

Under Secretary for Memorial Affairs for a finding.

(3) The notice of procedural options will also inform the personal representative that, if the personal representative does not exercise one or more of the stated options within the prescribed period, the matter will be forwarded to the Under Secretary for Memorial Affairs for a finding based on the existing record.

(d) *Hearing.* If a hearing is requested, the hearing will be conducted by the cemetery director or his or her designee. The purpose of the hearing is to permit the personal representative of the deceased to present evidence concerning whether the deceased committed a crime which would render the deceased ineligible for interment or memorialization in a national cemetery. Testimony at the hearing will be presented under oath, and the personal representative will have the right to representation by counsel and the right to call witnesses. The VA official conducting the hearing will have the authority to administer oaths. The hearing will be conducted in an informal manner and court rules of evidence will not apply. The hearing will be recorded on audiotape and, unless transcription is waived by the personal representative, a transcript of the hearing will be produced and included in the record.

(e) *Decision of approval or referral for a finding after a proceeding.* Following a hearing or the timely submission of a written statement, or in the event a hearing is waived or no hearing is requested and no written statement is submitted within the time specified:

(1) If the cemetery director determines that it has not been established by clear and convincing evidence that the deceased committed a Federal or State capital crime of which he or she was not convicted due to death or flight to avoid prosecution, and the deceased remains otherwise eligible, the cemetery director will make a decision approving interment or memorialization, or

(2) If the cemetery director believes that there is clear and convincing evidence that the deceased committed a Federal or State capital crime of which he or she was not convicted due to death or flight to avoid prosecution, the cemetery director will forward a request for a finding on that issue, together with the cemetery director's recommendation and a copy of the record, to the Under Secretary for Memorial Affairs.

(f) *Finding by the Under Secretary for Memorial Affairs.* Upon receipt of a request from the cemetery director under paragraph (e) of this section, the Under Secretary for Memorial Affairs

will make a finding concerning whether the deceased committed a Federal or State capital crime of which he or she was not convicted by reason of unavailability for trial due to death or flight to avoid prosecution. The finding will be based on consideration of the cemetery director's recommendation and the record supplied by the cemetery director.

(1) A finding that the deceased committed a crime referred to in paragraph (f) of this section must be based on clear and convincing evidence.

(2) The cemetery director and the personal representative of the deceased will be provided with written notification of the finding of the Under Secretary for Memorial Affairs.

(g) *Decision after finding.* Upon receipt of notification of the finding of the Under Secretary for Memorial Affairs, the cemetery director will make a decision on the request for interment or memorialization pursuant to 38 U.S.C. 2411. In making that decision, the cemetery director will be bound by the finding of the Under Secretary for Memorial Affairs.

(h) *Notice of decision.* The cemetery director will provide written notice of a decision under paragraph (b), (e)(1), or (g) of this section and notice of appellate rights to the personal representative of the deceased, in accordance with § 19.25 of this title. This notice will include notice of the opportunity to file a notice of disagreement with the decision of the cemetery director and the finding of the Under Secretary for Memorial Affairs. Action following receipt of a notice of disagreement with a denial of eligibility for interment or memorialization under this section will be in accordance with §§ 19.26 through 19.38 of this title.

(Authority: 38 U.S.C. 512, 2411)

PART 39—STATE CEMETERY GRANTS

5. The authority citation for part 39 continues to read as follows:

Authority: 38 U.S.C. 2408.

6. In § 39.2, a new paragraph (d) is added to read as follows:

§ 39.2 Scope of the State cemetery grants program.

* * * * *

(d) Any grant under this part made on or after November 21, 1997, is made on the condition that after the date of receipt of the grant the State receiving the grant, subject to requirements for receipt of notice in 38 U.S.C. 2408 and 2411, will prohibit in the cemetery for which the grant is furnished the

interment of the remains of or the memorialization of any person:

(1) Who has been convicted of a Federal capital crime for which the person was sentenced to death or life imprisonment;

(2) Who has been convicted of a State capital crime for which the person was sentenced to death or life without parole; or

(3) Who has been found by an appropriate State official, under procedures to be established by the State, to have committed a Federal or State capital crime but to have not been convicted of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(Authority: 38 U.S.C. 2408, 2411)

7. In § 39.3, paragraph (b)(1) is revised and an authority citation is added at the end of paragraph (b) to read as follows:

§ 39.3. Applications with respect to projects.

