

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 96-94; RM-8790]

Radio Broadcasting Services; Eufaula, Wagoner, Warner, Sand Springs, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Tri-Mac Broadcasting (now K95.5, Inc.), reallocates Channel 271A from Wagoner to Warner, OK, as the community's first local aural transmission service, and modifies the license of Station KRQZ-FM to specify Warner as its community of license. See 61 FR 20206, May 6, 1996. Channel 271A can be allotted to Warner in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.2 kilometers (0.7 miles) northwest, at coordinates 35-33-27 North Latitude and 95-14-41 West Longitude, to avoid a short spacing to Station KENA-FM, Channel 271C3, Mena, AR. The counterproposal filed by Music Sound Radio, Inc., licensee of Station KTFX(FM), Sand Springs, OK, to substitute Channel 272C2 for Channel 272A at Sand Springs was not accepted for consideration because there is no conflict between the allotment of Channel 271A at Warner and Channel 272C2 at Sand Springs. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 19, 1997.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96-94, adopted March 26, 1997, and released April 4, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Wagoner, Channel 271A and by adding Warner, Channel 271A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-9439 Filed 4-10-97; 8:45 am]

BILLING CODE 6712-01-F

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 96-207; RM-8874]

Radio Broadcasting Services; Cawker City, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ruby J. Hoeflicker, allots Channel 242C3 to Cawker City, Kansas, as the community's first local aural transmission service. See 61 FR 55125, October 24, 1996. Channel 242C3 can be allotted to Cawker City in compliance with the Commission minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 242C3 at Cawker City are 39-30-30 NL and 98-25-54 WL. With this action, this proceeding is terminated.

DATES: Effective May 19, 1997. The window period for filing applications will open on May 19, 1997, and close on June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96-207, adopted March 26, 1997, and released April 4, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M

Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Cawker City, Channel 242C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-9435 Filed 4-10-97; 8:45 am]

BILLING CODE 6712-01-F

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

[Docket No. 961203339-7063-02; I.D. 111896B]

RIN 0648-A188

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery Off Alaska; Scallop Vessel Moratorium

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

ACTION: Final rule.

SUMMARY: NMFS approves a temporary moratorium on the entry of additional vessels into the scallop fishery off Alaska. This action implements Amendment 2 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMP) as recommended by the North Pacific Fishery Management Council (Council). The purpose of Amendment 2 is to curtail increases in fishing capacity and provide stability for industry while the Council develops a long-term limited access system for this fishery. This action is necessary to promote the conservation and management objectives of the FMP.

DATES: Effective May 12, 1997 through June 30, 2000, except for § 679.4(g)(1)(ii), which will become effective on July 1, 1997, through June 30, 2000; and the amendments to

§§ 679.2, 679.4(c)(10)(i), and 679.43 will become effective May 12, 1997.

ADDRESSES: Copies of Amendment 2 and the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for this action may be obtained from NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel.

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

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery in the exclusive economic zone (EEZ) off Alaska is managed by NMFS under the FMP. The FMP was prepared by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and approved by NMFS on July 26, 1995. Regulations implementing the FMP are set out at 50 CFR part 679. General regulations that also affect fishing in the EEZ are set out at 50 CFR part 600.

At its April 1996 meeting, the Council adopted Amendment 2 and recommended that NMFS prepare a rulemaking to implement the amendment. A notice of availability of Amendment 2 was published in the **Federal Register** on December 3, 1996 (61 FR 64087), and invited comment on the amendment through February 3, 1997. No written comments were received on the amendment. A proposed rule to implement Amendment 2 was published in the **Federal Register** on December 26, 1996 (61 FR 67990). Comments on the proposed rule were invited through February 10, 1997. One letter containing three comments on the proposed rule was received by the end of the comment period. These comments are summarized and responded to in the Response to Comments section below.

Upon reviewing the reasons for Amendment 2, and the comments on the proposed rule to implement it, NMFS has determined that this action is necessary for the conservation and management of the scallop fishery off Alaska. Amendment 2 was approved by NMFS on March 5, 1997, under section 304(b) of the Magnuson-Stevens Act. Additional information on this action may be found in the preamble to the proposed rule and in the EA/RIR/FRFA.

Response to Comments

Comment 1. The moratorium will authorize 15 vessels to operate in Federal waters outside Cook Inlet. We believe this is too large a fleet to be economically sustainable. NMFS and

the State of Alaska manage the scallop fishery by establishing total allowable catch (TAC) limits that are actually the upper limit of a range of harvest that will be permitted. It appears that analysis of the scallop moratorium has focused on the TAC as if it were the amount guaranteed to the scallop fleet for harvest. However, harvests are often stopped before the TAC is reached, due to attainment of the crab bycatch limit or because declining catch per unit effort in the fishery indicates that the resource is not healthy enough to sustain yield at the TAC level. Consequently, the published TACs do not accurately portray the availability of scallop resource for harvest.

