

to prohibitions based upon a showing of no potential for waste migration, alternate treatment methods, and variances from treatment standards, respectively. Consideration of the sections 5, 42(b) and 44 petitions is permanently reserved to EPA because consideration of those petitions requires a national perspective. In the future, EPA may authorize States to consider the section 6 petitions. However, EPA is currently requiring that these petitions be handled at EPA Headquarters. It should be noted that Illinois has its own procedures for considering petitions for exemptions to prohibitions based upon a showing of no potential for waste migration. Nothing in RCRA prohibits a State from adopting requirements that parallel Federal requirements. Therefore, petitioners seeking a section 6 exemption must be granted approval by both EPA and the State.

On August 17, 1990, EPA promulgated the most recent phase of the regulatory framework implementing the land disposal prohibitions. EPA promulgated earlier phases on November 7, 1986, June 4, July 8, and October 10, 1987, August 17, 1988, February 27, May 2, June 23, and September 6, 1989, and June 1, June 13, and August 17, 1990. Illinois' rulemaking process follows the EPA rulemaking process. An unavoidable consequence is that Illinois' current land disposal prohibitions program is not as comprehensive as the Federal program. Since each new phase of the land disposal prohibitions regulations has included modifications to earlier phases and, in most instances, those modifications have made the regulatory framework more stringent, certain Illinois' land disposal requirements may be superseded by Federal land disposal requirements.

In this action, EPA intends to authorize Illinois only for the November 7, 1986, and June 4, 1987, phases of land disposal prohibition regulations. However, the balance of the Federal regulations are, because they are promulgated pursuant to HSWA, effective in Illinois and all other States and are directly implemented by EPA. Regulated handlers must comply with any requirements of the retained Federal land disposal prohibitions program that may be more stringent than the analogous requirements of the Illinois program. Conversely, because compliance with RCRA does not exempt regulated handlers from compliance with State law, such handlers must also meet any requirements of the Illinois program that may be more stringent than the analogous requirements of the Federal program. As a consequence,

regulated handlers facing an apparent conflict between State and Federal land disposal prohibitions must always comply with the more stringent of the two requirements.

D. Decision

I conclude that Illinois' program revision application meets all the statutory and regulatory requirements established by RCRA and its amendments. Accordingly, EPA grants Illinois final authorization to operate its hazardous waste program as revised. Illinois now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program and its amendments. This responsibility is subject to the limitations of its program revision applications and previously approved authorities. Illinois also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA, and to take enforcement actions under Section 3008, 3013, and 7003 of RCRA.

E. Codification

EPA codifies authorized State programs in part 272 of 40 CFR. The purpose of codification is to provide notice to the public of the scope of the authorized program in each State. Codification of these revisions to the Illinois program will be completed at a later date.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Illinois' program thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any

information requirements upon the regulated community.

List of Subjects in 40 Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a) 3006, and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926 and 6974(b)).

Dated: March 11, 1991.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 91-7821 Filed 4-2-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 98

[CGD 84-043]

RIN 2115-AB69

Portable Tanks for the Transportation of Bulk Hazardous Materials by Vessel

AGENCY: Coast Guard, DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The United States Coast Guard is correcting errors in the amendment to the regulations governing the transportation of bulk hazardous materials in portable tanks by vessel. The amendment appeared in the *Federal Register* on Tuesday, September 11, 1990 [55 FR 37406].

EFFECTIVE DATE: April 3, 1991.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank K. Thompson, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-1577.

SUPPLEMENTARY INFORMATION: In the *Federal Register* on Tuesday, September 11, 1990 [55 FR 37406], the Coast Guard published a final rule concerning portable tanks for the transport of bulk hazardous materials. A number of editorial errors occurred. As this is a technical amendment that does not change the substance of the rules, publication of this document for comment is not required.

List of Subjects in 46 CFR Part 98

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

Title 46, part 98 of the CFR is amended as follows:

PART 98—[AMENDED]

1. The authority citation for part 98 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3308, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 98.30-4 [Amended]

2. In paragraph (b) of § 98.30-4, "40 CFR 173.32b," should read "49 CFR 173.32b,".

§ 98.33-1 [Amended]

3. In paragraph (b)(1) of § 98.33-1, "173.251, and 173.253;" should read "178.251, and 178.253;".

§ 98.33-1 [Amended]

4. In paragraph (b)(2) of § 98.33-1, "49 CFR 176.340(a)(4);" should read "49 CFR 176.340(a)(2);".

Dated: March 27, 1991.

