voted to recommend approval of the two emergency interim rules cited earlier, recommended AFA-related provisions to the 1999 BSAI harvest specifications for groundfish, and began an analysis of a suite of AFA-related management measures that subsequently became known as Amendments 61/61/13/8. The Council conducted an initial review of Amendments 61/61/13/8 and related AFA measures at its April 1999 meeting, and took final action on these amendments at its June 1999 meeting.

In addition, the Council formed an industry advisory committee to assist NMFS in the development of specific measures to govern the development and management of inshore pollock cooperatives. This Council-appointed committee met with NMFS at a public meeting May 17–18, 1999, in Seattle, WA to develop recommendations for the implementation and management of inshore pollock cooperatives. These recommendations were presented to the Council at its June 1999 meeting, and were incorporated into the Council's recommended approach for implementing the inshore pollock cooperative provisions of the AFA.

The Council formed a second industry committee to make recommendations on the development and implementation of crab and groundfish processing limits on AFA pollock processors. This second committee met August 9–10, 1999, in Seattle, WA, and presented its recommendations to the Council at its October 1999 Council meeting.

At its December 1999 meeting, the Council reviewed the status of Amendments 61/61/13/8 and recommended that NMFS proceed immediately with an emergency interim rule to implement the Council's June 1999 recommendations so that AFA regulations could be in place prior to the start of the 2000 fisheries while Amendments 61/61/13/8 and the proposed rule to implement the amendments are under review by NMFS. The suite of management measures contained in this emergency interim rule gives effect to the Council's December 1999 motion and contains all AFA-related management measures necessary to implement the provisions of the AFA for the 2000 fishing year except for the inshore fee program, which is being implemented through separate rulemaking. NMFS previously published a separate emergency interim rule (65 FR 380, January 5, 2000) to give immediate effect to all AFA-related permit requirements so that the fishing industry has the opportunity to apply for and receive AFA-related fishing permits prior to the start of the 2000 pollock fishery.

NMFS is issuing this emergency interim rule to give immediate effect to all AFA-mandated management measures. This emergency action is necessary to provide inshore pollock cooperatives with allocations of pollock for the 2000 fishing year as required by the AFA. Inshore sector cooperatives will provide the inshore industry with the ability to more effectively meet the temporal and spatial dispersion objectives of NMFS' Steller sea lion conservation measures that will be implemented prior to the start of the 2000 pollock fisheries. Without this emergency interim rule, the inshore sector of the BSAI pollock industry would be unable to operate under cooperatives for the 2000 fishing year in the manner provided for in the AFA, and consequently, would lose a valuable method of meeting the temporal and spatial dispersion objectives of NMFS' Steller sea lion conservation measures.

In addition, this emergency action is necessary to implement paragraph 211(c)(1) of the AFA, which mandates sideboard restrictions to prevent AFA catcher vessels from exceeding "in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the [Council] as a result of fishery cooperatives in the directed pollock fishery, [and] protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of the AFA or fishery cooperatives in the directed pollock fishery." Such sideboard protections must be implemented by January 20, 2000, to prevent adverse economic impacts on the participants of other groundfish and crab fisheries that open on January 20, 2000. Without sideboard measures in place, AFA catcher vessels and catcher/processors could greatly increase their levels of participation in other groundfish and crab fisheries throughout Alaska due to the flexibility provided by cooperatives in the BSAI pollock fishery. Such a result could severely impact fishermen and communities throughout Alaska that are economically dependent on non-pollock groundfish and crab fisheries.

This emergency interim rule would be superseded by the final rule to implement Amendments 61/61/13/8 if approved by NMFS. The primary elements of this emergency interim rule are summarized here.

#### **Recordkeeping and Reporting Requirements**

To implement the provisions of the AFA, NMFS is revising existing procedures and establishing new procedures for inseason management of directed fisheries to monitor catch and

bycatch taken by various AFA-qualified entities, including fishery cooperatives, and to manage catch limits by AFA-qualified vessels in other fisheries. These include:

#### ***Shoreside Processor Electronic Logbook Report***

To implement the provisions of the AFA, NMFS must monitor daily pollock harvests and sideboard species harvests on a vessel-by-vessel basis in order to make timely management decisions on pollock closures and sideboard species closures. To collect this vessel-by-vessel delivery information, shoreside processors and stationary floating processors receiving deliveries of groundfish from AFA catcher vessels are required to submit information about those deliveries daily in electronic form.

Shoreside processor electronic logbook software to record and submit this information may be obtained free of charge from the Alaska Region, NMFS (see **ADDRESSES** or <http://www.fakr.noaa.gov>). The minimum hardware and operating system requirements for the NMFS electronic reporting shoreside logbook system are a personal computer (PC) with Pentium or equivalent processor, Windows 95, 98, or NT operating system (or equivalent), at least 16 megabytes of RAM (Windows 95) or 32 megabytes of RAM (Windows 95, NT), at least 75 megabytes of free hard disk storage, and telephone modem or internet connection.

As an alternative to the NMFS-provided shoreside processor electronic logbook software, processors may use privately developed software approved by NMFS that conforms to NMFS electronic logbook software specifications. These software specifications are available from the Alaska Region, NMFS, upon request.

The shoreside processor electronic logbook report is designed to provide NMFS with the detailed information needed to manage inshore fisheries under the AFA while reducing the recordkeeping and reporting burden on industry. Shoreside processors and stationary floating processors that are required to use the shoreside processor electronic logbook report are not required to maintain the paper daily cumulative production logbook (DCPL), submit weekly production reports (WPRs), and if the processor is processing CDQ fish, submit CDQ delivery reports. In addition, the processor is not required to submit quarterly DCPL logsheets to NMFS, although the processor is required to generate and retain printed output of the shoreside processor electronic logbook

report at the processing plant for use by NMFS Enforcement and groundfish observers.

This emergency interim rule also allows shoreside processors and stationary floating processors that do not receive groundfish from AFA catcher vessels to voluntarily use NMFS-approved shoreside processor electronic logbook software in lieu of existing DCPLs, and WPRs.

#### ***Catcher Vessel Cooperative Pollock Catch Report***

The designated representative or cooperative manager of each inshore catcher vessel cooperative is required to submit catch reports detailing each delivery of pollock harvested under the allocation made to that cooperative within 1 week of the date of delivery. This information is necessary so that NMFS may monitor cooperative fishing activity and enforce pollock allocations. Two options are available to cooperatives for submittal of the catch report: (1) an electronic data file in a NMFS-approved format, or (2) by FAX.

#### **Changes to the Annual Specifications Process**

Under this emergency interim rule, the procedures for allocating pollock TAC among industry sectors and apportioning each sector's TAC between seasons are revised to incorporate the changes contained in the AFA. Section 206 of the AFA sets out the allocation formulas for BSAI pollock, which are included in this emergency interim rule. Under this emergency interim rule, 10 percent of the pollock TAC specified for the Bering Sea (BS) subarea and the Aleutian Islands (AI) subarea is allocated to the CDQ program. The remaining TAC for each subarea, after establishment of an incidental catch allowance for pollock harvested as incidental catch in other groundfish fisheries, is allocated 50 percent to AFA catcher vessels harvesting pollock for processing by AFA inshore processors; 40 percent to AFA catcher/processors and AFA catcher vessels harvesting pollock for processing by AFA catcher/processors, with not less than 8.5 percent of this allocation made available to AFA catcher vessels delivering to catcher/processors; and 10 percent to AFA catcher vessels harvesting pollock for processing by AFA motherships. Under this emergency interim rule, the inshore pollock TAC is further subdivided into two allocations; one allocation to vessels participating in inshore fishery cooperatives, and one allocation to vessels not participating in a cooperative fishery. The annual allocation to inshore cooperatives is

equal to the aggregate annual allocations made to each inshore cooperative formed under the provisions of this emergency interim rule. The allocation to vessels that are not in a cooperative fishery is equal to the remaining inshore allocation after subtraction of the allocation to fishery cooperatives.

Each sector's annual BS subarea allocation of pollock is further apportioned among fishing seasons. In a separate action, NMFS is implementing management measures to temporally and spatially disperse the BSAI pollock fishery to implement reasonable and prudent alternatives (RPAs) to protect endangered Steller sea lions.

#### **Observer Coverage Requirements and Scales**

This emergency interim rule changes observer coverage and scale requirements for AFA catcher/processors and AFA motherships, and changes observer coverage requirements for AFA inshore processors. However, no changes are made to observer coverage requirements for AFA catcher vessels. These changes are described here.

##### *Unrestricted AFA Catcher/Processors and AFA Motherships*

Subparagraph 211(b)(6)(A) of the AFA requires that unrestricted AFA catcher/processors have two observers on board at any time the vessel is fishing for groundfish in the BSAI. Under this emergency interim rule, this statutory requirement is set out in regulation and is extended to AFA motherships because AFA motherships receive unsorted pollock codends and operate in a similar manner to AFA catcher/processors, the only difference being that AFA motherships do not actually harvest the pollock themselves. Under this emergency interim rule, an unrestricted AFA catcher/processor or AFA mothership is required to have aboard two NMFS certified observers for each day that the vessel is used to harvest, process, or take deliveries of groundfish. In addition, this emergency interim rule extends the CDQ program observer workload limits to AFA catcher/processor and AFA motherships. Consequently, more than two observers might be required to allow each haul brought on board the vessel to be sampled by an observer. This situation may occur for some AFA motherships, depending on how many deliveries they receive from catcher vessels in a day. Finally, at least one of the observers must be certified as a lead CDQ observer.

Observers are an increasingly important element of NMFS' monitoring

program for AFA catcher/processor and AFA mothership sector pollock harvests. Prior to the AFA, NMFS monitored offshore pollock harvests using a blend of observer data and vessel WPRs. However, under the AFA with its statutory requirement that AFA catcher/processors carry two observers at all times and weigh their catch using NMFS-approved scales, NMFS is now relying only on observers and scale weights to provide inseason harvest data for the AFA catcher/processor sector and is no longer using vessel production data for quota management purposes. In addition, NMFS is reliant on observers to monitor catcher/processor groundfish sideboards as well as catcher vessel sideboards for catcher vessels delivering to catcher/processors and AFA motherships. Given this increased reliance on observers and scales, NMFS believes that the lead CDQ observer requirement is necessary to ensure that at least one of the observers aboard each AFA catcher/processor and AFA mothership has prior experience sampling on a trawl catcher/processor or mothership, is trained and experienced in the use of on-board scales, and is available to monitor the use and calibration of such scales. In addition, NMFS believes that the requirement for at least one lead CDQ observer is necessary to ensure that the compliance monitoring role of the observers aboard AFA catcher/processors can be successfully accomplished.

In order to monitor and enforce the newly imposed harvest limitations for unrestricted AFA catcher/processors and AFA motherships, observers with more experience and training must be aboard. NMFS-certified CDQ observers have that experience and training. CDQ observers receive special training in sampling for species composition in situations where bycatch may be limiting, in working with vessel personnel to resolve access to catch and other sampling problems, and in using flow scales for catch weight measurements. Monitoring by CDQ observers is essential for accurate catch accounting, given the fact that a fishery cooperative has been established and that the potential exists for fishing to be curtailed when either groundfish or prohibited species harvest limitations specified for unrestricted AFA catcher/processors have been reached. In consideration of the potential observer shortage that these new CDQ observer training requirements may cause for 2000, NMFS is phasing in the observer training requirements for AFA catcher/processors, AFA motherships, and AFA

inshore processors. NMFS believes that at least one observer aboard every unrestricted AFA catcher/processor and AFA mothership must be a lead CDQ observer, and is making this requirement effective beginning January 20, 2000. NMFS anticipates implementing separate rulemaking that would require that the second observer on AFA catcher/processors and AFA motherships be a CDQ observer beginning in 2001. The reason for this delay in implementation is to provide observer contractors adequate time to train and deploy these additional CDQ observers.

A detailed discussion on the justification for additional observer training and certification criteria for individual vessel monitoring programs was provided both in the preamble to the proposed rule (62 FR 43866, August 15, 1997) and in the preamble to the final rule (63 FR 30381, June 4, 1998) implementing the Multispecies CDQ program.

In addition, under this emergency interim rule, the CDQ catcher/processor scale requirements and observer sampling station requirements are extended to unrestricted AFA catcher/processors and AFA motherships at all times such vessels are fishing for groundfish in the BSAI or processing groundfish harvested in the BSAI. Subparagraph 210(b)(6)(B) of the AFA requires that unrestricted AFA catcher/processors weigh their catch on an on-board scale approved by NMFS while harvesting groundfish in the BSAI. This emergency interim rule sets out these AFA scale requirements in regulation and extends them to AFA motherships because AFA motherships receive and process unsorted groundfish codends in a manner similar to AFA catcher/processors and thus, generate the same monitoring demands as unrestricted AFA catcher/processors. As a result, scale requirements and observer sampling station requirements for CDQ and unrestricted AFA catcher/processors and AFA motherships are now identical under this emergency interim rule.

##### *Restricted AFA Catcher/Processors*

Under this emergency interim rule, vessels receiving restricted AFA catcher/processor permits under paragraph 208(e)(21) of the AFA are required to meet the observer coverage, scale, and sampling station requirements outlined above during any fishing trip in which the vessel engages in directed fishing for BSAI pollock or receives deliveries of pollock from AFA catcher vessels engaged in directed fishing for BSAI pollock. This

requirement is necessary because NMFS must monitor the 0.5 percent pollock harvest limit on restricted AFA catcher/processors and cannot adequately do so without scales and an observer present at all times. Because the AFA catcher/processor sideboard limits in other groundfish fisheries do not apply to restricted AFA catcher/processors, NMFS is not increasing the observer coverage requirements for restricted AFA catcher/processors when such vessels are engaged in directed fishing for groundfish other than pollock.

**AFA Inshore Processors.** Under this emergency interim rule, an AFA inshore processor is required to have a NMFS-certified observer for each consecutive 12-hour period in which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in directed fishing for BSAI pollock. An AFA inshore processor that takes delivery of or processes pollock during more than 12 consecutive hours in any calendar day is required to have two NMFS-certified observers available during that calendar day. Furthermore, under this emergency interim rule, observers working at AFA inshore processors may not be assigned to cover more than one processing plant during a calendar day. These new observer coverage requirements are necessary so that NMFS can adequately monitor cooperative pollock allocations at each AFA inshore processor. Prior to the AFA, the inshore pollock fishery was managed in the aggregate across the entire sector with NMFS issuing a single closure for the entire inshore sector upon the attainment of a seasonal allocation of pollock TAC. Under the inshore cooperative system set out in this emergency interim rule, each inshore processor and its affiliated cooperative will be operating on its own proprietary pollock allocation. Because NMFS will no longer manage the inshore sector in the aggregate, increased monitoring is required at each individual processor to ensure that cooperative allocations are not exceeded.

Due to potential shortages in CDQ observers during 2000, NMFS is proposing to phase in increased training and experience requirements for AFA inshore processor observers beginning in 2001. In subsequent rulemaking, NMFS intends to propose that all observers deployed at AFA inshore processors be required to be CDQ observers beginning January 1, 2001, to ensure that such observers are adequately trained in the use and monitoring of scales used to monitor pollock landings in AFA inshore processors. However, NMFS is delaying

this requirement until 2001 to provide adequate opportunity for observer contractors to recruit and train sufficient numbers of CDQ observers for deployment in both AFA and CDQ fisheries.

#### *AFA Catcher Vessels*

This emergency interim rule makes no changes to existing observer coverage levels for AFA catcher vessels.

#### **Catcher/Processor and Mothership Cooperative Restrictions**

Subsection 210(a) of the AFA sets out public notice requirements for all BSAI pollock fishery cooperatives. To incorporate these requirements, this emergency interim rule stipulates that any contract implementing a fishery cooperative for the purpose of cooperatively managing directed fishing for pollock for harvest by the catcher/processor or mothership sectors, and any material modifications to any such contract, must be filed with the Council and with the Administrator, Alaska Region, NMFS (Regional Administrator) not less than 30 days prior to the start of fishing under the contract, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request.

In addition, the contracts of all catcher vessel cooperatives delivering to catcher/processors or AFA motherships must include at a minimum: (1) A list of parties to the contract, (2) a list of all vessels and processors that will harvest and process pollock harvested under the cooperative, (3) the amount or percentage of pollock allocated to each party to the contract, and (4) penalties to prevent member vessels from exceeding in the aggregate, a harvest of any other BSAI or GOA groundfish species or species group that is equal to the percentage of each sideboard species that NMFS has attributed to the non-exempt vessels in the cooperative in the calculation of the sideboard amount, unless an inter-cooperative agreement provides for a different distribution of sideboard harvests between AFA catcher vessels. This penalty requirement was recommended by the Council at the request of catcher vessel owners so that the catcher vessel fleet has a mechanism to prevent an uncontrolled catcher vessel race for fish for sideboard species.

In addition, any pollock fishery cooperative governed by this emergency interim rule must submit annual preliminary and final written reports on fishing activity to the Council for public distribution. The preliminary report

covering activities through November 1 must be submitted by December 1 of each year and the final report must be submitted by January 31 of the following year. The preliminary and final written reports must contain, at a minimum: (1) The cooperative's allocated amounts of pollock and sideboard species, and any sub-allocations of pollock and sideboard species made by the cooperative to individual vessels on a vessel-by-vessel basis; (2) the cooperative's actual retained and discarded catch of pollock, sideboard species, and PSC on an area-by-area and vessel-by-vessel basis; (3) a description of the method used by the cooperative to monitor fisheries in which cooperative vessels participated; and (4) a description of any actions taken by the cooperative to penalize vessels that exceed their allowed catch and bycatch in pollock and all sideboard fisheries.

#### **Inshore Cooperative Restrictions**

Under the AFA, a fundamental difference exists between the fishery cooperatives authorized to operate in the AFA catcher/processor and AFA mothership sectors, and the fishery cooperatives authorized to operate in the inshore sector. AFA catcher/processor and AFA mothership cooperatives operate at the sector level and do not require separate allocations of pollock from NMFS in order to operate. Inseason management of the AFA catcher/processor and AFA mothership sectors will continue to occur at the sector level regardless of the presence or absence of fishery cooperatives because the formation of cooperatives does not require NMFS to sub-allocate TAC.

However, the inshore catcher vessel cooperatives authorized by the AFA require an entirely different management structure. Subsection 210(b) of the AFA requires that NMFS make separate TAC allocations to inshore catcher vessel cooperatives that form around an AFA inshore processor and that meet certain restrictions. For this reason, inshore cooperatives require substantially greater regulatory and management infrastructure than AFA catcher/processor and AFA mothership sector cooperatives. This emergency interim rule implements the following inshore cooperative management measures under subsection 210(b) of the AFA.

#### *Filing of Inshore Cooperative Contracts*

Any inshore catcher vessel cooperative wishing to receive an allocation of pollock for an upcoming fishery year must apply for an AFA

inshore cooperative fishing permit as detailed in the previous emergency interim rule to implement AFA permit requirements (65 FR 380, January 5, 2000). Inshore cooperatives also must comply with the contract requirements for AFA catcher/processor and AFA mothership sector cooperatives outlined here. In addition to applying for an inshore cooperative fishing permit, all inshore sector cooperatives must file their contract with the Council and with the Regional Administrator as detailed above.

Inshore cooperatives wishing to receive an allocation of pollock have several additional contract requirements. An inshore cooperative contract eligible for a pollock allocation must be signed by the owners of at least 80 percent of the qualified catcher vessels. In addition, inshore cooperative contracts must specify that the cooperative will deliver at least 90 percent of the pollock harvested in the directed pollock fishery to such shoreside processor during the year in which the fishery cooperative will be in effect and that such shoreside processor has agreed to process such pollock.

#### *Qualified Catcher Vessels*

Paragraph 210(b)(3) of the AFA defines a qualified catcher vessel as follows: "[A] catcher vessel shall be considered a 'qualified catcher vessel' if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shoreside processor to which it will deliver pollock under the fishery cooperative \* \* \* than to any other shoreside processor." This paragraph of the AFA requires that a vessel wishing to join an inshore cooperative must have delivered more pollock to the cooperative's designated inshore processor than to any other inshore processor during the year prior to the year in which the cooperative fishing permit will be in effect. Consequently, catcher vessels wishing to join cooperatives must have made at least one delivery of pollock during the year prior to the year in which the cooperative fishing permit will be in effect.

For the purpose of this emergency interim rule, a catcher vessel is a qualified catcher vessel if: (1) It delivered more pollock harvested in the BSAI directed pollock fishery to the cooperative's designated AFA inshore processor than to any other shoreside processor or stationary floating processor during the year prior to the year in which the cooperative fishing permit will be in effect; and (2) the owner(s) of the catcher vessel in

question has submitted a completed application for an AFA catcher vessel permit to the Regional Administrator that was received on or before December 31, 1999, and is not subsequently disapproved.

These two additional measures to the qualified catcher vessel definition in the statute are necessary to implement the inshore cooperative program in this emergency interim rule. The first additional measure, that qualifying harvests must be in the BSAI directed pollock fishery is necessary to prevent a vessel's incidental bycatch of pollock in other fisheries from inadvertently affecting its cooperative qualification. Counting pollock bycatch could create the unintended effect of restricting the ability of catcher vessels to deliver non-pollock groundfish to other markets. Because pollock is a common bycatch species in the Pacific cod fishery and other groundfish fisheries, AFA catcher vessels fishing for Pacific cod may land significant amounts of pollock as incidental bycatch that will be counted against the pollock incidental catch allowance and not the vessel's cooperative quota. The AFA makes no restrictions on either the delivery or processing of non-pollock groundfish species in the BSAI. Consequently, AFA catcher vessels fishing for Pacific cod are free to deliver their Pacific cod and associated incidental catch of pollock to any processor, not just to one of the eight AFA processors that are authorized to receive pollock harvested in the BSAI directed pollock fishery.

If an AFA vessel's cooperative qualification is based on all catch of pollock and not just pollock harvested in the directed fishery, then an AFA catcher vessel fishing for Pacific cod and delivering to a processor other than its AFA pollock processor could inadvertently disqualify itself from its cooperative of choice due to incidental pollock harvests in other fisheries. In fact, because Pacific cod processors other than the eight AFA inshore pollock processors also operate in the BSAI, an active AFA catcher vessel delivering Pacific cod to a non-AFA processor could inadvertently find itself ineligible to join any inshore cooperative because the processor to which it delivered more pollock than any other processor may be a non-AFA processor, absent this clarification that only pollock harvests in the BSAI directed pollock fishery count towards qualifying landings.

The second additional measure, that a "qualified catcher vessel" is a vessel for which the owner(s) has submitted a completed application for an AFA catcher vessel permit to the Regional

Administrator that was received on or before December 31, 1999, and is not subsequently disapproved, is necessary for timing reasons. NMFS will not have a final official list of eligible catcher vessels until all owners of potentially eligible vessels have submitted applications to NMFS that have been subsequently approved or denied. Consequently, it is impossible for a cooperative to know by the inshore pollock cooperative fishing permit application deadline if it is composed of at least 80 percent of the eligible catcher vessels. For this reason, and for the purpose of this definition of "qualified catcher vessel" this emergency interim rule considers a vessel qualified if it has submitted a completed application to the Regional Administrator by the December 31 deadline for inshore pollock cooperative fishing permit applications.

Under this emergency interim rule, a vessel that did not engage in directed fishing for BSAI pollock during a fishing year will be ineligible to join any inshore cooperative for the subsequent fishing year. In addition, a catcher vessel that is a member of one cooperative during a fishing year will be unable, under most circumstances, to join a different cooperative for the subsequent fishing year. To change cooperatives, a catcher vessel must qualify to fish for the new cooperative, which could require that the vessel spend a year fishing in the "open access" fishery, unless the catcher vessel is able to deliver more pollock harvested in the BSAI directed pollock fishery to the new cooperative's designated processor than to the designated processor of the vessel's current cooperative. Because cooperative contracts formed under the AFA may provide for the delivery of up to 10 percent of a cooperative's allocation to processors other than the cooperative's designated processor, a vessel could change cooperatives from 1 year to the next if the vessel made use of this 10-percent provision to deliver more pollock to the designated processor of the new cooperative than to the designated processor of the vessel's existing cooperative.

*Inshore Cooperative TAC Allocations.* Under this emergency interim rule, an inshore pollock cooperative that applies for and receives an AFA inshore cooperative fishing permit will receive a sub-allocation of the annual inshore pollock TAC allocation. Subsection 210(b) of the AFA establishes an explicit formula for allocating pollock TAC to inshore cooperatives based on the percentage of inshore pollock harvested by member vessels during 1995, 1996,

and 1997. However, the Council has recommended an alternative formula for allocating pollock TAC to inshore cooperatives that is contained in this emergency interim rule.

Paragraph 213(c)(3) of the AFA provides the Council with the authority to recommend for approval by the Secretary of Commerce (Secretary), an alternative formula for allocating BSAI pollock to inshore cooperatives. Paragraph 213(c)(3) states that "the Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act \* \* \* that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph." After analysis and based on the recommendations of its Advisory Panel, the Council elected to recommend two changes to the inshore cooperative allocation formula set out in the AFA.

The first change recommended by the Council allows catcher vessels with inshore sector endorsements to receive inshore catch history credit for landings made to catcher/processors when the vessel made more than 499 mt of landings to catcher/processors during the 1995 through 1997 qualifying period. The Council recommended this change to assist the cooperatives in meeting the intent of paragraph 210(b)(4) of the AFA, which specifies that: "Any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owner of such qualified catcher vessel."

The Council chose the 499 mt threshold based on the recommendation of its Advisory Panel that vessels with sustained participation delivering to catcher/processors, but excluded from delivering to catcher/processors under subsection 208(b) of the AFA, should not be disadvantaged by the new management regime. The Council chose 499 mt as the threshold based on information presented in the EA/RIR, which indicated that 499 mt provided a good break point between vessels with significant history of delivering to catcher/processors and vessels that only had incidental deliveries to catcher/processors during the 1995 through 1997 qualifying period. The Council

recommended that only deliveries to catcher/processors be considered for "compensation" and not deliveries made to the three motherships listed in subsection 208(d) of the AFA during the qualifying period, because any vessel with more than 250 mt of pollock deliveries to one of the three AFA motherships during the qualifying period will earn an endorsement to deliver pollock to AFA motherships under the AFA and therefore, has not "lost" any fishing privileges as a result of the AFA.

The second change recommended by the Council modifies the allocation formula so that the share of the BSAI pollock TAC that each catcher vessel brings into a cooperative would be based on average annual pollock landings in its best 2 out of 3 years from 1995 through 1997. These changes to the allocation formula were unanimously endorsed by industry representatives during public testimony at the June 1999 Council meeting and were seen as a more equitable method of allocating pollock catch because some vessels may have missed all or part of the inshore fishery in a given year due to unavoidable circumstances such as vessel breakdowns or lack of markets.

Under this emergency interim rule, NMFS will use the allocation formula recommended by the Council to make annual allocations of pollock to each inshore cooperative for each subarea of the BSAI; the BS subarea and the AI subarea. These two subareas are treated as separate pollock stocks under the FMP and receive separate TACs during the annual specification process. Because the AI subarea is currently closed to directed fishing for pollock, cooperative allocations of AI subarea pollock will not be made under this emergency interim rule. Each cooperative will receive an annual allocation of BS subarea pollock only.

#### *Inshore Cooperative Fishing Restrictions*

This emergency interim rule imposes a variety of requirements and management standards on inshore fishery cooperatives. First, only catcher vessels listed on the cooperative's AFA inshore cooperative fishing permit are permitted to harvest the cooperative's annual cooperative allocation. Second, all BSAI inshore pollock harvested by a member vessel while engaging in directed fishing for inshore pollock will accrue against the cooperative's annual pollock allocation regardless of whether the pollock was retained or discarded. Third, each inshore pollock cooperative is responsible for reporting to NMFS its BSAI pollock harvest on a daily basis according to the recordkeeping and

reporting requirements described above. Fourth, each inshore pollock cooperative is prohibited from exceeding its annual allocation of BSAI pollock, and the owners and operators of all vessels listed on the cooperative fishing permit would be held jointly and severally liable for overages of the cooperative's annual allocation.

#### *Inshore Cooperative Designated Representative*

Each inshore catcher vessel cooperative is required to appoint a designated representative. The designated representative will act as the point of contact for all matters related to the cooperative's participation in the AFA fishery, and will be responsible for completing and submitting the catcher vessel cooperative pollock catch report. The owners of the member catcher vessels are jointly and severally responsible for compliance and insuring that the designated representative complies with the recordkeeping and reporting requirements contained in this emergency interim rule.

#### *Inshore Cooperative Agent for Service of Process*

Each inshore catcher vessel cooperative is required to appoint an agent to serve on behalf of the cooperative. The appointed agent for service of process may be the owner of a vessel listed as a member of the cooperative or a registered agent. If at any time the cooperative's appointed agent for service of process becomes unable to accept service, then the cooperative members are required to notify the Regional Administrator of a substitute appointed agent. Service on or notice to the cooperative's appointed agent constitutes service on or notice to all members of the cooperative.

NMFS may, at its option, attempt to serve every member of the cooperative individually in addition to service on the cooperative's appointed agent. However, failure to achieve service on the individual member will not affect the validity of constructive notice if service is accomplished on the inshore pollock cooperative's appointed agent for service of process.

