

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 64 and 68**

[CC Docket No. 92-90; FCC 97-117]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Order on Further Reconsideration**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: On April 10, 1997, the Commission released an Order on Further Reconsideration clarifying that a facsimile broadcast service provider must ensure that the identifying information of the entity on whose behalf the provider sent facsimile messages appears on messages. We determine that the sender of a facsimile message is the creator of the content of the message. The Order on Further Reconsideration is intended to alert the industry and the general public that a facsimile message must include the identification of the business, other entity, or individual creating or originating the message.

EFFECTIVE DATE: May 23, 1997.**ADDRESSES:** Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.**FOR FURTHER INFORMATION CONTACT:** Renee Alexander, Attorney, Network Services Division, Common Carrier Bureau, (202) 418-2497.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Order on Further Reconsideration, FCC 97-117, adopted April 3, 1997, and released April 10, 1997. The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., NW., Washington DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2100 M St., NW., Suite 140, Washington, DC 20037, phone (202) 857-3800.

Analysis of Proceeding

In the Order on Further Reconsideration, the Commission reconsiders our determination in the Memorandum Opinion and Order (60 FR 42068, August 15, 1995) that a facsimile broadcast service provider must ensure that its identifying information and the identifying information of the entity on whose behalf it sent facsimile messages must

appear on the messages. The Commission finds that the sender of a facsimile message is the creator of the content of the message. Thus, the Commission concludes that Section 227(d)(1) of the Telephone Consumer Protection Act of 1991, Public Law 102-243 (1991), mandates that a facsimile message must include the identification of the business, other entity, or individual creating or originating that message and not the entity that transmits the message.

Ordering Clauses

Accordingly, pursuant to Sections 4(i), 227(d)(2) and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 227(d)(2) and 405(a), and Section 1.106 of the Commission's Rules, 47 CFR § 1.106, it is ordered, that MCI's petition for clarification or, in the alternative, reconsideration is granted.

List of Subjects*47 CFR Part 64*

Communications common carriers, Telephone.

47 CFR Part 68

Communications equipment, Telephone.

Federal Communications Commission.

William F. Caton,*Acting Secretary.*

[FR Doc. 97-10426 Filed 4-22-97; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Parts 674 and 679**

[Docket No. 970326069-7069-01; I.D. 022597F]

RIN 0648-AJ38

Fisheries of the Exclusive Economic Zone Off Alaska; High Seas Salmon Fishery Off Alaska**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Final rule and technical amendment.

SUMMARY: NMFS is consolidating 50 CFR part 674 into 50 CFR part 679 as part of the President's Regulatory Reform Initiative. NMFS is also correcting a technical error in regulations implementing pelagic trawl performance standards for the Alaska

groundfish trawl fleet. NMFS is also correcting cross-references contained in the Individual Fishing Quota program and in the recordkeeping and reporting requirements.

EFFECTIVE DATE: May 23, 1997.**ADDRESSES:** Comments on the collection-of-information requirements repromulgated by this rule may be sent to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB)(0648-0206), Washington, DC 20503, and to Patsy A. Bearden, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, NMFS, 907-586-7228.**SUPPLEMENTARY INFORMATION:****Final Rule**

The Magnuson-Stevens Fishery Conservation and Management Act authorizes the North Pacific Fishery Management Council (Council) to prepare and amend fishery management plans for any fishery in waters under its jurisdiction. In December 1978, the Council prepared the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° E. Long. (Salmon FMP) and submitted it to the Secretary of Commerce (Secretary) for approval. On May 3, 1979, the Secretary approved the Salmon FMP, and it was implemented in May 1979 by Federal regulations at 50 CFR part 674.

As a result of the President's Regulatory Reform Initiative (61 FR 31228, June 19, 1996), NMFS removed parts 671, 672, 673, 675, 676, and 677 of title 50 CFR and consolidated the regulations contained therein into one new part, 50 CFR part 679. The consolidation of 50 CFR part 674, the regulations implementing the Salmon FMP, was delayed due to extensive review of the management of the High Seas Salmon Fishery by NMFS. This final rule removes 50 CFR part 674 and consolidates the regulations contained therein into 50 part 679. This action provides the public with a single reference source for the Federal fisheries regulations specific to the EEZ off Alaska and results in regulations that are more concise and easier to use.

