

Citation 30 CFR 250 Subpart I and related NTLs	Reporting and/or recordkeeping requirement	Non-Hour cost burdens*		
		Hour burden	Average No. of an- nual reponses	Annual burden hours
Subtotal			1,198 responses	74,700 hours
<b>General Departure</b>				
900 thru 921	General departure and alternative compliance requests not specifically covered elsewhere in Subpart I regulations.	10 hours	10 requests	100 hours
TOTAL BURDEN			1,975 Responses	116,341 Hours
			\$331,079 Non-Hour Cost Burdens	

\* The non-hour cost burdens associated with this ICR relate to cost recovery fees. These fees are based on actual monies received in FY2010 thru the Pay.gov system.

*Estimated Reporting and Recordkeeping Non-Hour Cost Burden:* We have identified four paperwork non-hour cost burdens associated with the collection of information. The costs are specifically broken out in the burden table. The non-hour costs are for: installation under the Platform Verification Program; installation of fixed structures under the Platform Approval Program; installation of Caisson/Well Protectors; and modifications and/or repairs. We have not identified any other non-hour cost burdens associated with this collection of information. We estimate a total reporting non-hour cost burden of \$331,079.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

*Comments:* Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency “\* \* \* to provide notice \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*” Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on November 9,

2010, we published a **Federal Register** notice (75 FR 68814) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR part 250 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received one comment in response to these efforts. The comment received was from another government agency, and it did not affect the paperwork burden, but was in support of the collection of such information.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by April 28, 2011.

*Public Availability of Comments:* Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*BOEMRE Information Collection Clearance Officer:* Arlene Bajusz, (703) 787-1025.

Dated: February 15, 2011.

**Doug Slitor,**  
*Acting Chief, Office of Offshore Regulatory Programs.*

[FR Doc. 2011-7254 Filed 3-28-11; 8:45 am]

**BILLING CODE 4310-MR-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XA020**

**Receipt of Application for an Endangered Species Act Incidental Take Permit**

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

**ACTION:** Notice of receipt of submissions of applications for incidental take permits; availability of a draft habitat conservation plan, a preliminary draft environmental impact statement prepared by the Applicant, and a draft implementation agreement.

**SUMMARY:** The Lewis County, Washington, Board of Commissioners (Applicant) has submitted applications to the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (together, the Services) for incidental take permits (ITPs) under the Endangered Species Act of 1973, as amended (ESA). The Applicant requests ITPs to cover the take of 7 listed and 70 other covered species under the Services’ jurisdictions in conjunction with forest management activities on a class of private lands in Lewis County, Washington. The ITP

application submission includes: A draft Habitat Conservation Plan (HCP) describing the Applicant's proposed actions and the proposed measures the Applicant would implement to minimize, mitigate, and monitor take of listed and other covered species; a preliminary draft Environmental Impact Statement (EIS); and a draft Implementation Agreement (IA). The Services are making the ITP submission package available for public review and comment consistent with a request from the Applicant. The public is invited to submit comments and any other relevant information regarding: the adequacy of the mitigation, minimization, and monitoring measures proposed under the draft Lewis County HCP, particularly with respect to proposed riparian forest buffers, in relation to measures and buffers required under Washington State forest practices regulations; and the adequacy of the draft IA provisions.

**DATES:** All comments from interested parties must be received on or before May 31, 2011.

**ADDRESSES:** Please address written comments to Ken Berg, Project Leader, by U.S. mail to the Washington Fish and Wildlife Office, FWS, 510 Desmond Drive SE., Suite 102, Lacey, WA 98503-1273; by facsimile at (360) 753-9405; or by electronic mail (e-mail) at [LewisCountyHCP@fws.gov](mailto:LewisCountyHCP@fws.gov). Alternatively, you may send comments to Steve Landino, Washington State Director, Habitat Division, NMFS, 510 Desmond Drive SE., Suite 103, Lacey, WA 98503-1273.

**FOR FURTHER INFORMATION CONTACT:** Jim Michaels, at the FWS address above or by telephone at (360) 753-9440, or Dan Guy, at the NMFS address above or by telephone at (360) 534-9342.

