

include minor changes to correct typos and update the rule language in this chapter to meet agency style and formatting guidelines. Since the minor changes to this rule do not make this rule any less stringent, EPA finds that the revisions to 3745-112-04 are approvable.

#### *E. 3745-112-05 Administrative Requirements*

This rule specifies the administrative requirements applicable to OAC Chapter 3745-112. The rule is being amended to establish effective dates consistent with the updated version of the OTC model rule and to make minor changes to conform with formatting standards. Since the changes to the administrative requirements do not make this rule any less stringent, EPA finds that the revisions to 3745-112-05 are approvable.

#### *F. 3745-112-06 Reporting Requirements*

This rule specifies the reporting requirements for consumer products regulated under OAC Chapter 3745-112. This rule is being amended to conform to agency formatting standards. Since the changes to the reporting requirements do not make this rule any less stringent, EPA finds that the revisions to 3745-112-06 are approvable.

#### *G. 3745-112-07 Variances*

This rule details the procedures for a facility to apply for a variance from the requirements specified in OAC rule 3745-112-03. This rule is being amended to conform to agency formatting standards. Since the changes to the variances do not make this rule any less stringent, EPA finds that the revisions to 3745-112-07 are approvable.

#### *H. 3745-112-08 Test Methods*

This rule specifies the test methods that shall be employed to show compliance with the VOC content limits of consumer products listed in OAC Chapter 3745-112. This rule is being amended to eliminate unnecessary restrictions and conform to agency formatting standards. Since the changes to the test methods do not make this rule any less stringent, EPA finds that the revisions to 3745-112-08 are approvable.

### **IV. What action is EPA taking?**

EPA is proposing to approve rule revisions to Chapter 3745-112 of the OAC. The revised rules include OAC 3745-112-01 to OAC 3745-112-08 and are intended to assist in achieving and

maintaining the 2015 ozone NAAQS through the regulation of VOCs in consumer products. As discussed above, EPA finds that these rules are approvable because they strengthen the SIP.

### **V. Incorporation by Reference**

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Ohio Administrative Code Chapter 3745-112, effective on June 20, 2022, discussed in section III of this preamble. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### **VI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 15, 2023.

**Debra Shore,**

*Regional Administrator, Region 5.*

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

[Docket No. FWS-R8-ES-2022-0082; FF09E21000 FXES1111090FEDR 234]

RIN 1018-BG07

### **Endangered and Threatened Wildlife and Plants; Endangered Species Status for the San Francisco Bay-Delta Distinct Population Segment of the Longfin Smelt**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period and announcement of public hearing.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are reopening the public comment period on our October 7, 2022, proposed rule to list the San Francisco Bay-Delta distinct

population segment (DPS) of longfin smelt (*Spirinchus thaleichthys*) (Bay-Delta longfin smelt), a fish species of the Pacific Coast, as an endangered species under the Endangered Species Act of 1973, as amended (Act). We are taking this action to conduct a public hearing and allow all interested parties additional time to comment on the proposal to list the Bay-Delta longfin smelt as endangered. Comments previously submitted need not be resubmitted and will be fully considered in preparation of the final rule.

**DATES:**

*Comment submission:* The comment period on the proposed rule that published October 7, 2022, at 87 FR 60957, is reopened. We will accept comments received or postmarked on or before March 29, 2023. Please note that comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date to ensure consideration.

*Public hearing:* On March 14, 2023, we will hold a public hearing on the Bay-Delta longfin smelt proposed listing from 5:00 to 7:00 p.m., Pacific time, using the Zoom online platform (for more information, see Public Hearing, below).

**ADDRESSES:**

*Availability of documents:* You may obtain copies of the October 7, 2022, proposed rule and associated documents on the internet at <https://www.regulations.gov> under Docket No. FWS-R8-ES-2022-0082.

*Written comments:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2022-0082, which is the docket number for this proposed rule. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment."

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R8-ES-2022-0082, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Public

Comments, below, for more information).