In our experience of over 20 years in the Alaska scallop fishery, declines in catch closely follow years of overcapitalization. In our view, the Federal waters outside Cook Inlet cannot support 15 vessels. The scallop fishery has never sustained that level of effort for more than a 2- or 3-year period, and those periods of overharvest have always been followed by years when effort was reduced to one or even zero vessels. We agree with the conclusion in the proposed rule—that four to six vessels could harvest the available quota. However, because the available quota is overstated, reviewers may misunderstand the economics of the fishery. Under the actual harvest levels realized in the fishery, four to six vessels may make a living—nothing more.

Response. NMFS agrees that the scallop resource may be insufficient to support all qualified vessels in a year-round fishery. However, the scallop vessel moratorium is designed as a temporary measure to curtail additional increases in fishing capacity and provide stability for industry while a long-term limited access program is developed. The moratorium qualification criteria were established by the Council after extensive analysis, public testimony, and debate. These qualification criteria will achieve the Council's objectives while treating past and present participants in the fishery in a fair and equitable manner.

Comment 2. Vessels that immigrate to the scallop fishery from other areas or fisheries in which they are licensed are able to return to those fisheries after a downturn in the scallop stock. Vessels that have depended exclusively on the Alaskan scallop fishery to the extent that they hold no permits nor expertise in other fisheries or areas are unable to compensate for losses in the scallop fishery. Ultimately, then, the price for overcapitalization is paid only by those

who exclusively depend on the Alaskan scallop fishery.

Response. Comment noted. Also, see response to comment 1.

Comment 3. We agree with ending the qualifying period in 1993 as approved by the Council. Although not stated in the proposed rule, the emergency action required of the Council and NMFS in reaction to unrestricted fishing by a vessel that had renounced its Alaskan registration also contributed significantly to the delay in issuance of the moratorium proposed rule.

Response. Comment noted.

Elements of the Scallop Vessel Moratorium

The following paragraphs explain each aspect of the scallop vessel moratorium.

Applicability

Beginning July 1, 1997, any vessel fishing for scallops in the EEZ off Alaska must carry a valid scallop moratorium permit at all times, and the vessel owner or operator must be named on the moratorium permit.

Duration of the Moratorium

The scallop vessel moratorium will remain in effect for 3 years from July 1, 1997, unless repealed or replaced by a permanent limited access program. Under Amendment 2, the Council may recommend that the moratorium be extended for no more than 2 years if a permanent limited access program is imminent.

Qualification Criteria

A vessel qualifies for inclusion in the moratorium if it made a legal landing of scallops during 1991, 1992, or 1993; or during at least 4 separate years from 1980 through 1990. This two-tier approach emphasizes recent participation in the fishery by allowing all vessels with any legal landings in 1991, 1992, or 1993 to qualify. Historic participants qualify under the more restrictive standard of a legal landing during at least 4 separate years from 1980 through 1990.

Scallop moratorium permits will be issued to the person (or successor in interest) who owned the qualifying vessel when it most recently made a qualifying landing. If that vessel were sold during or after the moratorium qualification period, the moratorium permit would be available to the person who owned the vessel (or successor in interest) when it most recently made a qualifying landing, such that each vessel generates only one moratorium permit.

Area Endorsements

Moratorium permits will be endorsed for fishing in Federal waters within Registration Area H (Cook Inlet) or fishing within Federal waters outside Registration Area H. Qualified vessels must have made at least one legal landing of scallops during the qualifying period within an endorsement area to receive an endorsement for that area. No crossovers will be allowed between Registration Area H and waters outside Registration Area H unless a vessel qualifies in both areas.

Vessel Reconstruction and Maximum Length Overall (LOA)

To prevent increased capitalization in the scallop fishery, lengthening of a vessel is limited to no more than 1.2 times or 20 percent of the vessel's LOA on January 20, 1993. For vessels under reconstruction on January 20, 1993, vessels are limited to the LOA on the date reconstruction was completed, with no additional increases allowed. Each scallop moratorium permit will specify a maximum LOA based on the above criteria. These restrictions will allow for some upgrading of vessels to improve stability and safety, while limiting the further overcapitalization that could occur through massive reconstruction of existing vessels.

