

hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

#### List of Subjects in 40 CFR Part 271

Environmental protection,  
Administrative practice and procedure,  
Confidential business information,  
Hazardous waste transportation,  
Hazardous waste, Indian lands,  
Intergovernmental relations, Penalties,  
Reporting and recordkeeping  
requirements, Water pollution control,  
Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 20, 1996.

Jane N. Saginaw,

*Regional Administrator.*

[FR Doc. 96-7604 Filed 3-27-96; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 677

[Docket No. 960311066-6066-01; I.D. 030596C]

RIN 0648-A167

#### North Pacific Fisheries Research Plan; Fee Refund

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** NMFS issues an interim final rule that will discontinue the 1995 North Pacific Fisheries Research Plan (Research Plan) fee collection process, authorize the issuance of annual Federal processor permits without regard to payment of Research Plan fees, and refund all fees collected (approximately \$5.6 million) by NMFS under the Research Plan, along with accrued interest. A refund procedure is outlined that describes how Research Plan refund recipients will be identified, how the refunds will be calculated, and how and when refund checks will be disbursed. This action is necessary to respond to the North Pacific Fishery Management Council's (Council) vote at its December 1995 meeting to repeal the Research Plan. It is intended to terminate the

collection of fees authorized by the Research Plan.

**DATES:** Effective March 25, 1996.

Comments must be received on or before April 29, 1996, (See **ADDRESSES**).

**ADDRESSES:** Comments on the interim final rule may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 W. 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

**FOR FURTHER INFORMATION CONTACT:** Kim S. Rivera, 907-586-7228.

#### SUPPLEMENTARY INFORMATION:

##### Background

A final rule implementing the Research Plan was published in the Federal Register on September 6, 1994 (59 FR 46126), under the authority of section 313 of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended by section 404 of the High Seas Driftnet Fisheries Enforcement Act, Public Law 102-582. The Research Plan includes a fee collection program to pay for the costs of observer coverage for all fisheries under the Council's jurisdiction, except salmon fisheries. Full implementation of the Research Plan was delayed until 1997 (60 FR 66755, December 26, 1995) after the Council requested additional time to reconsider certain elements of the Research Plan that it had previously adopted. At its December 1995 meeting, the Council voted to repeal the Research Plan and its associated fee-based funding mechanism and requested NMFS to develop rulemaking for an alternative to the Research Plan and to refund the Research Plan fees collected in 1995.

As a result of the Council's action, NMFS intends to halt the administrative process necessary for full implementation of the Research Plan. This includes the billing of Research Plan fee assessments, collection of fee payments, and the requirement for Research Plan fees to be fully paid prior to issuance of Federal processor permits. Furthermore, NMFS will refund all monies, including accrued interest, deposited in the North Pacific Fishery Observer Fund (Observer Fund) to the processors that were billed and made direct payments to NMFS. Refund checks will be issued as soon as administratively possible.

Without the fee collection process in place, a justification for a semiannual Federal processor permit no longer exists. Therefore, the requirement is revised and the Federal processor permit will be issued annually.

In 1995, fee assessments were billed for the first four bimonthly billing periods and over \$5.6 million was collected from Research Plan processors. Two more bimonthly fee assessments were scheduled to complete the 1995 billings. They will not be issued. Regulations at § 677.6(b) are revised to indicate that 1995 fee assessments were required only through August 31, 1995. To be consistent with the revised 1995 billing period, regulations at § 677.6(d) also are changed to indicate a January 1 through August 31, 1995, period.

Beginning in 1996, Federal processor permits will be issued for the entire calendar year rather than for a semiannual period. As a result, Federal processor permits issued in 1996 will be effective for the period January 1, 1996, through December 31, 1996. Regulations at § 677.4(b)(1) and (c)(1) will be revised to indicate that the Federal processor permits are issued annually and regulations at § 677.4(e) will be revised to indicate that the duration of an issued Federal processor permit is for the period January 1 through December 31. Issuance of Federal processor permits will not depend upon payment of past due Research Plan fees. Regulations at § 677.4(c)(2) are revised to remove language requiring payment of Research Plan fees as a condition of Federal processor permit issuance.

NMFS intends to refund in its entirety the \$5.6 million collected under the Research Plan and the interest earned on fee payments deposited in the Observer Fund. Refunds will be issued to Research Plan processors using a procedure set forth in a new paragraph at § 677.6(g). Reference to refunds at § 677.6(d)(3)(ii) is no longer applicable and is removed.

