

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

(g) *Prohibitions and penalties.* (1) The following activities are prohibited, and it is unlawful for anyone to:

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

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

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

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

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

(vi) Make false statements to NMFS, any of the NMFS' employees, or any of

NMFS' agents about any of the matters in this subpart;

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

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

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

**§ 600.1102 Pacific Coast groundfish fee.**

(a) *Purpose.* This section implements the fee for repaying the reduction loan financing the Pacific Coast Groundfish Program authorized by section 212 of Division B, Title II, of Public Law 108–7 and implemented by a final notification in the FEDERAL REGISTER (July 18, 2003; 68 FR 42613).

(b) *Definitions.* Unless otherwise defined in this section, the terms defined in § 600.1000 of subpart L expressly apply to this section. The following terms have the following meanings for the purpose of this section:

*Borrower* means, individually and collectively, each post-reduction fishing permit holder and/or fishing vessel owner fishing in the reduction fishery, in any or all of the fee-share fisheries, or in both the reduction fishery and any or all of the fee-share fisheries.

*Deposit principal* means all collected fee revenue that a fish buyer deposits in an account maintained at a federally insured financial institution for the purpose of aggregating collected fee revenue before sending the fee revenue to NMFS for repaying the reduction loan.

*Fee fish* means all fish harvested from the reduction fishery during the period in which any portion of the reduction fishery's subamount is outstanding and

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all fish harvested from each of the fee-share fisheries during the period in which any portion of each fee-share fishery's subamount is outstanding.

*Fee-share fishery* means each of the fisheries for coastal Dungeness crab and pink shrimp in each of the States of California and Oregon and the fishery for coastal Dungeness crab and ocean pink shrimp in the State of Washington.

*Fee-share fishery subaccount* means each of the six subaccounts established in the groundfish program's fund subaccount in which each of the six fee-share fishery subamounts are deposited.

*Reduction fishery* means all species in, and that portion of, the limited entry trawl fishery under the Federal Pacific Coast Groundfish Fishery Management Plan that is conducted under permits, excluding those registered to whiting catcher-processors, which are endorsed for trawl gear operation.

*Reduction fishery subaccount* means the subaccount established in the groundfish program's fund subaccount in which the reduction fishery subamount is deposited.

*Subamount* means each portion of the reduction loan's original principal amount which is allocated either to the reduction fishery or to any one of the fee-share fisheries.

(c) *Reduction loan amount.* The reduction loan's original principal amount is \$35,662,471.

(d) *Subamounts.* The subamounts of the reduction loan amount are:

(1) Reduction fishery, \$28,428,719; and

(2) Fee-share fisheries:

(i) California coastal Dungeness crab fee-share fishery, \$2,334,334,

(ii) California pink shrimp fee-share fishery, \$674,202,

(iii) Oregon coastal Dungeness crab fee-share fishery, \$1,367,545,

(iv) Oregon pink shrimp fee-share fishery, \$2,228,845,

(v) Washington coastal Dungeness crab fee-share fishery, \$369,426, and

(vi) Washington ocean pink shrimp fee-share fishery, \$259,400.

(e) *Interest accrual inception.* Interest began accruing on each portion of the reduction loan amount on and from the date each such portion was disbursed.

(f) *Interest rate.* The reduction loan's interest rate is 6.97 percent. This is a fixed rate of interest for the full term of the reduction loan's life.

(g) *Repayment term.* For the purpose of determining fee rates, the reduction loan's repayment term shall be 30 years from March 1, 2004, but each fee shall continue for as long as necessary to fully repay each subamount.

(h) *Reduction loan.* The reduction loan shall be subject to the provisions of § 600.1012 of subpart L, except that:

(1) The borrower's obligation to repay the reduction loan shall be discharged by fish sellers in the reduction fishery and in each of the fee-share fisheries paying the fee applicable to each such fishery's subamount in accordance with § 600.1013 of subpart L, and

(2) Fish buyers in the reduction fishery and in each of the fee-share fisheries shall be obligated to collect the fee applicable to each such fishery's subamount in accordance with § 600.1013 of this subpart.