#### *Inseason Management of Inshore Cooperative Fishing*

Under this emergency interim rule, NMFS will manage the allocations to inshore cooperative and vessels not participating in a cooperative as two separate inshore fisheries. The various inshore cooperatives will be managed as a group for the purpose of making TAC apportionments by season and area and for the purpose of issuing directed



fishing closures. NMFS will continue to announce directed fishing closures for each inshore fishery when the Regional Administrator determines that the TAC allocated to that fishery for a particular season and area has been reached. Under this system, fishing by inshore cooperatives will be unaffected by fishing by inshore catcher vessels that are not participating in a cooperative. However, the aggregate harvests by all inshore cooperatives will determine the inshore cooperative directed fishing closures for each season and area.

Due to the complexities of implementing this management program within the short time frame required by the AFA, NMFS is not implementing a system under which each individual inshore cooperative would receive allocations of pollock subdivided by each management area and season. Under this emergency interim rule, each inshore cooperative is given the opportunity to harvest its entire annual allocation of BS subarea pollock, but will not receive a specific guarantee of harvest levels for any particular season or management area within the BS subarea. NMFS encourages cooperatives wishing to further rationalize their annual operations to work with each other to prevent the activities of one cooperative from preempting the harvest plans of another cooperative within a specific season or area.

Inshore catcher vessel cooperatives also are required to complete and submit annual preliminary and final reports of fishing activity to the Council. The submission deadlines and required content are the same as the report requirements for AFA catcher/processor and AFA mothership sector cooperatives as described earlier.

#### **Catcher/Processor Groundfish Sideboards**

The AFA establishes harvest restrictions or "sideboards" on the participation of unrestricted AFA catcher/processors in other BSAI groundfish fisheries and completely prohibits AFA catcher/processors fishing in the GOA. These harvest limits apply only to unrestricted AFA catcher/processors listed in paragraphs 208(e)(1) through (20) of the AFA and are not extended to restricted AFA catcher/processors that qualify to fish for pollock under paragraph 208(e)(21) of the AFA. The language establishing catcher/processor harvest limits is set out in paragraphs 211(b)(1) and (2) of the AFA as follows:

(b) Catcher/Processor Restrictions.—

(1) General.—The restrictions in this subsection shall take effect on January 1, 1999 and shall remain in effect thereafter except

that they may be superceded (with the exception of paragraph (4)) by conservation and management measures recommended after the date of the enactment of this Act by the North Pacific Council and approved by the Secretary in accordance with the Magnuson-Stevens Act.

(2) Bering Sea Fishing.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—

(A) Exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;

(B) Exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997; and

(C) Fishing for Atka mackerel in the eastern area of the Bering Sea and Aleutian Islands and from exceeding the following percentages of the directed harvest available in the Bering Sea and Aleutian Islands Atka mackerel fishery—

- (i) 11.5 percent in the central area; and
- (ii) 20 percent in the western area.

For the 1999 fishing year, NMFS implemented these provisions by publishing the harvest limits in the 1999 BSAI harvest specifications and prohibiting unrestricted AFA catcher/processors from engaging in directed fishing for a groundfish species or species group when NMFS determined that the sideboard limit was likely to be met or exceeded.

At its June 1999 meeting, the Council recommended that catcher/processor harvest limits for BSAI groundfish other than Atka mackerel be based on the 1995 through 1997 retained catch of such groundfish species by the 20 unrestricted AFA catcher/processors listed in paragraphs 208(e)(1) through (20) of the AFA and the nine ineligible catcher/processors listed in section 209 of the AFA, except for Pacific cod which would be based on 1997 retained catch only. The Council recommended that only 1997 catch history be used to determine Pacific cod harvest limits because 1997 was the first year in which the BSAI Pacific cod trawl gear allocation was split between catcher/processors and catcher vessels. Prior to 1997 the BSAI Pacific cod TAC was not

allocated between catcher/processors and catcher vessels, meaning that pre-1997 Pacific cod TACs and harvest percentages by AFA catcher/processors are not directly comparable to present day Pacific cod allocations. The Council also recommended that only the years 1996 and 1997 be used to calculate Pacific ocean perch (POP) sideboard amounts because 1996 was the first year in which the POP TAC was divided between the BS subarea and AI subarea.

However, since the Council made this recommendation in June 1999, NMFS has received comments from the public suggesting that the public was not provided adequate notice or opportunity to comment on this recommendation prior to the Council's June, 1999, vote on this issue, and that NMFS would benefit from a more deliberative rulemaking process that allowed for public review and comment on the Council's recommended approach. Adequate opportunity for public review and comment is especially important given that the Council's June discussion and action on catcher/processor sideboards was based on an alternative not addressed in the draft analysis available to the public prior to Council action. For this reason, NMFS has decided to calculate catcher/processor groundfish sideboards amounts for 2000 under this emergency interim rule in the same manner those sideboards were calculated in 1999.

As a consequence, all catcher/processor harvest sideboards other than Atka mackerel will be based on the total catch of each groundfish species by the 20 unrestricted AFA catcher/processors listed in paragraphs 208(e)(1) through (20) of the AFA and the nine ineligible catcher/processors listed in section 209 of the AFA when such vessels were engaged in groundfish fisheries other than pollock. In the future proposed rule to implement the AFA under Amendments 61/61/13/8, NMFS intends to incorporate the Council's recommendation to base these amounts on historical retained catch only, so that the public has opportunity to review and comment on these recommendations before they are approved or disapproved by NMFS as part of the FMP amendment review process.

Under this emergency interim rule, the Atka mackerel sideboard percentages laid out in subparagraph 211(b)(1)(C) of the AFA are carried forward unchanged. The AFA catcher/processor sideboard limit for Atka mackerel is zero percent of the BS subarea and Eastern Aleutians annual TAC, 11.5 percent of the Central



Aleutians annual TAC, and 20 percent of the Western Aleutians annual TAC.

The Council did not recommend any changes to the formula for establishing prohibited species catch (PSC) bycatch limits set out in subparagraph 211(b)(2)(B) of the AFA. However, the Council recommended that NMFS not implement catcher/processor sideboards for salmon and herring because extensive management measures are already in place to limit bycatch of those PSC species in the BSAI pollock fishery and incidental bycatch of salmon or herring is primarily a concern in the pollock fishery and not in the directed fisheries for other groundfish species.

#### **Management of Catcher/Processor Sideboards**

This emergency interim rule amends the BSAI interim groundfish harvest specifications to establish catcher/processor sideboard limits for groundfish and PSC species. These sideboard limits will be managed through directed fishing closures. Under the procedures established in this emergency interim rule, NMFS will evaluate each groundfish harvest limit specified according to the formula outlined previously and will authorize directed fishing by unrestricted AFA catcher/processors only for those BSAI groundfish species for which the harvest limit is large enough to support a directed fishery by unrestricted AFA catcher/processors. Groundfish species for which the catcher/processor harvest limit is too small to support a directed fishery will be closed to directed fishing by unrestricted AFA catcher/processors at the beginning of the fishing year. Using this approach, NMFS will assure that unrestricted AFA catcher/processors will not participate in other directed fisheries at levels that would exceed their level of participation from 1995 through 1997.

#### **Catcher Vessel Sideboards**

In addition to catcher/processor harvest restrictions, this emergency interim rule establishes catcher vessel harvest limits for BSAI crab, BSAI and GOA groundfish, and the Alaska scallop fishery. Paragraph 211(c)(1)(A) of the AFA states: "By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to \* \* \* prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of

fishery cooperatives in the directed pollock fishery." The Council met this requirement by taking final action on a comprehensive suite of catcher vessel sideboard measures at its June 1999 meeting and forwarding those recommendations to NMFS.

Because the BSAI king and Tanner crab fisheries and the Alaska scallop fishery are managed by the State under Federal oversight, the Council recommended that crab and scallop catcher vessel sideboards be implemented jointly through State and Federal actions. Under Amendment 4 to the scallop FMP, the Council has developed a license limitation program for the Alaska scallop fishery under which only one AFA catcher vessel would be eligible to receive a scallop license. Amendment 4 is currently under review by NMFS and, if approved, would take effect for the 2000 scallop season. In addition, under Amendment 8 to the FMP for the scallop fishery off Alaska, the Council has recommended that the State implement an AFA catcher vessel scallop sideboard limit equal to the percentage of the scallop guideline harvest level that was harvested by AFA catcher vessels in 1997. Therefore, NMFS has determined that additional scallop sideboard measures are not required in this emergency interim rule.

With respect to BSAI crab fisheries, NMFS is limiting participation by AFA catcher vessels through AFA catcher vessel permit endorsements. Only AFA catcher vessels with a demonstrated history in a particular crab fishery may continue participating in that fishery. A catcher vessel that lacks the appropriate crab sideboard endorsements is prohibited from retaining BSAI king and Tanner crab. These crab sideboard endorsements have been implemented under the emergency interim rule to implement AFA permit requirements (65 FR 380, January 5, 2000). In addition to entry restrictions, the Council also recommended that the State implement AFA catcher vessel harvest limits for the Bristol Bay red king crab and Bairdi Tanner crab fisheries under Amendment 14 to the FMP for the BSAI king and Tanner crab fisheries. With respect to Bristol Bay red king crab fishery, the Council recommended an AFA catcher vessel sideboard limit equal to the percentage of Bristol Bay red king crab harvested by AFA catcher vessels from 1991 through 1997, excluding 1994 and 1995 when the fishery was closed. For the Bairdi Tanner crab fishery, the Council recommended that AFA catcher vessels be excluded from the fishery until the Council's Bairdi rebuilding goal is reached, and then be limited to

their historic catch percentage from 1995–1996. The State intends to implement these recommended crab sideboard limits through State regulations.

With respect to BSAI and GOA groundfish fisheries, the Council recommended that AFA catcher vessel sideboards be established based on landed catch and be managed through directed fishing closures in the same manner as AFA catcher/processor sideboards. A significant difference between catcher/processor and catcher vessel groundfish sideboards is that the Council recommended that certain AFA catcher vessels be exempt from some BSAI and GOA groundfish sideboards while no exemptions were recommended for unrestricted AFA catcher/processors. This emergency interim rule contains the Council's recommended BSAI and GOA groundfish and PSC sideboards for AFA catcher vessels, which are summarized here

#### *Groundfish Sideboards in the BSAI*

Under this emergency interim rule, groundfish sideboards will be established for all BSAI groundfish species using a formula based on the retained catch of AFA catcher vessels of each sideboard species from 1995 through 1997 (1997 only for BSAI Pacific cod) divided by the available TAC for that species over the same period. AFA catcher vessel sideboards will apply to all AFA catcher vessels regardless of sector and regardless of participation in a cooperative except that catcher vessels less than 125 ft (38.1 meters (m)) LOA whose annual BSAI pollock landings averaged less than 1700 mt from 1995 through 1997 (i.e., landed less than 5,100 mt of pollock over the 3-year period) and that made 30 or more landings of BSAI Pacific cod during that time period are exempt from sideboard closures for BSAI Pacific cod and their historic catch is not counted towards the sideboard. In addition, AFA catcher vessels with mothership endorsements are exempt from Pacific cod sideboard closures after March 1 of each year.

In recommending these exemptions for BSAI Pacific cod, the Council noted that many of the AFA catcher vessels with relatively low catch histories of BSAI pollock have traditionally targeted Pacific cod rather than pollock during the January through March BSAI Pacific cod fishery. The Council believed that restricting such vessels in the Pacific cod fishery would be inequitable given their disproportionate history of participation in the Pacific cod fishery and because their historic dedication to

Pacific cod fishing in the winter months accounts for their lower catch histories of BSAI pollock during the AFA qualifying years. With respect to the March 1 exemption for AFA catcher vessels with mothership endorsements, the Council made this recommendation for several reasons. In most years, the BSAI Pacific cod fishery is largely concluded by March 1 and fishing is often less productive in terms of catch per unit effort after that date. Given that as few as two non-AFA catcher vessels have fished for BSAI Pacific cod in recent years, the Council believed that some additional vessels might be needed after this date to completely harvest the TAC so that processors are not faced with a slow trickle of Pacific cod deliveries that are uneconomical to process. The Council recommended that AFA catcher vessels with mothership endorsements be allowed to re-enter the BSAI Pacific cod fishery after March 1 because the mothership sector received a relatively smaller pollock quota under the AFA and mothership catcher vessels are more likely to be finished with their pollock operations by that date.

Catcher vessel PSC sideboards for BSAI groundfish fisheries will be managed in the same manner as catcher/processor PSC sideboards, however the sideboard amounts would be calculated differently. Because individual vessel PSC catch histories are not available for AFA catcher vessels, PSC sideboard amounts will be pro-rated based on percentage of groundfish catch in each BSAI groundfish fishery.

#### *Groundfish Sideboards in the GOA*

Catcher vessel sideboards for GOA groundfish fisheries will be established and managed in the same manner as the catcher vessel sideboards in the BSAI groundfish fisheries except that catcher vessels less than 125 ft (38.1 m) LOA whose annual BSAI pollock landings averaged less than 1700 mt from 1995 through 1997 (*i.e.*, landed less than 5,100 mt of pollock over the 3-year period) and that made 40 or more GOA groundfish landings over the same period are exempt from sideboard closures for GOA groundfish fisheries. The catch histories of the exempt vessels would not be counted towards the sideboard amounts for non-exempt vessels. As with the BSAI Pacific cod fishery, the Council noted that many AFA catcher vessels with relatively low catch histories in BSAI pollock have traditionally participated in GOA groundfish fisheries. Indeed, many of these vessels are based in Kodiak and other GOA ports and have historically concentrated their fishing effort in GOA fisheries. The Council believed that it

would be inequitable to limit such vessels from participating in GOA fisheries when they have historically fished in the GOA and may have relatively low pollock catch histories in the BSAI during the AFA qualifying years due to their history of fishing primarily in the GOA.

The Council specifically limited both the BSAI Pacific cod and GOA groundfish sideboard exemptions to vessels with a significant history of participation in those fisheries and indicated that it believed such exemptions were consistent with the catcher vessel sideboard provisions at paragraph 211(c)(1) of the AFA, which require that:

\* \* \* By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to—

(A) Prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery

\* \* \*

The EA/RIR prepared for this action estimates the potential number of exempt vessels to be 10 catcher vessels in the BSAI and 20 catcher vessels in the GOA. The Council noted that because these exempt vessels traditionally have participated at high levels in the BSAI Pacific cod and GOA groundfish fisheries, such exemptions were not likely to cause the aggregate harvest levels of all AFA catcher vessels to exceed traditional levels in these fisheries. However, the Council noted that even if fishing in the BSAI Pacific cod and GOA groundfish fisheries by exempt vessels does cause the aggregate harvest of all AFA catcher vessels to exceed historic levels in other groundfish fisheries, the exemptions are warranted and within the authority of the Council to recommend under paragraph 213(c)(1) of the AFA, which states:

The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act—

(1) That supersede the provisions of this title, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery.

The Council believed that these two exemptions are indeed warranted to

mitigate adverse economic effects as described above on owners of fewer than three vessels in the directed pollock fishery given that the exempt vessels are primarily owned by independent fishermen who own fewer than three vessels in the directed pollock fishery.

#### *AFA Inshore Processor and AFA Mothership Crab Processing Sideboards*

Subparagraph 211(c)(2)(A) of the AFA establishes limits on crab processing for AFA inshore processors and AFA motherships that receive pollock harvested by a fishery cooperative:

Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997. For the purposes of this subparagraph, the term "facilities" means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.

At its October 1999 meeting, the Council recommended that NMFS implement these crab processing sideboards through processing caps that would be managed in the aggregate through inseason crab processing closures for AFA entities. However, NMFS does not currently have a crab monitoring or management program in place that would provide crab processing data on a sufficiently timely basis to issue inseason crab processing closures to AFA entities. Under the BSAI king and Tanner crab FMP, the primary inseason management responsibility for crab fisheries is delegated to the State and NMFS is not involved with day-to-day management of BSAI crab fisheries. NMFS intends to work closely with the Alaska Department of Fish and Game to develop a management program that could implement the aggregate crab processing sideboards recommended by the Council. However, due to the complexities of developing such an inseason management program, NMFS believes that such a program will not likely be implemented prior to mid-2000 at the earliest.

To meet the January 2000 deadline for crab processing sideboards that is set out in subparagraph 211(c)(2)(A) of the AFA, NMFS is implementing a crab processing sideboard management program on an entity-by-entity basis in this emergency interim rule. Under the interim program set out in this emergency interim rule, all of the individuals, corporations, or other entities that directly or indirectly own or control a 10-percent or greater interest in the AFA mothership or inshore processor will be considered a single AFA inshore or mothership entity and will have crab processing caps issued to the entity based on its collective 1995 through 1997 crab processing activity. To implement this interim program, NMFS is requiring that the owners of an AFA mothership or AFA inshore processor wishing to process pollock harvested by a cooperative identify on their permit applications all individuals, corporations, or other entities that directly or indirectly own or control a 10-percent or greater interest in the AFA mothership and/or inshore processor (collectively the AFA inshore or mothership entity), and any other crab processors in which such entities have a 10-percent or greater interest (the associated AFA crab facilities). For each BSAI king and Tanner crab fishery, NMFS will calculate the average percentage of the total crab harvest processed by the associated AFA crab facilities and issue entity-wide crab processing caps for each crab fishery to each AFA inshore or mothership entity on its AFA mothership or AFA inshore processor permit. Each individual, corporation, or other entity comprising an AFA inshore or mothership entity will be responsible for insuring that the AFA crab processing facilities associated with the AFA inshore or mothership entity do not exceed the entity's caps. The individuals,

corporations and other entities comprising the AFA inshore or mothership entity will be held jointly and severally liable for any overage.

These crab processing caps will apply to all crab processed by the associated AFA crab processing facilities including any "custom processing" activity. Custom processing refers to a contractual relationship in which one processing facility processes crab on behalf of another processor. Under this emergency interim rule, custom processing of crab is not prohibited, but any custom processing of crab done under contract with an AFA crab processor will be counted against the associated AFA inshore or mothership entity's crab processing cap.

#### Excessive Shares Harvesting Limit

Paragraph 210(e)(1) of the AFA establishes an excessive harvesting share cap of 17.5 percent of the directed pollock fishery as follows:

Harvesting.—No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.

To implement this provision of the AFA, this emergency interim rule requires that NMFS publish in the proposed, interim, and final specifications, the tonnage amount that equates to 17.5 percent of the pollock available to be harvested in the directed pollock fishery.

#### Revised 2000 Interim Harvest Specifications

The 2000 interim harvest specifications for BSAI groundfish published on January 3, 2000 (65 FR 60), must be revised to incorporate the new inshore pollock allocations and sideboards implemented by this emergency interim rule. Therefore, in accordance with the provisions of this

emergency interim rule, the following additions are made to the 2000 interim specifications for groundfish in the BSAI and GOA. These additional interim specifications are based on the Council's final 2000 TAC recommendations. If NMFS approves these recommendations, the interim pollock allocation and sideboards implemented by this emergency interim rule will be effective for the duration of this action and will not be superseded by the final 2000 harvest specifications. Final 2000 AFA pollock allocations and sideboard limits will be made in conjunction with the final rulemaking that will extend or supersede this emergency interim rule.

#### BS Subarea Inshore Pollock Allocations

Under § 679.20(a)(5)(i)(D) of this emergency interim rule, NMFS must subdivide the inshore allocation into allocations for cooperatives and vessels not fishing in a cooperative (*i.e.*, the open access sector). In addition, under § 679.22(a)(11)(iv) NMFS must establish harvest limits inside the Steller sea lion conservation area (SCA) and provide a set-aside so that catcher vessels less than or equal to 99 ft (30.2 m) LOA have the opportunity to operate entirely within the SCA during the A/B season. Accordingly, the 2000 BSAI interim specifications for groundfish (65 FR 60, January 3, 2000) are amended by Table 1, which subdivides the BS subarea inshore pollock allocation into allocations for vessels fishing in a cooperative and for vessels not participating in a cooperative and establishes a cooperative-sector SCA set-aside for AFA catcher vessels less than or equal to 99 ft (30.2 m) LOA. The SCA set-aside for sector catcher vessels less than or equal to 99 ft (30.2 m) LOA that are not participating in a cooperative will be established inseason based on actual participation levels and is not included in Table 1.

TABLE 1.—INTERIM A/B SEASON BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY. AMOUNTS ARE EXPRESSED IN METRIC TONS

	A/B season TAC	A season inside SCA <sup>1</sup>	B season inside SCA
Cooperative sector:			
Vessels > 99 ft .....	n/a	66,581	22,194
Vessels <99 ft .....	n/a	10,195	3,398
Total .....	182,801	76,776	25,592
Open access sector .....	11,968	25,027	1,676
Total inshore .....	194,769	81,803	27,268

<sup>1</sup> Steller sea lion conservation area established at § 679.22(a)(11)(iv).

<sup>2</sup> SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(11)(iv)(C)(2) which specifies that "the Regional Administrator will prohibit directed fishing for pollock to vessels catching pollock for processing by the inshore component greater than 99 ft (30.2 m) LOA before reaching the inshore SCA harvest limit during the A and D seasons to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA for the duration of the inshore seasonal opening."

Under the emergency interim rule to establish AFA permit requirements (65 FR 380, January 5, 2000), NMFS set out procedures for AFA inshore catcher vessel pollock cooperatives to apply for and receive cooperative fishing permits and inshore pollock allocations. NMFS received applications from seven inshore catcher vessel cooperatives by the application deadline of December 31, 1999. Table 2 amends the 2000 BSAI interim specifications for groundfish (65 FR 60, January 3, 2000) by making BS subarea interim allocations to the seven inshore catcher vessel pollock cooperatives that have been approved and permitted by NMFS for the 2000 fishing year. Final 2000 allocations of pollock TAC to each cooperative will be made in rulemaking that supersedes this emergency interim rule. Interim allocations for cooperatives and vessels not participating in cooperatives are not made for the AI subarea because the AI subarea has been closed to directed fishing for pollock under the emergency interim rule to implement Steller sea lion RPAs.

TABLE 2.—BERING SEA SUBAREA INTERIM <sup>1</sup> INSHORE COOPERATIVE ALLOCATIONS

Cooperative name and member vessels	Sum of member vessel's official catch histories <sup>2</sup>	Percentage of inshore sector allocation (percent)	Interim annual co-op allocation
<i>Akutan Catcher Vessel Association:</i> ALDEBARAN, ARCTIC I, ARCTIC VI, ARCTURUS, BLUE FOX, COLUMBIA, DOMINATOR, DONA LILIANA, DONA MARTITA, DONA PAULITA, EXODUS, FLYING CLOUD, GOLDEN DAWN, MAJESTY, PACIFIC VIKING, VIKING EXPLORER, GOLDEN PISCES, LESLIE LEE, MARCY J, MISS BERDIE, PEGASUS, PEGGIE JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER .....	258,508	28.257	55,036
<i>Arctic Enterprise Association:</i> ARCTIC III, ARCTIC IV, OCEAN ENTERPRISE, PACIFIC ENTERPRISE .....	50,008	5.466	10,646
<i>Northern Victor Fleet Cooperative:</i> NORDIC FURY, PACIFIC FURY, GOLDRUSH, EXCALIBUR II, HALF MOON BAY, SUNSET BAY, COMMODORE, STORM PETREL, POSEIDON, ROYAL ATLANTIC .....	62,545	6.837	13,316
<i>Peter Pan Fleet Cooperative:</i> AMBER DAWN, AMERICAN BEAUTY, OCEANIC, OCEAN LEADER, WALTER N .....	6,584	0.720	1,402
<i>Unalaska Cooperative:</i> ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN .....	106,714	11.665	22,719
<i>UniSea Fleet Cooperative:</i> ALSEA, AMERICAN EAGLE, ARCTIC WIND, ARGOSY, AURIGA, AURORA, DEFENDER, GUN-MAR, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE, STARWARD .....	220,361	24.087	46,914
<i>Westward Fleet Cooperative:</i> A.J., ALASKAN COMMAND, ALYESKA, CAITLIN ANN, CHELSEA K, HICKORY WIND, FIERCE ALLEGIANCE, OCEAN HOPE 3, PACIFIC KNIGHT, PACIFIC PRINCE, VIKING, WESTWARD 1 .....	153,917	16.824	32,768
Open access AFA vessels: .....	56,215	6.145	11,968
Total inshore A/B season allocation: .....	914,851	100	194,769

<sup>1</sup> Interim specifications of pollock are equal to the first seasonal allowance of pollock allocated to the inshore sector based on 2000 BS subarea TAC recommendations by the Council at its December 1999 meeting.

<sup>2</sup> Under 679.62(e)(1) the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

#### Interim 2000 Unrestricted AFA Catcher/Processor Sideboards

Paragraph 679.63(a) of this emergency interim rule establishes a formula for setting AFA catcher/processor sideboard limits for non-pollock groundfish and PSC in the BSAI. The basis for these sideboard amounts are described in the preceding preamble text. The 2000 interim catcher/processor sideboards are set out in Table 3 below.

All non-pollock groundfish that is harvested by unrestricted AFA catcher/processors, whether as targeted catch or bycatch, will be deducted from the harvest limits in Table 3. However, non-pollock groundfish that is delivered to listed catcher/processors by catcher vessels will not be deducted from the 2000 harvest limits for the listed catcher/processors.

TABLE 3.—2000 INTERIM UNRESTRICTED AFA CATCHER/PROCESSOR GROUNDFISH SIDEBOARDS. AMOUNTS ARE EXPRESSED IN METRIC TONS

Target species	Area	1995–1997			2000 ITAC available to trawl C/Ps	200 C/P sideboard amount
		Total catch	Available TAC	Ratio		
Pacific cod trawl .....	BSAI .....	13,547	51,450	0.263	41,953	11,034
Sablefish trawl .....	BS .....	8	1,736	0.005	624	3
	AI .....	1	1,135	0.001	516	1
Atka mackerel .....	Western AI .....	n/a	n/a	0.200	27,472	2,747
A season <sup>1</sup> .....	CH limit <sup>2</sup> .....					1,566
	Central AI .....	n/a	n/a	0.115	22,847	1,314
	CH limit .....					880
B season .....	CH limit .....					1,566
	Central AI .....	n/a	n/a	0.115	22,847	1,314
	CH limit .....					880

TABLE 3.—2000 INTERIM UNRESTRICTED AFA CATCHER/PROCESSOR GROUND FISH SIDEBOARDS. AMOUNTS ARE EXPRESSED IN METRIC TONS—Continued

Target species	Area	1995–1997			2000 ITAC available to trawl C/Ps	200 C/P sideboard amount
		Total catch	Available TAC	Ratio		
Yellowfin sole .....	BSAI .....	123,003	527,000	0.233	104,773	24,412
Rock sole .....	BSAI .....	14,753	202,107	0.073	114,546	8,362
Greenland turbot .....	BSAI .....	168	16,911	0.010	5,764	58
	AI .....	31	6,839	0.005	2,839	14
Arrowtooth flounder .....	BSAI .....	788	36,873	0.021	111,350	2,338
Flathead sole .....	BSAI .....	3,030	87,975	0.034	44,755	1,522
Other flatfish .....	BSAI .....	12,145	92,428	0.131	71,242	9,333
Pacific ocean perch .....	BS .....	58	5,760	0.010	2,210	22
	Western AI .....	356	12,440	0.029	5,245	152
	Central AI .....	95	6,195	0.015	3,247	49
	Eastern AI .....	112	6,265	0.018	2,886	52
Other red rockfish .....	BS .....	75	3,034	0.025	165	4
Sharpchin/northern .....	AI .....	1,034	13,254	0.078	4,764	372
Shortraker/rougheye .....	AI .....	68	2,827	0.024	573	14
Other rockfish .....	BS .....	39	1,026	0.038	314	12
	AI .....	95	1,924	0.049	583	29
Squid .....	BSAI .....	7	3,670	0.002	1,675	3
Other species .....	BSAI .....	3,551	65,925	0.054	26,656	1,439

<sup>1</sup> The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Unrestricted AFA catcher/processors are limited to harvesting no more than 20 and 11.5 percent of the available TAC in the Western and Central AI subareas respectively. Unrestricted AFA catcher/processors are prohibited from harvesting Atka mackerel in the Eastern Aleutian Islands District and Bering Sea subarea (paragraph 211(b)(2)(C)).

<sup>2</sup> Critical habitat (CH) allowance refers to the amount of each seasonal allowance that is available for fishing inside critical habitat (Table 1, Table 2, and Figure 4 of 50 CFR 226). In 2000, the percentage of TAC available for fishing inside critical habitat area is 57 percent in the Western AI and 67 percent in the Central AI. When these critical habitat allowances are reached, critical habitat areas will be closed to trawling until NMFS closes Atka mackerel to directed fishing within the same district.

