

reductions of GSE emissions by various operators in the Houston Airport System. Alternative strategies may be implemented to bring about, or count for, the agreed reductions. A plan to achieve the agreed reductions is due to the state by May 1, 2002.

Texas believes that the NO<sub>x</sub> reductions claimed in the HGA Post-99 Rate-of-Progress/Attainment SIP will be achieved through these Agreements as alternate but equally enforceable mechanisms. These measures will contribute to the attainment and maintenance of the one-hour ozone standard in the HGA.

For additional information concerning these rule revisions, please refer to our TSD.

#### *What Areas in Texas Will These Actions Affect?*

The Non-Road LSI rule affects all Texas counties. The agreements concerning NO<sub>x</sub> reductions from GSE affect airports in the HGA area.

#### **Proposed Action**

We are proposing approval of two rules: Requirements for Non-Road Large Spark-Ignition Engines, and specified NO<sub>x</sub> reduction agreements with airlines and airport operators in the Houston-Galveston ozone nonattainment area.

#### **Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor

will it 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule 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 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, Hydrocarbons, Intergovernmental relations, Motor vehicle pollution, Nitrogen oxides, Ozone, Reporting and record keeping.

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

Dated: June 26, 2001.

**Jerry Clifford,**

*Deputy Regional Administrator, Region 6.*

[FR Doc. 01-17336 Filed 7-10-01; 8:45 am]

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 63**

**[FRL-7009-5]**

#### **Approval of Section 112(l) Program of Delegation; Ohio**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing approval of a request for delegation of the Federal air toxics program. The State's mechanism of delegation involves the straight delegation of all existing and future section 112 standards unchanged from the Federal standards. The actual delegation of authority of individual standards, except standards addressed specifically in this action, will occur through a mechanism set forth in a memorandum of agreement (MOA) between the Ohio Environmental Protection Agency (OEPA) and EPA. This request for approval of a mechanism of delegation encompasses all Part 70 and non-Part 70 sources subject to a section 112 standard with the exception of the Coke Oven standard.

In the final rules section of this **Federal Register**, the EPA is approving the State's request as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this action. Should the Agency receive such comment, it will publish a final rule informing the public that the direct final rule will not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments on this proposed rule must be received on or before August 10, 2001.

**ADDRESSES:** Written comments should be sent to: Pamela Blakley, Chief, Permits and Grants Section, Air Programs Branch (AR-18J), U.S.

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other supporting information used in developing the approval are available for inspection during normal business hours at the following location: EPA Region 5, 77 West Jackson Boulevard, AR-18J, Chicago, Illinois 60604. Please contact Genevieve Damico at (312) 353-4761 to arrange a time if inspection of the submittal is desired.

**FOR FURTHER INFORMATION CONTACT:** Genevieve Damico, AR-18J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4761, damico.genevieve@epa.gov.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Dated: June 19, 2001.

**David A. Ullrich,**  
Acting Regional Administrator, Region 5.  
[FR Doc. 01-17073 Filed 7-10-01; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AH31

### Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Carolina Heelsplitter

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the Fish and Wildlife Service (Service), propose to designate critical habitat for the Carolina heelsplitter (*Lasmigona decorata*), a freshwater mussel, under the Endangered Species Act of 1973, as amended (Act). The areas proposed for critical habitat designation include portions of a river and nine creeks in North Carolina and/or South Carolina. This action comes as a result of a lawsuit filed against us by the Southern Appalachian Biodiversity Project and the Foundation for Global Sustainability. If this proposal is made final, Federal agencies must ensure that actions they fund, permit, or carry out are not likely to result in the destruction or adverse modification of critical habitat. State or private actions, with no Federal involvement, would not be affected by this rulemaking action.

**DATES:** We will consider comments received by September 10, 2001. Requests for public hearings must be received, in writing, at the address shown in the **ADDRESSES** section by August 27, 2001.

**ADDRESSES:** If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information to the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillico Street, Asheville, North Carolina 28801.