NMFS collected fees only from processors. NMFS did not collect fees directly from fishermen and does not have the necessary information to provide refunds to fishermen. NMFS expects processors to refund to fishermen any Research Plan fees collected from fishermen. NMFS encourages fishermen who paid Research Plan fees to one or more processors to coordinate directly with those processors to obtain their portion of the Research Plan refund.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA) finds that relieving certain conditions specified at § 677.4(b)(1), (c), and (e) for processor permit issuance and at § 677.6 (b) and (d) for 1995 fee assessments removes a regulatory burden. Given that the Research Plan has not been fully

implemented and that the industry did not receive any observer services for their paid fees, NMFS should return all fees paid, including any interest accrued, and amounts for late payment as soon as possible. The AA finds good cause to waive the requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B). To the extent that NMFS is returning Research Plan fees to those who are entitled to those fees, opportunity for comment is unnecessary. NMFS finds that it would be contrary to the public interest to delay these refunds further in order to provide prior notice and opportunity to comment on the procedural aspects of this rule. Such a delay may cause economic injury to persons entitled to a refund. Similarly, because this interim final rule relieves restrictions listed above, the AA finds that this rule, as authorized by 5 U.S.C. 553(d)(1), may be made effective upon filing for public inspection at the Office of the Federal Register. Comments must be received on or before April 29, 1996, (See **ADDRESSES**).

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collections of this information have been approved by the Office of Management and Budget, OMB control numbers 0648-0206 (Processor Permit Application) and 0648-0280 (dispute resolution process). The time estimate for documentation of disputed bills is 1 hr per response. This final rule relieves a reporting burden by changing the Federal processor permit application authorized under § 677.4 from a semiannual to an annual requirement. The annual application process will reduce by 50 percent the total burden hours associated with the issuance of Federal processor permits and result in an estimated total annual reporting burden equal to about 200 hours for an estimated 400 Research Plan processors who applied for a Federal processor permit to date in 1996.

No environmental consequences are anticipated beyond those already analyzed in the environmental assessment (EA) prepared for the Research Plan and therefore this interim final rule is categorically excluded from the requirement to prepare an EA in accordance with NAO 216-6.

This interim final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 677

Fisheries, Reporting and recordkeeping requirements.

Dated: March 22, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service

For the reasons set out in the preamble, 50 CFR part 677 is amended as follows:

#### **PART 677—NORTH PACIFIC FISHERIES RESEARCH PLAN**

1. The authority citation for 50 CFR part 677 continues to read as follows:

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

2. In § 677.4, paragraphs (b)(1), (c)(1), (c)(2), and (e) are revised to read as follows:

##### **§ 677.4 Permits.**

\* \* \* \* \*

(b) \* \* \*

(1) The year for which the permit is requested.

\* \* \* \* \*

(c) *Issuance.* (1) Permits required under this section will be issued annually by the Regional Director.

(2) The Regional Director will issue a permit required under paragraph (a) of this section upon receipt of a complete application. Upon receipt of an incomplete or improperly completed application, the Regional Director will notify the applicant of the deficiency. No permit will be issued to an applicant until a complete application is submitted.

\* \* \* \* \*

(e) *Duration.* The processor permit issued by the Regional Director will continue in full force and effect through December 31, of the year for which it is issued, or until it is revoked, suspended, or modified under part 621 (Civil Procedures) of this chapter.

\* \* \* \* \*

3. In § 677.6, the heading to paragraph (b)(1) is revised, paragraph (b)(2) is revised, the heading for paragraph (d) is revised, paragraph (d)(3)(ii) is removed and reserved, and a new paragraph (g) is added to read as follows:

##### **§ 677.6 Research Plan fee.**

\* \* \* \* \*

(b) \* \* \*

(1) *Fee assessments applicable from January 1, 1995, through August 31, 1995.*

\* \* \* \* \*

(2) *Fee assessments from September 1, 1995, through December 31, 1996.* Processors of Research Plan fisheries will not be assessed fees based on catch from Research Plan fisheries that is retained during the period September 1, 1995, through December 31, 1996.

\* \* \* \* \*

(d) *Credit for observer coverage costs incurred from January 1, 1995, through August 31, 1995.*

\* \* \* \* \*

(g) *Refund of the North Pacific Fishery Observer Fund (Observer Fund)—(1) General.* All monies in the Observer Fund will be refunded according to the refund procedure set out in paragraph (g)(2) of this section. The sum of all amounts refunded cannot exceed the amount available in the Observer Fund. The monies in the Observer Fund include: Fee assessment payments as specified in paragraph (c) of this section, assessed late charges in the form of interest and administrative charges for late payment of fee assessments as specified in paragraph (f) of this section, and accrued interest. Until the time of refund, monies will remain deposited in the Observer Fund earning interest. Without exception, full disbursement of the Observer Fund will occur to refund Research Plan processors. NMFS will not retain any funds either to reimburse programs for costs incurred to implement the Research Plan or to issue refunds.

(2) *Refund procedure—(i) Identification of the Research Plan refund recipient.* Research Plan fees will be refunded to the person who was billed and made payment to NMFS. The recipient of the refund and the refund amount will be based on Federal processor permit records and Research Plan billing with the following exceptions:

(A) If a refund recipient has died, the refund will be issued to the recipient's estate;

(B) If a refund recipient is a corporation and has gone bankrupt, successor-in-interest guidelines, as set forth in applicable state law, will be followed.

