

Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1189.

SUPPLEMENTARY INFORMATION: This document concerns Kern County Air Pollution Control District Rule 102, Definitions, San Diego County Air Pollution Control District Rule 2, Definitions and Rule 3, Standard Conditions, San Joaquin Valley Unified Air Pollution Control District Rule 1020, Definitions, and South Coast Air Quality Management District Rule 102, Definition of Terms, submitted on September 7, 1999, by the California Air Resources Board. For further information, please see the information provided in the direct final action that is located in the rules section of this **Federal Register**.

Dated: January 10, 2000.

Felicia Marcus,
Regional Administrator, Region IX.

[FR Doc. 00-2170 Filed 2-2-00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SD-001-0007b & SD-001-0008b; FRL-6527-3]

Clean Air Act Approval and Promulgation of State Implementation Plan; South Dakota; Revisions to Performance Testing Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to take direct final action to approve revisions to the South Dakota State implementation plan (SIP) submitted on May 2, 1997 and May 6, 1999 regarding the testing of new fuels or raw materials. Specifically, the State adopted a new provision in Chapter 74:36:11, Performance Testing, of the Administrative Rules of South Dakota (ARSD) that allows permitted sources to request permission to test a new fuel or raw material, to determine if it is compatible with existing equipment and to determine air emission rates, before requesting a permit amendment or modification.

In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set

forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Comments must be received in writing on or before March 6, 2000.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relative to this action are available for inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466. Copies of the State documents relevant to this action are available for public inspection at the Air Quality Program, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT:
Vicki Stamper, EPA Region VIII, (303) 312-6445.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations section of this **Federal Register**.

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

Dated: January 6, 2000.

Jack W. McGraw,
Acting Regional Administrator, Region VIII.
[FR Doc. 00-2168 Filed 2-2-00; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To Delist the Northern Spotted Owl From the List of Threatened and Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding for a petition to delist the northern spotted owl (*Strix occidentalis caurina*) under the Endangered Species Act of 1973, as amended (Act). We find that the petitioner did not present substantial scientific or commercial information indicating that the delisting of the northern spotted owl may be warranted.

DATES: The finding announced in this document was made on January 18, 2000.

ADDRESSES: Data, information, comments or questions concerning this petition should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Western Washington Office, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503. The petition finding, and comments and material received, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. L. Karolee Owens at the above address (telephone 360/753-4369; facsimile 360/753-4369).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Act, requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. This finding is based upon all information submitted with and referenced in the petition and all other information available to us at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days following receipt of the petition, and promptly published in the **Federal Register**. If the finding is positive, section 4(b)(3)(B) of the Act requires us to promptly commence a review of the status of the species and to disclose our findings within 12 months.

The processing of this petition finding conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and

plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudence and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. The processing of this petition finding is a Priority 4 action and is being completed in accordance with the current Listing Priority Guidance.

We have made a 90-day finding on a petition to delist the northern spotted owl (*Strix occidentalis caurina*). The petition, dated January 18, 1999, was submitted by Dr. Richard A. Gierak of Yreka, California, and we received it on February 2, 1999.

The petition identified three subspecies of spotted owl, including the northern spotted owl (*Strix occidentalis caurina*), the California spotted owl (*Strix occidentalis occidentalis*), and the Mexican spotted owl (*Strix occidentalis lucida*). The petitioner asked that the "spotted owl" be removed from the "endangered list." The California spotted owl, however, is not a listed subspecies. The Mexican and northern spotted owls, subjects of separate listing actions, are both listed as threatened. The Mexican spotted owl was listed on March 16, 1993 (58 FR 14271), and critical habitat was designated for this subspecies on June 6, 1995 (60 FR 29914). The northern spotted owl was listed as threatened on June 26, 1990 (55 FR 26194), and critical habitat for the subspecies was designated on January 15, 1992 (57 FR 1796). Since the information presented in the petition refers only to northern spotted owls, this 90-day petition finding addresses only this subspecies. The petition is based on statements referring to the status and listing of the northern spotted owl from the National Center for Policy Analysis web site. There is no documentation of the source(s) of the information on the web site, and no scientific supporting documentation was included with the petition.

The petitioner asserts that the northern spotted owl should be delisted because the original data were in error. This assertion is based on an increased number of known northern spotted owl pairs, their use of forest areas that have been harvested and regrown, and the economic effects of the listing.

Documentation of greater numbers of northern spotted owls since the first population estimates results from expanded knowledge and increased

survey efforts, and not from an increasing northern spotted owl population. Additionally, listing and any consideration of delisting of the northern spotted owl must be based on its status as reflected by the required analysis of the five factors specified under section 4 of the Act, and not solely on the basis of the number of pairs. To delist a species, the analysis must indicate that none of these five factors are affecting the species such that it is in danger of extinction, or likely to become endangered, within the foreseeable future. For the northern spotted owl, this will require stable or increasing and self-sustaining populations and conservation of adequate suitable habitat to allow the species to survive without protection of the Act.

