

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 87-267; FCC 00-291]

#### Implementation of the AM Expanded Band Allotment Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; on remand from U.S. Court of Appeals for D.C. Circuit; record supplemented.

**SUMMARY:** After undertaking a hypothetical computer re-analysis of the allotment plan for the migration of AM radio stations to the expanded band, *i.e.*, 1605-1705 kHz, deleting protections for federal Traveler Information Service ("TIS"), the Federal Communications Commission ("FCC") concluded that WGNV(AM), Newburgh, New York, would not have been granted an AM expanded band allotment even if TIS station protection was deleted. This action was taken in response to WGNV's argument that it would have been granted an expanded band allotment if the expanded band plan did not include TIS protections. The FCC also declined to consider WGNV's objections to several fundamental aspects of the allotment methodology which were resolved earlier in this proceeding but about which WGNV did not object previously.

**DATES:** Effective August 10, 2000.

**FOR FURTHER INFORMATION CONTACT:** Peter H. Doyle, Audio Services Division, Mass Media Bureau (202) 418-2789.

**SUPPLEMENTARY INFORMATION:** In Implementation of the AM Expanded Band Allotment Plan, MM Bureau Docket No. 87-267, FCC 00-291, adopted August 3, 2000, released August 10, 2000 ("Memorandum Opinion and Order"), on remand from the U.S. Court of Appeals for the District of Columbia Circuit (the "Court"), the Federal Communications Commission concluded that a computer reanalysis performed by the FCC staff establishes that Station WGNV(AM), Newburgh, New York, would not receive an AM expanded band allotment even if the FCC were to adopt the technical change to the allotment methodology that the licensee of WGNV(AM) advocated. On June 25, 1997, Sunrise Broadcasting of

New York, Inc., sought review by the Court of the FCC's March 17, 1997 Order in Implementation of the AM Expanded Band Allotment Plan, FCC 97-68, 12 FCC Rcd 3361, 62 FR 23176 (Apr. 29, 1997) ("Order"), which had denied, *inter alia*, Sunrise's Petition for Reconsideration of Non-Inclusion in Expanded AM Band Allotment Plan. Note: 62 FR 23176 inadvertently omitted the Final Regulatory Flexibility Analysis for the Order, FCC 97-68; that analysis is located at 62 FR 28369 (May 23, 1997). Also on March 17, 1997, the Mass Media Bureau issued a Public Notice, Mass Media Bureau Announces Revised AM Expanded Band Allotment Plan and Filing Window for Eligible Stations, 12 FCC Rcd 3185 (MM Bureau 1997) ("Third Allotment Plan") which did not include an expanded band allotment for WGNV. Sunrise argued to the Court of Appeals that the staff's granting certain Traveler Information Service ("TIS") stations co-primary status (thus according them some interference protection) was an unexplained change of agency policy and resulted in WGNV being precluded from obtaining an expanded band allotment. The Mass Media Bureau responded to the Court with a computer analysis that eliminated TIS Station consideration but still resulted in WGNV not having an allotment. After the Court remanded the matter to the FCC on this point, on March 31, 1998, the Mass Media Bureau supplemented the record with the computer re-analysis. On October 19, 1998, Sunrise conceded this point, but in Comments filed with the FCC it sought consideration, for the first time, of issues not previously raised in this proceeding. Specifically, Sunrise objected to the 1995 FCC decision to change the co-channel distance separation requirements for AM expanded band stations from 400 to 800 kilometers (see Reconsideration of Implementation of the AM Expanded Band Allotment Plan, 10 FCC Rcd 12143, 12149 (1995)), and to the calculation of the improvement factors for two of the 710 potential expanded band stations listed in a 1996 Mass Media Bureau Public Notice (see Public Notice, Mass Media Bureau Announces Revised Experimental AM Broadcast Band Implementation Factors and Allotment Plan, 11 FCC Rcd 11419 (MMB 1996). In the Memorandum Opinion and Order, the FCC denied as untimely Sunrise's request to reexamine any aspects of the AM expanded band proceeding other than those relating directly to the interference protection afforded TIS stations, and ordered that

the Mass Media Bureau's computer re-analysis be made a part of the record in this proceeding. The full text of the Memorandum Opinion and Order issued in Implementation of the AM Expanded Band Allotment Plan, FCC 00-291, adopted August 3, 2000 and released on August 10, 2000 is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW-A306), 445 12th Street, SW, Washington, D.C. The complete text of this MO&O may also be purchased from the FCC's copy contractor, International Transcription Services (202) 857-3800, 1231 20th Street, NW, Washington, D.C.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 00-2148; MM Docket No. 99-75; RM-9446]

#### Radio Broadcasting Services; Grants, Milan, NM

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Don Davis, former licensee of Station KQEO(FM), now Station KXXQ(FM), Grants, New Mexico, reallots Channel 264A from Grants to Milan, New Mexico as the community's second local aural transmission service. See 64 FR 14423 (March 25, 1999). Channel 264A at Grants was downgraded from 264C2 by one-step application (File No. BMPH-19960226IB) granted on June 13, 1996. Channel 264A can be allotted to Milan in compliance with the Commission's minimum distance separation requirements, with respect to domestic allotments, at petitioner's site 5.7 kilometers (3.6 miles) south, at coordinates 35-07-09 North Latitude and 107-54-08 West Longitude.

