

IV. EPA Rulemaking Action

The EPA is approving, through final rulemaking action, Illinois' 15 percent ROP and 3 percent contingency plan SIP revisions for the Chicago and Metro-East St. Louis ozone nonattainment areas, and the Metro East St. Louis TCM work trip reductions; transit improvements; and traffic flow improvements.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local,

or tribal governments in the aggregate; or to the private sector, of \$100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 17, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: December 5, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart O—Illinois

2. Section 52.726 is amended by adding paragraphs (p), (q), and (r) to read as follows:

§ 52.726 Control Strategy: Ozone.

* * * * *

(p) Approval—On November 15, 1993, Illinois submitted 15 percent rate-of-progress and 3 percent contingency plans for the Chicago ozone nonattainment area as a requested revision to the Illinois State Implementation Plan. These plans satisfy sections 182(b)(1), 172(c)(9), and 182(c)(9) of the Clean Air Act, as amended in 1990.

(q) Approval—On November 15, 1993, Illinois submitted 15 percent rate-of-progress and 3 percent contingency plans for the Metro-East St. Louis ozone nonattainment area as a requested revision to the Illinois State Implementation Plan. These plans satisfy sections 182(b)(1) and 172(c)(9) of the Clean Air Act, as amended in 1990.

(r) Approval—On November 15, 1993, Illinois submitted the following transportation control measures as part of the 15 percent rate-of-progress and 3 percent contingency plans for the Metro-East ozone nonattainment area: Work trip reductions; transit improvements; and traffic flow improvements.

[FR Doc. 97-32641 Filed 12-17-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97-195; RM-9126]

Radio Broadcasting Services; Haiku, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 293C to Haiku, Hawaii, as that community's first local FM transmission service, in response to a petition for rule making filed on behalf of Native Hawaiian Broadcasting. See 62 FR 47786, September 11, 1997. Coordinates used for Channel 293C at Haiku, Hawaii, are 20-55-03 and 156-19-33. With this action, the proceeding is terminated.

DATES: Effective January 26, 1998. A filing window for Channel 293C at Haiku, Hawaii, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process

should be addressed to the Audio Services Division, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97-195, adopted December 3, 1997, and released December 12, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by adding Haiku, Channel 293C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-33047 Filed 12-17-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97-193; RM-9125]

Radio Broadcasting Services; Kaunakakai, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 272C to Kaunakakai, Hawaii, as that community's first local aural transmission service, in response to a petition for rule making filed on behalf of Native Hawaiian Broadcasting. See 62 FR 47406, September 9, 1997. Coordinates used for Channel 272C at Kaunakakai, Hawaii, are 21-05-30 and 157-01-24. With this action, the proceeding is terminated.

DATES: Effective January 26, 1998. A filing window for Channel 272C at Kaunakakai, Hawaii, will not be opened

at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97-193, adopted November 26, 1997, and released December 12, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by adding Kaunakakai, Channel 272C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97-33045 Filed 12-17-97; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AD28

Endangered and Threatened Wildlife and Plants; Final Rule To List Three Aquatic Invertebrates in Comal and Hays Counties, TX, as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines three aquatic

invertebrate species known only from Comal and Hays counties, Texas, to be endangered species under the Endangered Species Act of 1973, as amended (Act). The invertebrates to be listed are Peck's cave amphipod (*Stygobromus pecki*), Comal Springs riffle beetle (*Heterelmis comalensis*), and Comal Springs dryopid beetle (*Stygoparnus comalensis*). The primary threat to these species is a decrease in water quantity and quality as a result of water withdrawal and other human activities throughout the San Antonio segment of the Edwards Aquifer. This action implements Federal protection provided by the Act for these three invertebrates.

EFFECTIVE DATE: January 20, 1998.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Ecological Services Field Office, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

FOR FURTHER INFORMATION CONTACT:

Ruth Stanford, Ecologist (see ADDRESSES section) (512/490-0057; facsimile (512/490-0974).

SUPPLEMENTARY INFORMATION:

Background

The Service designates Peck's cave amphipod (*Stygobromus pecki*), Comal Springs riffle beetle (*Heterelmis comalensis*), and Comal Springs dryopid beetle (*Stygoparnus comalensis*) as endangered under the authority of the Act (16 U.S.C. 1531 *et seq.*). These three aquatic invertebrate species are restricted in distribution to spring sites in Comal and Hays counties, Texas, and in the case of Peck's cave amphipod and Comal Springs dryopid beetle, the associated aquifer. Peck's cave amphipod is known from Comal Springs and Hueco Springs, both in Comal County. The Comal Springs riffle beetle is known from Comal Springs and San Marcos Springs (Hays County). The Comal Springs dryopid beetle is known from Comal Springs and Fern Bank Springs (Hays County).

The water flowing out of each of these spring orifices comes from the Edwards Aquifer (Balcones Fault Zone—San Antonio Region), which extends from Hays County west to Kinney County. Comal Springs are located in Landa Park, which is owned and operated by the City of New Braunfels, and on private property adjacent to Landa Park. Hueco Springs and Fern Bank Springs are located on private property. The San Marcos Springs are located on the property of Southwest Texas State University.