

Dated: April 30, 1982.

Anne M. Gorsuch,  
Administrator.

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

### Subpart K—Florida

In § 52.520 is amended by adding paragraph (c)(43) as follows:

#### § 52.520 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(43) On July 14, 1980, the Florida Department of Environmental Regulation (FDER) submitted a revision pertaining to deletion of the regulation on existing petroleum refineries in nonattainment areas and adding test methods for gasoline truck tanks, vapor collection systems, volatile organic compound (VOC) content of coating materials and gasoline bulk terminals for sources located in ozone nonattainment areas. On May 30, 1980, FDER submitted a revision establishing incremental compliance dates for existing VOC sources and extending final compliance dates for certain gasoline service stations. On December 23, 1981, FDER submitted a revision establishing test methods for certain VOC sources, adopting three definitions used in the test methods, and exempting six VOCs.

[FR Doc. 82-12594 Filed 5-7-82; 8:45 am]  
BILLING CODE 6560-50-M

### 40 CFR Part 52

[A-6-FRL 2103-3]

## Approval and Promulgation of Louisiana State Implementation Plan: New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** The purpose of today's rulemaking is to approve a revision to section 6.1 of Louisiana State Air Quality Regulation 6.0 which has been adopted by the Louisiana Environmental Control Commission and submitted to EPA by the Governor for approval as a revision to the Louisiana State Implementation Plan (SIP). This action approves a State SIP revision under Section 110 of the Clean Air Act to

adopt, by reference, EPA regulations on New Source Performance Standards (NSPS).

**EFFECTIVE DATE:** This action will be effective on July 9, 1982, unless notice is received within 30 days that someone wishes to submit critical or adverse comments.

**ADDRESSES:** Copies of the State's submittal are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency,  
Air Branch, First International  
Building, 1201 Elm Street, Dallas,  
Texas 75270

Louisiana Department of Natural  
Resources, Air Quality Division, Room  
825, 625 North Fourth Street, Baton  
Rouge, Louisiana 70804

U.S. Environmental Protection Agency,  
Public Information Reference Unit, 401  
M Street SW., Washington, D.C. 20460  
The Office of the Federal Register, Room  
8401, 1100 L Street NE., Washington,  
D.C. 20408.

Written comments on this action should be submitted to William H. Taylor, Jr., at the address given below.

**FOR FURTHER INFORMATION CONTACT:**  
William H. Taylor, Jr., Chief, Technical  
Section, Air Branch, Air and Waste  
Management Division, Region 6, U.S.  
Environmental Protection Agency, 1201  
Elm Street, Dallas, Texas 75270; (214)  
767-1594 or (FTS) 729-1594.

**SUPPLEMENTARY INFORMATION:** On November 30, 1981, the Governor submitted a SIP revision to EPA concerning Section 6.1 of Regulation 6.0 of the Louisiana Air Quality Regulations. Section 6.1 of Regulation 6.0 adopts by reference EPA's NSPS regulations. Section 6.1 was adopted to allow the State to receive delegation of authority from EPA to enforce the Federal NSPS regulations. EPA approves this revision to the Louisiana SIP. The approval of this regulation by EPA does not affect in any way EPA's authority to enforce NSPS regulations.

This revision is being approved today without a prior proposed rulemaking because EPA does not anticipate that this rulemaking will generate adverse public comments. The public should be advised that this action will be effective 60 days from (the date of publication). However, if EPA receives a notice within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this final action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from the date of publication). This action may not be challenged later in proceedings to enforce its requirements (section 307(b)(2)).

Incorporation by reference of the State Implementation Plan for the State of Louisiana was approved by the Director on July 1, 1981. This notice is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

Under 5 U.S.C. Section 605(b), I certify that this SIP approval will not have a significant economic impact on a substantial number of small entities.

### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons.

Dated: April 30, 1982.

Anne M. Gorsuch,  
Administrator.

## PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

### Subpart T—Louisiana

Section 52.970, *Identification of Plan*, is amended by adding a new paragraph (c)(33).

#### § 52.970 Identification of plan.

(c) \* \* \*

(33) Section 6.1 of Regulation 6.0 amended and adopted by the Louisiana Environmental Control Commission on October 22, 1981, was submitted by the Governor on November 30, 1981.