Paragraph 679.63(a)(2) of this emergency interim rule establishes a formula for PSC sideboards for unrestricted AFA catcher/processors. These amounts are equivalent to the percentage of prohibited species bycatch limits harvested in the non-pollock groundfish fisheries by the AFA catcher/processors listed in subsection 208(e) and section 209 of the AFA from 1995, through 1997. Prohibited species amounts harvested by these catcher/processors in BSAI non-pollock groundfish fisheries from 1995 through 1997 are shown in Table 4. These data were used to calculate the relative amount of prohibited species catch limits harvested by pollock catcher/processors, which was then used to determine the prohibited species harvest limits for unrestricted AFA catcher/processors in the 2000 non-pollock groundfish fisheries.

PSC that is caught by unrestricted AFA catcher/processors participating in any non-pollock groundfish fishery listed in Table 3 shall accrue against the 2000 PSC limits for the listed catcher/processors. Paragraph 679.21(e)(3)(v) of this emergency interim rule provides authority to close directed fishing for non-pollock groundfish for unrestricted AFA catcher/processors once a 2000 PSC limitation listed in Table 5 is reached.

Crab or halibut PSC that is caught by unrestricted AFA catcher/processors while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/other species fishery categories under § 679.21(e).

TABLE 4.—2000 INTERIM UNRESTRICTED AFA CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD AMOUNTS

PSC species	1995–1997			2000 PSC available to trawl vessels	2000 C/P limit
	PSC catch	Total PSC	Ratio		
Halibut mortality .....	955	11,325	0.084	3,400	286 mt.
Red king crab .....	3,098	473,750	0.007	89,725	628 crab.
C. opilio .....	2,323,731	15,139,178	0.153	4,023,750	615,634 crab.
C. bairdi:					
Zone 1 .....	385,978	2,750,000	0.140	767,750	107,485 crab.
Zone 2 .....	406,860	8,100,000	0.050	2,331,000	116,550 crab.

#### Interim 2000 AFA Catcher Vessel Sideboards

Paragraph 679.63(b) of this emergency interim rule establishes a formula for setting AFA catcher vessel groundfish and PSC sideboard amounts for the BSAI and GOA. The bases for these sideboard amounts are described in the preceding preamble text. The 2000 interim AFA catcher vessel sideboards amounts are shown in Tables 5 and 6.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or bycatch, will be deducted from the sideboard limits listed in Tables 5 and 6.

TABLE 5.—INTERIM 2000 BSAI AFA CATCHER VESSEL (CV) SIDEBOARDS. AMOUNTS ARE EXPRESSED IN METRIC TONS

Species	Fishery by area/season/processor/ gear	Ratio of 1995– 1997 AFA CV catch to 1995– 1997 TAC	2000 Initial TAC	2000 catcher ves- sel sideboard
Pacific cod .....	BSAI jig .....	0.0000	3,571	0

TABLE 5.—INTERIM 2000 BSAI AFA CATCHER VESSEL (CV) SIDEBOARDS. AMOUNTS ARE EXPRESSED IN METRIC TONS—Continued

Species	Fishery by area/season/processor/ gear	Ratio of 1995– 1997 AFA CV catch to 1995– 1997 TAC	2000 Initial TAC	2000 catcher ves- sel sideboard
	Fixed gear:			
	Jan 1–Apr 30 .....	0.0006	65,000	39
	May 1–Aug 31 .....	0.0006	0	0
	Sept 1–Dec 31 .....	0.0006	26,048	16
	Trawl gear:			
	catcher vessel .....	0.7291	41,953	30,588
	catcher/processor .....	0.0000	41,953	0
Sablefish .....	BS trawl gear .....	0.0006	624	0
	AI trawl gear .....	0.0608	515	31
Atka mackerel .....	<i>Eastern AI/BS</i>			
	Jig gear .....	0.0031	152	0
	Other gear			
	Jan 1–Apr 15 .....	0.0031	7,509	23
	Sept 1–Nov 1 .....	0.0031	7,509	23
	<i>Central AI</i>			
	Jan–Apr 15 .....	0.0001	11,424	1
	Inside CH .....	0.0001	7,654	1
	Sept 1–Nov 1 .....	0.0001	11,424	1
	Inside CH .....	0.0001	7,654	1
	<i>Western AI</i>			
	Jan–Apr 15 .....	0.0000	13,736	0
	Inside CH .....	0.0000	7,829	0
	Sept 1–Nov 1 .....	0.0000	13,726	0
	Inside CH .....	0.0000	7,829	0
Yellowfin sole .....	BSAI .....	0.0712	104,773	7,460
Rock sole .....	BSAI .....	0.0255	114,546	2,921
Greenland Turbot .....	BS .....	0.0405	5,764	233
	AI .....	0.0021	2,839	
Arrowtooth flounder .....	BSAI .....	0.0583	111,350	6,492
Other flatfish .....	BSAI .....	0.0558	71,242	3,975
POP .....	BS .....	0.1018	2,210	225
	Eastern AI .....	0.0048	2,886	14
	Central AI .....	0.0011	3,247	4
	Western AI .....	0.0000	5,245	0
Other red rockfish .....	BS .....	0.0280	165	5
Sharpchin/northern .....	AI .....	0.0015	4,764	7
Shortraker/rougheye .....	AI .....	0.0011	819	1
Other rockfish .....	BS .....	0.0379	314	12
	AI .....	0.0031	583	2
Squid .....	BSAI .....	0.3885	1,675	651
Other species .....	BSAI .....	0.0283	26,656	754

TABLE 6.—INTERIM 2000 GOA AFA CATCHER VESSEL (CV) SIDEBOARDS. AMOUNTS ARE EXPRESSED IN METRIC TONS

Species	Apportionments and allocations by area/season/proc- essor/gear	Ratio of 1995– 1997 AFA CV catch to 1995– 1997 TAC	2000 TAC	2000 catcher ves- sel sideboard
Pollock <sup>1</sup> .....	<i>A Season (W/C areas only):</i>			
	Shelikof Strait .....	0.1672	14,366	2,402
	Shumagin (610) .....	0.6238	5,465	3,409
	Chirikof (620) (outside Shelikof) .....	0.1262	3,352	410
	Kodiak (630) (outside Shelikof) .....	0.1984	4,278	849
	<i>B Season (W/C areas only):</i>			
	Shelikof Strait .....	0.1672	7,183	1,201
	Shumagin (610) .....	0.6238	2,732	1,704
	Chirikof (620) (outside Shelikof) .....	0.1262	1,626	205
	Kodiak (630) (outside Shelikof) .....	0.1984	2,139	424
	<i>C Season (W/C areas only):</i>			
	Shumagin (610) .....	0.6238	11,506	7,177
	Chirikof (620) .....	0.1262	6,847	864
	Kodiak (630) .....	0.1984	9,008	1,787
	<i>D Season (W/C areas only):</i>			
	Shumagin (610) .....	0.6238	9,588	5,981
	Chirikof (620) .....	0.1262	5,706	720
	Kodiak (630) .....	0.1984	7,506	1,489
	<i>Annual: E. GOA</i> .....	0.3642	8,800	3,205

TABLE 6.—INTERIM 2000 GOA AFA CATCHER VESSEL (CV) SIDEBOARDS. AMOUNTS ARE EXPRESSED IN METRIC TONS—Continued

Species	Apportionments and allocations by area/season/processor/gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2000 TAC	2000 catcher vessel sideboard
Pacific cod <sup>2</sup>	W inshore	0.1310	14,850	1,945
	offshore	0.1026	1,650	169
	C inshore	0.0542	24,538	1,330
	offshore	0.0721	2,726	197
	E inshore	0.0000	2,887	0
	offshore	0.0078	321	3
Flatfish deep-water	W	0.0000	280	0
	C	0.0620	2,710	168
	E	0.0021	2,310	5
Rex sole	W	0.0043	1,230	5
	C	0.0117	5,660	66
	E	0.0026	2,550	7
Flathead sole	W	0.0129	2,000	26
	C	0.0097	5,000	49
	E	0.0008	2,060	2
Flatfish shallow-water	W	0.0260	4,500	117
	C	0.0420	12,950	544
	E	0.0106	1,950	21
Arrowtooth flounder	W	0.0047	5,000	24
	C	0.0206	25,000	515
	E	0.0016	5,000	8
Sablefish	W trawl gear	0.0023	368	1
	C trawl gear	0.0384	1,146	44
	E trawl gear	0.0236	288	7
Pacific Ocean perch	W	0.0051	1,240	6
	C	0.0692	9,240	639
	E	0.0225	2,540	57
Shortraker/Rougheye	W	0.0000	210	0
	C	0.0145	930	13
	E	0.0105	590	6
Other rockfish	W	0.0000	20	0
	C	0.0410	740	3
	E	0.0000	4,140	0
Northern rockfish	W	0.0005	630	0
	C	0.0307	4,490	138
Pelagic shelf rockfish	W	0.0004	550	0
	C	0.0000	4,480	0
	E	0.0066	1,350	9
Demersal shelf rockfish.	SEO	0.0000	340	0
Thornyhead	Gulfwide	0.0118	2,360	28
Atka mackerel	Gulfwide	0.0443	600	27
Other species	Gulfwide	0.0067	14,215	95

<sup>1</sup> Pollock sideboard limits are based on pollock harvest restrictions implemented under the emergency interim rule published concurrently with this action that implements Steller sea lion RPA measures for the BSAI and GOA pollock fisheries.

<sup>2</sup> Sideboard harvest limits for Pacific cod are based on the initial TAC.

Paragraph 679.63(b) of this emergency interim rule establishes a formula for PSC sideboards for AFA catcher vessels. The AFA catcher vessel PSC bycatch limit for halibut in the BSAI and GOA, and each crab species in the BSAI for which a trawl bycatch limit has been established is a percentage of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997. These amounts are listed in Tables 7 and 8.

Halibut and crab PSC that is caught by AFA catcher vessels participating in any non-pollock groundfish fishery listed in Tables 5 or 6 will accrue against the 2000 PSC limits for the AFA catcher vessels. Paragraphs 679.21(d)(8) and (e)(3)(v) of this emergency interim rule provide authority to close directed fishing for non-pollock groundfish for AFA catcher vessels once a 2000 PSC limitation listed in Table 7 for the GOA or Table 8 for the BSAI is reached. PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI will accrue against either the midwater pollock or the pollock/Atka mackerel/other species fishery categories.

TABLE 7.—INTERIM 2000 AFA CATCHER VESSEL PROHIBITED SPECIES CATCH (PSC) SIDEBOARD AMOUNTS FOR THE GOA

PSC species	Target fishery and season	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2000 PSC Limit	2000 AFA catcher vessel PSC sideboard
Halibut (mortality in mt).	Trawl 1st seasonal allowance:			
	Shallow water targets .....	0.3400	500	170
	Deep water targets .....	0.0700	100	7
	Trawl 2nd seasonal allowance:			
	Shallow water targets .....	0.3400	100	34
	Deep water targets .....	0.0700	300	21
	Trawl 3rd seasonal allowance:			
	Shallow water targets .....	0.3400	200	68
	Deep water targets .....	0.0700	400	28
	Trawl 4th seasonal allowance:			
	All targets .....	0.2050	400	82

TABLE 8.—INTERIM 2000 AFA CATCHER VESSEL (CV) PROHIBITED SPECIES CATCH (PSC) SIDEBOARD AMOUNTS <sup>1</sup> FOR THE BSAI

PSC species	Target fishery category <sup>2</sup> and season	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2000 PSC Limit	2000 AFA catcher vessel PSC sideboard
Halibut .....	Pacific cod trawl .....	0.6183	1,434	887
	Pacific cod fixed .....	0.0022	748	2
	Yellowfin sole:			
	Jan. 20–Mar. 31 .....	0.1144	262	30
	Apr. 1–May 20 .....	0.1144	195	22
	May 21–July 3 .....	0.1144	49	6
	July 4–Dec. 31 .....	0.1144	380	43
	Rock sole/Flathead sole/Oth. flat:			
	Jan. 20–Mar. 31 .....	0.2841	448	127
	Apr. 1–July 3 .....	0.2841	163	46
	July 4–Dec. 31 .....	0.2841	167	47
	Turbot/Arrowtooth/Sablefish .....	0.2327	0	0
	Rockfish .....	0.0245	70	2
	Pollock/Atka mackerel/Other sp. ....	0.0227	232	5
Red King Crab .....	Pacific cod .....	0.6183	11,655	7,207
Zone 1 .....	Yellowfin sole .....	0.1144	11,655	1,333
	Rock sole/Flathead sole/Oth. flat .....	0.2841	42,090	11,958
	Pollock/Atka mackerel/Other sp. ....	0.0227	1,711	39
	Pacific cod .....	0.6183	123,530	76,383
COBLZ <sup>3,4</sup> .....	Yellowfin sole .....	0.1144	2,876,578	329,067
	Rock sole/Flathead sole/Oth. flat .....	0.2841	869,934	247,154
	Pollock/Atka mackerel/Other sp. ....	0.0227	71,622	1,626
	Rockfish <sup>5</sup> .....	0.0245	41,043	1,006
	Turbot/Arrowtooth/Sablefish .....	0.2327	41,043	9,552
	Pacific cod .....	0.6183	158,547	98,035
Zone 1 .....	Yellowfin sole .....	0.1144	288,750	33,032
	Rock sole/Flathead sole/Oth. flat .....	0.2841	309,326	87,882
	Pollock/Atka mackerel/Other sp. ....	0.0227	14,818	336
	Pacific cod .....	0.6183	279,041	172,540
Zone 2 .....	Yellowfin sole .....	0.1144	1,514,683	173,272
	Rock sole/Flathead sole/Oth. flat .....	0.2841	504,894	143,444
	Pollock/Atka mackerel/Other sp. ....	0.0227	25,641	582
	Pacific cod .....	0.6183	279,041	172,540



TABLE 8—INTERIM 2000 AFA CATCHER VESSEL (CV) PROHIBITED SPECIES CATCH (PSC) SIDEBOARD AMOUNTS <sup>1</sup> FOR THE BSAI—Continued

PSC species	Target fishery category <sup>2</sup> and season	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2000 PSC Limit	2000 AFA catcher vessel PSC sideboard
	Rockfish .....	0.0245	10,024	246

<sup>1</sup> Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.

<sup>2</sup> Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).

<sup>3</sup> *C. opilio* Bycatch Limitation Zone. Boundaries are defined at § 679.21 (e)(7)(iv)(B).

<sup>4</sup> The Council at its December 1999 meeting limited red king crab for trawl fisheries within the RKCSS to 35 percent of the total allocation to the rock sole, flathead sole, and other flatfish fishery category (§ 679.21(e)(3)(ii)(B)).

<sup>5</sup> The Council at its December 1999 meeting apportioned the rockfish PSC amounts from July 4–December 31, to prevent fishing for rockfish before July 4, 2000.

### 2000 Sideboard Directed Fishing Closures

#### Catcher/Processor Sideboard Closures

The Regional Administrator has determined that many of the AFA catcher/processor sideboard amounts listed in Table 3 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2000 fishing year. In accordance with § 679.20(d)(1)(iv) of this emergency interim rule, the Regional Administrator establishes these amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by unrestricted AFA catcher/processors for the species in the specified areas set out in Table 9.

TABLE 9.—AFA UNRESTRICTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES.<sup>1</sup>

[These Closures Take Effect 1200 Hrs A.L.T., January 20, 2000 and Remain in Effect Through 2400 Hrs, A.L.T., December 31, 2000.]

Species	Area	Gear types
Sablefish trawl ....	BSAI	All.
Greenland turbot	BSAI	All.
Arrowtooth flounder.	BSAI	All.
Flathead sole .....	BSAI	All.
Pacific ocean perch.	BSAI	All.
Other red rockfish	BS	All.
Sharpchin/Northern rockfish.	AI	All.
Shortraker/Rougheye rockfish.	AI	All.
Other rockfish .....	BSAI	All.
Squid .....	BSAI	All.
Other species .....	BSAI	All.

<sup>1</sup> Maximum retainable percentages may be found in Table 11 to 50 CFR part 679.

#### AFA Catcher Vessel Sideboard Closures

The Regional Administrator has determined that many of the AFA catcher vessel sideboard amounts listed in Table 5 and 6 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2000 fishing year. In accordance with § 679.20(d)(1)(iv) of this emergency interim rule, the Regional Administrator establishes these amounts as directed fishing allowances. The Regional Administrator finds that many of these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with

§ 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 10.

TABLE 10.—AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES<sup>1</sup>

[These Closures Take Effect 12 Noon A.L.T., January 20, 2000 Except for Pollock in Area 610 and in the Shelikof Strait Conservation Zone Which Closes 12 Noon A.L.T., January 21, 2000. These Closures will Remain in Effect Through 2400 Hrs, A.L.T., December 31, 2000.]

Species	Area	Gear
Pacific cod .....	BSAI	Fixed, jig.
Sablefish .....	BSAI	Trawl.
Atka mackerel .....	BSAI	All.
Greenland Turbot	BSAI	All.
Arrowtooth flounder.	BSAI	All.
Pacific ocean perch.	BSAI	All.
Other red rockfish	BSAI	All.
Sharpchin/northern rockfish.	AI	All.
Shortraker/rougheye rockfish.	AI	All.
Other rockfish .....	BSAI	All.
Squid .....	BSAI	All.
Other species .....	BSAI	All.
Pollock .....	<sup>3</sup>	All.
Pollock <sup>2</sup> .....	<sup>4</sup>	All.
Pacific cod .....	GOA	All.
Deep water flatfish.	GOA	All.
Flathead sole .....	GOA	All.
Shallow water flatfish.	GOA	All.
Arrowtooth flounder.	GOA	All.
Sablefish .....	GOA	Trawl.
Pacific ocean perch.	GOA	All.

TABLE 10.—AFA CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES<sup>1</sup>—Continued

[These Closures Take Effect 12 Noon A.L.T., January 20, 2000 Except for Pollock in Area 610 and in the Shelikof Strait Conservation Zone Which Closes 12 Noon A.L.T., January 21, 2000. These Closures will Remain in Effect Through 2400 Hrs, A.L.T., December 31, 2000.]

Species	Area	Gear
Shortraker/rougheye rockfish.	GOA	All.
Other rockfish .....	GOA	All.
Northern rockfish	GOA	All.
Demersal shelf rockfish.	GOA	All.
Thornyhead rockfish.	GOA	All.
Other species .....	GOA	All.

<sup>1</sup> Maximum retainable percentages may be found in Tables 10 and 11 to 50 CFR part 679.

<sup>2</sup> Closures take effect 12 noon A.L.T., January 21, 2000.

<sup>3</sup> 620, 630 outside Shelikof Strait

<sup>4</sup> 610, Shelikof Strait

#### Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson-Stevens Act, AFA, and other applicable laws.

Pursuant to the National Environmental Policy Act an EA/RIR was developed for this action. It was determined that this action would not have a significant impact on the human environment. The EA/RIR may be obtained in hard copy from the Alaska Regional Office (see ADDRESSES) or via

the internet at [www.fakr.noaa.gov](http://www.fakr.noaa.gov). NMFS is specifically requesting comments on the EA/RIR. NMFS will respond to those comments in the proposed rule to implement Amendments 61/61/13/8.

This emergency interim rule has been determined to be significant for the purposes of Executive Order 12866.

NMFS finds that there is good cause to waive the requirement to provide prior notice and an opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such provisions would be contrary to the public interest. This emergency action is necessary to meet the AFA requirement to provide inshore pollock cooperatives with allocations of pollock for the 2000 fishing year. Inshore sector cooperatives will provide the inshore industry with the ability to more effectively meet the temporal and spatial dispersion objectives of NMFS' Steller sea lion conservation measures that became effective January 20, 2000, and published January 25, 2000. As such, if this rule is not made effective on January 20, 2000, or soon thereafter, the inshore sector of the BSAI pollock industry will be denied the opportunity to fish under cooperatives during the 2000 fishing year. Therefore, this sector of the industry would lose an economically valuable method of meeting the temporal and spatial dispersion objectives of NMFS' Steller sea lion conservation measures. Likewise, pursuant to authority set forth at 5 U.S.C. 553(d)(3), the need to ensure that this rule is in place as soon as possible because the pollock fishing season began on January 20, 2000, constitutes good cause to waive the 30-day delay in effective date otherwise required by 5 U.S.C. 553(d).

Because rule prior notice and opportunity for public comment are not required for this emergency interim rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inappropriate.

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 requirements of the PRA unless that collection of information displays a currently valid OMB control number.

This rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These regulations have been submitted to OMB for approval. Public reporting burden for these collections of information are estimated to average as

follows: For a manager to complete the shoreside processor electronic logbook and print reports is 30 minutes; for a manager to electronically submit the shoreside processor electronic logbook report is 5 minutes; for an operator to complete the at-sea scale inspection request is 2 minutes; for an operator to retain the at-sea scale inspection request is 1 minute; for an operator to complete the at-sea scale test report is 45 minutes; for an operator to print the record of haul weight is 3 minutes; for an operator to retain a scale audit trail print-out is 3 minutes; for an operator to complete the observer sampling station inspection request is 2 minutes; for a cooperative representative to complete a catcher vessel cooperative pollock catch report is 5 minutes; for a cooperative representative to submit a copy of the cooperative contract is 5 minutes; for a cooperative representative to complete an annual written preliminary report from each AFA cooperative is 8 hours; and for a cooperative representative to complete a annual written report from each AFA cooperative is 8 hours. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought: Regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and the clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques, or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and OMB (see ADDRESSES).

The President has directed Federal agencies to use plain language when communicating with the public, through regulations or otherwise. Therefore, NMFS seeks public comment on any ambiguity or unnecessary complexity arising from the language used in this emergency interim rule.

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

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: January 21, 2000.

**Andrew A. Rosenberg,**

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

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

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

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

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, definitions of "Appointed agent for service of process," and "Designated cooperative representative" are added in alphabetical order, and a new paragraph (4) is added to the existing definition of "Directed fishing" to read as follows:

#### § 679.2 Definitions.

\* \* \* \* \*

*Appointed agent for service of process* (applicable through July 20, 2000) means an agent appointed by the members of an inshore catcher vessel cooperative to serve on behalf of the cooperative. The appointed agent for service of process may be the owner of a vessel listed as a member of the cooperative or a registered agent. If at any time the cooperative's appointed agent for service of process becomes unable to accept service, then the cooperative members are required to notify the Regional Administrator of a substitute appointed agent.

\* \* \* \* \*

*Designated cooperative representative* (applicable through July 20, 2000) means an individual who is designated by the members of an inshore pollock cooperative to fulfill requirements on behalf of the cooperative including, but not limited to, the signing of cooperative fishing permit applications and completing and submitting inshore catcher vessel pollock cooperative catch reports.

\* \* \* \* \*

*Directed fishing* means \* \* \*

(4) (applicable through July 20, 2000) With respect to the harvest of groundfish by AFA catcher/processors and AFA catcher vessels, any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under § 679.20.

\* \* \* \* \*

3. In § 679.5, paragraphs (a)(4)(iv), (f)(3), (f)(4), (i)(1)(iii), and (o) are added to read as follows:

**§ 679.5 Recordkeeping and reporting.**

(a) \* \* \*

(4) \* \* \*

(iv) *Shoreside processor electronic logbook report* (applicable through July 20, 2000). The manager of a shoreside processor or stationary floating processor receiving groundfish from AFA catcher vessels must use NMFS-approved software to report catcher vessel deliveries to NMFS as required under this section, and maintain the shoreside processor electronic logbook report describe at paragraph (f)(3), and printed reports required under this section to record the information described at paragraph (f)(4) of this section. The owner of a shoreside processor or stationary floating processor is responsible for compliance and must ensure that the operator, manager, or representative complies with the requirements of this paragraph described at paragraph (f)(3).

\* \* \* \* \*

(f) *Shoreside processor DCPL.* \* \* \*

(3) *Shoreside processor electronic logbook report* (applicable through July 20, 2000).

(i) *Requirement.* The manager of a shoreside processor or stationary floating processor that receives deliveries of groundfish from one or more AFA catcher vessels must record in and submit a shoreside processor electronic logbook report for each catcher vessel delivery and must print and retain reports required under this section for the duration of the fishing year.

(ii) *Applicability.* (A) Processors that use the shoreside processor electronic logbook to record all deliveries and that receive from NMFS an electronic return receipt for each delivery report are exempt from the requirement to maintain shoreside processor DCPLs as described at paragraph (f)(1) and (2) of this section and are exempt from the requirement to submit quarterly DCPL logsheets to NMFS Enforcement as described at paragraph (a)(14)(iii)(A) of this section.

(B) Processors that submit the shoreside processor electronic logbook report and that receive from NMFS an electronic return receipt for each delivery report are exempt from the requirement to maintain and submit WPRs to the Regional Administrator as described at paragraph (i) of this section.

(C) Processors that submit the shoreside processor electronic logbook report, receive from NMFS a return

receipt for each delivery report, and that are receiving deliveries of fish under a CDQ program are exempt from the requirement to submit CDQ delivery reports to the Regional Administrator as described at paragraph (n)(1) of this section.

(iii) *Time limit and submittal.* (A) The shoreside processor electronic logbook report must be submitted daily to NMFS as an electronic file. A dated return-receipt will be generated and sent by NMFS to the processor confirming receipt and acceptance of the report. Processors must retain the return receipt as proof of report submission. If a processor does not receive a return receipt from NMFS, the processor must contact NMFS within 24 hours for further instruction on submission of electronic logbook reports.

(B) Information entered daily and described at § 679.5(f)(3)(iv)(B) must be entered each day on the day they occur.

(C) Information for each delivery described at § 679.5(f)(3)(iv)(C) must be submitted to NMFS by noon of the following day for each delivery of groundfish.

(iv) *Information required.* The manager must enter the following information into the shoreside processor electronic logbook:

(A) *Information entered once (at software installation) or whenever it changes:*

(1) Shoreside processor name, ADF&G processor code, Federal processor permit number, and processor e-mail address;

(2) State port code;

(3) Name, telephone and FAX numbers of representative.

(B) *Information entered daily:*

(1) Indicate if no deliveries or no production;

(2) Number of observers on site;

(3) Whether harvested in BSAI or GOA;

(4) Product by species code, product code, and whether primary, ancillary, or reprocessed/rehandled;

(5) Product weight (in lb or mt).

(C) *Information entered for each delivery:*

(1) Date fishing began and delivery date;

(2) Vessel name (optional) and ADF&G number;

(3) Whether delivery is from a buying station;

(4) If received from a buying station:

(i) Type: vessel, vehicle, or other.

(ii) Name of buying station and date received by buying station.

(iii) If a vessel, ADF&G number.

(iv) If a vehicle, license plate number.

(v) If other, description;

(5) Whether a discard DFL was received from catcher vessel; if discard DFL not received, reason given;

(6) ADF&G fish ticket number of delivery;

(7) Management program name and identifying number (whether CDQ, research program, experimental fishery, IFQ, or AFA coop);

(8) Gear type of harvester;

(9) Landed species by species code, product code, and weight (in pounds or mt) for each species of each delivery;

(10) Discard or disposition species by species code, product code, and weight (in pounds or mt) of groundfish or PSC herring;

(11) Discard or disposition species by species code, product code, and count (in numbers of animals) of PSC halibut, salmon, or crab;

(12) If a CDQ delivery, discard or disposition species by species code, product code, weight (in pounds or mt) and count of PSC halibut;

(13) ADF&G statistical area(s) where fishing occurred; and estimated percentage of total delivered weight corresponding to each area.

(4) *Shoreside processor electronic logbook printed reports.*

(i) The manager must output at the processing plant daily reports of the shoreside processor electronic logbook in two formats generated by the required software onto paper consisting of a Shoreside Logbook Daily Production Report and a Delivery Worksheet. The processor must maintain copies of both of these printouts throughout the fishing year and must make them available to observers, NMFS personnel, and authorized officers upon request.

(ii) *Information required—(A) Delivery worksheet.* Name of processor; ADF&G fish ticket number; management program name (whether CDQ, research program, experimental fishery, IFQ, or cooperative) and identifying number; catcher vessel name (optional) and ADF&G vessel number; date fishing began; delivery date; gear type by harvester; landed species by species code and product code and weight (in lb) for each species of each delivery; ADF&G statistical area and percentage of total delivered weight in each area, Federal reporting area; discard or disposition by species code and product code; weight of each discard or disposition species (in lb), number of each discard or disposition species (in lb) (if groundfish or herring); number of each species discard or disposition species if PSC halibut, salmon or crab.

(B) *Shoreside logbook daily production.* Processor name; Federal processor number; ADF&G processor code; date; number of observers on site;

indicate if no production and/or no deliveries; last sent date; last modified date; product by species code and product code whether primary, ancillary, or reprocessed/rehandled; and product weight in lb.

\* \* \* \* \*

(i) *Weekly production report (WPR)*. \* \* \*

(1) \* \* \*

(iii) (applicable through July 20, 2000)

If a shoreside processor or stationary floating processor and if using software approved by the Regional Administrator as described in § 679.5(f)(3), the shoreside processor or stationary floating processor is exempt from the requirements to submit a WPR.

\* \* \* \* \*

(o) *Catcher vessel cooperative pollock catch report* (applicable through July 20, 2000).

(1) *Applicability*. The designated representative of each AFA inshore processor catcher vessel cooperative must submit to the Regional Administrator a catcher vessel cooperative pollock catch report detailing each delivery of pollock harvested under the allocation made to that cooperative. The owners of the member catcher vessels in the cooperative are jointly responsible for compliance and must ensure that the designated representative complies with the applicable recordkeeping and reporting requirements of this section.

