

contact the appropriate Regional Administrator or the Director.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

**§ 600.517 Allocations.**

The Secretary of State, in cooperation with the Secretary, determines the allocation among foreign nations of fish species and species groups. The Secretary of State officially notifies each foreign nation of its allocation. The burden of ascertaining and accurately transmitting current allocations and status of harvest of an applicable allocation to fishing vessels is upon the foreign nation and the owner or operator of the FFV.

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

(a) *Permit application fees.* Each vessel permit application submitted under § 600.501 must be accompanied by a fee of \$354 per vessel, plus the surcharge, if required under paragraph (e) of this section, rounded to the nearest dollar. At the time the application is submitted to the DOS, a check for the fees, drawn on a U.S. bank, made out to "Department of Commerce, NOAA," must be sent to the Director. The permit fee payment must be accompanied by a list of the vessels for which the payment is made.

(b) *Poundage fees—(1) Rates.* If a Nation chooses to accept an allocation, poundage fees must be paid at the rate specified in the following table, plus the surcharge required by paragraph (c) of this section.

TABLE—SPECIES AND POUNDAGE FEES  
[Dollars per metric ton, unless otherwise noted]

Species fees	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish .....	274.61
2. Hake, red .....	163.97
3. Hake, silver .....	174.63
4. Herring .....	61.76
5. Mackerel, Atlantic .....	58.33
6. Other groundfish .....	119.09
7. Squid, <i>Illex</i> .....	103.98
8. Squid, <i>Loligo</i> .....	245.73

(2) *Method of payment of poundage fees, surcharges and observer fees.* (i) If a Nation chooses to accept an allocation, a revolving letter of credit (L/C) must

be established and maintained to cover the poundage fees for at least 25 percent of the previous year's total allocations at the rate in paragraph (b)(1) of this section, or as determined by the Assistant Administrator, plus the surcharges and observer fees required by paragraphs (c) and (d) of this section. The L/C must—

- (A) Be irrevocable.
  - (B) Be with a bank subscribing to ICC Pub. 290.
  - (C) Designate "Department of Commerce, NOAA" as beneficiary;
  - (D) Allow partial withdrawals.
  - (E) Be confirmed by a U.S. bank.
- (ii) The customer must pay all commissions, transmission, and service charges. No fishing will be allowed until the L/C is established, and authorized written notice of its issuance is provided to the Assistant Administrator.

(3) *Assessment of poundage fees.* Poundage fees will be assessed quarterly for the actual catch during January through March, April through June, July through September, and October through December. The appropriate Regional Administrator will reconcile catch figures with each country following the procedures of § 600.511(d). When the catch figures are agreed upon, NOAA will present a bill for collection as the documentary demand for payment to the confirming bank. If, after 45 days from the end of the quarter, catches have not been reconciled, the estimate of the Regional Administrator will stand and a bill will be issued for that amount. If necessary, the catch figures may be refined by the Regional Administrator during the next 60 days, and any modifications will be reflected in the next quarter's bill.

(c) *Surcharges.* The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraph (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of

20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator has effectively waived the surcharge until further notice.

(d) *Observer fees.* The Assistant Administrator will notify the owners or operators of FFV's of the estimated annual costs of placing observers aboard their vessels. The owners or operators of any such vessel must provide for repayment of those costs by including one-fourth of the estimated annual observer fee as determined by the Assistant Administrator in a L/C as prescribed in §600.518(b)(2). During the fiscal year, payment will be withdrawn from the L/C as required to cover anticipated observer coverage for the upcoming fishery. The Assistant Administrator will reconcile any differences between the estimated cost and actual costs of observer coverage within 90 days after the end of the fiscal year.

(e) *Financial assurances.* (1) A foreign nation, or the owners and operators of certain vessels of that foreign nation, may be required by the Assistant Administrator to provide financial assurances. Such assurances may be required if—

(i) Civil and criminal penalties assessed against fishing vessels of the Nation have not effectively deterred violations;

(ii) Vessels of that Nation have engaged in fishing in the EEZ without proper authorization to conduct such activities;

(iii) The Nation's vessel owners have refused to answer administrative charges or summons to appear in court; or

(iv) Enforcement of Magnuson-Stevens Act civil or criminal judgments in the courts of a foreign nation is unattainable.

(2) The level of financial assurances will be guided by the level of penalties assessed and costs to the U.S. Government.

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#### **§600.520 Northwest Atlantic Ocean fishery.**

(a) *Purpose.* Sections 600.520 and 600.525 regulate all foreign fishing conducted under a GIFA within the EEZ in

the Atlantic Ocean north of 35°00' N. lat.

(b) *Authorized fishery—(1) Allocations.* Foreign vessels may engage in fishing only in accordance with applicable national allocations.

(2) *Time and area restrictions.* (i) Fishing, including processing, scouting, and support of foreign or U.S. vessels, is prohibited south of 35°00' N. lat., and north and east of a line beginning at the shore at 44°22' N. lat., 67°52' W. long. and intersecting the boundary of the EEZ at 44°11'12" N. lat., 67°16'46" W. long.

(ii) The Regional Administrator will consult with the Council prior to giving notice of any area or time restriction. NMFS will also consult with the USCG if the restriction is proposed to reduce gear conflicts. If NMFS determines after such consultation that the restriction appears to be appropriate, NMFS will publish the proposed restriction in the FEDERAL REGISTER, together with a summary of the information on which the restriction is based. Following a 30-day comment period, NMFS will publish a final action.

(iii) The Regional Administrator may rescind any restriction if he/she determines that the basis for the restriction no longer exists.

(iv) Any notice of restriction shall operate as a condition imposed on the permit issued to the foreign vessels involved in the fishery.

(3) *TALFF.* The TALFFs for the fisheries of the Northwest Atlantic Ocean are published in the FEDERAL REGISTER. Current TALFFs are also available from the Regional Administrator.

(4) *Species definitions.* The category "other finfish" used in TALFFs and in allocations includes all species except:

(i) The other allocated species, namely: Short-finned squid, long-finned squid, Atlantic herring, Atlantic mackerel, river herring (includes alewife, blueback herring, and hickory shad), and butterfish.

(ii) The prohibited species, namely: American plaice, American shad, Atlantic cod, Atlantic menhaden, Atlantic redfish, Atlantic salmon, all marlin, all spearfish, sailfish, swordfish, black sea bass, bluefish, croaker, haddock, ocean pout, pollock, red hake, scup, sea turtles, sharks (except