[FR Doc. 82-12595 Filed 5-7-82; 8:45 am]  
BILLING CODE 6560-50-M

### 40 CFR Part 52

[A-3-FRL-2107-3]

## Approval and Promulgation of Implementation Plans; Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This notice announces EPA's approval of a revision of Maryland's State Implementation Plan. The revision is a Modified Amended Consent Order for the Potomac Electric Power Company's (PEPCO) Chalk Point generating station. The Order allows PEPCO until March 31, 1983 to complete the installation and testing of particulate control equipment on Chalk Point Units No. 1 and 2.

**EFFECTIVE DATE:** This action will be effective July 9, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Copies of the revision and accompanying documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency,  
Region III, Air Programs & Energy  
Branch, Curtis Building, Tenth Floor,  
Sixth & Walnut Streets, Philadelphia,  
PA 19106, Attn: Patricia Sheridan  
Maryland Department of Health &  
Mental Hygiene, Air Management  
Administration, 201 W. Preston Street,  
Baltimore, Maryland 21201, Attn:  
George P. Ferreri

Public Information Reference Unit,  
Room 2922, EPA Library, U.S.  
Environmental Protection Agency, 401  
M Street SW., Washington, D.C. 20460  
The Office of the Federal Register, 1100  
L Street NW., Room 8401,  
Washington, D.C. 20408.

All comments should be addressed to:  
Henry J. Sokolowski, P.E. Chief, MD-  
DE-DC Metro Section (3AW12), Air  
Programs & Energy Branch, U.S.  
Environmental Protection Agency,  
Region III, Curtis Building, Tenth Floor,  
Sixth & Walnut Streets, Philadelphia, PA  
19106, Attn: AH038MD.

**FOR FURTHER INFORMATION CONTACT:**  
Cynthia A. Clark (3AW12), U.S.  
Environmental Protection Agency,  
Region III, Sixth & Walnut Streets,  
Philadelphia, PA 19106, telephone: 215/  
597-9377.

**SUPPLEMENTARY INFORMATION:** The State of Maryland submitted for EPA's approval a revision of its State Implementation Plan (SIP). The revision is a Modified Amended Consent Order for the Potomac Electric Power Company's (PEPCO) Chalk Point generating station. The Order revises a previously approved Amended Consent Order (see 44 FR 19192, April 2, 1979) by allowing PEPCO until March 31, 1983 to complete the installation and testing of particulate control equipment on Units No. 1 and 2. The equipment is necessary to bring the units into full compliance

with COMAR 10.18.09.06B—Control of Particulate Matter.

The original Order required compliance with the regulation by December 31, 1981. PEPCO requested an extension of the final compliance date because of unforeseen delays in acquiring and installing the control equipment and auxiliary apparatus.

During the term of the extension, visible emissions are limited to 40 percent opacity and the ash content of coal used as fuel is limited to 15 percent. The time extension will not cause a violation of the National Ambient Air Quality Standards.

The SIP revision was the subject of a public hearing on October 27, 1981 as required by 40 CFR 51.4. No public comments were received. The revision satisfies all Federal requirements and is approvable by EPA.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 Fed. Reg. 8709.)

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 (insert 60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

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

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon Monoxide, Hydrocarbons.

(42 U.S.C. 7401-642)

Dated: April 30, 1982.

Anne M. Gorsuch,  
Administrator.

**Note.**—Incorporation by reference of the State Implementation Plan for the State of Maryland was approved by the Director of the Federal Register on July 1, 1981.

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

**Subpart V—Maryland**

In § 52.1070, paragraph (c)(64) is added to read as follows:

52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(64) A revision submitted by the State of Maryland on November 18, 1981, consisting of a Modified Amended Consent Order for Potomac Electric Power Company's Chalk Point generating station.

[FR Doc. 82-12596 Filed 5-7-82; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Parts 264 and 265**

[SWH-FRL-1942-76]

**Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Financial Requirements****Correction**

In FR Doc. 82-9262 appearing at page 15032 in the issue for Wednesday, April 7, 1982, please make the following correction:

(1) On page 15060, in the third column, under the heading "Financial Guarantee Bond", in the first line, "Dated" should be "Date".

