

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

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

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

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

##### § 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under West Virginia is amended by removing channel 23 at Charleston.

##### § 73.622 [Amended]

3. Section 73.622(b), the Digital Table of Television Allotments under West Virginia is amended by adding DTV channel 52 at Charleston.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 02-16869 Filed 7-3-02; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 02-1482, MB Docket No. 02-154, RM-10490]

#### Television Broadcast Service; Topeka, KS

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Davis Television Topeka, LLC, an applicant for a new station to operate on channel 43 at Topeka, Kansas, proposing the

substitution of channel 22 for channel 43. Channel 22 can be allotted to Topeka, Kansas, with a plus offset at reference coordinates 39-00-00 N. and 96-07-45 W.

**DATES:** Comments must be filed on or before August 22, 2002, and reply comments on or before September 6, 2002.

**ADDRESSES:** The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). See *Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97-113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dennis P. Corbett, Leventhal, Senter & Lerman, PLLC, Suite 600, 2000 K Street, NW., Washington, DC 20006-1809 (Counsel for Davis Television Topeka, LLC).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02-154, adopted June 24, 2002, and released July 1, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257,

Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail *qualexint@aol.com*.

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

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

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

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

##### § 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Kansas, is amended by removing Channel 43 and adding Channel 22+ at Topeka.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 02-16870 Filed 7-3-02; 8:45 am]

**BILLING CODE 6712-01-P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 020620152-2152-01; I.D. 061102A]

**RIN 0648-AQ11**

#### Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Control Date for Atlantic Mackerel

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

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Advance notice of proposed rulemaking; notice of control date for the purposes of controlling entry in the Atlantic mackerel fishery.

**SUMMARY:** NMFS announces that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the Atlantic mackerel (*Scomber scombrus*) resource if a management regime is developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) that limits the number of participants in the fishery. This announcement is intended, in part, to promote awareness of potential eligibility criteria for future access so as to discourage speculative entry into the fishery while the Mid-Atlantic Fishery Management Council (Council) and NMFS consider whether and how access to the Atlantic mackerel fishery should be controlled. The date of publication of this notification, July 5, 2002, shall be known as the "control date" and may be used for establishing eligibility criteria for determining levels of future access to the Atlantic mackerel fishery subject to Federal authority.

**DATES:** Written comments must be received on or before 5 p.m., local time, August 5, 2002.

**ADDRESSES:** Written comments should be directed to Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Dover, DE 19904-6790. Mark the outside of the envelope, "Comments on Atlantic Mackerel Control Date." Comments also may be sent via facsimile (fax) to (302) 674-5399. Comments will not be accepted if submitted via e-mail or Internet.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, Fishery Policy Analyst, 978-281-9273, fax 978-281-9135, e-mail paul.h.jones@noaa.gov.

**SUPPLEMENTARY INFORMATION:** Atlantic mackerel (*Scomber scombrus*) is a migratory species that supports important recreational and commercial fisheries along the Atlantic coast of the United States and Canada. The most recent stock assessment (SAW 30, 2000) concluded that the stock biomass is at high levels and is under exploited. The Council developed the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish (FMP) to provide for the development of the U.S. Atlantic mackerel, squid, and butterfish (MSB) fisheries. An initial notice establishing a control date of August 13, 1992 (1992 control date), was issued for the MSB

fisheries (57 FR 36384, August 13, 1992), which stated that as of that date no vessel would be guaranteed entry into a limited access fishery, if the Council chose to implement one. This 1992 control date was rescinded for Atlantic mackerel on September 27, 1994 (59 FR 49235), because the Council and NMFS believed that information regarding biomass levels, fishing levels, fishing effort, and catch indicated that the Atlantic mackerel fishery would not require limited-entry management in the foreseeable future. Removal of the 1992 control date also removed a disincentive to accessing this underutilized resource for vessel owners who were facing severe restrictions in other Northeast fisheries.

In Amendment 5 to the FMP, the Council included a provision that would require the Secretary of Commerce to publish a control date for the Atlantic mackerel fishery when commercial landings reached 50 percent of allowable biological catch. NMFS did not include this provision in the proposed rule because, as explained in the preamble to that rule (60 FR 65618, December 20, 1995), it was not considered a management measure to be implemented by regulation. Rather, it was viewed as a statement of Council intent. NMFS further noted that the Council could recommend the publication of a control date when it deemed the action necessary. At its May 1997 meeting, the Council requested that NMFS issue an advance notice of proposed rulemaking reestablishing a control date for Atlantic mackerel. The Council intended the control date to discourage new vessels from entering the fishery speculatively while the Council considered implementing a management program for this fishery that would control the rate on capitalization in the fishery.

Amendment 5 to the FMP estimated that the hold capacity for vessels issued MSB permits approached 50,000 mt if each vessel made just one trip at full capacity. The Council members noted that this capacity, combined with reports that a large factory trawler might enter the fishery, raised concerns because the estimate of long-term potential yield for the fishery was 150,000 mt. Further, both NMFS and the Council had indicated that first preference for entry into this fishery should be afforded to Northeast region vessels as an alternative to traditional fisheries that have been severely overfished. For these reasons, the Council voted to request publication of a second control date for Atlantic mackerel.

A second control date of September 12, 1997 (62 FR 48047)(1997 control date), was established to discourage speculative entry into the Atlantic mackerel fishery while potential management regimes to control access into the fishery were discussed and possibly developed by the Council. The Council intended to consider a controlled access plan in an amendment to the FMP, however, subsequent amendments focused on other issues, including the need to address the requirements of the 1996 Sustainable Fisheries Act.

The Council recently adopted a recommendation for an increase in the 2003 Domestic Annual Processing (DAP) specification for Atlantic mackerel to 150,000 mt. This three fold increase in the DAP specification compared with specifications in previous years was based on testimony from members of the harvesting and processing sectors of the Atlantic mackerel industry who indicated that there is significant interest in expansion of domestic shore-side processing for Atlantic mackerel in 2003. While the proposed increase in DAP for 2003 is consistent with the FMP and current stock condition, the Council is concerned about rapid expansion of harvest capacity in the fishery and possible overcapitalization. In addition, the Council is concerned that nearly five years have passed since the 1997 control date was published. The Council requested at its April 2002 meeting that a new control date for the Atlantic mackerel fishery be published.

Publication of this July 5, 2002, control date is intended to discourage speculative entry into the Atlantic mackerel fishery while potential management regimes to control access into the fishery are discussed and possibly developed by the Council. Establishment of a new control date will help to distinguish established participants from speculative entrants to the fishery. Although participants are notified that entering the fishery after this new control date will not assure them of future access to the Atlantic mackerel resource on the grounds of previous participation, additional and/or other qualifying criteria also may be applied. The Council may choose different and variably weighted methods to qualify fishermen, based on the type and length of participation in the fishery or on the quantity of landings. This notice establishes July 5, 2002, for potential use in determining historical or traditional participation in the Atlantic mackerel fishery. This action does not commit the Council to develop any particular management regime or to

use any specific criteria for determining entry to the fishery. The Council may choose a different control date, or may choose a management program that does not make use of such a date. The Council may choose also to take no further action to control entry or access to the fishery. Any action by the Council will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the Atlantic mackerel fishery in Federal waters.

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

Dated: June 28, 2002.

**William T. Hogarth,**

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

[FR Doc. 02-16813 Filed 7-3-02; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[I.D. 062602E]

RIN 0648-AP71

#### Fisheries of the Exclusive Economic Zone off Alaska; Amendment 69 To Allow American Fisheries Act Inshore Pollock Cooperatives To Contract With Non-Member Vessels

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

**ACTION:** Notice of Availability (NOA); request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) has submitted Amendment 69 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This amendment would allow an American Fisheries Act inshore pollock cooperative to contract with a non-member catcher vessel to harvest a portion of the cooperative's annual pollock allocation. The purpose of this action is to provide a means by which the members of a cooperative may harvest their entire pollock allocation in a safe and cost-effective manner.

**DATES:** Comments on Amendment 69 must be received at the following address by September 3, 2002.

**ADDRESSES:** Comments on Amendment 69 may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel-Durall. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th St., Room 453, Juneau, AK, 99801. Copies of Amendment 69 and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available from NMFS at the above address, or by calling the Alaska Region, NMFS, at (907) 586-7228.

**FOR FURTHER INFORMATION CONTACT:** Kent Lind, (907) 586-7228 or [kent.lind@noaa.gov](mailto:kent.lind@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any FMP or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP, immediately publish a notice in the **Federal Register** that the FMP or amendment is available for public review and comment.

The American Fisheries Act (AFA) established a system of inshore pollock cooperatives under which the owners of catcher vessels that deliver to a particular processor may form a cooperative and receive an exclusive allocation of Bering Sea and Aleutian Islands Management Area (BSAI) pollock. Subparagraph 210(b)(1)(B) of the AFA specifies that only the member vessels of a cooperative may harvest the cooperative's annual pollock allocation.

In 2000, several inshore catcher vessel owners petitioned the Council to provide cooperatives with greater flexibility to contract with non-member vessels. They argued that members of inshore cooperatives need greater flexibility to (1) increase efficiency and provide vessel owners with a more functional market for leasing of individual pollock allocations, (2) ensure that a cooperative is able to harvest its entire allocation in the event of vessel breakdowns or other unanticipated emergencies, and (3) improve safety by providing greater flexibility for larger vessels to harvest cooperative allocations during hazardous winter months and when Steller sea lion conservation measures require that fishing be done further offshore--outside of Steller sea lion critical habitat.

The Council concurred and adopted Amendment 69 in October 2000. This amendment would revise the inshore cooperative structure to allow an inshore cooperative to contract with a non-member AFA inshore catcher vessel that is a member of another inshore cooperative to harvest a portion of the cooperative's allocation. However, this amendment would not change cooperative memberships or authorize non-AFA vessels to harvest BSAI pollock.

Subsection 213(c) of the AFA provides the Council with the authority to recommend measures that supersede certain aspects of the AFA. Subsection 213(c) states:

"The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act that supersede the provisions of this title, except for Sections 206 and 208 for conservation or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery."

Amendment 69 would supersede inshore cooperative restrictions set out in paragraphs 210(b)(1)(B) and 210(b)(5) of the AFA.

Public comments are being solicited on the amendment through the end of the comment period stated in this NOA. A proposed rule that would implement the amendment may be published in the **Federal Register** for public comment following NMFS's evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on the amendment to be considered in the approval/disapproval decision on the amendment, whether specifically directed to the amendment or the proposed rule. Comments received after that date will not be considered in the approval/disapproval decision on the amendment. To be considered in the approval/disapproval decision, comments must be received by the close of business on the last day of the comment period specified in this NOA; that does not mean postmarked or otherwise transmitted by that date.

Dated: June 28, 2002.

**Dean Swanson,**

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

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**BILLING CODE 3510-22-S**