Transferability

Moratorium permits are valid on any vessel that is less than or equal to the maximum LOA identified on the permit, provided that the vessel owner or operator is named on the moratorium permit. A person may transfer a moratorium permit to another person if a completed transfer application is submitted to NMFS and subsequently approved. In this event, a new permit will be issued in the name of the person who received the transferred permit. A permit transfer is required to reflect any change in permit ownership including the addition or deletion of a partner's name. In addition, the area endorsements on a moratorium permit may not be transferred independently of the permit itself.

Exemptions

Vessels less than or equal to 26 ft (7.9 m) LOA in the Gulf of Alaska, and less than or equal to 32 ft (9.8 m) LOA in the Bering Sea and Aleutian Islands area, are exempt from the scallop moratorium when fishing for scallops with dive gear. An operator of a vessel under the size limits listed above is still required to carry a valid scallop moratorium permit on board when fishing with dredge gear or when dredge gear is on board.

Appeals

NMFS will issue an initial administrative determination to each applicant who is denied a scallop moratorium permit. An initial administrative determination may be appealed by the applicant in accordance with the procedures established for the individual fishing quota program at § 679.43. An initial administrative determination that denies an application for a scallop moratorium permit may authorize the affected person to catch and retain scallops with an interim permit. Any interim permit that authorizes fishing will expire on the effective date of the final agency action relating to the application. An administrative determination denying the issuance of a scallop moratorium permit or application for transfer is the final agency action for purposes of judicial review.

Technical Changes to Existing Regulations

This final rule contains technical changes to the existing definitions of "legal landing", "maximum LOA", "moratorium qualification", "moratorium species", and "qualifying period" set out at § 679.2. These technical changes are necessary to clarify which terms apply only to the existing groundfish and crab moratorium and which terms also would apply to the scallop moratorium.

A technical change also is made to the description of the groundfish and crab moratorium appeals process at § 679.4(c)(10)(i) to specify that appeals are to be sent to the Administrator, Alaska Region, NMFS (Regional Administrator), rather than to the Chief, RAM Division. This change is necessary to make § 679.4(c)(10)(i) consistent with the appeals process described at § 679.43(c). In addition, § 679.43(a) is revised to indicate that the appeals process described at § 679.43 also applies to scallop moratorium appeals made under § 679.4(g).

Changes from the Proposed Rule

The following changes were made from the proposed rule.

1. The applicable date of the scallop moratorium was delayed until July 1, 1997, which coincides with the start of the scallop fishing season in most areas of Alaska. The purpose of this change is to provide industry with sufficient time to apply for and receive scallop moratorium permits.

2. The language governing permit validity at § 679.4(g)(1)(iii)(A) was changed to specify that the permit is valid only if the person named on the

moratorium permit is the owner or operator of the vessel on which the permit is used. This change was made for clarity and consistency, because the terms "owner" and "operator" are defined in regulation at § 600.10.

3. The language governing permit transfers at § 679.4(g)(7) was revised to clarify that a permit transfer is required to reflect any change in permit ownership including the addition or subtraction of a partner.

4. Finally, paragraph 679.4(g)(9) was added to clarify for the public that scallop moratorium permits do not represent any interest that is subject to the "takings" provision of the U.S. Constitution. The public is advised that these permits represent a harvesting privilege that may be amended or revoked subject to the requirements of applicable Federal law.

Classification

The Regional Administrator determined that Amendment 2 is necessary for the conservation and management of the scallop fishery off Alaska and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Council prepared a final regulatory flexibility analysis as part of the regulatory impact review. The analysis concluded that economic effects of Amendment 2 could have a significant and positive impact on a substantial number of small entities. A moratorium on the entry of new vessels into the scallop fishery will help prevent further overcapitalization of the fishery and the loss of income to current participants that would result from further overcapitalization. However, it is impossible to determine how many new vessels would enter the fishery in the absence of a vessel moratorium. As a consequence, the benefits of a moratorium are impossible to quantify. The proposed rule to implement Amendment 2 was published in the **Federal Register** on December 26, 1996, and comments were invited on the IRFA. No comments were received on the IRFA. Because the economic impacts are beneficial, no efforts have been made to mitigate these effects. A copy of this analysis is available from NMFS (see **ADDRESSES**).

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648-0206. The new information

requirement includes an application for a moratorium permit and an application for transfer of a moratorium permit. Public reporting burden for these collections of information are estimated to be 0.33 and 0.5 hours, respectively. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any 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.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: April 7, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

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

2. In § 679.2, the definitions of “Legal landing”, “Maximum LOA” introductory text, “Moratorium qualification”, “Moratorium species”, and “Qualifying period” are revised to read as follows:

§ 679.2 Definitions.