(2) On page 15061, in the middle column, under the heading "Performance Bond", in the eleventh line, the second word should be "Identification".

(3) Two lines farther down, the word "guaranteed" should be "guaranteed".

(4) On page 15061, in the third column, in the next to last paragraph, in the fifth line, the next to last word should be "performance".

**Note.**—All corrections are to the "Trust Agreement" contained in § 264.151 which begins on page 15059.

BILLING CODE 1505-01-M

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17****Emergency Determination of Endangered Status for Two Fish Species in Ash Meadows, Nevada**

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

**ACTION:** Emergency rule.

**SUMMARY:** The Service determines the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish to be Endangered species. This action is being taken because the distribution of these species is restricted to the Ash Meadows region and groundwater basin in Nye County, Nevada. Imminent land development for housing subdivisions, clearing of land for road construction and agricultural purposes, mining, pumping of groundwater and diversion of surface flows threaten the integrity of the species' habitat and, therefore, their survival. This emergency rule provides protection to these species for 240 days (until January 5, 1983).

**DATES:** This emergency determination is effective on May 10, 1982, and expires on January 5, 1983.

**ADDRESS:** Interested persons or organizations can obtain information from the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sanford R. Wilbur, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232 or phone (503/231-6131).

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

The Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*) and Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*) are found only in the Ash Meadows basin and require the integrity of its physical environment and maintenance of spring, surface, and subsurface flows for survival.

The Ash Meadows region is a unique and diverse desert wetland located east of the Amargosa River. These wetlands are maintained by flow from several dozen springs and seeps which are fed by an extensive groundwater system which extends more than 167 km northeast of Ash Meadows. Hundreds of plant and animal species (many of them endemic) are associated with these wetlands and depend upon them for survival.

Homesteaders originally attempted to farm Ash Meadows because of the plains-like topography and availability of free-flowing water from the springs; these efforts failed because the salty, clay soils were not suitable for crops.

Interest in agricultural usage in the late 1960's and early 1970's caused large tracts of land to be plowed and the installation of groundwater pumps and

diversion ditches to support a cattle-feed operation. This resulted in the destruction of many populations of plant and animal species and their wetland habitats by alteration of the land surface and lowering the water table. In 1976, the Supreme Court limited the amount of groundwater pumping in Ash Meadows to protect water levels in the only known habitat of the Endangered Devil's Hole pupfish. The agricultural interests in Ash Meadows sold approximately 36 km<sup>2</sup> of land to a real estate developer, Preferred Equities Corporation (PEC), in 1977.

While BLM is the principal landowner in Ash Meadows, PEC owns most of the surface water rights, presently designed for municipal use. Groundwater pumping would be required to develop and support agricultural activities. Development and concomitant destruction of Ash Meadows by PEC is imminent unless an acceptable alternative can be devised with BLM to protect this fragile habitat. A possibility did exist whereby BLM would have exchanged land suitable for development in Pahrump, approximately 20 miles SE of Ash Meadows, with PEC for its Ash Meadows holdings; BLM would then have managed Ash Meadows. However, recent negotiations between FWS, BLM, and PEC proved fruitless: PEC found BLM lands in Pahrump unacceptable because of inadequate water supply. PEC had intended to commence lot sales in early March and construction in early summer of 1981. The initial phase of construction would result in the destruction of Crystal, Point-of-Rocks, and Jackrabbit Springs and possibly lower the level of other springs by groundwater pumping; the amount of land which would be altered for housing is unknown. PEC has recently constructed a multi-lane road which connects Ash Meadows at Point-of-Rocks Spring with Pahrump Valley, a connecting section of road (2 miles long and 80 feet wide) north of Jackrabbit Spring, and a new road (1.5 miles long and 30 feet wide) east of Crystal Pool. It has also substantially altered surface flows and spring hole morphometry at these sites. In addition, approximately 1,000 acres of cotton have been planted west of Point-of-Rocks Spring.

Construction activity, however, has not been limited to areas within the initial phase. Fairbanks Spring, the northernmost spring, has recently been excavated by heavy equipment and its pristine character destroyed.

The imminent threat to the existence of the Ash Meadows species is the proposed development of Ash Meadows by PEC into a residential, recreational, industrial, and agricultural community.

