

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD which is part of this rule, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are proposing to approve as an amendment to the Missouri SIP amended rule 10 CSR 10–6.350, “Emissions Limitations and Emissions Trading of Oxides of Nitrogen,” submitted to us on September 18, 2003. We are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

Statutory and Executive Order Reviews

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. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve 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 proposed rule also does not have tribal implications because it will 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). This action also does not have Federalism

implications because it does not 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). This action merely proposes to approve 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 “Protection of Children from Environmental Health Risks and Safety Risks” (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. This proposed 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 21, 2005.

James B. Gulliford,

Regional Administrator, Region 7.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AT88

Endangered and Threatened Wildlife and Plants; Extension of the Comment Period on Proposed Designation of Critical Habitat for the Southwestern Willow Flycatcher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the extension of the public comment period for the proposal to designate critical habitat for the southwestern willow flycatcher (*Empidonax eximius traillii*) to allow all interested parties to comment on the proposed critical habitat designation under the Endangered Species Act of 1973, as amended. The proposed rule was published and the public comment period initially opened on October 12, 2004 (69 FR 60706). The comment period was extended to March 31, 2005 (December 13, 2004; 69 FR 72161) and is being extended again with this notice.

DATES: The deadline for submitting comments on this proposal is extended from March 31, 2005, to May 31, 2005. Comments must be submitted directly to the Service (see **ADDRESSES** section) on or before May 31, 2005. Any comments received after the closing date may not be considered in the final determination on the proposal.

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

1. You may submit written comments and information by mail or hand-delivery to Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021.

2. Written comments may be sent by facsimile to (602) 242–2513.

3. You may send your comments by electronic mail (e-mail) to WIFLcomments@fws.gov.

The critical habitat proposal and supporting maps are available for viewing by appointment during regular business hours at the above address or on the Internet at http://arizonaes.fws.gov/SWWF_PCH_Oct.htm. All comments and materials received, as well as supporting documentation used in preparation of the proposed rule, will be available for public inspection, by

appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Steve Spangle, Field Supervisor, Arizona Ecological Services Office (telephone 602-242-0210, facsimile 602-242-2513).

SUPPLEMENTARY INFORMATION:

Background

We proposed to designate for the southwestern willow flycatcher 376,095 acres (ac) (152,124 hectares (ha)) [including approximately 1,556 stream miles (2,508 stream kilometers)] of critical habitat, which includes various stream segments and their associated riparian areas, not exceeding the 100-year floodplain or flood prone area, on a combination of Federal, State, Tribal, and private lands in southern California, southern Nevada, southwestern Utah, south-central Colorado, Arizona, and New Mexico. The proposed rule was published in the **Federal Register** (69 FR 60706) on October 12, 2004, pursuant to a court order.

On September 30, 2003, in a complaint brought by the Center for Biological Diversity, the U.S. District Court of New Mexico instructed us to propose critical habitat by September 30, 2004, and publish a final rule by September 30, 2005. Additional background information is available in the October 12, 2004, proposal to designate critical habitat.

Critical habitat identifies specific areas that are essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed rule is made final, section 7 of the Act will prohibit adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their

proposed actions, pursuant to section 7(a)(2) of the Act.

Section 4 of the Act requires that we consider economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. We are currently developing a draft economic analysis and draft environmental assessment for the proposal to designate certain areas as critical habitat for the southwestern willow flycatcher and will announce their availability at a later date. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

Pursuant to 50 CFR 424.16(c)(2), we may extend or reopen a comment period upon finding that there is good cause to do so. We are currently developing a draft economic analysis and draft environmental assessment for the proposal and will announce the availability of those documents and solicit data and comments from the public on these draft documents at a later date. We will also announce hearing dates concurrently with the availability of the draft documents. However, it is our intention to leave the public comment period open and uninterrupted until those documents are available for public consideration and comment. We believe that allowing the comment period to expire before the full set of supporting draft analytical documents is available could result in hurried and incomplete comments on our proposed rule and could also unnecessarily frustrate respondents. We deem these considerations as sufficient cause to extend the comment period.

We are required by court order to complete the final designation of critical habitat for the southwestern willow flycatcher by September 30, 2005. To meet this date, all comments on or proposed revisions to the proposed rule need to be submitted to us during the comment period as extended by this document (*see DATES*).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address, which we will honor to the extent allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comments. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for public inspection, by appointment, during normal business hours at the Arizona Ecological Services Office (*see ADDRESSES* section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: March 25, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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