D.H. Whitten,

Captain, U.S. Coast Guard, Acting Chief,
Office of Marine Safety, Security and
Environmental Protection.

[FR Doc. 91-7792 Filed 4-2-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AB36

Endangered and Threatened Wildlife and Plants; Endangered Status for White-Necked Crow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for the white-necked crow (*Corvus leucognaphalus*), a bird found in the Dominican Republic and Haiti, and formerly in Puerto Rico and the Virgin Islands. It disappeared in the latter areas because of human hunting and destruction of its natural forest habitat, and is now confronted by the same problems in those places where it does survive. This rule will implement the protection of the Endangered Species Act of 1973, as amended, for this crow.

EFFECTIVE DATE: May 3, 1991.

ADDRESSES: The complete file for this rule is available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, in room 750, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority; Mail Stop: room 725, Arlington Square; U.S. Fish and Wildlife Service, Washington, DC 20240 (703-358-1708 or FTS 921-1708).

SUPPLEMENTARY INFORMATION:**Background**

The white-necked crow (*Corvus leucognaphalus*) resembles the crows of the mainland United States in physical appearance, but is distinguished by the pure white base of the feathers of the hind neck (Wetmore and Swales 1931). Also, in habits and voice, this species is more like ravens than like other crows. The ordinary call note is a high-pitched *klock* (Wetmore 1916).

This crow originally occurred in the Dominican Republic, Haiti, Puerto Rico and St. Croix in the U.S. Virgin Islands. It seems to thrive only where there are extensive growths of natural forest, and to disappear when these growths are cut down (Wetmore 1916). Because of this factor, and human hunting, the crow has been extirpated throughout its range, except in limited parts of the Dominican Republic and Haiti.

On July 25, 1986, the Service received a petition from Mr. Alexander R. Brash, Department of Biology, Rutgers University, requesting that the white-necked crow be added to the U.S. List of Endangered and Threatened Wildlife. On October 31, 1986, the Service made a finding that this petition had presented substantial information. On August 4, 1987, and in subsequent years, the Service made findings that the requested measure was warranted but precluded by other listing activity. Section 4(b)(3) of the Endangered Species Act, as amended in 1982, requires that, if a warranted but precluded finding is made with respect to a petition, a subsequent finding be made within 12 months as to whether the requested measure is warranted, not warranted, or warranted but precluded. In the Federal Register of December 27, 1989 (54 FR 53132-53134), the Service proposed to determine endangered status for the white-necked crow, and that proposal incorporated the Service's finding that listing of the species was warranted.

Summary of Comments and Recommendations

In the proposed rule of December 27, 1989, and associated notifications, all interested parties were requested to

submit factual reports or information that might contribute to development of a final rule. Cables were sent to United States embassies in the Dominican Republic and Haiti, requesting new data and the comments of the governments of these countries. Five responses were received. The Haitian Ministry of Agriculture indicated that it does not consider the white-necked crow to be endangered, but also that it has no data on numbers, distribution, and population trends of the species. All data that are available to the Service, including the comments from the Dominican Republic, the Department of Natural Resources of Puerto Rico, the Atlanta Regional Office of the U.S. Forest Service, and the Caribbean Field Office of the U.S. Fish and Wildlife Service, suggest that an endangered classification for the white-necked crow is appropriate. Some of these comments have been incorporated into the following discussion.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the white-necked crow should be classified as endangered. Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the white-necked crow (*Corvus leucognaphalus*) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Crows are generally thought to be highly adaptable birds that can thrive in large numbers in a variety of habitats, even if extensively disturbed by people. Actually, various island species of crows are restricted to very limited conditions and do not tolerate changes or the close proximity of human activity. Examples are the Hawaiian crow (*Corvus hawaiiensis*) and the Mariana crow (*C. kubaryi*), both of which the Service already classifies as endangered.

The white-necked crow has become progressively rarer and more restricted in distribution as its natural forest habitat has been invaded and modified by people. This bird once occurred on Saint Croix in the U.S. Virgin Islands, but was extirpated there long ago (Raffaele 1983). It survived on much of Puerto Rico until the 19th century, but then declined as most of the island's

forests were cleared for agricultural purposes (Brash 1987). By the early 20th century the species was considered to be almost gone from Puerto Rico (Wetmore 1916). The last record for the island was in the Luquillo Mountains in 1963, and the crow is now thought to have completely vanished from Puerto Rico (Raffaele 1983).