Construction activities will clear large tracts of essential habitat; extirpate many populations of fish, wildlife, and plant species; and alter surface drainage patterns. Human habitation will require great quantities of potable water; utilization of surface outflows from springs and pumping of the aquifer will reduce or eliminate surface flows, lower the groundwater table, and interfere with groundwater recharge which will destroy down-gradient wetlands. Development of an Ash Meadows residential community will cause the extirpation of the Ash Meadows biological community.

The Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes*) and Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*) are restricted to the larger warmwater springs and related outflows of Ash Meadows. The pupfish inhabits the pools and outflows of at least eight of the largest springs (Crystal, Fairbanks, Point-of-Rocks, Big, Longstreet, Jackrabbit, Rogers, and Bradford) which are oriented along an irregular north-south contour line for an approximate distance of 16 km at elevations from 655 to 700 km above sea level; water temperatures remain constant between 24° and 30° C. Flowing water of spring outflows is preferred by the speckled dace. Although formerly inhabiting much of the interconnected surface drainage in Ash Meadows, dace populations have been severely reduced and are now restricted to only four of the springs (Crystal, Big, Jackrabbit, and Bradford) which also support the pupfish. A number of exotic species, such as mosquitofish and black mollies, have been introduced to these springs and compete with the native fishes.

The Service has previously proposed the Ash Meadows turban snail (*Fluminicola erythropoma*) as Threatened on April 28, 1976 (41 FR 17742) and withdrawn on December 10, 1979 (44 FR 70796) as a result of the 1978 Amendments to the Endangered Species Act. Current evidence indicates that, as proposed, this entry comprised more than one species. This area has an extraordinarily diverse freshwater mollusk fauna, which is currently being studied by Dr. Dwight Taylor of Tiburon, California. Of special interest is the presence of two species flocks or complexes of snails which are found within a five-mile radius in Ash Meadows and give Ash Meadows the highest concentration of endemic species of animals in the United States. Most of these mollusk species have not been scientifically described and named.

A general notice of review on candidate plants in the December 15, 1980 Federal Register (45 FR 82479) included seven Ash Meadows plant species, but only included general state distributions. These plant species were not included in this listing because, although restricted to specific soil types and discrete surface and groundwater regimes, they do not directly inhabit the springs and their immediate surface outflows. These species and edaphic associations are as follows: the spring-loving centaury (*Centaurea filiformis* var. *namophilum*) is restricted to wet clay soils of spring areas and stream banks; the Amargosa niterwort (*Nitrophila mohavensis*) is only found on undisturbed, salt-encrusted, heavy alkaline mud flats in the Carson Slough area in Inyo County, California; the Ash Meadows gum plant (*Grindelia fraxino-pratensis*) occurs in small populations in mostly undisturbed moist to wet clay soils of spring areas and stream banks, and is often associated with the spring-loving centaury; the Ash Meadows stick-leaf (*Mentzelia leucophylla*) is associated with desert washes in coarse-grained, water-sorted, alkaline soils; the Ash Meadows milk-vetch (*Astragalus phoenix*) occurs in washes and on flats and low knolls in fine-grained, clay-like soils; the King Ivesia (*Ivesia eremica*) occurs on light-colored clay uplands and occasionally in spring areas associated with other rare and endemic plants; the corrugated sunray (*Enceliopsis nudicaulis* var. *corrugatum*) occupies strongly alkaline and often poorly drained soils in several localities.

Three additional species which occur in Ash Meadows included in that review were not included in this listing because their distribution is more extensive; these species are the Merriam desert-poppy (*Arctomecon merriamii*), Tecopa bird's-beak (*Cordylanthus tecopensis*), and alkali mariposa lily (*Calochortus striatus*).

#### Factors Affecting the Species

The Service's listing regulations (50 CFR Part 424) provide for a review of the five factors below when listing (or reclassifying or delisting) a species (§ 424.11):

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Utilization for commercial, sporting, scientific, or educational purposes at levels that detrimentally affect it;

(3) Disease or predation;

(4) Absence of regulatory mechanisms adequate to prevent the decline of a

species or degradation of its habitat; and

(5) Other natural or manmade factors affecting its continued existence.

