

this rule is to be combined with RIN 1010-AB73 into one final rule under RIN 1010-AB73. The Notice of Proposed Rulemaking was published August 17, 1993 (58 FR 43583). The comment period closed November 1, 1993. The next action will be to publish the combined final rule; this is scheduled to be published in March 1996 or earlier.

*1787. Training of Lessee and Contractor Employees Engaged in Oil and Gas Sulphur Operations in the Outer Continental Shelf, RIN 1010-AB99*

On page 23466, in the third column, the Agenda incorrectly listed this rule as withdrawn. The rule has neither been completed nor withdrawn. An Advance Notice of Proposed Rulemaking was published August 5, 1994 (59 FR 39991). The comment period closed October 19, 1994. The next action will be to publish a proposed rule, and the publication date is undetermined.

Dated: June 14, 1995.

**Lucy R. Querques,**

*Associate Director for Policy and Management Improvement.*

[FR Doc. 95-14980 Filed 6-19-95; 8:45 am]

BILLING CODE 4310-MR-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 95-81, RM-8649]

#### Radio Broadcasting Services; Temecula, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed on behalf of BEXT, Inc. requesting the allotment of Channel 277A to Temecula, California, as that community's second local FM service. Coordinates used for Channel 277A at Temecula are 33-29-37 and 117-08-51. Temecula is located within 320 kilometers (199 miles) of the United States-Mexico border, and therefore, the Commission must obtain concurrence of the Mexican government in this proposal.

**DATES:** Comments must be filed on or before August 7, 1995, and reply comments on or before August 22, 1995.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the

petitioner's counsel, as follows: Bruce A. Eisen, Esq., Kaye, Scholer, Fierman, Hays & Handler, 901 - 15th Street, NW., Suite 1100, Washington, D.C. 20005-2327.

#### FOR FURTHER INFORMATION CONTACT:

Nancy Joyner, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-81, adopted June 5, 1995, and released June 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's 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 contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 95-15052 Filed 6-19-95; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 697

[Docket No. 950605148-5148-01; I.D. 060195C]

RIN 0648-AH58

#### Atlantic Coast Weakfish Fishery; Moratorium in Exclusive Economic Zone

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS requests public comment on proposed regulations that would prohibit fishing for and possession of Atlantic coast weakfish (weakfish) in the exclusive economic zone (EEZ) offshore from Maine through Florida. The intent of the proposed regulations is to provide protection to the overfished stock of weakfish, ensure the effectiveness of state regulations, and to aid in the rebuilding of the stock.

**DATES:** Written comments must be received on or before August 4, 1995.

**ADDRESSES:** Comments on the proposed rule should be sent to, and copies of supporting documents, including a Draft Environmental Impact Statement (DEIS) and Regulatory Impact Review (RIR), are available from Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282. NMFS will hold public hearings to receive comments from fishery participants and other members of the public regarding these proposed regulations. The dates and locations of public hearings will be announced by notice in the **Federal Register** at least 2 weeks prior to the public hearing dates.

**FOR FURTHER INFORMATION CONTACT:** William T. Hogarth, 301-713-2339.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA), 16 U.S.C 5101 *et seq.*, states that, in the absence of an approved and implemented Fishery Management Plan (FMP) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act), and after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce (Secretary) may implement regulations to govern fishing in the EEZ, i.e., from 3-200 nautical miles (5.6-370.6 km). These regulations must be (1) necessary to support the effective implementation of an Interstate Fishery Management Plan (ISFMP) developed by the Atlantic States Marine Fisheries Commission (Commission); and (2) consistent with the national standards set forth in section 301 of the Magnuson Act (16 U.S.C. 1851).

The Commission adopted a weakfish ISFMP in 1985, amended the plan in 1994, and is currently developing a new amendment to rebuild declining stocks

of weakfish. Federal regulations are needed in the EEZ to support the Commission's effort to protect weakfish.

The Mid-Atlantic Fishery Management Council (MAFMC) is the lead Council for developing weakfish regulations in the EEZ. The MAFMC has listed weakfish as a species in need of management, but has, to date, not developed an FMP for the species. NMFS consulted with the MAFMC to determine if the development of an FMP for weakfish was possible in the immediate future. The MAFMC stated that because of its heavy workload on other species, it would not be possible this year. Therefore, Federal actions authorized by the ACFCMA remain the most effective means to institute management measures in the EEZ that will support the Commission's Plan for weakfish.

