

be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Amy Bhesania at (913) 551-7147, or by e-mail at [bhesania.amy@epa.gov](mailto:bhesania.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of the **Federal Register**, EPA is approving the State's revision as a direct final rule without prior proposal because the Agency views this is 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 If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action.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 which is located in the rules section of this **Federal Register**.

Dated: April 3, 2009.

**William Rice,**

*Acting Regional Administrator, Region 7.*

[FR Doc. E9-8486 Filed 4-13-09; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA-HQ-OAR-2008-0708, FRL-8791-5]

**RIN 2060-AP36**

**National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines**

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

**ACTION:** Extension of public comment period.

**SUMMARY:** On March 5, 2009, EPA proposed national emission standards for existing stationary reciprocating

internal combustion engines that either: are located at area sources of hazardous air pollutant emissions; or are located at major sources of hazardous air pollutants and are either non-emergency compression-ignition engines, or are other engines that have a site rating of less than or equal to 500 brake horsepower. In this notice, we are announcing a 30-day extension of the public comment period for the proposal.

**DATES:** Comments must be received on or before June 3, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0708, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- *Fax:* (202) 566-1741.
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. EPA requests a separate copy also be sent to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**). In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.

- *Hand Delivery:* Air and Radiation Docket and Information Center, U.S. EPA, Room B102, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0708. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at [www.regulations.gov](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](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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 [www.regulations.gov](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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hardcopy at the Air and Radiation Docket EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Melanie King, Energy Strategies Group, Sector Policies and Programs Division (D243-01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2469; facsimile number: (919) 541-5450; e-mail address: [king.melanie@epa.gov](mailto:king.melanie@epa.gov).

**SUPPLEMENTARY INFORMATION:** This document extends the public comment period established in the notice of proposed rulemaking published in the **Federal Register** on March 5, 2009 (74 FR 9698). That notice proposed national emission standards for hazardous air pollutants (NESHAP) for existing stationary reciprocating internal combustion engines (RICE) that either are located at area sources of hazardous air pollutant emissions or that have a site rating of less than or equal to 500 brake horsepower and are located at major sources of hazardous air pollutant emissions. EPA also proposed NESHAP

for existing non-emergency stationary compression ignition engines greater than 500 brake horsepower that are located at major sources, based on a new review of these engines following the first RICE NESHAP rulemaking in 2004. In addition, EPA proposed to amend the previously promulgated regulations regarding operation of stationary RICE during periods of startup, shutdown and malfunction.

Shortly after publication of the proposed rule, several industry groups formally requested that EPA extend the comment period of the proposed rule. They indicated that an extended comment period was necessary due to the complexities of the proposed regulation and the large number of existing sources that are potentially affected. Furthermore, the request letters mention that the proposed regulation has far-reaching impacts on industrial stakeholders and that those impacts cannot be properly evaluated in the 60-day comment period provided by the proposal.

The letters requesting an extension to the comment period can be found in the docket. EPA is hereby extending the comment period, which was set to end on May 4, 2009, to June 3, 2009.

#### List of Subjects 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 8, 2009.

Elizabeth Craig,

Acting Assistant Administrator.

[FR Doc. E9-8483 Filed 4-13-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 226

[Docket No. 090224232-9334-02]

RIN 0648-AX50

#### Endangered and Threatened Species: Advance Notice of Proposed Rulemaking to Designate Critical Habitat for Cook Inlet Beluga Whales

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

**ACTION:** Advance notice of proposed rulemaking; request for information.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), will be designating critical habitat for the endangered Cook Inlet beluga whale (*Delphinapterus leucas*) under the Endangered Species Act (ESA). The designation will involve areas within Cook Inlet, Alaska. This advance notice of proposed rulemaking (ANPR) identifies issues for consideration and evaluation and solicits comments regarding these issues.

**DATES:** Comments and information regarding the suggested designation process and areas being considered for designation may be sent to NMFS (See **ADDRESSES**) by May 14, 2009.

**ADDRESSES:** Comments may be sent to Chief, Protected Resources Division, NMFS, P.O. Box 21668, Juneau, AK, 99802-1668.

**FOR FURTHER INFORMATION CONTACT:** Brad Smith, (907-271-3023) or Kaja Brix (907-586-7235).

#### SUPPLEMENTARY INFORMATION:

##### Rulemaking Background

We are responsible for determining whether species, subspecies, or distinct population segments (DPSs) are threatened or endangered and for designating critical habitat for them under the ESA (16 U.S.C. 1531 *et seq.*). To be considered for listing under the ESA, a group of organisms must constitute a "species" which is defined in section 3 to include "any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." We consider a group of organisms to be a DPS for purposes of ESA listing when it is both discrete from other populations and significant to the species to which it belongs (61 FR 4722; February 7, 1996). We found the Cook Inlet beluga whale population segment to be reproductively, genetically, and physically discrete from the four other known beluga populations in Alaska, and significant because it is in a unique ecological setting for the taxon, and its loss would result in a significant gap in the taxon's range. Following completion of a Status Review of the Cook Inlet beluga whale under the ESA, we published a proposed rule to list this DPS as an endangered species on April 20, 2007. We subsequently extended the date for final determination on the proposed action by 6 months, until October 20, 2008, as provided for by the ESA (section 4(b)(6)(B)(i)). A Final Rule to list the Cook Inlet beluga whale as an endangered species was published on October 22, 2008.

#### Critical Habitat

Section 4(b)(2) of the ESA requires us to designate critical habitat for threatened and endangered species "on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat." This section grants the Secretary of Commerce (Secretary) discretion to exclude any area from critical habitat if he determines "the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat." The Secretary's discretion is limited, as he may not exclude areas that "will result in the extinction of the species."

The ESA defines critical habitat under section 3(5)(A) as: "(i) the specific areas within the geographical area occupied by the species, at the time it is listed . . . on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed . . . upon a determination by the Secretary that such areas are essential for the conservation of the species."

Once critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure they do not fund, authorize, or carry out any actions that will destroy or adversely modify that habitat. This requirement is in addition to the section 7 requirement that Federal agencies ensure their actions do not jeopardize the continued existence of listed species.

#### Issues for Consideration and Evaluation

Section 4(a)(3) of the ESA requires us to designate critical habitat for threatened and endangered species. We are currently in the information-gathering phase, compiling information to propose critical habitat for the Cook Inlet beluga whale. Sections 3, 4(a), and 4(b) of the ESA suggest a number of questions the agency should consider when designating critical habitat:

- What areas were occupied by the species at the time of listing?
- What physical and biological features are essential to the species' conservation?
- Are those essential features ones that may require special management considerations or protection?
- Are there any areas outside those currently occupied that are "essential for conservation?"