minimum distance separation requirements at center city reference coordinates. The coordinates for Channel 273C1 at Rankin are 31–13–21 North Latitude and 101–56–15 West Longitude.

The Audio Division requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 263A at Rocksprings, Texas, as the community's fourth local aural transmission service. Channel 263A can be allotted to Rocksprings in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.6 kilometers (7.8 miles) west of the community. The coordinates for Channel 263A at Rocksprings are 30–01–30 North Latitude and 100–20–06 West Longitude.

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* contact.

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, Radio 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.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel 234C1 at Las Animas.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 296C2 at Big Lake, by adding Channel 227C1 at Muleshoe, by adding Rankin, Channel 273C1, by adding Channel 263A at Rocksprings.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 02–22757 Filed 9–6–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[I.D. 082902C]

Endangered and Threatened Wildlife and Plants; 12–Month Finding on a Petition To List the Atlantic White Marlin as Threatened or Endangered

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

ACTION: Notice of petition finding and availability of a status review document.

SUMMARY: NMFS announces a 12–month finding on a petition to add the Atlantic white marlin (Tetrapturus albidus), throughout its known range, to the list of threatened and endangered wildlife and to designate critical habitat under the Endangered Species Act (ESA). Based on a review of the best available scientific and commercial information on the status of the species, NMFS finds that listing Atlantic white marlin is not warranted at this time. NMFS intends to add this species to its candidate species list and to reevaluate its status in 2007.

DATES: The finding announced in this notice was made on September 3, 2002.

ADDRESSES: Copies of the Atlantic white marlin status review document are available upon request from the Protected Resources Division, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702. The status review is also available on the NMFS website at http://www.nmfs.noaa.gov.

FOR FURTHER INFORMATION CONTACT: David Bernhart, NMFS Southeast Region, 727–570–5312, Jennifer Lee, NMFS Southeast Region, 301–713–2239, or David O'Brien, NMFS Office of Protected Resources, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 4(b)(3)(B) of the ESA (16 U.S.C. 1531 *et seq.*) for any petition to revise the List of Endangered or Threatened Wildlife and Plants which presents substantial scientific and commercial information, NMFS is required to make a finding within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Such 12–month findings are to be published promptly in the **Federal Register**.

On September 4, 2001, NMFS received a petition from the Biodiversity Legal Foundation and James R. Chambers requesting that NMFS list the Atlantic white marlin (Tetrapturus albidus) under the ESA as a threatened or endangered species throughout its range. The petition also requested that NMFS designate critical habitat for white marlin. The petition contained a detailed description of the species, including the present legal status; taxonomy and physical appearance; ecological and fisheries importance; distribution; physical and biological characteristics of its habitat and ecosystem relationships; population status and trends; and factors contributing to the population's decline. Potential threats identified in the petition included: (1) overutilization for commercial purposes; (2) inadequacy of existing regulatory mechanisms; (3) predation; and (4) other natural or man-made factors affecting the species' continued existence.

On December 20, 2001 (66 FR 65676), NMFS announced a finding that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted and initiated a formal white marlin status review, as required by section 4(b)(3)(A) of the ESA. Concurrently, NMFS solicited, through February 19, 2002, additional information and comment from the public on the historic and current abundance and distribution of white marlin, threats to white marlin, and ongoing conservation efforts for white marlin. NMFS received responses from the petitioner, the National Audobon Society, the Wildlife Conservation Society, the National Coalition for Marine Conservation, the Blue Water Fishermen's Association, the Billfish Foundation, the South Carolina Department of Natural Resources, and 10 private citizens. Most of the comments were in response to NMFS' request for information on the status of white marlin. The status review document (SRT 2002) considers all new information contained in the comments. Some of the comments included expressions of support and disagreement with the appropriateness of reviewing white marlin for possible ESA listing, expressions of alarm at the potential effects of listing white marlin on commercial and recreational fishing interests, and recommended areas for fisheries closures. Additional comments and information were received during 11 public scoping meetings (67 FR 39328, June 7, 2002) held in June 2002 by staff from the NMFS Southeast

Regional Office and the Office of Protected Resources. The status review document contains a summary of the comments received at those meetings.