**SUPPLEMENTARY INFORMATION:**

**Statutory Authority**

Section 9 of the ESA (16 U.S.C. 1538) and implementing regulations prohibit the taking of animal species listed as endangered or threatened. The term "take" is defined under the ESA (16 U.S.C. 1532(19)) to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. "Harm" is defined by FWS regulation to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). NMFS' definition of "harm" includes significant habitat modification or degradation where it actually kills or injures fish or

wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727; November 8, 1999).

Section 10 of the ESA and implementing regulations specify requirements for the issuance of ITPs to non-Federal landowners for the take of endangered and threatened species caused by actions these landowners propose to implement. Any anticipated take must be incidental to otherwise lawful activities, and it must not appreciably reduce the likelihood of the survival and recovery of the species in the wild; also, ITP holders must minimize and mitigate the impacts of such take to the maximum extent practicable. The applicant must prepare a HCP describing the impact that will likely result from such taking, the strategy for minimizing and mitigating the take, the funding available to implement such steps, alternatives to such taking, and the reasons such alternatives are not being implemented.

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. Under NEPA, a reasonable range of alternatives to the proposed Federal action is developed and considered in the Services' environmental review. Alternatives considered for analysis in an EIS may include: variations in the scope of covered activities; variations in the location, amount, and type of conservation activities; variations in ITP duration; or a combination of these elements. In addition, an EIS will identify potentially significant direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, socioeconomic, and other environmental issues that could occur with implementation of the proposed Federal actions and alternatives. For potentially significant impacts, an EIS may identify avoidance, minimization, or mitigation measures to reduce these impacts, where feasible, to a level below significance. In this instance, the Applicant has provided a preliminary draft EIS to the Services. The Applicant's preliminary draft EIS is being made available to the public. You may request a copy of the preliminary draft EIS by contacting the FWS's Washington Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** above).

For reasons stated in detail below, the preliminary draft EIS was not prepared

under the Services' oversight or involvement and does not represent the Services' analysis or environmental review of the proposed submission.

This notice is provided under section 10(c) of the ESA. This notice does not initiate a public comment period under NEPA. The Services will provide an opportunity for public comment under NEPA, based on a Services-endorsed draft NEPA document, if we determine it is appropriate to continue processing the ITP application.

**Background**

On July 25, 2005, the Services published a notice (70 FR 42533) of the intent to conduct scoping meetings and to gather information to prepare an EIS related to Lewis County seeking ITPs from the Services that would provide increased regulatory certainty for small forest landowners making long-term commitments to forest resource protection. The notice stated that Lewis County believed the assurances embodied in such regulatory certainty might encourage family forest landowners in Lewis County to maintain their property in forest management instead of converting lands to non-forest uses. The notice affirmed that Lewis County was seeking ITPs under which it would in turn provide certificates of inclusion to certain forest landowners, after verifying they meet eligibility criteria and agree to comply with the Lewis County HCP. Eligible landowners would be those that hold lands below the elevation of 1,250 feet within the Chehalis and Cowlitz River watersheds in Lewis County, and harvest less than 2 million board feet of timber per calendar year. As of 2004, approximately 133,000 acres were owned by small forest landowners who met these criteria in Lewis County.

If issued, the ITPs would provide incidental take coverage for activities on a maximum of 200,000 acres in Lewis County. Should Lewis County seek to exceed that acreage, it would need to obtain an ITP amendment, which could be subject to additional analysis, including additional NEPA review. The notice stated that the Washington Department of Natural Resources (DNR) would verify compliance with the Lewis County HCP concurrent with harvest activities, and Lewis County and the Services would conduct additional compliance monitoring at other times. Annual implementation reports would be provided by Lewis County to the Services.

Forestry activities that Lewis County is now proposing for ITP coverage, and for which minimization and mitigation

measures were developed, include the following:

- All activities involved in timber management and harvest, including: mechanical site preparation, prescribed burning, reforestation, vegetation management (other than with herbicides), precommercial thinning, commercial thinning, timber salvage, other commercial harvest (felling, bucking, limbing, yarding, skidding, processing, loading, and hauling) of timber, fire prevention, fire suppression (including mop-up activities), and nonchemical pest control;
- Construction, reconstruction, improvement, maintenance, abandonment, closure, and use of logging roads, spurs, landings, and decking areas;
- Quarrying, processing, and transporting of stone, gravel, and/or dirt for use in roads;
- Administrative activities, such as land surveying, timber cruising, and other resource inventorying;
- All activities required by the HCP or ITP; and
- Entering into and administering access rights, utility rights of way, and recreational and hunting leases.