* * * * *

Legal landing (applicable through June 30, 2000) means any amount of a moratorium species that was or is landed in compliance with Federal and state commercial fishing regulations in effect at the time of the landing.

* * * * *

Maximum LOA (applicable through December 31, 1998), with respect to a vessel’s eligibility for a groundfish or crab moratorium permit, means:

* * * * *

Moratorium qualification (applicable through December 31, 1998) with respect to the groundfish and crab vessel moratorium program means a

transferable prerequisite for a moratorium permit.

Moratorium species means:

(1) (Applicable through June 30, 2000) any scallop species.

(2) (Applicable through December 31, 1998) any moratorium crab species or moratorium groundfish species.

* * * * *

Qualifying period (applicable through December 31, 1998) with respect to the groundfish and crab vessel moratorium program means the period to qualify for the moratorium from January 1, 1988, through February 9, 1992.

* * * * *

3. In § 679.4, paragraph (c)(10)(i) is revised and a new paragraph (g) is added to read as follows:

§ 679.4 Permits.

* * * * *

(c) * * *

(10) *Appeal*—(i) *Determination*. The Chief, RAM Division, will issue an initial administrative determination to each applicant who is denied a moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final agency action if a written appeal is not received by the Regional Administrator, within the period specified at § 679.43.

* * * * *

(g) *Scallop moratorium permits* (applicable through June 30, 2000)—(1) *General*—(i) *Applicability*. Except as provided under paragraph (g)(2) of this section, any vessel used to take or retain any scallop species in Federal waters must have a valid scallop moratorium permit on board the vessel at all times when the vessel is engaged in fishing for scallops in Federal waters or has scallops taken from Federal waters retained on board. Any vessel used to take or retain scallops in Federal waters within Scallop Registration Area H must have a scallop moratorium permit endorsed for Registration Area H. Any vessel used to take or retain scallop species in Federal waters outside Registration Area H must have a scallop moratorium permit endorsed for Federal waters exclusive of Registration Area H.

(ii) *Applicable dates and duration*. The requirement to carry a moratorium permit is applicable from July 1, 1997, through June 30, 2000. A scallop moratorium permit is valid for the duration of the moratorium unless otherwise specified.

(iii) *Validity*. A scallop moratorium permit issued under this paragraph is valid only if:

(A) A person named on the moratorium permit is the owner or operator of the vessel on which the permit is used.

(B) The vessel’s LOA does not exceed the maximum LOA specified on the permit.

(C) The permit has not been revoked or suspended under 15 CFR part 904.

(iv) *Inspection*. A scallop moratorium permit must be presented for inspection upon the request of any authorized officer.

(2) *Exemptions*. A vessel that has an LOA of less than or equal to 26 ft (7.9 m) in the GOA, and less than or equal to 32 ft (9.8 m) in the BSAI and that does not have dredge gear on board is exempt from the requirements of this paragraph (g) when fishing for scallops with dive gear.

(3) *Qualification criteria*—(i) *Qualifying period*. To qualify for a moratorium permit, a vessel must have made a legal landing of scallops during 1991, 1992, or 1993, or during at least 4 separate years from 1980 through 1990.

(ii) *Area endorsements*. A scallop moratorium permit may contain an area endorsement for Federal waters within Registration Area H, for Federal waters outside Registration Area H, or for both areas.

(A) *Registration Area H*. A scallop moratorium permit may be endorsed for fishing in Federal waters within Registration Area H if a qualifying vessel made a legal landing of scallops taken inside Registration Area H during the qualifying period defined at paragraph (g)(3)(i) of this section.

(B) *Waters outside Registration Area H*. A scallop moratorium permit may be endorsed for fishing in Federal waters outside Registration Area H if the qualifying vessel made a legal landing of scallops taken in waters outside Registration Area H during the qualifying period defined at paragraph (g)(3)(i) of this section.

(iii) *Legal landings*. Evidence of legal landings shall be limited to documentation of State or Federal catch reports that indicate the amount of scallops harvested, the registration area or location in which they were caught, the vessel used to catch them, and the date of harvesting, landing, or reporting.

(4) *Maximum LOA*—(i) All scallop moratorium permits will specify a maximum LOA, which will be 1.2 times the LOA of the qualifying vessel on January 20, 1993, unless the qualifying vessel was under reconstruction on January 20, 1993.

(ii) If a qualifying vessel was under reconstruction on January 20, 1993, the

maximum LOA will be the LOA on the date reconstruction was completed.

