

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The proposed revisions implement a previously promulgated health-based Federal standard (the 8-hour ozone NAAQS) that is designed to protect all segments of the general population. As such, they do not adversely affect the health or safety of minority or low income populations and are designed to protect and enhance the health and safety of these and other populations.

K. Determination Under Section 307(d)

Pursuant to section 307(d)(1)(V) of the CAA, the Administrator determines that this action is subject to the provisions of section 307(d). Section 307(d)(1)(V) provides that the provisions of section 307(d) apply to “such other actions as the Administrator may determine.”

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Transportation, Volatile organic compounds.

Dated: August 18, 2010.

Lisa P. Jackson,
Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

2. Section 51.905 is amended by revising paragraph (a)(3)(i), and by adding a new paragraph (g) to read as follows:

§ 51.905 How do areas transition from the 1-hour NAAQS to the 8-hour NAAQS and what are the anti-backsliding provisions?

(a) * * *

(3) * * *

(i) Obligations in an approved SIP.

For an area that is designated 8-hour NAAQS attainment/1-hour NAAQS nonattainment, the State may request that obligations under the applicable requirements of § 51.900(f) be shifted to contingency measures, consistent with sections 110(l) and 193 of the CAA, after revocation of the 1-hour NAAQS; however, the State cannot remove the obligations from the SIP. For such areas, the State may request that the nonattainment major NSR provisions that applied based on the area's designation and classification under the 1-hour NAAQS be removed from the SIP on or after the date of revocation of the 1-hour NAAQS and need not be shifted to contingency measures.

* * * * *

(g) *What other requirements for the 1-hour standard apply?* (1) The requirements for nonattainment new source review that applied pursuant to sections 172(c)(5), 173, and 182 of the Clean Air Act based on the area's classification under the 1-hour NAAQS continue to be required elements of an approvable implementation plan for any ozone nonattainment area that was designated nonattainment for the 1-hour NAAQS at the time of designation as ozone nonattainment for the 8-hour NAAQS. Notwithstanding the revocation of the 1-hour NAAQS, the designation and classification of the area for the 1-hour standard as provided in 40 CFR Part 81 shall apply for determining the applicable 1-hour NSR obligation for an area. These requirements remain required elements of the implementation plan until such time as the area is redesignated to attainment for the 1997 8-hour attainment area for the ozone NAAQS pursuant to Clean Air Act section 107(d)(3)(E).

(2) Notwithstanding revocation of the 1-hour ozone NAAQS, States with areas designated nonattainment for the 1-hour ozone NAAQS and classified as severe or extreme for that standard as provided in 40 CFR Part 81 remain subject to the obligation to adopt programs under sections 181(b)(4) of the CAA for the 1-hour ozone NAAQS.

3. Section 51.914 is revised to read as follows:

§ 51.914 What new source review requirements apply for ozone nonattainment areas?

(a) The requirements for new source review for the 8-hour ozone standard are located in § 51.165.

(b) For areas designated nonattainment for the 1-hour ozone standard as of the effective date of designation for the 8-hour standard, values for applicability thresholds and offset requirements as required under § 51.165 shall be determined by the 1-hour nonattainment classifications listed for those areas in 40 CFR Part 81, Subpart C. The 1-hour applicability thresholds and offset requirements shall be retained until such time as the area is redesignated to attainment for the 1997 8-hour ozone NAAQS under section 107(d)(3)(E) of the Clean Air Act, at which point the State may request their removal.

4. Appendix S to part 51 is amended by adding section VII. to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

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VII. Anti-Backsliding Measures

1-hour ozone NAAQS nonattainment area new source review.

Any 8-hour ozone nonattainment area that was designated nonattainment for the 1-hour ozone NAAQS at the time of designation for the 8-hour NAAQS must continue to apply new source review requirements consistent with that area's 1-hour classification, as listed in 40 CFR Part 81, Subpart C. These requirements remain applicable until such time as the 8-hour nonattainment area is redesignated to attainment for the 8-hour ozone NAAQS standard under 107(d)(3)(E) of the Clean Air Act.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R01–OAR–2010–0442; A–1–FRL–9167–8]

Outer Continental Shelf Air Regulations Consistency Update for Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule-consistency update.

SUMMARY: EPA is proposing to update to a portion of the Outer Continental Shelf (“OCS”) Air Regulations. Requirements applying to OCS sources located within 25 miles of States’ seaward boundaries must be updated periodically to remain

consistent with the requirements of the corresponding onshore area ("COA"), as mandated by the Clean Air Act ("the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the Commonwealth of Massachusetts. The intended effect of approving the OCS requirements for the Commonwealth of Massachusetts is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below is incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before September 23, 2010.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R01-OAR-2010-0442 by one of the following methods:

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

2. *E-mail*: mcdonnell.ida@epa.gov.

3. *Fax*: (617) 918-0653.

4. *Mail*: "Docket Identification Number EPA-R01-OAR-2010-0442", Ida McDonnell, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05-2), Boston, MA 02109-3912.

5. *Hand Delivery or Courier*: Deliver your comments to: Ida McDonnell, Air Permits, Toxics and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05-2), Boston, MA 02109-3912. 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, 8:30 to 4:30, excluding legal holidays.

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

FOR FURTHER INFORMATION CONTACT: Ida E. McDonnell, Air Permits, Toxics and Indoor Air Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05-2), Boston, MA 02109-3912, telephone number (617) 918-1653, fax number (617) 918-0653, e-mail mcdonnell.ida@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal**

Register, EPA is incorporating applicable provisions of 310 Code of Massachusetts Regulations (CMR) 4.00: Timely Action Schedule and Fee Provisions, as amended through September 4, 2009 and 310 CMR 6.00: Ambient Air Quality Standards for the Commonwealth of Massachusetts, 310 CMR 7.00: Air Pollution Control, and 310 CMR 8.00: The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies, as amended through May 20, 2010 as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives 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 rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions 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: June 8, 2010.

H. Curtis Spalding,

Regional Administrator, EPA New England.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R3-ES-2010-0034]
[MO 92201-0-0008]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Oklahoma Grass Pink Orchid as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a

90-day finding on a petition to list *Calopogon oklahomensis* (Oklahoma grass pink orchid) as endangered or threatened under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing the plant species, *C. oklahomensis*, as endangered or threatened may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the species to determine if listing *C. oklahomensis* as endangered or threatened is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before October 25, 2010. Please note that if you are using the Federal eRulemaking Portal (see "ADDRESSES" section, below), the deadline for submitting an electronic comment is midnight Eastern Standard Time on this date.

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

• *Federal eRulemaking Portal*: <http://www.regulations.gov>. In the box that reads "Enter Keyword or ID," enter the docket number for this finding, which is FWS-R3-ES-2010-0034. Check the box that reads "Open for Comment/ Submission," and then click the Search button. You should then see an icon that reads "Submit a Comment." Please ensure that you have found the correct rulemaking before submitting your comment.

• *U.S. mail or hand-delivery*: Public Comments Processing, Attn: FWS-R3-ES-2010-0034; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more details).

After the date specified above in **DATES**, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we might not be able to address or incorporate information that we receive after the date noted above.