Species for which Lewis County seeks coverage include 33 species of fish and up to 44 species of wildlife. Seven of the species are currently listed as threatened under the ESA: the Lower Columbia River Chinook salmon (*Oncorhynchus tshawytscha*), Lower Columbia River coho salmon (*O. kisutch*), Columbia River chum salmon (*O. keta*), Lower Columbia River steelhead (*O. mykiss*), marbled murrelet (*Brachyramphus marmoratus*), northern spotted owl (*Strix occidentalis caurina*), and the gray wolf (*Canis lupus*). Fourteen species proposed for coverage are unlisted species for which take authorization would become effective concurrent with their listing, should the

species be listed under the ESA during the permit term.

The draft Lewis County HCP provided with the submission includes a description of the impacts of take on proposed covered species, and proposes a conservation strategy that Lewis County asserts will minimize and mitigate those impacts on each covered species to the maximum extent practicable. In the submission, Lewis County asserts that streams would be protected by a combination of no-harvest and partial-harvest buffers; roads would be designed, constructed, and maintained to minimize erosion and mass wasting; specified numbers of snags, logs, and residual live trees would be retained in uplands; and timber harvest unit size would be restricted to a maximum of 60 acres to minimize potential cumulative effects. Protection of steep and unstable slopes, road construction, and road maintenance would follow Washington State Forest Practices Rules, including any changes made to those rules through the adaptive management process associated with the Washington State Forest Practices Habitat Conservation Plan, which is currently applicable to all lands subject to this submission.

The conservation strategy in the draft HCP provided with the Lewis County submission deviates from the strategies for habitat conservation, including riparian area protection, employed in current Washington State Forest Practices regulations and five other forestry HCPs already approved and operating in Washington State (West Fork Timber Co., Port Blakely Tree Farms, Plum Creek Timber, Washington State Lands DNR, and Green Diamond Timber Co.). Proposed riparian buffers on streams vary by stream width, but are smaller than those in any previously approved forestry HCP in Washington State and those in the current

Washington State Forest Practices regulations (which also are the subject of an ITP) as displayed in Table 1.

Riparian buffers are essential landscape features needed to provide important ecological functions integral to the survival and recovery of salmon and other aquatic species. Appropriately sized riparian buffers facilitate the delivery of adequate amounts of large woody debris to the channel, provide shade to moderate stream temperature, and maintain bank stability by providing root strength. For the buffers proposed in the Lewis County HCP to be found adequate, persuasive evidence would be required to ensure that they would provide a functional supply of recruitable large wood over time, that the wood in the buffer actually does recruit over time to streams in a manner similar to recruitment in a late-seral forest (late-successional, mature or old-growth forest), and that the riparian tree stands moderate stream temperature on the covered lands.

The existing Washington State Forest Practices regulations for riparian buffering provide context for comparison with and analysis of those buffers proposed in the draft Lewis County HCP, because the provisions of the State's regulations and the Washington State Forest Practices Habitat Conservation Plan associated with them are the substance of another ITP, that already is applicable to the proposed covered lands for the Lewis County HCP. In contrast to the riparian buffers proposed in the draft Lewis County HCP provided with the submission, the buffer widths for the Washington State Forest Practices regulations are based on a combination of factors, including water type, fish presence, and the types of practices (such as thinning) that might be employed, depending on a variety of site-determined factors.

Forest Practices Rules/HCP Riparian Buffer Widths					Proposed Lewis County HCP Riparian Buffer Widths					
Stream Class	Buffer Zone	Buffer Width* (ft)			Stream Class	Buffer Zone	Buffer Width (ft)			
		Min	Max				Min	Max		
Fish-Bearing	>10'	Total Buffer	140	200	Fish-Bearing Perennial	>20'	Total Buffer	100		
		No-Cut Zone	50	133			No-Cut Zone	40		
	≤10'	Total Buffer	140	200		5-20'	Total Buffer	80		
		No-Cut Zone	50	80			No-Cut Zone	40		
Non-fish	Perennial	Total Buffer	50 <sup>+</sup>		Non-Fish Ephemeral	5'-10'	Total Buffer	15		
		No-Cut Zone	50				No-Cut Zone	15		
	Seasonal	No Buffer	0			<5'	Total Buffer	35		
							No-Cut Zone	35		

\*Forest Practice Buffer widths are presented for site classes I-III because these are deemed to be the most comparable sites to the majority of lands to be covered by the Proposed Lewis County HCP.