In order to conduct a comprehensive review of Atlantic white marlin, a status review team (SRT) was convened consisting of experts in pelagic fish biology, fisheries management, and fisheries stock assessment. The SRT was asked to assess the species status and the degree of threat to the species with regard to listing criteria provided by the ESA. The SRT prepared a document (SRT 2002) that is the basis for the following discussions. Copies of the status review are available upon request from the Protected Resources Division, NMFS (see **ADDRESSES**).

Life History

Atlantic white marlin are found throughout tropical and temperate waters of the Atlantic Ocean and adjacent seas. Unlike blue marlin (*Makaira nigricans*) and sailfish (*Istiophorus platypterus*), white marlin occur only in the Atlantic Ocean. The Atlantic population is considered to be a single stock. White marlin spawn in tropical and subtropical waters in mid- to late spring, and enter colder temperate waters during the summer. They are considered to be very fast growing, and have a lifespan of at least 17 to 18 years. Female white marlin grow faster and reach a larger maximum size than males. Sexual maturity of females is reached at about 20 kg. Mature females probably spawn more than once a year, likely from March through June in the Northern Hemisphere. White marlin are generally considered piscivorous, but also have been known to consume squid. Likely predators of adults of the species are sharks and killer whales.

Fishery Landings and Management

Atlantic billfish, including white marlin, have historically been landed as the incidental catch of foreign and domestic commercial pelagic longline and purse seine vessels, and in directed recreational and artisanal fisheries. The majority of billfish fishing mortality in the Atlantic Ocean results from pelagic longline fisheries. Total reported landings in the Atlantic for white marlin peaked in 1965 at 4,911 metric tons (mt). Since the 1970s, catches have averaged 1,500 mt without trend while fishing effort has increased substantially. Combined U.S. commercial and recreational reported catches (landings plus dead discards) were 63 mt and 42 mt during 1999 and 2000, representing 5 and 4 percent, respectively, of the total reported Atlantic catch.

White marlin are managed internationally by the member nations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). By consensus, this group adopts binding recommendations to manage for maximum sustainable catch of the fish stocks under its purview. The U.S. participates in ICCAT-supported stock assessments for white marlin that utilize data from multiple fishing nations. These assessments are conducted by the Standing Committee for Research and Statistics (SCRS), a group of scientists from ICCAT member nations. The 2000 SCRS assessment found that white marlin were overfished and undergoing overfishing. Subsequently, a binding recommendation to conserve white marlin was adopted by ICCAT in 2000 and went into effect mid-way through 2001, requiring nations to reduce white marlin landings by 67 percent.

White marlin are managed domestically under Amendment One to the Billfish Fishery Management Plan (Billfish FMP) prepared under the dual authorities of the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Tunas Convention Act. The Billfish FMP prohibits commercial possession of billfish and uses minimum size limits to reduce recreational landings of blue marlin and white marlin. Its objective is to end overfishing and rebuild the stocks. In addition, the FMP seeks to coordinate domestic regulations with international management measures to control stock-wide fishing mortality.

Status of Species

The status of the Atlantic white marlin resource has been the subject of a number of quantitative assessments by the SCRS. The most recent assessments were conducted in 2000 and again in May 2002. Basic information available for conducting stock assessments includes time series of fishery landings and discards (for some fleet sectors, over varying periods of years) and trends in commercial and recreational catch per unit of effort as relative indices of stock abundance. Little is known about the age, growth and reproductive biology of white marlin and, with few exceptions, no quantitative estimates of population parameters for this species exist that can be used in stock assessments. Production models are the primary method used in the stock assessments to estimate population size, fishing mortality, and biological reference points.

