

dominated communities. Lands currently or historically dedicated to agricultural activities likely continue to serve as a source of invasive, nonnative plants. Encroachment of nonnative grasses and succession to more shrub-dominated communities threaten Stephens' kangaroo rat habitat throughout the species' range by filling open spaces and reducing the presence of forbs (Factor A).

While existing data are not adequate to estimate population size, within the existing core reserves in western Riverside County or in San Diego County, surveys indicate that the amount of Stephens' kangaroo rat occupied habitat may be in decline in localities within both counties. Latest survey data indicate that Camp Pendleton, Detachment Fallbrook, and Lake Henshaw, in addition to previous declines in habitat populations, may have suffered declines in the amount of Stephens' kangaroo rat occupied habitat. Predation (Factor C) and rodenticide (Factor E) continue to threaten the species and may contribute additively to other threats affecting this species. Existing regulatory mechanisms, absent the protections of the Act, provide insufficient certainty (Factor D) that efforts needed to address long-term conservation of the species will be implemented or that they will be effective in reducing the level of threats to the Stephens' kangaroo rat throughout its range. Therefore, we find that, in absence of the Act, the existing regulatory mechanisms are not adequate to conserve Stephens' kangaroo rat throughout its range in the foreseeable future.

In conclusion, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species. Our review of the information pertaining to the five threat factors does not support a conclusion that the threats have been sufficiently removed or their imminence, intensity, or magnitude have been reduced to the extent that the species no longer requires the protections of the Act. Therefore, we find the Stephens' kangaroo rat is in danger of extinction, or likely to become so within the foreseeable future, throughout all or a significant portion of its range and does not warrant delisting at this time.

We request that you submit any new information concerning the status of, or threats to, the Stephens' kangaroo rat to our Carlsbad Fish and Wildlife Office (see ADDRESSES) whenever it becomes available. New information will help us

monitor the Stephens' kangaroo rat and encourage its conservation.

#### References Cited

A complete list of references cited in this document is available on the Internet at <http://www.regulations.gov> and upon request from the Carlsbad Fish and Wildlife Office (see ADDRESSES).

#### Authors

The primary authors of this notice are the staff members of the Carlsbad Fish and Wildlife Office.

**Authority:** The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 6, 2010.

#### Wendi Weber,

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 2010-20518 Filed 8-18-10; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R4-ES-2010-0057; 92220-1113-0000-C3]

RIN 1018-AX23

#### Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Endangered Whooping Cranes in Southwestern Louisiana

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

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to reintroduce whooping cranes (*Grus americana*), a federally listed endangered species, into habitat in its historic range in southwestern Louisiana with the intent to establish a nonmigratory flock that lives and breeds in the wetlands, marshes, and prairies there. We propose to classify the flock as a nonessential experimental population (NEP) according to section 10(j) of the Endangered Species Act of 1973 (Act), as amended. Releases will be within the historic breeding area in southwestern Louisiana near White Lake in Vermilion Parish. This proposed rule provides a plan for establishing the NEP and provides for allowable legal incidental take of whooping cranes within the defined NEP area. The objectives of the reintroduction are to advance recovery of the endangered whooping crane. No conflicts are

envisioned between the reintroduction and any existing or anticipated Federal, State, Tribal, local government, or private actions such as oil/gas exploration and extraction, aquacultural practices, agricultural practices, pesticide application, water management, construction, recreation, trapping, or hunting.

**DATES:** We request that you send us comments on the proposed rule and the draft environmental assessment by the close of business on October 18, 2010, or at the public hearings. We will hold public informational open houses from 6 p.m. to 7 p.m., followed by public hearings from 7 p.m. to 9 p.m., on September 15 and 16, 2010, at the locations within the proposed NEP area identified in the ADDRESSES section.

**ADDRESSES:** *Written comments:* You may submit comments on the proposed rule by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for Docket No. FWS-R4-ES-2010-0057 and follow the instructions for submitting comments.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R4-ES-2010-0057; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on the proposed rule on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments Procedures section below for more details).

You may submit comments on the draft environmental assessment (EA) by one of the following methods:

- *E-mail to:* [LouisianaCranesEA@fws.gov](mailto:LouisianaCranesEA@fws.gov).

- *U.S. mail or hand-delivery:* Lafayette Field Office, U.S. Fish and Wildlife Service, 646 Cajundome Boulevard, Suite 400, Lafayette, LA 70506.

Please see the draft EA for additional information regarding commenting on that document.

*Copies of Documents:* The proposed rule and EA are available by the following methods. In addition, comments and materials we receive, as well as supporting documentation used in preparing this proposed rule, will be available for public inspection:

(1) You can view them on <http://www.regulations.gov>. In the Search Documents box, enter FWS-R4-ES-2010-0057, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, select the type of documents you want

to view under the Document Type heading.

(2) You can make an appointment, during normal business hours, to view the documents, comments, and materials in person at the Lafayette Field Office, Lafayette Field Office, U.S. Fish and Wildlife Service, 646 Cajundome Boulevard, Suite 400, Lafayette, LA 70506, telephone 337-291-3100, facsimile 337-291-3139. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

**Public Hearing:** We will hold public hearings at the following locations:

1. Gueydan, Louisiana, on September 15, 2010, from 7 p.m. to 9 p.m. at the Gueydan Civic Center, 901 Wilkinson Street, Gueydan, LA 70542; and

2. Baton Rouge, Louisiana, on September 16, 2010, from 7 p.m. to 9 p.m. at the Louisiana Department of Wildlife and Fisheries, 2000 Quail Drive, Baton Rouge, LA 70808. Each public hearing will be preceded by a public informational open house from 6 p.m. to 7 p.m. For information on reasonable accommodations to attend the informational open houses or the hearings, see the Public Hearings section.

**FOR FURTHER INFORMATION CONTACT:** Deborah Fuller, Lafayette Field Office, U.S. Fish and Wildlife Service (337-291-3100, facsimile 337-291-3139) or Bill Brooks, Jacksonville Field Office, U.S. Fish and Wildlife Service (904-731-3136, facsimile 904-731-3045).

**SUPPLEMENTARY INFORMATION:**

**Public Comment Procedures**

To ensure that any final action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you reference or provide. In particular, we seek comments concerning the following:

(1) The geographic boundary for the NEP;

(2) Information related to whooping crane itself as it relates specifically to this reintroduction effort; and

(3) Effects of the reintroduction on other native species and the ecosystem.

Prior to issuing a final rule on this proposed action and determining whether to prepare a finding of no significant impact or an Environmental

Impact Statement, we will take into consideration comments and additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments and recommendations, including names and addresses, will become part of the administrative record for the final rule.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the Web site. Please note that comments submitted to this Web site are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-deliver hardcopy comments that include personal 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. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy comments on <http://www.regulations.gov>.

**Public Hearings**

We will hold public hearings at the locations listed above in **ADDRESSES**. Each public hearing will last from 7 p.m. to 9 p.m. on September 15, 2010, and September 16, 2010. Before each hearing, we will hold a public informational open house from 6 p.m. to 7 p.m. to provide an additional opportunity for the public to gain information and ask questions about the proposed rule. These open house sessions should assist interested parties in preparing substantive comments on the proposed rule. All comments we receive at the public hearings, both verbal and written, will be considered in making our final decision on the proposed establishment of the NEP. Persons needing reasonable accommodations in order to attend and participate in a public hearing should contact Deborah Fuller or Bill Brooks, at the address or phone number listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing. Information regarding this proposal is available in alternative formats upon request.

**Background**

*Previous Federal Actions*

The whooping crane (*Grus americana*) was listed as an endangered species on March 11, 1967 (32 FR 4001). We have previously designated NEPs for whooping cranes in Florida (58 FR 5647, January 22, 1993); the Rocky Mountains (62 FR 38932, July 21, 1997); and the Eastern United States (66 FR 33903, June 26, 2001). See also “Recovery Efforts” below.

*Legislative*

Congress made significant changes to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), with the addition in 1982 of section 10(j), which provides for the designation of specific reintroduced populations of listed species as “experimental populations.” Under the Act, species listed as endangered or threatened are afforded protection largely through the prohibitions of section 9 and the requirements of section 7 and corresponding implementing regulations.

Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitats. Under Section 7(a)(1), all Federal agencies are mandated to determine how to use their existing authorities to further the purposes of the Act to aid in recovering listed species. Section 7(a)(2) states that Federal agencies will, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private lands unless they are authorized, funded, or carried out by a Federal agency.

Under section 10(j), the Secretary of the Department of the Interior can designate reintroduced populations established outside the species’ current range, but within its historical range, as “experimental.” Section 10(j) is designed to increase our flexibility in managing an experimental population by allowing us to treat the population as threatened, regardless of the species’ designation elsewhere in its range. A threatened designation allows us discretion in devising management programs and special regulations for such a population. Section 9 of the Act prohibits the take of endangered species. “Take” is defined by the Act as “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

attempt to engage in any such conduct.” Section 4(d) of the Act allows us to adopt whatever regulations are necessary and advisable to provide for the conservation of a threatened species. In these situations, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species, and the 10(j) rule contains the prohibitions and exemptions necessary and appropriate to conserve that species.

Based on the best available information, we must determine whether experimental populations are “essential,” or “nonessential,” to the continued existence of the species. Both an experimental population that is essential to the survival of the species and an experimental population that is not essential to the survival of the species are treated as a threatened species. However, for section 7 interagency cooperation purposes, if a nonessential experimental population (“NEP”) is located outside of a National Wildlife Refuge or National Park, it is treated as a species proposed for listing.