<sup>+</sup>For non-fish bearing perennial streams over 300 feet long, the 50-foot buffer is retained along approximately 50% of stream length.

**Table 1. Comparison of riparian buffer widths in the riparian conservation strategies of the proposed Lewis County HCP and the Forest Practices Rules, which are the implementation procedures for the Forest Practices HCP. A variety of silvicultural prescriptions could be applied within the buffer widths shown above.**

As required by the ESA, the Services are responsible for determining whether a sufficient application for an ITP under section 10 of the ESA meets permit issuance criteria. The conservation strategy and measures in the draft Lewis County HCP provided with the submission have been the subject of extensive consultation and discussion between Lewis County and the Services. Throughout the HCP discussions, the Services have expressed concerns about the adequacy of the riparian prescriptions and the sufficiency of the scientific rationale provided in the applicant's plan, a rationale that now is used in the draft Lewis County HCP. Among measures taken in an effort to remove these concerns, the Services analyzed the results of three separate peer reviews, two of which were independent and one of which NMFS conducted. The general focus of the inquiry was to validate that the applicant was properly modeling the attributes of a late-seral forest for the covered lands and, as a result, properly mimicking those attributes in its proposal for a riparian buffer regime. All of the reviews addressed the metrics, methodology, assumptions, and models that went into the preparation of the draft Lewis County HCP that the applicant provided with this

submission. The first review was provided to the Family Forest Foundation on December 2, 2004, and the second was provided in the fall 2006. The third review was provided on October 5, 2007. These reviews are discussed below and are available upon request by contacting the FWS's Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** above).

The first two peer reviews were conducted by the Sustainable Ecosystems Institute (SEI) in Portland, Oregon, on behalf of the applicant. In the first of the SEI reviews, four reviewers responded to a series of questions relative to natural (unmanaged) forest conditions in Lewis County and the use of Forest Inventory and Analysis (FIA) data plots as inputs to model these conditions. The objective of the modeling was to inform the development of forest management prescriptions in the Lewis County HCP that result in managed, mature riparian forest stands that closely mimic natural, mature riparian forest stand conditions in Lewis County. While SEI summarized the reviewers as "unequivocal" in their support of using FIA data to model natural, mature riparian forest stand conditions in Lewis County, the Services perceived considerable

uncertainty associated within their individual responses. For example, two of the four SEI reviewers could not agree that Lewis County had used the appropriate forest stand parameters to describe the FIA integrated database. The Applicant used the FIA database to identify mature, natural forest stands of approximately 120 years of age that could be used as reference stands. The purpose of these reference stands was to develop target stand conditions to be achieved under the proposed HCP. After further discussion between NMFS and the SEI reviewers about their responses, significant concerns remained that the data used were inappropriate to model unmanaged, natural, mature riparian forest stand conditions.

The second SEI review asked a series of questions of three respected forest ecologists from Oregon about the model being used to predict available large woody debris. SEI summarized their reviews as "somewhat critical," adding that "The panel felt the model used an inappropriate definition of functional wood." The synopsis of panel responses was that the model was combined with unrealistic assumptions relative to the timing of tree fall.

One of the three reviewers cautioned against "developing sweeping conclusions about regional management

based on an untested model.” The reviewer also noted that “the model does not consider several fundamental characteristics of streams and riparian areas.” The reviewer also noted that “another aspect of the report that is misleading is the assertion that this model reduces or eliminates uncertainties that are associated with other models. \* \* \* In many ways, uncertainty is increased by more simple and narrow representations.” This reviewer ended by saying, “The conclusions are overly simplistic, place enormous weight on the evidence from this single model, and fail to provide context for the possible uncertainties associated with this assessment.”

