

(b) Except as provided in paragraph (c) of this section, a *pro forma* assignment or transfer of control of an authorization to provide international telecommunications service is not subject to the requirements of § 63.18 of this part. A *pro forma* assignee or a carrier that is the subject of a *pro forma* transfer of control is not required to seek prior Commission approval for the transaction. A *pro forma* assignee must notify the Commission no later than 30 days after the assignment is consummated. The notification may be in the form of a letter (in duplicate to the Secretary), and it must contain a certification that the assignment was *pro forma* as defined in paragraph (a) of this section and, together with all previous *pro forma* transactions, does not result in a change of the carrier's ultimate control. A single letter may be filed for an assignment of more than one authorization if each authorization is identified by the file number under which it was granted.

#### PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

21. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 160, 201, 218, 226, 228, 332 unless otherwise noted.

##### § 64.1002 [Amended]

22. Section 64.1002, revise all references to "63.18(h)(1)(i)" to read "63.09(e)" and "63.18(h)(5)(iii)" to read "63.18(k)(3)".

**Note:** This attachment will not appear in the Code of Federal Regulations.

#### Attachment A—Exclusion List for International Section 214 Authorizations

Last Adopted on March 18, 1999

The following is a list of countries and facilities not covered by grant of global Section 214 authority under § 63.18(e)(1) of the Commission's Rules, 47 CFR 63.18(e)(1). In addition, the facilities listed shall not be used by U.S. carriers authorized under § 63.18 of the Commission's Rules unless the carrier's Section 214 authorization specifically lists the facility. Carriers desiring to serve countries or use facilities listed as excluded hereon shall file a separate Section 214 application pursuant to § 63.18(e)(4) of the Commission's Rules. See generally 47 CFR 63.22.

##### Countries

Cuba (Applications for service to Cuba shall comply with the separate filing requirements of the Commission's Public Notice Report No. 1-6831, dated July 27, 1993, "FCC to Accept Applications for Service to Cuba.")

##### Facilities:

All non-U.S.-licensed satellite systems

This list is subject to change by the Commission when the public interest requires. Before amending the list, the Commission will first issue a public notice giving affected parties the opportunity for comment and hearing on the proposed changes. The Commission may then release an order amending the exclusion list. This list also is subject to change upon issuance of an Executive Order. See Streamlining the Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95-118, FCC 96-79, 11 FCC Rcd 12884, released March 13, 1996 (61 FR 15724, April 9, 1996). A current version of this list is maintained at <http://www.fcc.gov/ib/td/pf/exclusionlist.html>.

For additional information, contact the International Bureau's Telecommunications Division, Policy & Facilities Branch, (202) 418-1460.

[FR Doc. 99-9480 Filed 4-16-99; 8:45 am]

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#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[MM Docket No. 98-2, RM-9217]

#### FM Broadcasting Services; Hawesville and Whitesville, Kentucky

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In MM Docket No. 98-2, the Chief, Allocations Branch, granted the rulemaking proposal (RM-9712) filed by WLME, Inc. and set forth in *Notice of Proposed Rulemaking*, 63 FR 4206, published January 28, 1998, to change the community of license of Station WCXM(FM), Hawesville, Kentucky, by realloiting Channel 246A from Hawesville to Whitesville, Kentucky as that community's first local aural transmission service, and to modify that station's license by specifying Whitesville as the new community of license. The Branch Chief granted RM-9712. With this action, the proceeding is terminated.

**DATES:** Effective May 17, 1999.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Report and Order*, MM Docket 98-2, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street, NW, Washington, DC 20554. The complete text of this decision may be also purchased from the Commission's copy contractor,

International Transcription Service, 1231 20th Street, NW, Washington, DC 20036, (202) 857-3800.

Channel 246A can be allotted to Whitesville, Kentucky in compliance with the Commission's minimum distance separation requirements without a site restriction at reference coordinates North Latitude 37° 48'39" and West Longitude 86°53'18".

#### 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 reads continues to read as follows:

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

##### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, under Kentucky, is amended by adding an entry "Whitesville, 246A" and by removing the entry for Hawesville.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 99-8847 Filed 4-16-99; 8:45 am]

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

##### 50 CFR part 660

[I.D. 103098A]

RIN 0648-AL49

#### Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries, Amendment 8; Crustacean Fisheries, Amendment 10; Bottomfish and Seamount Groundfish Fisheries, Amendment 6; Precious Corals Fisheries, Amendment 4

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

**ACTION:** Notification of agency decision.

**SUMMARY:** NMFS announces the partial approval of a "comprehensive amendment" that addresses essential fish habitat (EFH), overfishing definitions, bycatch, fishing sectors, and fishing communities in the Western Pacific Fishery Management Council's

(Council) four fishery management plans.