Technical Amendment

Regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area appear at 50 CFR part 679. Due to the complexity of the consolidation of the six parts into part

679 and the reorganization of material contained therein, an error was introduced into the regulatory text. The original intent of regulations at § 679.7(b) and (c)(3) was to prohibit the possession of 20 or more crabs by the operator of a vessel using trawl gear when directed fishing with nonpelagic trawl gear is prohibited. The final rule implementing this provision was published in the **Federal Register** on July 26, 1993 (58 FR 39680), and correctly implemented the intent of regulations. NMFS is correcting regulations that, during the consolidation of regulations at 50 CFR part 679, inadvertently changed the regulatory language implementing this provision and also omitted its application to the GOA.

NMFS is correcting a cross-reference contained in the introductory text to § 679.42(j). The last sentence of this paragraph references § 676.41(c). Part 676 in title 50 of the CFR was removed as part of NMFS' consolidation of Alaska-related regulations. The regulations contained in part 676 were consolidated in part 679. However, when NMFS published the final rule implementing Amendments 33 and 37 to the BSAI and GOA FMPs, respectively, an error was inadvertently introduced into the regulatory text. Reference was made to part 676 rather than the newly consolidated Alaska regulations contained in part 679 (June 27, 1996, 61 FR 33385). This action corrects the cross-reference contained in the introductory text to paragraph (j) of § 679.41.

NMFS is also correcting a cross-reference contained in § 679.5(a)(1). On September 24, 1996, NMFS issued a final rule, technical amendment which clarified the recordkeeping requirements for catcher vessels under 60 ft (18.3m) length overall by specifically exempting them from the requirement to comply with recordkeeping and reporting requirements contained in § 679.5(a)-(k). However, a cross-reference error was inadvertently introduced into the regulatory text in § 679.5(a)(1). The cross-reference currently reads "paragraph (a)(iii)". This action corrects the cross-reference contained in § 679.5(a)(1) to read "paragraph (a)(1)(iii)".

Classification

This final rule makes only nonsubstantive changes to existing regulations issued after prior notice and an opportunity for public comment. This technical amendment makes only minor, non-substantive corrections to an existing rule. Therefore, prior notice and

opportunity for public comment would serve no purpose. Accordingly, the Assistant Administrator for Fisheries, under 5 U.S.C. 553(b)(B), for good cause finds that prior notice and opportunity for public comment are unnecessary.

Because a general notice of proposed rulemaking is not required to be published for this rule by 5 U.S.C. 553 or by any other law, this rule is exempt from the Regulatory Flexibility Act requirement to prepare a regulatory flexibility analysis and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

This rule contains a collection of information requirement subject to the PRA that has already been approved by OMB under control number 0648-0206. The estimated response time for this requirement is 0.50 hours for a permit application for high seas trollers in the salmon fishery. The estimated response time shown includes the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Send comments regarding this burden estimate, or any other aspect of this collection-of-information, including suggestions for reducing the burden, to NMFS and OIRA, OMB (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of E.O. 12866. The technical amendment makes minor technical changes to a rule that has been determined to be not significant for purposes of E.O. 12866. No changes in the regulatory impact previously reviewed and analyzed will result from implementation of this technical amendment.

List of Subjects

50 CFR Part 674

Fisheries, Fishing, Reporting and recordkeeping requirements.

50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: April 16, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 674—HIGH SEAS SALMON FISHERY OFF ALASKA [REMOVED]

1. Under the authority of 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 3631 *et seq.*, part 674 is removed.

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

2. The authority citation for 50 CFR part 679 is revised to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

3. In § 679.1, paragraph (i) is added to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(i) *Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude (Salmon FMP)*. Regulations in this part govern fishing for salmon by fishing vessels of the United States in the EEZ seaward of Alaska east of 175° E. long., referred to as the High Seas Salmon Management Area.