Current data do not suggest that the decision to list the northern spotted owl was based on erroneous data, or that the species has recovered. Observations of banded northern spotted owls in 15 study areas in Washington, Oregon, and California were used for the recently released 1998 demographic analysis of northern spotted owls (Franklin *et al.* 1999). In this analysis, these observations were used to estimate survival and reproductive rates, and to determine if the population is increasing, decreasing, or stable. The results indicate there has been a range-wide northern spotted owl population decline of about 3.9 percent per year during the years 1985 to 1998. The analysis does not indicate, however, a range-wide decline in reproductive rates and female survival rates, which varied among years and among study areas. Reproductive rates and female survival rates can be relatively stable, but still be lower than necessary to support a stable population. The result is a declining population. Although these results indicate that the rate of the northern spotted owl population decline is slower than was evident in the 1993 analysis for the development of the Northwest Forest Plan (U.S. Department of Agriculture and U.S. Department of Interior 1994), uncertainty still exists regarding the range-wide health of the northern spotted owl population.

Northern spotted owls are known to use a wide variety of habitat types and forest stand conditions throughout their distribution (57 FR 1796). Northern spotted owls use a wide array of forest types for foraging, including open and fragmented habitat. Habitat that meets the species' needs for nesting and roosting also provides foraging habitat. Some habitat that supports foraging, however, may be inadequate for nesting and roosting. The presence of northern

spotted owls, or even breeding pairs, in forest stands that have been harvested and regrown do not present sufficient evidence that these habitats are occupied by self-sustaining populations.

Economic analysis is not a factor in listing a species, but is used to evaluate the economic consequences of designating critical habitat in selected areas. We considered the economic and other relevant impacts prior to making a final decision on the size and scope of critical habitat for the northern spotted owl. Some areas were excluded due to economic and other relevant information, including information and comments received during the public comment period and public hearings following the publication of the proposed rule to designate critical habitat (56 FR 40001). Final critical habitat units for the northern spotted owl were designated only on Federal lands (57 FR 1796).

When evaluating petitions for delisting of species under the Act, our guidelines state that a "not-substantial information" finding be made when a petition to delist a species presents no new information indicating the original data for listing the species may be in error (U.S. Fish and Wildlife Service 1996). We have reviewed the petition and other available literature and information. This review of additional information includes the recently released 1998 demographic analysis, which indicates a continued range-wide decline of the northern spotted owl population. We find the petition does not present substantial information to indicate delisting the northern spotted owl may be warranted.

References Cited

Franklin, A.B., K.P. Burnham, G.C. White, R.J. Anthony, E.D. Forsman, C. Schwarz, J.D. Nichols, and J. Hines. 1999. Range-wide status and trends in northern spotted owl populations. Unpublished report. 71 pp.

U.S. Department of Agriculture and U.S. Department of the Interior. 1994. Final supplemental environmental impact statement on management of habitat for late-successional and old-growth forest related species within the range of the northern spotted owl. Portland, Oregon.

U.S. Fish and Wildlife Service and National Marine Fisheries Service. 1996. Endangered species petition management guidance. 20 pp. and appendices.

Author: The primary author of this finding is Dr. L. Karolee Owens, Fish and Wildlife Service, Western Washington Office (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: January 18, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00-2311 Filed 2-2-00; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[I.D. 012100C]

South Atlantic Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will convene two public hearings regarding draft options for Amendment 1 to the

Golden Crab Fishery Management Plan (FMP). The amendment addresses gear restrictions, permitting processes, vessel size limits, crew safety and zoning/participation conflicts in the golden crab fishery.

DATES: The Council will accept written comments on the draft options paper through March 1, 2000. The public hearings will be held in February. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699. Copies of the draft options paper are available from Kim Iverson, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; telephone: 843-571-4366. The public hearings will be held in Florida and South Carolina. See **SUPPLEMENTARY INFORMATION** for specific hearing locations.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699; telephone: 843-571-4366; fax: 843-769-4520; E-mail address: kim.iverson@safmc.noaa.gov.

SUPPLEMENTARY INFORMATION:**Time and Location for Public Hearings**

Public hearings for the draft options paper for Amendment 1 to the Golden Crab Fishery Management Plan will be held at the following locations, dates, and times.

1. February 22, 2000, 6:00 p.m., Best Western Hotel, 111 South Crome Ave., Florida City, FL 33034; telephone: 305-451-0056.

2. February 23, 2000, 6:00 p.m., Town & Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: 843-571-1000.

Copies of the draft options paper can be obtained from the Council (see **ADDRESSES**).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by March 15, 2000.

Dated: January 24, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 00-2404 Filed 2-2-00; 8:45 am]

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