

sufficient evidence to reasonably anticipate that zinc ion may cause environmental toxicity and that zinc ion can become available in the environment from zinc oxide. The principle concern regarding zinc oxide is its toxicity to aquatic species and its ability to bioaccumulate. Several mechanisms have been identified by which zinc ion can become available in the environment from zinc oxide (see Unit III.A. and B. of this preamble). Zinc ion may become available in the environment from zinc oxide via dissolution in aqueous solutions particularly between the pH range of 5 and 7.

IV. Rationale for Denial

EPA is denying the petition submitted by the American Zinc Association to delete zinc oxide from the reporting requirements under the zinc compounds category of the EPCRA section 313 list of toxic chemicals. This denial is based on: (1) The Agency's conclusion that zinc ion can become available from zinc oxide, and (2) the determination that there is sufficient evidence to indicate that zinc ion causes aquatic toxicity. Several mechanisms have been identified where zinc ion can become available in the environment from zinc oxide, particularly dissolution in aqueous solutions.

Additionally, zinc oxide and zinc hydroxide may dissolve in acids or alkalis to form salts or zincates, respectively. Many zinc salts are particularly water soluble, allowing another pathway by which zinc ion may become available. Due to these mechanisms, which may result in the availability of zinc ion from zinc oxide, zinc oxide contributes to the overall loading of zinc ion to the environment.

EPA has determined that zinc ion can reasonably be anticipated to cause a significant adverse effect on the environment of a sufficient seriousness to warrant continued reporting of zinc oxide under EPCRA section 313 because of zinc ion's high toxicity to aquatic organisms and its tendency to bioaccumulate in the environment.

Concern regarding these effects are in accordance with the criteria in EPCRA section 313(d)(2)(C). Because zinc oxide can reasonably be anticipated to be highly ecotoxic and induce well-established serious adverse effects, EPA does not believe that an exposure assessment is necessary to make the determination required by EPCRA section 313(d)(2)(C).

In reference to the petitioner's contention that zinc oxide should not be included on the EPCRA section 313 list because zinc compounds are "Generally

Recognized as Safe by the Food and Drug Administration," EPA is not persuaded that this is a sufficient basis for removing zinc oxide from the list. While EPA agrees that zinc is classified as an essential nutrient and, in terms of human health effects, the predominant concern cited in most of the available literature deals with the effects of zinc ion deficit rather than excess, this is not the whole picture. EPA, in making its listing decisions under section 313 of EPCRA, considers a different set of issues than those addressed by FDA in its regulatory decisions. Specifically, EPA considers the potential for adverse impacts on the environment, as well as those on human health. As indicated by the regulatory citations provided by the petitioner in support of its contention, FDA's focus is on human health effects. In the particular case of zinc oxide, EPA's decision to deny the petition to delist is based on the environmental impacts of the chemical.

V. References

- (1) Lloyd, T.B., *Zinc Compounds*. In: Kirk-Othmer Encyclopedia of Chemical Technology, 3rd ed., Vol. 24, pp. 851863, New York (1984).
- (2) Merck and Co., *The Merck Index*, 11th ed., p. 1599 (1989).
- (3) Weast, R.C., ed., *Handbook of Chemistry and Physics*, 70th ed., CRC Press, Inc., p. B-144, Boca Raton (1989).
- (4) Dean, J.A., ed., *Lange's Handbook of Chemistry*, 13th ed., McGraw-Hill, pp. 4-131, New York (1985).
- (5) ATSDR, *Toxicological profile for zinc*. US Department of Health and Human Services, Public Health Service, Agency for Toxic Substances and Disease Registry, p. 109 (1994).
- (6) Aylett, B.J., Group IIB. In: *Comprehensive Inorganic Chemistry*, Bailar, H.J., Jr., Emeleus, R.N., Trotman-Dickenson, A.F., eds., Pergamon Press, p. 217, Oxford (1973).
- (7) Durrant, P.J. and Durrant, B., *Introduction to Advanced Inorganic Chemistry*, 2nd ed., John Wiley Sons, p. 395, New York (1970).
- (8) Linke, W.F., *Solubilities of Inorganic and Metal-Organic Compounds*, D. Van Nostrand Co., Inc., Princeton (1958).
- (9) Pourbaix, M., *Atlas of Electrochemical Equilibria in Aqueous Solutions*, National Association of Corrosion Engineers, pp. 406-413, Houston (1974).
- (10) Cotton, F.A. and Wilkinson, G., *Advanced Inorganic Chemistry*, A Comprehensive Text, 2nd ed., John Wiley Sons, pp. 604-608, New York (1986).

(11) Pauling, L., *General Chemistry*, 3rd ed., Freeman and Company, San Francisco (1970).

(12) Bodek, I., *Environmental Inorganic Chemistry, Properties, Processes, and Estimation Methods*, Pergamon Press, pp. 7.15/1-7.15/11, New York (1988).

(13) USEPA/OPPT, Smrchek, Jerry C., *Petition to Delist Zinc Sulfide-Hazard Review* dated March 28, 1990.

