

(i) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of *de facto* or *de jure* control; such agreements and instruments include articles of incorporation and bylaws, shareholder agreements, voting or other trust agreements, franchise agreements, and any other relevant agreements (including letters of intent), oral or written; and

(ii) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees.

(iii) List separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium.

[FR Doc. 00-21982 Filed 8-28-00; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00-1757; MM Docket No. 99-356; RM-9779]

Radio Broadcasting Services; Mertzon, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 266A at Mertzon, Texas, in response to a petition filed by Schleicher County Radio. See 64 FR 73463, December 30, 1999. The coordinates for Channel 266A at Mertzon are 31-15-30 NL and 100-49-00 WL. Although Mexican concurrence has been requested for the allotment of Channel 266A at Mertzon, notification has not been received. Therefore, operation with the facilities specified for Mertzon herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement or if specifically objected to by Mexico. A filing window for Channel

266A at Mertzon will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective September 18, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99-356, adopted July 26, 2000, and released August 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

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:

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Mertzon, Channel 266A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00-21946 Filed 8-28-00; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 000822243-0243-01; I.D. 082100D]

RIN 0648-AO43

Sea Turtle Conservation; Shrimp Trawling Requirements

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

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS issues this temporary action to allow the use of limited tow times by shrimp trawlers as an alternative to the use of Turtle Excluder Devices (TEDs) in inshore waters of Galveston Bay, Texas, north of the Galveston jetties, east of the Galveston Island Interstate-45 Causeway, west of the "Shellfish Line" in East Bay (the line running from the entrance to Robinson Bayou to the tide gauge at Marsh Point), and, in Upper Galveston Bay, south of the overhead power lines crossing from near Evergreen Point to near Barbour's Cut, and, in Trinity Bay, south of the line running from the entrance of Double Bayou to Umbrella Point. Dense concentrations of marine organisms have been documented in this area and are clogging TEDs, rendering the TEDs ineffective in expelling sea turtles from the shrimp nets as well as negatively impacting fishermen's catches.

DATES: This action is effective from August 23, 2000 through 11:59 p.m. local time on September 22, 2000. Comments on this action are requested, and must be received by September 22, 2000.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 727-570-5312, or Barbara A. Schroeder, 301-713-1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species as a result of shrimp trawling activities has been documented in the Gulf of Mexico and along the Atlantic. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation

regulations (50 CFR part 223, subpart B) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year-round.

The regulations provide for the use of limited tow times as an alternative to the use of TEDs for vessels with certain specified characteristics or under certain special circumstances. The provisions of 50 CFR 223.206 (d)(3)(ii) specify that the Assistant Administrator for Fisheries, NOAA (AA), may authorize compliance with tow time restrictions as an alternative to the TED requirement, if [she] determines that the presence of algae, seaweed, debris, or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable. The provisions of 50 CFR 223.206(d)(3)(i) specify the maximum tow times that may be used when tow-time limits are authorized as an alternative to the use of TEDs. The tow times may be no more than 55 minutes from April 1 through October 31 and no more than 75 minutes from November 1 through March 31. These tow time limits are designed to minimize the level of mortality of sea turtles that are captured by trawl nets not equipped with TEDs.

Recent Events

The Texas Parks and Wildlife Department (TPWD), informed the NMFS Southeast Regional Administrator on August 18, 2000, that the shrimp fishery in Galveston Bay has been experiencing serious problems since early August caused by an unusually high abundance of the bryozoan, *Zoobotryon verticillatum*. TPWD has observed heavy catches of the bryozoans in working shrimp vessels in Galveston Bay, and has supplied NMFS with photographic documentation of the problem. TPWD divers have also encountered the bryozoans in mats over 2 feet (61 cm) thick along the bottom of the bay.

Drought conditions have produced salinities exceeding 30 parts per thousand in Galveston Bay. Elevated salinities and water temperatures are believed to be responsible for the extraordinarily high concentrations of bryozoans, *Zoobotryon verticillatum*. The dense, filamentous bryozoan fills shrimp nets and becomes lodged in the TEDs after relatively short periods of towing, rendering the TEDs ineffective in expelling sea turtles from the shrimp nets as well as negatively impacting fishermen's catches.

