

ACA asks the Commission to clarify that 47 CFR 64.1200(a)(1)(iii) of the Commission's rules does not apply to creditors and collectors when calling telephone numbers to recover payments for goods and services received by consumers. Section 64.1200(a)(1)(iii) of the Commission's rules prohibit the initiation of "any telephone call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice, to any telephone number assigned to \* \* \* cellular telephone service \* \* \*." See 47 CFR 64.1200(a)(1)(iii) of the Commission's rules. The Commission's rules on autodialed and prerecorded message calls to cell phone numbers incorporated the language of the TCPA virtually verbatim. See also 47 U.S.C. 227(b)(1)(iii) of the Communications Act. ("It shall be unlawful for any person within the United States or any person outside the United States to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call[.]".)

ACA maintains that autodialed telephone calls are the most efficient way to contact customers. ACA indicates that creditors use autodialers not for telemarketing purposes, but to recover payments for obligations owed to creditors. According to ACA, the calls do not involve advertising or soliciting the sale of products or services; instead, they are placed to "complete a transaction" in which the customer has received a product or service. ACA also suggests that many customers today use wireless phones as their primary or preferred method of contact, and that wireless telephone numbers are typically provided by the customers—as part of a credit application, for example—for purposes of receiving calls. In addition, ACA argues that Congress did not intend the TCPA's autodialer restriction to cover calls by or on behalf of creditors when attempting to recover payments. According to ACA, in a 2003 *Report and Order* revising the TCPA rules, the Commission concluded that a predictive dialer is within the meaning and statutory definition of automatic telephone dialing equipment.

(Published at 68 FR 44144, July 25, 2003). ACA believes this conclusion has created uncertainty for creditors that use predictive dialers to call wireless phone numbers. Without clarification that creditors' calls are not subject to the restrictions on autodialed calls to wireless numbers, ACA maintains the credit and collections industry will suffer severe economic harm based on the inability to use autodialers to make such calls. Accordingly, the Commission seeks comment on ACA's petition.

Federal Communications Commission.

**Jay Keithley,**

*Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 06-796; MB Docket No. 02-167, RM-10479, RM-10770]

#### Radio Broadcasting Services; Eldorado, Fort Stockton, Mason and Mertzon, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal.

**SUMMARY:** Audio Division, at the request of Katherine Pyeatt, dismisses the petition for rule making proposing the allotment of Channel 241A at Eldorado, Texas (RM-10479). We also deny the counterproposal filed by BK Radio proposing the substitution of Channel 239C2 for Channel 240C2 at Mason, the reallocation of Channel 240C2 from Mason to Mertzon, and the modification of Station KOTY(FM)'s license accordingly (RM-10770). We find that the counterproposal does not constitute a preferential arrangement of allotments because the reallocation of Channel 240C2 to Mertzon as a third local FM transmission service would create a gray area.

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 02-167, adopted April 5, 2006, and released April 7, 2006. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554.

The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.com>. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Report and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the proposed rule was dismissed.)

### List of Subjects in 47 CFR part 73

Radio, Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 041906B]

RIN 0648-AN09

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Amendment 18A

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

**ACTION:** Availability of Amendment 18A to the reef fish resources of the Gulf of Mexico; request for comments.

**SUMMARY:** NMFS announces the availability of Amendment 18A to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Amendment 18A) prepared by the Gulf of Mexico Fishery Management Council (Council). Amendment 18A would resolve several issues related to monitoring and enforcement of existing regulations, update the framework procedure for setting total allowable catch (TAC), and reduce bycatch mortality of incidentally caught endangered sea turtles and smalltooth sawfish. The intended effect of Amendment 18A is to support the Council's efforts to achieve optimum yield in the fishery, and provide social and economic benefits associated with maintaining stability in the fishery.

**DATES:** Written comments must be received no later than 5 p.m., eastern time, on June 26, 2006.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: 0648-

AN09.NOAA@noaa.gov. Include in the subject line the following document identifier: 0648-AN09-NOA.

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

- Fax: 727-824-5308, Attention: Peter Hood.

Copies of Amendment 18A, which includes an Environmental Assessment, a Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA), are available from the Gulf of Mexico Fishery Management Council, 2203 North Lois, Suite 1100, Tampa, FL 33607; e-mail: [gulfcouncil@gulfcouncil.org](mailto:gulfcouncil@gulfcouncil.org).

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, 727-824-5305; fax 727-824-5308; e-mail: [peter.hood@noaa.gov](mailto:peter.hood@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Amendment 18A, if implemented, would: (1) Prohibit vessels from retaining reef fish caught under the

recreational size and bag/possession limits when commercial quantities of Gulf reef fish are onboard; (2) adjust the number of persons allowed onboard when a vessel with both commercial and charter vessel/headboat permits is fishing commercially; (3) prohibit use of Gulf reef fish, except sand perch or dwarf sand perch, as bait in any commercial or recreational fishery in the exclusive economic zone of the Gulf of Mexico, with a limited exception for crustacean trap fisheries; (4) require a NMFS-approved vessel monitoring system on board vessels with Federal commercial permits for Gulf reef fish, including charter vessels/headboats with such commercial permits; (5) require owners and operators of vessels with Federal commercial or charter vessel/headboat permits for Gulf reef fish to comply with sea turtle and smalltooth sawfish release protocols, possess on board specific gear to ensure proper release of such species, and comply with guidelines for proper care and release of incidentally caught sawfish and sea turtles; and (6) revise the TAC framework procedure to reflect current practices and terminology.

A proposed rule that would implement the measure outlined in Amendment 18A has been received

from the Council. In accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Comments received by June 26, 2006, whether specifically directed to the FMP or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: April 21, 2006.

**James P. Burgess,**

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

[FR Doc. E6-6272 Filed 4-25-06; 8:45 am]

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