

(2) *When is take of Preble's meadow jumping mice allowed?* Take of Preble's meadow jumping mice resulting from the following legally conducted activities, in certain circumstances as described below, is allowed:

(i) *Take under permits.* Any person with a valid permit issued by the Service under § 17.32 may take Preble's meadow jumping mice pursuant to the terms of the permit.

(ii) *Rodent control.* Preble's meadow jumping mice may be taken incidental to rodent control undertaken within 10 feet of or inside any structure. "Rodent control" includes control of mice and rats by trapping, capturing, or otherwise physically capturing or killing, or poisoning by any substance registered with the Environmental Protection Agency as required by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) and applied consistent with its labeling. "Structure" includes but is not limited to any building, stable, grain silo, corral, barn, shed, water or sewage treatment equipment or facility, enclosed parking structure, shelter, gazebo, bandshell, or restroom complex.

(iii) *Established, ongoing agricultural activities.* Preble's meadow jumping mice may be taken incidental to agricultural activities, including grazing, plowing, seeding, cultivating, minor drainage, burning, mowing, and harvesting, as long as these activities are established, ongoing activities and do not increase impacts to or further encroach upon the Preble's meadow jumping mouse or its habitat. New agricultural activities or those that expand the footprint or intensity of the activity are not considered to be established, ongoing activities.

(iv) *Maintenance and replacement of existing landscaping.* Preble's meadow jumping mice may be taken incidental to the maintenance and replacement of any landscaping and related structures and improvements, as long as they are currently in place and no increase in impervious surfaces would result from their maintenance and improvement. Construction of new structures or improvements or expansion of the landscaping in a manner that increases impervious surfaces would not be considered maintenance and replacement of existing landscaping.

(v) *Existing uses of water.* Preble's meadow jumping mice may be taken incidentally as a result of existing uses of water associated with the exercise of perfected water rights pursuant to State law and interstate compacts and decrees. (A "perfected water right" is a right that has been put to beneficial use and has been permitted, decreed, or

adjudicated pursuant to State law.) Increasing the use or altering the location of use of an existing water right would not be considered an existing use of water.

(3) *When is take of Preble's not allowed?*

(i) Any manner of take not described under paragraph (1) (2) of this section.

(ii) No person may import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any Preble's meadow jumping mice.

(iii) No person, except for an authorized person may possess, sell, deliver, carry, transport, or ship any Preble's meadow jumping mice that have been taken illegally.

(4) *How long is this rule effective?* This rule is effective for a period of 36 months from May 22, 2001.

(5) *Where does this rule apply?* The take exemptions provided by this rule are applicable within the entire range of the Preble's meadow jumping mouse.

Dated: March 27, 2001.

**Joseph E. Doddridge,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[Docket No. 010119022-1113-02; I.D. 120800A]

RIN 0648-AO89

#### Magnuson-Stevens Fishery Conservation and Management Act; Amendment of Foreign Fishing Fee Table

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to amend the fee table for foreign vessels fishing in the U.S. Exclusive Economic Zone (EEZ). The intent of this action is to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which requires the establishment of a schedule of reasonable fees that apply non-discriminatorily to each foreign fishing nation.

**DATES:** Effective June 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Robert A. Dickinson, 301-713-2276

#### SUPPLEMENTARY INFORMATION:

Regulations at 50 CFR part 600, subpart F govern foreign fishing under the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The regulations provide for the application and issuance of foreign fishing permits under provisions of section 204 (b) of the Magnuson-Stevens Act. Under section 204 (b), foreign vessels may be permitted to catch, process, scout, support and transship in the EEZ.

Section 204 (b)(10) of the Magnuson-Stevens Act requires the establishment of a schedule of reasonable fees to apply non-discriminatorily to each foreign fishing nation. Regulations at 50 CFR 600.518 require, among other things, that foreign vessels authorized to directly harvest fish in the EEZ pay fees based on the number of metric tons of allocated species harvested. The species potentially available for foreign fishing and the fees associated with those species are found in the table at 50 CFR 600.518 (b)(1). In a proposed rule published on March 8, 2001, at 66 FR 13870, NMFS proposed to amend this table by removing species no longer available for allocation, clarifying listings for certain species appearing in the table, adding Atlantic herring as an allocable species, and establishing the fees to be paid for the resulting list of allocable species.

NMFS believes the fees and other changes to the table at 50 CFR 600.518 (b)(1) discussed in the proposed rule published on March 8, 2001, at 66 FR 13870, constitute, in accordance with section 204 (b)(10) of the Magnuson-Stevens Act, a schedule of reasonable fees to apply non-discriminatorily to each foreign fishing nation. The specific details of all the changes proposed for the table at 50 CFR 600.518 (b)(1) are discussed in the preamble to the proposed rule published on March 8, 2001, at 66 FR 13870, and are not repeated here. The fees and other changes are adopted as final. No comments were received regarding the proposed rule published on March 8, 2001, at 66 FR 13870.

Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

#### Classification

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding the economic impacts of this action on small entities. As a result, the basis for the certification has not changed and a regulatory flexibility analysis was not prepared.

#### List of Subjects in 50 CFR Part 600

Fisheries, Fishing, Foreign relations, Intergovernmental relations.

Dated: May 16, 2001.

**Clarence Pautzke,**

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

For the reasons set out in the preamble, 50 CFR Chapter VI is amended as follows:

#### PART 600—MAGNUSON-STEVENSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

**Authority:** 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.518 (b)(1), the table is revised to read as follows:

#### § 600.518 Fee schedule for foreign fishing.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

**TABLE—SPECIES AND POUNDAGE FEES**  
[Dollars per metric ton]

Species	Pound- age fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish .....	277.96
2. Herring, Atlantic .....	25.75
3. Herring, River .....	49.59
4. Mackerel, Atlantic .....	64.76
5. Other finfish .....	45.48
6. Squid, <i>Illex</i> .....	97.56
7. Squid, <i>Loligo</i> .....	321.68

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 010112013-1013-01; I.D. 051401A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by the Offshore Component in the Western Regulatory Area in the Gulf of Alaska

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

**ACTION:** Modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area in the Gulf of Alaska (GOA). This action is necessary to fully use the 2001 total allowable catch (TAC) of Pacific cod in the Western Regulatory Area.

**DATES:** Effective 1200 hrs, Alaska local time, May 18, 2001.

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

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

The 2001 A season Pacific cod TAC apportioned to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA is 1,098 metric tons (mt) as established by the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001).

NMFS closed the directed fishery for Pacific cod to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area under § 679.20(d)(1)(i) on April 26, 2001 (66 FR 21691, May 1, 2001).

NMFS has determined that approximately 250 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to allow full use of the Pacific cod TAC constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to allow full use of the Pacific cod TAC constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. In addition, this action relieves a restriction on the harvest of Pacific cod in the Western Regulatory Area of the Gulf of Alaska. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: May 16, 2001.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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