

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 97-173, RM-9134]

Radio Broadcasting Services; Lexington, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Lee County Broadcasters seeking the allotment of Channel 286A to Lexington, Texas, as the community's first local aural transmission service. Channel 286A can be allotted to Lexington in compliance with the Commission's minimum distance separation requirements with a site restriction 13.3 kilometers (8.3 miles) north in order to avoid a short-spacing conflict with the licensed operation of Station KBUK-FM, Channel 285A, La Grange, Texas. The coordinates for Channel 286A at Lexington 30-31-36 NL and 96-57-45 WL.

DATES: Comments must be filed on or before September 29, 1997, and reply comments on or before October 14, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Henry E. Crawford, Esq., 1150 Connecticut Avenue, N.W., Suite 900, Washington, D.C. 20036 (Counsel for petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97-173, adopted July 30, 1997, and released August 8, 1997. 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 contractor, ITS, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

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.

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DEPARTMENT OF COMMERCE**50 CFR Part 229**

[Docket No. 970129015-7127-03; I.D. 042597B]

RIN 0648-A184

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Gulf of Maine Harbor Porpoise Take Reduction Plan Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement a plan to reduce the bycatch and mortality of harbor porpoises that occur incidental to sink gillnet fishing in the Gulf of Maine. These regulations were based on a draft Harbor Porpoise Take Reduction Plan (HPTRP) submitted by the Gulf of Maine Harbor Porpoise Take Reduction Team (HPTRT) pursuant to the Marine Mammal Protection Act (MMPA). NMFS seeks comment on the draft Harbor Porpoise Take Reduction Plan (HPTRP), NMFS' proposed changes to the draft plan, the proposed regulations to implement the plan and the Environmental Assessment (EA) of the plan.

DATES: Comments must be received by October 14, 1997.

ADDRESSES: Send comments to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226. Copies of the draft HPTRP and EA are available upon request from Douglas Beach, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930,

or from Donna Wieting, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3226.

FOR FURTHER INFORMATION CONTACT: Kevin Chu, NMFS, 508-495-2291 or Donna Wieting, NMFS, 301-713-2322.

SUPPLEMENTARY INFORMATION: The Gulf of Maine sink gillnet fishery is classified as a Category I fishery under section 118 of the MMPA, 16 U.S.C. 1361 *et seq.* A Category I fishery is a fishery that has frequent incidental mortality and serious injury of marine mammals. The fishery operates year-round in nearshore and offshore waters. Much of the sink gillnet activity in the Gulf of Maine is regulated by the New England Multispecies Fishery Management Plan (FMP). Gillnet fishing for other species, such as monkfish and dogfish, will be governed by FMPs and implementing regulations that are currently under development by the New England Fishery Management Council (NEFMC) and the Mid-Atlantic Fishery Management Council (MAFMC), respectively.

The Gulf of Maine sink gillnet fishery has a historical incidental bycatch of a strategic marine mammal stock, the harbor porpoise (*Phocoena phocoena*). A strategic stock is a stock: (1) For which the level of direct human-caused mortality exceeds the potential biological removal (PBR) level; (2) that is declining and is likely to be listed under the Endangered Species Act (ESA) in the foreseeable future; or (3) that is listed as a threatened or endangered species under the ESA. The incidental bycatch of harbor porpoises in the Gulf of Maine sink gillnet fishery exceeds the PBR level established for that stock. The Gulf of Maine Stock of harbor porpoise has been proposed for listing as threatened under the ESA (58 FR 3108, January 7, 1993).

Section 118 of the MMPA requires NMFS to develop and implement a take reduction plan to assist in the recovery or to prevent the depletion of each strategic stock that interacts with a Category I or II fishery. A Category II fishery is a fishery that has occasional incidental mortality and serious injury of marine mammals. The immediate goal of a take reduction plan is to reduce, within 6 months of its implementation, the mortality and serious injury of strategic stocks incidentally taken in the course of commercial fishing operations to below the PBR levels established for such stocks. The PBR level is the maximum number of animals that can be removed annually from a marine mammal stock by human causes while allowing that