(14) USEPA/OPPT, Meyn, Ossi, *Petition to Delist Zinc Oxide* dated June 21, 1995.

VI. Administrative Record

The record supporting this decision is contained in docket number OPPTS-400098. All documents, including an index of the docket, are available to the public in the TSCA Nonconfidential Information Center (NCIC), also known as the Public Docket Office, from noon to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA NCIC is located at EPA Headquarters, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: September 1, 1995.

Lynn R. Goldman,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95-53; RM-8613]

Radio Broadcasting Services; Eugene, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial.

SUMMARY: The Commission denies the request of Conway Broadcasting to allot Channel 265A to Eugene, Oregon, as the community's fifth local FM service. See 60 FR 11644, March 2, 1995. The Commission found that Channel 265A cannot be allotted to the community in compliance with the Commission's technical requirements. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95-53, adopted August 30, 1995, and released September 7, 1995. 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, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

John A. Karousos,

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

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition To List the Southern Population of Walleye as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The Fish and Wildlife Service (Service) announces a 12-month finding for a petition to list the southern population of walleye (*Stizostedion vitreum*) under the Endangered Species Act of 1973, as amended. After review of all available scientific and commercial information, the Service finds that listing this species is not warranted at this time.

DATES: The finding announced in this document was made on September 1, 1995.

ADDRESSES: Data, information, comments, or questions pertaining to this petition should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Jackson Office, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213. The petition finding, supporting data, and comments are available for public inspection, by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Ron Larson at the above address (601-965-4900, ext. 27).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that presents substantial scientific and commercial information, the Service make a finding within 12 months of the date of the receipt of the petition on whether the petition action is: (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be warranted but precluded should be treated as though resubmitted on the date of such finding, that is, requiring a subsequent finding to be made within 12 months. Such 12-month findings are to be published promptly in the **Federal Register**.

On August 22, 1994, the Service received a petition dated August 20, 1994, from Mr. Robert R. Reid, Jr., of Birmingham, Alabama, to emergency list the southern population of walleye (*Stizostedion vitreum*) as endangered. The Service made a 90-day finding, concluding that the petition and Service files contained substantial information indicating that the requested action may be warranted. An announcement of that finding was published in the **Federal Register** on March 13, 1995 (60 FR 13397). A status review was initiated on March 13, 1995, and the public comment period was open between March 13, and May 12, 1995.

The Service has reviewed the petition, literature cited in the petition, information received by the Service during the comment period, other available literature and information, and consulted with biologists and researchers familiar with the southern population of walleye. On the basis of the best scientific and commercial information available, the Service find that listing is not warranted at this time. The status review revealed that the southern population of walleye has likely declined; however, convincing data on biological vulnerability and range-wide threats are not available to support a proposed rule for listing at this time.

Information obtained during the status review indicated that native walleye historically occurred in the lower Mississippi and Pearl rivers in Mississippi; in all eight Mobile Basin drainages in Alabama, Georgia, Mississippi, and in a small area of Tennessee; and in the Escambia River of

Alabama (Brown 1962, Schultz 1971, Hackney and Holbrook 1978, Moss *et al.* 1985, Mettee *et al.* 1989a, 1989b). Genetic analyses, based on protein electrophoresis and mitochondrial-DNA, have demonstrated that the walleye native to the Mobile Basin is distinctive (Wingo 1982, Murphy 1990, Billington *et al.* 1992, Billington and Strange in press). This population, herein referred to as the "southern walleye," is currently known from seven Mobile Basin (Basin) drainages. The southern walleye is a large freshwater fish that reaches weights of 2 pounds (4 kg) or more (Schultz 1971, Moss *et al.* 1985). Southern walleye occur mostly in rivers and larger streams, but they may also occur in impoundments and channelized rivers. They are migratory and move upstream, or into smaller streams in winter and early spring, to spawn on clean sand and gravel substrates (Schultz 1971, Kingery and Muncy 1988).

Southern walleye populations appear to be small. In fish surveys, they often comprise less than one percent of a collection (Brown 1962, Schultz 1971). However, adult walleye are frequently found in deep holes and associated with submerged logs; habitats that are not readily sampled. Based on what appear to be spawning runs, there are at least five potential spawning areas located throughout the Basin, but considering the walleye's extensive distribution, additional spawning sites are likely.

The status review disclosed that the southern walleye has likely declined in population size and distribution owing to considerable habitat modification that has occurred over much of its range. Locks and dams block or restrict walleye movement and may inundate historic spawning habitat. Additional habitat has been altered by channelization, desnagging, gravel mining, and headcutting. Local declines in water quality from point and nonpoint source pollution also may affect stream reaches occupied by walleye. Angling may reduce reproduction in Alabama because mature fish are caught when concentrated at spawning sites.

Some of the major threats, *e.g.*, dam construction, channelization, and water pollution, appear to have recently stabilized. Illegal gravel mining remains a problem in several coastal plain areas because of inadequate detection and enforcement. Headcutting continues to be a threat in areas such as the upper Tombigbee where geomorphic instability has resulted from channelization, gravel dredging, and other channel modifications (Hartfield 1992). However, these problems are