The TPWD requested that NMFS use its authority to allow the use of limited tow times for a 30-day period as an alternative to the use of TEDs in

Galveston Bay, north of the Galveston jetties, east of the Galveston Island Interstate-45 Causeway, west of the "Shellfish Line" in East Bay (the line running from the entrance to Robinson Bayou to the tide gauge at Marsh Point), and, in Upper Galveston Bay, south of the overhead power lines crossing from near Evergreen Point to near Barbours Cut, and, in Trinity Bay, south of the line running from the entrance of Double Bayou to Umbrella Point. Essentially, most of Galveston Bay, excluding the upper half of Trinity Bay and the eastern quarter of East Bay, is included in the exemption area requested by TPWD. According to local shrimpers, they were able to relocate to bryozoan-free areas initially, but, as the bryozoan concentration has spread, they are unable to find clear areas to trawl throughout virtually all of the bay. TPWD's investigation has confirmed the widespread nature of the problem. Under the current conditions, tows longer than 20-30 minutes cannot be made because of the large catches of bryozoans. Shrimpers report that shrimp can be found interspersed within the bryozoan mats. TEDs become quickly blocked with the organisms, making them non-functional for turtle escape and sometimes requiring shrimpers to empty the net from the mouth rather than the tail bag. This process is much slower and a sea turtle that might be incidentally caught with the bryozoan mats would be submerged for a longer period of time than if the net can be emptied from the tail bag.

Special Environmental Conditions

The AA finds that the impacts of the current drought conditions in eastern Texas on Galveston Bay have created special environmental conditions that may make trawling with TED-equipped nets impracticable. Therefore, the AA issues this notification to authorize the use of restricted tow times as an alternative to the use of TEDs in inshore waters of Galveston Bay. TPWD is continuing to monitor the situation and will cooperate with NMFS in determining the ongoing extent of the bryozoan occurrence in Galveston Bay. Moreover, TPWD has stated that TPWD game wardens would enforce the restricted tow times and commit additional effort to the task. Ensuring compliance with tow time restrictions is critical to effective sea turtle protection, and the commitment from the TPWD Director of Coastal Fisheries to provide additional enforcement of the tow time restrictions is an important factor enabling NMFS to issue this authorization. NMFS and TPWD will monitor the situation to ensure there is

adequate protection for sea turtles in this area and to determine whether bryozoan concentrations continue to make TED use impracticable.

Continued Use of TEDs

NMFS encourages shrimp trawlers in Galveston Bay, Texas, to continue to use TEDs if possible, even though they are authorized under this action to use restricted tow times. NMFS studies have shown that the problem of clogging by seagrass, algae or debris is not unique to TED-equipped nets. When fishermen trawl in problem areas, they may experience clogging with or without TEDs. A particular concern of fishermen, however, is that clogging in a TED-equipped net may hold open the turtle escape opening and increase the risk of shrimp loss. If shrimpers intend primarily to harvest shrimp that are intermixed with the bryozoans, then they will most likely want to remove their TEDs, but they will have to contend with extremely heavy catches of the bryozoan that will force them to use very short tows. On the other hand, TEDs do help exclude certain types of debris and allow shrimpers to conduct longer tows.

Shrimpers should consider legally modifying their TEDs to exclude the bryozoan mats to allow them to catch shrimp in clear areas of bottom. NMFS' gear experts recommend several modifications to maximize the debris exclusion ability of TEDs that may allow some fishermen to continue using TEDs without resorting to restricted tow times. To exclude debris, NMFS recommends the use of hard TEDs made of either solid rod or of hollow pipe that incorporate a bent angle at the escape opening, in a bottom-opening configuration. In addition, the installation angle of a hard TED in the trawl extension is an important performance element in excluding debris from the trawl. High installation angles can result in debris clogging the bars of the TED; NMFS recommends an installation angle of 45°, relative to the normal horizontal flow of water through the trawl, to optimize the TED's ability to exclude turtles and debris. Even lower angles may be necessary to exclude the bulky bryozoan. Furthermore, the use of accelerator funnels, which are allowable modifications to hard TEDs, is not recommended in areas with heavy amounts of debris or vegetation. Lastly, the webbing flap that is usually installed to cover the turtle escape opening may be modified to help exclude debris quickly: the webbing flap can either be cut horizontally to shorten it so that it does not overlap the frame

of the TED or be slit in a fore-and-aft direction to facilitate the exclusion of debris.