(2) *Time limits and submittal*. (i) The cooperative pollock catch report must be submitted by one of the following methods:

(A) An electronic data file in a format approved by NMFS; or

(B) By fax.

(ii) The cooperative pollock catch report must be received by the Regional Administrator by 1200 hours, A.L.T. 1 week after the date of completion of delivery.

(3) *Information required*. The cooperative pollock catch report must contain the following information: Cooperative account number; catcher vessel ADF&G number; inshore processor Federal processor permit number; delivery date; amount of pollock (in lb) delivered plus weight of at-sea pollock discards; ADF&G fish ticket number.

\* \* \* \* \*

4. In § 679.7, a new paragraph (k) is added to read as follows:

#### **§ 679.7 Prohibitions.**

\* \* \* \* \*

(k) *Prohibitions specific to the AFA*. It is unlawful for any person to do any of the following:

(1) *Catcher/processors*.

(i) *Permit requirement*. Use a catcher/processor to engage in directed fishing for non-CDQ BSAI pollock without a valid AFA catcher/processor permit on board the vessel.

(ii) *Fishing in the GOA*. Use an unrestricted AFA catcher/processor to fish for any species of fish in the GOA.

(iii) *Processing BSAI crab*. Use an unrestricted AFA catcher/processor to process any species of crab harvested in the BSAI.

(iv) *Processing GOA groundfish*. Use an unrestricted AFA catcher/processor to process any groundfish harvested in Statistical Area 630 of the GOA.

(v) *Directed fishing after a sideboard closure*. Use an unrestricted AFA catcher/processor to engage in directed fishing for a groundfish species or species group in the BSAI after the Regional Administrator has issued an AFA catcher/processor sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv) or § 679.21(e)(3)(v).

(vi) *Catch weighing*—(A) *Unrestricted AFA catcher/processors*. Use an unrestricted AFA catcher processor to process any groundfish that was not weighed on a NMFS-certified scale.

(B) *Restricted AFA catcher processors*. Use a restricted AFA catcher processor to process any pollock harvested in the BSAI directed pollock fishery that was not weighed on a NMFS-certified scale.

(2) *Motherships*.

(i) *Permit requirement*. Use a mothership to process pollock harvested by an AFA catcher vessel with an inshore or mothership sector endorsement in a non-CDQ directed fishery for pollock in the BSAI without a valid AFA permit on board the vessel.

(ii) *Cooperative processing endorsement*. Use an AFA mothership to process groundfish harvested by a fishery cooperative formed under § 679.60 unless the AFA mothership permit contains a valid cooperative pollock processing endorsement.

(iii) *Catch weighing requirement*. Use an AFA mothership to process groundfish harvested in the BSAI or GOA that was not weighed on a NMFS-certified scale.

(3) *Shoreside processors and stationary floating processors*.

(i) *Permit requirement*. Use a shoreside processor or stationary floating processor to process groundfish harvested in a non-CDQ directed fishery for pollock in the BSAI without a valid AFA inshore processor permit at the facility or vessel.

(ii) *Cooperative processing endorsement*. Use a shoreside processor

or stationary floating processor required to have an AFA inshore processor permit to process groundfish harvested by a fishery cooperative formed under § 679.61 unless the AFA inshore processor permit contains a valid cooperative pollock processing endorsement.

(iii) *Restricted AFA inshore processors*. Use an AFA inshore processor with a restricted AFA inshore processor permit to process more than 2,000 mt round weight of non-CDQ pollock harvested in the BSAI directed pollock fishery in any one year.

(iv) *Single geographic location requirement*. Use an AFA inshore processor to process pollock harvested in the BSAI directed pollock fishery at a location other than the single geographic location defined as follows:

(A) *Shoreside processors*. The physical location at which the land-based shoreside processor first processed BSAI pollock harvested in the BSAI directed pollock fishery during a fishing year;

(B) *Stationary floating processors*. A location within Alaska State waters that is within 5 nm of the position in which the stationary floating processor first processed BSAI pollock harvested in the BSAI directed pollock fishery during a fishing year.

(v) *Catch weighing requirement*. Use an AFA inshore processor to process groundfish harvested in the BSAI or GOA that was not weighed on a scale certified by the State of Alaska.

(4) *Catcher vessels*—(i) Use a catcher vessel to engage in directed fishing for non-CDQ BSAI pollock for delivery to any AFA processing sector (catcher/processor, mothership, or inshore) unless the vessel has a valid AFA catcher vessel permit on board that contains an endorsement for the sector of the BSAI pollock fishery in which the vessel is participating.

(ii) Use an AFA catcher vessel to retain any BSAI crab species unless the catcher vessel's AFA permit contains a crab sideboard endorsement for that crab species.

(iii) Use an AFA catcher vessel to engage in directed fishing for a groundfish species or species group in the BSAI or GOA after the Regional Administrator has issued an AFA catcher vessel sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv), § 679.21(d)(8) or § 679.21(e)(3)(iv), if the vessel's AFA permit does not contain a sideboard exemption for that groundfish species or species group.

(5) *AFA inshore fishery cooperatives*—(i) *Quota overages*. Use an AFA catcher vessel listed on an AFA

inshore cooperative fishing permit to harvest non-CDQ pollock in excess of the cooperative's annual allocation of pollock specified under § 679.61.

(ii) *Liability.* An inshore pollock cooperative is prohibited from exceeding its annual allocation of BSAI pollock TAC. The owners and operators of all vessels listed on the cooperative fishing permit are responsible for ensuring that all cooperative members comply with all applicable regulations contained in part 679. The owners and operators will be held jointly and severally liable for overages of an annual cooperative allocation, and for any other violation of these regulations committed by a member vessel of a cooperative.

(6) *Crab processing limits.* It is unlawful for an AFA entity that processes pollock harvested in the BSAI directed pollock fishery by an AFA inshore or AFA mothership catcher vessel cooperative to use an AFA crab facility to process crab in excess of the crab processing sideboard cap established for that AFA inshore or mothership entity under § 679.64. The owners and operators of the individual entities comprising the AFA inshore or mothership entity will be held jointly and severally liable for any overages of the AFA inshore or mothership entity's crab processing sideboard cap.

5. In § 679.20, paragraphs (a)(5)(i)(D) and (d)(1)(iv) are added to read as follows:

**§ 679.20 General limitations.**

- (a) \* \* \*  
(5) \* \* \*  
(i) \* \* \*

(D) *AFA sectoral allocations* (applicable through July 20, 2000). The pollock TAC apportioned to each BSAI subarea or district, after subtraction of the 10 percent CDQ reserve under § 679.31 (a), will be allocated as follows:

(1) *Incidental catch allowance.* The Regional Administrator will establish an incidental catch allowance to account for projected incidental catch of pollock by vessels engaged in directed fishing for groundfish other than pollock and by vessels harvesting non-pollock CDQ. If during a fishing year, the Regional Administrator determines that the incidental catch allowance has been set too high or too low, he/she may issue inseason notification in the **Federal Register** that reallocates pollock to/from the directed pollock fisheries to/from the incidental catch allowance according to the proportions established under § 679.20(a)(5)(i)(D)(2).

(2) *Directed fishing allocations.* The remaining pollock TAC apportioned to

each BSAI subarea or district will be allocated for directed fishing as follows:

- (i) 50 percent to vessels harvesting pollock for processing by AFA inshore processors,  
(ii) 40 percent to vessels harvesting pollock for processing by catcher/processors, with not less than 8.5 percent of this allocation made available for harvest by AFA catcher vessels and not more than 0.5 percent of this allocation made available for harvest by restricted AFA catcher/processors, and  
(iii) 10 percent to vessels harvesting pollock for processing by AFA motherships.

(3) *Allocations for fishing by inshore cooperatives and vessels not participating in cooperatives.* The TAC allocated to vessels harvesting pollock for processing by AFA inshore processors will be divided into separate allocations for cooperatives and vessels not participating in cooperatives. The TAC allocation for cooperative fishing will be equal to the aggregate annual allocations of all inshore cooperatives that receive pollock allocations under § 679.61(e). The TAC allocation for fishing for vessels not participating in cooperatives will be equal to the allocation made to vessels harvesting pollock for processing by AFA inshore processors minus the TAC allocation for cooperative fishing.

(4) *Excessive harvesting share.* NMFS will establish an excessive harvesting share limit equal to 17.5 percent of the sum of the allocations made under § 679.20(a)(5)(i)(D)(2). The excessive share limit will be published in the proposed, interim, and final specifications.

\* \* \* \* \*

- (d) \* \* \*  
(1) \* \* \*

(iv) *AFA sideboard limitations* (applicable through July 20, 2000)—(A) If the Regional Administrator determines that any sideboard harvest limit for a group of AFA vessels established under § 679.63 has been or will be reached, the Regional Administrator may establish a directed fishing allowance for the species or species group applicable only to the identified group of AFA vessels.

(B) In establishing a directed fishing allowance under paragraph (d)(1)(iv)(A) of this section, the Regional Administrator shall consider the amount of the harvest limitation established for a group of AFA vessels under § 679.63 that will be taken as incidental catch by those vessels in directed fishing for other species.

\* \* \* \* \*

6. In § 679.21, paragraphs (d)(8) and (e)(3)(v) are added to read as follows:

**§ 679.21 Prohibited species bycatch management.**

- (d) \* \* \*

(8) *AFA halibut bycatch limitations* (applicable through July 20, 2000). Halibut bycatch limits for AFA catcher vessels will be established according to the procedure and formula set out in § 679.63 (b) and managed through directed fishing closures for AFA catcher vessels in the groundfish fisheries to which the halibut bycatch limit applies.

\* \* \* \* \*

- (e) \* \* \*

- (3) \* \* \*

(v) *AFA prohibited species catch limitations* (applicable through July 20, 2000). Halibut and crab PSC limits for AFA catcher/processors and AFA catcher vessels will be established according to the procedures and formulas set out in § 679.63 (a) and (b) and managed through directed fishing closures for AFA catcher/processors and AFA catcher vessels in the groundfish fisheries for which the PSC limit applies.

\* \* \* \* \*

7. In § 679.50, paragraphs (c)(5) and (d)(5) are added to read as follows:

**§ 679.50 Groundfish Observer Program** \* \* \*

- (c) \* \* \*

(5) *AFA catcher/processors and motherships* (applicable through July 20, 2000)—(i) *Coverage requirement.*

(A) *Unrestricted AFA catcher/processors and AFA motherships.* The owner or operator of an unrestricted AFA catcher/processor or AFA mothership must provide at least two NMFS certified observers for each day that the vessel is used to harvest, process, or take deliveries of groundfish. More than two observers are required if the observer workload restriction at § 679.50(c)(5)(iii) would otherwise preclude sampling as required under § 679.62(a)(1).

(B) *Restricted AFA catcher/processors.* The owner or operator of a restricted AFA catcher/processor must provide at least two NMFS certified observers for each day that the vessel is used to engage in directed fishing for pollock in the BSAI, or takes deliveries of pollock harvested in the BSAI. When a restricted AFA catcher/processor is not engaged in directed fishing for BSAI pollock and is not receiving deliveries of pollock harvested in the BSAI, the observer coverage requirements at § 679.50(c)(1)(iv) apply.

(ii) *Certification level.* At least one of the observers required under paragraphs (c)(5)(i)(A) and (B) of section must be

certified as a lead CDQ observer as specified in paragraph (h)(1)(i)(E)(1) of this section.

(iii) *Observer work load.* The time required for the observer to complete sampling, data recording, and data communication duties may not exceed 12 consecutive hours in each 24-hour period, and, the observer may not sample more than 9 hours in each 24-hour period.

\* \* \* \* \*

(d) *Observer requirements for shoreside processors.* \* \* \*

(5) *AFA inshore processors* (applicable through July 20, 2000)—(i) *Coverage level.* An AFA inshore processor is required to provide a NMFS certified observer for each 12 consecutive hour period of each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the BSAI. A processor that takes delivery of or processes pollock for more than 12 consecutive hours in a calendar day is required to provide two NMFS-certified observers for each such day.

(ii) *Multiple processors.* An observer deployed to an AFA inshore processor may not be assigned to cover more than one processor during a calendar day in which the processor receives or processes pollock harvested in the BSAI directed pollock fishery.

\* \* \* \* \*

8. In 50 CFR part 679, a new Subpart F—American Fisheries Act Management Measures (applicable through July 20, 2000) is added to read as follows:

**Subpart F—American Fisheries Act Management Measures (Applicable Through July 20, 2000)**

Sec.

- 679.59 Authority and related regulations.
- 679.60 Catcher/processor and mothership pollock cooperatives.
- 679.61 Inshore pollock cooperatives.
- 679.62 Requirements for vessels and processors.
- 679.63 Harvest limitations in other fisheries.
- 679.64 AFA inshore processor and AFA mothership crab processing sideboard limits.

**Subpart F—[Amended]**

**§ 679.59 Authority and related regulations.**

Regulations under this subpart were developed by the National Marine Fisheries Service and the North Pacific Fishery Management Council to implement the American Fisheries Act (AFA) [Div. C, Title II, Subtitle II, Public Law No. 105–277, 112 Stat. 2681 (1998)]. Additional regulations that

implement specific provisions of the AFA are set out at § 679.2 *Definitions*, § 679.4 *Permits*, § 679.5 *Recordkeeping and reporting*, § 679.7 *Prohibitions*, § 679.20 *General limitations*, § 679.21 *Prohibited species bycatch management*, § 679.28 *Equipment and operational requirements for Catch Weight Measurement*, § 679.31 *CDQ reserves*, and § 679.50 *Groundfish Observer Program applicable through December 31, 2000*.

**§ 679.60 Catcher/processor and mothership pollock cooperatives.**

(a) *Applicability.* Any fishery cooperative formed under section 1 of the Act of June 25, 1934 (15 U.S.C. 521) for the purpose of cooperatively managing directed fishing for BSAI pollock for processing by catcher/processors or motherships must comply with the provisions of this section.

(b) *Filing of fishery cooperative contracts.* Any contract implementing a fishery cooperative for the purpose of cooperatively managing directed fishing for BSAI pollock for processing by catcher/processors or motherships, and any material modifications to any such contract must be filed not less than 30 days prior to the start of fishing under the contract with the Council and with the Regional Administrator, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. Any fishery cooperative intending to deliver pollock to an AFA mothership also must notify the owners of the AFA mothership not less than 30 days prior to the start of fishing under the contract.

(c) *Required elements.* Any cooperative contract filed under paragraph (b) of this section must contain the following information:

- (1) A list of parties to the contract,
- (2) A list of all vessels and processors that will harvest and process pollock harvested under the cooperative,
- (3) The amount or percentage of pollock allocated to each party to the contract, and

(4) For a cooperative that includes catcher vessels delivering pollock to motherships or catcher/processors, penalties to prevent each non-exempt member catcher vessel from exceeding an individual vessel sideboard limit for each BSAI or GOA sideboard species or species group that is issued to the vessel by the cooperative in accordance with the following formula:

(i) The aggregate individual vessel sideboard limits issued to all member vessels in a cooperative must not exceed the aggregate contributions of each

member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.63(b) and as announced to the cooperative by the Regional Administrator, or

(ii) In the case of two or more cooperatives that have entered into an inter-cooperative agreement, the aggregate individual vessel sideboard limits issued to all member vessels subject to the inter-cooperative agreement must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.63(b) and as announced to NMFS by the Regional Administrator.

(d) *Annual report.* Any fishery cooperative governed by this section must submit annual preliminary and final written reports on fishing activity to the North Pacific Fishery Management Council, 605 West 4th Ave, Suite 306, Anchorage, AK 99501, for public distribution. The preliminary report covering activities through November 1 must be submitted by December 1 of each year and the final report must be submitted by January 31 of each year.

(1) *Required contents.* The preliminary and final written reports must contain, at a minimum:

(i) The cooperative's allocated catch of pollock and sideboard species, and any sub-allocations of pollock and sideboard species made by the cooperative to individual vessels on a vessel-by-vessel basis;

(ii) The cooperative's actual retained and discarded catch of pollock, sideboard species, and PSC on a area-by-area and vessel-by-vessel basis;

(iii) A description of the method used by the cooperative to monitor fisheries in which cooperative vessels participated; and

(iv) A description of any actions taken by the cooperative to penalize vessels that exceed their allowed catch and bycatch in pollock and all sideboard fisheries.

**§ 679.61 Inshore pollock cooperatives.**

(a) *Applicability.* Any fishery cooperative formed under section 1 of the Act of June 25, 1934 (15 U.S.C. 521) for the purpose of cooperatively managing directed fishing for pollock for processing by an AFA inshore processor must comply with the provisions of this section.

(b) *Filing of fishery cooperative contracts.* Any contract implementing a fishery cooperative for the purpose of cooperatively managing directed fishing for pollock for processing by an AFA inshore processor, any material

modifications to any such contract, and a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request, must be filed with the Council and with the Regional Administrator no later than 30 days prior to the start of fishing under the contract.

(c) *Required elements.* Any cooperative contract filed under paragraph (b) of this section must contain the following:

- (1) A list of parties to the contract,
- (2) A list of all vessels and processors that will harvest and process pollock harvested under the cooperative,
- (3) The amount or percentage of pollock allocated to each party to the contract, and
- (4) Penalties to prevent each non-exempt member catcher vessel from exceeding an individual vessel sideboard limit for each BSAI or GOA groundfish sideboard species or species group that is issued to the vessel by the cooperative in accordance with the following formula:

(i) The aggregate individual vessel sideboard limits issued to all member vessels in a cooperative must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.63(b) and as announced to the cooperative by the Regional Administrator, or

(ii) In the case of two more cooperatives that have entered into an inter-cooperative agreement, the aggregate individual vessel sideboard limits issued to all member vessels subject to the inter-cooperative agreement must not exceed the aggregate contributions of each member vessel towards the overall groundfish amount as calculated by NMFS under § 679.63(b) and as announced to NMFS by the Regional Administrator.

(d) *Responsible parties*—(1) *Designated representative.* Any cooperative formed under this section must appoint a designated representative to fulfill regulatory requirements on behalf of the cooperative including, but not limited to, the signing of cooperative fishing permit applications and completing and submitting inshore catcher vessel pollock cooperative catch reports. The owners of the member catcher vessels in the cooperative are jointly responsible for compliance and must ensure that the designated representative complies with all applicable regulations in this part.

(2) *Agent for service of process.*

(i) Any cooperative formed under this section must appoint an agent who is

authorized to receive and respond to any legal process issued in the United States with respect to all owners and operators of vessels listed on the cooperative fishing permit. The cooperative must provide the Regional Administrator with the name, address and telephone number of the appointed agent on the application for an inshore cooperative fishing permit. Service on or notice to the cooperative's appointed agent constitutes service on or notice to all members of the cooperative.

(ii) The owners and operators of all member vessels of an inshore pollock cooperative are responsible for ensuring that the agent is capable of accepting service on behalf of the cooperative for at least 5 years from the expiration day of the AFA permit. The owners and operators of all member vessels of a cooperative are also responsible for ensuring that a substitute agent is designated and the Agency is notified of the name, address and telephone number of the substitute representative in the event the previously designated representative is no longer capable of accepting service on behalf of the cooperative or the cooperative members within that 5-year period.

(e) *Cooperative pollock allocations.* An inshore pollock cooperative that applies for and receives an AFA inshore cooperative fishing permit under § 679.4(l)(6) will receive a sub-allocation of the annual inshore pollock allocation that is determined according to the following procedure:

(1) *Calculation of individual vessel catch histories.* The Regional Administrator will calculate an official AFA inshore cooperative catch history for every catcher vessel that made a landing of inshore pollock in the Bering Sea Subarea and/or Aleutian Islands Subarea during 1995, 1996, or 1997 according to the following steps:

(i) *Determination of annual landings.* For each year from 1995 through 1997 the Regional Administrator will determine each vessel's total inshore landings; from the Bering Sea Subarea and Aleutian Islands Subarea separately.

(ii) *Offshore compensation.* If a catcher vessel made a total of 500 or more mt of landings of Bering Sea Subarea pollock or Aleutian Islands Subarea pollock to catcher/processors or offshore motherhips other than the EXCELLENCE (USCG documentation number 967502); GOLDEN ALASKA (USCG documentation number 651041); or OCEAN PHOENIX (USCG documentation number 296779) over the 3-year period from 1995 through 1997, then all offshore pollock landings made by that vessel during from 1995

through 1997 will be added to the vessel's inshore catch history by year and subarea.

(iii) *Best two out of three years.* After steps (i) and (ii) are completed, the 2 years with the highest landings will be selected for each subarea and added together to generate the vessel's official AFA inshore cooperative catch history for each subarea. A vessel's best 2 years may be different for the Bering Sea subarea and the Aleutian Islands Subarea.

(2) *Calculation of cooperative quota share.* Each inshore pollock cooperative that applies for and receives an AFA inshore pollock cooperative fishing permit will receive an annual quota share percentage of pollock for each subarea of the BSAI that is equal to the sum of each member vessel's official AFA inshore cooperative catch history for that subarea divided by the sum of the official AFA inshore cooperative catch histories of all catcher vessels that made BSAI inshore pollock landings from that subarea in 1995, 1996, or 1997. The cooperative's quota share percentage will be listed on the cooperative's AFA pollock cooperative permit.

(3) *Conversion of quota share to annual TAC allocation.* Each inshore pollock cooperative that receives a quota share percentage for a fishing year will receive an annual allocation of Bering Sea and/or Aleutian Islands pollock that is equal to the cooperative's quota share percentage for that subarea multiplied by the annual inshore pollock allocation for that subarea. Each cooperative's annual pollock TAC allocation may be published in the interim, and final BSAI TAC specifications notices.

(f) *Cooperative fishing restrictions.* AFA inshore pollock cooperatives must comply with the following fishing restrictions.

(1) *Eligible vessels.* Only catcher vessels listed on the cooperative's AFA inshore cooperative fishing permit are permitted to harvest the cooperative's annual cooperative allocation.

(2) *Quota management.* All BSAI inshore pollock harvested by a member vessel while engaging in directed fishing for inshore pollock in the BSAI during the fishing year for which the annual cooperative allocation is in effect will accrue against the cooperative's annual pollock allocation regardless of whether the pollock was retained or discarded.

(3) *Reporting of cooperative catch.* Each inshore pollock cooperative must report to the Regional Administrator its BSAI pollock harvest on a daily basis according to the recordkeeping and



reporting requirements set out at § 679.5(o).

(g) *Annual report.* Any fishery cooperative governed by this section must submit annual preliminary and final written reports on fishing activity to the North Pacific Fishery Management Council, 605 West 4th Ave, Suite 306, Anchorage, AK 99501, for public distribution. The preliminary and final reports must contain the same elements and must be submitted according to the same deadlines as the preliminary and final reports required under § 679.60(d).

**§ 679.62 Requirements for vessels and processors.**

(a) *AFA catcher/processors and AFA motherships—(1) Unrestricted AFA catcher/processors and AFA motherships.*

(i) *Catch weighing.* All groundfish landed by unrestricted AFA catcher/processors or received by AFA motherships must be weighed on a NMFS-certified scale and made available for sampling by a NMFS certified observer. The owner and operator of an unrestricted AFA catcher/processor or an AFA mothership must ensure that the vessel is in compliance with the scale requirements described at § 679.28(b), that each groundfish haul is weighed separately, and that no sorting of catch takes place prior to weighing.

(ii) *Observer sampling station.* The owner and operator of an unrestricted AFA catcher/processor or AFA mothership must provide an observer sampling station as described at § 679.28(d) and must ensure that the vessel operator complies with the observer sampling station requirements described at § 679.28(d) at all times that the vessel harvests groundfish or receives deliveries of groundfish harvested in the BSAI or GOA.

(2) *Restricted AFA catcher/processors.* The owner or operator of a restricted AFA catcher/processor must comply with the catch weighing and observer sampling station requirements set out in paragraph (a)(1) of this section at all times the vessel is engaged in directed fishing for pollock in the BSAI.

(b) *AFA inshore processors—(1) Catch Weighing.* All groundfish landed by AFA catcher vessels engaged in directed fishing for pollock in the BSAI must be sorted and weighed on a scale approved by the State of Alaska under § 679.28(c) and be made available for sampling by a NMFS certified observer. The observer must be allowed to test any scale used to weigh groundfish in order to determine its accuracy.

(2) The plant manager or plant liaison must notify the observer of the

offloading schedule for each delivery of BSAI pollock by an AFA catcher vessel at least 1 hour prior to offloading. An observer must monitor each delivery of BSAI pollock from an AFA catcher vessel and be on site the entire time the delivery is being weighed or sorted.

**§ 679.63 Harvest limitations in other fisheries.**

(a) *AFA catcher/processor sideboards.* The Regional Administrator will establish restrictions on the ability of unrestricted AFA catcher/processors to engage in directed fishing for BSAI groundfish species other than pollock. Such limits will be established and managed as follows:

(1) *Calculation of groundfish harvest limits.* For each groundfish species or species group in which a TAC is specified for an area or subarea of the BSAI, the Regional Administrator will establish annual AFA catcher/processor harvest limits as follows:

(i) *Pacific cod.* The Pacific cod harvest limit will be equal to the 1997 aggregate catch of Pacific cod by catcher/processors listed in paragraphs 208(e)(1) through (20) and 209 of the AFA in non-pollock target fisheries divided by the Pacific cod TAC available to catcher/processors in 1997 multiplied by the Pacific cod TAC available for harvest by catcher/processors in the year in which the harvest limit will be in effect.

(ii) *Aleutian Islands Pacific ocean perch.* The Aleutian Islands Pacific ocean perch harvest limit will be equal to the aggregate 1996 through 1997 catch of Aleutian Islands Pacific ocean perch by catcher/processors listed in paragraphs 208(e)(1) through (20) and 209 of the AFA in non-pollock target fisheries divided by the sum of the Aleutian Islands Pacific ocean perch TACs available to catcher/processors in 1996 and 1997 multiplied by the Aleutian Islands Pacific ocean perch TAC available for harvest by catcher/processors in the year in which the harvest limit will be in effect.

(iii) *Atka mackerel.* The Atka mackerel harvest limit for each area and season will be equal to:

(A) Bering Sea subarea and Eastern Aleutian Islands, zero;

(B) Central Aleutian Islands, 11.5 percent of the annual TAC specified for Atka mackerel; and

(C) Western Aleutian Islands, 20 percent of the annual TAC specified for Atka mackerel.

(iv) *Remaining groundfish species.* Except as provided for in paragraphs (a)(2)(1)(i) through (a)(2)(1)(iii) of this section, the harvest limit for each BSAI groundfish species or species group will be equal to the aggregate 1995 through

1997 catch of that species by catcher/processors listed in paragraphs 208(e)(1) through (20) and 209 of the AFA in non-pollock target fisheries divided by the sum of the TACs of that species or species group available to catcher/processors in 1995 through 1997 multiplied by the TAC of that species available for harvest by catcher/processors in the year in which the harvest limit will be in effect.

(2) *Calculation of halibut and crab PSC bycatch limits.* For each halibut or crab PSC limit specified for catcher/processors in the BSAI, the Regional Administrator will establish an annual unrestricted AFA catcher/processor PSC limit equal to the estimated aggregate 1995 through 1997 PSC bycatch of that species by catcher/processors listed in paragraphs 208(e)(1) through (20) and 209 of the AFA while engaged in directed fishing for species other than pollock divided by the aggregate PSC bycatch limit of that species for catcher/processors from 1995 through 1997 multiplied by the PSC limit of that species available to catcher/processors in the year in which the harvest limit will be in effect.

(3) *Management of AFA catcher/processor sideboard limits.* The Regional Administrator will manage groundfish harvest limits and PSC bycatch limits for AFA catcher/processors in accordance with the procedures set out in § 679.20(d)(1)(iv), and § 679.21(e)(3)(v).

(b) *AFA catcher vessel sideboards.* The Regional Administrator will establish restrictions on the ability of AFA catcher vessels to engage in directed fishing for other groundfish species in the GOA and BSAI. Such restrictions will be established and managed as follows:

(1) *Calculation of groundfish and PSC sideboards.* For each groundfish species or species group in which a TAC is specified for an area or subarea of the GOA and BSAI; and for each halibut and crab PSC limit, the Regional Administrator will establish annual AFA catcher vessel groundfish harvest limits and PSC bycatch limits as follows:

(i) *Affected vessels.* Catcher vessel harvest limits and PSC bycatch limits will apply to all AFA catcher vessels in all GOA and non-pollock BSAI groundfish fisheries except:

(A) *BSAI Pacific cod—(1)* AFA catcher vessels less than 125 ft (38.1 m) LOA that are determined by the Regional Administrator to have harvested a combined total of less than 5,100 mt of BSAI pollock, and to have made 30 or more legal landings of Pacific cod in the BSAI directed fishery



for Pacific cod from 1995 through 1997 will be exempt from sideboard closures for BSAI Pacific cod.

(2) AFA catcher vessels with mothership endorsements will be exempt from BSAI Pacific cod catcher vessel sideboard directed fishing closures after March 1 of each fishing year.