Another reviewer noted: “The output of this model is number and volume of trees that would intersect the nearest bank assuming all the trees within the riparian zone fell at the same time. This is an unrealistic assumption.” The reviewer found that the model “produced un-interpretable results.” This reviewer found that “[t]his model has limited usefulness in evaluating the relative performance of various riparian management strategies on wood recruitment to the stream, which requires a dynamic model framework.” The final reviewer found the model to be very detailed and sophisticated mathematically, but ecologically naive, and noted that the model appeared to ignore current science about the delivery of wood into fish habitat.

The NMFS conducted the third review through its Northwest Fisheries Science Center (Science Center) in Seattle, Washington. The Science Center review found fault with a variety of issues concerning estimates of recruitable large wood that Lewis County asserted would be available following the provisions of the draft Lewis County HCP. Specifically, the Science Center review acknowledged that the Available Functional Large Woody Debris (AFLWD) model relied on in the draft Lewis County HCP does not produce output data that could be translated into estimates of instream wood loads, and pointed out that the model’s effectiveness therefore relied upon assumptions that wood recruitment would occur on the riparian tree stands addressed by the draft HCP as it did in a late-seral stand (*i.e.*, reference conditions), or, in the alternative, that differences in anticipated recruitment would be explained. The Science Center review also concluded it could not be verified that the FIA stand data used to provide input to the AFLWD model are representative of late-seral forest conditions (*i.e.*, reference conditions)

for the covered lands. For example, it was determined that several FIA plots selected for intensive review by the Science Center were not an accurate representation of unmanaged, late-seral forest conditions and probably had been managed for timber harvest. Many of the “reference” stands the applicant selected consisted of stands much less than 120 years of age. To illustrate the problem, the Science Center reviewed data from 17 of the subplots comprising 4 of the 179 data plots used. Some of the subplots had stand ages as young as 20 years. The mean age of all 17 subplots was 72 years, much younger than the targeted 120-year-old natural stand age.

Following this finding, the Applicant removed these and other stand data it found to be inappropriate and asserted that there was no change of significance in the model outputs as a result. Unfortunately, the Services are unable to verify that the remaining plot data used in the model overcome the above concerns and are appropriate, because the locations of the FIA plots are confidential and, as a result, it is not possible to determine what forest attributes (for example, late-seral or managed) are reflected in the data.

In addition, the model used by the Applicant included an assumption of 472 existing conifers per acre on average in the proposed “no-cut” portion of riparian areas on covered lands. Non-random visits in October 2008 to dozens of accessible riparian sites on covered lands by Science Center staff found that most had few conifers within the proposed no-cut buffer and many had no conifers at all. Many of the no-cut buffers observed were dominated by alders, with an understory of grasses, often reed canary grass, with little indication of conifer regeneration. In addition to the three reviews, the Services received another outside review of the conservation strategy contained in the draft Lewis County HCP that was critical of the strategy. On June 2, 2008, the Quinault Indian Nation, through its consultant ARC Consultants, presented NMFS with “A Critical Review of the Family Forest Habitat Conservation Plan” (Quinault review). The Quinault review supported the Services’ continuing concerns that the draft Lewis County HCP is not based on the best available science and that it develops riparian targets that are not representative of unmanaged riparian forests. The Quinault review refers to Washington’s Cooperative Monitoring, Evaluation, and Research Committee “Desired Future Condition (DFC) Validation Study” (DFC Study) (Schuett-Hames *et al.*, 2005). This report is available at <http://www.dnr.wa.gov/>

[Publications/fp\\_cmer\\_05\\_507.pdf](#). It was prepared under a process supporting the implementation of the Washington State Forest Practices HCP. The peer-reviewed DFC Study focuses on data from fully stocked riparian stand plots and establishes an appropriate standard by which to measure mature riparian stand conditions (in which at least 30 percent of the sites are occupied by crowns of dominant and co-dominant conifers between 80 and 200 years of age and show no past harvest activity).

Finally, many of the proposed covered lands are within the Chehalis River Basin, which currently is “water quality impaired” for temperature under the Clean Water Act. The Washington State Department of Ecology, based on a review of the draft Lewis County HCP prescriptions related to water quality, submitted a memo to the Services on August 4, 2010, that includes the following findings: The draft Lewis County HCP (1) is based on a combination of selective weak outdated statistical models with optimistic assumptions on riparian input conditions that do not match the riparian conditions that will be encountered on the ground or that are permitted during the life of the HCP; (2) is not based on attributes that are unique to Lewis County or small landowners, but only on the interpretation of models and assumptions that are neither calibrated nor validated for that purpose; (3) lacks robust adaptive management and effectiveness monitoring components and feedback processes to ensure that the requirements of the HCP are tested and changed to meet protective assumptions; and (4) allows extensive tree removal adjacent to narrow, no-harvest zones immediately adjacent to streams that will decrease shade and degrade riparian microclimate for the stream.

