

to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Volatile Organic Compounds, Intergovernmental relations, Reporting and record keeping requirements.

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

Dated: August 10, 2006.

Richard E. Greene,

Regional Administrator, Region 6.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R10-OAR-2006-0377; FRL-8212-2]

Outer Continental Shelf Air Regulations Consistency Update for Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule-consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act ("the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the State of Alaska. The intended effect of approving the OCS requirements for the State of Alaska is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below is proposed to be incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before September 21, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R10-OAR-2006-0377, by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>: Follow the on-line instructions for submitting comments;

B. E-mail: greaves.natasha@epa.gov;
C. Mail: Natasha Greaves, Federal and Delegated Air Programs Unit, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop: AWT-107, Seattle, WA 98101;

D. Hand Delivery: U.S. Environmental Protection Agency Region 10, Attn: Natasha Greaves (AWT-107), 1200 Sixth Avenue, Seattle, Washington 98101, 9th Floor. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2006-0377. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information ("CBI") or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is

restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Natasha Greaves, Federal and Delegated Air Programs Unit, Office of Air, Waste, and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop: AWT-107, Seattle, WA 98101; telephone number: (206) 553-7079; e-mail address: greaves.natasha@epa.gov.

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I. National Technology Transfer and Advancement Act

I. Background Information

Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,¹ which established requirements to control air pollution from OCS sources in order to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of

¹ The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a State or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of a Notice of Intent on March 22, 2006 by Shell Offshore, Inc. of Houston, Texas. Public comments received in writing within 30 days of publication of this proposed rule will be considered by EPA before publishing a final rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's State implementation plan ("SIP") guidance or certain requirements of the Act.

Consistency updates may result in the inclusion of State or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

What Criteria Were Used To Evaluate Rules Submitted To Update 40 CFR Part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the

OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded administrative or procedural rules,² and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget ("OMB") review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB Review. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

² Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, as in Alaska, EPA will use its own administrative and procedural requirements to implement the substantive requirements. See 40 CFR 55.14 (c)(4).

B. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 55, and by extension this update to the rules, under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0249. Notice of OMB's approval of EPA Information Collection Request ("ICR") No. 1601.06 was published in the **Federal Register** on March 1, 2006 (71 FR 10499-10500). The approval expires January 31, 2009.

As EPA previously indicated (70 FR 65897-65898 (November 1, 2005)), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant economic impact on a substantial number of small entities. This rule implements requirements specifically and explicitly set forth by the Congress

in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. 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 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 one 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 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 proposed 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 that may result in expenditures of \$100 million or more for state, local, or tribal governments, in the aggregate, or to the private sector in any one year. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

E. Executive Order 13132: Federalism

Executive Orders 13132, entitled "Federalism" (4 FR 43255 (August 10, 1999)), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. This rule does not amend the existing provisions within 40 CFR part 55 enabling delegation of OCS regulations to a COA, and this rule does not require the COA to implement the OCS rules. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comments on this proposed rule from State and local officials.

F. Executive Order 13175: Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249 (November 9, 2000)), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This rule does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes and thus does not have "tribal implications," within the meaning of Executive Order 13175. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In addition, this rule does not impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Consultation with Indian tribes is therefore not required under Executive Order 13175. Nonetheless, in the spirit of Executive Order 13175 and consistent with EPA policy to promote communications between EPA and tribes, EPA specifically solicits comments on this proposed rule from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885 (April 23, 1997)), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. In addition, the

Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportional risk to children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable laws or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decided not to use available and applicable voluntary consensus standards.

As discussed above, this rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In the absence of a prior existing requirement for the state to use voluntary consensus standards and in light of the fact that EPA is required to make the OCS rules consistent with current COA requirements, it would be inconsistent with applicable law for EPA to use voluntary consensus standards in this action. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Continental shelf, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 14, 2006.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

Title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Act (42 U.S.C. 7401, et seq.) as amended by Public Law 101-549.

2. Section 55.14 is amended by revising paragraph (e)(2)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(A) State of Alaska Requirements

Applicable to OCS Sources, December 3, 2005.