For the purposes of section 7 of the Act, in situations where an NEP is located within a National Wildlife Refuge or National Park, the NEP is treated as threatened and section 7(a)(1) and the consultation requirements of section 7(a)(2) of the Act apply.

When NEPs are located outside a National Wildlife Refuge or National Park Service unit, we treat the population as proposed for listing and only two provisions of section 7 apply—section 7(a)(1) and section 7(a)(4). In these instances, NEPs provide additional flexibility because Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed to be listed. The results of a conference are in the form of conservation recommendations that are optional as the agencies carry out, fund, or authorize activities. However, since an NEP is not essential to the continued existence of the species, it is very unlikely that we would ever determine jeopardy for a project impacting a species within an NEP. Regulations for NEPs may be developed to be more compatible with routine human activities in the reintroduction area.

Individuals used to establish an experimental population may come from a donor population, provided their removal is not likely to jeopardize the continued existence of the species, and appropriate permits are issued in

accordance with our regulations (50 CFR 17.22) prior to their removal. If this proposal is adopted, we would ensure, through our section 10 permitting authority and the section 7 consultation process, that the use of individuals from donor populations for release is not likely to jeopardize the continued existence of the species in the wild.

#### *Biological Information*

The whooping crane is a member of the family Gruidae (cranes). It is the tallest bird in North America; males approach 1.5 meters (m) (5 feet (ft)) tall. In captivity, adult males average 7.3 kilograms (kg) (16 pounds (lb)) and females 6.4 kg (14 lbs). Adult plumage is snowy white except for black primary feathers, black or grayish alulae, sparse black bristly feathers on the carmine (red) crown and malar region (side of the head), and a dark gray-black wedge-shaped patch on the nape.

Adults are potentially long-lived. Current estimates suggest a maximum longevity in the wild of 32 years (Stehn, USFWS, 2010 pers comm.). Captive individuals are known to have survived 27 to 40 years. Mating is characterized by monogamous lifelong pair bonds. Fertile eggs are occasionally produced at age 3 years but more typically at age 4. Experienced pairs may not breed every year, especially when habitat conditions are poor. Whooping cranes ordinarily lay two eggs. They will renest if their first clutch is destroyed or lost before mid-incubation (Erickson and Derrickson 1981, p. 108; Kuyt 1981, p. 123). Although two eggs are laid, whooping crane pairs infrequently fledge two chicks (Canadian Wildlife Service and U.S. Fish and Wildlife Service 2007, p. 6). Approximately one of every four hatched chicks survives to reach the wintering grounds (U.S. Fish and Wildlife Service 1994, p. 14).

The whooping crane once occurred from the Arctic Sea to the high plateau of central Mexico, and from Utah east to New Jersey, South Carolina, and Florida (Allen 1952, p. 1; Nesbitt 1982, p. 151). In the 19th century, the principal breeding range extended from central Illinois northwest through northern Iowa, western Minnesota, northeastern North Dakota, southern Manitoba, and Saskatchewan to the vicinity of Edmonton, Alberta. There was also a nonmigratory population breeding in coastal Louisiana (Allen 1952, p. 28; Gomez 1992, p. 19).

Banks (1978, p. 1) derived estimates that there were 500 to 700 whooping cranes in 1870. By 1941, the migratory population contained only 16 individuals. The whooping crane population decline between these two

estimates was a consequence of hunting and specimen collection, human disturbance, and conversion of the primary nesting habitat to hay, pastureland, and grain production (Allen 1952, p. 28; Erickson and Derrickson 1981, p. 108).

Allen (1952, pp. 18–40, 94) described several historical migration routes. One of the most important led from the principal nesting grounds in Iowa, Illinois, Minnesota, North Dakota, and Manitoba to coastal Louisiana. Other historic Gulf coast wintering locations included Mobile Bay in Alabama, and Bay St. Louis in Mississippi. A route from the nesting grounds in North Dakota and the Canadian Provinces went southward to the wintering areas of Texas and the Rio Grande Delta region of Mexico. Another migration route crossed the Appalachians to the Atlantic Coast.

Gomez (1992, p. 19) summarized the literary references regarding whooping cranes in southwestern Louisiana. This included Olmsted's mention of an “immense white crane” on the prairies of Louisiana (1861, p. 31); Nelson (1929, pp. 146–147) reporting on wintering whooping cranes near Pecan Island; and McIlhenny (1938, p. 670) describing the small flock of resident cranes at Avery Island and speculating on the reasons for the species' decline. Simons (1937, p. 220) included a photograph; Allen (1950, pp. 194–195) and Van Pelt (1950, p. 22) recounted the capture of the last member of the Louisiana nonmigratory flock; and Allen's whooping crane monograph (1952) is the main source on whooping crane ecology in southwest Louisiana.

Records from more interior areas of the Southeast include the Montgomery, Alabama, area; Crocketts Bluff on the White River, and near Corning in Arkansas; in Missouri at sites in Jackson County near Kansas City, in Lawrence County near Corning, southwest of Springfield in Audrain County, and near St. Louis; and in Kentucky near Louisville and Hickman. It is unknown whether these records represent wintering locations, remnants of a nonmigratory population, or wandering birds.

#### *Status of Current Populations*

Whooping cranes currently exist in three wild populations and within a captive breeding population at 12 locations. The first population, and the only self-sustaining natural wild population, nests in the Northwest Territories and adjacent areas of Alberta, Canada, primarily within the boundaries of Wood Buffalo National Park. These birds winter along the

central Texas Gulf of Mexico coast at Aransas National Wildlife Refuge (NWR) and adjacent areas (referred to later as the Aransas-Wood Buffalo population, or AWBP). From their nesting areas in Canada, these cranes migrate southeasterly through Alberta, Saskatchewan, and eastern Manitoba, stopping in southern Saskatchewan for several weeks in fall migration before continuing migration into the United States. They migrate through the Great Plains States of eastern Montana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. The winter habitat extends 50 kilometers (km) (31 miles) along the Texas coast from San Jose Island and Lamar Peninsula on the south to Welder Point and Matagorda Island on the north, and consists of estuarine marshes, shallow bays, and tidal flats (Allen 1952, p. 127; Blankinship 1976, p. 384). Their spring migration is more rapid, and they simply reverse the route followed in fall. Sixty-two pairs from this population nested in 2009, and 263 whooping cranes were reported from the wintering grounds in January 2010. The flock is recovering from a population low of 15 or 16 birds in 1941.

The second population, the Florida nonmigratory population, is found in the Kissimmee Prairie area of central Florida (*see* Recovery Efforts section for further details on this population and the Eastern population). Between 1993 and 2004, 289 captive-born, isolation-reared whooping cranes were released into Osceola, Lake, and Polk Counties in an effort to establish this nonmigratory flock. The last releases took place in the winter of 2004–2005. As of January 2010, only 26 individuals are being monitored, which include 9 pairs and 1 fledgling from 2009. Since the first nest attempt in 1999, there have been a total of 72 nest attempts, 33 chicks hatched and only 10 chicks successfully fledged. One pair has produced and fledged three of these chicks. Problems with survival and reproduction, both of which have been complicated by drought, are considered major challenges for this flock.

The third population of wild whooping cranes is referred to as the Eastern Migratory Population (EMP). The EMP has been established through reintroduction and currently numbers 97. During the 2009 spring breeding season, all 12 first nests of the season were abandoned, as have all first nests during the previous years. From 2005–2009, there have been a total of 41 nests (including 7 renests); only 2 renests have hatched chicks, and only 1 chick has been successfully fledged. As of July 27, 2010, a total of 9 pairs nested. Five

of those pairs hatched chicks and two chicks remain alive as of July 27, 2010. Nesting failure is currently the EMP's foremost concern. There is compelling evidence of a correlation with presence of biting insects at the nests suggesting they may play a role in nest abandonment (Stehn, USFWS, 2009 pers. com.).

The whooping crane also occurs in a captive-breeding population. The whooping crane captive-breeding program, initiated in 1967, has been very successful. The Service and the Canadian Wildlife Service began taking eggs from the nests of the wild population (AWBP) in 1967, and raising the resulting young in captivity. Between 1967 and 1998, program officials took 242 eggs from the wild to captive sites. Birds raised from those eggs form the nucleus of the captive flock (USFWS 2007, p. C–2). The captive-breeding population is now kept at five captive-breeding centers: Patuxent Wildlife Research Center; the International Crane Foundation; the Devonian Wildlife Conservation Center, Calgary Zoo in Alberta, Canada; the Audubon Species Survival Center in New Orleans, Louisiana; and the San Antonio Zoo, Texas. The total captive population as of January 2010 stands near 150 birds in the captive-breeding centers and at other locations for display (Calgary Zoo in Alberta, Canada; Lowery Park Zoo in Tampa, Florida; Homosassa Springs State Wildlife Park in Homosassa, Florida; Jacksonville Zoo and Gardens in Jacksonville, Florida; Audubon Zoo in New Orleans, Louisiana; Milwaukee Zoo in Milwaukee, Wisconsin; and Sylvan Heights Waterfowl Park in Scotland Neck, North Carolina).

Whooping cranes adhere to ancestral breeding areas, migratory routes, and wintering grounds, leaving little possibility of pioneering into new regions. The only wild, self-sustaining breeding population can be expected to continue utilizing its current nesting location with little likelihood of expansion, except on a local geographic scale. Even this population remains vulnerable to extirpation through a natural catastrophe, a red tide outbreak, a contaminant spill, and sea level rise due primarily to its limited wintering distribution along the Gulf Intracoastal Waterway of the Texas coast. This waterway experiences some of the heaviest barge traffic of any waterway in the world. Much of the shipping tonnage is petrochemical products. An accidental spill could destroy whooping cranes and/or their food resources. With the only wild breeding population being vulnerable, it is urgent that additional

wild self-sustaining populations be established.