(i) *Fee collection, deposits, disbursements, records, and reports.* Fish buyers in the reduction fishery and in each of the fee share fisheries shall deposit and disburse, as well as keep records for and submit reports about, the fees applicable to each such fishery in accordance with § 600.1014 of this subpart, except that:

(1) *Deposit accounts.* Each fish buyer that this section requires to collect a fee shall maintain an account at a federally insured financial institution for the purpose of depositing collected fee revenue and disbursing the deposit principal directly to NMFS in accordance with paragraph (i)(3) of this section. The fish buyer may use this account for other operational purposes as well, but the fish buyer shall ensure that the account separately accounts for all deposit principal collected from the reduction fishery and from each of the six fee-share fisheries. The fish buyer shall separately account for all fee collections as follows:

(i) All fee collections from the reduction fishery shall be accounted for in a reduction fishery subaccount,

(ii) All fee collections from the California pink shrimp fee-share fishery

shall be accounted for in a California shrimp fee-share fishery subaccount,

(iii) All fee collections from the California coastal Dungeness crab fishery shall be accounted for in a California crab fee-share fishery subaccount,

(iv) All fee collections from the Oregon pink shrimp fee-share fishery shall be accounted for in an Oregon shrimp fee-share fishery subaccount,

(v) All fee collections from the Oregon coastal Dungeness crab fee-share fishery shall be accounted for in an Oregon crab fee-share fishery subaccount,

(vi) All fee collections from the Washington ocean pink shrimp fee-share fishery shall be accounted for in a Washington ocean shrimp fee-share fishery subaccount, and

(vii) All fee collections from the Washington coastal Dungeness crab fishery shall be accounted for in a Washington crab fee-share fishery subaccount;

(2) *Fee collection deposits.* Each fish buyer, no less frequently than at the end of each month, shall deposit, in the deposit account established under paragraph (i)(1) of this section, all collected fee revenue not previously deposited that the fish buyer collects through a date not more than two calendar days before the date of deposit. The deposit principal may not be pledged, assigned, or used for any purpose other than aggregating collected fee revenue for disbursement to the fund in accordance with paragraph (i)(3) of this section. The fish buyer is entitled, at any time, to withdraw interest (if any) on the deposit principal, but never the deposit fee principal itself, for the fish buyer's own use and purposes;

(3) *Deposit principal disbursement.* Not later than the 14th calendar day after the last calendar day of each month, or more frequently if the amount in the account exceeds the account limit for insurance purposes, the fish buyer shall disburse to NMFS the full deposit principal then in the deposit account, provided that the deposit principal then totals \$100 or more. If the deposit principal then totals less than \$100, the fish buyer need not disburse the deposit principal until either the next month during which the deposit principal then totals \$100 or more, or not later than the 14th calendar day after the last cal-

endar day of any year in which the deposit principal has not since the last required disbursement totaled \$100 or more, whichever comes first. The fish buyer shall disburse deposit principal by check made payable to the groundfish program's fund subaccount. The fish buyer shall mail each such check to the groundfish program's fund subaccount lockbox that NMFS establishes for the receipt of groundfish program disbursements. Each disbursement shall be accompanied by the fish buyer's fee collection report completed in the manner and form which NMFS specifies. NMFS will, before fee payment and collection begins, specify the groundfish program's fund subaccount lockbox and the manner and form of fee collection report. NMFS will do this by means of the notification in § 600.1013(d) of subpart L. NMFS' fee collection report instructions will include provisions for the fish buyer to specify the amount of each disbursement which was disbursed from the reduction fishery subaccount and/or from each of the six fee-share fishery subaccounts;