The SRT estimated that current white marlin population levels are at 5–15 percent of their historic levels; biomass is in long-term decline; and fishing mortality rates substantially exceed the level associated with maximum sustainable yield. The existing analyses are consistent with recent population sizes of about 200,000 individuals in the size range vulnerable to the fishery.

To assess the available data on stock status for evidence of extinction risk, the SRT reviewed literature on extinction risk analysis and developed a list of population dynamics factors for consideration, specific to white marlin, including: (1) Decline in population, (2) Absolute population size, (3) Trends and variability in recruitment, (4) Spatial focusing, (5) Depensation considerations, and (6) Formal modeling of probability of extinction. The SRT used these extinction risk criteria, developed specifically for white marlin, in their evaluation of the five ESA listing factors (discussed below).

The SRT characterized the white marlin's status based on decline in population (Factor 1) as on the borderline between ''vulnerable'' and ''not at risk.'' The SRT found that the current estimates of absolute population size (Factor 2) are an order of magnitude greater than the level at which the SRT would be concerned about imminent extinction risk.

Available evidence on recruitment (Factor 3) is limited and implies a declining trend, but it is not inconsistent with what would be expected based on the decline in biomass, nor does it suggest depensation (Factor 5)(i.e., when a stock becomes less, rather than more, able to replenish itself as stock size declines). White marlin have a broad geographic range and have shown no sign of range contraction despite a history of significant fishing, and there is no evidence to suggest special vulnerability of white marlin to spatial focusing (Factor 4) of fishing effort (i.e., when a fishery is able to focus ever more effective fishing effort on a stock as stock size declines).

To look at future stock condition (Factor 6) and to gauge the effectiveness of various ICCAT management policies for conserving white marlin, the SRT considered population projections that estimated the probability of the stock declining to one percent of carrying capacity (K) or lower in the next 10 years. For white marlin, one percent of K was determined by the SRT to ''indicate a population with an ESA-level problem, without concluding at this time whether the 0.01K level would be most consistent with a vulnerable, threatened, or endangered level of risk.'' Because of the inherent limitations of

the production models that were the basis of the population projections, when applied over long periods of time, the SRT focused on a 10–year time horizon for their evaluations. The population projections indicate a low probability of the population declining to one percent of K over the next 10 years, except when constant catch scenarios or unreduced, or increasing, fishing mortality scenarios are used. Even under unreduced fishing mortality rates (i.e., assuming no reduction in fishing mortality as a result of the recent ICCAT recommendation to reduce landings by 67 percent), there is less than a 10–percent chance in 5 years, and about a 20–percent chance in 10 years, that the stock will reach one percent of K. The SRT found that current measures by ICCAT are not sufficient to prevent continued overfishing. Even with assumptions of full compliance with management measures, no post-release mortality, and no unreported fishing, the SRT concluded that the stock likely will continue to decline, but not necessarily to high-risk levels.

Threatening Factors Affecting Atlantic White Marlin

Section 4(a)(1) of the ESA states that a species is endangered if any one or more of the following factors causes it to be in danger of extinction throughout all or a significant portion of its range: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) Inadequacy of existing regulatory mechanisms; or (E) Other natural or human-made factors affecting its continued existence. A threatened species is one that is likely to become endangered in the foreseeable future.

The conclusions of the SRT relative to these five listing factors are as follows: (1) There is no evidence of range curtailment or habitat degradation to suggest that white marlin are at risk of extinction; (2) While overutilization is occurring and the Atlantic white marlin population is declining, the stock is not in danger of imminent extinction; (3) There is no evidence that competition, predation, or disease are affecting the Atlantic white marlin population in ways that would contribute to risk of extinction; (4) Since the U.S. currently accounts for approximately 5 percent of total reported catch of white marlin, domestic management measures including the Magnuson-Stevens Act, Atlantic Tunas Convention Act, and possibly the ESA are not adequate to protect this species from continued decline. Under current management measures adopted by ICCAT, presently the only forum in which effective cooperative management actions could be taken to reverse the white marlin's population decline, the stock will likely continue to decline, but not to high risk levels; and (5) No other natural or manmade factors affecting white marlin's continued existence were identified.

NMFS has reviewed the status review document and affirms that it represents the best available scientific and commercial data on the status of Atlantic white marlin. NMFS generally accepts the analyses and conclusions of the SRT. The SRT, however, was pessimistic about the implementation of conservation measures for white marlin. As discussed below, conservation measures have already been implemented that NMFS believes will reduce white marlin mortality significantly. Regulatory mechanisms that are not currently in place were not considered in this listing determination.

Conservation Factors Affecting Atlantic White Marlin

The most significant conservation factor affecting white marlin is ICCAT's binding recommendation, which was adopted in 2000 and became effective mid-way through 2001, that Contracting and Non-Contracting Parties, Entities and Fishing Entities reduce white marlin longline and purse seine landings by 67 percent. ICCAT recommendations are binding upon the parties to the international convention. Therefore, NMFS considers the recommendation to be a formalized conservation effort that has been implemented and will be effective, consistent with our draft policy for the evaluation of conservation efforts when making listing decisions (65 FR 37102, June 13, 2000). Because of the recent implementation of the recommendation and the usual time lags in compiling data from all parties' fishing fleets, no ICCAT data are yet available to quantify the effectiveness of this recommendation. The SRT expressed concern that the ICCAT recommendation would not be fully effective; that is, the 67 percent reduction in landings would not achieve a 67 percent reduction in white marlin mortality because of post-release mortality, non-compliance with ICCAT recommendations, and a significant level of illegal, unreported, and unregulated fishing. NMFS agrees that these factors will offset the conservation benefit of the ICCAT recommendation to an unknown degree, but NMFS believes that the effect of the binding recommendation will be to reduce white marlin mortality significantly. Several additional years of ICCAT data reporting will be needed to assess the actual reduction of mortality achieved by the latest recommendation, and ICCAT has mechanisms in place to make this evaluation. NMFS expects the SCRS will conduct another stock assessment for white marlin no later than 2006, and NMFS will work within ICCAT to ensure this result.

Another conservation effort affecting white marlin is NMFS' final rule implementing pelagic longline fishery time/area closures in the Atlantic and Gulf of Mexico and live bait restrictions in the Gulf of Mexico (65 FR 47213, August 1, 2000). Preliminary data to evaluate the effect of these measures which were not available to the SRT show that dead discards of white marlin by U.S. pelagic longliners in the northwest Atlantic, Caribbean, and Gulf of Mexico were reduced by 61 percent in 2001 compared to the average level of the three previous years. U.S. longliners are already prohibited from landing marlin, so the ICCAT recommendation to reduce landings does not affect the U.S. longline fleet. Although the U.S. catch of white marlin is small relative to the international fishing fleets, these domestic reductions in discards represent a conservation benefit in addition to those associated with the ICCAT landings reductions. NMFS will need to continue to monitor these discard rates for several years in order to judge the long-term effectiveness of the regulatory measures, but the initial signs are very encouraging.

The SRT also commented negatively on ICCAT's resolve to adopt further management measures for white marlin a bycatch species in the immediate future. NMFS agrees with the SRT's basis of concern, but notes that over the past years the United States has moved forward on white marlin conservation at ICCAT and on actions to limit unregulated effort and has achieved increasing success. In any case, NMFS is not relying on the expectation of adoption of additional, future conservation measures for white marlin in making this listing determination but on the information on the stock's current status and the currently implemented conservation measures. NMFS will, however, continue to pursue additional conservation measures for white marlin internationally, through ICCAT, and will consider additional measures that could be implemented domestically, under existing legal authorities.

Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range, and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(6) and (20)). Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any state or foreign nation to protect and conserve the species.