There have been three reintroduction projects to date. Reintroduction using cross-fostering with sandhill cranes in the Rocky Mountains occurred from 1973–1988, and was discontinued due to excessive mortality and failure of the birds to pair and breed. No cranes remain in this population. The Florida nonmigratory population numbers 26 birds (10 males, 16 females). Only two pairs attempted to breed during the 2009 drought, and one pair fledged a chick. In 2010, there are nine nests and one pair fledged a chick so far. Currently, the EMP numbers 97 birds and nine pair nested in 2010.

#### *Recovery Efforts*

The first recovery plan developed by the U.S./Canadian Whooping Crane Recovery Team (Recovery Team) was approved January 23, 1980. The first revision was approved on December 23, 1986, the second revision on February 11, 1994, and the third revision on May 29, 2007. The short-term goal of the recovery plan, as revised, is to reclassify the whooping crane from endangered to threatened status. The criteria for attaining this reclassification goal are (1) achieving a population level of 40 nesting pairs in the AWBP and (2) establishing two additional, separate, and self-sustaining populations consisting of 25 nesting pairs each. These new populations may be migratory or nonmigratory. If only one additional wild self-sustaining population is reestablished, then the AWBP must reach 100 nesting pairs and the new population must consist of 30 nesting pairs. If the establishment of two additional wild self-sustaining populations is not successful, then the AWBP must be self-sustaining and remain above 250 nesting pairs for reclassification to occur. The recovery plan recommends that these goals should be attained for 10 consecutive years before the species is reclassified to threatened.

In 1985, the Director-General of the Canadian Wildlife Service and the Director of the Service signed a memorandum of understanding (MOU) entitled “Conservation of the Whooping Crane Related to Coordinated Management Activities.” The MOU was revised and signed again in 1990, 1995, and 2001 and is expected to be renewed in 2010. It discusses disposition of birds and eggs, postmortem analysis, population restoration and objectives, new population sites, international management, recovery plans, consultation, and coordination. All captive whooping cranes and their

future progeny are jointly owned by the Service and the Canadian Wildlife Service. Consequently, both nations are involved in recovery decisions.

#### *Reintroductions*

In early 1984, pursuant to the Recovery Plan goals and the recommendation of the Recovery Team, potential whooping crane release areas were selected in the eastern United States. By 1988, the Recovery Team recognized that cross-fostering with sandhill cranes was not working to establish a migratory population in the Rocky Mountains. The term "cross-fostering" refers to the foster rearing of the whooping crane chicks by another species, the sandhill crane. The possibility of inappropriate sexual imprinting associated with cross-fostering, and the lack of a proven technique for establishing a migratory flock influenced the Recovery Team to favor establishing a nonmigratory flock.

Studies of whooping cranes (Drewien and Bizeau 1977, pp. 201–218) and greater sandhill cranes (Nesbitt 1988, p. 44) have shown that, for these species, knowing when and where to migrate is learned rather than innate behavior. Captive-reared whooping cranes released in Florida were expected to develop a sedentary population. In summer 1988, the Recovery Team selected Kissimmee Prairie in central Florida as the area most suitable to establish a self-sustaining population. In 1993, the Florida Fish and Wildlife Conservation Commission (FWC) (formerly the Florida Game and Freshwater Fish Commission) began releasing captive-reared chicks from the breeding population in an attempt to establish a resident, nonmigratory flock. Eggs laid at the captive-breeding facilities were sent to the Patuxent Wildlife Research Center to be hatched and reared in isolation. The chicks were brought to Florida in the fall where they were "gentle released," a technique that involves a protracted period of acclimation in a specially constructed release pen followed by a gradual transition to life on their own in the wild. This release methodology has helped to establish a wild resident, nonmigratory flock of whooping cranes in central Florida.

In 1996, the Recovery Team decided to investigate the potential for another reintroduction site in the eastern United States, with the intent of establishing an additional migratory population as the third flock to meet recovery goals. Following a study of potential wintering sites (Cannon 1998, p. 1–19), the Recovery Team selected the Chassahowitzka NWR/St. Martin's

Marsh Aquatic Preserve in Florida as the top wintering site for a new migratory flock of whooping cranes. A detailed analysis was presented at the Recovery Team meeting in September 1999 (Cannon 1999, p. 1–38), and the Recovery Team then recommended that releases for an EMP target central Wisconsin at Necedah NWR as the core breeding area with the wintering site along the Gulf coast of Florida at the Chassahowitzka NWR.

In January 2001, the Recovery Team met at the Audubon Center for Research on Endangered Species in Belle Chasse, Louisiana. Highlights of the meeting included genetic management recommendations for the captive flock, an overflight of crane habitat in southwestern Louisiana, including the White Lake and Marsh Island areas, and the recommendation to proceed with a migratory reintroduction of whooping cranes in the eastern United States. Following the Recovery Team meeting, the Louisiana Crane Working Group was formed to help with research and information needed to assess the potential for releasing whooping cranes in Louisiana.

In the spring of 2001, eggs laid at the captive-breeding facilities were sent to the Patuxent Wildlife Research Center to be hatched and reared in the spring. The chicks were brought to the Necedah NWR in central Wisconsin in the early summer and were trained to fly behind ultralight aircraft by Operation Migration. In the fall of 2001, the Whooping Crane Eastern Partnership's (WCEP) first historic whooping crane migration led by ultralights from central Wisconsin to the central Gulf coast of Florida was completed by Operation Migration. This release methodology has established a wild migrating flock of whooping cranes with a core breeding/summering area at Necedah NWR in central Wisconsin and a primary wintering area in west-central Florida (Pasco and Citrus Counties and at Paynes Prairie in Alachua County). Portions of this population also winter at Hiwassee Wildlife Refuge in central Tennessee, Wheeler NWR in northern Alabama, and the Ashepoo, Combahee, and South Edisto Basin (ACE Basin) in coastal South Carolina. Since 2005, additional captive chicks reared at the International Crane Foundation have been released directly into groups of older whooping cranes in central Wisconsin prior to the fall to follow older cranes during migration.

In 2004, the Florida FWC and the Recovery Team made the decision to postpone additional releases in Florida. Between 1993 and 2004, program members released 289 captive-reared

birds in an attempt to establish a Florida nonmigratory flock. Problems with survival and reproduction, both of which have been complicated by drought, were considered major challenges for this flock. The Florida FWC postponed releases to focus their resources to study these issues.

In 2005, two members of the Recovery Team met with Louisiana DWF and the Louisiana Crane Working Group to develop a plan to investigate the feasibility of a whooping crane reintroduction in Louisiana. In February 2007, a Recovery Team meeting was held in Lafayette, Louisiana, to assess the status of whooping crane recovery efforts. This meeting included updates and recovery action recommendations for the AWBP, Florida, and EMP populations. In addition, the Recovery Team also came to Louisiana to further evaluate the interest in releasing whooping cranes in Louisiana. A preliminary assessment of the habitat for a resident nonmigratory flock and wintering habitat for a migratory flock was conducted during field visits to White Lake and Marsh Island. The Recovery Team endorsed a plan that could lead to a reintroduction of whooping cranes in Louisiana. The Recovery Team recommended the U.S. Geological Survey, Louisiana Cooperative Fish and Wildlife Research Unit, conduct a habitat assessment and food availability study at White Lake as a potential release area for a nonmigratory population and Marsh Island as a potential wintering area for a migratory flock of whooping cranes. Additional research on sandhill crane migration patterns for cranes that winter in Louisiana was also recommended. The Recovery Team also requested the Whooping Crane Health Advisory Team prepare a report on the potential health risks if whooping cranes reintroduced into Louisiana were to mix with cranes in the AWBP.

In 2008, scientists from Florida FWC and major project partners conducted a workshop to assess the current status and potential for success of establishing the resident, nonmigratory population of whooping cranes in Florida. The Recovery Team used the workshop findings and other considerations, and in 2009 recommended there be no further releases into the Florida flock. The water regimes produced by periodic droughts in Florida make it extremely unlikely that reproduction in wild-hatched Florida whooping cranes will ever achieve production rates adequate for success. The Florida FWC continues to study and monitor the remaining nonmigratory whooping cranes to gather

information that may prove valuable for future recovery efforts.

Nesting failure is currently the EMP's foremost concern. WCEP's nest monitoring efforts and additional studies initiated in 2009 have provided compelling but not conclusive evidence of a correlation with presence of biting insects at the nests as contributing factor to nest abandonment. In August of 2009, the Service met with the Louisiana Department of Wildlife and Fisheries (DWF) to discuss establishing a possible resident nonmigratory population of whooping cranes in Louisiana.

#### *Objectives of Proposed Reintroduction*

The objectives of this proposed reintroduction into Louisiana are to: (1) Implement a primary recovery action for the whooping crane; (2) further assess the suitability of southwestern Louisiana as whooping crane habitat; and (3) evaluate the suitability of releasing captive-reared whooping cranes, conditioned for wild release, as a technique for establishing a self-sustaining, nonmigratory population. Information on survival of released birds, movements, behavior, causes of losses, reproductive success, and other data will be gathered throughout the project. This reintroduction project's progress will be evaluated annually.