(B) *GOA groundfish*. AFA catcher vessels less than 125 ft (38.1 m) LOA that are determined by the Regional Administrator to have harvested less than 5100 mt of BSAI pollock and to have made 40 or more landings of GOA groundfish from 1995 through 1997 will be exempt from GOA groundfish catcher vessel sideboard directed fishing closures.

(ii) *Calculation of BSAI and GOA groundfish harvest limits*—(A) *BSAI Groundfish other than BSAI Pacific cod*. The AFA catcher vessel groundfish harvest limit for each BSAI groundfish species or species group other than BSAI Pacific cod will be equal to the aggregate retained catch of that groundfish species or species group from 1995 through 1997 by AFA catcher vessels not exempted under § 679.63(b)(1)(i)(A)(1); divided by the sum of the TACs available to catcher vessels for that species or species group from 1995 through 1997; multiplied by the TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(B) *BSAI Pacific cod*. The AFA catcher vessel groundfish harvest limit for BSAI Pacific cod will be equal to the retained catch of BSAI Pacific cod in 1997 by AFA catcher vessels not exempted under § 679.63(b)(1)(i)(A)(1) divided by the BSAI Pacific cod TAC available to catcher vessels in 1997; multiplied by the BSAI Pacific cod TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(C) *GOA groundfish*. The AFA catcher vessel groundfish harvest limit for each GOA groundfish species or species group will be equal to the aggregate retained catch of that groundfish species

or species group from 1995 through 1997 by AFA catcher vessels not exempted under § 679.63(b)(1)(i)(B); divided by the sum of the TACs of that species or species group available to catcher vessels from 1995 through 1997; multiplied by the TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(iii) *Calculation of BSAI and GOA PSC bycatch limits*. The AFA catcher vessel PSC bycatch limit for halibut in the BSAI and GOA, and each crab species in the BSAI for which a trawl bycatch limit has been established will be a portion of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997.

(iv) *Management of AFA catcher vessel sideboard limits*. The Regional Administrator will manage groundfish harvest limits and PSC bycatch limits for AFA catcher vessels using directed fishing closures and PSC closures according to the procedures set out at § 679.20(d)(1)(iv), § 679.21(d)(8), and § 679.21(e)(3)(v).

#### **§ 679.64 AFA inshore processor and AFA mothership crab processing sideboard limits.**

(a) *Applicability*. The crab processing limits in this section apply to any AFA inshore or mothership entity that receives pollock harvested in the BSAI directed pollock fishery by a fishery cooperative established under § 679.60 or § 679.61.

(b) *Calculation of crab processing sideboard limits*. Upon receipt of an application for a cooperative processing endorsement from the owners of an AFA mothership or AFA inshore processor, the Regional Administrator will calculate a crab processing cap percentage for the associated AFA inshore or mothership entity. The crab processing cap percentage for each BSAI king or Tanner crab species will be equal to the percentage of the total catch

of each BSAI king or Tanner crab species that the AFA crab facilities associated with the AFA inshore or mothership entity processed in the aggregate, on average, in 1995, 1996, and 1997.

(c) *Notification of crab processing sideboard percentage limits*. An AFA inshore or mothership entity's crab processing cap percentage for each BSAI king or Tanner crab species will be listed on each AFA mothership or AFA inshore processor permit that contains a cooperative pollock processing endorsement.

(d) *Conversion of crab processing sideboard percentages and notification of crab processing sideboard poundage caps*. Prior to the start of each BSAI king or Tanner crab fishery, NMFS will convert each AFA inshore or mothership entity's crab processing sideboard percentage to a poundage cap by multiplying the crab processing sideboard percentage by the pre-season guideline harvest level established for that crab fishery by ADF&G. The Regional Administrator will notify each AFA inshore or mothership entity of its crab processing sideboard poundage cap through a letter to the owner of the AFA mothership or AFA inshore processor and by publishing the crab processing poundage caps on the NMFS-Alaska Region world wide web home page (<http://www.fakr.noaa.gov>).

(e) *Overages*. In the event that the actual harvest of a BSAI crab species exceeds the pre-season Guideline harvest level (GHL) announced for that species, an AFA inshore or mothership entity may exceed its crab processing cap without penalty up to an amount equal to the AFA inshore or mothership entity's crab processing percentage multiplied by the final official harvest amount of that crab species as determined by ADF&G and announced by NMFS on the NMFS-Alaska Region world wide web home page (<http://www.fakr.noaa.gov>).

[FR Doc. 00-1832 Filed 1-21-00; 4:52 pm]

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# Proposed Rules

Federal Register

Vol. 65, No. 19

Friday, January 28, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Part 405

[HCFA-1002-N3]

#### Medicare Program; Meeting of the Negotiated Rulemaking Committee on the Ambulance Fee Schedule

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces the date and location for the final meeting of the Negotiated Rulemaking Committee on the Ambulance Fee Schedule. This meeting is open to the public.

The purpose of this committee is to develop a proposed rule that would establish a fee schedule for the payment of ambulance services under the Medicare program through negotiated rulemaking, as mandated by section 4531(b) of the Balanced Budget Act of 1997 (BBA).

**DATES:** The final meeting is scheduled for Monday, February 14, 2000 from 8:30 a.m. until 6:00 p.m., e.s.t.

**ADDRESSES:** The meeting will be held at the Health Care Financing Administration, Grand Auditorium, 7500 Security Boulevard, Baltimore, Maryland 21244; (410) 786-1000.

**FOR FURTHER INFORMATION CONTACT:** In order to gain access to the building if you are interested in attending this final meeting, it is important that you notify the agency contact listed below by February 10, 2000. If you fail to notify the agency contact by February 10, 2000 of your intent to attend the meeting, you may be delayed in entering the building. The agency contact is Margot Blige ((410) 786-4642 or E-mail: MBlige@hcfa.gov).

Inquiries regarding this meeting should be addressed to Bob Niemann ((410) 786-4569) or Margot Blige ((410)

786-4642) for general issues related to ambulance services, or to Lynn Sylvester ((202) 606-9140) or Elayne Tempel ((207) 780-3408), facilitators.

**SUPPLEMENTARY INFORMATION:** Section 4531(b)(2) of the BBA added a new section 1834(l) to the Social Security Act (the Act) that mandates by January 1, 2000, that we implement a national fee schedule for payment of ambulance services furnished under Medicare Part B. The fee schedule is to be established through negotiated rulemaking. Section 4531(b)(2) of the BBA also provides that, in establishing the fee schedule, we will—

- Establish mechanisms to control increases in expenditures for ambulance services under Part B of the program;
- Establish definitions for ambulance services that link payments to the type of services furnished;
- Consider appropriate regional and operational differences;
- Consider adjustments to payment rates to account for inflation and other relevant factors; and
- Phase in the fee schedule in an efficient and fair manner.

The Negotiated Rulemaking Committee on the Ambulance Fee Schedule has been established to provide advice and make recommendations to us with respect to the text and content of a proposed rule that would establish a fee schedule for the payment of ambulance services under Medicare Part B.

The Committee's first and second meetings were for organizational purposes solely. No significant decisions were made in these two meetings.

The Committee's third meeting was held on May 24 and May 25, 1999. At that meeting, the Committee heard presentations from our staff, including a data presentation. The Committee requested another presentation by our Office of the Actuary (OACT) to obtain clarification about its calculation of the fee schedule payment cap. Additionally, a Medical Issues workgroup was formed.

The Committee's fourth meeting was held on June 28 and June 29, 1999. At that meeting, a staff member from OACT made a presentation clarifying that budget neutrality will be evaluated by using all ambulance claims for the most current year and comparing the results of the proposed models with those paid

claims. Our staff presented more historical Medicare hospital and supplier ambulance billing data. Consensus was reached on one possible basic structure for the fee schedule. We indicated that the fee schedule must be effective as soon as operationally possible after January 1, 2000. Subcommittees were formed to produce proposals by July 19, 1999 for—

- (1) a rural/urban adjustment; and
- (2) a fee schedule model based on the structure agreed to at the June meeting, combined with relative values. These proposals, along with the results of the medical issues workgroup, were to serve as the basis for the Committee's next meeting.

The Committee's fifth meeting was held on August 2 and August 3, 1999. At that meeting the Committee heard presentations from our staff on the Medicare Physician Fee Schedule's Geographic Practice Cost Index (GPCI) and the hospital wage index. The Committee is considering the GPCI and hospital wage index for possible use as a geographic cost adjuster for the ambulance fee schedule. The second presenter, a member of the our negotiated rulemaking team, presented additional historical Medicare hospital and ambulance supplier billing data. The Committee was advised in a letter signed by our Deputy Administrator, Michael M. Hash, that it has until February 15, 2000 to conclude its business. The Committee reached consensus on the definitions for Basic Life Support, Advanced Life Support (ALS) Level-1, ALS Level-2, and the criteria that the service must meet for the emergency response modifier amount to be paid.

During the October meeting, the Committee worked on defining the geographic and rural modifiers and establishing the relative values of the different levels of service.

The Committee's seventh meeting was held December 6 through December 8, 1999. The Committee reached consensus on the relative values to be used for the different levels of ambulance service to be modeled for evaluation purposes. The physicians' fee schedule GPCI (practice expense component) will be used as the ambulance fee schedule geographic adjuster. An additional payment will be made for ambulance services if the point of pickup is in a rural area. Rural is

defined as a location in a non-Metropolitan Statistical Area (with Goldsmith modification, if possible). An additional payment for an emergency response will be paid if the condition as presented was an emergency condition and the supplier responded "immediately."

The Committee's eighth meeting is scheduled for January 24 through January 26, 2000. It is expected that this meeting will focus on evaluating the results of the rural modifier and preparing the Committee's official report. The Committee is expected to conclude its work by February 14, 2000.

The purpose of this final meeting is to allow Committee members to officially conclude the business of the Committee by signing and finalizing the Committee's official report. No other agenda has been established.

In accordance with Federal Advisory Committee Act requirements, this meeting is open to the public with advanced registration preferred. Public attendance at the meeting may be limited to space available. Mail written statements to the following address: Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, Attention: Lynn Sylvester.

A summary of all proceedings will be available for public inspection in Room 443-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690-7890), and can be accessed through the HCFA Internet site at <http://www.hcfa.gov/medicare/ambmain.htm>. Additional information related to the Committee will also be available on the web site.

**Authority:** Section 1834(l) of the Social Security Act (42 U.S.C. 1395m).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 24, 2000.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 00-2042 Filed 1-27-00; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[I.D. 092799B]

#### Fisheries of the Northeastern United States; Decision on Petition for Rulemaking for Seasonal Area Closures, Bycatch Quotas, and Related Measures to Reduce Scup Bycatch

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

**ACTION:** Notice of finding on petition for rulemaking.

**SUMMARY:** NMFS announces its decision not to undertake the rulemaking requested in a petition submitted by the Natural Resources Defense Council, the Environmental Defense Fund, the Center for Marine Conservation, the National Audubon Society, and the American Oceans Campaign (Petitioners). The Petitioners had petitioned NMFS and the Mid-Atlantic Fishery Management Council (Council) to implement emergency or other interim measures to reduce scup bycatch through seasonal area closures and a bycatch quota; monitor the *Loligo* squid fishery through a vessel monitoring system (VMS) and observers; and develop new gear designs. The Petitioners requested that these measures be put in place, beginning November 1999, to reduce the amount of scup caught incidentally in the *Loligo* squid fishery. The decision to deny the petition is based on the inclusion of similar provisions in the proposed 2000 specifications for summer flounder, scup, and black sea bass, which are published elsewhere in this issue of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mark R. Millikin, Domestic Fisheries Division, NMFS, (301) 713-2341.

**SUPPLEMENTARY INFORMATION:** On October 14, 1999 (64 FR 55688), NMFS published a notice requesting public comments on an amended petition for rulemaking submitted by the Petitioners. The amended petition requested that NMFS implement, through emergency or other interim action, fishing restrictions in specified areas in 1999, with additional measures to be implemented in 2000 and beyond. The Petitioners requested measures to reduce the bycatch and associated mortality of juvenile scup caught in the small mesh *Loligo* squid fishery. For

1999, the Petitioners requested (1) a closure of the *Loligo* fishery in NMFS Northeast Statistical Area (area) 613 for the Winter II (November–December) season, (2) the imposition of a scup bycatch quota throughout the *Loligo* management unit for the Winter II season, or (3) both options (1) and (2). The Petitioners also requested the immediate implementation of the Council's Summer Flounder Monitoring Committee's recommendation to establish areas closed to the *Loligo* squid fishery in areas 537 and 539 during the Winter II season, and in areas 616 and 622 during the Winter I (January–April) season.

In addition, the Petitioners requested that NMFS establish adequate enforcement mechanisms and observer coverage for these bycatch-reduction measures. For instance, if area 613 were closed, the Petitioners suggested that NMFS require a VMS in the *Loligo* fleet. If a bycatch quota were implemented, the Petitioners suggested observer coverage be required at levels sufficient to ensure observations of a statistically significant percentage of *Loligo* catch. Finally, the Petitioners requested that, for 2001, NMFS and the Council oversee the development, testing, and implementation of appropriately modified gear as an effective and equitable means of reducing scup bycatch.

At about the same time the Petitioners were raising their concerns, the Council was developing annual specifications for the scup fishery. The Council's Monitoring Committee recommended extensive area restrictions similar to the areas recommended by the Petitioners. While the Council accepted the Committee's recommendation for restrictions beginning in the year 2000, they created a Scup Working Group comprised of some members of the Council, Atlantic States Marine Fisheries Commission, and industry to develop sub-areas within the larger restricted areas. The Council intended that these sub-areas would be restricted to reduce scup bycatch while minimizing the impacts on other fisheries. In addition to specifying an annual commercial quota, the sub-areas recommended by the Scup Working Group were submitted by the Council as part of the proposed 2000 specifications.

With the development of these restricted areas, the Council considered ways to reduce mortality on juvenile scup due to bycatch in small-mesh fisheries, including the *Loligo* fishery. In addition to restrictions in the *Loligo* squid fishery, the recommendation would restrict fishing in other fisheries utilizing small mesh, defined as less

than the scup minimum mesh size (4.5–in (11.4–cm) diamond mesh in the codend). Those other fisheries target herring, Atlantic mackerel, black sea bass, and whiting. The Council also recommended allowing the continuation of fisheries that do not exceed a 10-percent scup bycatch. Further discussion on the development of the Council alternatives is provided to the public through the proposed rule to implement 2000 specifications for the summer flounder, scup, and black sea bass fisheries, published elsewhere in this issue of the **Federal Register**.

Given the fact that similar measures for scup are in the proposed 2000 specifications, NMFS is denying this petition for rulemaking. Implementing these controversial measures through emergency or other interim Secretarial action would not afford an opportunity for public comment prior to implementation. NMFS prefers that they undergo full public review and comment, within the context of the annual specifications process for scup.

In the proposed specifications, NMFS is not proposing the selected restricted mesh areas recommended by the Council because NMFS considers them to be inadequate in size and duration to reduce bycatch and be enforceable. However, NMFS is proposing one of the Council's non-selected alternatives. The areas in the proposed alternative are more extensive in both size and time than the Council's recommended areas and, thus, more enforceable. The areas are not as extensive, however, as those recommended by the Petitioners or the Monitoring Committee. The large areas recommended by the Petitioners and Monitoring Committee included areas of few scup discards and did not include some areas of high scup discards. Additional discussion of the rationale for the proposed restricted mesh areas can be found in the proposed specifications for the scup fishery published elsewhere in this issue of the **Federal Register**.

In addition, NMFS believes the implementation of "adequate enforcement mechanisms," such as a VMS requirement or a bycatch quota monitored by at-sea observers, as requested by the Petitioners, would be better handled through the fishery management plan amendment process. Further, the Petitioners' request that, for 2001, NMFS and the Council oversee the development, testing, and implementation of appropriately modified gear as an effective and equitable means of reducing scup bycatch is already possible under the Experimental Fishery Permit process and therefore does not require

additional rulemaking. (See also response to Comment 2.)

The proposed 2000 specifications for scup, summer flounder, and black sea bass are being published concurrently in the **Federal Register** with this notice of finding on the petition to enable the Petitioners and the public to observe the relationship between these two actions. In addition, the public will now have an opportunity to review the proposed measures and submit comments that will be considered in the establishment of the final specifications.

#### Comments and Responses

Five comment letters, including four from commercial fishing industry groups and one from the Commonwealth of Massachusetts, Division of Marine Fisheries, were received during the comment period for this action, which ended on November 15, 1999. All five letters supported the petition. Several of the letters contained comments or suggestions for management actions that were not within the scope of the petition. Only comments relevant to the proposed petition for rulemaking that were received by NMFS prior to the close of business on November 15, 1999, were considered for this action.

*Comment 1:* While supporting adoption of the regulated areas in concept, several of the commenters supported alternative areas not considered within the petition. In addition, the commenters supported complete, seasonal closures (to all gear types) if the seasonal gear restrictions were found to be not feasible in terms of enforcement and compliance.

*Response:* NMFS notes the support for action to reduce the discards of scup. NMFS also notes that seasonal closures of specific areas to all gear types would be a management alternative beyond the scope of this petition.

*Comment 2:* Four of the commenters supported gear modifications to minimize bycatch as well as impacts on fishermen and industry infrastructure. The commenters also supported the use of sea samplers (observers) to monitor experimental small-mesh fisheries, the *Loligo* squid fishery, and bycatch quotas.

*Response:* NMFS agrees that sea sampling is important, although it notes that funding is currently inadequate to support all of the sea sampling needs identified. NMFS agrees that gear modifications to minimize bycatch, as developed through experimental fisheries, could offer another alternative to area restrictions. The Council is working with industry members who have volunteered to identify

modifications that could reduce catch of scup in small-mesh fisheries for squid. In addition, the Council is considering a proposal that would allow vessels with experimental exempted fishing permits to conduct experiments to assess the efficacy of trawl gear modifications to reduce discards. This proposal would rely on NMFS-certified sea samplers to collect valid data on scup discards in these fisheries.

*Comment 3:* Several commenters supported the idea of bycatch quotas of scup and experimental fisheries, provided they receive rigorous review, as have other experimental fisheries.

*Response:* NMFS believes this is an appropriate approach. At its August 1999 meeting, the Council voted to initiate a framework action to consider quota set-asides for scientific research in the scup and other fisheries. Since NMFS has decided not to implement a bycatch quota by way of interim action through this petition, the Council would need to adopt an appropriate framework as a mechanism to provide a bycatch quota for NMFS approval and implementation.

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

Dated: January 21, 2000.

**Andrew A. Rosenberg,**  
Deputy Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

[FR Doc. 00–1989 Filed 1–24–00; 4:47 pm]

**BILLING CODE 3510–22–F**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 000119014–0014–01; I.D. No. 112399C]

**RIN 0648–AM48**

#### Fishers of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2000 Specifications

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

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

**SUMMARY:** NMFS proposes specifications for the 2000 summer flounder, scup, and black sea bass fisheries. The implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) require NMFS to publish specifications for the upcoming

fishing year for each fishery and to provide an opportunity for public comment. The intent of these measures is to address overfishing of the summer flounder, scup, and black sea bass resources.

**DATE:** Public comments must be received, at the appropriate address or fax number (see **ADDRESSES**), not later than 5 p.m. eastern standard time on February 28, 2000.

**ADDRESSES:** Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees; the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IREA); and the Essential Fish Habitat Assessment are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

Written comments on the proposed specifications should be sent to Patricia A. Kurkul at the same address. Mark on the outside of the envelope, "Comments—2000 Summer Flounder, Scup, and Black Sea Bass Specifications." Comments may also be sent via facsimile (fax) to (978) 281-9371. Comments will not be accepted if submitted via e-mail or the Internet.

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to the Regional Administrator and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Regina L. Spallone, Fishery Policy Analyst, (978) 281-9221, fax (978) 281-9135, e-mail [regina.l.spallone@noaa.gov](mailto:regina.l.spallone@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The regulations implementing the FMP outlined the process for specifying annually the catch limits for the commercial and recreational fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes, season, and area restrictions) for these fisheries. These measures are intended to achieve the annual targets (either a fishing mortality rate (F) or an exploitation rate) set forth for each species in the FMP.

A Monitoring Committee for each species, made up of members from NMFS, the Atlantic States Marine Fisheries Commission (Commission),

and both the Mid-Atlantic and New England Fishery Management Councils, is required to review available information and to recommend catch limits and other management measures necessary to achieve the target F or exploitation rate for each fishery, as specified in the FMP. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Monitoring Committee's recommendations and any public comment in making their recommendations. The Mid-Atlantic Fishery Management Council (Council) and Board made their annual recommendations at a joint meeting held August 9-12, 1999.

This rulemaking contains proposed gear restricted areas for the protection of scup. NMFS received a petition for rulemaking requesting implementation of gear restricted areas and other measures (see 64 FR 55688, October 14, 1999). A separate "notice of finding" denying the petition, including responses to comments received concerning the petition, is published in this issue of the **Federal Register** in the Final Rules section.

##### **Summer Flounder**

The FMP specifies a target F for 2000 of  $F_{MAX}$ —that is, the level of fishing that produces maximum yield per recruit. Best available data indicate that  $F_{MAX}$  is currently equal to 0.26. The FMP allocates the total allowable landing (TAL) associated with the target F 60 percent to the commercial sector and 40 percent to the recreational sector. The commercial allocation is further allocated to the coastal states based on percentage shares specified in the FMP.

A summer flounder stock assessment was completed by the Northeast Fisheries Science Center's (NEFSC) Southern Demersal Working Group in the Spring of 1999 and reviewed by the Council's Scientific and Statistical (S&S) Committee in July 1999. The reviewed assessment, including the recommendations of the S&S Committee, was made available to the Summer Flounder Monitoring Committee. This assessment is summarized in the EA/RIR/IRFA.

The Summer Flounder Monitoring Committee reviewed the stock status and projections based on these data and made recommendations to achieve the target F. The Monitoring Committee recommended a TAL limit of 16.815 million lb (7.627 million kg), which would be divided 10.089 million lb (4.576 million kg) to the commercial sector and 6.726 million lb (3.051 million kg) to the recreational sector.

The Council and Board (hereinafter, referred to as "the Council") reviewed this recommendation and did not adopt it. Instead, the Council recommended a 2000 TAL level of 18.518 million lb (8.4 million kg). At this level 11,111,298 lb (5,040,000 kg) would be allocated to the commercial fishery and 7,407,532 lb (3,360,000 kg) to the recreational fishery. The FMP requires state commercial quota allocations for the year 2000 to be adjusted downward if there are landings in excess of the states' 1999 allocations.

Based on stochastic projection results, the recommended TAL of 18.518 million lb has a 25-percent probability of achieving the target F of 0.26 in 2000. The Council believes that this level of probability is reasonable as it believes that the stock size projected for 2000 based on the current assessment is underestimated. The Council notes that analyses of previous assessment results indicate a retrospective pattern in which estimates of stock size were underestimated and the fishing mortality rate overestimated. The Council believes that this is the case for the 1998 estimates of stock size and F. A greater stock size estimate for 1998 would increase the projected stock size in 2000 and increase the probability that a TAL of 18.518 million lb would achieve the target F in 2000.

In addition, the Council noted that the projections were very dependent on the recruitment level estimated for 1997 and 1998. Although virtual population analysis results indicate that recruitment for 1997 and 1998 may be poor (23 and 26 million fish compared with an average of 40 million fish), these estimates are the most uncertain in the series. It is possible that the size of the year class is underestimated. For example, previous assessment results indicated that the 1996 year class was poor (23 million fish). The latest assessment indicates that the size of the 1996 year class was 40 million fish. Such an underestimation may be the case for the 1997 and 1998 year classes. A larger year class size would allow for a larger stock size and a greater likelihood that the target F would be achieved in 2000.

Currently, the Commission has measures in place to decrease discards of sublegal fish in the commercial fishery as well as reduce regulatory discards that occur as the result of landing limits in the states. Specifically, the Commission established a system whereby 15 percent of each state's quota would be voluntarily set aside each year for vessels to land an incidental catch allowance (usually implemented as trip limits) after the directed fishery has

closed. The object of this incidental catch set-aside is to reduce discards by allowing fishermen to land a certain amount of summer flounder they catch incidentally after their state's fishery is closed, while also trying to ensure that the state's overall quota is not exceeded.

NMFS proposes to implement the Council recommendations for summer flounder, although NMFS does not necessarily ascribe the same confidence to the elements of the Council's rationale. Specifically, while the Council's rationale may likely be valid,

NMFS does not necessarily presume that estimates of recruitment are low or that the retrospective pattern has necessarily repeated to the extent that the Council asserts these events will result in the attainment of the F target. In addition, NMFS notes that both the Summer Flounder Monitoring Committee and the Council made their recommendations without considering the Commission's state incidental catch set-aside in terms of total mortality reduction. NMFS does believe that a decrease in the amount of discards

would decrease overall mortality, and, thus, increase the likelihood of achieving the target F in 2000.

The commercial quotas by state for 2000 are presented in Table 1. Although NMFS has no authority to establish an incidental catch allocation, for the convenience of the reader Table 1 presents the total allocation broken down into both directed and incidental catch fisheries. These quotas are preliminary and subject to downward adjustment if there are overages in a state's 1999 harvest.

TABLE 1.—2000 SUMMER FLOUNDER STATE COMMERCIAL QUOTES

State	Percent share	Directed		15 Percent as incidental catch		Total	
		Lb	Kg <sup>1</sup>	Lb	Kg <sup>1</sup>	Lb	Kg <sup>1</sup>
ME .....	0.04756	4,492	2,037	793	360	5,284	2,397
NH .....	0.00046	43	20	8	3	51	23
MA .....	6.82046	644,159	292,186	113,675	51,562	757,834	343,748
RI .....	15.68298	1,481,181	671,852	261,385	118,562	1,742,566	79,041
CT .....	2.25708	213,170	96,692	37,618	17,063	250,788	113,756
NY .....	7.64699	722,221	327,594	127,451	57,811	849,672	385,405
NJ .....	16.72499	1,579,594	716,492	278,752	126,440	1,858,346	842,931
DE .....	0.01779	1,680	762	297	134	1,977	897
MD .....	2.03910	192,583	87,354	33,985	15,514	226,568	102,770
VA .....	21.31676	2,013,264	913,201	355,282	161,153	2,368,546	1,074,354
NC .....	27.44584	2,592,126	1,175,768	457,434	207,489	3,049,560	1,383,257
Total .....	100.00000	9,444,512	4,283,959	1,666,679	755,993	11,111,191	5,039,951

<sup>1</sup> Subject to rounding error.

## Scup

The FMP established a target exploitation rate for scup in 2000 of 33 percent. The total allowable catch (TAC) associated with that rate is allocated 78 percent to the commercial sector and 22 percent to the recreational sector. Discard estimates are deducted from both TACs to establish TALs for both sectors. The commercial TAL is allocated to three different periods.

Scup was most recently assessed at the 27th Northeast Regional Stock Assessment Workshop in June 1998 (SAW 27). This assessment indicates that scup are overexploited and at a record low biomass level. SAW 27 concluded that spawning stock biomass is less than one-tenth of the biomass threshold—the maximum NEFSC indices of spawning stock biomass observed, or 2.77 kg/tow during 1977–1979. The assessment is summarized in the EA/RIR/IRFA.

These proposed scup specifications for fishing year 2000 are based on an exploitation rate used in the rebuilding schedule that was approved when the species was added to the FMP in 1996, prior to passage of the Sustainable Fisheries Act (SFA). Subsequently, the Council resubmitted that rebuilding

plan for scup as part of Amendment 12. Amendment 12 was intended to bring the FMP into compliance with the provisions of the SFA. On April 28, 1999, NMFS disapproved the rebuilding plan for scup because it did not comply with the SFA. Although the exploitation rate portion of the overfishing definition (converted to a fishing mortality rate), by itself, was conceptually sound, albeit somewhat risk-prone, NMFS determined that the combination of that exploitation rate and the general decline of the stock made the risk that the rebuilding plan would not achieve stock rebuilding goals in the long term unacceptable. The scup specifications for fishing year 2000 are based on the exploitation rate found to be conceptually sound. NMFS believes that the annual specifications do not necessarily result in long-term risks to the stock associated with the disapproved rebuilding plan. The specifications are annual measures that will be reviewed, and modified as appropriate, by the Council and NMFS for fishing year 2001. Furthermore, setting the scup specifications using the 2000 exploitation rate is a more cautious approach to managing this overfished resource than a failure to set any

specifications until the Council submits, and NMFS approves, a revised rebuilding plan that meets the SFA requirements.

The Monitoring Committee reviewed available data and projected that the 1999 exploitation target of 47 percent would be achieved. The Monitoring Committee recommended that the TAC be reduced in proportion to the reduction in exploitation rates from 1999 to 2000, i.e., a 30-percent reduction, outlined in the rebuilding plan. As such, the Monitoring Committee recommended a TAC for 2000 of 4.15 million lb (1.88 million kg) resulting in a 3.243 million-lb (1.47 million-kg) commercial TAC, and a 0.915 million-lb (0.415 million-kg) recreational TAC.