The white-necked crow apparently still occurs in the Dominican Republic and Haiti, which share the island of Hispaniola. However, the same process of forest destruction, which eliminated the species from Puerto Rico, now seems to be occurring on Hispaniola. According to Lewis and Coffey (1985), only 6.7 percent of Haiti was still forested in 1978, and all remaining large areas of forest are expected to disappear within 50 years. The forested portion of the Dominican Republic has declined from about 95 percent originally to less than 15 percent, and only about a third of the remaining forest is considered undisturbed (Hartshorn *et al.* 1981). The white-necked crow remained locally common in the Dominican Republic until the early 20th century (Wetmore 1931), but some recent surveys there either have had difficulty locating this bird, which is extremely localized in dry forests (Chandler Robbins, Patuxent Research Center, U.S. Fish and Wildlife Service, pers. comm.), or have been unable to find the species at all (Robert Waide, Center For Energy and Environmental Research, San Juan, pers. comm.). In commenting on the proposal, Francisco J. Vilella of the Service's Caribbean Field Office stated that during August 1989, he found the white-necked crow locally abundant in the forest reserve of Los Haitises in the Dominican Republic, but that generally the species is disappearing rapidly as forests are cleared and burned for both subsistence and mechanized agriculture. Two ornithologists in the Dominican Republic, contacted by the U.S. Embassy, commented that the white-necked crow also is declining as its habitat is lost to housing and road construction and tourist development.

B. Overutilization for commercial, recreational, scientific, or educational purposes. The white-necked crow is considered to have good-tasting flesh, and was extensively hunted as a game bird on Puerto Rico and Hispaniola. This factor contributed to its decline, especially as clearing of the forests made it accessible to hunters (Wetmore 1916; Wetmore and Swales 1931). In his comments on the proposed rule, Vilella noted that the crow still is being taken as game in the Dominican Republic and

also because it is considered, falsely, to be an agricultural pest.

C. Disease or predation. Not known to be a factor.

D. The inadequacy of existing regulatory mechanisms. The main problem for the species is habitat loss, which is not restricted by regulations.

E. Other natural or manmade factors affecting its continued existence. None now known.

The decision to determine endangered status for the white-necked crow was based on an assessment of the best available scientific information, and of past, present, and probable future threats to the species. A decision to take no action would exclude this bird from benefits provided by the Endangered Species Act. A decision to determine only threatened status would not adequately reflect the evident rarity and long-term problems confronting the species. Critical habitat is not being determined, as its designation is not applicable outside of the United States.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Some actions are initiated prior to listing, conditions permitting. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that

activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. With respect to the white-necked crow, no Federal activities are known that would require conferral or consultation. Such measures may be called for, however, if the species is rediscovered or reintroduced in the Commonwealth of Puerto Rico.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, 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 in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance propagation or survival, or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register of October 25, 1983 (48 FR 49244).

References Cited

Brash, A.R. 1987. The history of avian extinction and forest conversion on Puerto Rico. Biological Conservation 39:97-111.

- Hartshorn, G., G. Antonii, R. Dubois, D. Harcharik, S. Heckadon, H. Newton, C. Quesada, J. Shores, and G. Staples. 1981. The Dominican Republic. Country environmental profile. A field study. JRB Associates, McLean, Virginia, 84 pp.
- Lewis, L.A., and W.V. Coffey. 1985. The continuing deforestation of Haiti. *Ambio* 14:158-160.
- Raffaele, H.A. 1983. A guide to the birds of Puerto Rico and the Virgin Islands. Fondo Educativo Interamericano, San Juan, 255 pp.
- Wetmore, A. 1918. Birds of Puerto Rico. U.S. Dept. Agriculture Bull., Number 326, 140 pp.
- Wetmore, A., and B.H. Swales. 1931. The birds of Haiti and the Dominican Republic. U.S. National Museum Bull., Number 155, 483 pp.

Author

The primary author of this proposed rule is Ronald M. Nowak, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703-358-1708 or FTS 921-1708).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation, and Wildlife.

Regulation Promulgation**PART 17—[AMENDED]**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal

Regulations, is hereby amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "BIRDS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
BIRDS							
Crow, white-necked	Corvus leucognaphalus	U.S.A. (PR), Dominican Republic, Haiti.	Entire	E	419	NA	NA

Dated: February 14, 1991.

Suzanne Mayer,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91-7778 Filed 4-2-91; 8:45 am]

BILLING CODE 4310-55-