The likelihood of the releases resulting in a self-sustaining population is believed to be good. Whooping cranes historically occurred in Louisiana in both a resident, nonmigratory flock and a migratory flock that wintered in Louisiana. The proposed release area, White Lake, is the location where whooping cranes were historically documented raising young in Louisiana (Gomez 1992, p. 20). The minimum goal for numbers of cranes to be released annually is based on the research of Griffith *et al.* (1989, pp. 477–480). If results of this initial proposed release are favorable, releases will be continued with the goal of releasing up to 30 whooping cranes annually for about 10 years. For a long-lived species like the whooping crane, continuing releases for a number of years increases the likelihood of reaching a population level that can sustain fluctuating environmental conditions. The rearing and release techniques to be used have proven successful in supplementing the wild population of the endangered Mississippi sandhill crane (*Grus canadensis pulla*).

We may select additional release sites later during the efforts to reintroduce non-migratory whooping cranes to Louisiana to reduce the risk of catastrophic loss of the population. Additional release sites could also

increase the potential breeding range in Louisiana. Multiple release areas may increase the opportunity for successful pairing because females tend to disperse from their natal site when searching for a mate. Males, however, have a stronger homing tendency toward establishing their nesting territory near the natal area (Drewien *et al.* 1983, p. 9). When captive-reared birds are released at a wild location, the birds may view the release site as a natal area. If they do, females would likely disperse away from the release area in their search for a mate. Therefore, it may be advantageous to have several release sites to provide a broader distribution of territorial males. As a result, it is possible that we will pursue future releases at additional sites. These additional sites would be selected based on the observed dispersal patterns of birds from the initial releases.

The Louisiana DWF has discussed this proposed experimental population with the Mississippi Flyway Council. The Service has discussed this proposed experimental population with the Central Flyway Council. During that discussion, the Texas Parks and Wildlife Department representative expressed interest in having two coastal counties in Texas included as part of the area for this proposed experimental population to avoid possible closures of waterfowl hunting if whooping cranes from the proposed experimental population were to wander into the area. This proposed regulation does not include those two counties as the Service believes that expansion of the endangered AWBP into the two coastal counties is an essential aspect of achieving recovery of the species. The Service and Louisiana DWF will coordinate with the Mississippi, Central, and Atlantic Flyway Councils during the public comment period for this proposed regulation and will contact the Texas Parks and Wildlife Department to obtain additional input on the potential for reintroduction of a nonmigratory whooping crane population in southwestern Louisiana. The Louisiana DWF has also made presentations and facilitated discussions with numerous organizations and potentially affected interest groups and government representatives in southwestern Louisiana.

Louisiana DWF and the Service have conducted extensive coordination, both formal and informal, with constituents related to the proposed nonmigratory NEP. All have been asked to provide comments on this proposed rule. The Canadian Wildlife Service, a partner with the Service as noted in the

Memorandum of Understanding, has approved the proposed project.

An extensive sharing of information about the effort to reintroduce a nonmigratory flock to Louisiana and the species itself, via educational efforts targeted toward the public throughout the NEP area, will enhance public awareness of this species and its reintroduction. We will encourage the public to cooperate with the Service and Louisiana DWF in attempts to maintain and protect whooping cranes in the release area.

#### *Reintroduction Protocol*

We propose to initially gentle-release four to eight juvenile whooping cranes in the White Lake Wetlands Conservation Area in Vermilion Parish, Louisiana. These birds will have been captive-reared at one of the captive-rearing facilities, then transferred to facilities at the Louisiana release site, and conditioned for wild release to increase post-release survival (Zwank and Wilson 1987, p. 166; Ellis *et al.* 1992b, p. 147; Nesbitt *et al.* 2001, p. 62) and adaptability to wild foods. Before release, the cranes will be banded for identification purposes, tagged with radio and/or GPS solar-powered satellite transmitters at release, and monitored to discern movements, habitat use, other behavior, and survival. Numbers of birds available for release will depend on production at captive-propagation facilities and the future need for additional releases into the EMP. The Species Survival Center in New Orleans has received Federal funding to construct a hatchery and chick-rearing facility so that whooping cranes produced for release in this project could be hatched and reared in Louisiana.

Captive-reared cranes are conditioned for wild release by being reared in isolation from humans, by use of conspecific role models (puppets), and by exercising with animal care personnel in crane costumes to avoid imprinting on humans (Horwich 1989, pp. 380–384; Ellis *et al.* 1992a, pp. 137–138; Urbanek and Bookhout 1992, pp. 122–123). This technique has been used to establish a population of nonmigratory whooping cranes in Florida (Nesbitt *et al.* 2001, pp. 62–63). This technique has also been successful in supplementing the population of endangered nonmigratory Mississippi sandhill cranes in Mississippi (Zwank and Wilson 1987, p. 165; Ellis *et al.* 1992b, p. 147). Facilities for captive maintenance of the birds will be modeled after facilities at the Patuxent Wildlife Research Center and the International Crane Foundation and will

conform to standards set forth in the Animal Welfare Act regulations (9 CFR) and Louisiana Wildlife Code. To further ensure the well-being of birds in captivity and their suitability for release to the wild, facilities will incorporate features of their natural environment (e.g., feeding, loafing, and roosting habitat) to the extent possible. The gentle release-conditioning pens will be similar to those used successfully to release whooping cranes in the Florida and EMP populations, as well as release of Mississippi sandhill cranes. Pens help new birds acclimate to their surroundings; provide a degree of protection against predation, and supplemental food resources if needed. Pre-release conditioning will occur at facilities near the release site.

Since migration is a learned rather than an innate behavior, captive-reared whooping cranes released in Louisiana will likely adhere to their release area rather than disperse into new regions. Sixteen Florida nonmigratory whooping cranes have been documented in five States other than Florida; seven returned to the reintroduction area, and nine have not been seen again (Folk *et al.* 2008, pp. 7–12).

#### *Proposed Reintroduced Population*

In 2001, we designated the State of Louisiana as part of a geographic area where whooping cranes within its boundaries would be considered nonessential experimental. We are proposing with this regulation to clarify that the reintroduced nonmigratory flock of whooping cranes in southwestern Louisiana will also be fully considered as an NEP according to the provisions of section 10(j) of the Act. This designation can be justified because no adverse effects to extant wild or captive whooping crane populations will result from release of progeny from the captive flock. We also have a reasonable expectation that the reintroduction effort into Louisiana will result in the successful establishment of a self-sustaining, resident, nonmigratory flock, which will contribute to the recovery of the species. The special rule contained within this proposal is expected to ensure that this reintroduction is compatible with current or planned human activities in the release area.

We have concluded that this experimental population of nonmigratory birds is not essential to the continued existence of the whooping crane for the following reasons:

(a) For the time being, the AWBP and the captive populations will be the primary species populations. With

approximately 150 birds in captivity at 12 discrete sites (5 main facilities and 7 other locations), and approximately 250 birds in the AWBP, the experimental population is not essential to the continued existence of the species. The species has been protected against the threat of extinction from a single catastrophic event by gradual recovery of the AWBP and by an increase in the numbers and management of the cranes at the captive sites.

(b) For the time being, the primary repository of genetic diversity for the species will be the approximately 400 wild and captive whooping cranes mentioned in (a) above. The birds selected for reintroduction purposes will be as genetically redundant as possible with the captive population; hence any loss of reintroduced animals in this experiment will not significantly impact the goal of preserving maximum genetic diversity in the species.

(c) Any birds lost during the reintroduction attempt can be replaced through captive breeding. Production from the extant captive flock is already large enough to support wild releases with approximately 30 juveniles available annually. We expect this number to increase to over 40 as young pairs already in captivity reach breeding age.

This illustrates the potential of the captive flock to replace individual birds proposed for release in reintroduction efforts. Levels of production are expected to be sufficient to support both this proposal and continued releases into the EMP.

The hazards and uncertainties of the reintroduction experiment are substantial, but a decision not to attempt to utilize the existing captive-breeding potential to establish an additional, wild, self-sustaining population could be equally hazardous to survival of the species in the wild. The AWBP could be lost as the result of a catastrophic event or a contaminant spill on the wintering grounds that would necessitate management efforts to establish an additional wild population. The recovery plan identifies the need for three self-sustaining wild populations—consisting of 40 nesting pairs in the AWBP and 2 additional, separate and self-sustaining populations consisting of 25 nesting pairs each—to be in existence before the whooping crane can be reclassified to threatened status.

Due to the survival and reproductive issues faced by the Florida nonmigratory flock, it is extremely unlikely that reproduction in wild-hatched Florida whooping cranes will ever achieve production rates adequate

for success. Depending on whether the reproductive issues can be overcome, the EMP has the potential to become the second self-sustaining, wild population needed to move toward recovery. Establishing a Louisiana nonmigratory flock as the third recovery population has become a recovery priority. Whooping cranes historically occurred in Louisiana in both a resident, nonmigratory flock and a migratory flock that wintered in Louisiana. The proposed release area, White Lake, is the location where whooping cranes were historically documented raising young in Louisiana (Gomez 1992, p. 20). If this reintroduction effort is successful, conservation of the species will have been furthered considerably by establishing another self-sustaining population in currently unoccupied habitat. Because establishment of other populations has not yet been entirely successful, establishing a Louisiana nonmigratory flock would also demonstrate that captive-reared cranes can be used to establish a nonmigratory, wild population.

#### *Location of Reintroduced Population*

The proposed release site, White Lake Wetlands Conservation Area (WLWCA), encompasses part of the area historically occupied by a nonmigratory, breeding population of whooping cranes (Allen 1952, p. 30; Gomez 1992, p. 19). WLWCA (formerly known as the Standolind Tract), located in Vermilion Parish, was owned and managed by BP America Production White Lake (BPWL) until 2002 when BPWL donated the property to the State of Louisiana. At that time a cooperative Endeavor Agreement between the State of Louisiana and White Lake Preservation Inc., was executed for management of the property. In 2005, according to the terms of that agreement, the Louisiana DWF received total control for management of this area. BP retained the mineral rights to WLWCA.