**DATES:** This agency decision is effective February 3, 1999.

**ADDRESSES:** Copies of the Amendments and Environmental Assessment may be obtained from the Western Pacific Regional Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Alvin Z. Katekaru, Fishery Management Specialist, Pacific Islands Area Office, NMFS, at 808- 973-2985.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment. On November 5, 1998, NMFS published a notice of availability (NOA) of the Western Pacific amendments in the **Federal Register** and requested public comments through January 4, 1999 (63 FR 59758).

On February 3, 1999, after considering comments received, NMFS partially approved the Western Pacific comprehensive amendment. NMFS approved the definitions of EFH for each of the four FMPs. All of the amendments identify and describe EFH for the species managed under these FMPs. EFH-related research and information needs are consistent with NMFS goals. The non-fishing impacts on EFH are described, and mitigation measures to address adverse impacts of fishing on EFH already implemented are appropriate. No new measures would be practicable at this time. NMFS will work with the Council to better understand and minimize impacts of gear not originating in local fisheries, such as high seas driftnets, trawl gear, and lost fishing line that float into the Council's area from outside the Western Pacific exclusive economic zone. Disapproved sections of the comprehensive amendment include the bycatch provisions of Amendment 6 to the FMP for Bottomfish and Seamount Groundfish, as well as those for Amendment 8 to the Pelagics FMP. Although both amendments adequately describe reporting procedures in place and provide a general description of

bycatch, quantification of bycatch by all sectors of the fisheries managed by the Council is needed, as is a description of the adequacy and identification of any shortfalls in the data. Both amendments should include a more detailed discussion of specific measures taken to minimize bycatch and minimize the mortality of bycatch once taken.

Amendment 8 to the Pelagics FMP also fails to address the fact that the catch of sea turtles has remained relatively consistent for the last several years. The Magnuson-Stevens Act requires FMPs to address measures to reduce this take, through modification of gear or fishing effort. There should also be a discussion of data and estimates of seabird incidental catch in the fishery.

Also disapproved were the criteria for identifying when overfishing would occur in the bottomfish, pelagics, and crustaceans fisheries. The Council's use of spawning potential ratio (SPR) percentages or ranges as a proxy for maximum sustainable yield (MSY) in determining minimum stock size threshold as described in the amendment is not acceptable. SPR is not an appropriate proxy for MSY, because it does not provide a measure of stock biomass as required by the Magnuson-Stevens Act to determine the status of each stock. Further, the discussion of these fisheries uses the term "control rule" incorrectly. A control rule should contain two elements: A precautionary target (meaning a reference point that is precautionary with respect to the limit reference point and stocks status), which triggers action before the limit reference point is reached, and the action to be taken to expediently control (reduce) fishing mortality if such a point is reached. The identification of fishing communities is acceptable, with the exception of the categorization of the State of Hawaii as a fishing community. This categorization is overly broad. The Council needs to revisit its determination, specifically focusing on the definition of "fishing community" in the Magnuson-Stevens Act, including the requirement to identify communities that are " \* \* \*substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs \* \* \*" [Sec. 3(16)]. The NMFS National Standard Guidelines (63 FR 24212, May 1, 1998), further stipulate a fishing community as an economic or social group that resides in a specific location and shares a common dependency on fishing or related fisheries dependent industries and services. Although NMFS recognizes that there are cases in which an island

may be appropriately designated as a community, the Council should have provided additional background and analysis to justify the designations. In the case of Hawaii, a more narrow categorization needs to be developed.

**Comments and Responses**

NMFS received two comments from the Marine Fish Conservation Network (MFCN) during the comment period on the NOA.

*Comment 1:* The MFCN commented that the comprehensive amendment fails to evaluate the effects of all 35 gear types listed (63 FR 4030, January 27, 1999) as used in the Western Pacific, fails to evaluate the effect of the take of prey species as an effect on EFH, fails to minimize any identified adverse effects of fishing activities on EFH, and fails to establish research closure areas to evaluate further the impacts of fishing activities on EFH.

