

[FR Doc. 01-27870 Filed 11-5-01; 8:45 am]

BILLING CODE 4910-15-M

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[FCC 01-241, MM Docket No. 97-107, RM-9023]

**FM Broadcasting Services; Pottsville and Saltillo, MS****AGENCY:** Federal Communications Commission.**ACTION:** Final rule; application for review, denied.

**SUMMARY:** In MM Docket No. 97-107, the Commission denied an application for review filed by Olvie E. Sisk, licensee of Station WCNA(FM), Channel 240C3 (95.9 MHz), Potts Camp, Mississippi. Sisk had requested review of the Report and Order, 64 FR 38,592, published July 19, 1999, which the Commission denied because it found that the staff had properly denied in the Report and Order Sisk's petition for rulemaking (RM-9023) seeking the reallocation of Channel 240C3 from Potts Camp to Saltillo, Mississippi. The staff relied upon strong Commission policy against removal of a community's sole aural broadcast transmission service absent a compelling showing that a waiver of this prohibition is warranted. Sisk's allegations of his station's financial peril fell well short of justifying such a waiver. With this action, the proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:** J. Bertron Withers, Jr., Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Memorandum Opinion and Order, MM Docket 97-107, adopted August 23, 2001, and released August 29, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center (room CY-A257), 445 12th Street, SW, Washington, DC 20554. The complete text of this decision may be also purchased from the Commission's copy contractor, Qualex International Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554.

Federal Communications Commission.

**Magalie Roman Salas,**  
*Secretary.*

[FR Doc. 01-27781 Filed 11-5-01; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 011005243-1243-01; I.D. 102401B]

**International Fisheries Regulations; Pacific Tuna Fisheries; Establishment of Incidental Catch Limit for Yellowfin Tuna Taken by the U.S. Purse Seine Fishery in the Eastern Pacific Ocean****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Fishing restrictions; request for comments.

**SUMMARY:** NMFS announces that the 2001 yellowfin tuna quota has been reached and a 15-percent incidental catch limit is now in effect for yellowfin tuna taken in the U.S. purse seine fishery in the Commission's Yellowfin Regulatory Area (CYRA) of the Inter-American Tropical Tuna Commission (IATTC) through the remainder of 2001. This action is taken in accordance with a resolution adopted by the IATTC and approved by the Department of State (DOS).

**DATES:** Effective 12:01 a.m., October 28, 2001, through 11:59 p.m., December 31, 2001. Comments will be accepted through November 21, 2001.

**ADDRESSES:** Submit comments to Rodney R. McInnis, Acting Regional Administrator, Southwest Region (Regional Administrator), NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** Svein Fougner at 562-980-4040.

**SUPPLEMENTARY INFORMATION:** This action is taken under the authority of the regulations at 50 CFR part 300, subpart C, which implement the Tuna Conventions Act (16 U.S.C. 955). The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949. The IATTC was established to provide an international arrangement to ensure the effective international conservation and management of tunas and tuna-like fishes in the Convention Area. The IATTC maintains a scientific research and fishery monitoring program and annually assesses the status of stocks of tuna and tuna fisheries to determine appropriate harvest limits or other measures to prevent overexploitation of

the stocks and promote viable fisheries. The Convention Area is all waters of the eastern Pacific Ocean between 40° N. lat. and 40° S. lat. and east of 150° W. long. The boundary of the CYRA is described at 50 CFR 300.21.

At its annual meeting in June 2001, the IATTC adopted a resolution (which was subsequently agreed to by the DOS) recommending that action be taken by member nations and other fishing nations to limit the catch of yellowfin tuna in 2001 to 250,000 metric tons (mt), with the potential to increase the quota by up to three increments of 20,000 mt each (or a total quota of 310,000 mt) if the Director of IATTC concluded, based on catch and effort data, that the higher level of harvest would not pose a substantial danger of overfishing to the stocks.

Under regulations at 50 CFR 300.29(a), the Regional Administrator is authorized to notify tuna purse seine vessel owners and agents directly of any quotas and associated regulatory measures that have been recommended by the IATTC and approved by the DOS. On September 12, 2001, the Regional Administrator notified the vessel owners and agents of the 2001 yellowfin tuna quota and the incidental catch limit that would go into effect when the quota was reached. NMFS also announced the 2001 yellowfin tuna quota and incidental catch limit to the public in the **Federal Register** at 66 FR 53735, October 24, 2001.

Under regulations at 50 CFR 300.29(b), when advised by the Director of Investigations of the IATTC that a quota has been or is projected to be reached, the Regional Administrator may close the fishery and establish incidental catch allowances by direct notification to the owners or agents of U.S. vessels who are fishing in or are eligible to fish in the Convention Area. As soon as practicable after being advised of the closure, NMFS will publish the announcement in the **Federal Register**. The Director of Investigations of the IATTC advised the Regional Administrator on October 11, 2001, that the 2001 quota, including all 3 incremental increases, was projected to be reached on October 27, 2001, and that incidental catch limits would be in effect for the rest of the year. Accordingly, the incidental catch limit for yellowfin tuna taken in purse seine gear will go into effect on October 28, 2001, and last through calendar year 2001. That is, from October 28, 2001, through December 31, 2001, any individual purse seiner when fishing for other species of tuna may retain a maximum of 15-percent of yellowfin

tuna relative to its total catch of all species of fish in that period.