4. In § 679.2, the introductory paragraph of the definition of "Authorized fishing gear" and the definition of "Optimum yield" are revised; and paragraphs (13) and (14) of the definition of "Authorized fishing gear", the definition of "Commercial fishing", the definition of "High Seas Salmon Management Area", paragraph (3) of the definition of "Person", and the definitions of "Personal use fishing" and "Salmon" are added to read as follows:

§ 679.2 Definitions.

* * * * *

Authorized fishing gear means fixed gear, hook-and-line, jig, longline, longline pot, nonpelagic trawl, nontrawl, pelagic trawl, pot-and-line, trawl, hand troll gear, and power troll gear: * * *

(13) *Hand troll gear* means, for purposes of the High Seas Salmon Fishery, one or more lines with lures or hooks attached, drawn through the water behind a moving vessel, and retrieved by hand or hand-cranked reels or gurdies and not by any electrically, hydraulically, or mechanically-powered device or attachment.

(14) *Power troll gear* means, for purposes of the High Seas Salmon Fishery, one or more lines, with hooks or lures attached, drawn through the water behind a moving vessel, and originating from a power gurdy or power-driven spool fastened to the

vessel, the extension or retraction of which is directly to the gurdy or spool.

* * * * *

Commercial fishing, for purposes of the High Seas Salmon Fishery, means fishing for fish for sale or barter.

* * * * *

High Seas Salmon Management Area means the portion of the EEZ off Alaska east of 175 degrees E. long. The High Seas Salmon Management Area is divided into a West Area and an East Area:

(1) The *West Area* consists of the waters of the High Seas Salmon Management Area which are west of 143°53'36" W. long. (Cape Suckling).

(2) The *East Area* consists of the waters of the High Seas Salmon Management Area east of 143°53'36" W. long.

* * * * *

Optimum yield means:

(1) With respect to the High Seas Salmon Fishery, that amount of any species of salmon which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities, as specified in the Salmon FMP.

(2) With respect to the groundfish fisheries, see § 679.20(a)(1).

* * * * *

Person * * *

(3) For purposes of High Seas Salmon Fishery permits issued under § 679.4(h), the term "person" excludes any nonhuman entity.

Personal use fishing means, for purposes of the High Seas Salmon Fishery, fishing other than commercial fishing.

* * * * *

Salmon means the following species:

(1) Chinook (or king) salmon

(*Oncorhynchus tshawytscha*);

(2) Coho (or silver) salmon (*O. kisutch*);

(3) Pink (or humpback) salmon (*O. gorbuscha*);

(4) Sockeye (or red) salmon (*O. nerka*); and

(5) Chum (or dog) salmon (*O. keta*).

* * * * *

5. In § 679.3, paragraph (f) is added to read as follows:

§ 679.3 Relation to other laws.

* * * * *

(f) *Domestic fishing for high seas salmon.* (1) Additional regulations governing the conservation and management of high seas salmon are set forth in § 600.705 of this chapter.

(2) This part does not apply to fishing for salmon by vessels other than vessels of the United States conducted under

subpart H, part 660 (West Coast Salmon Fisheries) under the North Pacific Fisheries Act of 1954, 16 U.S.C. 1021-1035, concerning fishing for salmon seaward of Washington, Oregon, and California.

(3) The High Seas Salmon Fishery is administered in close coordination with ADF&G's administration of the State of Alaska's regulations governing the salmon troll fishery off Southeast Alaska. Because no commercial fishing for salmon is allowed in the EEZ west of Cape Suckling, all commercial salmon fishing west of Cape Suckling must take place in Alaska's territorial sea and, consequently, is subject to Alaska's management authority.

(4) For State of Alaska statutes and regulations governing commercial fishing, see Alaska Statutes, title 16—Fish and Game; title 5 of the Alaska Administrative Code, chapters 1-39.

(5) For State of Alaska regulations specifically governing the salmon troll fishery, see 5 Alaska Administrative Code 30 (Yakutat Area), and 5 Alaska Administrative Code 33 (Southeastern Alaska Area).