*Response:* The amendment focuses on gear types predominantly used in the Western Pacific waters under Federal jurisdiction, the majority of which were defined as EFH. The amendment identifies these gears as longline, handline, troll, all variations of hook-and-line gear, and lobster traps. Examination of catch data from Hawaii, Guam, American Samoa, and the Northern Mariana Islands indicates that more than 88 percent (by weight) of the 1997 catch from Federal waters (seaward of state waters) were landed by hook-and-line, longline, and trolling gear. Other gear types such as manned submersibles used to harvest precious corals, or harvest by hand (e.g., spear or small throw net) are unlikely to adversely affect habitat. The actual and potential effects of the predominant fishing gears on habitat within Federal waters were evaluated and found by the Council not to warrant additional measures at this time.

The Council, however, previously took action to minimize the adverse impacts of fishing activities on EFH. For example, the Council evaluated several potentially destructive gear types and banned their use in Federal waters. These include bottomfish trawls, bottom-set gillnets, explosives, poisons, and tangle net dredges. Current Federal regulations also prohibit unattended lobster traps in order to prevent ghost fishing and to minimize the potential for lost gear that could have an adverse effect on EFH.

Regarding the take of prey species resulting from fishing activities, no managed fisheries target such species. Although some prey species are taken as bycatch by tuna purse seiners operating around certain remote U.S. Pacific

island areas such as Palmyra Atoll, and the islands of Howland, Baker, and Jarvis, the quantity harvested annually is less than 10 mts. NMFS believes that this level of catch of prey species will not have an adverse effect on EFH.

According to NMFS' EFH Guidelines (62 FR 66531, December 19, 1997), the establishment of research closure areas is not a mandatory element of fishery management plans. Even though the Council did not create specific research closure areas, currently established refugia, protected species study zones, and longline closed areas could be used as research closure areas for that purpose under experimental fishing permits.

*Comment 2:* The MFCN also commented that the comprehensive amendment fails to comply with statutory mandates to create a standardized reporting methodology for bycatch and to minimize to the extent practicable bycatch and bycatch mortality in its fisheries.

*Response:* NMFS recognized the shortcomings of the sections of the comprehensive amendment regarding bycatch in the bottomfishing and pelagics fisheries and disapproved them. Although the bycatch sections of the crustaceans and precious corals amendments could be strengthened by more specific discussion and analysis of all fishing gears used in the Western Pacific, NMFS has determined that they are adequate, but will work with the Council to improve them. No new management measures to address bycatch appear to be practicable at this time.

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

Dated: April 13, 1999.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 990304062-9062-01; I.D. 041299B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area in the Gulf of Alaska

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

**ACTION:** Modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of Pacific cod in that area.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 18, 1999.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-481-1780 or tom.pearson@noaa.gov.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(6)(iii), the Final 1999 Harvest Specifications for Groundfish (64 FR 12094, March 11, 1999), and subsequent reserve apportionment (64 FR 16362, April 5, 1999) established the allowance of the 1999 Pacific cod TAC apportioned for vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA as 2,363 metric tons (mt).

The offshore component fishery for Pacific cod in the GOA was closed to directed fishing under § 679.20(d)(1)(iii) on January 20, 1999 (64 FR 3658, January 25, 1999).

NMFS has determined that as of April 3, 1999, approximately 2,000 mt remain in the offshore component directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

#### Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific cod TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP objective of providing the Pacific cod TAC for

harvest. NMFS finds for good cause that implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: April 13, 1999.

**Bruce Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 697

[Docket No. 990119023-9023-01; I.D. 111898B]

RIN 0648-AL38

#### Atlantic Sturgeon Fishery; Moratorium in Exclusive Economic Zone

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

**ACTION:** Direct final rule; notification of effective date.

**SUMMARY:** NMFS issues this notification of the effective date for a direct final rule prohibiting the possession in, or harvest from, the exclusive economic zone (EEZ) of Atlantic sturgeon from Maine through Florida.

**DATES:** This rule is effective May 27, 1999.

**FOR FURTHER INFORMATION CONTACT:** Paul Perra, 301-427-2014.

**SUPPLEMENTARY INFORMATION:**

#### Background

On February 26, 1999, a direct final rule for Atlantic sturgeon was published (64 FR 9449), which had a comment period ending on March 29, 1999. The rule was to become effective on May 27, 1999, if no adverse comments or a notice of intent to submit adverse comments were received by March 29, 1999. Since no adverse comments or a notice of intent to submit adverse comments were received during the comment period, this rule becomes effective May 27, 1999, without further action. This direct final rule does not exclude the submission of a request, under 50 CFR 600.745, to conduct experimental, scientific, or educational fishing on Atlantic sturgeon.