

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans.

Approved: March 2, 2005.

R. James Nicholson,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 3 as follows:

PART 3—Adjudication

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.156 is amended by:

a. Adding a paragraph heading to paragraph (a).

b. Adding a paragraph heading to paragraph (b).

c. Revising paragraph (c).

The additions and revision read as follows:

§ 3.156 New and material evidence.

(a) *General.* * * *

(b) *Pending claim.* * * *

(c) *Service department records.* (1)

Notwithstanding any other section in this part, at any time after VA issues a decision on a claim, if VA receives or associates with the claims file relevant official service department records that existed and had not been associated with the claims file when VA first decided the claim, VA will reconsider the claim, notwithstanding paragraph (a) of this section. Such records include, but are not limited to:

(i) Service records that are related to a claimed in-service event, injury, or disease, regardless of whether such records mention the veteran by name, as long as the other requirements of paragraph (c) of this section are met;

(ii) Additional service records forwarded by the Department of Defense or the service department to VA any time after VA's original request for service records; and

(iii) Declassified records that could not have been obtained because the records were classified when VA decided the claim.

(2) Paragraph (c)(1) of this section does not apply to records that VA could not have obtained when it decided the claim because the records did not exist when VA decided the claim, or the claimant failed to provide sufficient information for VA to identify and obtain the records from the respective service department, the Center for Research of Unit Records, or from any other official source.

(3) An award made based all or in part on the records identified by paragraph

(c)(1) of this section is effective on the date entitlement arose or the date VA received the previously decided claim, whichever is later, or such other date as may be authorized by the provisions of this part applicable to the previously decided claim.

(4) A retroactive evaluation of disability resulting from disease or injury subsequently service connected on the basis of the new evidence from the service department must be supported adequately by medical evidence. Where such records clearly support the assignment of a specific rating over a part or the entire period of time involved, a retroactive evaluation will be assigned accordingly, except as it may be affected by the filing date of the original claim.

(Authority: 38 U.S.C. 501(a))

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3. Section 3.400 is amended by:

a. Revising the heading of paragraph (q).

b. Removing paragraph (q)(1) heading.

c. Redesignating paragraph (q)(1)(i) as new paragraph (q)(1).

d. Removing paragraph (q)(2).

e. Redesignating paragraph (q)(1)(ii) as new paragraph (q)(2).

The revision reads as follows:

§ 3.400 General.

* * * * *

(q) *New and material evidence (§ 3.156) other than service department records.* * * *

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[FR Doc. 05-12103 Filed 6-17-05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[R03-OAR-2005-VA-0008; FRL-7925-7]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; VOC Emission Standards in the Hampton Roads VOC Emissions Control Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision removes the volatile organic compound (VOC) emission standards exemption for sources located in the Hampton Roads VOC Emissions Control Area localities of James City County,

York County, Poquoson City, and Williamsburg City. Sources located in these jurisdictions will now be subject to the VOC emission standards for existing sources as is the case in the other jurisdictions within the Area. This action is necessary in order for Virginia to meet its obligation to implement contingency measures as a result of the area's violation of the 1-hour ozone standard. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, 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.

DATES: Comments must be received in writing by July 20, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2005-VA-0008 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: campbell.dave@epa.gov.

D. Mail: R03-OAR-2005-VA-0008, David Campbell, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03-OAR-2005-VA-0008.

EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814-2034, or by e-mail at wentworth.ellen@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, approving the Control of VOC

Emission Standards Within the Hampton Roads VOC Emissions Control Area, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: June 13, 2005.

Thomas Valtaggio,

Acting Regional Administrator, Region III.

[FR Doc. 05-12077 Filed 6-17-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 050323081-5081-01; I.D. 031505C]

RIN 0648-AT02

Endangered and Threatened Species: Notification of Public Hearing on Proposed Listing Determination for the Southern Distinct Population Segment (DPS) of North American Green Sturgeon as Threatened under the Endangered Species Act (ESA)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule: notification of public hearing.

SUMMARY: On April 6, 2005, NMFS proposed threatened status for the Southern Distinct Population Segment (DPS) of North American green sturgeon (*Acipenser medirostris*; hereafter "green sturgeon") under the Endangered Species Act (ESA) of 1973. In this notice, NMFS is announcing that a public hearing has been scheduled at one location in Sacramento, CA, in July 2005 to provide additional opportunities for the public and other interested parties to comment on the subject proposal.

DATES: The hearing will be held on July 6, 2005, from 6:30 p.m. - 9:30 p.m.

Written comments on the proposed threatened listing for the Southern green sturgeon DPS must be received by July 6, 2005.

ADDRESSES: The hearing will be held in the Stanford Room at 650 Capitol Mall, Suite 8-300 Sacramento, CA 95814. Please enter the building through the main entrance, which is located on the Capitol Mall side of the building.

You may submit comments on the proposed threatened listing of the Southern green sturgeon DPS, identified by Docket Number 050323081-5081-01

and RIN 0648-AT02, by any of the following methods:

• E-mail:

GreenSturgeon.Comments@noaa.gov. Include docket number and RIN number in the subject line of the message.

• Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• Mail: Submit written comments and information to Assistant Regional Administrator, NMFS, Protected Resources Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, California, 90802-4213. You may hand-deliver written comments to our office during normal business hours at the address given above.

• Fax: 562-980-4027.

FOR FURTHER INFORMATION CONTACT:

Melissa Neuman, NMFS, Southwest Region, (562) 980-4115; or Lisa Manning, NMFS, Office of Protected Resources, (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Background

On April 6, 2005, NMFS proposed threatened status for the Southern DPS of green sturgeon under the ESA (70 FR 17386). The Southern DPS of green sturgeon includes coastal and Central Valley populations south of the Eel River, with the only known population in the Sacramento River. The public comment period for this proposal opened on April 6, 2005, and was originally scheduled to close on July 5, 2005. NMFS is extending the deadline for written comments to coincide with the date of the public hearing (July 6, 2005).

Public Hearing

Joint U.S. Department of Commerce and U.S. Department of the Interior ESA implementing regulations state that the Secretary shall promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed regulation to list a species or to designate critical habitat (see 50 CFR 424.16(c)(3)). Although no requests were received, NMFS is holding a public hearing to provide an additional opportunity for the public and other interested parties to comment on the subject proposal. One public hearing will be held in California on the specific date and at the specific location listed here:

Please be advised that weapons, cameras, and cell phones with cameras are prohibited in the building. Members of the public attempting to enter 650 Capitol Mall with any of these items will be denied access and will be asked to return said item(s) to their vehicle before entering the building.