**DATES:** Effective November 6, 2000.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 99-75, adopted September 13, 2000, and released September 22, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 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.

#### 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, 336.

2. Section 73.202(b) the FM Table of Allotments under New Mexico is amended by removing Channel 264C2 at Grants and adding Milan, Channel 264A.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 00-25735 Filed 10-5-00; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 600 and 660

[Docket No. 991223347-9347; I.D. 092800C]

#### Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustments

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

**ACTION:** Fishing restrictions; request for comments.

**SUMMARY:** NMFS announces changes to the limited entry and open access trip limits in the Pacific coast groundfish fishery. This document also announces the last cumulative trip limit period in 2000 for the "B" platoon, those limited entry trawl vessels designated to take

their cumulative trip limits 2 weeks out of phase with the rest of the fleet. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP,) are intended to help the fisheries achieve optimum yield (OY) while still protecting overfished and depleted stocks.

**DATES:** Changes to management measures are effective 0001 hours (local time) October 2, 2000, unless modified, superseded, or rescinded. These changes are effective until the effective date of the 2001 annual specifications and management measures for the Pacific coast groundfish fishery, which will be published in the **Federal Register**. Comments on this rule will be accepted through October 23, 2000.

**ADDRESSES:** Submit comments to Donna Darm, Acting Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070; or Rebecca Lent, Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

**FOR FURTHER INFORMATION CONTACT:** Yvonne deReynier or Becky Renko (Northwest Region, NMFS) 206-526-6140.

**SUPPLEMENTARY INFORMATION:** The following changes to current management measures were recommended by the Pacific Fishery Management Council (Council,) in consultation with the States of Washington, Oregon, and California, at its September 11-15, 2000, meeting in Sacramento, CA. Pacific coast groundfish landings will be monitored throughout the year, and further adjustments to the trip limits will be made as necessary to stay within the OYs and allocations announced in the 2000 annual specifications and management measures for the groundfish fishery (65 FR 221, January 4, 2000, as amended at 65 FR 4169, January 26, 2000; 65 FR 17805, April 5, 2000; 65 FR 25881, May 4, 2000; 65 FR 31283, May 17, 2000; 65 FR 33423, May 23, 2000; and 65 FR 45308, July 21, 2000).

#### Yellowtail Rockfish Taken in Limited Entry Trawl Fisheries for Flatfish; Yellowtail Rockfish, Arrowtooth Flounder, and Other Flatfish in Limited Entry Trawl Fisheries

During the winter months, yellowtail rockfish tend to move to rockier habitats and are not as closely associated with flatfish as they are during the summer months. To make yellowtail rockfish and flatfish management more consistent with natural catch association patterns, and to reduce

discards of yellowtail rockfish taken with small footrope bottom trawl gear by vessels fishing for flatfish, per-trip limits for yellowtail rockfish taken with small footrope bottom trawl gear were introduced in July (65 FR 45308, July 21, 2000). At its September meeting, the Council recommended maintaining a per-trip limit for yellowtail rockfish taken with small footrope bottom trawl gear through the November to December period. The per-trip limit during the July to October period is equivalent to the sum of 33 percent (by weight) of all flatfish except arrowtooth flounder, plus 10 percent (by weight) of arrowtooth flounder, not to exceed 7,500 lb (3,402 kg). During the November to December cumulative trip limit period, the flatfish fishery is concentrated in depths that have less association with yellowtail rockfish; therefore, the Council recommended decreasing the per-trip limit to the sum of 33 percent (by weight) of all flatfish except arrowtooth flounder, plus 10 percent (by weight) of arrowtooth flounder, not to exceed 2,500 lb (1,134 kg).

Through August 31, 2000, only 21.1 percent of the OY for yellowtail rockfish set aside for the limited entry fishery north of Cape Mendocino (40° 10' N. lat.) had been landed. To allow fishers access to these stocks without exceeding 2000 OYs, the Council recommended increasing the yellowtail rockfish 2-month cumulative limit for the November to December period from the previously established 10,000 lb (4,536 kg) to 30,000 lb (13,608 kg). Yellowtail rockfish taken in the flatfish fisheries and subject to the 2,500 lb per-trip limit would also be subject to the 2-month cumulative limit.

The Council also recommended increasing the per-trip limit for arrowtooth flounder taken with large or small footrope bottom trawl from the prior recommended 10,000 lb (4,536 kg) to 20,000 lb (9,072 kg) per trip. Because arrowtooth flounder are not a high-value species, this limit is not expected to increase targeted effort on that species.

To allow fishers access to "other flatfish" without exceeding 2000 OYs, the Council recommended increasing the limit for other flatfish taken with large footrope bottom trawl from 400 lb (181 kg) per trip to 1,000 lb (454 kg) per trip for the November-December period. Other flatfish means all flatfish listed at 50 CFR 660.302 except those with species-specific trip limits and rex sole.

#### Limited Entry Trawl and Fixed Gear, and Open Access Minor Slope Rockfish South of 40°10' N. lat.

Throughout 2000, minor slope rockfish landings south of 40°10' N. lat.