

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 260-0339b; FRL-7174-6]

Revisions to the California State Implementation Plan, Tehama County Air Pollution Control District**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Tehama County Air Pollution Control District (TCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern Oxides of Nitrogen (NO_x) emissions from industrial, institutional, and commercial boilers, steam generators, process heaters, and stationary gas turbines. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by June 13, 2002.

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 documents (TSDs) 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, 1001 "I" Street,
Sacramento, CA 95812

Tehama County Air pollution Control
District, P.O. Box 38 (1750 Walnut
St.), Red Bluff, CA 96008-0038.

FOR FURTHER INFORMATION CONTACT: Charnjit Bhullar, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 972-3960.

SUPPLEMENTARY INFORMATION: This proposal addresses local rules, TCAPCD 4:31 and 4:37. 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 this SIP revision is not controversial. If we receive adverse comments on the direct final rule, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Anyone interested in commenting should do so at this time,

we do not plan to open a second comment period. If we do not receive adverse comments on the direct final rule, no further activity is planned. For further information, please see the direct final action.

Dated: April 5, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02-11824 Filed 5-13-02; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Notice of 90-Day Finding on a Petition To Delist the Lost River Sucker and Shortnose Sucker**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding for a petition to remove the Lost River sucker (*Deltistes luxatus*) and shortnose sucker (*Chasmistes brevirostris*), throughout their ranges, from the Federal list of threatened and endangered species, pursuant to the Endangered Species Act of 1973, as amended (Act). We find that the petition and additional information available in our files did not present substantial scientific or commercial information indicating that delisting of the Lost River and shortnose suckers may be warranted. We will not be initiating a further status review in response to the petition to delist.

DATES: The finding announced in this document was made on May 10, 2002.

ADDRESSES: Data, information, written comments and materials, or questions concerning this petition and finding should be submitted to the Project Leader, Klamath Falls Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6610 Washburn Way, Klamath Falls, Oregon 97603. The petition finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Steve A. Lewis, at the above address, or telephone 541/885-8481.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This finding is to be based on all information available to us at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If we find substantial information present, we are required to promptly commence a review of the status of the species, if one has not already been initiated (50 CFR 424.14).

The petition to delist the Lost River sucker (*Deltistes luxatus*) and shortnose sucker (*Chasmistes brevirostris*), dated September 12, 2001, was submitted by Richard A. Gierak, representing Interactive Citizens United. This petition also requested the removal of the southern Oregon/Northern California coast coho salmon (*Oncorhynchus kisutch*) from the Federal list of threatened and endangered species. This species is under the jurisdiction of the National Marine Fisheries Service and will be addressed by them in a separate finding. The petition was received by the Department of the Interior, Office of the Executive Secretariat on September 26, 2001. This petition finding also responds to three other petitions to delist the Lost River and shortnose suckers, which were received from Leo Bergeron, James L. Buchal, and Naomi Fletcher after Mr. Gierak's petition was submitted. As explained in our 1996 Petition Management Guidance, subsequent petitions are treated separately only when they are greater in scope or broaden the area of review of the first petition. The three subsequent petitions to delist the Lost River and shortnose suckers were considered equivalent to Mr. Gierak's petition. Therefore, we treated these three petitions as comments on the first petition received.

The petition requests the delisting of the Lost River sucker and shortnose sucker. The petition's supporting documentation consists of four pages and "Figures 2 & 3" from testimony by David A. Vogel before the U.S. House Committee on Resources (Vogel 2001), five bibliographic references, and eight footnotes. Three of the five bibliographic references are cited in the excerpted section of the testimony

(Buettner 1999, Markle *et al.* 1999, 53 FR 27130). The footnotes support the information in Figure 2 of the petition. All of the references have been reviewed in this decision. Two of the petitioner's bibliographic references (Buettner 1999 and Markle *et al.* 1999) are abstracts from a 1999 conference and are superseded by more recent reports by the principal authors (United States Bureau of Reclamation (USBR) 2001, Desjardins and Markle 2000). Four of the eight footnotes provide quotations from Professor Carl Bond of Oregon State University confirming the low population numbers of suckers in the 1950s through the 1970s, while the remainder either replicate previous citations (53 FR 27130, USBR 2001), qualify a methodology (Fortune 1986, citation unspecified in the petition), or reference a sucker working group meeting in 1987. The information in the testimony was previously available to the Service and was considered in a 2001 status review of the Lost River and shortnose suckers.