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the subject species, are as follows:

1. *Habitat.* The two species included in this rulemaking are endemic to the Ash Meadows basin and depend upon the integrity of this fragile ecosystem for their survival. These species require undisturbed flows from the extensive Ash Meadows basin aquifer.

The availability of potable and irrigation water is the primary factor motivating development of Ash Meadows. Diversion of spring outflows and pumping of spring holes and groundwater to provide water for the proposed residential, recreational, agricultural, and industrial development of Ash Meadows will destroy essential habitat of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish. Since all springs in this aquifer are intricately connected, drawdown at one location would affect water levels of many other springs. In addition, such alteration of surface flows will prevent migration to other suitable habitats and therefore prevent expansion of range by these species.

2. *Overutilization for commercial, sporting, scientific or educational purposes.* Although taking endangered wildlife is prohibited, these activities could affect the tenuous existence of the fish species.

3. *Disease or predation.* Introduction of exotic fish species by tropical fish breeders and individuals to spring pools has proved detrimental to the fish species; in many instances, aggressive exotic species have eliminated native species by predation and competition for food and territory.

4. *The inadequacy of existing regulatory mechanisms.* No regulations exist to protect the Ash Meadows species included in this rulemaking.

5. *Other natural or man-made factors affecting its continued existence.* Because these species are restricted to very specialized aquatic habitats and are limited to a small geographical area, the magnitude of adverse activities which occur in these species' habitats would tend to be intensified. Vandalism has been reported at a number of pools; the dumping of toxic chemicals and alteration of surface flows can have deleterious and irreversible effects on the aquatic habitats.

#### Critical Habitat

Service listing regulations for Critical Habitat (50 CFR 424.12) provide in part that: (a) Critical Habitat shall be specified to the maximum extent prudent at the time a species is proposed for addition to the list. If the Director determines that the designation of Critical Habitat is not prudent, he will state the reasons for such determination in the proposed and final rules listing a species. Conditions under which a designation of Critical Habitat is not prudent include, but are not limited to the following:

(1) When the species is threatened by taking or other human activity and identification of Critical Habitat can be expected to increase the degree of such threat to the species, or

(2) When such designation of Critical Habitat would not be beneficial to the species.

Publication of Critical Habitat maps could prove detrimental to the fragile aquatic ecosystems which are inhabited by the subject fish species. Public notice could increase vandalism in this area; incidents of toxic chemical dumping and destruction of natural features have already occurred in this area. Because such action could increase the threats to the Ash Meadows ecosystem and therefore not be beneficial to the subject species, designation of Critical Habitat is not deemed prudent at this time. After recovery and protection plans for these species have been developed, Critical Habitat may be considered in the future.

#### Reasons for Emergency Determination

Under authority conferred by 50 CFR 424.19, this listing of two Ash Meadows species shall take place immediately upon publication of this rulemaking. An emergency exists which poses an immediate threat to the survival of these sixteen species. Initial construction activities in late spring and summer of 1981 to develop the Ash Meadows ecosystem for housing, agriculture, and recreation have severely altered the watercourses of two springs (Point-of-Rocks and Bradford) and related spring hole morphometry; these activities severely reduced the populations of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish in Bradford Springs. According to Service biologists, recent excavation of Fairbanks Spring has apparently eliminated all but one pupfish.

These latest events complement the destruction of fish habitat which has occurred since the advent of agricultural activities at Ash Meadows. The ranges of the pupfish and dace have been

reduced at the following springs: Bradford Springs outflow, from 1 mile to 200 yards; Big Spring outflow, from 3 miles to 1.5 mile; Point-of-Rocks outflow, from 6 miles to 200 yards, and extirpation of the dace; Fairbanks-Rogers-Longstreet Springs complex, from 2,000 acres to approximately 0.5 acre, and extirpation of the dace; Crystal Spring, which formerly supported substantial populations of both species, presently contains few pupfish and no dace; at Jackrabbit Spring, a pump was suspended over the pool and the dace and pupfish populations were temporarily extirpated when the pool was pumped dry; dace and pupfish populations have been extirpated from Tubbs Spring and Forest Spring.