(6) For State of Alaska statutes and regulations governing sport and personal use salmon fishing other than subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 42.010 through 75.995.

(7) For State of Alaska statutes and regulations governing subsistence fishing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 01, 02, 39, and 99.010.

6. In 679.4, paragraph (h) is added to read as follows:

§ 679.4 Permits.

* * * * *

(h) *High Seas Salmon permits*—(1) *Operators of commercial fishing vessels using power troll gear.* The operator of a fishing vessel using power troll gear may engage in commercial fishing for salmon in the High Seas Salmon Management Area if the operator:

(i) Held a valid State of Alaska power troll permanent entry permit on May 15, 1979, or is a transferee under paragraph (h)(13) of this section from an operator who held such a permit on that date;

(ii) Held a valid State of Alaska power troll interim use permit on May 15, 1979; or

(iii) Holds a High Seas Salmon Fishery permit issued by the Regional Administrator under paragraph (h)(7) of this section.

(2) *Crew members and other persons not the operator of a commercial fishing vessel using power trawl gear.* Crew members or other persons aboard but

not the operator of a fishing vessel may assist in the vessel's commercial salmon fishing operations in the High Seas Management Area without a permit if a person described in paragraph (h)(1)(i) through (iii) of this section is also aboard the vessel and is engaged in the vessel's commercial fishing operations.

(3) *Personal use fishing.* Any person who holds a valid State of Alaska sport fishing license may engage in personal use fishing in the High Seas Salmon Management Area.

(4) *Duration.* Authorization under this paragraph (h) to engage in fishing for salmon in the High Seas Salmon Management Area constitutes a use privilege which may be revoked or modified without compensation.

(5) *Eligibility criteria for permits issued by the Regional Administrator.* (i) Any person is eligible to be issued a High Seas Salmon Fishery permit under paragraph (h)(7) of this section if that person, during any one of the calendar years 1975, 1976, or 1977:

(A) Operated a fishing vessel in the High Seas Salmon Management Area.

(B) Engaged in commercial fishing for salmon in the High Seas Salmon Management Area.

(C) Caught salmon in the High Seas Salmon Management Area using power troll gear.

(D) Landed such salmon.

(ii) The following persons are not eligible to be issued a High Seas Salmon Fishery permit under paragraph (h)(7) of this section:

(A) Persons described in paragraph (h)(1)(i) or (h)(1)(ii) of this section.

(B) Persons who once held but no longer hold a State of Alaska power troll permanent entry or interim-use permit.

(6) *Application.* Applications for a High Seas Salmon Fishery permit must be in writing, signed by the applicant, and submitted to the Regional Administrator, at least 30 days prior to the date the person wishes to commence fishing, and must include:

(i) The applicant's name, mailing address, and telephone number.

(ii) The vessel's name, USCG documentation number or State of Alaska registration number, home port, length overall, registered tonnage, and color of the fishing vessel.

(iii) The type of fishing gear used by the fishing vessel.

(iv) State of Alaska fish tickets or other equivalent documents showing the actual landing of salmon taken in the High Seas Salmon Management Area by the applicant with power troll gear during any one of the years 1975 to 1977.

(7) *Issuance.* (i) Except as provided in subpart D of 15 CFR part 904, upon

receipt of a properly completed application, the Regional Administrator will determine whether the permit eligibility conditions have been met, and if so, will issue a High Seas Salmon Fishery permit.

(ii) If the permit is denied, the Regional Administrator will notify the applicant in accordance with paragraph (h)(16) of this section.

(iii) If an incomplete or improperly completed permit application is filed, the Regional Administrator will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of receipt of notification, the application shall be considered abandoned.

(8) *Amended application.* Any person who applies for and receives a High Seas Salmon Fishery permit issued under paragraph (h)(7) of this section must notify the Regional Administrator within 30 days of a change in any of the information submitted under paragraph (h)(6) of this section.

(9) *Replacement.* Replacement permits may be issued for lost or unintentionally mutilated permits. An application for a replacement permit shall not be considered a new application.