The Council reviewed data indicating that, based on the average biomass estimates for 1998 and 1999, the 1999 exploitation rate could be well below its target of 47 percent. Specifically, the Council concluded that the data suggested it is possible that exploitation in 1999 was as low as 30 percent, provided certain assumptions were met regarding biomass estimates. A 30-percent exploitation rate is equal to the rebuilding plan's target for 2000. Thus,

the Council recommended, and NMFS proposes, to maintain the TAC for 2000 at the 1999 level, namely, 5.922 million lb (2.686 million kg).

Allocating the 5.922 million lb (2.686 million kg) TAC between the commercial and recreational sectors based on a 78 and 22 percent division, respectively, results in a commercial TAC of 4,619,160 lb (2,095,215 kg) and a recreational TAC of 1,302,840 lb (590,958 kg). Assuming the same proportion of discards to catch in 2000

as 1997 (45.1 percent), the commercial discards would be 2,085 million lb (0.946 million kg), and the quota would be 2.534 million lb (1.149 million kg). Based on the proportion of recreational discards to catch in 1997 (4.96 percent), the recreational discards would be 0.065 million lb (0.029 million kg) and the harvest limit would be 1.238 million lb (0.562 million kg). The proposed commercial allocation is shown in Table 2. As with summer flounder, these allocations are preliminary and are

subject to a downward adjustment for any overages in a period's harvest in 1999. Preliminary data indicate that the Winter I and Summer period allocations have been exceeded in 1999, which would require a corresponding reduction in those periods in 2000. Since the data collection for all periods in 1999 has not yet been finalized, this table shows the allocations prior to any deductions.

TABLE 2.—PERCENT ALLOCATIONS OF COMMERCIAL SCUP QUOTA

Period	Percent	TAC <sup>1</sup>	Discards <sup>2</sup>	Quota allocation		Landing limits	
				Lb	Kg <sup>3</sup>	Lb	Kg
Winter I .....	45.11	2,083,703 (945,168)	940,543 (426,630)	1,143,160	518,529	<sup>4</sup> 10,000	4,536
Summer .....	38.95	1,799,163 (816,100)	812,108 (368,372)	987,055	447,721	* n/a	
Winter II .....	15.94	736,294 (333,983)	332,349 (150,754)	403,945	183,226	4,000	1,814
Total <sup>5</sup> .....	100.00	4,619,160 (2,095,215)	2,085,000 (945,740)	2,534,160	1,149,476	.....	.....

<sup>1</sup> Total allowable catch, in pounds (kilograms in parentheses).

<sup>2</sup> Discard estimates, in pounds (kilograms in parentheses).

<sup>3</sup> Subject to rounding error.

<sup>4</sup> The Winter I landing limit will drop to 1,000 pounds (454 kg) upon attainment of 85 percent of the seasonal allocation.

<sup>5</sup> Totals subject to rounding error.

\* n/a—Not applicable.

To achieve the commercial quotas, the Council recommended, and NMFS proposes, a landing limit of 10,000 lb (4,536 kg), with a reduction to 1,000 lb (454 kg) when 85 percent of the quota allocation is harvested for Winter I (January–April). A 4,000-lb (1,814-kg) landing limit also would be in place for the entire Winter II (November–December) period.

#### Gear Restricted Areas

The Monitoring Committee noted the need to reduce discards in the commercial scup fishery. Specifically, SAW 27 noted that F should be reduced “substantially and immediately” and that, while estimates are uncertain, most mortality in recent years was “clearly attributable to discards, particularly when incoming recruitment is strong.” The report noted that reductions “in discards from small-mesh fisheries” would be particularly effective for this stock. Thus, the Monitoring Committee recommended that the Council implement regulations to close areas to fishing by trawl gear with codend mesh sizes less than 4.5 in (11.43 cm) to reduce discards of scup.

The Council noted NMFS’ disapproval of the scup bycatch provision and rebuilding schedule in Amendment 12 to the FMP and heeded

the advice of the Monitoring Committee and SAW 27 that scup discards must be decreased. To reduce discards of small scup, the Council voted to recommend seasonal gear restricted areas in which commercial vessels would be prohibited from fishing with trawl or midwater trawl gear with codend nets of mesh size less than 4.5 in (11.4 cm), unless they were participating in an exempted fishery (a fisher that has been identified by the Council to have less than a 10-percent bycatch of scup). The Council recommended areas that were identified by an *ad hoc* advisory panel consisting of Council and Board members, industry advisors, and the public. The gear restricted areas, each lasting approximately 2 weeks, would be located within parts of statistical areas 537, 539, 613, 615, 616, 621, 622, and 623.

NMFS believes that the adoption of gear restricted areas is a critical measure to assure the attainment of the target exploitation rate and to provide sorely needed reductions in discards for this fishery. However, NMFS does not support the areas and times identified in the Council’s recommendation. The Council’s recommended areas and times are extremely small and short in duration. An analysis of the Vessel Trip Report (VTR) and sea sample data used

to help identify these areas shows that it is unlikely that the small, 2-week restricted gear areas identified in the Council’s recommendation would coincide with the seasonal migration of scup.

Generally, scup are present inshore off southern New England during the summer spawning months, and migrate to more southern offshore waters in the fall. However, scup migration is dependent on water temperature and can vary from one year to the next. The small areas recommended by the Council would present a considerable enforcement burden with limited conservation benefits. It is likely that harvesters would easily shift fishing operations to nearby unrestricted areas where high discard rates are likely. The Council’s recommended gear restricted areas and associated time periods do not necessarily correspond to the areas and time periods with the highest scup discards (areas with discards greater than 10 percent by weight of the scup retained, based on sea sample data) for each statistical area during the time periods recommended. Consequently, NMFS does not propose these particular areas and times for gear restrictions.

Instead, NMFS proposes an alternative analyzed by the Council that would establish larger gear restricted

areas that would remain closed to small-mesh fisheries for longer periods of time (see Alternative 6, as described in the EA/RIR/IRFA). This proposed rule would restrict fishing in two areas, a Southern Gear Restricted Area and a Northern Gear Restricted Area. In the Southern Gear Restricted Area, comprised of parts of statistical areas 533, 537, 615, 616, 621, 622, and 623 in Federal waters off New Jersey and Delaware, vessels could not fish with codend mesh smaller than 4.5 in (11.4 cm) from January 1 through April 30. In the Northern Gear Restricted Area, comprised of parts of statistical areas 537, 539, and 613 in Federal waters off Massachusetts, Rhode Island, and New York, vessels could not fish with codend mesh smaller than 4.5 in (11.4 cm) from November 1 through December 31. Both of these areas incorporate the areas recommended by the *ad hoc* advisory panel.

During the time periods previously mentioned, vessels with midwater trawl or other trawl nets or netting that have less than a 4.5-in (11.4-cm) diamond mesh in the codend would be prohibited from fishing for or possessing black sea bass, *Loligo* squid, Atlantic mackerel, and silver hake when in the Southern Gear restricted area. Vessels with midwater trawl or other trawl nets or netting that have less than 4.5 in (11.4 cm) diamond mesh in the codend would be prohibited from fishing for or possessing black sea bass, Atlantic herring, *Loligo* squid, Atlantic mackerel, and silver hake when in the Northern Gear restricted area. Copies of a chart depicting these areas are available in the EA/RIR/IRFA and from the Regional Administrator upon request (see

#### ADDRESSES.

Analyses indicate that the proposed gear restricted areas would achieve a substantial reduction of scup discards in the small-mesh fisheries (58 percent), as compared with the Council's preferred alternative (34 percent). Such a significant reduction is needed because, while data are imprecise, SAW 27 notes that the majority of the scup fishing mortality is "clearly attributable to discards" and that discards of age 0 to 3 fish in both the directed and non-directed fisheries "are a significant component of the current estimates of catch at age." SAW 27 estimates that discards may be several times higher than the Council's estimates. For instance, the 1997 TAC estimated discards at 1.1 million lb (0.5 million kg), whereas SAW 27 estimated discards at 4.0 million lb (1.8 million kg), approximately 3.6 times the Council's estimate. Thus, in order not to exceed the Council's 2000 estimate of discards

of 2 million lb (0.4 million kg), discards must be significantly reduced. Therefore, the proposed reduction is consistent with the SAW 27 advice indicating that F should be reduced "substantially and immediately" and "that reducing discards (especially in small mesh fisheries) would have the most impact in that regard." Further, because the areas NMFS proposes are larger and restricted for a longer period of time, this option is likely to be much more enforceable and effective when compared with the Council's recommendation.

The small size and short duration of the gear restricted areas in the Council's recommendation overestimate the conservation benefits of the measure, because fishermen could easily continue to fish in adjacent areas with high concentrations of scup and, therefore, potentially discard large amounts of sublegal scup. The larger areas of the proposed alternative incorporate identified "hot spots" to a greater extent than the Council's preferred alternative, and would allow fishing with small-mesh nets only in areas with potentially lower scup discards.

The data that identify with a high level of certainty the primary areas with high levels of discards are limited. The *ad hoc* advisory panel raised concerns about these data limitations and questioned the extent of the discard problem. In light of the SAW 27 advice, however, the precautionary approach to developing measures to reduce discards consistent with the requirements of the Magnuson-Stevens Act requires that action be taken on this severely overfished stock.

To the extent practicable, the proposed restrictions seek to balance needed reductions in scup discards while maintaining viable fishing opportunities for other species. The proposed areas allow vessels to fish in areas in which scup discards are not expected to be a problem. The Council's recommended measure would allow vessels to fish in areas in which scup discards are expected to be a problem. Sea sample data indicate incidents of high discards within sub-areas of the Northeast statistical areas that are adjacent to the Council's recommended gear restricted areas.

Lastly, vessels with exempted experimental fishing permits would be allowed to conduct exempted fishing activities with small-mesh gear in the gear restricted areas. The Council is working with industry members to identify gear modifications that would reduce catch of scup in small-mesh fisheries for squid. Once this experimental work is completed and an

effective gear design is identified, the Council could authorize its use in the gear restricted areas.

#### Black Sea Bass

The FMP specifies a target exploitation rate of 48 percent for 2000, equivalent to  $F=0.73$ . This target is to be attained through specification of a TAL level that is allocated to the commercial (49 percent) and recreational (51 percent) fisheries. The commercial quota is specified on coastwide basis by quarter.

The most recent assessment on black sea bass, SAW 27, indicates that black sea bass are over-exploited and at a low biomass level. Although data limitations make this estimate uncertain, fishing mortality in 1998 may have been equal to, or even less than, the target (48-percent exploitation). The NEFSC spring survey results for 1998 and 1999 indicate that there may have been a significant increase in black sea bass biomass in 1999 (although the 1999 index is high mainly because of a single tow). This assessment is summarized in the EA/RIR/IRFA.

The Black Seas Bass Monitoring Committee reviewed this information and recommended that the 2000 TAL remain the same as 1999, that is, 6.17 million lb (2.80 million kg). That TAL would result in allocations of 3.02 million lb (1.37 million kg) to the commercial quota and of 3.15 million lb (1.43 million kg) to the recreational harvest limit. Because of the uncertainty of the data, the Monitoring Committee recommended that the threshold level triggering the minimum mesh requirement should be reduced from 1,000 lb (454 kg) to 100 lb (45.4 kg). Further, as a means to allow the fishery to stay open longer during each quarter, the Monitoring Committee also recommended that the trip limits for each quarter be reduced.

Upon review of the recommendations, the Council agreed to maintain the black sea bass TAL at the 1999 level and to reduce the quarterly trip limits, as recommended by the Black Sea Bass Monitoring Committee. The Council recommended that trip limits be reduced in an attempt to prevent overages in each of the quarters from recurring. Preliminary data indicate that, in 1999, the quotas for Quarters II and III were exceeded, which requires a corresponding reduction in those quarters in 2000. Status quo was retained on other related management measures, such as minimum fish size and possession limits. NMFS proposes to implement the Council recommendations. The proposed commercial quota and corresponding



trip limits are shown in Table 3. Since the data collection for all quarters in 1999 has not yet been finalized, this

table shows the allocations prior to any deductions.

TABLE 3.—2000 BLACK SEA BASS QUARTERLY COASTWIDE COMMERCIAL QUOTAS AND QUARTERLY TRIP LIMITS

Quarter	Percent	Lb	Kg <sup>1</sup>	Trip limits	
				Lb	Kg <sup>1</sup>
1 (Jan-Mar) .....	38.64	1,168,760	530,141	9,000	4,082
2 (Apr-Jun) .....	29.26	885,040	401,447	3,000	1,361
3 (Jul-Sep) .....	12.33	372,951	169,168	2,000	907
4 (Oct-Dec) .....	19.77	597,991	271,244	3,000	1,361
Total <sup>1</sup> .....	100.00	3,024,742	1,372,000	.....	.....

<sup>1</sup>Subject to rounding error.

### Classification

This action is authorized by 50 CFR part 648.

These proposed specifications have been determined to be not significant for purposes of E.O. 12866.

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

This rule contains a collection-of-information requirement subject to the PRA. The request for an experimental fishing exemption has been approved by OMB under Control Number 0648-0309. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining this data needed, and completing and reviewing the collection of information. Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see ADDRESSES).

The Council prepared an IRFA in section 3.0 of the RIR that describes the economic impacts this proposed rule, 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 at the beginning of this section of the preamble and in the SUMMARY section of the preamble. A description of the recordkeeping and reporting requirements of this proposed rule is provided in the PRA discussion of this section. A summary of the analysis follows:

The categories of small entities likely to be affected by this action are commercial vessel owners with vessels permitted to harvest summer flounder, scup, or black sea bass. The IRFA estimates that the proposed 2000 quotas are expected to affect 1,899 vessels with a summer flounder, scup, and/or black sea bass permit. Of these, 1,056 vessels are actively participating (i.e., landed catch in 1998) in the fisheries. In addition, the IRFA estimates that 172 of these vessels would be affected by the proposed gear restricted areas.

The IRFA examines four scenarios: Scenario I analyzes the cumulative impacts of the harvest limits proposed by the Council and Board for summer flounder, scup, and black sea bass on vessels that are permitted to catch any of these three species. Scenario II differs from Scenario I in that its analysis of cumulative impacts includes the summer flounder harvest limits proposed by the Monitoring Committee. Scenario III analyzes the cumulative impacts of the least restrictive possible harvest limits—those that would result in the smallest reductions (or greatest increases) in landings (relative to 1998) for all species. These harvest limits resulted in the highest possible landings for 2000, regardless of their probability of achieving the biological targets. Scenario IV analyzes the cumulative impacts of the most restrictive possible harvest limits—those that would result in the greatest reductions in landings (relative to 1998) for all species.

An analysis of the proposed harvest limits indicates that these limits will result in revenue loss of 5 percent or greater to 115 of the 1,056 commercial vessels subject to this rule. Those experiencing such reductions varied from 2 vessels landing only scup to 35 vessels landing only black sea bass. No change in revenue would be experienced by 264 vessels, while 677 vessels would experience losses of less than 5 percent. Of the 115 vessels with revenue losses of 5 percent or greater, 46 vessels would experience a 5 to 9 percent revenue loss, 67 vessels would experience 10 to 29 percent revenue loss, and 2 vessels would experience a 30 to 39 percent revenue loss.

An analysis of the Monitoring Committees' recommendations (Scenario II) indicates that these limits would result in a revenue loss of 5 percent or greater to 231 of the commercial vessels subject to this rule. Vessels with reductions in revenue of 5 percent or greater varied from 2 vessels landing only scup to 93 vessels landing all three species. No change in revenue would be experienced by 54 vessels, while 771 vessels would have revenue losses less than 5 percent. An analysis of the least restrictive harvest limits (Scenario III) indicates that none of the vessels would suffer revenue losses of 5 percent or greater, and all would receive increases in revenue. An analysis of the most restrictive harvest limits (Scenario IV) indicates that these limits would result in revenue loss of 5 percent or greater for 510 commercial vessels, with 546 vessels having revenue loss less than 5 percent. Vessels with reductions in revenue of 5 percent or greater would be felt by anywhere from 3 vessels landing only scup to 278 vessels landing all three species.

The IRFA also examined six gear restricted areas to reduce the discards of small scup. The first alternative includes the Council's preferred alternative, as recommended by the *ad*

*hoc* advisory panel, of small areas within statistical areas 537, 539, 613, 615, 616, 621, 622, and 623. The second alternative includes those same sub-areas, but with the northern areas closed from November 1 through December 31 and the southern areas closed from January 1 through April 30 (the times recommended by the Scup Monitoring Committee with the areas recommended by the *ad hoc* advisory panel). The third alternative includes restrictions in statistical areas 537, 539, and 613 from November 1 through December 31, and statistical areas 616 and 622 from January 1 through April 30 (the Scup Monitoring Committee's recommendation). The fourth alternative includes the areas described in the third alternative and a series of approximately 2-week rolling restrictions from November 1 through April 30 (the areas recommended by Scup Monitoring Committee and time periods recommended by the *ad hoc* advisory panel). The fifth alternative includes a series of small 10-minute square sub-areas within statistical areas 537, 539, 613, 616, and 622 that correspond to the 10-minute squares of the highest scup discards (areas with discards greater than 10 percent of the total scup discards for the area) for each statistical area and the November 1 through December 31 and January 1 through April 30 time periods recommended by the Scup Monitoring Committee. The sixth alternative (NMFS' proposed alternative) analyzes areas that intersect statistical areas 537, 539, and 613, from November 1 through December 31, and statistical areas 533, 537, 615, 616, 621, 622, and 623, from January 1 through April 30. These areas both overlap the areas described in the first alternative (the Council's preferred alternative) and include the 10-minute squares identified by Council staff as having high scup discards (the fifth alternative), using January 1989 through April 1999 sea sample data.

All alternatives considered in the analysis would reduce landings and revenue of Atlantic herring, Atlantic mackerel, black sea bass, whiting, and *Loligo*. According to 1998 VTR data, it is estimated that approximately 172 vessels would be affected by any of the gear restriction alternatives. These vessels are identified as those vessels that fished with otter trawl gear with codend mesh less than 4.5 in (11.4 cm) in gear restricted mesh areas, specifically, those specified under Alternatives 3 and 4 since those areas incorporate full statistical areas. Since VTR data specify neither the 10-minute square level nor the complete longitude

and latitude information, it is not possible to identify the number of vessels that would be affected by the remaining alternatives. However, Alternatives 3 and 4 represent the most restrictive temporal-spatial limitations of all the alternatives evaluated. Thus, it is possible that these alternatives represent the upper limit of the number of affected vessels under any specific alternative.

The reductions in landings would cause decreases in ex-vessel revenues as follows: \$1.96 million for Alternative 1, \$4.5 million for Alternative 2, \$12.1 million for Alternative 3, \$9.8 million for Alternative 4, \$2.2 million for Alternative 5, and \$13.0 million for Alternative 6. However, the loss of revenues from the various alternatives are likely to be overestimated because closing an area for a specific time would not necessarily prevent trawling effort, rather it would often redirect it to other open areas. The larger areas of NMFS' proposed alternative incorporate identified "hot spots" to a greater extent than the Council's preferred alternative, and would, thus, move participating vessels into areas with potentially lower scup discards. Any economic impacts of a reduction in landings inside the gear restricted areas would be moderated by an increase in landings outside the gear restricted area. Meanwhile, discards outside the gear restricted area for the proposed alternative are expected to be less than the amount that would have occurred inside the gear restricted area. However, other impacts to profitability are possible; for instance, costs, due to vessel operation could increase due to displacing effort.

#### Item of Particular Concern

Based on guidance from the Council, NMFS proposes to prohibit the use of any trawl gear with a codend mesh of less than 4.5 in (11.4 cm) in the gear restricted areas during the specified times. Such a prohibition would include restrictions on otter trawls, Scottish seines, midwater trawls, and any other trawl gear as defined in § 648.2 of the regulations. This prohibition would be consistent with similar measures found in the Northeast multispecies regulations addressing regulated mesh areas and restrictions on gear and methods of fishing at § 648.80 and with recommendations regarding enforceability. However, this clarification to the restriction came after the Council had completed the initial regulatory flexibility analysis (IRFA), which specifically notes the impacts relative to "otter trawl" vessels only.

NMFS is confident that the universe of impacted entities analyzed in the

IRFA is still appropriate, because vessels using midwater and other trawls generally also use otter trawls, and would thus have been captured in the identification of vessels in the IRFA. Otter trawls were used on approximately 99 percent of all identified trips in the database. NMFS is interested, however, in making sure that the analysis adequately describes the economic impacts of the gear restricted areas on vessels conducting individual trips using trawl gear other than otter trawls. The economic impacts on these vessels may be slightly underestimated by the IRFA. However, preliminary analysis indicates that vessels conducting trips during the gear restriction time frames using different types of trawl gears is very small; only five vessels have been identified as fishing both with an otter trawl and another type of trawl during the proposed restricted periods.

NMFS is seeking public comment on potential impacts of the proposed restrictions on trawl vessels, other than those using otter trawls exclusively, that would be impacted by these regulations. NMFS will consider these comments, as well as the results of further analyses of the existing database, in making the final decision whether or not to adopt the proposed gear restricted areas.

Regarding sec. 603(b)(3) of the Regulatory Flexibility Act, this proposed rule does not duplicate, overlap, or conflict with other Federal rules. A copy of the complete IRFA can be obtained from the Northeast Regional Office of NMFS (see ADDRESSES) or via the Internet at <http://www.nero.nmfs.gov/ro/doc/nr.htm>.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 21, 2000.

**Andrew A. Rosenberg,**

*Deputy Asst. Administrator for Fisheries National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.14, paragraphs (a)(121) and (a)(122) are added to read as follows:

#### § 648.14 Prohibitions.

(a) \* \* \*

(121) Fish for, possess or land *Loligo* squid, silver hake, black sea bass or

Atlantic mackerel in or from the area, and during the time period, described in § 648.122(a) while in possession of midwater trawl or other trawl nets or netting that do not meet the minimum mesh restrictions or that are modified, obstructed or constricted, if subject to the minimum mesh requirements specified in § 648.122 and § 648.123(a), unless the nets or netting are stowed in accordance with § 648.23(b).

(122) Fish for, possess or land *Loligo* squid, silver hake, black sea bass, Atlantic herring or Atlantic mackerel in or from the area, and during the time period, described in § 648.122(b), while in possession of midwater trawl or other trawl nets or netting that do not meet the minimum mesh restrictions or that are modified, obstructed or constricted, if subject to the minimum mesh requirements specified in § 648.122 and § 648.123(a), unless the nets or netting are stowed in accordance with § 648.23(b).

\* \* \* \* \*

3. Section 648.122 is revised to read as follows:

**§ 648.122 Season and area restrictions.**

(a) *Southern Gear Restricted Area.* (1) From January 1 through April 30, all trawl vessels in the Southern Gear Restricted Area that fish for or possess non-exempt species as specified in paragraph (a)(2) of this section, must fish with nets that have a minimum mesh size of 4.5 in (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or for codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Southern Gear Restricted Area is an area bounded by straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

**SOUTHERN GEAR RESTRICTED AREA**

Point	N. lat.	W. long.
SGA1 .....	38°00'	74°20'
SGA2 .....	38°00'	74°00'
SGA3 .....	40°00'	72°30'
SGA4 .....	40°00'	71°20'
SGA5 .....	38°00'	73°30'
SGA6 .....	38°00'	74°20'

(2) *Non-exempt species.* Unless otherwise specified in paragraph (c) of this section, the restrictions specified in paragraph (a)(1) of this section apply to

vessels in the Southern Gear Restricted Area that are fishing for or in possession of the following non-exempt species: Black sea bass, *Loligo* squid, Atlantic mackerel, and silver hake (whiting). Vessels fishing for or in possession of all other species of fish and shellfish are exempt from these restrictions.

(b) *Northern Gear Restricted Area.* (1) From November 1 through December 31, all trawl vessels in the Northern Gear Restricted Area that fish for or possess non-exempt species as specified in paragraph (b)(2) of this section must fish with nets that have a minimum mesh size of 4.5 in (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or for codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the head rope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Northern Gear Restricted Area is an area bounded by straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

**NORTHERN GEAR RESTRICTED AREA**

Point	N. Lat.	W. Long.
NGA1 .....	40°00'	72°50'
NGA2 .....	41°10'	72°40.8' <sup>1</sup>
NGA3 .....	(?)	
NGA4 .....	41°10'	71°28.6' <sup>3</sup>
NGA5 .....	41°15'	71°00'
NGA6 .....	41°15'	70°00'
NGA7 .....	41°00'	70°00'
NGA8 .....	41°00'	70°40'
NGA9 .....	40°00'	71°30'
NGA10 .....	40°00'	72°50'

<sup>1</sup> The intersection of the latitude point at the 3 nautical mile line west of Block Island, RI.

<sup>2</sup> Thence southerly, thence easterly thence northerly along the southern diameter of the 3 nautical mile line surrounding Block Island, RI.

<sup>3</sup> The intersection of the latitude point at the 3 nautical mile line east of Block Island, RI.

(2) *Non-exempt species.* Unless otherwise specified in paragraphs (c) of this section, the restrictions specified in paragraph (b)(1) of this section apply to vessels in the Northern Gear Restricted Area that are fishing for, or in possession of, the following non-exempt species: Atlantic herring, black sea bass, *Loligo* squid, Atlantic mackerel, and silver hake (whiting). Vessels fishing for or in possession of all other species of fish and shellfish are exempt from these restrictions.

(c) *Transiting.* Vessels that are subject to the provisions of the Southern and Northern Gear Restricted Areas, as

specified in paragraphs (a) and (b) of this section, respectively, may transit these areas provided that trawl net codends on board of mesh size less than that specified in paragraphs (a) and (b) of this section are not available for immediate use and are stowed in accordance with the provisions of § 648.23(b).

(d) *Exempted Experimental Fishing.* The Regional Administrator may issue an exempted experimental fishing permit (EFP) under the provisions of § 600.745(b), consistent with paragraph (d)(2) of this section, to allow any vessel participating in a scup discard mitigation research project to engage in any of the following activities: Fish in the applicable gear restricted area, use fishing gear that does not conform to the regulations, possess non-exempt species specified in paragraphs (a)(2) and 9b)(2) of this section, or engage in any other activity necessary to project operations for which an exemption from regulatory provision is required. Vessels issued an EFP must comply with all conditions and restrictions specified in the EFP.

(1) A vessel participating in an exempted experimental fishery in the Southern or Northern Gear Restricted Area specified in paragraphs (a) or (b) of this section, respectively, must carry an EFP authorizing the activity and any required Federal fishery permit on board.

(2) The Regional Administrator may not issue an EFP unless the Regional Administrator determines that issuance is consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law and will not:

(i) Have a detrimental effect on the scup resource and fishery;

(ii) Cause the quotas for any species of fish for any quota period to be exceeded;

(iii) Create significant enforcement problems; or

(iv) Have a detrimental effect on the scup discard mitigation research project.

4. In § 648.123, the first sentence of paragraph (a)(3), paragraph (a)(4), and the first sentence of paragraph (a)(5) are revised to read as follows:

**§ 648.123 Gear restrictions.**

(a) \* \* \*

(3) *Net modification.* The owner or operator of a fishing vessel subject to the minimum mesh requirements in § 648.122 and paragraph (a)(1) of this section shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net. \* \* \*

(4) *Mesh obstruction or constriction.*

(i) The owner or operator of a fishing vessel subject to the minimum mesh restrictions in § 648.122 and in subparagraph (a)(1) of this section shall not use any mesh construction, mesh configuration, or other means on, in, or attached to the top of the regulated portion of the net, as defined in paragraph (a)(3) of this section, if it obstructs or constricts the meshes of the net in any manner.

(ii) The owner or operator of a fishing vessel subject to the minimum mesh requirements in § 648.122 and in paragraph (a)(1) of this section may not use a net capable of catching scup if the bars entering or existing the knots twist around each other.

(5) *Stowage of nets.* The owner or operator of an otter trawl vessel retaining 4,000 lb or more (1,814 kg or more) of scup and subject to the minimum mesh requirement in paragraph (a)(1) of this section, and the

owner or operator of a midwater trawl or other trawl vessel subject to the minimum mesh requirement in § 648.122, may not have available for immediate use any net, or any piece of net, not meeting the minimum mesh size requirement, or mesh that is rigged in a manner that is inconsistent with the minimum mesh size. \* \* \*

\* \* \* \* \*

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# Notices

Federal Register

Vol. 65, No. 19

Friday, January 28, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Cooperative State Research, Education, and Extension Service 1890 Institution Teaching and Research Capacity Building Grants Program for Fiscal Year 2000; Request for Proposals and Request for Input

**AGENCY:** Cooperative State Research, Education, and Extension Service, USDA.

**ACTION:** Notice of request for proposals and request for input.

**SUMMARY:** The Cooperative State Research, Education, and Extension Service (CSREES) is announcing the 1890 Institution Teaching and Research Capacity Building Grants Program for Fiscal Year (FY) 2000. Proposals are hereby requested from eligible institutions as identified herein for competitive consideration of Capacity Building Grant awards. CSREES also is soliciting comments regarding this request for proposals from any interested party. These comments will be considered in the development of the next request for proposals for this program. Such comments will be forwarded to the Secretary or his designee for use in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998.

**DATES:** Proposals must be received on or before March 13, 2000. Proposals received after the closing date will not be considered for funding.

