

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[DA 01-1909; MM Docket No. 00-14; RM-9753]

Radio Broadcasting Services; Elkhorn City and Coal Run, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of East Kentucky Broadcasting Corporation, reallocates Channel 276A from Elkhorn City to Coal Run Kentucky, and modifies Station WPKE-FM license accordingly. See 65 FR 7816, February 16, 2000. Channel 276A can be reallocated to Coal Run in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.4 kilometers (8.3 miles) south at petitioner's requested site. The coordinates for Channel 276A at Coal Run are 37-23-57 North Latitude and 82-30-32 West Longitude.

DATES: Effective September 24, 2001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-14 adopted August 1, 2001, and released August 10, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

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—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 54, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Coal Run, Channel 276A; and removing Elkhorn City, Channel 276A.

Federal Communications Commission.

John A. Karousos,

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

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Parts 223 and 224**

[Docket No. 010820209-1209-01; I.D. 080901A]

RIN 0648-AP40

Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements; Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS is issuing an interim final rule to prohibit fishing with drift gillnets in the California/Oregon (CA/OR) drift gillnet fishery from August 15 through November 15 in state and federal waters in Monterey Bay, CA and vicinity, north to the 45° N lat. intersect of the Oregon coast. NMFS has determined that the incidental take level of leatherback sea turtles by this fishery is dependent on the area and season being fished. The time and area closure will result in a take level reduction by the fishery and is necessary to avoid the likelihood of the CA/OR drift gillnet fishery jeopardizing the continued existence of the leatherback sea turtle population.

DATES: This interim final rule is effective August 24, 2001. Comments on this interim final rule must be postmarked or transmitted by facsimile by 5 p.m., Pacific Standard Time, on November 23, 2001. Comments transmitted via e-mail or the Internet will not be accepted.

ADDRESSES: Send comments on this interim final rule to Tim Price, National Marine Fisheries Service, Protected Resources Division, 501 West Ocean Boulevard, Suite 4200, Long Beach, California 90802-4213. Copies of the Environmental Assessment (EA) or biological opinion (BO) may be obtained from Tim Price, Protected Resources Division, National Marine Fisheries

Service, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Tim Price (562) 980-4029.

SUPPLEMENTARY INFORMATION: On October 24, 2000 (65 FR 64670, October 30, 2000), NMFS issued a permit, for a period of 3 years, to authorize the incidental, but not intentional, taking of four stocks of threatened or endangered marine mammals (Fin whale, California/Oregon/Washington stock; Humpback whale, California/Oregon/Washington-Mexico stock; Steller sea lion, eastern stock; and Sperm whale, California/Oregon/Washington stock) by the CA/OR drift gillnet fishery under section 101(a)(5)(E) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(a)(5)(E)).

To authorize the incidental take by this fishery of marine mammals listed under the Endangered Species Act (ESA), NMFS completed a formal consultation under section 7 of the ESA. On October 23, 2000, NMFS issued a BO in which it determined that the current operations of the CA/OR drift gillnet fishery are jeopardizing the continued existence of the leatherback and loggerhead sea turtle populations by appreciably reducing the likelihood of both the survival and recovery of these two species.

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the ESA. The leatherback (*Dermochelys coriacea*) is listed as endangered and the loggerhead (*Caretta caretta*) is listed as threatened. Under the ESA and its implementing regulations, taking sea turtles, even incidentally, is prohibited, with exceptions identified in 50 CFR 223.206. The incidental take of endangered species may only be legally authorized by an incidental take statement or an incidental take permit issued pursuant to section 7 or section 10 of the ESA. In order for an incidental take statement to be issued, the incidental take must not be likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat.

To avoid the likelihood of the CA/OR drift gillnet fishery jeopardizing the continued existence of the leatherback and loggerhead sea turtles, NMFS developed a reasonable and prudent alternative in the BO which consists of three measures: a) a drift gillnet time and area closure to protect leatherback sea turtles; b) funding and supporting a Western Pacific conservation, education, and protection program aimed at protecting nesting females,