(10) *Display.* Any permit or license described in paragraph (h)(1) or (h)(3) of this section must be on board the vessel at all times while the vessel is in the High Seas Salmon Management Area.

(11) *Inspection.* Any permit or license described in paragraph (h)(1) or (h)(3) of this section must be presented for inspection upon request by an authorized officer.

(12) *Sanctions.* Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(13) *Transfer of authority to fish in the High Seas Salmon Management Area—*

(i) *State of Alaska power troll permanent entry permits.* The authority of any person to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area shall expire upon the transfer of that person's State of Alaska power troll permanent entry permit to another and shall be transferred to the new holder of that permit.

(ii) *Transfer of Authority by the Regional Administrator.* (A) Any person to whom the proposed transfer of a State of Alaska power troll permanent entry permit is denied by the State of Alaska may apply, with the consent of the current holder of that permit, to the Regional Administrator for transfer to the applicant of the current holder's authority to engage in commercial fishing for salmon using power troll gear

in the High Seas Salmon Management Area.

(B) The application for transfer shall be filed with the Regional Administrator within 30 days of the denial by the State of Alaska of the proposed transfer of the permit.

(C) The application for transfer shall include all documents and other evidence submitted to the State of Alaska in support of the proposed transfer of the permit and a copy of the State of Alaska's decision denying the transfer of the permit. The Regional Administrator may request additional information from the applicant or from the State of Alaska to assist in the consideration of the application.

(D) The Regional Administrator shall approve the transfer if it is determined that:

(1) The applicant had the ability to participate actively in the fishery at the time the application for transfer of the permit was filed with the State of Alaska.

(2) The applicant has access to power troll gear necessary for participation in the fishery.

(3) The State of Alaska has not instituted proceedings to revoke the permit on the ground that it was fraudulently obtained.

(4) The proposed transfer of the permit is not a lease.

(E) Upon approval of the transfer application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon in the High Seas Salmon Management Area using power troll gear shall expire, and that authority shall be transferred to the applicant.

(14) *Other Permits.* (i) Except for emergency transfers under paragraph (h)(15) of this section, the authority of any person described in paragraph (h)(1)(ii), (h)(1)(iii), or (h)(3) of this section to fish for salmon in the High Seas Salmon Management Area, may not be transferred to any other person.

(ii) Except for emergency transfers under paragraph (h)(15) of this section, the authority to engage in commercial fishing for salmon which was transferred under paragraph (h)(13)(ii) of this section may not be transferred to any other person except the current holder of the State of Alaska power troll permanent entry permit from which that authority was originally derived.

(iii) The authority described in paragraph (h)(14)(ii) of this section may be transferred to the current holder of that permit upon receipt of written notification of the transfer by the Regional Administrator.

(15) *Emergency transfers—authority to use power troll gear.* (i) The authority

of any person to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area may be transferred to another person for a period not lasting beyond the end of the calendar year of the transfer when sickness, injury, or other unavoidable hardship prevents the holder of that authority from engaging in such fishing.

(ii) Such a transfer shall take effect automatically upon approval by the State of Alaska of an emergency transfer of a State of Alaska power troll entry permit, in accordance with the terms of the permit transfer.

(iii) Any person may apply to the Regional Administrator for emergency transfer of the current holder's authority to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area for a period not lasting beyond the calendar year of the proposed transfer, if a person:

(A) Is denied emergency transfer of a State of Alaska power troll entry permit by the State of Alaska; or

(B) Requests emergency transfer of a Federal commercial power troll permit previously issued by the Regional Administrator, with the consent of the current holder of that permit.

(iv) The Regional Administrator shall approve the transfer if he determines that:

(A) Sickness, injury, or other unavoidable hardship prevents the current permit holder from engaging in such fishing.

(B) The applicant had the ability to participate actively in the fishery at the time the application for emergency transfer of the permit was filed with the State of Alaska or, in the case of a Federal permit, with the Regional Administrator.

(C) The applicant has access to power troll gear necessary for participation in the fishery.

(D) The State of Alaska has not instituted proceedings to revoke the permit on the grounds that it was fraudulently obtained.

(v) The application in the case of a State of Alaska permit shall be filed with the Regional Administrator within 30 days of the denial by the State of Alaska of emergency transfer of the permit.

(vi) The application shall include all documents and other evidence submitted to the State of Alaska in support of the proposed emergency transfer of the permit and a copy of the State of Alaska's decision denying the emergency transfer of the permit. The Regional Administrator may request additional information from the

applicant or from the State of Alaska to assist in the consideration of the application.

(vii) Upon approval of the application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon using power troll gear in the High Seas Salmon Management Area shall expire for the period of the emergency transfer, and that authority shall be transferred to the applicant for that period.

(16) *Appeals and hearings.* (i) A decision by the Regional Administrator to deny a permit under paragraph (h)(7) of this section or to deny transfer of authority to engage in commercial fishing for salmon in the High Seas Salmon Management Area under paragraphs (h)(13) and (h)(14) of this section will:

- (A) Be in writing.
- (B) State the facts and reasons therefor.
- (C) Advise the applicant of the rights provided in this paragraph (h)(16).
- (ii) Any such decision of the Regional Administrator shall be final 30 days after receipt by the applicant, unless an appeal is filed with the NOAA/NMFS Assistant Administrator within that time.
- (iii) Failure to file a timely appeal shall constitute waiver of the appeal.
- (iv) Appeals under this paragraph (h)(16) must:
 - (A) Be in writing.
 - (B) Set forth the reasons why the appellant believes the Regional Administrator's decision was in error.
 - (C) Include any supporting facts or documentation.
- (v) At the time the appeal is filed with the Assistant Administrator, the appellant may request a hearing with respect to any disputed issue of material fact. Failure to request a hearing at this

time will constitute a waiver of the right to request a hearing.

(vi) If a hearing is requested, the Assistant Administrator may order an informal fact-finding hearing if it is determined that a hearing is necessary to resolve material issues of fact and shall so notify the appellant.

(vii) If the Assistant Administrator orders a hearing, the order will appoint a hearing examiner to conduct the hearing.

(viii) Following the hearing, the hearing examiner shall promptly furnish the Assistant Administrator with a report and appropriate recommendations.

(ix) As soon as practicable after considering the matters raised in the appeal, and any report or recommendation of the hearing examiner in the event a hearing is held under this paragraph (h)(16), the Assistant Administrator shall decide the appeal.

(x) The Assistant Administrator shall promptly notify the appellant of the final decision. Such notice shall set forth the findings of the Assistant Administrator and set forth the basis of the decision. The decision of the Assistant Administrator shall be the final administrative action of the Department of Commerce.

7. In § 679.5, paragraph (a)(1) introductory text is revised to read as follows:

§ 679.5 Recordkeeping and reporting.

- (a) * * *
- (1) * * *. Except as provided in paragraph (a)(1)(iii) of this section, the following must comply with the recordkeeping and reporting requirements of this section:

* * * * *

8. In § 679.7, paragraph (b) is removed and reserved, paragraph (c)(3) is removed, and paragraphs (a)(14) and (i) are added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(14) *Trawl performance standard.* Use a vessel to participate in a directed fishery for pollock with trawl gear and have on board the vessel, at any particular time, 20 or more crab of any species that have a width of more than 1.5 inches (38 mm) at the widest dimension when directed fishing for pollock with nonpelagic trawl gear is closed.

(b) [Reserved]

* * * * *

(i) *High Seas Salmon Fisheries.* (1) Fish for, take, or retain any salmon in violation of the North Pacific Fisheries Act of 1954, 16 U.S.C. 1021-1035 or this part.

(2) Engage in fishing for salmon in the High Seas Salmon Management Area except to the extent authorized by § 679.4(h).

9. In § 679.42, paragraph (j) introductory text, the last sentence is revised to read as follows:

§ 679.42 Limitations on use of QS and IFQ.

* * * * *

(j) * * * Such transfers of additional QS within these areas must be to an individual pursuant to § 679.41(c) of this part and be used pursuant to paragraphs (c) and (i) of this section.

* * * * *

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