User comments are requested within six months from the issuance of the request for proposals. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Hand-delivered proposals (brought in person by the applicant or through a courier service) must be received on or before March 13, 2000, at the following address: 1890 Institution Capacity Building Grants Program; c/o Proposal Services Unit; Office of

Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 303, Aerospace Center; 901 D Street, S.W.; Washington, D.C. 20024. The telephone number is (202) 401-5048. Proposals transmitted via a facsimile (fax) machine will not be accepted.

Proposals submitted through the U.S. mail must be received on or before March 13, 2000. Proposals submitted through the U.S. mail should be sent to the following address: 1890 Institution Capacity Building Grants Program; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2245. Form CSREES-711, "Intent to Submit a Proposal," is not requested nor required for the 1890 Institution Capacity Building Grants Program.

Written user comments should be submitted by first-class mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA-CSREES; STOP 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2299; or via e-mail to: RFP-OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year of the request for proposals to which you are responding.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Hood, Higher Education Programs; Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2251, 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2251; Telephone: (202) 720-2186; E-mail: rhood@reeusda.gov. Dr. McKinley Mayes, 1890 College Program Coordinator, CSREES, USDA is also available to assist you. He may be reached at (202) 720-3511; or via the Internet: mmayes@reeusda.gov.

#### SUPPLEMENTARY INFORMATION:

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### A. Administrative Provisions and Legislature Authority

This program is subject to the provisions found at 7 CFR part 3406. These provisions set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects.

This program is authorized by section 1417(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (NARETPA) (7 U.S.C. 3152(b)(4)).

### B. Program Description

Proposals may be submitted by any of the sixteen historically black 1890 Land-Grant Institutions and Tuskegee University. The eligible 1890 Land-Grant Institutions are identified in the Program Announcement in the FY 2000 Application Kit. An institution eligible to receive an award under this program includes a research foundation maintained by an 1890 Land-Grant Institution or Tuskegee University. Grants will be made to the historically black 1890 Land-Grant Institutions and Tuskegee University to strengthen their teaching and research programs in the food and agricultural sciences. The purpose of this grant program is to build the institutional capacities of the eligible colleges and universities through cooperative initiatives with Federal and non-Federal entities.

This program addresses the need to (1) attract more students from under represented groups in the food and agricultural sciences, (2) expand the linkages among the 1890 Institutions and with other colleges and universities, and (3) strengthen the teaching and research capacity of the 1890 Institutions to more firmly establish them as full partners in the food and agricultural science and education system.

For FY 2000, \$9.2 million was appropriated for this program. CSREES anticipates that approximately \$8.6 million will be available for project grants for this program in FY 2000. Of this amount, approximately \$4.35 million will be used to support teaching projects, and \$4.25 million will be used to support research projects. Awards will be based upon merit review and the recommendations of peer review panels;

however, up to ten percent of the funds allocated for teaching and up to ten percent of the funds allocated for research may be used to support projects in either area based upon administrative decision by CSREES.

Regular, complementary, or joint projects may be for 18–36 months duration. Awards may be up to \$200,000 for a teaching grant and up to \$300,000 for a research grant. These maximums are for the total duration of the project, not per year. Matching is strongly encouraged, but not required. However, the amount of matching funds will be used as the primary criterion to break any ties in cases when proposals are equally rated in merit as a result of the peer review process.

The targeted need areas to be supported by capacity building grants in FY 2000 are:

For teaching project grants—curricula design and materials development, faculty preparation and enhancement for teaching, instruction delivery systems, scientific instrumentation for teaching, student experiential learning, and student recruitment and retention.

For research project grants—studies and experimentation in food and agricultural sciences, centralized research support systems, technology delivery systems, and other creative projects designed to provide needed enhancement of the nation's food and agricultural research system.

In FY 2000, eligible institutions may propose projects in any discipline(s) of the food and agricultural sciences as defined in section 1404 of NARETPA (7 U.S.C. 3103). There are no limits on the specific subject matter/emphasis areas to be supported.

In FY 2000, proposals may be directed to the undergraduate or graduate level of study leading to a baccalaureate or higher degree in the food and agricultural sciences.

In FY 2000, there is no limit on the number of proposals an eligible

institution may submit. However, funding limitations in FY 2000 will affect the number of awards eligible institutions may receive. Therefore, institutions are encouraged to establish on-campus quality control panels to ensure that only high quality proposals having the greatest potential for improving academic and research programs are submitted for consideration. Eligible institutions may submit grant applications for either category of grants (teaching or research); however, each application must be limited to either a teaching project grant proposal or a research project grant proposal.

In FY 2000, the following two limitations will apply to the institutional maximum: (1) No institution may receive more than four grants, and (2) no institution may receive more than 10 percent (approximately \$860,000) of the total funds available for grant awards.

For a Joint Project Proposal (submitted by an eligible institution and involving two or more other colleges or universities assuming major roles in the conduct of the project), only that portion of the award to be retained by the grantee will be counted against the grantee's institutional maximum. Those funds to be transferred to the other colleges and universities participating in the joint project will not be applied toward the maximum funds allowed the grantee institution. However, if any of the other colleges and universities participating in the joint project are 1890 Institutions or Tuskegee University, the amount transferred from the grantee institution to such institutions will be counted toward their institutional maximums. For Complementary Project Proposals, only those funds to be retained by the grantee institution will be counted against the grantee's institutional maximum.

In FY 2000, the maximum number of new awards listing the same individual

as Project Director or Principal Investigator is two grants. This restriction does not apply to joint projects.

In FY 2000, the maximum number of new awards listing the same individual as Project Director or Principal Investigator in any one targeted need area that focuses on a single subject matter area or discipline is one grant. This restriction does not apply to proposals that address multiple targeted need areas and/or multiple subject matter areas.

For both teaching and research project grants—CSREES is prohibited from paying indirect costs exceeding 19 percent of the total Federal funds provided under each award (7 U.S.C. 3310). An alternative method to calculate this limit is to multiply total direct costs by 23.456 percent.

The award of any grants under the provisions of this program is subject to the availability of appropriations.

### C. Evaluation Criteria

NARETPA requires that certain priorities be given for teaching enhancement projects in awarding grants under section 1417(b). CSREES considers all applications received in response to this solicitation as teaching enhancement project applications. To implement these priorities for proposals submitted for the fiscal year (FY) 2000 competition, the evaluation criteria used to evaluate proposals, as stated in the Administrative Provisions (7 CFR 3406.15), have been modified to include new criteria or extra points for proposals demonstrating enhanced coordination among eligible institutions and focusing on innovative, multidisciplinary education programs, material, or curricula. The following evaluation criteria and weights will be used to evaluate proposals submitted for funding to the FY 2000 competition:

Evaluation criteria for teaching proposals	Weight (points)
(a) Potential for advancing the quality of education:	
This criterion is used to assess the likelihood that the project will have a substantial impact upon and advance the quality of food and agricultural sciences higher education by strengthening institutional capacities through promoting education reform to meet clearly delineated needs.	
(1) Impact—Does the project address a targeted need area(s)? Is the problem or opportunity clearly documented? Does the project address a significant State, regional, multistate, national, or international problem or opportunity? Will the benefits to be derived from the project transcend the applicant institution and/or the grant period? Is it probable that other institutions will adapt this project for their own use? Can the project serve as a model for others? .....	15
(2) Innovative and multidisciplinary focus—Does the project focus on innovative, multidisciplinary education programs, material, or curricula? Is the project based on a non-traditional approach toward solving a higher education problem in the food and agricultural sciences? Is the project relevant to multiple fields in the food and agricultural sciences? Will the project expand partnership ventures among disciplines at a university? .....	15
(3) Products and results—Are the expected products and results of the project clearly defined and likely to be of high quality? Will project results be of an unusual or unique nature? Will the project contribute to a better understanding of or an improvement in the quality or diversity of the Nation's food and agricultural scientific and professional expertise base? ....	10

Evaluation criteria for teaching proposals	Weight (points)
(4) Continuation plans—Are there plans for continuation or expansion of the project beyond USDA support with the use of institutional funds? Are there indications of external, non-Federal support? Are there realistic plans for making the project self-supporting? .....	10
(b) Overall approach and cooperative linkages:	
This criterion relates to the soundness of the proposed approach and the quality of the partnerships likely to evolve as a result of the project.	
(1) Proposed approach—Do the objectives and plan of operation appear to be sound and appropriate relative to the targeted need area(s) and the impact anticipated? Are the procedures managerially, educationally, and scientifically sound? Is the overall plan integrated with or does it expand upon other major efforts to improve the quality of food and agricultural sciences higher education? Does the timetable appear to be readily achievable? .....	15
(2) Evaluation—Are the evaluation plans adequate and reasonable? Do they allow for continuous or frequent feedback during the life of the project? Are the individuals involved in project evaluation skilled in evaluation strategies and procedures? Can they provide an objective evaluation? Do evaluation plans facilitate the measurement of project progress and outcomes? .....	5
(3) Dissemination—Does the proposed project include clearly outlined and realistic mechanisms that will lead to widespread dissemination of project results, including national electronic communication systems, publications, presentations at professional conferences, or use by faculty development or research/teaching skills workshops? .....	5
(4) Collaborative efforts—Does the project have significant potential for advancing cooperative ventures between the applicant institution and a USDA agency? Does the project workplan include an effective role for the cooperating USDA agency(s)? .....	10
(5) Coordination and partnerships—Does the project demonstrate enhanced coordination between the applicant institution and other colleges and universities with food and agricultural science programs eligible to receive grants under this program? Will the project lead to long-term relationships or cooperative partnerships, including those with the private sector, that are likely to enhance program quality or supplement resources available to food and agricultural sciences higher education? .....	5
(c) Institutional capacity building:	
This criterion relates to the degree to which the project will strengthen the teaching capacity of the applicant institution. In the case of a joint project proposal, it relates to the degree to which the project will strengthen the teaching capacity of the applicant institution and that of any other institution assuming a major role in the conduct of the project.	
(1) Institutional enhancement—Will the project help the institution to: expand the current faculty's expertise base; attract, hire, and retain outstanding teaching faculty; advance and strengthen the scholarly quality of the institution's academic programs; enrich the racial, ethnic, or gender diversity of the faculty and student body; recruit students with higher grade point averages, higher standardized test scores, and those who are more committed to graduation; become a center of excellence in a particular field of education and bring it greater academic recognition; attract outside resources for academic programs; maintain or acquire state-of-the-art scientific instrumentation or library collections for teaching; or provide more meaningful student experiential learning opportunities? .....	15
(2) Institutional commitment—Is there evidence to substantiate that the institution attributes a high-priority to the project, that the project is linked to the achievement of the institution's long-term goals, that it will help satisfy the institution's high-priority objectives, or that the project is supported by the institution's strategic plans? Will the project have reasonable access to needed resources such as instructional instrumentation, facilities, computer services, library and other instruction support resources? .....	15
(d) Personnel Resources: This criterion relates to the number and qualifications of the key persons who will carry out the project. Are designated project personnel qualified to carry out a successful project? Are there sufficient numbers of personnel associated with the project to achieve the stated objectives and the anticipated outcomes? .....	10
(e) Budget and cost-effectiveness:	
This criterion relates to the extent to which the total budget adequately supports the project and is cost-effective.	
(1) Budget—Is the budget request justifiable? Are costs reasonable and necessary? Will the total budget be adequate to carry out project activities? Are the source(s) and amount(s) of non-Federal matching support clearly identified and appropriately documented? For a joint project proposal, is the shared budget explained clearly and in sufficient detail? .....	10
(2) Cost-effectiveness—Is the proposed project cost-effective? Does it demonstrate a creative use of limited resources, maximize educational value per dollar of USDA support, achieve economies of scale, leverage additional funds or have the potential to do so, focus expertise and activity on a targeted need area, or promote coalition building for current or future ventures? .....	5
(f) Overall quality of proposal: This criterion relates to the degree to which the proposal complies with the application guidelines and is of high quality. Is the proposal enhanced by its adherence to instructions (table of contents, organization, pagination, margin and font size, the 20-page limitation, appendices, etc.); accuracy of forms; clarity of budget narrative; well prepared vitae for all key personnel associated with the project; and presentation (are ideas effectively presented, clearly articulated, and thoroughly explained, etc.)? .....	5

Evaluation criteria for research proposals	Weight (points)
(1) Significance of the problem:	
This criterion is used to assess the likelihood that the project will advance or have a substantial impact upon the body of knowledge constituting the natural and social sciences undergirding the agricultural, natural resources, and food systems.	
(1) Impact—Is the problem or opportunity to be addressed by the proposed project clearly identified, outlined, and delineated? Are research questions or hypotheses precisely stated? Is the project likely to further advance food and agricultural research and knowledge? Does the project have potential for augmenting the food and agricultural scientific knowledge base? Does the project address a significant State, regional, multistate, national, or international problem(s)? Will the benefits to be derived from the project transcend the applicant institution and/or the grant period? .....	15

Evaluation criteria for research proposals	Weight (points)
(2) Innovative and multidisciplinary focus—Is the project based on a non-traditional approach? Does the project reflect creative thinking? To what degree does the venture reflect a unique approach that is new to the applicant institution or new to the entire field of study? Does the project focus on innovative, multidisciplinary education programs, material, or curricula? Is the project relevant to multiple fields in the food and agricultural sciences? Will the project expand partnership ventures among disciplines at a university? .....	15
(3) Products and results—Are the expected products and results of the project clearly outlined and likely to be of high quality? Will project results be of an unusual or unique nature? Will the project contribute to a better understanding of or an improvement in the quality or diversity of the Nation's food and agricultural scientific and professional expertise base? ....	10
(4) Continuation plans—Are there plans for continuation or expansion of the project beyond USDA support? Are there plans for continuing this line of research or research support activity with the use of institutional funds after the end of the grant? Are there indications of external, non-Federal support? Are there realistic plans for making the project self-supporting? What is the potential for royalty or patent income, technology transfer or university-business enterprises? What are the probabilities of the proposed activity or line of inquiry being pursued by researchers at other institutions? .....	10
(b) Overall approach and cooperative linkages: This criterion relates to the soundness of the proposed approach and the quality of the partnerships likely to evolve as a result of the project.	
(1) Proposed approach—Do the objectives and plan of operation appear to be sound and appropriate relative to the proposed initiative(s) and the impact anticipated? Is the proposed sequence of work appropriate? Does the proposed approach reflect sound knowledge of current theory and practice and awareness of previous or ongoing related research? If the proposed project is a continuation of a current line of study or currently funded project, does the proposal include sufficient preliminary data from the previous research or research support activity? Does the proposed project flow logically from the findings of the previous stage of study? Are the procedures scientifically and managerially sound? Are potential pitfalls and limitations clearly identified? Are contingency plans delineated? Does the timetable appear to be readily achievable? .....	15
(2) Evaluation—Are the evaluation plans adequate and reasonable? Do they allow for continuous or frequent feedback during the life of the project? Are the individuals involved in project evaluation skilled in evaluation strategies and procedures? Can they provide an objective evaluation? Do evaluation plans facilitate the measurement of project progress and outcomes? .....	5
(3) Dissemination—Does the proposed project include clearly outlined and realistic mechanisms that will lead to widespread dissemination of project results, including national electronic communication systems, publications and presentations at professional society meetings? .....	5
(4) Collaborative efforts—Does the project have significant potential for advancing cooperative ventures between the applicant institution and a USDA agency? Does the project workplan include an effective role for the cooperating USDA agency(s)? .....	10
(5) Coordination and partnerships—Does the project demonstrate enhanced coordination between the applicant institution and other colleges and universities with food and agricultural science programs eligible to receive grants under this program? Will the project lead to long-term relationships or cooperative partnerships, including those with the private sector, that are likely to enhance research quality or supplement available resources? .....	5
(c) Institutional capacity building: This criterion relates to the degree to which the project will strengthen the research capacity of the applicant institution. In the case of a joint project proposal, it relates to the degree to which the project will strengthen the research capacity of the applicant institution and that of any other institution assuming a major role in the conduct of the project.	
(1) Institutional enhancement—Will the project help the institution to advance the expertise of current faculty in the natural or social sciences; provide a better research environment, state-of-the-art equipment, or supplies; enhance library collections related to the area of research; or enable the institution to provide efficacious organizational structures and reward systems to attract, hire and retain first-rate research faculty and students—particularly those from under-represented groups? .....	15
(2) Institutional commitment—Is there evidence to substantiate that the institution attributes a high-priority to the project, that the project is linked to the achievement of the institution's long-term goals, that it will help satisfy the institution's high-priority objectives, or that the project is supported by the institution's strategic plans? Will the project have reasonable access to needed resources such as scientific instrumentation, facilities, computer services, library and other research support resources? .....	15
(d) Personnel Resources: This criterion relates to the number and qualifications of the key persons who will carry out the project. Are designated project personnel qualified to carry out a successful project? Are there sufficient numbers of personnel associated with the project to achieve the stated objectives and the anticipated outcomes? Will the project help develop the expertise of young scientists at the doctoral or post-doctorate level?	10
(e) Budget and cost-effectiveness: This criterion relates to the extent to which the total budget adequately supports the project and is cost-effective.	
(1) Budget—Is the budget request justifiable? Are costs reasonable and necessary? Will the total budget be adequate to carry out project activities? Are the source(s) and amount(s) of non-Federal matching support clearly identified and appropriately documented? For a joint project proposal, is the shared budget explained clearly and in sufficient detail? .....	10
(2) Cost-effectiveness—Is the proposed project cost-effective? Does it demonstrate a creative use of limited resources, maximize research value per dollar of USDA support, achieve economies of scale, leverage additional funds or have the potential to do so, focus expertise and activity on a high-priority research initiative(s), or promote coalition building for current or future ventures? .....	5
(f) Overall quality of proposal: This criterion relates to the degree to which the proposal complies with the application guidelines and is of high quality. Is the proposal enhanced by its adherence to instructions (table of contents, organization, pagination, margin and font size, the 20-page limitation, appendices, etc.); accuracy of forms; clarity of budget narrative; well prepared vitae for all key personnel associated with the project; and presentation (are ideas effectively presented, clearly articulated, thoroughly explained, etc.)? .....	5



#### D. How To Obtain Application Materials

An Application Kit containing program application materials will be made available to eligible institutions upon request. These materials include the Administrative Provisions, forms, instructions, and other relevant information needed to prepare and submit grant applications. Copies of the Application Kit may be requested from the Proposal Services Unit, Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2245. The telephone number is (202) 401-5048. When contacting the Proposal Services Unit, please indicate that you are requesting forms for the FY 2000 1890 Institution Capacity Building Grants Program.

Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the FY 2000 1890 Institution Capacity Building Grants Program. The materials will then be mailed to you (not e-mailed) as quickly as possible.

#### E. What To Submit

An original and seven (7) copies of a proposal must be submitted. Proposals should contain all requested information when submitted. Each proposal should be typed on 8½" x 11" white paper, double spaced, and on one side of the page only. Please note that the text of the proposal should be prepared using no type smaller than 12 point font size and one-inch margins. Do not use reduced type or increase the density of the lines. Applicants are cautioned to comply with the 20-page limitation for the Narrative section of a teaching or research proposal. Reviewers will not be required to read beyond the 20-page limit for the Proposal Narrative section in evaluating a proposal. All copies of the proposal must be submitted in one package. Each copy of the proposal must be stapled securely in the upper left-hand corner (DO NOT BIND).

#### F. Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.216, 1890 Institution Capacity Building Grants Program.

#### G. Stakeholder Input

CSREES is soliciting comments regarding this solicitation of applications from any interested party. These comments will be considered in the development of the next request for proposals for the program. Such comments will be forwarded to the Secretary or his designee for use in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(c)(2)). Written comments should be submitted by first-class mail to: Policy and Program Liaison Staff; Office of Extramural Programs; Competitive Research Grants and Awards Management; USDA-CSREES; STOP 2299; 1400 Independence Avenue, SW; Washington, DC 20250-2299, or via e-mail to: RFP-OEP@reeusda.gov. (This e-mail address is intended only for receiving stakeholder input comments regarding this RFP, and not for requesting information or forms.)

In your comments, please include the name of the program and the fiscal year solicitation of applications to which you are responding. Submission of comments are requested within six months from the issuance of the solicitation of applications. Comments received after that date will be considered to the extent practicable.

Done at Washington, DC, this 20th day of January 2000.

**Charles W. Laughlin,**

*Administrator, Cooperative State Research, Education, and Extension Service.*

[FR Doc. 00-1911 Filed 1-27-00; 8:45 am]

**BILLING CODE 3410-22-P**

#### DEPARTMENT OF AGRICULTURE

##### Rural Housing service

##### Notice of Funding Availability (NOFA) for the Section 515 Rural Rental Housing Program for Fiscal Year 2000; Correction

**AGENCY:** Rural Housing Service (RHS), USDA.

**ACTION:** Correction.

**SUMMARY:** The Rural Housing service corrects a notice published December 21, 1999 (64 FR 71604). This action is taken to correct the point score for 0-4 percent leveraged assistance.

Accordingly, the notice published December 21, 1999 (64 FR 71604) is corrected as follows:

On page 71606, paragraph C. 1. (a), in the "Points" column, the point score "5" for "0-4" percentage of leveraging

should read "0". The corrected table reads as follows:

Percentage of leveraging	Points
75 or more .....	20
70-74 .....	19
65-69 .....	18
60-64 .....	17
55-59 .....	16
50-54 .....	15
45-49 .....	14
40-44 .....	13
35-39 .....	12
30-34 .....	11
25-29 .....	10
20-24 .....	9
15-19 .....	8
10-14 .....	7
5-9 .....	6
0-4 .....	0

Dated: January 18, 2000.

**James C. Kearney,**

*Administrator, Rural Housing Service.*

[FR Doc. 00-1912 Filed 1-27-00; 8:45 am]

**BILLING CODE 310-XV-U**

#### DEPARTMENT OF COMMERCE

##### Census Bureau

##### Current Population Survey (CPS) Fertility Supplement

**ACTION:** Proposed Collection; Comment Request

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before March 28, 2000.

**ADDRESSES:** Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Michelle Schwab, Census Bureau, FOB 3, Room 3340, Washington, DC 20233-8400, (301) 457-3806.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

The Census Bureau is requesting clearance for the collection of data concerning the Fertility Supplement to be conducted in conjunction with the June 2000 CPS. The Census Bureau sponsors the supplement questions, which were previously collected in June 1998, and have been asked periodically since 1971.

This survey provides information used mainly by government and private analysts to project future population growth, to analyze child spacing, and to aid policymakers in their decisions affected by changes in family size and composition. Past studies have discovered noticeable changes in the patterns of fertility rates and the timing of the first birth. Potential needs for government assistance, such as aid to families with dependent children, child care, and maternal health care for single parent households, can be estimated using CPS characteristics matched with fertility data.

## II. Method of Collection

The fertility information will be collected by both personal visit and telephone interviews in conjunction with the regular June CPS interviewing. All interviews are conducted using computer-assisted interviewing.

## III. Data

*OMB Number:* 0607-0610.

*Form Number:* None. All interviews conducted using computers.

*Type of Review:* Regular.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 30,000.

*Estimated Time Per Response:* 1 minute.

*Estimated Total Annual Burden Hours:* 500.

*Estimated Total Annual Cost:* None.

*Respondents' Obligation:* Voluntary.

## IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 21, 2000.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 00-1914 Filed 1-27-00; 8:45 am]

**BILLING CODE 3510-07-P**

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-34173A; FRL-6490-4]

### Phosmet, Revised Pesticide Risk Assessment; Notice of Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA will hold a public meeting to present the revised risk assessments for one organophosphate pesticide, phosmet, to interested stakeholders. This public meeting, called a "Technical Briefing," will provide an opportunity for stakeholders to learn about the data, information, and methodologies that the Agency used in revising its risk assessments for phosmet. In addition, representatives of the Department of Agriculture (USDA) will also provide ideas on possible risk management for phosmet.

**DATES:** The technical briefing will be held on February 10, 2000, from 9 a.m. to 12:30 p.m.

**ADDRESSES:** The technical briefing will be held at the Doubletree Hotel, 2525 North 20th Ave., Pasco, Washington, 99301; telephone number: (509) 547-0701.

**FOR FURTHER INFORMATION CONTACT:** By mail: Karen Angulo, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-8004; e-mail address: angulo.karen@epa.gov.

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does This Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on

organophosphate pesticides, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at <http://www.epa.gov/pesticides/op/>. In addition, a brief summary of the phosmet revised risk assessment is now available at <http://www.epa.gov/pesticides/op/status.htm/>, as well as in paper as part of the public version of the official record as described in Unit I.B.2.

2. *In person.* The Agency has established an official record under docket control number OPP-34173A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall 2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

## II. What Action Is the Agency Taking?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticide, phosmet. The Agency is presenting the revised risk assessments for phosmet to interested stakeholders. This technical briefing is designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessments: Including the major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessment affected the revised risk assessment; and the pesticide use information/data that was used in developing the revised risk assessment. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will provide ideas on possible risk management.

The technical briefing is part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

The Agency will issue a **Federal Register** notice to provide an opportunity for public viewing of the phosmet revised risk assessments and related documents in the Public Information and Records Integrity Branch and on the OPP Internet web site that are described in Unit I.B.1, and to provide an opportunity for a 60-day public participation period during which the public may submit risk management and mitigation ideas, and recommendations and proposals for transition.

### List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: January 21, 2000.

**Lois Rossi,**

*Director, Special Review and Reregistration Division, Office of Pesticide Programs.*

[FR Doc. 00-2017 Filed 1-28-00; 8:45 am]

**BILLING CODE 6560-50-F**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Submission for OMB Review; Comment Request; Request for Generic Clearance To Conduct Voluntary Customer/Partner Surveys

**SUMMARY:** Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Library of Medicine (NLM), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 21, 1999, in Volume 64, No. 182, page 51132 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Library of Medicine may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented

on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Voluntary Customer Satisfaction Surveys. Type of Information Collection Request: New. Need and Use of Information Collection: Executive Order 12962 directs agencies that provide significant services directly to the public to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. Additionally, since 1994, the NLM has been a "Federal Reinvention Laboratory" with a goal of improving its methods of delivering information to the public. An essential strategy in accomplishing reinvention goals is the ability to periodically receive input and feedback from customers about the design and quality of the services they receive.

The NLM provides significant services directly to the public including health providers, researchers, universities, other federal agencies, state and local governments, and to others through a range of mechanisms, including publications, technical assistance, and web sites. These services are primarily focused on health and medical information dissemination activities. The purpose of this submission is to obtain OMB's generic approval to conduct satisfaction surveys of NLM's customers. The NLM will use the information provided by individuals and institutions to identify strengths and weaknesses in current services and to make improvements where feasible. The ability to periodically survey NLM's customers is essential to continually update and upgrade methods of providing high quality service. Frequency of Response: Annually or biennially. Affected Public: Individuals or households; businesses or other for profit; state or local governments; Federal agencies; non-profit institutions; small businesses or organizations. Type of Respondents: Organizations, medical researchers, physicians and other health care providers, librarians, students, and the general public. Annual reporting burden is as follows:

Title of survey	Type of survey	Number of respondents	Estimated response time	Burden hours
Evaluation of Clinical Studies Database .....	Web-based .....	1,000	.167	167
Visible Human Project—Image Processing Tools .....	Electronic Mail .....	1,000	.25	250
PubMed .....	Web-based .....	5,000	.0835	418
Entrez .....	Web-based .....	2,000	.0835	167
GeneMap .....	Web-based .....	2,000	.0835	167
NCBI Web Site .....	Web-based .....	2,000	.0835	167
NLM Service Desk Survey .....	Interactive Voice Response telephone.	400	.0835	33
NLM Onsite Reading Room Use .....	Exit Interview .....	500	.167	84

Title of survey	Type of survey	Number of respondents	Estimated response time	Burden hours
NLM Electronic Mail Customer Survey .....	Electronic Mail .....	1,000	.0835	84
MEDLINEplus User Survey .....	Web-based .....	500	.0835	59
Survey of Unified Medical Language System (UMLS) Use .....	Mail Survey .....	1,000	.5	500
NLM Services Satisfaction Survey .....	Web-based .....	2,000	.0835	167
Total .....	.....	.....	.....	2,263

The annualized cost to respondents is estimated at \$30,256. There are no capital costs to report. There are no operating or maintenance costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed collection of information contact: Ronald F. Stewart, National Library of Medicine, Building 38, Room 2N07, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll free number (301) 496-6491. You may also e-mail your request to: ron\_stewart@nlm.nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received by February 28, 2000.

Dated: January 20, 2000.