* * * * *

3. Appendix A to CFR part 55 is amended by revising paragraph (a)(1) under the heading "Alaska" to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

Alaska

(a) * * *

(1) The following State of Alaska requirements are applicable to OCS Sources, December 3, 2005, Alaska Administrative Code—Department of Environmental Conservation. The following sections of Title 18, Chapter 50:

Article 1. Ambient Air Quality Management

18 AAC 50.005. Purpose and Applicability of Chapter (effective 1/18/97)

18 AAC 50.010. Ambient Air Quality Standards (effective 1/18/97)

18 AAC 50.015. Air Quality Designations, Classification, and Control Regions (effective 1/18/97) except (d)(2)

Table 1. Air Quality Classifications

18 AAC 50.020. Baseline Dates and Maximum Allowable Increases (effective 1/18/97)

Table 2. Baseline Dates

Table 3. Maximum Allowable Increases

18 AAC 50.025. Visibility and Other Special Protection Areas (effective 1/18/97)

18 AAC 50.030. State Air Quality Control Plan (effective 1/18/97)

18 AAC 50.035. Documents, Procedures, and Methods Adopted by Reference (effective 1/18/97)

18 AAC 50.040. Federal Standards Adopted by Reference (effective 1/18/97) except (b), (c) (d), and (g)

18 AAC 50.045. Prohibitions (effective 1/18/97)

18 AAC 50.050. Incinerator Emissions Standards (effective 1/18/97)

Table 4. Particulate Matter Standards for Incinerators

18 AAC 50.055. Industrial Processes and Fuel-Burning Equipment (effective 1/18/97) except (a)(3) through (a)(9), (b)(4) through (b)(6), (e) and (f)

18 AAC 50.065. Open Burning (effective 1/18/97) except (g) and (h)

18 AAC 50.075. Wood-Fired Heating Device Visible Emission Standards (effective 1/18/97)

18 AAC 50.080. Ice Fog Standards (effective 1/18/97)

18 AAC 50.085. Volatile Liquid Storage Tank Emission Standards (effective 1/18/97)

18 AAC 50.090. Volatile Liquid Loading Racks and Delivery Tank Emission Standards (effective 1/18/97)

18 AAC 50.100 Nonroad Engines (effective 10/1/04)

18 AAC 50.110. Air Pollution Prohibited (effective 5/26/72)

Article 2. Program Administration

18 AAC 50.200. Information Requests (effective 1/18/97)

18 AAC 50.201. Ambient Air Quality Investigation (effective 1/18/97)

18 AAC 50.205. Certification (effective 1/18/97)

18 AAC 50.215. Ambient Air Quality Analysis Methods (effective 1/18/97)

Table 5. Significant Impact Levels (SILs)

18 AAC 50.220. Enforceable Test Methods (effective 1/18/97)

18 AAC 50.225. Owner-Requested Limits (effective 1/18/97)

18 AAC 50.230. Preapproved Emission Limits (effective 1/18/97)

18 AAC 50.235. Unavoidable Emergencies and Malfunctions (effective 1/18/97)

18 AAC 50.240. Excess Emissions (effective 1/18/97)

18 AAC 50.245. Air Episodes and Advisories (effective 1/18/97)

Table 6. Concentrations Triggering an Air Episode

Article 3. Major Stationary Source Permits

18 AAC 50.301. Permit Continuity (effective 10/1/04)

18 AAC 50.302. Construction Permits (effective 10/01/04)

18 AAC 50.306. Prevention of Significant Deterioration (PSD) Permits (effective 10/01/04) except (e)

- 18 AAC 50.311. Nonattainment Area Major Stationary Source Permits (effective 10/01/04)
- 18 AAC 50.316. Preconstruction Review for Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (effective 10/01/04) except (c)
- 18 AAC 50.326. Title V Operating Permits (effective 10/01/04) except (j)(1), (k)(3), (k)(5), and (k)(6)
- 18 AAC 50.345. Construction and Operating Permits: Standard Permit Conditions (effective 1/18/97)
- 18 AAC 50.346. Construction and Operating Permits: Other Permit Conditions (effective 10/01/04)