Ash Meadows springs are intricately interconnected and are the sole discharge for groundwater from this extensive aquifer. Because of this relationship, pumping of groundwater from one spring may also affect the water levels in other springs, as evidenced by the situation which occurred at Devil's Hole in the 1970's. Pumping of groundwater from nearby wells for agriculture was lowering the water level in Devil's Hole, which caused a severe decline in the population of the Endangered Devil's Hole pupfish; continued pumping could have caused the extinction of that species. In 1976, the Supreme Court ruled (*United States vs. Cappaert et al.*) that a minimum water level must be maintained to protect the Devil's Hole pupfish. While Devil's Hole is the most sensitive spring in Ash Meadows and the springs are interconnected, the impact of groundwater pumping from wells south of Devil's Hole appears to be greater than from those located in the north. However, because agricultural and municipal activities require large volumes of water and pumping of groundwater from the northern areas may be necessary to supplement flows from the south, it is expected that the proposed development by PEC will create a demand for water throughout Ash Meadows.

Long-term development plans call for direct alteration of many of these springs with construction to progress in 3 phases in the following areas: Phase I—Crystal Pool; Phase II—Point-of-Rocks Spring; Phase III—Fairbanks Spring complex. The Nye County Commission has already approved Phases I and II, and work has begun. To date, the outflow channels of Crystal Pool and King Pool (Point-of-Rocks Spring) have been modified to increase flows which have lowered the level of

the pools 1–1.5 feet and, consequently, decreased riparian habitat; Fairbanks Spring has been excavated by heavy equipment. Further, PEC, as principal owner of water rights, has made application to the State of Nevada to divert water from many of the other Ash Meadows springs which will destroy more riparian habitat. Groundwater pumping may seriously deplete water levels (directly and indirectly) upon which the fish species depend. Introduction of exotic fish and other aquatic species which compete with or prey upon native species has caused the extinction of the Ash Meadows killifish (*Epiplatys merriami*) and reduced or extirpated other native fish populations; increased human activity can only exacerbate this problem. Sequential extirpation of these fish populations will soon cause extinction of the species.

The terrestrial habitats of the Ash Meadows ecosystem are as fragile as the aquatic habitats. Many candidate plant species are dependent upon the unique hydrological characteristics of this basin and require undisturbed soils for sustenance and propagation. Earthmoving activities will directly eliminate populations of these species and preclude successful reproduction in or recolonization of these areas; lowering of water levels by diversion and pumping will eliminate essential habitat areas for terrestrial and aquatic species. A significant area of land has already been altered by road construction in the vicinity of Crystal, Point-of-Rocks, and Jackrabbit Springs. Because such construction activities have begun and will create irreversible changes to this unique and fragile ecosystem, they will result in the extinction of these species.

Recent negotiations between PEC, BLM, Nevada Department of Wildlife, and FWS, to reach a compromise on land use planning have proved fruitless, to date. PEC has yet to offer lots for sale and it therefore remains the largest private landowner in Ash Meadows. However, once lot sales begin, negotiations will involve hundreds of interested parties rather than four, and a suitable agreement to protect this unique ecosystem will be highly unlikely. Because these circumstances create severe time constraints, it would be impossible to list these species pursuant to normal procedures before the habitat was destroyed and these species jeopardized.

Pursuant to 50CFR, 424.19 the Governor of Nevada has been notified of this action. This emergency rule shall remain in effect for only 240 days

following publication in the Federal Register. Therefore, the Service intends formally to propose some or all of these species for listing pursuant to 50 CFR 424.16 and 424.17. Comments will be requested on the proposed rulemaking from the public and other concerned Federal and State agencies and private interests as required by those regulations.

Since this is issued under the emergency circumstances noted above, the Department has determined that this emergency rule is exempt from the rulemaking procedures of Executive Order 12291 and 43 CFR Part 14. Compliance with such procedures will be ensured during development of the proposed and final rules for permanent listing.

#### Effect of the Rule

Endangered Species regulations already published in Title 50, § 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations referred to above which pertain to such species are summarized below.

With respect to the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, will apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the Federal Register of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and 17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Subsection 7(a)(2) of the Act requires Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the subject

species, but also requires them to insure that their actions are not likely to result in the destruction or adverse modification of the species' habitat which has been determined to be critical by the Secretary. Provisions of Interagency Cooperation are codified at 50 CFR Part 402.