**Donald C. Poppke,**

*Associate Director for Administrative Management, National Library of Medicine.*  
[FR Doc. 00-1937 Filed 1-27-00; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

**ADDRESSES:** Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting Elaine Gese at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; Telephone: 301/496-7056 ext. 282; Fax: 301/402-0220; E-mail: eg46t@nih.gov. A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

#### Variants of Humanized Anti-Carcinoma Monoclonal Antibody CC49

Syed V. Kashmiri (NCI), Eduardo A. Padlan (NIDDK), Jeffrey Schlom (NCI)

U.S. Provisional Patent Applications 60/106,534 filed 31 Oct 1998 and 60/106,757 filed 02 Nov 1998

The invention embodied in these two patent applications describes the humanization of a murine anti-carcinoma antibody which has been shown to react with Tumor Associated Glycoprotein 72 (TAG-72), an antigen which is expressed on human breast, colorectal, and other carcinomas. The humanization process, which renders the antibody minimally immunogenic to humans, has been accomplished by a method different from the current procedure for the humanization of a rodent antibody which is based on grafting all the Complementarity Determining Residues (CDRs) of a rodent antibody onto a human antibody framework. This new humanization protocol involves identifying the Specificity Determining Residues

(SDRs), the amino acid residues in the hypervariable regions of an antibody that are most critical for antigen binding activity. The CDRs, which are found not to contain SDRs and hence are dispensable for antigen binding activity, are not grafted onto the human antibody frameworks. Rather, only the SDRs of the essential CDRs are transferred to the human antibody molecule. The resulting molecule is believed to elicit an immune response in humans which is significantly less than that elicited through administration of other humanized antibodies.

Embodied in the current invention are methods of identifying the SDRs, and of rendering any antibody minimally immunogenic in humans by transferring the SDRs of the antibody to a human antibody framework. The resulting humanized antibodies, including CDR variants thereof (including a CH2 deleted version), are also embodied in the invention, as are methods of using the antibodies for therapeutic and diagnostic purposes.

Dated: January 20, 2000.

**Jack Spiegel,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer.*

[FR Doc. 00-1931 Filed 1-27-00; 8:45 am]

BILLING CODE 7555-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the National Cancer Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(6) and 552b(c)(9), Title 5 U.S.C., as amended. The discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the review of applications, and information concerning NCI and/or its contractors, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and the premature disclosure of discussions related to personnel and programmatic issues would be likely to significantly frustrate the subsequent implementation of recommendations.

*Name of Committee:* National Cancer Advisory Board.

*Dates:* February 15–16, 2000.

*Open:* February 15, 9:00 a.m. to 3:45 p.m., February 16, 9:00 a.m. to 12:00 p.m.

*Agenda:* Program reports and presentations; Business of the Board. For detailed agenda: See NCI Homepage/Advisory Board and Groups, <http://deainfo.nci.nih.gov/ADVISORY/boards.htm> Tentative Agenda available 10 working days prior to meetings; Final agenda available 5 working days prior to meetings.

*Closed:* February 15, 2000, 4 p.m. to Recess.

*Agenda:* Review of Grant Applications.

*Place:* Building 31, C, Wing, 6 Floor, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

*Contact Person:* Marvin R. Kalt, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8022, Bethesda, MD 20892–8327, (301) 496–5147.

*Name of Committee:* National Cancer Advisory Board, Subcommittee on Cancer Centers.

*Open:* February 15, 12 p.m. to 1 p.m.

*Agenda:* Annual Guideline Update.

*Place:* Building 31, C Wing, 6 Floor, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

*Contact Person:* Brian Kimes, Executive Secretary, Office of Centers, Training, and Resources, National Cancer Institute, National Institutes of Health, Executive Plaza North—Suite 502, 6130 Executive Boulevard, Bethesda, MD 20892–8327, (301) 496–8537.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; or 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

*Dated:* January 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–1936 Filed 1–27–00 8:45am]

**BILLING CODE 7555–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Eye Institute Special Emphasis Panel.

*Date:* January 26, 2000.

*Time:* 2:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 6120 Executive Blvd., Suite 350, Rockville, MD 20892, (Telephone Conference Call).

*Contact Person:* Andrew P. Mariani, Chief, Scientific Review Branch, 6120 Executive Blvd., Suite 350, Rockville, MD 20892, 301/496–5561.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

*Dated:* January 18, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–1932 Filed 1–27–00; 8:45 am]

**BILLING CODE 7555–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Clinical Trials Review Committee.

*Date:* February 27–28, 2000.

*Time:* 7:00 p.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

*Contact Person:* Joyce A. Hunter, NHLBI/DEA/Review Branch, Rockledge Building II, Room 7192, MSC 7924, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–0287.

(Catalog of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

*Dated:* January 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00–1933 Filed 1–27–00; 8:45 am]

**BILLING CODE 7555–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

*Date:* January 21, 2000.

*Time:* 3:00 PM to 4:00 PM.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Natcher Bldg, Rm 5As.25u, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Tommy L. Broadwater, Chief, Grants Review Branch, NIAMS, NIH, 45 Center Drive, Rm. 5AS25U, Bethesda, MD 20892, 301-594-4952.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: January 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00-1930 Filed 1-27-00; 8:45 am]

**BILLING CODE 7555-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 19(d) of the Federal Advisory Committee Act, as amended (5 U.S.C., Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel Centers Review Committee.

*Date:* February 28, 2000.

*Time:* 8:30 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Contact Person:* Rita Liu, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 443-2620.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel Program Projects.

*Date:* February 29, 2000.

*Time:* 8:30 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

*Contact Person:* Rita Liu, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 443-2620.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group, Health Services Research Subcommittee.

*Date:* February 29, 2000.

*Time:* 830 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites, Chevy Chase Pavilion, 4300 Military Road, NW., Wisconsin at Western Ave., Washington, DC 20015.

*Contact Person:* Marina L. Volkov, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1433.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group, Treatment Research Subcommittee.

*Date:* February 29-March 1, 2000.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites, Chevy Chase Pavilion, 4300 Military Road, NW., Wisconsin at Western Ave., Washington, DC 20015.

*Contact Person:* Kesinee Nimit, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1432.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group, Medication Development Research Subcommittee.

*Date:* March 1-2, 2000.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency, One Metro Center, Bethesda, MD 20814.

*Contact Person:* Khursheed Asghar, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 443-2620.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel, Special Emphasis Panel for Treatment Research Subcommittee.

*Date:* March 1, 2000.

*Time:* 9 a.m. to 4 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites, at the Chevy Chase Pavilion, 4300 Military Road, NW., Wisconsin Ave. and Western Ave., Washington, DC 20015.

*Contact Person:* Susan L. Coyle, Chief, Clinical, Epidemiological and Applied

Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 443-2620.

*Name of Committee:* National Institute on Drug Abuse Initial Review Group, Training and Career Development Subcommittee.

*Date:* March 7-9, 2000.

*Time:* 9 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott, 5151 Pooks Hill Rd., Bethesda, MD 20814.

*Contact Person:* Mark Swieter, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1389.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: January 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00-1934 Filed 1-27-00; 8:45 am]

**BILLING CODE 7555-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel "Antibodies for Neuroscience Research".

*Date:* January 25, 2000.

*Time:* 9:30 a.m. to 11:00 a.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892-9547, (301) 435-1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279 Drug Abuse Research Programs, National Institutes of Health HHS)

Dated: January 19, 2000.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 00-1935 Filed 1-27-00; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4557-N-04]

### Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**EFFECTIVE DATE:** January 28, 2000.

**FOR FURTHER INFORMATION CONTACT:** Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-1234; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the

purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: January 21, 2000.

**Joseph A. D'Agosta,**

*General Deputy Assistant Secretary for Community Planning and Development.*

[FR Doc. 00-1913 Filed 1-27-00; 8:45 am]

**BILLING CODE 4210-29-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[MT-070-00-1020-PA]

### Supplementary Rule Regarding Operation of Motorized Vehicles in Developed Recreation Sites on Public Lands in Montana

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Establishment of a Supplementary Rule establishing guidelines for the operation of off-road vehicles within developed recreational sites on public lands administered by the BLM Butte Field Office in the state of Montana.

**SUMMARY:** Off-road vehicle use in developed recreation sites has resulted in conflicts between vehicle operators and other public land site visitors. Safety hazards occur with unlimited vehicle use in congested, developed recreation sites. Vehicle operation off roadways in developed campgrounds and picnic areas has caused considerable damage to natural resources and public property resulting in increased operational and maintenance costs. The developed recreation sites listed below shall be closed to the use and operation of off-road vehicles from April 15 thru October 15. Off-road vehicle operation outside these dates shall be limited to existing roads, parking lots and campsite pull-ins. Sites administered by the Butte Field Office affected by this restriction notice include:

Yellowstone River—Carbella.  
Big Hole River—East Bank, Dickie Bridge, Bryant Creek, Jerry Creek, Upper and Lower Divide.  
Missouri River—Upper and Lower Toston, Devils Elbow, Holter Dam, Holter Lake, Log Gulch and Departure Point.

This Supplementary Rule is issued under authority of 43 CFR 8365.1-6.

Penalties: As prescribed under the Federal Land Policy and Management Act, 43 USC Section 1733(a). Violation

is punishable by fines and/or imprisonment under 43 CFR 8360.0-7.

**EFFECTIVE DATE:** To comply with the Administrative Procedures Act, this Supplementary Rule will go into effect 30 days after publication in the **Federal Register** if no substantive negative comments are received and will remain in effect until rescinded or modified by the authorized officer.

### FOR FURTHER INFORMATION CONTACT:

Steve Hartmann, Acting Field Manager, P.O. Box 3388, Butte, Montana 59702, 406-494-5059.

Dated: January 12, 2000.

**Steve Hartmann,**

*Acting Field Manager.*

[FR Doc. 00-1673 Filed 1-27-00; 8:45 am]

**BILLING CODE 4310-DN-P**

## DEPARTMENT OF LABOR

### Employment Standards Administration, Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the



specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decisions, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, 200 Constitution Avenue, N.W., Room S-3014, Washington, D.C. 20210.

#### Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

#### Volume I

None

#### Volume II

None

#### Volume III

None

#### Volume IV

None

#### Volume V

None

#### Volume VI

None

#### Volume VII

None

#### General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1-800-363-2068

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512-1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C., this 21st day of January 2000.

**Carl J. Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 00-1882 Filed 1-27-00; 8:45 am]

**BILLING CODE 4510-27-M**

#### NATIONAL SCIENCE FOUNDATION

##### Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

*Name:* Special Emphasis Panel in Biological Sciences (#1754).

*Date/Time:* February 9-10, 2000, 8:30a.m.—5:00p.m.; February 11, 2000, 8:30a.m.—Adjourn.

*Place:* Room 390, National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230.

*Type of Meeting:* Closed.

*Contact Person:* Carter Kimsey, Program Coordinator, Postdoctoral Research Fellowships in Microbial Biology, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703) 306-1469.

*Purpose of Meeting:* To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

*Agenda:* To review and evaluate Postdoctoral Research Fellowships in Biological Informatics proposals submitted in response to the program announcement (NSF 99-142).

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(b)(3), (4) and (6) of the Government in the Sunshine Act.

Dated: January 24, 2000.

**Karen J. York,**

*Committee Management Officer.*

[FR Doc. 00-1992 Filed 1-27-00 8:45 am]

**BILLING CODE 7555-01-M**

#### NATIONAL SCIENCE FOUNDATION

##### Special Emphasis Panel in the Division of Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

*Name:* Special Emphasis Panel in Electrical and Communications Systems (1196).

*Date/time:* February 3-4, 2000, 8:30 a.m. to 5 p.m.

*Place:* Room 360, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

*Type of Meeting:* Closed.

*Contact Person:* Dr. Marija Ilic, Program Director, Room 675, Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Boulevard,



Arlington, VA 22230. Telephone: (703) 306-1339.

*Purpose of Meeting:* To provide advice and recommendations concerning proposals submitted to NSF for financial support.

*Agenda:* To review and evaluate unsolicited proposals submitted in response to the program announcement (NSF 99-2).

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: January 24, 2000.

**Karen J. York,**

*Committee Management Officer.*

[FR Doc. 00-1994 Filed 1-27-00; 8:45 am]

**BILLING CODE 7555-01-M**

## NATIONAL SCIENCE FOUNDATION

### Special Emphasis Panel in Electrical and Communications System; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463; as amended), the National Science Foundation announces the following meeting:

*Name:* Special Emphasis panel in Electrical and Communications System (1196).

*Date and Time:* February 7-8, 2000—8:30 a.m. to 5 p.m.

*Place:* National Science Foundation, Room 365, 4201 Wilson Boulevard, Arlington, VA 22230.

*Type of Meeting:* Closed.

*Contact Persons:* Dr. Kishan Baheti, Program Director, Control, Networks, and Computational Intelligence (CNCI), Division of Electrical and Communications Systems, National Science Foundation, 4201 Wilson Boulevard, Room 675, Arlington, VA 22230 Telephone: (703) 306-1339.

*Purpose:* To provide advice and recommendation concerning proposals submitted to NSF for financial support.

*Agenda:* To review and evaluate research proposals in the CNCI program as part of the selection process for award.

*Reason for Closing:* The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b. (c)(4) and (6) the Government in the Sunshine Act.

Dated: January 24, 2000.

**Karen J. York,**

*Committee Management Officer.*

[FR Doc. 00-1995 Filed 1-27-00; 8:45 am]

**BILLING CODE 7555-01-M**

## NATIONAL SCIENCE FOUNDATION

### Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 9463, as amended), the National Science Foundation announces the following meeting:

*Name:* Committee of Visitors for the Division of Physics, Subcommittee of the Advisory Committee for Mathematical and Physical Sciences

*Date and Time:*

Wednesday, February 9, 2000, 8:30 a.m.—6 p.m.

Thursday, February 10, 2000, 8:30 a.m.—5 p.m.

Friday, February 11, 2000, 8:30 a.m.—3 p.m.

*Place:* Room 1235, NSF, 4201 Wilson Blvd., Arlington, VA.

*Type of Meeting:* Part-Open—(see Agenda, below).

*Contact Person:* Dr. Joseph L. Dehmer, Director, Division of Physics, National Science Foundation, 4201 Wilson Boulevard, Room 1015.37, Arlington, VA 22230

*Purpose of Meeting:* To carry out Committee of Visitors (COV) review, including program evaluation, GPRA assessments, and access to privileged materials.

#### Agenda

Closed: February 9, 10, and 11 from 8:30—6:00 each day—To review the merit review processes covering funding decisions made during the immediately preceding three fiscal years of the Division of Physics programs.

Open: February 11 from 10:30—11:30—To assess the results of NSF program investments in the Division of Physics. This shall involve a discussion and review of results focused on NSF and grantee outputs and related outcomes achieved or realized during the preceding three fiscal years. These results may be based on NSF grants or other investments made in earlier years.

*Reason for Closing:* During the closed session, the COV will be reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. Such deliberations are exempt under 5 U.S.C. 552B9c)(4) and (6) of the Government in the Sunshine Act.

**Karen York,**

*Committee Management Officer.*

[FR Doc. 00-1996 Filed 1-27-00; 8:45am]

**BILLING CODE 7555-01-M**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 4)]

### Railroad Cost Recovery Procedures-Productivity Adjustment

**AGENCY:** Surface Transportation Board.

**ACTION:** Proposed adoption of a Railroad Cost Recovery Procedures productivity adjustment.

**SUMMARY:** The Surface Transportation Board proposes to adopt 1.035 (3.5%) as the measure of average growth in railroad productivity for the 1994-1998 (5-year) period. The current value of 5.7% was developed for the 1993 to 1997 period.

**DATES:** Comments are due by February 11, 2000.

**EFFECTIVE DATE:** The proposed productivity adjustment is effective 30 days after the date of service.

**ADDRESSES:** Send comments (an original and 10 copies) referring to STB Ex Parte No. 290 (Sub-No. 4) to: Office of the Secretary, Case Control Branch, 1925 K Street, NW, Washington, DC 20423-0001. Parties should submit all pleading and attachments on a 3.5-inch diskette in WordPerfect 6.0 or 6.1 compatible format.

**FOR FURTHER INFORMATION CONTACT:** H. Jeff Warren, (202) 565-1533. TDD for the hearing impaired: (202) 565-1695.

#### SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's decision. To purchase a copy of the full decision write to, call, or pick up in person from: DA•TO•DA OFFICE SOLUTIONS, Suite 210, 1925 K Street, NW, Washington, DC 20423-0001, telephone (202) 289-4357. [Assistance for the hearing impaired is available through TDD services (202) 565-1695.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: January 21, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 00-1998 Filed 1-27-00; 8:45 am]

**BILLING CODE 4915-00-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 582]

### Public Views on Major Rail Consolidations

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of Public Hearing and Request for Comments.

**SUMMARY:** The Surface Transportation Board (Board) will hold a public hearing beginning on Wednesday, March 8, 2000, at its offices in Washington, DC, to provide interested persons an opportunity to express their views on the subject of major railroad consolidations and the present and future structure of the North American railroad industry.

**DATES:** The public hearing will begin on Wednesday, March 8, 2000, and, if necessary, will continue on Thursday, March 9, 2000. Any person wishing to speak at the hearing must file with the Board a written notice of intent to participate, and must indicate therein a requested time allotment, by February 8, 2000. A schedule for the hearing, which will include a list of speakers and their allotted times, will be issued by the Board by February 18, 2000. Each speaker or commenter must file with the Board the text of his/her anticipated written statement, and/or a summary thereof, by February 29, 2000.

**ADDRESSES:** An original and 10 copies of all notices of intent to participate and all written comments and/or summaries must refer to STB Ex Parte No. 582, and must be sent to: Surface Transportation Board, Office of the Secretary, Case Control Unit, Attn: STB Ex Parte No. 582, 1925 K Street, N.W., Washington, DC 20423-0001. In addition to submitting an original and 10 copies of all paper documents filed with the Board, parties must also submit, on 3.5-inch IBM-compatible floppy diskettes (in, or convertible by and into, WordPerfect 7.0 format), an electronic copy of each such paper document.<sup>1</sup>

**FOR FURTHER INFORMATION, CONTACT:** Julia M. Farr, (202) 565-1613. [TDD for the hearing impaired: 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:** The Surface Transportation Board (Board) has decided, on its own motion, to hold a public hearing beginning at 10:00 a.m. on Wednesday, March 8, 2000, at its offices in Washington, DC, to provide a forum for the expression of views by interested persons, including railroads, rail shippers and other users, rail employees, and other elements of the rail sector, on major rail consolidations and the present and future structure of the North American railroad industry.

*Issues.* This public hearing is prompted in part by the initiation of, but will be conducted separate and apart from, the "BNSF/CN" control

proceeding in STB Finance Docket No. 33842, which was initiated on December 20, 1999, with the filing by Burlington Northern Santa Fe Corporation and The Burlington Northern and Santa Fe Railway Company (referred to collectively as BNSF) and Canadian National Railway Company, Grand Trunk Western Railroad Incorporated, and Illinois Central Railroad Company (referred to collectively as CN) of a notice indicating their intent to file an application seeking Board authorization under 49 U.S.C. 11323-25 and 49 CFR part 1180 for a transaction (referred to as the BNSF/CN transaction) under which BNSF and CN would be brought under common control.<sup>2</sup> We are aware that, in the wake of the filing of the BNSF/CN notice of intent, there has been a great deal of speculation that the strategic responses of the remaining North American rail carriers to the proposed BNSF/CN transaction will lead to a new round of major railroad consolidations, ultimately resulting in the formation of two North American transcontinental railroad systems.

We are also aware that this speculation has caused concern given that the structure of the North American railroad industry has already changed dramatically in the past half decade. There remain two major western railroads and two major eastern railroads in the United States. And, although there have been no major changes in the structure of the Canadian rail network following the privatization of CN, the "CN/IC" transaction represents a significant tightening of the bonds between the Canadian and American components of the overall North American rail network. Recognizing the restructuring that has occurred and the speculation about future restructuring, by joint letter dated January 14, 2000, Chairman Bud Shuster and Ranking Democratic Member James L. Oberstar of the House Committee on Transportation and Infrastructure have urged the Board "to promptly explore all options to ensure an early and vigorous debate" on whether the "downstream" effects of the proposed BNSF/CN transaction are in the public interest. Given this letter and the concerns that have been voiced publicly, there appears to be strong

sentiment for a public review at this time of what the evolving structure of the North American railroad industry is and should be.

In scheduling a hearing now, we intend no prejudgment of the yet-to-be-filed BNSF/CN application. Rather, we are providing a forum for the discussion of broader matters that have been raised since the announcement of the proposed BNSF/CN transaction. In this regard, there are several issues upon which we seek specific comments, and any other relevant comments, as always, are welcome.

In particular, we note that a majority of the large railroads have recently stated that now is the time to concentrate on existing opportunities to improve service rather than on further consolidation. And, other parties have expressed concern about more restructuring while the industry is still recovering from service difficulties and other disruptions associated with implementation of the last round of major rail consolidations.<sup>3</sup> Accordingly, we especially wish to explore public and, in particular, rail shipper and other user views on the timing of any proposed large railroad consolidation.

In addition, we have made reference earlier in this notice to the concern publicly expressed that the strategic responses engendered by another large railroad consolidation would lead to significant additional consolidation, and possibly other changes in the structure of the rail industry or in the way in which the industry is regulated. The views of all interested persons are invited on these matters, as well as on the question of whether or not these eventualities would be a good thing for large and small railroads, and for their customers and employees, and, more broadly, whether it would be in the public interest.

Views are sought also on fundamental questions related to the effects of railroad consolidations on the financial condition of the railroad industry and the industry's ability to provide responsive service at reasonable prices. In this regard, we seek comments on whether the railroad industry has and will have the necessary infrastructure, capacity and configuration to meet expected demand for freight service now and in the future.

<sup>3</sup> In this regard, while we would expect commenters to reference implementation and other issues that have arisen in the wake of mergers that have already been approved, we remind parties that we have other proceedings more specifically focused in oversight of individual mergers and thus would not expect the use of this proceeding to litigate or relitigate issues specifically related to those transactions.

<sup>1</sup> Any party may seek a waiver from the electronic submission requirement.

<sup>2</sup> See *Canadian National Railway Company, Grand Trunk Western Railroad Incorporated, Illinois Central Railroad Company, Burlington Northern Santa Fe Corporation, and The Burlington Northern and Santa Fe Railway Company "Common Control"*, STB Finance Docket No. 33842, Decision Nos. 1 & 1A (STB served Dec. 28, 1999) (published in the *Federal Register* on January 4, 2000, at 65 FR 318).

The public hearing that will be held beginning on March 8, 2000, will allow all interested persons, including railroads, rail shippers and other users, rail employees, and other elements of the rail sector, to voice their views on rail consolidation in general, and on the present and future structure of the North American railroad industry, and will give us a better sense of the current thinking of those most directly affected by our regulation. The hearing is scheduled for that date both because the letter from Chairman Shuster and Ranking Democratic Member Oberstar has urged prompt action on our part and because the application in the BNSF/CN control proceeding could conceivably be filed as early as March 20, 2000.

It should be emphasized that the comments made at this hearing will not be regarded as "evidence" in the BNSF/CN control proceeding. That application, if and when it is filed, will be judged on its merits, on the basis of the record compiled in STB Finance Docket No. 33842, in accordance with the evidentiary directives already issued by the Board in its decision notifying the public of the future BNSF/CN filing, and subject to any other future rulings of the Board regarding that filing.

**Date(s) Of Hearing.** The hearing will begin on Wednesday, March 8, 2000, at 10:00 a.m., in the 7th floor hearing room at the Board's headquarters in Washington, DC, and will be conducted as other Board hearings have been conducted in recent years: there will be only short breaks during the hearing; the hearing can be expected to continue into the evening hours; and, if necessary, the hearing will resume on Thursday, March 9, 2000, and continue until every person scheduled to speak has been heard.

**Notice Of Intent To Participate.** Any person wishing to speak at the hearing must file with the Board a written notice of intent to participate, and must indicate therein a requested time allotment, by February 8, 2000.

**Schedule.** A schedule for the hearing, which will include a list of speakers and their allotted times, will be issued by the Board by February 18, 2000.

**Statement and/or Summary.** Each speaker or commenter must file with the Board the text of his/her anticipated written statement, and/or a summary thereof, by February 29, 2000.

**Paper Copies; Electronic Copies.** Each person intending to speak at the hearing should submit an original and 10 paper copies of his/her notice of intent to participate (these must be submitted by February 8, 2000). Each person intending to speak or to submit written comments must submit his/her written

comments and/or a written summary thereof (these must be submitted by February 29, 2000). Each such person should also submit, in addition to an original and 10 copies of all paper documents filed with the Board, an electronic copy of each such paper document. The electronic copy should be on a 3.5-inch IBM-compatible floppy diskette, and should be in, or convertible by and into, WordPerfect 7.0. Any person may seek a waiver from the electronic submission requirement.

**Coordination Encouraged.** We encourage interested persons to coordinate the presentation of their views by selecting a single individual to appear at the hearing on behalf of their common interests. Because of the importance of shipper views on the subject matter, however, we encourage individual shippers to appear and express their positions.

**Post-Hearing Action.** We will take such action, if any, as necessary to respond in an appropriate fashion to the views expressed at the hearing.

**Federal Register Publication.** Notice of the March 8, 2000 hearing will be published in the **Federal Register**.

**Board Releases Available Via The Internet.** Decisions and notices of the Board, including this notice, are available on the Board's website at "www.stb.dot.gov."

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: January 21, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 00-1999 Filed 1-27-00; 8:45 am]

**BILLING CODE 4915-00-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 146X)]

### Union Pacific Railroad Company— Abandonment and Discontinuance of Trackage Rights Exemption—in Dallas County, TX

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon 2,367 feet of railroad over the Oakland Avenue Spur from station 186+62 at Malcolm X Boulevard to the end of the track at Station 210+29.2 in the city of Dallas, Dallas County, TX. The line

traverses United States Postal Service Zip Code 75215.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 23, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 3, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 14, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James P. Gatlin, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>2</sup> Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by January 28, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-

1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by UP's filing of a notice of consummation

by January 24, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: January 13, 2000.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 00-1230 Filed 1-27-00; 8:45 am]

**BILLING CODE 4915-00-P**

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

**RULES GOING INTO EFFECT JANUARY 28, 2000****AGRICULTURE DEPARTMENT****Food and Nutrition Service**

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Inventors' Rights Act; implementation:

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**ENVIRONMENTAL PROTECTION AGENCY**

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Compression-ignition marine engines at or above 37 kilowatts; published 12-29-99

**FEDERAL COMMUNICATIONS COMMISSION**

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Telecommunications Act of 1996; implementation—

Telecommunications services, equipment, and customer premises equipment; access by persons with disabilities; published 11-19-99

**HEALTH AND HUMAN SERVICES DEPARTMENT****Food and Drug Administration**

Medical devices:

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**TRANSPORTATION DEPARTMENT****Federal Aviation Administration**

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Sheep and lamb promotion and research; comments due by 2-1-00; published 1-12-00

Tobacco inspection:

Burley tobacco; moisture testing; comments due by 1-31-00; published 12-2-99

**AGRICULTURE DEPARTMENT****Forest Service**

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Johnson's seagrass; comments due by 2-2-00; published 1-3-00

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Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands groundfish; comments due by 2-4-00; published 12-21-99

Magnuson-Stevens Act provisions—

Pacific Coast groundfish; annual specifications and management measures; comments due by 2-3-00; published 1-4-00

Northeastern United States fisheries—

Atlantic mackerel, squid, and butterfish; comments due by 2-4-00; published 1-5-00

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Marine sanctuaries—

Gray's Reef National Marine Sanctuary, GA; management plan/regulations review; comments due by 2-1-00; published 11-19-99

Gray's Reef National Marine Sanctuary, GA; management plan/regulations review; scoping meetings; comments due by 2-1-00; published 12-27-99

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

AmeriCorps education awards; comments due by 1-31-00; published 12-1-99

**DEFENSE DEPARTMENT**

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Federal Acquisition Regulation (FAR):

Davis-Bacon Act; construction contract wage determination options; comments due by 2-1-00; published 12-3-99

Veterans' employment; comments due by 2-1-00; published 12-3-99

Yugoslavia and Afghanistan; acquisition restrictions; comments due by 1-31-00; published 12-1-99

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Air pollution; standards of performance for new stationary sources:

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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

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National priorities list update; comments due by 1-31-00; published 12-30-99

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Water supply:

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Radio services operating below 30 MHz; conducted emission limits; comments due by 1-31-00; published 11-16-99

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#### **HEALTH AND HUMAN SERVICES DEPARTMENT Children and Families Administration**

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High performance bonus rewards to States; comments due by 2-4-00; published 12-6-99

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#### **INTERIOR DEPARTMENT Minerals Management Service**

Royalty management:

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Correction; comments due by 1-31-00; published 12-16-99

#### **LABOR DEPARTMENT Employment and Training Administration**

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#### **NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

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#### **NATIONAL CREDIT UNION ADMINISTRATION**

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#### **POSTAL SERVICE**

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#### **RAILROAD RETIREMENT BOARD**

Railroad Unemployment Insurance Act:

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#### **SECURITIES AND EXCHANGE COMMISSION**

Public utility holding companies:

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#### **OFFICE OF UNITED STATES TRADE REPRESENTATIVE Trade Representative, Office of United States**

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#### **TRANSPORTATION DEPARTMENT**

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#### **VETERANS AFFAIRS DEPARTMENT**

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**LIST OF PUBLIC LAWS**

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**Note:** The List of Public Laws for the first session of the 106th Congress has been completed and will resume when bills are enacted into law during the second session of the 106th Congress, which

convenes on January 24, 2000.

A Cumulative List of Public Laws for the first session of the 106th Congress will be published in the **Federal Register** on December 30, 1999.

**Last List December 21, 1999.**