Table 7. Emission Unit or Activity, Standard Permit Condition

Article 4. User Fees

- 18 AAC 50.400. Permit Administration Fees (effective 1/18/97) except (a), (b), (c)(1), (c)(3), (c)(6), (i)(2), (i)(3), (m)(3) and (m)(4)
- 18 AAC 50.403. Negotiated Service Agreements (effective 1/29/05) except (8) and (9)
- 18 AAC 50.405. Transition Process for Permit Fees (effective 1/29/05)
- 18 AAC 50.410. Emission Fees (effective 1/18/97)
- 18 AAC 50.499. Definition for User Fee Requirements (effective 1/29/05)

Article 5. Minor Permits

- 18 AAC 50.502. Minor Permits for Air Quality Protection (effective 10/1/04) except (b)(1), (b)(2), (b)(3) and (b)(5)
- 18 AAC 50.508. Minor Permits Requested by the Owner or Operator (effective 10/1/04)
- 18 AAC 50.509. Construction of a Pollution Control Project without a Permit (effective 10/1/04)
- 18 AAC 50.540. Minor Permit: Application (effective 10/1/04)
- 18 AAC 50.542. Minor Permit: Review and Issuance (effective 10/1/04) except (b)(1), (b)(2), (b)(5), and (d)
- 18 AAC 50.544. Minor Permits: Content (effective 10/1/04)
- 18 AAC 50.546. Minor Permits: Revisions (effective 10/1/04)
- 18 AAC 50.560. General Minor Permits (effective 10/1/04) except (b)

Article 9. General Provisions

- 18 AAC 50.990. Definitions (effective 1/18/97)

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[FR Doc. E6-13860 Filed 8-21-06; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AU76

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Catesbaea melanocarpa*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the endangered plant *Catesbaea melanocarpa* (no common name) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 50 acres (ac) (20.2 hectares (ha)) fall within the boundaries of the proposed critical habitat designation for *C. melanocarpa* in one unit located in Christiansted, St. Croix, U.S. Virgin Islands. If made final, this proposal may result in additional requirements under section 7 of the Act for Federal agencies. No additional requirements are expected for non-Federal actions. The Service seeks comments on all aspects of this proposal from the public.

DATES: We will accept comments from all interested parties until October 23, 2006. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by October 6, 2006.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may submit written comments and information by mail or hand-delivery to Edwin E. Muñiz, Field Supervisor, U.S. Fish and Wildlife Service, Caribbean Fish and Wildlife Office, Road 301 Km. 5.1, P.O. Box 491, Boquerón, Puerto Rico 00622.

2. You may send comments by electronic mail (e-mail) to marelisa_rivera@fws.gov. Please see the Public Comments Solicited section below for file format and other information about electronic filing.

3. You may fax your comments to 787-851-7440.

4. You may submit comments via the Federal E-Rulemaking Portal at <http://www.regulations.gov>.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Caribbean Fish and Wildlife

Office, Road 301 Km. 5.1, Boquerón, Puerto Rico (telephone 787-851-7297).

FOR FURTHER INFORMATION CONTACT: Marelisa Rivera, Caribbean Fish and Wildlife Office (see **ADDRESSES**), telephone 787-851-7297 ext. 231; facsimile 787-851-7440.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of *Catesbaea melanocarpa* habitat, including areas occupied by *C. melanocarpa* at the time of listing and containing features essential to the conservation of the species, and areas not occupied at the listing that are essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) We have not included lands containing features essential to the conservation of *C. melanocarpa* within the Guánica and Susúa Commonwealth Forests in Puerto Rico in this proposed designation because we believe that the Commonwealth Forests provide conservation management and protection for these features such that the specific areas do not meet the definition of critical habitat. We are seeking specific comments related to:

(a) Whether our determination to not include these specific areas in critical habitat is appropriate, and

(b) if our determination is not appropriate, then how should we define the specific areas essential to conservation of this plant.

(5) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(6) Whether our approach to designating critical habitat could be improved or modified in any way to