Discussion

The Lost River sucker and shortnose sucker are two fishes that naturally occur only in the Klamath Basin of southern Oregon and northern California. They are long-lived species, reaching ages of over 30 years. Both species reside primarily in lake habitats and spawn in tributary streams, or at springs within Upper Klamath Lake itself. Historically, the two species made large spawning migrations up the rivers of the Upper Klamath Basin. The two species were federally listed as endangered in 1988 (53 FR 27130). At the time of listing, recognized threats to the species included: (1) Drastically reduced adult populations and lack of significant recruitment; (2) over-harvesting by sport and commercial fishing; (3) potential competition with introduced exotic fishes; (4) lack of regulatory protection from Federal actions that might adversely affect or jeopardize the species; (5) hybridization with the other two sucker species native to the Klamath Basin; and (6) large summer die-offs caused by declines in water quality.

The petitioners assert, through reference to statements made in the testimony of David A. Vogel, that delisting of the Lost River and shortnose suckers should occur because: (1) The estimates of the sucker populations in the 1980s were in error and did not, in fact, demonstrate a precipitous decline (i.e., the populations were much larger

than assumed), or (2) the estimates of the sucker populations in the 1980s were reasonably accurate, and the suckers have demonstrated an enormous boom in the period since listing and no longer exhibit "endangered" status.

In 2001, the Service conducted a status review of the Lost River and shortnose suckers. This 2001 status review drew from all information provided in published and unpublished reports on the biology, distribution, and status of the listed sucker species in the Klamath region and the ecosystem on which they depend. The 2001 status review included additional information and we also considered this information as we reviewed the petition.

With regard to Mr. Vogel's first and second statements, concerning sucker population estimates, the early population estimates were based on the available, though limited, sampling data and from creel surveys for the sport and subsistence fishery for suckers, which declined precipitously in the 1980s and caused the Oregon Department of Fish and Wildlife to terminate the fishery in 1987, just prior to the federal listing.

Comparisons between current estimates and those made during the fishery, prior to its termination in 1987, are not informative due to extreme differences in methodology. Population estimates made since listing, while numerically higher than earlier estimates, show no overall trend for increasing populations within the last decade.

The endangered status of the suckers is based on continuing threats to the populations. The 2001 status review identifies continuing threats to the two species which warrant maintaining their listing as endangered under the Endangered Species Act, including but not limited to habitat loss, degradation of water quality, periodic fish die-offs, and entrainment into water diversions.

Finding

We have reviewed the petition and its supporting documentation, as well as other available information, published and unpublished studies and reports, and agency files. On the basis of the best scientific and commercial information available, we find that no substantial information has been presented or found that would indicate that delisting of the Lost River sucker or shortnose sucker may be warranted.

Information Solicited

When we find that there is not substantial information indicating that

the petitioned action may be warranted, initiation of a status review is not required by the Act. However, we continually assess the status of species listed as threatened or endangered. To ensure that our information is complete, and based on the best available scientific and commercial data, we are soliciting information for both sucker species.

References Cited

- Buettner, M. 1999. Status of Lost River and shortnose suckers. U.S. Bureau of Reclamation. Abstract of presentation at the 1999 Klamath Basin Watershed Restoration and Research Conference. 1 p.
- Desjardins, M. and D. Markle. 2000. Distribution and biology of suckers in Lower Klamath reservoirs. 1999 final report submitted to PacificCorps, Portland, Oregon. 75 pp.
- Markle, D., L. Grober-Dunsmoor, B. Hayes, and J. Kelly. 1999. Comparisons of habitats and fish communities between Upper Klamath Lake and Lower Klamath Reservoirs. Abstract of presentation at the 1999 Klamath Basin Watershed Restoration and Research Conference. 1 p.
- U.S. Bureau of Reclamation. 2001. Biological assessment of Klamath Project's continuing operations on the endangered Lost River sucker and shortnose sucker. Klamath Falls, Oregon. 112 pp.
- U.S. Fish and Wildlife Service ("Service") 2001. Biological/conference opinion regarding the effects of operation of the Bureau of Reclamation's Klamath Project on the endangered Lost River sucker (*Deltistes luxatus*), endangered shortnose sucker (*Chasmistes brevirostris*), threatened bald eagle (*Haliaeetus leucocephalus*) and proposed critical habitat for the Lost River and shortnose suckers. Klamath Falls, Oregon. 188 pp.
- Vogel, D. 2001. Testimony of David A. Vogel before the House Committee on Resources oversight field hearing on water management and endangered species issues in the Klamath Basin; June 16, 2001. 7 pp.

Author

The primary author of this document is Stewart Reid, fishery biologist, Klamath Falls Fish and Wildlife Office, U.S. Fish and Wildlife Service (see ADDRESSES section).

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

Dated: May 10, 2002.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 02-12123 Filed 5-13-02; 8:45 am]

BILLING CODE 4310-55-P