#### National Environmental Policy Act

A draft Environmental Assessment will be prepared when this rule is formally proposed pursuant to regulations in 50 CFR 424.16 and 50 CFR 424.17. A determination will be made at the time of finalizing this rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 and 40 CFR Parts 1500 through 1508.

#### References

The following documents were consulted in preparing this rule:

(1) Bateman, R.L., A.L. Mindling, and R.L. Naff. 1974. Development and Management of Ground Water in Relation to Preservation of

Desert Pupfish in Ash Meadows, Southern Nevada. Center for Water Resources Research, Desert Research Institute, University of Nevada System; Publication No. 17.

(2) Beatley, J.C. 1977. *Ash Meadows: Nevada's unique oasis in the Mojave Desert*. *Mentzelia* 3:20-24.

(3) Dudley, W.W. and J.O. Larson. 1976. Effect of irrigation pumping on desert pupfish habitats in Ash Meadows, Nye County, Nevada. United States Geological Survey, Professional Paper 927:1-52.

(4) Fiero, G.W. and G.B. Maxey. 1970 (June). Hydrogeology of the Devil's Hole area, Ash Meadows, Nevada. Center for Water Resources Research, Desert Research Institute, University of Nevada System.

(5) Hardy, T. In press. The Inter-Basin Area Report—1979. A Summary of the Proceedings of the Eleventh Annual Symposium of the Desert Fishes Council.

(6) Naiman, R.J. and D.L. Soltz. 1981. *Fishes in North American Deserts*. John Wiley and Sons, New York.

(7) Soltz, D.L. and R.J. Naiman. 1978. The Natural History of Native Fishes in the Death Valley System. Natural History Museum of Los Angeles County, Science Series 30:1-76.

(8) Williams, J.D., and C.K. Dodd, Jr. 1978. Importance of Wetlands to Endangered and Threatened Species. In *Wetland Functions and Values: The State of Our Understanding*.

Ed. by P.E. Greeson, et. al. American Water Resources Assoc.

The primary author of this rule is Thomas A. Strekal, U.S. Fish and Wildlife Service, Office of Endangered Species, Washington, D.C. 20240 (703/235-1975).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife.

#### Regulation Promulgation

### PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, until January 5, 1983, Part 17 of Title 50 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; and Pub. L. 96-159, 93 Stat. 1241 (16 U.S.C. 1531, et seq.).

2. Amend § 17.11(h) by adding in alphabetical order to the list of animals:

#### § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

| Species                       |                                        | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical Habitat | Special rules |
|-------------------------------|----------------------------------------|----------------|------------------------------------------------------|--------|-------------|------------------|---------------|
| Common name                   | Scientific name                        |                |                                                      |        |             |                  |               |
| Fishes:                       |                                        |                |                                                      |        |             |                  |               |
| Dace, Ash Meadows speckled    | <i>Rhinichthys osculus nevadensis</i>  | USA (CA,NV)    | Entire                                               | E      |             | N/A              | N/A           |
| Pupfish, Ash Meadows Amargosa | <i>Cyprinodon nevadensis mionectes</i> | USA (NV)       | Entire                                               | E      |             | N/A              | N/A           |

Dated: May 5, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-12630 Filed 5-7-82; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 301

#### Pacific Halibut Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission, publishes notice of regulations promulgated by that Commission and approved by the United States Government to govern the Pacific halibut fishery for 1982.

The purpose of these regulations is to achieve conservation measures, and protective measures where necessary, to help rebuild and sustain at an adequate level the halibut stocks of the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: May 10, 1982.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, (907) 586-7221, or Executive Director, International Pacific Halibut Commission, P.O. Box 5009, University Station, Seattle, Washington 98105, (206) 634-1838.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC), under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of

the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, D.C. on March 29, 1979), has promulgated regulations governing the Pacific halibut fishery for 1982. The regulations have been approved by the Secretary of State of the United States of America and by the Governor-General of Canada, by Order-in-Council. On behalf of the International Commission, the 1982 regulations are published in the Federal Register in order to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements established therein.

The regulations are very similar to those which have been in effect in previous years under the Convention,