### Purpose

Weakfish (*Cynoscion regalis*), a member of the family Scianidae, is considered a single stock along the Atlantic coast, ranging from Maine to Florida. The species is most abundant in shallow coastal and estuarine waters from North Carolina to New York. The center of weakfish abundance in the winter ranges from North Carolina southward and in the summer from Delaware northward. Weakfish are taken both in directed fisheries and as a bycatch in other fisheries.

Weakfish populations are overfished and are in a continuing serious decline. Total landings have declined from 35,667 mt (80.0 million lb) in 1980 to 3,628 mt (8.0 million lb) in 1993. The fishing mortality rate (F) for weakfish averaged 1.26 for the period 1991–1993, (i.e., 64 percent of the population was harvested each year), and only 4 percent of the population achieved spawning age. The F of 1.26 is about three times the rate that should be applied to protect and rebuild the stock. Since 1987, F has remained extremely high and has ranged from 1.087 to 1.948.

Concurrent with high fishing mortality, in recent years the weakfish stock has exhibited a reduction in spawning stock biomass, and a severe reduction in older fish (age 4 or older) taken. Ninety-nine percent of the 1993 commercial catch consisted of age 3 or younger fish. Recruitment to the stock has declined by 43 percent since 1990; in 1993 recruitment values are indicative of recruitment failure. Also, studies conducted at different areas along the coast show juvenile recruitment at its lowest levels since these studies were begun.

The proposed rule would prohibit the harvest (catch and retention) of

weakfish from the Atlantic coast EEZ. The proposal provides the strongest possible conservation measure, is easy to understand and enforce, and is in the best long-term economic interests of both commercial and recreational fishermen. It eliminates any claim that weakfish were caught in the EEZ, when fishermen might otherwise have caught fish illegally in state waters. Enforcement of the prohibition is straightforward, because possession of weakfish on board a vessel in the EEZ would be a violation of the regulation. The prohibition also includes possession of weakfish taken as incidental catch (bycatch) while fishing for other species, since such bycatch must be released to the water as soon as possible. It allows for the development of a stock rebuilding program and, therefore, resumption of the fishery in the future.

### Classification

This proposed rule is published under the authority of the ACFCMA. Paragraphs (A) and (B) of section 804(b)(1) authorizes the Secretary to implement regulations in the EEZ in the absence of a Magnuson Act FMP. Such regulations must be necessary to support a Commission's ISFMP, and consistent with the national standards set forth in section 301 of the Magnuson Act. The Assistant Administrator for Fisheries has preliminarily determined that these actions are consistent with the national standards. The Secretary, before making the final determinations, will take into account the data, views, and comments received during the comment period.

NMFS prepared a DEIS/RIR for this rule, which is available (see ADDRESSES). Five different alternatives to regulate the harvest of weakfish in the EEZ were examined. The alternative to prohibit the harvest and possession of weakfish in the EEZ provided the greatest biological gains with only short-term economic loss. This alternative also provided the best approach to reduce law enforcement loopholes. The condition of the stock necessitates that regulations be placed on the weakfish harvest in the EEZ to supplement the states regulations and begin the rebuilding of this overfished stock. Applying state regulations in the EEZ was considered, as well as establishing separate specific regulations for the EEZ, or doing nothing at all.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not

have a significant economic impact on a substantial number of small entities. The closure of the EEZ will have minimal impact on recreational fishing, since recreational catch accounted for only 3 percent of the total catch in the EEZ in 1993. The North Carolina commercial fishery was used to analyze the impact of this proposal on the commercial fishery, since North Carolina accounted for 68 percent of the weakfish caught commercially in the EEZ in 1993. In North Carolina, the fly net trawl fishery, which consists of 11–15 boats, harvests the majority of the fish. This proposed rule will result in these boats either moving shoreward to state waters or directing their fishing effort on other species such as dog fish sharks, flounder, croaker, squid, or striped bass. This switch to fishing in state waters or to targeting other species in the EEZ will mitigate, to a great extent, any economic effects of this rule. Therefore, the proposed rule should not have a significant economic impact on small entities. As a result, a regulatory flexibility analysis was not prepared. Further information is available in the DEIS/RIR (See ADDRESSES).

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

### List of Subjects in 50 CFR Part 697

Fisheries, Fishing.

Dated: June 13, 1995.

**Gary Matlock,**

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR Chapter VI is proposed to be amended by adding part 697 to read as follows:

### PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

#### Subpart A—Atlantic Coast Weakfish Fishery

Sec.

