

be stocked at least equal to the rates specified in the approved reclamation plan. Additionally, DMME is proposing to add a requirement that in order to minimize competition with woody plants, herbaceous ground cover should be limited to that necessary to control erosion and support the postmining land use. Seed mixtures and seeding rates will be specified in the approved reclamation plan. The proposed revisions correspond to the Federal regulations at 30 CFR 816 and 817.116(b)(3) that provide the standards for success of revegetation and are essentially identical to the ground cover standards for areas where trees will be planted that were adopted by OSM in the Tennessee Federal Program on March 2, 2007 (72 FR 9616) and codified at 30 CFR 942.816 and 942.817.

With this new amendment, 4 VAC 25-130-816 and 817.116(b)(3) is proposed to read as follows:

4 VAC 25-130-816.116(b)(3) and 817.116(b)(3). Revegetation; standards for success.

(3) For areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forestry, the stocking of woody plants must be at least equal to the rates specified in the approved reclamation plan. To minimize competition with woody plants, herbaceous ground cover should be limited to that necessary to control erosion and support the postmining land use. Seed mixtures and seeding rates will be specified in the approved reclamation plan. Such parameters are described as follows:

* * * * *

DMME's second proposed revision occurs at 4 VAC 25-130-816 and 817.116(b)(3)(v)(C). DMME deleted "products, success of vegetation shall be determined on the basis of tree and shrub" and added "the stocking of woody plants must be at least equal to the rates specified in the approved reclamation plan. To minimize competition with woody plants, herbaceous ground cover should be limited to that necessary to control erosion and support the postmining land use. Seed mixtures and seeding rates will be specified in the approved reclamation plan. Such parameters are described as follows:"

With this new amendment, 4 VAC 25-130-816 and 817.116(b)(3)(v)(C) is proposed to read as follows:

4 VAC 25-130-816.116(b)(3)(v)(C) and 817.116(b)(3)(v)(C). Revegetation; standards for success.

(v) Where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land:

* * * * *

(C) Areas planted with a mixture of herbaceous and woody species shall sustain a herbaceous vegetative ground cover in accordance with guidance provided by the division and the approved forestry reclamation plan and establish an average of

400 woody plants per acre. At least 40 of the woody plants for each acre shall be wildlife food-producing shrubs located suitably for wildlife enhancement, which may be distributed or clustered on the area.

* * * * *

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Virginia program.

Written or Electronic Comments

Send your written or electronic comments to OSM at one of the addresses given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed above will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 16, 2007.

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. E7-24392 Filed 12-14-07; 8:45 am]

BILLING CODE 4310-05-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2007-1128; FRL-8506-9]

Approval and Promulgation of Implementation Plans; Nebraska; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a revision to the Nebraska State Implementation Plan (SIP) for the purpose of approving the Nebraska Department of Environmental Quality's (NDEQ) actions to address the "good neighbor" provisions of the Clean Air Act Section 110(a)(2)(D)(i). These provisions require each state to submit a SIP that prohibits emissions that adversely affect another state's air quality through interstate transport. NDEQ has adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants. These include prohibiting significant contribution to downwind nonattainment of the National Ambient Air Quality Standards (NAAQS), interference with maintenance of the NAAQS, interference with plans in another state to prevent significant deterioration of air quality, and efforts of other states to protect visibility. The requirements for public notification were also met by NDEQ.

DATES: Comments on this proposed action must be received in writing by January 16, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2007-1128 by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: jay.michael@epa.gov.

3. *Mail*: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier*. Deliver your comments to Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30, excluding legal holidays.

Please see the direct final rule that is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Michael Jay at (913) 551-7460, or by e-mail at jay.michael@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of the **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 revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the

approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule that is located in the rules section of this **Federal Register**.