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

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

- (A) The date of delivery,
- (B) The fish seller's identity,
- (C) The weight, number, or volume of each species of fee fish delivered,
- (D) Information sufficient to specifically identify the fishing vessel which delivered the fee fish,
- (E) The delivery value of each species of fee fish,
- (F) The net delivery value of each species of fee fish,
- (G) The identity of the payor to whom the net delivery value is paid, if different than the fish seller,
- (H) The date the net delivery value was paid,
- (I) The total fee amount collected as a result of all fee fish, and

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(J) The total fee amount collected as a result of all fee fish from the reduction fishery and/or all fee fish from each of the six fee-share fisheries; and

(ii) For all collected fee deposits to, and disbursements of deposit principal from, the deposit account include:

(A) The date of each deposit,

(B) The total amount deposited,

(C) The total amount deposited in the reduction fishery subaccount and/or in each of the six fee-share fishery subaccounts,

(D) The date of each disbursement to the Fund's lockbox,

(E) The total amount disbursed,

(F) The total amount disbursed from the reduction fishery subaccount and/or from each of the six fee-share fishery subaccounts, and

(G) The dates and amounts of disbursements to the fish buyer, or other parties, of interest earned on deposits; and

(5) *Annual report.* No fish buyer needs to submit an annual report about fee fish collection activities unless, during the course of an audit under §600.1014(g), NMFS requires a fish buyer to submit such a report or reports.

(j) Other provisions. The reduction loan is, in all other respects, subject to the provisions of §600.1012 through applicable portions of §600.1017, except §600.1014(e).

[70 FR 40229, July 13, 2005, as amended at 71 FR 28, Jan. 3, 2006]

### § 600.1103 Bering Sea and Aleutian Islands (BSAI) Crab species program.

(a) *Purpose.* This section's purpose is to implement the program that Section 144(d) of Division B of Pub. L. 106-554, as amended by section 2201 of Pub. L. 107-20 and section 205 of Pub. L. 107-117, enacted for BSAI crab species.

(b) *Terms.* Unless otherwise defined in this section, the terms defined in §600.1000 expressly apply to the program for BSAI crab. Likewise, the terms defined in §679.2 of this chapter also apply to terms not otherwise defined in either §600.1000 or this section. The following terms used in this section have the following meanings for the purpose of this section:

*Acceptance* means NMFS' acceptance, on behalf of the United States, of a bid.

*Bid* means a bidder's irrevocable offer, in response to an invitation to bid under this section, to surrender, to have revoked, to have restricted, to relinquish, to have withdrawn, or to have extinguished by other means, in the manner this section requires, the bidder's reduction fishing interest.

*Bid amount* means the dollar amount of each bid.

*Bidder* means either a qualifying bidder bidding alone or a qualifying bidder and a co-bidder bidding together who at the time of bidding holds the reduction fishing interests specified at §600.1018(e).

*Bid crab* means the crab that NMFS determines each bidder's reduction/history vessel (see definition) harvested, according to the State of Alaska's records of the documented harvest of crab, from each reduction endorsement fishery and from the Norton Sound fishery during the most recent 5 calendar years in which each reduction endorsement fishery was for any length of time open for directed crab fishing during a 10-calendar-year period beginning on January 1, 1990, and ending on December 31, 1999.

*Bid score* means the criterion by which NMFS decides in what order to accept bids in the reverse auction this section specifies.

*Co-bidder* means a person who is not a qualifying bidder, but who at the time of bidding owns the reduction/privilege vessel this section requires to be included in a bid and is bidding together with a qualifying bidder.

*Crab* means the crab species covered by the Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs pursuant to §679.2 of this chapter.

*Crab license* means a License Limitation Program license for crab issued pursuant to §679.4(k)(5) of this chapter.

*Crab reduction permit* means a non-interim crab license endorsed for one or more reduction endorsement fisheries, regardless of whether it is also endorsed for the Norton Sound fishery.

*FSD* means NMFS' Financial Services Division, located in NMFS' Silver Spring, MD, headquarters office.

*Non-crab reduction permit* means a fishing license, including all of its predecessor history, for which a bidder