- 697.1 Purpose and scope.
- 697.2 Definitions.
- 697.3 Prohibitions.
- 697.4 Relation to the Magnuson Act.
- 697.5 Civil procedures.
- 697.6 Specifically authorized activities

#### Subpart B—[Reserved]

**Authority:** 16 U.S.C. 5101 *et seq.*, unless otherwise noted.

#### § 697.1 Purpose and scope.

The regulations in this part implement section 804(b) of the Atlantic Coastal Fisheries Cooperative

Management Act, 16 U.S.C. 5101 *et seq.*, and govern fishing for and possession of Atlantic Coast weakfish in the EEZ.

#### § 697.2 Definitions.

The terms used in this part have the following meanings:

*Act* means the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5101 *et seq.*

*Area of Custody* means any vessel, building, vehicle, live car, pound, pier, or dock facility where Atlantic coast weakfish might be found.

*Atlantic Coast weakfish* means members of stocks or populations of the species *Cynoscion regalis*, found in the waters of the Atlantic Ocean north of Key West, FL.

*Authorized officer* means:

- (1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (2) Any special agent or enforcement officer of the National Marine Fisheries Service;
- (3) Any officer designated by the head of any Federal or state agency that has entered into an agreement with the Secretary to enforce the Act; or
- (4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

*Catch, take, or harvest* means, but is not limited to, any activity that results in killing any fish or bringing any live fish on board a vessel.

*EEZ* means the Exclusive Economic Zone of the United States, from 3 to 200 nautical miles (5.6-370.6 km) offshore of the United States, beginning at the seaward boundary of the territorial sea of the coastal states.

*Fish* means finfish (including highly migratory species), mollusks, crustaceans, and all other forms of marine animal and plant life.

*Fishing or to fish* means:

- (1) The catching, taking, or harvesting of fish;
- (2) The attempted catching, taking, or harvesting of fish; or
- (3) Any operation at sea in support of, or in preparation for, any activity described in paragraphs (1) or (2) of this definition.

*Land* means to begin offloading fish, to offload fish, or to enter port with fish.

*Magnuson Act* means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

*Person* means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, local, or foreign government or any entity of any such government.

*Retain* means to fail to return Atlantic Coast weakfish to the sea immediately after the hook has been removed or the fish has otherwise been released from the capture gear.

*Secretary* means the Secretary of Commerce or a designee.

*Vessel* means any boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for:

- (1) Fishing; or
- (2) Aiding and assisting one or more vessels at sea in the performance of any activity related to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

#### § 697.3 Prohibitions.

No person shall:

- (a) Catch, take, or harvest and retain any Atlantic Coast weakfish within the EEZ;
- (b) Fail to return to the water immediately, with the least possible injury, any Atlantic Coast weakfish taken within the EEZ incidental to the commercial or recreational fishing for species of fish other than Atlantic Coast weakfish;
- (c) Possess any Atlantic Coast weakfish on board a vessel while such vessel is in the EEZ;
- (d) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, import or export, or transfer any Atlantic Coast weakfish taken and retained in violation of the Act or the regulations in this part;
- (e) Interfere with, obstruct, delay, or prevent by any means a lawful investigation, search or seizure conducted in the process of enforcing the Act;
- (f) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, shipping,

transporting, selling, offering for sale, purchasing, importing or exporting, or transferring of any Atlantic Coast weakfish;

(g) Refuse to allow an authorized officer to board any vessel or to enter any area of custody for the purpose of conducting any search, inspection, or seizure in connection with the enforcement of the Act or the regulations in this part;

(h) Dispose of any Atlantic Coast weakfish, or parts thereof, or other matter, in any manner, after any communication or signal from an authorized officer, or after the approach by an authorized officer or an enforcement vessel;

(i) Forcibly assault, resist, oppose, impede, intimidate, threaten or interfere with any authorized officer in the conduct of any search, inspection, or seizure in connection with enforcement of the Act or the regulations in this part;

(j) Resist a lawful arrest for any act prohibited by the Act or these regulations; or

(k) Interfere with, delay, or prevent by any means the apprehension of another person, knowing that such person has committed any act prohibited by the Act or the regulations in this part.

#### § 697.4 Relation to the Magnuson Act.

The provisions of sections 307 through 311 of the Magnuson Act, as amended, regarding prohibited acts, civil penalties, criminal forfeitures, and enforcement apply with respect to the regulations in this part, as if the regulations in this part were issued under the Magnuson Act.

#### § 697.5 Civil procedures.

The civil procedure regulations at 15 CFR part 904 apply to civil penalties, seizures, and forfeitures under the Act and the regulations in this part.

#### § 697.6 Specifically authorized activities.

NMFS may authorize for the acquisition of information and data, activities that are otherwise prohibited by these regulations.

#### Subpart B—[Reserved]

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