The WLWCA is located within the Mermentau Basin, along the north shore of White Lake, in southwestern Louisiana. Natural drainage within the basin has been interrupted by manmade features. The major source of hydrological change in this basin has been the conversion of two estuarine lakes (Grand and White Lakes) into freshwater reservoirs for agricultural (rice) irrigation in the surrounding areas. There are several large areas of public ownership in the general vicinity. The WLWCA is located approximately 11 km (7 miles) north of the State-owned Rockefeller Wildlife Refuge and Game Preserve (30,773 hectares (76,042 acres)) and



approximately 32 km (20 miles) east of Cameron Prairie NWR (3,893 hectares (9,621 acres)). The area north of WLWCA is primarily used for agriculture although it was historically the panicum (paille fine) marsh that Allen (1952, p. 30) reported as being used by whooping cranes. Nonagricultural areas surrounding WLWCA consist of brackish to intermediate marshes, privately owned and primarily used for waterfowl hunting.

WLWCA comprises approximately 28,722 contiguous hectares (70,970 acres) and is divided into several management units. Approximately 7,690 hectares (19,000 acres) are in agricultural use, primarily in the northeastern portion (Management Units A and F), and the rest of the area is wetlands. The wetland portions are nearly bisected by Florence Canal (Gomez 1992, p. 21). Approximately 12,100 hectares (29,900 acres) east of Florence Canal (Management Unit B) consist of maidencane marsh, and water levels are passively managed. The wetland areas west of Florence Canal (Management Areas E and C), were formerly a sawgrass marsh (until a die-off in the late 1950s) and now consist of west bulltongue (Gomez 1992, p. 21). Water levels are actively managed using pumps on approximately 1,943 hectares (4,800 acres) (Unit C).

The proposed release site (Unit E), consists of approximately 7,028 hectares (17,365 acres) of wetlands on which the Louisiana DWF actively manages water level using pumps and weirs. Water level management consists of providing habitat for wintering waterfowl by gradual flooding in the fall with the deepest water (0.61 to 0.76 m (2 to 2.5 ft)) generally occurring at the western end. The area is kept flooded for approximately 6 weeks and then drawn down in the spring. Boat traffic occurs in the Florence Canal (the eastern border of this unit). Limited, controlled waterfowl hunting occurs on the WLWCA. Occasional, controlled, nonconsumptive activities (e.g., boating) periodically occur in the spring and summer. The Louisiana DWF has facilities adjacent to WLWCA where monitoring personnel would be housed.

Section 10(j) of the Act requires that an experimental population be geographically separate from other populations of the same species. The NEP area already identified in the eastern United States for the EMP (66 FR 33903) will include, if this rule is finalized, nonmigratory whooping cranes reintroduced in Louisiana. The expectation is that most whooping cranes will be concentrated within

wetlands at the proposed release site. Dispersal within the NEP area may include areas in Calcasieu, Jefferson Davis, and Cameron Parishes. The marshes and wetlands of southwestern Louisiana are expected to receive occasional use by the cranes and may be used in the event of future population expansion. However, any whooping crane found within Louisiana will be considered part of an experimental population. Although experience has shown that most birds show an affinity to the release area after gentle release, it is impossible to predict where individual whooping cranes may disperse following release within the project area. A majority of the whooping cranes released within Florida stayed within the NEP. One pair of whooping cranes from the Florida flock is known to have traveled to Illinois and Michigan during the severe drought of 2000 and a second pair dispersed to Virginia, but surviving members of the pairs returned to the core reintroduction area in Florida. Designation of the Louisiana nonmigratory NEP allows for the possible occurrence of cranes in a larger area of Louisiana.

Whooping cranes released in southwestern Louisiana are not expected to interact with the AWBP flock along the Texas coast as Aransas NWR is approximately 482 km (285 miles) southwest of the proposed release area. However, if the Recovery Team were to consider having EMP whooping cranes winter in Louisiana, some interaction between EMP migratory and Louisiana nonmigratory cranes would be expected to occur. The possibility that individual birds from either flock would acquire either migratory or nonmigratory behavior through association, especially if pairs form between members of the different populations, is not likely. Research with sandhill cranes in Florida has shown that migratory and nonmigratory populations mix during winter and yet maintain their own migratory and nonmigratory behaviors. The same holds true for whooping cranes. Individuals of the Florida nonmigratory population and the EMP have associated during the winter; however, the two flocks have remained discrete and each represents a separate population as specified in the Recovery Plan (Canadian Wildlife Service and USFWS 2007, p. xii). As such, while the levels of protection are the same, the two populations may be managed differently.

Released whooping cranes might wander into the eastern counties of Texas adjacent to the expected dispersal area and outside the proposed Louisiana

NEP area. We believe the frequency of such movements is likely to be very low. Any whooping cranes that leave the proposed Louisiana NEP area but remain in the eastern United States NEP will still be considered as experimental nonessential. Any whooping crane that leaves the Louisiana and eastern United States NEP will be considered endangered. However, for any whooping cranes that move outside the Louisiana and eastern United States NEP areas, including those that move west towards the AWBP wintering area, attempts will be made to capture and return them to the appropriate area if a reasonable possibility exists for contact with the AWBP population or if removal is requested by the State which they enter.

Birds from the AWBP flock have never been observed in Louisiana and rarely been observed in any of the States within the eastern United States NEP area except as a result of an extreme weather event. They are not expected to be found in the Louisiana NEP. Any whooping cranes that occur within the Louisiana NEP area will be considered to be part of the NEP and will be subject to the protective measures in place for the NEP. However, because of the extremely limited number of incidents anticipated, the decreased level of protections afforded AWBP cranes that cross into the NEP is not expected to have any significant adverse impacts to the AWBP.

### Management

#### a. Monitoring

Whooping cranes will be intensively monitored by Louisiana DWF project and other personnel prior to and after release. The birds will be observed daily while they are in the gentle-release/conditioning pen.

To ensure contact with the released birds, each crane will be equipped with a legband-mounted radio transmitter and/or a solar-powered GPS satellite transmitter. Subsequent to being gently released, the birds will be monitored regularly to assess movements and dispersal from the area of the release pen. Whooping cranes will be checked regularly for mortality or indications of disease (listlessness, social exclusion, flightlessness, or obvious weakness). Social behavior (e.g., pair formation, dominance, cohort loyalty) will also be evaluated.

A voucher blood serum sample will be taken for each crane prior to its arrival in Louisiana. A second sample will be taken just prior to release. Any time a bird is handled after release into the wild (e.g., when recaptured to replace transmitters), samples may be



taken to monitor disease exposure and physiological condition. One year after release, if possible, all surviving whooping cranes may be captured and an evaluation made of their exposure to disease/parasites through blood, fecal, and other sampling regimens. If preliminary results are favorable, the releases will be continued annually, with the goal of releasing up to 30 birds per year for about 10 years and then evaluating the success of the recovery effort.

#### b. Disease/Parasite Considerations

A possible disease concern has been the probable presence of Infectious Bursal Disease (IBD) in the Central Flyway. Progress has been made on determining whether IBD is likely to affect whooping cranes. An IBD-like virus was isolated from an AWBP juvenile whooping crane that died at Aransas in February 2009. The U.S. Geological Survey's National Wildlife Health Center is studying this virus to classify it more precisely. Blood samples from sandhill cranes collected on the Platte River, Nebraska, in March 2009 found that 12 of 19 had antibodies to IBD. It appears that sandhill cranes and whooping cranes have been exposed to IBD in the Central Flyway and that whooping cranes are likely not seriously affected by IBD. Thus, it is unlikely that the reintroduction of whooping cranes into Louisiana poses any significant risk to the AWBP whooping cranes in regard to transfer of IBD.

Both sandhill and whooping cranes are also known to be vulnerable, in part or all of their natural range, to avian herpes (inclusion body disease), avian cholera, acute and chronic mycotoxicosis, eastern equine encephalitis (EEE), and avian tuberculosis. Additionally, *Eimeria* spp., *Haemoproteus* spp., *Leucocytozoon* spp., avian pox, and *Hexamita* spp. have been identified as debilitating or lethal factors in wild or pre-release, captive populations.

A group of crane veterinarians and disease specialists have developed protocols for pre-release and pre-transfer health screening for birds selected for release to prevent introduction of diseases and parasites. Exposure to disease and parasites will be evaluated through blood, serum, and fecal analysis of any individual crane handled post-release or at the regular monitoring interval. Remedial action will be taken to return to good health any sick individuals taken into captivity. Sick birds will be held in special facilities and their health and treatment monitored by veterinarians.

Special attention will be given to EEE because an outbreak at the Patuxent Wildlife Research Center in 1984 killed 7 of 39 whooping cranes present there. After the outbreak, the equine EEE vaccine has been used on captive cranes. In 1989, EEE was documented in sentinel bobwhite quail and sandhill cranes at the Patuxent Wildlife Research Center. No whooping cranes became ill, and it appears the vaccine may provide protection. EEE is present in Louisiana, so the released birds may be vaccinated. Other encephalitis diseases have not been documented as occurring or causing morbidity or mortality in cranes.

When appropriate, other avian species may be used to assess the prevalence of certain disease factors. This could mean using sentinel turkeys for ascertaining exposure probability to encephalitis or evaluating a species with similar food habits for susceptibility to chronic mycotoxicosis.