* * * * *

(b) * * *

(1) Any cemetery established, expanded, or improved through assistance of this program shall be used exclusively for the interment or memorialization of eligible persons, as set forth in §§ 39.1(h) and 39.2(a), whose interment or memorialization is not contrary to the conditions of the grant (see § 39.2(d) and 38 U.S.C. 2408 and 2411).

(Authority: 38 U.S.C. 2408, 2411)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 184-0245b; FRL-6734-6]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Ventura County Air Pollution Control District's (VCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from degreasers. We are proposing to approve local rules to regulate these emission

sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments must arrive by August 21, 2000.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board,
Stationary Source Division, Rule
Evaluation Section, 2020 "L" Street,
Sacramento, CA 95812.

Ventura County Air Pollution Control
District, 669 County Square Dr., 2nd
Fl., Ventura, CA 93003-5417.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 744-1199.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: VCAPCD Rules 74.6.1, 74.6.2, and 74.6.3. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: June 28, 2000.

Nora L. McGee,

Acting Regional Administrator, Region IX.
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AG29

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Mexican Spotted Owl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplementary information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose the designation of critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the Mexican spotted owl (*Strix occidentalis lucida*) (owl). The owl inhabits canyon and montane forest habitats across a range that extends from southern Utah and Colorado, through Arizona, New Mexico, and west Texas, to the mountains of central Mexico. We propose to designate approximately 5.5 million hectares (ha) (13.5 million acres (ac)) of critical habitat in Arizona, Colorado, New Mexico, and Utah, mostly on federal lands.

If this proposed rule is finalized, section 7(a)(2) of the Act would require that Federal agencies ensure that actions they fund, authorize, or carry out are not likely to result in the "destruction or adverse modification" of critical habitat. Section 4 of the Act requires us to consider economic and other relevant impacts of specifying any particular area as critical habitat. We request data and comments from the public and all interested parties on all aspects of this proposal, including data on economic and other impacts of the designation. A draft analysis of the economic and other relevant impacts of this proposal that will be available for review and comments on during the public comment period for this proposal. We will announce the availability of this analysis in a future **Federal Register** notice and local newspapers. We also have prepared a draft environmental assessment for this proposal and are accepting public comments on the draft document.

DATES: We will consider all comments on the proposed rule, the draft economic analysis, and draft Environmental Assessment received from interested parties by September 19, 2000. We will hold six public hearings (see Public Hearings in the **SUPPLEMENTARY INFORMATION** section of this rule for dates).

ADDRESSES: 1. Send your comments on this proposed rule, draft economic analysis, and draft environmental assessment to the New Mexico Ecological Services Field Office, 2105 Osuna Road NE, Albuquerque, New Mexico 87113.

2. The complete file for this proposed rule will be available for public inspection, by appointment, during normal business hours at the New Mexico Ecological Services Field Office, 2105 Osuna Road NE, Albuquerque, New Mexico 87113. The draft environmental assessment is available by writing to the above address. We will specify the availability of the draft economic analysis in local newspapers and through a notice in the **Federal Register** once it has been completed.

3. For locations of the public hearings, see Public Hearings in the **SUPPLEMENTARY INFORMATION** section of this rule.

FOR FURTHER INFORMATION CONTACT: Joy Nicholopoulos, Field Supervisor, New Mexico Ecological Services Field Office, at the above address; telephone 505/346-2525, facsimile 505/346-2542.

SUPPLEMENTARY INFORMATION:

Background

The Mexican spotted owl (*Strix occidentalis lucida*) is one of three subspecies of spotted owl occurring in the United States; the other two are the northern spotted owl (*S. o. caurina*) and the California spotted owl (*S. o. occidentalis*). The Mexican spotted owl is distinguished from the California and northern subspecies chiefly by geographic distribution and plumage. The Mexican spotted owl is mottled in appearance with irregular white and brown spots on its abdomen, back, and head. The spots of the Mexican spotted owl are larger and more numerous than in the other two subspecies, giving it a lighter appearance.

The Mexican spotted owl has the largest geographic range of the three subspecies. The range extends north from Aguascalientes, Mexico, through the mountains of Arizona, New Mexico, and western Texas, to the canyons of southern Utah and southwestern Colorado, and the Front Range of central Colorado. Much remains unknown about the species' distribution in Mexico, where much of the owl's range has not been surveyed. The owl occupies a fragmented distribution throughout its United States range, corresponding to the availability of forested mountains and canyons, and in some cases, rocky canyonlands. Although there are no estimates of the owl's historical population size, its