2. You may hand-deliver written comments to our Asheville Field Office, at the above address, or fax your comments to 828/258-5330.

3. You may send comments by electronic mail (e-mail) to [john\\_fridell@fws.gov](mailto:john_fridell@fws.gov). For directions on how to submit electronic filing of comments, see the "Public Comments Solicited" section.

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 above address.

**FOR FURTHER INFORMATION CONTACT:** John A. Fridell, Fish and Wildlife Biologist (telephone 828/258-3939).

### SUPPLEMENTARY INFORMATION:

#### Background

Lea (1852) originally described the Carolina heelsplitter, a freshwater mussel, as *Unio decoratus*. Johnson (1970) synonymized this species with *Lasmigona subviridis* (Conrad 1835). Clarke (1985) recognized the Carolina heelsplitter as a distinct species, *Lasmigona decorata*, and synonymized *Unio charlottensis* (Lea 1863) and *Unio insolitus* (Lea 1872) with *Lasmigona decorata*. A genetic comparison of a specimen of *L. decorata* with specimens of *L. subviridis* (Tim King, U.S. Geological Survey, Leetown, West Virginia, pers. comm. 2001) supports Clarke's (1985) position on the taxonomy (scientific classification) of this species.

The Carolina heelsplitter has an ovate, trapezoid-shaped, unsculptured (smooth with no noticeable bumps or protrusions) shell. The shell of the largest known specimen measures 11.5 centimeters (cm) (4.5 inches (in)) in length, 3.9 cm (1.5 in) in width, and 6.8 cm (2.7 inches) in height. The shell's outer surface varies from greenish brown to dark brown in color, and shells from younger specimens have faint greenish brown or black rays. The nacre (inside surface) is often pearly white to bluish white, grading to orange

in the area of the umbo (bulge or beak, protrudes near the hinge of a mussel). However, in older specimens the entire nacre may be a mottled pale orange. The hinge teeth (pseudocardinal teeth and lateral teeth) of the species are well developed but thin and rather delicate. The left valve (half of a mussel shell) has two blade-like pseudocardinal teeth and two lateral teeth, and the right valve has one of each. The left valve may also have an interdental projection, a slight projection located between the lateral and pseudocardinal teeth (adapted from Keferl 1991). Clarke (1985) contains a detailed description of the species' shell, with illustrations.

### Distribution, Habitat, and Life History

The Carolina heelsplitter currently has a very fragmented, relict distribution but historically was known from several locations within the Catawba and Pee Dee River systems in North Carolina and the Pee Dee and Savannah River systems, and possibly the Saluda River system, in South Carolina. Historically, the species was collected from the Catawba River, Mecklenburg County, North Carolina; several streams and "ponds" in the Catawba River system around the Charlotte area of Mecklenburg County, North Carolina; one small stream in the Pee Dee River system in Cabarrus County, North Carolina; one "pond" in the Pee Dee River system in Union County, North Carolina; and an area in South Carolina referred to only as the "Abbeville District," a terminology no longer employed (Clarke 1985, Keferl and Shelly 1988, Keferl 1991). The records from the Abbeville District, South Carolina, were previously believed to have been from the Saluda River system (Clarke 1985, Keferl and Shelly 1988, Keferl 1991, Service 1993). However, biologists discovered a population of the Carolina heelsplitter in the spring of 1995 in the Savannah River system (Stevens Creek watershed) (Alderman 1995, 1998a, and 1998b). Therefore, the historic records from the Abbeville District may have been from either the Saluda River system or the Savannah River system or both. An additional historic record of the Carolina heelsplitter from the main stem of the Pee Dee River in Richmond County, North Carolina, was recently discovered (Art Bogan, North Carolina Museum of Science and Natural History, pers. comm. 2001); however, surveys by biologists with the North Carolina Wildlife Resources Commission (NCWRC) and North Carolina Department of Transportation have failed to turn up any evidence of a surviving population of the species at,