#### c. Genetic Considerations

The ultimate genetic goal of the reintroduction program is to establish wild reintroduced populations that possess the maximum level of genetic diversity available from the captive population. Early reintroductions may consist of a biased sample of the genetic diversity of the captive gene pool, with certain genetic lineages overrepresented. This is because certain pairs within the captive flock are very good breeders and are managed to produce multiple clutches thereby maximizing the number of cranes for release. This bias will be corrected over time by selecting and reestablishing breeding whooping cranes that compensate for any genetic biases in earlier releases.

#### d. Mortality

Although efforts will be made to minimize mortality, some will inevitably occur as captive-reared birds adapt to the wild. Collisions with power lines and fences are known hazards to wild whooping cranes. If whooping cranes begin regular use of areas traversed by power lines or fences, the Service and Louisiana DWF will consider placing markers on the obstacles to reduce the probability of collisions. Potential predators of adult and young whooping cranes include bobcats, coyotes, bald eagles, and alligators. Red fox, owls, and raccoons are also potential predators of young cranes.

Recently released whooping cranes will need protection from natural sources of mortality (predators, disease, and inadequate foods) and from human-caused sources of mortality. Natural

mortality will be reduced through pre-release conditioning, gentle release, supplemental feeding for a post-release period, vaccination, and predator control. Predator control conditioning will include teaching young cranes the habit of roosting in standing water. Predation by bobcats has been a significant source of mortality in the Eastern Migratory and Florida nonmigratory flocks, and teaching appropriate roosting behavior to young birds should help to reduce losses to coyotes and bobcats. We will minimize human-caused mortality through a number of measures such as: (a) Placing whooping cranes in an area with low human population density and relatively low development; (b) working with and educating landowners, land managers, developers, and recreationalists to develop means for conducting their existing and planned activities in a manner that is compatible with whooping crane recovery; and (c) conferring with developers on proposed actions and providing recommendations that will reduce any likely adverse impacts to the cranes. As mentioned above in "Monitoring", the whooping cranes will be closely monitored as the reintroduction effort progresses. We will work closely with the State and local landowners in monitoring and evaluating the reintroduction effort and in adaptively managing any human-caused mortality issues that arise.

#### e. Special Handling

Service employees, Louisiana DWF employees, and their agents will be authorized to relocate whooping cranes to avoid conflict with human activities; relocate whooping cranes that have moved outside the appropriate release area or the NEP area when removal is necessary or requested; relocate whooping cranes within the NEP area to improve survival and recovery prospects; and aid cranes that are sick, injured or otherwise in need of special care. If a whooping crane is determined to be unfit to remain in the wild, it will be returned to captivity. Service employees, Louisiana DWF and their agents will be authorized to salvage dead whooping cranes.

#### f. Potential Conflicts

In the central and western United States, conflicts have resulted from the hunting of migratory birds in areas utilized by whooping cranes, particularly the hunting of sandhill cranes and snow geese (*Chen cerulescens*), because novice hunters may have difficulty distinguishing whooping cranes from those species. In recent years, three crane mortalities

have been documented incidental to hunting activities. In Louisiana, snow geese are hunted; however, sandhill cranes are not. Accidental shooting of a whooping crane in this experimental population occurring in the course of otherwise lawful hunting activity is exempt from take restrictions under the Act in this proposed special regulation. Applicable Federal penalties under the Migratory Bird Treaty Act and/or State penalties, however, may still apply. There will be no federally mandated hunting area or season closures or season modifications for the purpose of protecting whooping cranes. We will minimize mortality due to accidental shootings by providing educational opportunities and information to hunters to assist them in distinguishing whooping cranes from other legal game species.

The bulk of traditional hunting in the White Lake Wetlands Conservation Area release area has been for waterfowl and migratory bird species, turkey (*Meleagris gallopavo*), deer (*Odocoileus virginianus*), and small game. Conflict with traditional hunting in the release area is not anticipated. Access to some limited areas at release sites and at times when whooping cranes might be particularly vulnerable to human disturbance (*i.e.*, at occupied nesting areas) may be temporarily restricted. Any temporary restricted access to areas for these purposes will be of the minimum size and duration necessary for protection of the proposed NEP cranes, and will be closely coordinated with the Service and at the discretion of Louisiana DWF. Any such access restrictions will not require Federal closure of hunting areas or seasons.

The Louisiana DWF will maintain its whooping crane management authorities regarding the whooping crane. It is not directed by this rule to take any specific actions to provide any special protective measures, nor is it prevented from imposing restrictions under State law, such as protective designations, and area closures. Louisiana DWF has indicated that it would not propose hunting restrictions or closures related to game species because of the proposed whooping crane reintroduction.

Overall, the presence of whooping cranes is not expected to result in constraints on hunting of wildlife or to affect economic gain landowners might receive from hunting leases. The potential exists for future hunting seasons to be established for other migratory birds that are not currently hunted in Louisiana. The proposed action will not prevent the establishment of future hunting seasons

approved for other migratory bird species by the Central and Mississippi Flyway Councils.

The principal activities on private property adjacent to the release area are agriculture, aquaculture, oil and gas exploration and extraction, water level management as part of coastal restoration projects, and recreation. Use of these private properties by whooping cranes will not preclude such uses. Offshore oil exploration and extraction activities as well as the Deep Horizon spill and cleanup are not expected to affect whooping cranes in the NEP area because the release area is more than 15 miles from the coast in a fresh to brackish marsh system. The Louisiana DWF recently completed a risk assessment associated with this reintroduction and does not anticipate spill impacts from the Deepwater Horizon/MC2520S Spill Area into the whooping crane restoration site at WLWCA or into the surrounding habitats in southwestern Louisiana. The WLWCA is located over 200 miles from the Deepwater Horizon oil spill release site and 17 miles north of the Gulf of Mexico shoreline. Additionally, there are multiple physical barriers to stop crude oil from entering WLWCA such as the Gulf of Mexico Beach Rim, Levees, Water Control Structures, Locks, and Spill Control Equipment. The proposed special regulation accompanying this proposed rule authorizes take of the whooping crane in the proposed NEP area when the take is accidental and incidental to an otherwise lawful activity.

An additional issue identified as a possible conflict is the potential for crop depredation. There is evidence that some sandhill cranes have caused losses of emerging corn in Wisconsin (Blackwell, Helon and Dolbeer, 2001. p. 67). It is possible that whooping cranes could engage in this type of behavior on planted crops in Louisiana as well. However, whooping cranes are socially less gregarious than sandhill cranes, and tend to restrict the bulk of their foraging activities to wetland areas. Therefore, they are believed to be less likely to cause significant crop depredations.

Whooping cranes are known to use ranchlands and pasture with no known impacts to cattle operation practices. Among the primary sandhill and whooping crane habitats in Florida are ranchlands and pastures associated with cattle operations (Nesbitt and Williams, 1990. p. 95). AWBP whooping cranes are also known to utilize the cattle ranchlands adjacent to Aransas National Wildlife Refuge as wintering habitat (Canadian Wildlife Service and USFWS 2007. p. 14). We do not anticipate that

the presence of whooping cranes on ranchlands or pastures in Louisiana would cause any impacts to cattle operations.

Like other wading bird species, whooping cranes will forage along lake and pond edges, and may forage along the edges of ponds used for crawfish production, but this is not likely to cause significant stock depredations on crawfish. However, water levels of crawfish ponds are lowered at certain times for management purposes. These lowering of water depths, called draw downs, do attract large numbers of wading birds as aquatic organisms become concentrated and vulnerable to depredation during the lower water depths. If such depredations occur due to whooping cranes, they can be minimized through use of bird scaring devices and other techniques. Therefore, we do not expect that whooping cranes will pose a significant threat to stock depredation on crawfish. Another concern is that whooping cranes may choose to nest in an area with an ongoing crawfish operation. If whooping cranes nest in such a situation, it would indicate that those birds have acclimated to those activities and it is anticipated that the activities would not likely impact a nesting attempt.

If whooping cranes use National Wildlife Refuges in Louisiana, the management programs on the refuges will continue as identified in the individual refuges approved Comprehensive Conservation Plans, step-down management plans, Annual Work Plans, and via customary and traditional accouterments. Activities of existing mineral rights owners, which include exploration, mining, marketing, and production, will continue to be managed by the Service in accordance with existing Refuge Special Use Permit Conditions currently used for the protection of migratory birds. All other mineral operations will further be managed in accordance with approved Comprehensive Conservation Plans.

Under the existing rules currently in place for the protection of all fish and wildlife, including the numerous wading birds and other migratory birds in the Louisiana coastal zone, mineral exploration and extraction activities on private and/or State-owned lands can continue without additional impacts from the presence of reintroduced birds. Whooping cranes, like other wading birds, will flush due to close proximity of helicopters or airboats. No Federal rule changes would be implemented in the NEP area regarding such matters. Current practices by private, State, and Federal land managers will minimize

unnecessary harassment of all wildlife during such activities.

This reintroduction effort will gently-release captive-born, isolation-reared whooping crane chicks at White Lake Wetlands Conservation Area in Vermilion Parish in an attempt to establish a Louisiana resident, nonmigratory population of whooping cranes. It will be difficult to predict which specific sites will be utilized by the birds, and some cranes may use habitats with which they have no previous experience. Whooping cranes that appear in undesirable locations will be considered for relocation by capture and/or hazing of the birds. Possible conflicts with hunting, recreation, agriculture, aquaculture, oil and gas exploration/extraction, and water management interests within the release area will be minimized through an extensive public education program.

#### Peer Review

In accordance with our policy on peer review, published on July 1, 1994 (59 FR 34270), we will provide copies of this proposed rule to three or more appropriate and independent specialists in order to solicit comments on the scientific data and assumptions underlying this proposed NEP designation. The purpose of such review is to ensure that the proposed NEP designation is based on the best scientific information available. We will invite these peer reviewers to comment during the public comment period and will consider their comments and information on this proposed rule during preparation of a final determination.