After reviewing the best scientific and commercial information available and the effects of current conservation efforts, NMFS has determined that listing of Atlantic white marlin under the ESA is not warranted at this time. NMFS intends to add Atlantic white marlin to its list of ESA candidate species and reevaluate its status in 2007. If the 2007 status review indicates that ICCAT and U.S. management measures have been ineffective in reducing the fishing mortality rate, NMFS would likely propose to list this species under the ESA.

References

White Marlin Status Review Team. 2002. Atlantic White Marlin Status Review Document. Report to National Marine Fisheries Service, Southeast Regional Office, September 3, 2002. 49 pp.

Authority

The authority for this section is the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 3, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–22805 Filed 9–4–02; 1:52 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 083002C]

Mid-Atlantic Fishery Management Council; Public Hearings

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

ACTION: Public hearing meetings; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) is currently developing Amendment 13 to the Surfclam and Ocean Quahog Fishery Management Plan (FMP), pursuant to the Magnuson–Stevens Fishery Conservation and Management Act of 1976, as amended. The Council will hold a series of public hearings to solicit comments on proposals to be included in Amendment 13. The intended effect of this action is to alert interested public of the commencement of this hearing process and to provide for public participation.

DATES: Written comments will be accepted through 5 p.m. October 15, 2002. See **SUPPLEMENTARY INFORMATION** for specific location and dates of the public hearings.

ADDRESSES: Send comments to Daniel T. Furlong, Executive Director of the Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904. When submitting comments, identify correspondence as ''Comments on Draft Amendment 13.'' Copies of the public hearing document and the Draft Environmental Impact Statement (DEIS) for Amendment 13 may be obtained from the Council. Hearings will be held in Maine, New Jersey, and Delaware. See **SUPPLEMENTARY INFORMATION** for specific locations. Requests for special accommodations should be addressed to the Mid-Atlantic Fishery Management Council, Federal Building, 300 South New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director of the Mid-Atlantic Fishery Management Council, 302–674–2331, ext. 19.≤:

SUPPLEMENTARY INFORMATION: The Council proposes to take action to implement Amendment 13 to the FMP. Amendment 13 addresses five major issues: (1) a new surfclam overfishing definition; (2) fishing gear impacts to essential fish habitat (EFH); (3) multi-year quotas; (4) suspension of the surfclam minimum size limit; and (5) a vessel monitoring-type system.

In conjunction with the development of Amendment 13, the Council prepared a DEIS under the National Environmental Policy Act to assess the potential effects of the proposed action, and the alternatives to those actions, on the human environment. A Notice of Availability for the DEIS for Amendment 13 was published in the **Federal Register** on August 30, 2002 (67 FR 55838). The 45–day comment period for the DEIS ends on October 15, 2002. Copies of the DEIS can be obtained from the Council (see **ADDRESSES**).

Once it has considered public comments, the Council will approve final management measures and prepare a submission package for NMFS. There will be an additional opportunity for public comment when the Notice of Availability and the proposed rule for Amendment 13 are published in the **Federal Register**.

Public Hearings

The dates, times, and locations of the hearings are scheduled as follows:

1. Tuesday, September 24, 2002, beginning at 7 p.m.—University of Maine, Science Building, Room 102, Machias, ME; telephone: 207–255–1289.

2. Monday, September 30, 2002, beginning at 7 p.m.—Clarion Hotel and Convention Center, 6821 Black Horse Pike, Atlantic City, NJ; telephone: 609–272–0200.

3. Wednesday, October 2, 2002, beginning at 7 p.m.—Holiday Inn Select, 630 Naamans Road, Claymont, DE; telephone: 302–791–4603. This hearing will be in conjunction with the Mid-Atlantic Fishery Management Council's October meeting at the same location.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid-Atlantic Council's office at least 5 days prior to the hearing date.

Dated: August 30, 2002.

Virginia M. Fay,

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

[FR Doc. 02–22836 Filed 9–6–02; 8:45 am]

BILLING CODE 3510–22–S