

serve the petitioner, or its counsel or consultant, as follows: Willison H. Gormly, Owner and Electrical Engineer, Sierra Grande Broadcasting, P.O. Box 51, Des Moines, New Mexico 88418-0051.

FOR FURTHER INFORMATION CONTACT:

Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00-66, adopted April 5, 2000, and released April 14, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 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

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 000412106-0106-01; I.D. 032200A]

RIN 0648-A002

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Atlantic Coast Horseshoe Crab Fishery; Closed Area to Horseshoe Crab Fishing

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

Atmospheric Administration (NOAA), Commerce.

ACTION: Advance Notice of Proposed Rulemaking (ANPR); consideration of a closed area to fishing for horseshoe crab.

SUMMARY: NMFS announces that it is considering, and is seeking public comment on, a prohibition on fishing for horseshoe crab (*Limulus polyphemus*) in Federal waters (EEZ) in an area encompassing a 30-nautical mile (nm) (55.6 km) radius from the mouth of the Delaware Bay (measured from the territorial sea boundary midway between Cape May, New Jersey and Cape Henlopen, Delaware). NMFS would take such action, if appropriate, under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA, 16 U.S.C. 5101 *et seq.*) with the purpose of conserving the Delaware Bay population of horseshoe crabs at a level that can sustain fisheries and provide a sufficient amount of horseshoe crab eggs for migratory shorebirds, which feed on such eggs.

DATES: Comments must be received by June 2, 2000.

ADDRESSES: Comments should be addressed to Richard Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries (Fx2), National Marine Fisheries Service, 8484 Georgia Avenue, Silver Spring, Maryland 20910.

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

SUPPLEMENTARY INFORMATION: The Atlantic coast horseshoe crab fishery takes place from Maine through Florida. Approximately 60 percent of horseshoe crabs are taken in the territorial sea (an area which extends from the coastline seaward to a distance of 3 nm (5.56 km)) off of the mid-Atlantic states (New York through Virginia). The fishery in Federal waters (3-200 nm) takes place seaward of the 3-nm line off of the mid-Atlantic states, where horseshoe crabs are primarily harvested with trawls or dredges.

In the mid-Atlantic area in recent years, there has been a dramatic shift in fishing effort on horseshoe crabs from waters under state jurisdiction to waters under Federal jurisdiction. This has raised concern about maintaining the Delaware Bay population of horseshoe crabs at levels that can sustain fisheries and provide an abundance of horseshoe crab eggs, an important food source for migratory shorebirds. While no complete Atlantic coast stock assessment is available for horseshoe crabs, some mid-Atlantic surveys show declining trends in horseshoe crab abundance. Fisheries in waters under state jurisdiction are managed through

the Interstate Fishery Management Plan for the Horseshoe Crab (Plan) developed by the Atlantic States Marine Fisheries Commission (Commission). Since the majority of horseshoe crabs are harvested from waters under state jurisdiction, horseshoe crab fisheries are managed most appropriately and effectively under the authority of the ACFCMA, which provides for the issuance of compatible Federal regulations in the EEZ complementary to those of the states.

The Commission approved the Plan in November 1999, and Addendum 1 to the Plan in February 2000. The states, through adoption of the Plan and its Addendum 1, recognize the need to conserve horseshoe crab stocks. Under Addendum 1, a variety of new requirements in state waters is being implemented to better monitor and manage the horseshoe crab fishery, including a 25 percent reduction in each state's horseshoe crab bait-fishery landings. Addendum 1 also recommends to NMFS that it "should establish an offshore horseshoe crab sanctuary in federal waters within a 30 nautical mile radius of the mouth of the Delaware Bay. The taking of horseshoe crabs for any purpose, including biomedical, would be prohibited in this sanctuary. Furthermore, the NMFS should prohibit the transfer of horseshoe crabs in Federal waters."

The Commission requested that the area in the EEZ off the mouth of the Delaware Bay be closed to fishing to give special protection to that Bay's population of horseshoe crabs. The Commission determined that this protection is necessary to conserve the Delaware Bay population of horseshoe crabs at sustainable levels and to maintain the abundance of horseshoe crab eggs in Delaware Bay as a food source for migratory shorebirds.

Because of the difficulty in enforcing a closed area in the shape of a radius (semi-circle), NMFS is considering establishing a closed area in Federal waters that would be roughly equivalent in the shape of a rectangle. The closed area would be bounded as follows:

(1) On the north by a straight line connecting points 39°15.0' N. lat., 74°32.66' W. long. (3 nm off of Peck Beach, New Jersey) and 39°15.0' N. lat., 74°22.0' W. long.

(2) On the east by a straight line connecting points 39°15.0' N. lat., 74°22.0' W. long. and 38°22.0' N. lat., 74°22.0' W. long.

(3) On the south side by a straight line connecting points 38°22.0' N. lat., 74°22.0' W. long. and 38°22.0' N. lat., 75°35.46' W. long. (3 nm off of Ocean City, Maryland).

(4) On the west by state waters. NMFS is seeking public comment on this ANPR (see **ADDRESSES**) under the ACFCMA. Public comment is sought as to whether there is a need to close fishing for horseshoe crabs seaward from the mouth of the Delaware Bay, and, if so, what should be the size and shape of the closure area.

During the ANPR process for the closed area, NMFS also intends to

publish a proposed rule on permitting and reporting requirements and a prohibition of transfers at sea for the horseshoe crab fishery. After reviewing comments received during the ANPR process, a separate proposed rule for the closed area may be published.

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

Authority: 16 U.S.C. 5101 *et seq.*

Dated: April 27, 2000.

Penelope D. Dalton,

*Assistant Administrator for Fisheries,
National Marine Fisheries Services.*

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