#### Required Determinations

##### *Regulatory Planning and Review (E.O. 12866)*

The Office of Management and Budget (OMB) has determined that this proposed rule is not significant under Executive Order 12866 (E.O. 12866). OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

##### *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 801 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We certify that this rule would not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

If this proposal is adopted, the area affected by this rule includes the State of Louisiana. Because NEP designation does not establish substantial new regulation of activities, we do not expect this rule would have any significant effect on recreational, agricultural, or development activities. Although the entire proposed NEP boundary encompasses a large area, the section of the proposed NEP area where we can anticipate the establishment of an experimental population of nonmigratory whooping cranes is mainly public land owned by the State of Louisiana. Because of the regulatory flexibility for Federal agency actions provided by the NEP designation and the exemption for incidental take in the special rule, we do not expect this rule to have significant effects on any activities within Tribal, Federal, State, or private lands within the proposed NEP.

On National Wildlife Refuges and units of the National Park System within the NEP, Federal action agencies would be required to consult with us, under section 7(a)(2) of the Act, on any of their activities that may affect the whooping crane. In portions of the NEP outside of National Wildlife Refuge and National Park Service lands, in regard to section 7(a)(2), the population is treated as proposed for listing and Federal action agencies are not required to consult on their activities. Section

7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a proposed species. But because the NEP is, by definition, not essential to the continued existence of the species, conferring will likely never be required for the whooping crane population within the NEP area. Furthermore, the results of a conference are advisory in nature and do not restrict agencies from carrying out, funding, or authorizing activities.

In addition, section 7(a)(1) requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which would apply on any lands within the NEP area. As a result, and in accordance with these regulations, some modifications to proposed Federal actions within the NEP area may occur to benefit the whooping crane, but we do not expect projects to be halted or substantially modified as a result of these regulations.

The principal activities on private property near the expected reestablishment area in the NEP are agriculture, ranching, oil and gas exploration and extraction, and recreation. The presence of whooping cranes would likely not affect the use of lands for these purposes because there would be no new or additional economic or regulatory restrictions imposed upon States, non-Federal entities, or members of the public due to the presence of whooping cranes. Therefore, this rulemaking is not expected to have any significant adverse impacts to recreation, agriculture, oil and gas exploration or extraction, or any development activities.

##### *Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This rule would not "significantly or uniquely" affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that, if adopted, this rulemaking would not impose a cost of \$100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. Small governments would not be affected because the proposed NEP designation would not place additional requirements on any city, county, or other local municipalities.

(2) This rule would not produce a Federal mandate of \$100 million or greater in any year (*i.e.*, it is not a

“significant regulatory action” under the Unfunded Mandates Reform Act). This proposed NEP designation for whooping crane would not impose any additional management or protection requirements on the States or other entities.

#### *Takings (E.O. 12630)*

In accordance with Executive Order 12630, the proposed rule does not have significant takings implications. This rule would allow for the taking of reintroduced whooping cranes when such take is incidental to an otherwise legal activity, such as recreation (*e.g.*, fishing, boating, wading, or swimming), agriculture, oil and gas exploration and extraction, and other activities that are in accordance with Federal, State, and local laws and regulations. Therefore, we do not believe the reintroduction of whooping cranes would conflict with existing human activities or hinder use of private and public lands or hinder subsurface mineral rights such as oil and gas exploration and extraction within the proposed NEP area.

A takings implication assessment is not required because this rule: (1) Would not effectively compel a property owner to suffer a physical invasion of property, and (2) would not deny all economically beneficial or productive use of the land or aquatic resources. This rule would substantially advance a legitimate government interest (conservation and recovery of a listed bird species) and would not present a barrier to all reasonable and expected beneficial use of private property.

#### *Federalism (E.O. 13132)*

In accordance with Executive Order 13132, we have considered whether this proposed rule has significant Federalism effects and have determined that a Federalism assessment is not required. This rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this proposed rule with the affected resource agencies in Louisiana. Achieving the recovery goals for this species will contribute to its eventual delisting and return to State management. No intrusion on State policy or administration is expected, roles or responsibilities of Federal or State governments would not change, and fiscal capacity would not be substantially directly affected.

The proposed special rule operates to maintain the existing relationship between the State and the Federal Government and is being undertaken in coordination with the State of Louisiana. We have cooperated with LDWF in the preparation of this proposed rule. Therefore, this proposed rule does not have significant Federalism effects or implications to warrant the preparation of a Federalism Assessment pursuant to the provisions of Executive Order 13132.

#### *Civil Justice Reform*

In accordance with Executive Order 12988 (February 7, 1996; 61 FR 4729), the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would meet the requirements of sections (3)(a) and (3)(b)(2) of the Order.

#### *Paperwork Reduction Act*

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), require that Federal agencies obtain approval from OMB before collecting information from the public. A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. This proposed rule does not include any new collections of information that require approval by OMB under the Paperwork Reduction Act. OMB has approved our collection of information associated with reporting the taking of experimental populations (50 CFR 17.84(p)(6)) and assigned control number 1018-0095, which expires March 31, 2011.

#### *National Environmental Policy Act*

We have prepared a draft environmental assessment as defined by the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* It is available from the Lafayette Field Office (*see ADDRESSES*) and <http://www.regulations.gov>.

#### *Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951), Executive Order 13175, and the Department of the Interior Manual Chapter 512 DM 2, we have considered possible effects on and have notified the Native American Tribes within the NEP area about this proposal. They have been advised through verbal and written

contact, including informational mailings from the Service. If future activities resulting from this proposed rule may affect Tribal resources, a Plan of Cooperation will be developed with the affected Tribe or Tribes.

#### *Energy Supply, Distribution, or Use (E.O. 13211)*

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

#### *Clarity of This Regulation (E.O. 12866)*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, *etc.*

#### **References Cited**

A complete list of all references cited in this proposed rule is available upon request from the Lafayette Field Office (*see FOR FURTHER INFORMATION CONTACT*).

#### **Authors**

The principal authors of this rule are Bill Brooks, of the Jacksonville, Florida, Field Office; and Deborah Fuller, of the Lafayette, Louisiana, Field Office (*see FOR FURTHER INFORMATION CONTACT*).

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

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

**Proposed Regulation Promulgation**

**PART 17—[AMENDED]**

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, 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 revising the existing entry for “Crane, whooping” under “BIRDS” to read as follows:

**§ 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							
*	*	*	*	*	*		*
Crane, whooping .....	<i>Grus americana</i> .....	Canada, U.S.A. (Rocky Mountains east to Carolinas), Mexico.	Entire, except where listed as an experimental population.	E	1, 3	17.95(b)	NA
Do .....	.....do .....	.....do .....	U.S.A. (AL, AR, CO, FL, GA, ID, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, NM, OH, SC, TN, UT, VA, WI, WV, western half of WY).	XN	487, 621, 710, _____	NA	17.84(h)

3. Amend § 17.84 by revising paragraph (h) to read as follows:

**§ 17.84 Special rules—vertebrates.**

\* \* \* \* \*

(h) Whooping crane (*Grus americana*).

(1) The whooping crane populations identified in paragraphs (h)(9)(i) through (iv) of this section are nonessential experimental populations (NEPs) as defined in § 17.80.

(i) The only natural extant population of whooping cranes, known as the Aransas/Wood Buffalo National Park population, occurs well west of the Mississippi River. This population nests in the Northwest Territories and adjacent areas of Alberta, Canada, primarily within the boundaries of the Wood Buffalo National Park, and winters along the Central Texas Gulf of Mexico coast at Aransas National Wildlife Refuge.

(ii) No natural populations of whooping cranes are likely to come into contact with the NEPs set forth in paragraphs (h)(9)(i) through (iv) of this section. Whooping cranes adhere to ancestral breeding grounds, leaving little possibility that individuals from the extant Aransas/Wood Buffalo National Park population will stray into the NEPs. Studies of whooping cranes have shown that migration is a learned rather than an innate behavior.

(2) No person may take this species in the wild in the experimental population areas except when such take is accidental and incidental to an

otherwise lawful activity, or as provided in paragraphs (h)(3) and (4) of this section. Examples of otherwise lawful activities include, but are not limited to, oil and gas exploration and extraction, aquacultural practices, agricultural practices, pesticide application, water management, construction, recreation, trapping, or hunting, when such activities are in full compliance with all applicable laws and regulations.

(3) Any person with a valid permit issued by the Fish and Wildlife Service (Service) under § 17.32 may take whooping cranes in the wild in the experimental population areas for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, and other conservation purposes consistent with the Act and in accordance with applicable State fish and wildlife conservation laws and regulations.

(4) Any employee or agent of the Service or State wildlife agency who is designated for such purposes, when acting in the course of official duties, may take a whooping crane in the wild in the experimental population areas if such action is necessary to:

(i) Relocate a whooping crane to avoid conflict with human activities;

(ii) Relocate a whooping crane that has moved outside any of the areas identified in paragraphs (h)(9)(i) through (iv) of this section, when removal is necessary or requested and is

authorized by a valid permit under § 17.22;

(iii) Relocate whooping cranes within the experimental population areas to improve survival and recovery prospects;

(iv) Relocate whooping cranes from the experimental population areas into captivity;

(v) Aid a sick, injured, or orphaned whooping crane; or

(vi) Dispose of a dead specimen or salvage a dead specimen that may be useful for scientific study.