**FOR FURTHER INFORMATION CONTACT:**

Donald Ratcliff, Field Supervisor, U.S. Fish and Wildlife Service, San Francisco Bay-Delta Fish and Wildlife Office, 650 Capitol Mall Suite 8-300, Sacramento, CA 95814; telephone 916-930-5603. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:****Background**

On October 7, 2022, we published a proposed rule (87 FR 60957) to list the Bay-Delta longfin smelt as endangered under the Act. The proposed rule established a 60-day public comment period, ending December 6, 2022. During the open comment period, we received a request for a public hearing. Therefore, we are reopening the comment period and announcing a public hearing to allow the public an additional opportunity to provide comments on the proposed rule.

For a description of previous Federal actions concerning the Bay-Delta longfin smelt and information on the types of comments that would be helpful to us in promulgating this rulemaking action, please refer to the October 7, 2022, proposed rule (87 FR 60957).

**Public Hearing**

We are holding a public hearing to accept comments on the proposed rule to list the Bay-Delta longfin smelt on the date and at the time listed in **DATES**. We are holding the public hearing via the Zoom online video platform and via teleconference so that participants can attend remotely. For security purposes, registration is required. All participants must register in order to listen and view the hearing via Zoom, listen to the hearing by telephone, or provide oral public comments at the public hearing by Zoom or telephone. For information on how to register, or if you encounter problems joining Zoom the day of the meeting, visit <https://www.fws.gov/office/san-francisco-bay-delta-fish-and-wildlife>. Registrants will receive the Zoom link and the telephone number for the public hearing. If applicable, interested members of the public not familiar with the Zoom platform should view the Zoom video tutorials (<https://support.zoom.us/hc/en-us/articles/>

[206618765-Zoom-video-tutorials](https://support.zoom.us/hc/en-us/articles/206618765-Zoom-video-tutorials)) prior to the public hearing.

The public hearing will provide interested parties an opportunity to present verbal testimony (formal, oral comments) regarding the October 7, 2022, proposed rule to list the Bay-Delta longfin smelt (87 FR 60957). The purpose of the public hearing is to provide a forum for accepting formal verbal testimony, which will then become part of the record for the proposed rule. In the event there is a large attendance, the time allotted for verbal testimony may be limited. Therefore, anyone wishing to provide verbal testimony at the public hearing is encouraged to provide a prepared written copy of their statement to us through the Federal eRulemaking Portal, or U.S. mail (see **ADDRESSES**, above). There are no limits on the length of written comments submitted to us. Anyone wishing to provide verbal testimony at the public hearing must register before the hearing (<https://www.fws.gov/office/san-francisco-bay-delta-fish-and-wildlife>). The use of a virtual public hearing is consistent with our regulations at 50 CFR 424.16(c)(3).

**Reasonable Accommodation**

The Service is committed to providing access to the public hearing for all participants. Closed captioning will be available during the public hearing. Further, a full audio and video recording and transcript of the public hearing will be posted online at <https://www.fws.gov/office/san-francisco-bay-delta-fish-and-wildlife> after the hearing. Participants will also have access to live audio during the public hearing via their telephone or computer speakers. Persons with disabilities requiring reasonable accommodations to participate in the hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the date of the hearing to help ensure availability. An accessible version of the Service's public hearing presentation will also be posted online at <https://www.fws.gov/office/san-francisco-bay-delta-fish-and-wildlife> prior to the hearing (see **DATES**, above). See <https://www.fws.gov/office/san-francisco-bay-delta-fish-and-wildlife> for more information about reasonable accommodation.

**Public Comments**

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via hard copy that includes personal identifying information, you

may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule,

will be available for public inspection on <https://www.regulations.gov>.

#### **Authors**

The primary author of this document is Ecological Services staff of the Pacific Southwest Regional Office, U.S. Fish and Wildlife Service, Sacramento, California.

#### **Authority**

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

#### **Wendi Weber,**

*Acting Director, U.S. Fish and Wildlife Service.*

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