All of these recommendations represent legal configurations of TEDs for shrimpers fishing in inshore waters of Galveston Bay who are not subject to special requirements effective in the Gulf Shrimp Fishery-Sea Turtle Conservation Area. This action does not authorize any other departure from the TED requirements, including any illegal modifications to TEDs. In particular, if TEDs are installed in trawl nets, they may not be sewn shut.

Alternative to Required Use of TEDs

The authorization provided by this temporary rule applies to all shrimp trawlers that would otherwise be required to use TEDs in accordance with the requirements of 50 CFR 223.206(d)(2) who are operating in inshore waters of Galveston Bay, Texas, north of the Galveston jetties, east of the Galveston Island Interstate-45 Causeway, west of the "Shellfish Line" in East Bay (the line running from the entrance to Robinson Bayou to the tide gauge at Marsh Point), and, in Upper Galveston Bay, south of the overhead power lines crossing from near Evergreen Point to near Barbour's Cut, and, in Trinity Bay, south of a line running from the entrance of Double Bayou to Umbrella Point. "Inshore waters," as defined at 50 CFR 222.102, means the marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80. Instead of the required use of TEDs, shrimp trawlers may opt to comply with the sea turtle conservation regulations by using restricted tow times. A shrimp trawler utilizing this authorization must limit tow times to no more than 55 minutes, measured from the time trawl doors enter the water until they are retrieved from the water. This authorization is in effect until 11:59 p.m. local time on September 22, 2000.

Alternative to Required Use of TEDs; Termination

The AA, at any time, may modify the alternative conservation measures through publication in the **Federal Register**, if necessary to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the AA may modify the affected area or impose any necessary additional or more stringent measures, including more restrictive tow times or

synchronized tow times, if the AA determines that the alternative authorized by this temporary rule is not sufficiently protecting turtles, as evidenced by observed lethal takes of turtles aboard shrimp trawlers, elevated sea turtle strandings, or insufficient compliance with the authorized alternative. The AA may also terminate this authorization for these same reasons, or if compliance cannot be monitored effectively, or if conditions do not make trawling with TEDs impracticable. The AA may modify or terminate this authorization, as appropriate, at any time. A document will be published in the **Federal Register** announcing any additional sea turtle conservation measures or the termination of the tow time option in Galveston Bay. This authorization will expire automatically at 11:59 p.m. on September 22, 2000, unless it is explicitly extended through another notification published in the **Federal Register**.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA has determined that this action is necessary to respond to an emergency situation to allow more efficient fishing for shrimp, while providing adequate protection for endangered and threatened sea turtles pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this temporary rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment. The AA finds that unusually high densities of bryozoans (*Zoobotryon verticillatum*) are creating special environmental conditions that may make trawling with TED-equipped nets impracticable. The AA has determined that the use of limited tow times for the described area and time would not result in a significant impact to sea turtles. Notice and comment are contrary to the public interest in this instance because providing notice and comment would prevent the agency from providing relief within the necessary time frame. The public was provided with notice and an opportunity to comment on 50 CFR 223.206(d)(3)(ii).

Pursuant to 5 U.S.C. 553(d)(1), because this temporary rule relieves a restriction, it is not subject to a 30-day delay in effective date. NMFS is making the rule effective August 23, 2000

through 11:59 p.m. local time on September 22, 2000.

Since prior notice and an opportunity for public comment are not required to be provided for this action by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 et seq. are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notices such as this. Copies of the EA are available (see **ADDRESSES**).

Dated: August 23, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 00-21936 Filed 8-23-00; 4:56 pm]

Billing Code: 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970930235-8028-02; I.D. 082300B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., local time, August 26, 2000, through June 30, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727-570-5305, fax 727-570-5583, e-mail Mark.Godcharles@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery