

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

[MM Docket No. 98-144, RM-9329]

**Radio Broadcasting Services; Buxton, NC****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Buxton Communications Company seeking the allotment of Channel 260A to Buxton, NC, as the community's first local aural service. Petitioner is requested to provide additional information to determine that Buxton is a community for allotment purposes. Channel 260A can be allotted to Buxton in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 5-16-06 NL; 75-31-54 WL.

**DATES:** Comments must be filed on or before September 28, 1998, and reply comments on or before October 13, 1998.

**ADDRESSES:** 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: Richard J. Hayes, Jr., 8404 Lee's Ridge Road, Warrenton, VA 20186 (Counsel to petitioner).

**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. 98-144, adopted July 29, 1998, and released August 7, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., 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.*

[FR Doc. 98-21587 Filed 8-13-98; 8:45 am]

BILLING CODE 6712-01-P

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

[MM Docket No. 98-145, RM-9330]

**Radio Broadcasting Services; Buxton, NC****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Buxton Radio Group seeking the allotment of Channel 268A to Buxton, NC, as the community's second local aural service. Petitioner is requested to provide additional information to determine that Buxton is a community for allotment purposes. Channel 268A can be allotted to Buxton in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 5-16-06 NL; 75-31-54 WL.

**DATES:** Comments must be filed on or before September 28, 1998, and reply comments on or before August 7, 1998.

**ADDRESSES:** 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: Richard J. Hayes, Jr., 8404 Lee's Ridge Road, Warrenton, VA 20186 (Counsel to petitioner).

**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. 98-145, adopted September 28, 1998, and released August 7, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919

M Street, NW., 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.*

[FR Doc. 98-21585 Filed 8-13-98; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 980804203-8203-01;I.D. 061298A]

RIN 0648-AL00

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Special Management Zones**

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

**ACTION:** Proposed rule, request for comments.

**SUMMARY:** In accordance with the framework procedure of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), NMFS proposes to establish 10 special management zones (SMZs) at the sites of artificial reefs (ARs) in the exclusive economic zone (EEZ) off South Carolina in which fishing would be restricted to handline, rod and reel, and spearfishing gear (excluding powerheads) and to prohibit

the use of powerheads in the Ft. Pierce Offshore Reef SMZ. The intended effect is to promote orderly use of the fishery resources on and around the ARs, to reduce potential user-group conflicts, and to maintain the socioeconomic benefits of the ARs to the maximum extent practicable.

**DATES:** Written comments must be received on or before September 14, 1998.

**ADDRESSES:** Comments on the proposed rule must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the framework regulatory amendment, which includes an environmental assessment, a regulatory impact review, a social impact assessment/fishery impact statement, and the report of a Monitoring Team Report should be sent to the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; Phone: 843-571-4366; Fax: 843-769-4520.

**FOR FURTHER INFORMATION CONTACT:** Peter J. Eldridge, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The fisheries for snapper-grouper species off the southern Atlantic states are regulated under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

In accordance with the framework procedures of the FMP, the Council recommended that the Regional Administrator, Southeast Region, NMFS (RA), establish 10 SMZs in the EEZ off South Carolina in which fishing would be restricted to handline, rod and reel, and spearfishing gear (excluding powerheads) and prohibit the use of powerheads in the Ft. Pierce Offshore Reef SMZ.

The 10 SMZs in the EEZ off South Carolina would be at the sites of ARs constructed by the South Carolina Department of Natural Resources (SCDNR). The ARs were constructed for the purpose of enhancing fishing opportunities of offshore sport fishermen. The SMZs would encompass the ARs plus a 500-m buffer zone around each.

ARs create recreational fishing opportunities that would not exist otherwise and may increase biological production. They are expensive to construct and their benefits can be diminished rapidly by certain types of

fishing gear that are more efficient. Use of commercial fishing gear on an AR, such as sea bass pots and powerheads, may reduce significantly the recreational fishing opportunities and, thus, may eliminate the incentive for future development of ARs. In addition, use of commercial fishing gear such as bottom longlines, gillnets, or trawls, is not suitable for use on ARs because such gear tends to foul on the reef structure and with other gear. The intent of SMZs is to preserve the recreational fishing opportunities of ARs and the incentive to establish them in the future.

The ARs in the EEZ off South Carolina are on an expansive shelf area that has large areas devoid of any hard or live bottom. Prior to establishment of the ARs, these areas did not support any significant fisheries. In fact, these large barren areas limited the development of fishing.

The Ft. Pierce Offshore Reef SMZ contains an AR constructed by the Ft. Pierce Sportfishing Club (Club). The AR was constructed for the purpose of enhancing opportunities of offshore sport fishermen. Spearfishing has been allowed in the SMZ since its inception. However, the Club has found that commercial divers using highly efficient powerheads are taking a substantial share of the available amberjack and grouper in the SMZ. Such share is inconsistent with the intended use of the SMZ. Accordingly, the Club requested that the use of powerheads in the SMZ be prohibited.

In accordance with the FMP, a monitoring team appointed by the Council evaluated SCDNR's and the Club's requests in consideration of the following factors: (1) Fairness and equity; (2) promotion of conservation; (3) prevention of excessive shares; (4) consistency with the objectives of the FMP, the Magnuson-Stevens Act, and other applicable law; (5) suitability of the natural bottom in and surrounding the areas and the potential impact on historical uses; and (6) cumulative impacts. A copy of the monitoring team's report is available (see **ADDRESSES**).

After consideration of all relevant information, including the Monitoring Team Report, other supporting data, and comments received during public hearings, committee meetings, and Council meetings, the Council voted to recommend to the RA that the SCDNR's and the Club's requests be approved. Accordingly, the proposed SMZs and the management measures applicable to them and the proposed prohibition of the use of powerheads in the Ft. Pierce Offshore Reef SMZ are published for public comment.

## Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The regulatory impact review on this action indicates that the establishment of the 10 SMZs and the prohibition on the use of a powerhead in the Ft. Pierce Offshore Reef SMZ would not have significant adverse economic effects on a substantial number of small entities fishing in and around the SMZs. The ARs were placed on flat, sandy bottoms that formerly were devoid of fish. This was done not only to increase fishing opportunities for recreational anglers, but also to avoid user conflicts with traditional commercial fisheries. Commercial fishermen can fish in a SMZ, but they are restricted to using hook-and-line gear. Most other commercial gear, such as bottom longlines, gillnets, or trawls, even if not prohibited, is not suitable for use on ARs because such gear tends to foul on the reef structure. Other commercial fishing gear, such as black sea bass pots and powerheads, would be prohibited, but it is expected that the impact would be minimal on commercial fishermen because they depend more on natural live bottom areas than ARs, and those areas are not subject to the provisions of this proposed rule. Table 5 in the regulatory amendment gives the area of SMZs relative to the total area in the EEZ off South Carolina. The total area occupied by SMZs is much less than one percent of the EEZ shelf area. Thus, the establishment of the SMZs will not substantially impact the fishing areas available to commercial fishermen. Prohibition of powerheads in the Ft. Pierce Offshore Reef would result in fishermen being unable to use this gear on the SMZ. However, they could continue to use spearheads and hook-and-line gear in the SMZ. Prior to the placement of the AR, this area did not support powerhead fishing activity, so there are no historical fishing rights for powerhead fishermen. There are alternative fishing areas in the Ft. Pierce region where the use of powerheads is allowed. Data do not exist to estimate the relative costs of fishing on these alternative areas. All such entities are considered small entities for purposes of the Regulatory Flexibility Act. These actions would not be expected to cause any significant reduction in revenue or force fishermen to significantly modify their fishing operations. No increase in production cost is expected as a result of these actions. The proposed actions would not require any existing fishing entity to acquire new equipment or to completely refit existing equipment for compliance purposes. These economic analyses do not indicate that any entity would be forced out of business. These actions are expected to enhance

fishing opportunities in the SMZs for a large number of fishermen.

As a result, a regulatory flexibility analysis was not prepared.

**List of Subjects in 50 CFR Part 622**

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: August 10, 1998.

**Rolland A. Schmitt,**

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

**PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.35, paragraphs (e)(1)(xxx) through (xxxix) are added and paragraph (e)(2)(i) and the first sentence of paragraph (e)(2)(iv) are revised to read as follows:

**§ 622.35 South Atlantic EEZ seasonal and/or area closures.**

\* \* \* \* \*

- (e) \* \* \*
- (1) \* \* \*

(xxx) *Murrel's Inlet 60 Foot Reef* is bounded on the north by 33°17.50' N. lat.; on the south by 33°16.50' N. lat.; on the east by 78°44.67' W. long.; and on the west by 78°45.98' W. long.

(xxxi) *Georgetown 95 Foot Reef* is bounded on the north by 33°11.75' N. lat.; on the south by 33°10.75' N. lat.; on the east by 78°24.10' W. long.; and on the west by 78°25.63' W. long.

(xxxii) *New Georgetown 60 Foot Reef* is bounded on the north by 33°09.25' N. lat.; on the south by 33°07.75' N. lat.; on the east by 78°49.95' W. long.; and on the west by 78°51.45' W. long.

(xxxiii) *North Inlet 45 Foot Reef* is bounded on the north by 33°21.03' N. lat.; on the south by 33°20.03' N. lat.; on the east by 79°00.31' W. long.; and on the west by 79°01.51' W. long.

(xxxiv) *CJ Davidson Reef* is bounded on the north by 33°06.48' N. lat.; on the south by 33°05.48' N. lat.; on the east by 79°00.27' W. long.; and on the west by 79°01.39' W. long.

(xxxv) *Greenville Reef* is bounded on the north by 32°57.25' N. lat.; on the south by 32°56.25' N. lat.; on the east by 78°54.25' W. long.; and on the west by 78°55.25' W. long.

(xxxvi) *Charleston 60 Foot Reef* is bounded on the north by 32°33.60' N. lat.; on the south by 32°32.60' N. lat.; on the east by 79°39.70' W. long.; and on the west by 79°40.90' W. long.

(xxxvii) *Edisto 60 Foot Reef* is bounded on the north by 32°21.25' N. lat.; on the south by 32°20.25' N. lat.; on the east by 80°04.10' W. longitude; and on the west by 80°05.70' W. long.

(xxxviii) *Edisto 40 Foot Reef* is bounded on the north by 32°25.78' N. lat.; on the south by 32°24.78' N. lat.; on the east by 80°11.24' W. long.; and on the west by 80°12.32' W. long.

(xxxix) *Port Royal 45 Foot Reef* is bounded on the north by 32°07.65' N. lat.; on the south by 32°06.65' N. lat.; on the east by 80°28.80' W. long.; and on the west by 80°29.80' W. long.

(2) \* \* \*

(i) In the SMZs specified in paragraphs (e)(1)(i) through (xviii) and (e)(1)(xxii) through (xxxix) of this section, the use of a gillnet or a trawl is prohibited, and fishing may be conducted only with handline, rod and reel, and spearfishing gear.

\* \* \* \* \*

(iv) In the SMZs specified in paragraphs (e)(1)(i) through (x), (e)(1)(xx), and (e)(1)(xxii) through (xxxix) of this section, a powerhead may not be used to take South Atlantic snapper-grouper. \* \* \*

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