

§ 679.73 Fee Collection Deposits, Disbursements, Records, & Reports

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**(a) Deposit accounts.**

Each fish buyer that this subpart requires to collect a fee shall maintain a segregated account at a federally insured financial institution for the sole purpose of depositing collected fee revenue and disbursing the fee revenue directly to NMFS in accordance with paragraph (c) of this section.

**(b) Fee collection deposits.**

Each fish buyer, no less frequently than at the end of each business week, shall deposit, in the deposit account established under paragraph (a) of this section, all fee revenue, not previously deposited, that the fish buyer has collected through a date not more than 2 calendar days before the date of deposit. Neither the deposit account nor the principal amount of deposits in the account may be pledged, assigned, or used for any purpose other than aggregating collected fee revenue for disbursement to the subaccount in accordance with paragraph (c) of this section. The fish buyer is entitled, at any time, to withdraw deposit interest, if any, but never deposit principal, from the deposit account for the fish buyer's own use and purposes.

**(c) Deposit principal disbursement.**

On the last business 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 amount of deposit principal then in the deposit account. The fish buyer shall do this by check made payable to "NOAA Inshore Component Pollock Loan Subaccount." The fish buyer shall mail each such check to the subaccount lockbox account that NMFS establishes for the receipt of the disbursements of deposit principal. Each disbursement shall be accompanied by the fish buyer's settlement sheet completed in the manner and form that NMFS specifies. NMFS will specify the subaccount's lockbox and the manner and form of settlement sheet by means of the notification in Sec. 679.72(b)(1).

**(d) 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:

- (1) For all deliveries of fee fish that the fish buyer buys from each fish seller:
  - (i) The date of delivery,
  - (ii) The fish seller's identity,
  - (iii) The round weight of fee fish delivered,
  - (iv) The identity of the fishing vessel that delivered the fee fish,
  - (v) The delivery value,
  - (vi) The net delivery value,
  - (vii) The identity of the party to whom the net delivery value is paid, if other than the fish seller,
  - (viii) The date the net delivery value was paid, and
  - (ix) The total fee amount collected;

- (2) For all fee collection deposits to and disbursements from the deposit account:
  - (i) The dates and amounts of deposits,
  - (ii) The dates and amounts of disbursements to the subaccount's lockbox account, and
  - (iii) The dates and amounts of disbursements to the fish buyer or other parties of interest earned on deposits.

**(e) Annual report.**

By January 15, 2001, and by each January 15 thereafter until the loan is fully repaid, each fish buyer shall submit to NMFS a report, on or in the form NMFS specifies, containing the following information for the preceding year for all fee fish each fish buyer purchases from fish sellers:

- (1) Total round weight bought;
- (2) Total delivery value paid;
- (3) Total fee amount collected;
- (4) Total fee collection amounts deposited by month;
- (5) Dates and amounts of monthly disbursements to the subaccount lockbox;

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(6) Total amount of interest earned on deposits;  
and

such data so as to preclude their identification with any fish buyer or any fish seller and use them in the aggregate for other purposes.

(7) Depository account balance at year-end.

***(f) State records.***

If landing records that a state requires from fish sellers contain some or all of the data that this section requires and state confidentiality laws or regulations do not prevent NMFS' access to the records maintained for the state, then fish buyers can use such records to meet appropriate portions of this section's recordkeeping requirements. If, however, state confidentiality laws or regulations make such records unavailable to NMFS, then fish buyers shall maintain separate records for NMFS that meet the requirements of this section.

***(i) Refunds.***

When NMFS determines that the loan is fully repaid, NMFS will refund any excess fee receipts, on a last-in/first-out basis, to the fish buyers. Fish buyers shall return the refunds, on a last-in/first-out basis, to the fish sellers who paid the amounts refunded.

***(g) Audits.***

NMFS or its agents may audit, in whatever manner NMFS believes reasonably necessary for the diligent administration of the loan, the financial records of the fish buyers and the fish sellers in order to ensure proper fee payment, collection, deposit, disbursement, accounting, recordkeeping, and reporting. Fish buyers and fish sellers shall make all records of all transactions involving fee fish catches, fish deliveries, and fee payments, collections, deposits, disbursements, accounting, recordkeeping, and reporting available to NMFS or its agents at reasonable times and places and promptly provide all requested information reasonably related to these records that such fish sellers and fish buyers may otherwise lawfully provide. Trip tickets (or similar accounting records establishing the round weight pounds of fee fish that each fish buyer buys from each fish seller each time that each fish buyer does so) are essential audit documentation.

***(h) Confidentiality of records.***

NMFS and its auditing agents shall maintain the confidentiality of all data to which NMFS has access under this section and shall neither release the data nor allow the data's use for any purpose other than the purpose of this subpart, unless otherwise required by law; provided, however, that NMFS may aggregate