(i) *Calculation of the refund amount—(A) Principal portion.* All payment amounts as assessed under paragraphs (c) and (f) of this section, and paid by processors, will be verified by NMFS in the Research Plan billing records and will constitute the principal portion of the refund.

(B) *Interest portion—(1) Basis of calculation and calculation formula.* The interest earned by the principal portion invested in the Observer Fund will be distributed among paying processors based on their proportional contribution to the Observer Fund. Contributions are based on two factors: The processor's total payment amount and the number of days the processor's total payment amount was on deposit. The interest portion of the refund will be calculated as follows:

(ii) *Calculation of the refund amount—(A) Principal portion.* All payment amounts as assessed under paragraphs (c) and (f) of this section, and paid by processors, will be verified by NMFS in the Research Plan billing records and will constitute the principal portion of the refund.

(B) *Interest portion—(1) Basis of calculation and calculation formula.* The interest earned by the principal portion invested in the Observer Fund will be distributed among paying processors based on their proportional contribution to the Observer Fund. Contributions are based on two factors: The processor's total payment amount and the number of days the processor's total payment amount was on deposit. The interest portion of the refund will be calculated as follows:

(i) A processor's total payment amount multiplied by the number of days the processor's total payment amount was on deposit equals the processor's contribution (the number of days is based on the payment receipt date at the First National Bank of Chicago) (for example, if a processor's total payment amount was \$20,000 and this amount was on deposit for 150 days, then the processor's contribution is  $\$20,000 \times 150 = \$3,000,000$ );

(ii) A processor's contribution divided by the total amount of all processor contributions multiplied by 100 equals the processor's percent contribution to the Observer Fund [for example, if the total amount of all processor contributions is \$750,000,000 ( $\$5,000,000 \times 150$  days), then the processor's percent contribution is  $\$3,000,000 / \$750,000,000 \times 100 = 0.4\%$ ];

(iii) A processor's percent contribution multiplied by the total amount of interest earned by the Observer Fund equals the processor's interest portion of the Research Plan refund (for example, if the total amount of interest earned by the Observer Fund is \$200,000, then the processor's interest portion of the Research Plan refund is  $0.4\% \times \$200,000 = \$800$ ).

(2) *Interest calculation method.* This method is necessary to ensure that the interest that is refunded does not exceed the interest amount that was earned and is available in the Observer Fund. Due to the administrative process used to invest the funds, certain delays existed between the date a processor made payment and the actual investment date.

The date of payment is not the date the deposits were invested. Therefore, using the date of payment to calculate interest earned on an individual processor's payments will not accurately reflect the interest that was actually earned. NMFS has determined that the calculation specified in paragraph (g)(2)(ii)(B)(1) of this section is a fair and equitable way to distribute the interest earned on Observer Fund investments among the processors that made Research Plan payments.

(3) *Disinvestment of the Observer Fund.* The interest portion of the refund cannot be calculated until Observer Fund investments are withdrawn. Withdrawal of investments will occur just prior to the earliest possible issuance of refund checks in order to avoid unwarranted loss of interest. The actual amount of a processor's interest portion of the refund will be evident upon receipt of the refund check.

(iii) *Notification to processors of refund amounts.* NMFS will notify each processor by certified mail of a preliminary determination of the principal portion of the refund amount. The sum of the payment amounts received for each processor equals the principal portion of the Research Plan refund. Final determination of a processor's principal portion is subject to resolution of all disputes received under paragraph (g)(2)(iv) of this section. The notification letter to each processor will include the following itemized reference information:

(A) Payment amount received;

(B) Payment receipt date at the First National Bank of Chicago;

(C) Check number;

(D) Research Plan bill number to which the payment was applied, and;

(E) The fishery category to which the payment was applied.

(iv) *Dispute process.* A processor that disagrees with any determination of the principal portion of the refund amount as described in paragraph (g)(2)(ii)(A) of this section must sign the certified notification letter and return it to NMFS within 30 days of receipt of the certified letter, accompanied by documentation supporting the disputed principal portion of the refund amount.

(A) *NMFS review.* NMFS will review letters and documentation received under paragraph (g)(2)(iv); and

(B) *NMFS determination—(1)* If NMFS determines an error exists in the calculation of the principal portion of refund amounts, NMFS will correct such calculations and notify the affected processors of its determination; or

(2) If NMFS determines no error exists in the calculation of the principal portion of refund amounts, NMFS will notify the affected processors of its determination.

(v) *Disbursement of refund checks.* Once all disputes received under paragraph (g)(2)(iv) of this section have been resolved, NMFS will authorize and provide necessary documentation for refund checks to be disbursed by the United States Treasury.

[FR Doc. 96-7612 Filed 3-25-96; 4:31 pm]

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