

violation of 47 U.S.C. 325 (b)(1) has occurred;

(3) The retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under 47 U.S.C. 338 as against the satellite carrier for the relevant period; or

(4) The television broadcast station whose signal is being retransmitted is a noncommercial television broadcast station.

(b) [Reserved]

#### **§ 1.6006 Counting of violations.**

Each day of retransmission without consent of a particular television broadcast station to one or more persons in the local market of the station shall be considered a separate violation of 47 U.S.C. 325(b)(1).

#### **§ 1.6007 Burden of proof.**

With respect to each alleged violation, the burden of proof shall be on a television broadcast station to establish that the satellite carrier retransmitted the station to at least one person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under § 1.6005(a)(1).

#### **§ 1.6008 Determinations.**

(a) *In General.* Within forty five (45) days after the filing of a complaint, the Commission shall issue a final determination in any proceeding brought under this subsection. The Commission's final determination shall specify the number of violations committed by the satellite carrier. The Commission shall hear witnesses only if it clearly appears, based on the written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on the written filings by the parties.

(b) *Discovery.* The Commission may direct the parties to exchange pertinent documents, and if necessary, to take prehearing depositions, on such schedule as the Commission may approve, but only if the Commission first determines that such discovery is necessary to resolve a genuine dispute about material facts, consistent with the obligation to make a final determination within forty five (45) days. In this connection, the Commission may utilize the discovery or other evidentiary procedures set forth in §§ 1.311 through 1.364 of the Commission's rules.

#### **§ 1.6009 Relief.**

If the Commission determines that a satellite carrier has retransmitted the

television broadcast station to at least one person in the local market of such station and has failed to meet its burden of proving one of the defenses under § 1.6005 (a)(2) through (a)(4) with respect to such retransmission, the Commission shall:

(a) Make a finding that the satellite carrier violated 47 U.S.C. 325(b)(1) with respect to that station; and

(b) Issue an order, within forty-five (45) days after the filing of the complaint, containing—

(1) A cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with 47 U.S.C. 325(b)(1) with respect to such station;

(2) If the satellite carrier is found to have violated 47 U.S.C. 325(b)(1) with respect to more than two television broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local market of the stations identified in the cease-and-desist order, until such time as the Commission, after giving notice to the station, determines that the satellite carrier is in compliance with 47 U.S.C. 325(b)(1) with respect to such stations; and

(3) An award to the complainant of that complainant's costs and reasonable attorney's fees. Such award shall be made only after the complainant submits appropriate documentation in support of its request.

(c) Any cease-and-desist order issued hereunder shall include a statement of findings and the grounds therefor, shall specify the effective date of the order, and shall be served by the Commission upon the satellite carrier to which such order is directed.

#### **§ 1.6010 Reporting of remedial measures.**

Any satellite carrier found to have violated Section 47 U.S.C. 325(b)(1) shall, upon receipt of the cease-and-desist order, immediately take all necessary steps to comply with the statute. Within two (2) days of receipt of the cease-and-desist order, the satellite carrier shall notify the Secretary of the Commission of steps taken to comply with the statute by written submission. The submission certified by the satellite carrier's chief executive officer shall also contain a copy of the pertinent cease-and-desist order, and shall be delivered to the Secretary of the Commission by means of one commonly

used overnight delivery service, in addition to a copy delivered by United States mail.

#### **§ 1.6011 Effective date.**

The rules in section 1.6000 through section 1.6009 shall become effective May 30, 2000. Section 1.6010 contains information collection requirements that are not effective until approved by the Office of Management and Budget. The effective date for this section will be announced by the Commission in the *Federal Register*.

#### **§ 1.6012 Sunset provisions.**

No complaint may be filed under this rule section after December 31, 2001. This rule subpart shall continue to apply to any complaint filed on or before such date. *See* 47 U.S.C. 325 (e)(12).

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 000211040-0040-01; I.D. 022300A]

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Trawling in Steller Sea Lion Critical Habitat in the Central Aleutian District of the Bering Sea and Aleutian Islands**

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

**ACTION:** Modification of a closure.

**SUMMARY:** NMFS is opening trawling within Steller sea lion critical habitat in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully utilize the critical habitat percentage of the 2000 harvest specifications of Atka mackerel allocated to the Central Aleutian District.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 23, 2000 until April 15, 2000.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area

(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 A season apportionment of the 2000 total allowable catch for Atka mackerel in the Central Aleutian District is 11,424 metric tons (mt), of which no more than 7,654 mt may be harvested from critical habitat (65 FR 8282, February 18, 2000). See § 679.20(c)(3)(iii) and 679.22(a)(8)(iii)(B).

In accordance with § 679.22(a)(8)(iii)(A), Steller Sea lion critical habitat in the Central Aleutian District was closed to trawl gear to prevent exceeding the percentage of the interim harvest specifications of Atka mackerel allocated to the Central Aleutian District on February 10, 2000 (65 FR 7461, February 15, 2000). NMFS has determined that as of February 12, 2000, approximately 1,500 mt remains in the critical habitat percentage of the 2000 harvest specifications of Atka mackerel allocated to the Central Aleutian District.

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the critical habitat percentage of the interim harvest specifications of Atka mackerel established for this District has not been caught. Therefore, NMFS is terminating the previous closure and is opening trawling in critical habitat, as defined at 50 CFR part 226, Table 1 and Table 2 in the Central Aleutian District of the BSAI. All other closures remain in full force and effect.

#### Classification

This action responds to the best available information recently obtained

from the fishery. It must be implemented immediately to fully utilize the critical habitat percentage of the 2000 harvest specifications of Atka mackerel established for this District. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. 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 E.O. 12866.

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

Dated: February 23, 2000.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 991128352-0012-02; I.D. 011100D]

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

**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; correction.

**SUMMARY:** This document contains corrections to the emergency interim rule to implement major provisions of the American Fisheries Act (AFA) and revise interim 2000 harvest specifications.

**DATES:** Effective January 21, 2000.

**FOR FURTHER INFORMATION CONTACT:** Kent Lind, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fisheries off Alaska according to the Fishery Management Plans (FMPs) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Groundfish of the Gulf of Alaska (GOA) prepared by the North Pacific Fishery Management Council under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMPs are at subpart H of 50 CFR part 600 and at 50 CFR part 679.

#### Correction

In the emergency interim rule, To Implement Major Provisions of the American Fisheries Act, published in the **Federal Register** on January 28, 2000 (65 FR 4520), FR DOC 00-1832, page 4533, under Table 5—INTERIM 2000 BSAI AFA CATCHER VESSEL (CV) SIDEBORDS. AMOUNTS ARE EXPRESSED IN METRIC TONS—Continued:

1. In the 3rd column, under “Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC”, remove the fourth entry “0.7291” and add in its place “0.7703”; and in the 5th column, “2000 catcher vessel sideboards”, remove the fourth entry “30,588” and add in its place “32,316”.

2. In Table 5, add the following entry at the end of the table to read as follows:

TABLE 5.—INTERIM 200 BSAI AFA CATCHER VESSEL (CV) SIDEBORDS. 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 vessel side- boards
* * * * *	*	*	*	*
Flathead Sole .....	BS trawl gear	0.0490	44,755	2,193

\* \* \* \* \*

3. In Table 6, the entry “Pollock” and footnote 1 are correctly revised to read as follows: