

steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of these rule amendments in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This technical correction does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the Petroleum Refineries NESHAP.

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, the EPA has made such a good cause finding, including the reasons therefor, and established an effective date of May 25, 2001. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the technical correction in the **Federal Register**. This technical correction is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 9, 2001.

**Robert D. Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

#### PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

#### Subpart CC—[Amended]

2. Section 63.640 is amended by revising paragraph (b) to read as follows:

##### **§ 63.640 Applicability and designation of affected source.**

\* \* \* \* \*

(b) \* \* \*

(1) If the predominant use of the flexible operation unit, as described in paragraphs (b)(1)(i) and (ii) of this section, is as a petroleum refining process unit, as defined in § 63.641, then the flexible operation unit shall be subject to the provisions of this subpart.

(i) Except as provided in paragraph (b)(1)(ii) of this section, the predominant use of the flexible operation unit shall be the use representing the greatest annual operating time.

(ii) If the flexible operation unit is used as a petroleum refining process unit and for another purpose equally based on operating time, then the predominant use of the flexible operation unit shall be the use that produces the greatest annual production on a mass basis.

(2) The determination of applicability of this subpart to petroleum refining process units that are designed and operated as flexible operation units shall be reported as specified in § 63.654(h)(6)(i).

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[FR Doc. 01-13276 Filed 5-24-01; 8:45 am]

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#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Parts 1 and 68**

[WT Docket No. 99-217; CC Docket No. 96-98; CC Docket No. 88-57; FCC 00-366]

#### **Effective Date Established for Amendments to the Commission's Rules on Over-the-Air Reception Devices and the Definition of the Telecommunications Network Demarcation Point**

**AGENCY:** Federal Communications Commission, Wireless Telecommunications Bureau.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Federal Communications Commission ("the Commission") announces that regulations adopted in the *Competitive Networks Order* of October 12, 2000 (Competitive Networks Order), amending the Commission's rules governing restrictions on placement of over-the-air reception ("OTARDs") devices and the definitions of the telecommunications network demarcation point have been approved by the Office of Management and Budget (OMB).

**DATES:** The rule changes to § 1.4000 which published on January 11, 2001 (66 FR 2333) and §§ 68.3 and 68.105, which published on January 24, 2001 (66 FR 7581) are effective May 25, 2001.

**FOR FURTHER INFORMATION CONTACT:** Lauren Van Wazer at (202) 418-0030 or Leon Jackler at (202) 418-0946 of the Wireless Telecommunications Bureau.

**SUPPLEMENTARY INFORMATION:** On October 12, 2000, the Commission adopted the Competitive Networks Order in 47 CFR Parts 1, 64 and 68, in WT Docket No. 99-217; CC Docket No. 96-98; CC Docket No. 88-57; FCC 00-366 (66 FR 2322) to foster competition in local communications markets by implementing measures to ensure that competing telecommunications providers are able to provide services to consumers in multiple tenant environments. The rule changes to 47 CFR 64.2500; 64.2501; and 64.2502, which published on January 11, 2001 (66 FR 2322) went into effect on March 12, 2001.

2. However, some of the regulations adopted in the *Competitive Networks Order* included information collections that required the approval of OMB pursuant to Public Law 104-13 (1995). The Competitive Networks Order explained that effectiveness of the rules requiring an information collection was

contingent upon OMB approval. OMB granted approval of the rules on May 4, 2001 under OMB control number 3060-0975. Accordingly, these regulations will become effective May 25, 2001. This notice constitutes publication of the effective date of the regulations.

3. This Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center, 445 Twelfth Street, SW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800. This document is also available via the internet at: [http://www.fee.gov/Bureaus/Wireless/News\\_Releases/2001/index.html](http://www.fee.gov/Bureaus/Wireless/News_Releases/2001/index.html) in da01-1206.doc and da01-1206.txtformats.

#### List of Subjects

##### 47 CFR Part 1

Communications common carriers, Telecommunications, Television.

##### 47 CFR Part 68

Communications common carriers, Communications equipment, Telecommunications, Telephone.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 222 and 223

[I.D. 040401B; Docket No. 010507114-1114-01]

RIN 0648-AP20

#### Sea Turtle Conservation; Restrictions to Fishing Activities

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

**ACTION:** Temporary rule; request for comments.

**SUMMARY:** NMFS is establishing conditions for the closure of the large-mesh gillnet fishery for monkfish in the mid-Atlantic to prevent unauthorized takings of sea turtles listed as threatened or endangered under the Endangered Species Act (ESA).

**DATES:** This temporary rule is effective from May 25, 2001, through June 30,

2001. Comments on this action are requested, and must be received by no later than 5 p.m., eastern daylight time, on June 25, 2001.

**ADDRESSES:** Written comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301-713-0376. Comments will not be accepted if submitted via e-mail or the Internet.

#### FOR FURTHER INFORMATION CONTACT:

David Bernhart (ph. 727-570-5312, fax 727-570-5517, e-mail

David.Bernhart@noaa.gov), Barbara A. Schroeder (ph. 301-713-1401, fax 301-713-0376, e-mail

Barbara.Schroeder@noaa.gov), or Mary Colligan (ph. 978-281-9116, fax 978-281-9394, e-mail

Mary.A.Colligan@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS is establishing conditions for the closure of the large-mesh gillnet fishery for monkfish in the mid-Atlantic to prevent unauthorized takings of sea turtles listed as threatened or endangered under the Endangered Species Act (ESA). Specifically, NMFS placed fishery observers aboard the vessels fishing for monkfish in waters off North Carolina beginning in late March 2001. NMFS intends to continue to observe 100 percent of the vessels through May 2001 in waters off North Carolina and off Virginia in the months of May and June 2001, to monitor for sea turtle interactions. Documented sea turtle takes by Federal permit holders beyond the levels specified in the incidental take statement of the December 21, 1998, biological opinion for the monkfish fishery are not authorized. If the levels specified in the incidental take statement (ITS) are met, NMFS will immediately file a notification with the Office of the Federal Register. As of the effective date of such notification, fishing with gillnets with a mesh size of 8 inches (20.32 cm) or greater, stretched, will be prohibited for a 30-day period in all offshore Atlantic waters between the North Carolina/South Carolina border and the line of latitude lying 60 nautical miles (nm) north of the position of the northernmost documented sea turtle take. The closure will include all vessels using large mesh gillnets targeting monkfish. If necessary, the closure may be extended for additional 30-day periods through the publication of additional notifications.

#### 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 populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

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 legally be authorized by an ITS or an incidental take permit issued pursuant to section 7 or 10 of the ESA. Existing sea turtle conservation regulations specify procedures that NMFS may use to determine that incidental takings of sea turtles during fishing activities are unauthorized and to impose additional restrictions to conserve listed sea turtles to prevent unauthorized takings (50 CFR 223.206(d)(4)). 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.

#### Spring 2000 Sea Turtle Mortality

The Sea Turtle Stranding and Salvage Network documented a record-setting level of sea turtle strandings in North Carolina during the spring of 2000. There were two stranding events involving unprecedented numbers of turtles, along the Outer Banks in Dare and Hyde counties.

During the first stranding event, a total of 71 turtles (69 loggerheads and 2 Kemp's ridleys) washed ashore on the ocean-facing beaches between Rodanthe and Ocracoke from April 14 to 17, 2000. There were no externally obvious signs of death on the turtles. Necropsies on 12 loggerheads and 2 Kemp's ridleys revealed that the turtles had excellent fat stores and were probably in good health prior to their deaths. A few of the turtles had been feeding on nearshore, benthic species, but most had empty guts, suggesting that they were in a migratory, rather than foraging, mode. The uniform state of decomposition of the turtles indicated that they had likely all died suddenly within a short period of time, probably no more than a few days before stranding on the beach. Large amounts of sargassum weed blew ashore, coincident with the turtle strandings, and considered indicative of the movement of warm Gulf Stream waters close to shore.

NMFS began investigating possible causes of the sea turtle mortality event immediately. The absence of other