Dated: November 29, 2007.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. E7-24233 Filed 12-14-07; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[96100-1671-0000-W4]

RIN 1018-AV21

Endangered and Threatened Wildlife and Plants; Proposed Rule To List Six Foreign Bird Species Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list three petrel species (order Procellariiformes), the Chatham petrel (*Pterodroma axillaris*), previously referred to as (*Pterodroma hypoleuca axillaris*); Fiji petrel (*Pterodroma macgillivrayi*); and the magenta petrel (*Pterodroma magentae*) as endangered, pursuant to the Endangered Species Act of 1973, as amended (Act). In addition, we propose to list the Cook's petrel (*Pterodroma cookii*); Galapagos petrel (*Pterodroma phaeopygia*), previously referred to as (*Pterodroma phaeopygia phaeopygia*); and the Heinroth's shearwater (*Puffinus heinrothi*) as threatened under the Act. This proposal, if made final, would extend the Act's protection to these species. The Service

seeks data and comments from the public on this proposal.

DATES: We must receive comments and information from all interested parties by March 17, 2008. Public hearing requests must be received by January 31, 2008.

ADDRESSES: You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: RIN 1018-AV21; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT:

Mary M. Cogliano, PhD, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 110, Arlington, VA 22203; telephone 703-358-1708; fax, 703-358-2276; or e-mail, ScientificAuthority@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

In this proposed rule, we propose to list three foreign seabird species as endangered, pursuant to the Act (16 U.S.C. 1531, *et seq.*). These species are: the Chatham petrel (*Pterodroma axillaris*), Fiji petrel (*Pterodroma macgillivrayi*), and magenta petrel (*Pterodroma magentae*). We also propose to list the Cook's petrel (*Pterodroma cookii*), Galapagos petrel (*Pterodroma phaeopygia*), and Heinroth's shearwater (*Puffinus heinrothi*) as threatened species under the Act. All species are considered pelagic, occurring on the open sea generally out of sight of land, where they feed year round. They return to nesting sites on islands during the breeding season where they nest in colonies (Pettingill 1970, p. 206).

Chatham petrel (*Pterodroma axillaris*)

The Chatham petrel is also known by its Maori name, ranguru. Fossil evidence indicates that this species was once widespread throughout the Chatham Islands of New Zealand [New Zealand Department of Conservation (NZDOC) 2001b]. However, the species is currently only known to breed on South East Island (Rangatira) (BirdLife International 2007a) and, as a result of

recent release efforts, on Pitt Island (BirdLife International News 2006) within the Chatham Islands. The population of this species is very small, estimated at 800–1,000 birds based on recent research and banding studies (Taylor 2000), and is showing a decreasing population trend (BirdLife International 2007a). It is estimated that fewer than 200 pairs breed per year (NZDOC 2001b). The IUCN considers the Chatham petrel to be "Critically Endangered" (BirdLife International 2006a).

Banding studies have shown that young birds of this species remain at sea for at least two years before returning to land to breed and nest. Based on limited feeding habits data, the species preys on squid and small fish (Heather and Robertson 1997, as cited in BirdLife International 2000).

Fiji petrel (*Pterodroma macgillivrayi*)

Synonyms for the Fiji petrel include *Pseudobulweria macgillivrayi* and *Thalassidroma macgillivrayi*. Very little information is available on the Fiji petrel and its life history. There have only been 12 substantiated sightings of this species on land since 1965, and a total of 13 historically. These sightings have all been on Gau Island (BirdLife International 2000), a 52.55-square mile (136.1 km²) island in Fiji's Lomaiviti archipelago (Wikipedia 2007f). The population of this species is very small, estimated at less than 50 birds and is showing a decreasing population trend (BirdLife International 2007c). The IUCN classifies the Fiji petrel as "Critically Endangered" (BirdLife International 2006c).

Magenta petrel (*Pterodroma magentae*)

The magenta petrel, or Taiko as it is known locally, is native to Chatham Island, New Zealand (BirdLife International 2000), the largest island in the Chatham Islands chain, covering 348 square miles (900 km², Wikipedia 2007b). Based on fossil evidence and historical records, it is believed that the magenta petrel was once the most abundant burrowing seabird on Chatham Island (Bourne 1964, Sutton and Marshall 1977, as cited in NZDOC 2001a). It has been reported that prior to 1900, indigenous Moriori and Maori harvested thousands of petrel chicks for food (Crockett 1994). The limited feeding habits data show that the magenta petrel preys on squid (Heather and Robertson 1997, as cited in BirdLife International 2000).

The type specimen for the magenta petrel was first collected at sea in 1867, and after 10 years of intensive searching the species was re-discovered in 1978 in