(5) Any taking pursuant to paragraphs (h)(3) and (4) of this section must be immediately reported to the National Whooping Crane Coordinator, U.S. Fish and Wildlife Service, P.O. Box 100, Austwell, Texas 77950 (Phone: 361–286–3559), who, in conjunction with his counterpart in the Canadian Wildlife Service, will determine the disposition of any live or dead specimens.

(6) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any such species from the experimental populations taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations or the Endangered Species Act.

(7) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (h)(2) through (6) of this section.

(8) The Service will not mandate any closure of areas, including National Wildlife Refuges, during hunting or conservation order seasons or closure or modification of hunting or conservation order seasons in the following situations:

(i) For the purpose of avoiding take of whooping cranes in the NEPs identified in paragraphs (h)(9)(i) through (iv) of this section;

(ii) If a clearly marked whooping crane from the NEPs identified in paragraphs (h)(9)(i) through (iv) of this section wanders outside the designated NEP areas. In this situation, the Service will attempt to capture the stray bird and return it to the appropriate area if removal is requested by the State.

(9) All whooping cranes found in the wild within the boundaries listed in paragraphs (h)(9)(i) through (iv) of this section will be considered nonessential experimental animals. Geographic areas the nonessential experimental populations may inhabit are within the historic range of the whooping crane in

the United States and include the following:

(i) The entire State of Florida (the Kissimmee Prairie NEP). The reintroduction site is the Kissimmee Prairie portions of Polk, Osceola, Highlands, and Okeechobee Counties. The experimental population released at Kissimmee Prairie is expected to remain mostly within the prairie region of central Florida.

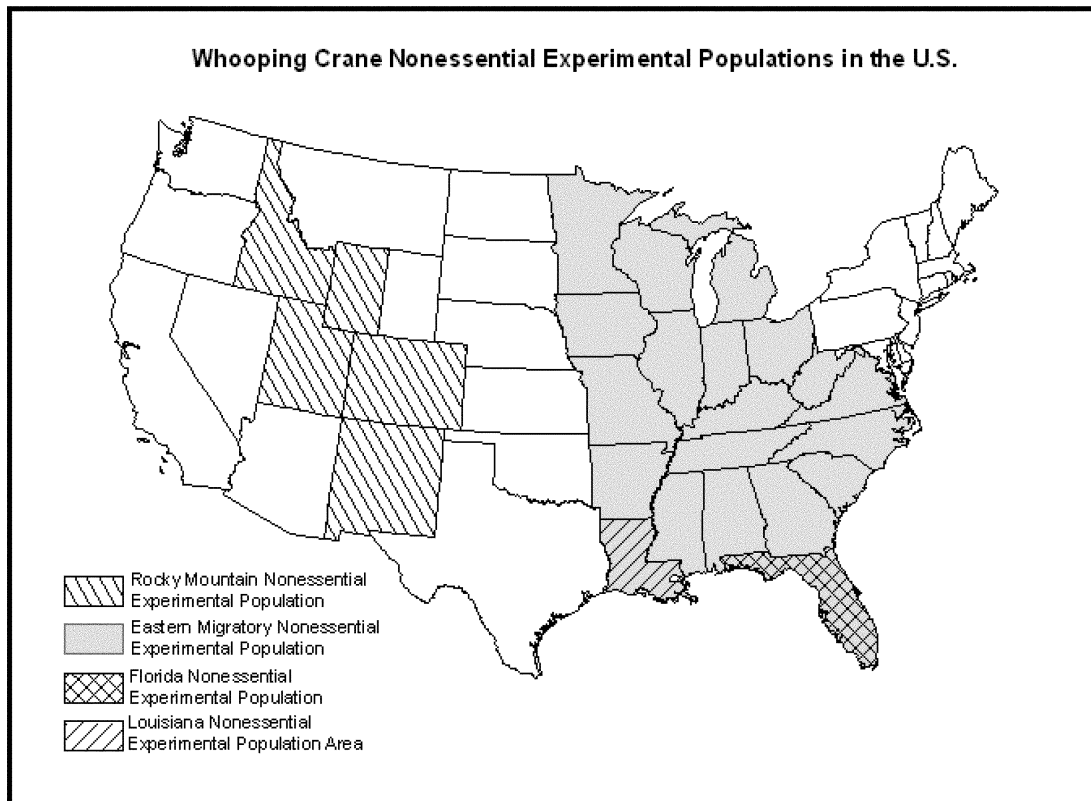
(ii) The States of Colorado, Idaho, New Mexico, Utah, and the western half of Wyoming (the Rocky Mountain NEP).

(iii) That portion of the eastern contiguous United States which includes the States of Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin (the Eastern Migratory NEP). Whooping cranes within this population are expected to occur mostly within the States of Wisconsin, Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida. The

additional States included within the experimental population area are those expected to receive occasional use by the cranes, or which may be used as breeding or wintering areas in the event of future population expansion.

(iv) The entire State of Louisiana (the Louisiana Nonmigratory NEP). The reintroduction site is the White Lake Wetlands Conservation Area of southwestern Louisiana in Vermilion Parish. Current information indicates that White Lake is the historic location of a resident, nonmigratory population of whooping cranes that bred and reared young in Louisiana. Whooping cranes within this nonmigratory population are expected to occur mostly within the White Lake Wetlands Conservation Area and the nearby wetlands in Vermilion Parish. The marshes and wetlands of southwestern Louisiana are expected to receive occasional use by the cranes and may be used in the event of future population expansion.

(v) A map of all NEP areas in the United States for whooping cranes follows:



(10) The reintroduced populations will be monitored during the duration of the projects by the use of radio telemetry and other appropriate measures. Any animal that is determined to be sick, injured, or

otherwise in need of special care will be recaptured to the extent possible by Service and/or State wildlife personnel or their designated agent and given appropriate care. Such animals will be released back to the wild as soon as

possible, unless physical or behavioral problems make it necessary to return them to a captive-breeding facility.

(11) The Service will reevaluate the status of the experimental populations periodically to determine future

management needs. This review will take into account the reproductive success and movement patterns of the individuals released within the experimental population areas.

\* \* \* \* \*

Dated: August 9, 2010.

**Jane Lyder,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2010-20522 Filed 8-18-10; 8:45 am]

**BILLING CODE 4310-55-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

RIN 0648-AY92

#### Fisheries in the Western Pacific; Hawaii Bottomfish and Seamount Groundfish; Management Measures for Hancock Seamounts to Rebuild Overfished Armorhead

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

**ACTION:** Notice of availability of fishery ecosystem plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Western Pacific Fishery Management Council (Council) proposes to amend the fishery ecosystem plan (FEP) for Hawaii. If approved by the Secretary of Commerce (Secretary), Amendment 2 would continue a moratorium on fishing at Hancock Seamounts for armorhead (*Pseudopentaceros wheeleri*) and other bottomfish and seamount groundfish until the armorhead stock is rebuilt, establish a minimum rebuilding time of 35 years for the U.S. portion of the armorhead stock, and classify the portion of the U.S. Exclusive Economic Zone (EEZ) around the Hancock Seamounts as an ecosystem management area. The intent of this amendment is to rebuild the overfished armorhead stock.

**DATES:** Comments on the amendment must be received by October 18, 2010.

**ADDRESSES:** Comments on the amendment, identified by 0648-AY92, may be sent to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov); or

- Mail: Mail written comments to Michael D. Tosatto, Acting Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700.

Instructions: Comments must be submitted to one of these two addresses to ensure that the comments are received, documented, and considered by NMFS. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. Comments will be posted for public viewing after the comment period has closed. All comments received are a part of the public record and will generally be posted to [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "NA" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 2, containing an environmental assessment and background information, are available from [www.regulations.gov](http://www.regulations.gov) and from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, or web site [www.wpcouncil.org](http://www.wpcouncil.org).

**FOR FURTHER INFORMATION CONTACT:** Jarad Makaiau, NMFS PIR Sustainable Fisheries, 808-944-2108.

**SUPPLEMENTARY INFORMATION:** This document is also available at [www.gpoaccess.gov/fr](http://www.gpoaccess.gov/fr).

Fishing for pelagic armorhead is managed under the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP). Armorhead are overfished as a result of over-exploitation by foreign

vessels in international waters, dating back to at least the 1970s. Although there has never been a U.S. fishery targeting this fish, continued exploitation outside the EEZ by foreign fleets has kept the stock in an overfished condition.

The Hancock Seamounts are the only known armorhead habitat within the U.S. Exclusive Economic Zone (EEZ). These seamounts lie west of 180° W. and north of 28° N., to the northwest of Kure Atoll in the Northwestern Hawaiian Islands. The Council and NMFS have responded to the overfished condition of armorhead with a series of four, 6-year domestic fishing moratoria at the Hancock Seamounts, beginning in 1986. The current 6-year moratorium expires on August 31, 2010.

The Council developed Amendment 2 to establish armorhead rebuilding requirements pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The Council recommended in Amendment 2 that NMFS extend the moratorium at Hancock Seamounts until the armorhead stock is rebuilt, and establish a minimum rebuilding time of 35 years for the U.S. portion of the armorhead stock. The Council also recommended that NMFS classify the portion of the EEZ surrounding the Hancock Seamounts as an ecosystem management area to facilitate research on armorhead and other seamount groundfish.

Public comments on Amendment 2 must be received by October 18, 2010 to be considered by NMFS in the decision to approve, partially approve, or disapprove the amendment. A proposed rule to implement the measures recommended in the amendment has been prepared for Secretarial review and approval. NMFS expect to publish and request public comment on the proposed rule in the near future.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 16, 2010.

**Carrie Selberg,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010-20625 Filed 8-18-10; 8:45 am]

**BILLING CODE 3510-22-S**