For the reasons stated here and in accordance with the regulations at 50 CFR 300.29, NMFS announces that, after 12:01 a.m., October 28, 2001, through 1159 p.m., December 31, 2001, no U.S. vessel may use a purse seine fish to fish for tunas within the CYRA unless in compliance with the previously described measures.

#### Classification

This action is authorized by the regulations implementing the Tuna Conventions Act. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Acting Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR part 300, subpart C, and is exempt from review under Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C., 601 *et seq.*, are not applicable.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. 553 (b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because the rule authorizing this action specifies that the Regional Director may close the fishery by direct notification to the owners or agents of U.S. vessels who are fishing in or are eligible to fish in the Convention Area. The AA finds for good cause under 5 U.S.C. 553 (d)(3) that a 30-day delay in effectiveness for this 2001 quota would be contrary to the public interest. Such a delay could allow the quota to be taken and the quota exceeded before yellowfin tuna becomes an incidental catch fishery.

**Authority:** 16 U.S.C. 951–961 and 971 *et seq.*

Dated: October 31, 2001.

#### Bruce C. Morehead

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.  
[FR Doc. 01–27850 Filed 11–5–01; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 010220043–1132–02; I.D. 102501A]

RIN 0648–AN78

### Fisheries of the Northeastern United States; Atlantic Herring Fisheries; 2001 Specifications; Adjustment

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

**ACTION:** Inseason adjustment of the 2001 Atlantic herring specifications.

**SUMMARY:** NMFS adjusts the 2001 specifications for the Atlantic herring fishery by transferring 10,000 mt of U.S. at-sea processing (USAP) to joint venture processing (JVP). The intent is to reapportion allowable catches of herring within the fishery sectors to allow for the achievement of the objectives of the Fishery Management Plan for Atlantic Herring (FMP).

**DATES:** Effective November 6, 2001 through December 6, 2001. Comments must be received by December 6, 2001.

**ADDRESSES:** Comments on the inseason adjustment should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark on the outside of the envelope “Comments on Inseason Adjustment of 2001 Atlantic herring specifications.” Comments may also be sent via facsimile (fax) to (978) 281–9371. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, Fishery Policy Analyst, 978–281–9288, fax at (978) 281–9135.

**SUPPLEMENTARY INFORMATION:** Joint Venture Processing (JVP) is the amount of herring purchased over the side from U.S. vessels and processed by foreign vessels in the Exclusive Economic Zone (EEZ); IWP is the amount of herring purchased over the side from U.S. vessels and processed by foreign vessels at anchor in state waters; the total amount allocated to processing by foreign ships (JVPt) is the sum of JVP and IWP; and USAP is the amount of herring purchased over the side from U.S. vessels and processed in the EEZ by vessels of the United States that are larger than 165 ft (50.29 m) in length or 750 gross registered tons. JVP operations are restricted to Areas 2 and 3.

The regulations found at 50 CFR 648.200(e) allow NMFS, after consulting with the New England Fishery Management Council (Council), to adjust annual Atlantic herring specifications and TACs during any fishing by publishing notification in the **Federal Register** stating the reasons for such action and providing an opportunity for prior public comment. Any adjustments must be consistent with the FMP objectives and other FMP provisions.

#### JVP and JVPt

For the 2001 herring fishery, NMFS specified 10,000 mt of JVP. As of October 6, 2001, six U.S. vessels had delivered 5658.8 mt of herring or 56.6 percent of the allocation to 3 vessels of the Russian Federation. Recently, NMFS has received several letters from boat owners, processors, and JVP domestic partners requesting an increase of 10,000 mt to the JVP specification. These requests are based on the success of ongoing JVP operations in allowing additional markets for herring harvested by U.S. vessels.

The New England Fishery Management Council (Council), through its Herring Oversight Committee (Committee), recommended not to increase the 2001 JVP specification. The Committee felt that herring acquired by foreign processing vessels could compete directly with herring sold by shoreside processors, thus, inhibiting those processors from increasing their supply to existing markets or entering new markets. Most of the opponents of the JVP increase expressed concern it could affect future prospects for the new herring plant that opened in Gloucester this year. Other Committee members disagreed and noted that one plant cannot process the amount of herring currently being harvested. The Council, in a tie vote, concurred with the Committee's recommendation. The Mid-Atlantic Fishery Management Council (MAFMC) voted unanimously on October 11, 2001, to recommend an increase in JVP. They believe that an increase in JVP will benefit U.S. vessels from Mid-Atlantic ports currently involved in JVP operations. Several of these vessels hope to continue to work with foreign operators.

The public was notified in meeting notices that it would have prior opportunity to comment on the subject action at the Committee meeting on June 6, 2001, and at the September, 2001, Council meeting. Several concerned citizens, addressing impacts of an increase in JVP, presented verbal testimony at those meetings.