(5) *Application for permit.* A scallop moratorium permit will be issued to the person or successor in interest who was the owner of a qualifying vessel when it most recently made qualifying landings under paragraph (g)(3) of this section, if he/she submits to the Regional Administrator a complete scallop moratorium permit application that is subsequently approved. A complete application for a scallop moratorium permit must include the following information:

(i) Name(s), signature(s), business address(es), and telephone and fax numbers of the person(s) who owned the vessel when the most recent qualifying landing of scallops occurred.

(ii) Name of the qualifying vessel, state registration number of the vessel and the USCG number of the vessel, if any.

(iii) Valid documentation of the vessel's basis for moratorium qualification, if requested by the Regional Administrator due to an absence of landings records for the vessel for the qualifying period.

(iv) Reliable documentation of the vessel's qualifying LOA, if requested by the Regional Administrator, such as a vessel survey, builder's plan, state or Federal registration certificate, or other reliable and probative documents that clearly identify the vessel and its LOA and that are dated on or before January 20, 1993.

(v) Name(s) and signature(s) of the person(s) who is/are the owner(s) of the vessel or the person(s) responsible for representing the vessel owner.

(vi) If the qualifying vessel was under reconstruction on January 20, 1993, the permit application must contain the following additional information:

(A) A legible copy of written contracts or written agreements with the firm that performed reconstruction of the vessel and that relate to that reconstruction.

(B) An affidavit signed by the vessel owner(s) and the owner/manager of the firm that performed the reconstruction specifying the beginning and ending dates of the reconstruction.

(C) An affidavit signed by the vessel owner(s) specifying the LOA of the reconstructed vessel.

(6) *Vessel ownership.* Evidence of vessel ownership shall be limited to the following documents, in order of priority:

(i) For vessels required to be documented under the laws of the United States, the USCG abstract of title issued in respect to that vessel.

(ii) A certificate of registration that is determinative as to vessel ownership.

(iii) A bill of sale.

(7) *Permit transfer—(i) Applicability.*

A moratorium permit transfer is required to effect any change in permit ownership including the addition or subtraction of partners. Area endorsements may not be transferred independently of a moratorium permit.

(ii) *Required information.* A complete application for approval of transfer of a scallop moratorium permit must include the following:

(A) The original moratorium permit to be transferred.

(B) Name(s), business address(es), and telephone and fax numbers of the applicant(s) including the holders of the scallop moratorium permit that is to be transferred and the person(s) who is to receive the transferred scallop moratorium permit.

(C) Name(s) and signature(s) of the person(s) from whom the moratorium permit would be transferred or their representative, and the person(s) who would receive the transferred moratorium permit or their representative.

(D) A legible copy of a contract or agreement to transfer the moratorium permit in question must be included with the application for transfer that specifies the person(s) from whom the scallop moratorium permit is to be transferred, the date of the transfer agreement, name(s) and signature(s) of the current holder(s) of the permit, and name(s) and signature(s) of person(s) to whom the scallop moratorium permit is to be transferred.

(8) *Appeal—(i) Determination.* The Chief, RAM Division, will issue an initial administrative determination to an applicant upon denial of a scallop moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final agency action if a written appeal is not received by the Regional Administrator postmarked within the period specified at § 679.43.

(ii) *Permit denial.* An initial administrative determination that denies an application for a scallop moratorium permit may authorize the affected person to take or retain scallops. Any administrative determination that authorizes fishing will expire on the effective date of the final agency action relating to the application.

(iii) *Final action.* An administrative determination denying the issuance of a scallop moratorium permit is the final agency action for purposes of judicial review.

(9) *Harvesting privilege.* Scallop moratorium permits issued pursuant to this part do not represent an interest that is subject to the "takings" provision of the 5th Amendment to the U.S. Constitution. Rather, such permits represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson-Stevens Act and other applicable laws.

4. In § 679.43, paragraph (a) is revised to read as follows:

§ 679.43 Determinations and appeals.

(a) *General.* This section describes the procedure for appealing initial administrative determinations made under this subpart as well as § 679.4(c), § 679.4(g), and portions of subpart C of this part that apply to the halibut and sablefish CDQ program.

* * * * *

[FR Doc. 97-9433 Filed 4-10-97; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961119321-7071-02; I.D. 110796G]

RIN 0648-A168

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements

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

ACTION: Final rule.

SUMMARY: NMFS is revising several sections of regulations that pertain to permits, recordkeeping, and reporting for the groundfish fisheries of the Exclusive Economic Zone (EEZ) off Alaska. These changes are necessary to clarify existing text, facilitate management of the fisheries, promote compliance with regulations, and facilitate enforcement efforts. This action is intended to further the goals and objectives of the fishery management plans (FMPs) for the fisheries of the EEZ off Alaska.

EFFECTIVE DATE: May 12, 1997.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the EEZ off Alaska under