

II. Rulemaking Record

EPA has established a record for this rulemaking under docket number OPPTS-42030K. This record contains the basic information that EPA considered in developing this final rule, and includes the following:

(1) Testing consent order for mesityl oxide with incorporated enforceable consent agreement and associated testing protocols attached as appendices.

(2) Federal Register notices pertaining to this final rule and the testing consent order and enforceable consent agreement consisting of:

(a) Fourth Report of the TSCA Interagency Testing Committee (44 FR 31866, June 1, 1979).

(b) First-phase final test rule for mesityl oxide (establishing testing requirements) (50 FR 51857, December 20, 1985).

(c) Second-phase final test rule for mesityl oxide (establishing test standards and reporting requirements) (52 FR 19088, May 20, 1987).

(d) Notice of enforceable consent agreement for mesityl oxide (56 FR 43878, September 5, 1991).

(e) Proposed rule to withdraw mesityl oxide final test rule (56 FR 43897, September 5, 1991).

A public version of this record which does not include any information claimed as confidential business information (CBI) is available for public inspection from Noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B-607, USEPA, 401 M St., SW., Washington, DC 20460.

III. Economic Analysis

Withdrawal of the MO test rule and the consequent elimination of the testing requirements contained in the rule will reduce testing costs. Therefore, this action should not cause adverse economic impact.

IV. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and subject to the requirements of the Executive Order. Section 3(f) of the Order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially

affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not "significant" and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this test rule will not have a significant impact on a substantial number of small businesses because the action will relieve the regulatory obligation to conduct chemical testing.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and to adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small

government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This rule reduces enforceable duties on the private sector by withdrawing a rule that requires chemical testing.

D. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the final test rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB Control Number 2070-0033 (EPA ICR No. 1139). This rule reduces the public reporting burden associated with the testing requirements under the final test rule. A complete discussion of the reporting burden is contained at 50 FR 51857, December 20, 1985.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: June 20, 1996.

Susan H. Wayland,
*Acting Assistant Administrator for
Prevention, Pesticides, and Toxic Substances.*

Therefore, title 40 of the Code of Federal Regulations, chapter I, subchapter R, part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

§ 799.2500 [Removed]

2. By removing § 799.2500.

[FR Doc. 96-16332 Filed 6-26-96; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73****[MM Docket No. 95-121; RM-8660]****Radio Broadcasting Services; Dearing, KS****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: The Commission, at the request of William Bruce Wachter, allots Channel 251A to Dearing, Kansas, as the community's first local aural transmission service. See 60 FR 38785, July 28, 1995. Channel 251A can be allotted to Dearing in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 251A at Dearing are 37-03-31 and 95-42-47. With this action, this proceeding is terminated.

DATES: Effective August 3, 1996. The window period for filing applications will open on August 3, 1996, and close on September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95-121, adopted May 9, 1996, and released June 19, 1996. 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, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Dearing Channel 251A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-16345 Filed 6-26-96; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Parts 217 and 227**

[Docket No. 950427119-6179-07; I.D. 061496A]

RIN 0648-AH98**Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawling Activities; Additional Turtle Excluder Device Requirements Within Certain Fishery Statistical Zones**

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

ACTION: Temporary additional restrictions on fishing by shrimp trawlers in the nearshore waters off Georgia to protect sea turtles; request for comments.

SUMMARY: NMFS is imposing, for a 30-day period, additional restrictions on shrimp trawlers fishing in the Atlantic Area in inshore waters and offshore waters out to 10 nautical miles (nm) (18.5 km) from the COLREGS line, between the Georgia-Florida border and the Georgia-South Carolina border. This area includes inshore and nearshore waters in NMFS fishery statistical Zone 31, a small part of the southern portion of statistical Zone 32, and approximately 18 miles (29.0 km) of the northern portion of statistical Zone 30.

The restrictions include prohibitions on the use of soft turtle excluder devices (TEDs) and try nets with a headrope length greater than 12 ft (3.6 m) or a footrope length greater than 15 ft (4.5 m), unless the try nets are equipped with approved TEDs other than soft TEDs. This action is necessary to ensure protection for sea turtles and to prevent the continuation of high levels of mortality and strandings of threatened and endangered sea turtles.

DATES: This action is effective June 24, 1996 through 11:59 p.m. (local time) July 24, 1996.

Comments on this action must be submitted by July 24, 1996.

ADDRESSES: Comments on this action and requests for a copy of the environmental assessment (EA) or

biological opinion (BO) prepared for this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813-570-5312, or Therese A. Conant, 301-713-1401.

SUPPLEMENTARY INFORMATION:**Background**

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of sea turtles as a result of shrimp trawling activities have been documented in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions set forth at 50 CFR 227.72. The incidental taking of turtles during shrimp trawling in the Gulf and Atlantic Areas (as defined in 50 CFR 217.12) is excepted from the taking prohibition, if the sea turtle conservation measures specified in the sea turtle conservation regulations (50 CFR part 227, subpart D) are employed. The regulations require most shrimp trawlers operating in the Gulf and Atlantic Areas to have a NMFS-approved TED installed in each net rigged for fishing, year round.

The conservation regulations provide a mechanism to implement further restrictions of fishing activities, if necessary to avoid unauthorized takings of sea turtles that may be likely to jeopardize the continued existence of listed species or that would violate the terms and conditions of an incidental take statement (ITS) or incidental take permit. Upon a determination that incidental takings of sea turtles during fishing activities are not authorized, additional restrictions may be imposed to conserve listed species and to avoid unauthorized takings. Restrictions may be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each (50 CFR 227.72(e)(6)).

Under NMFS' regulatory authority to implement further restrictions to fishing activities in order to prevent