These reviews and discussions with the peer reviewers and other commenters have highlighted the Services’ concerns about the adequacy of the draft Lewis County HCP to appropriately conserve the habitat requirements of covered species, particularly the covered aquatic species. The Services continue to be concerned about the information in the draft HCP relating to the amount of large woody debris produced in the covered riparian areas over time. Under the draft HCP, the amount of large woody debris produced in these areas would not be adequate and would not meet requirements for wood produced by the riparian buffers in any of the other six approved HCPs in Washington. While

this fact alone is not fatal to the proposal, the applicant's reliance on the FIA data does not justify the reduced buffer size proposed under the draft HCP by sufficiently differentiating the late-seral forest conditions on proposed covered lands in Lewis County from late-seral conditions on covered lands in these other HCPs. While the volume of information provided by the Applicant to support its assertions is substantial, the type and quality of the information is insufficient to allow analysts to clearly and fully understand how the conclusions reached in the draft Lewis County HCP are supported.

The base mitigation strategy, or initial minimization and mitigation measures that are implemented in any HCP, should be sufficiently vigorous so that the Services may reasonably determine they will be successful. The adaptive management program should address uncertainties associated with that determination and improve knowledge over time. In this instance, and as described above, the Services question whether the proposed conservation regime in the Lewis County HCP meets statutory criteria for issuance of an ITP. As currently written, the conservation regime contains substantial biological risk that is not addressed adequately through the adaptive management provisions in the draft HCP. By contrast, the Washington Forest Practices HCP contains an initial mitigation strategy that the Services determined was sufficient, and an extensive adaptive management program.

Typically, HCPs include an IA that, among other things, provides for enforcement of the measures in the HCP, and also for remedies, should any party fail to perform its obligations. A draft IA was among the documents in the applicant's submission; each page of the draft IA contains a statement that the provisions are "subject to change based on the Services' review." The Services believe they have previously and clearly indicated to the applicant that some provisions in the draft IA are inconsistent with the criteria for issuance of an ITP. For example, the Services have advised the Applicant that the draft IA lacks a provision for potential mitigation upon early termination of the ITP (the draft IA suggests, in fact, that the Services make a finding that such mitigation would never be required), lacks compliance details including for enforcement, and omits provisions that establish the accountability of Lewis County for performance of its responsibilities as ITP holder. The draft IA submitted to the Services by the Applicant does not address these concerns.

The Services also believe the preliminary draft EIS provided by Lewis County with the submission is inadequate for the Services' environmental review required under the NEPA for an ITP application submission. The analysis was prepared by the Applicant and does not accurately reflect the views of the Services regarding the effects of the proposal on the human environment. While it is customary for an applicant to prepare the preliminary draft NEPA document for the Services, the Services are responsible for ensuring that the published draft EIS discloses the environmental impacts as determined by the Services. The preliminary draft EIS currently stands only as the Applicant's analysis, and is not a Federal environmental review meeting the statutory and regulatory requirements in NEPA. Typically, the Services work with an applicant to address our concerns; in this case, the Applicant has chosen not to modify the draft EIS in response to the Services' concerns.

On February 12, 2008, the Services met with the Family Forest Foundation, policy representatives from the Washington Department of Ecology, Washington Department of Fish and Wildlife, and the Washington DNR. At that meeting, the State of Washington verbally indicated it did not support the science in the draft HCP and it did not believe that the Lewis County HCP would qualify as an "alternate plan" under the existing Washington State forest practices regulations by providing equivalent or better ecological function than existing forest practices regulations.

#### Availability of Documents

The ITP application submission—which includes a draft HCP, preliminary draft EIS provided by the Applicant, and a draft IA—is available for public inspection, by appointment, between the hours of 8 a.m. and 5 p.m. at the FWS's Washington Fish and Wildlife Office (*see ADDRESSES* above). You may also request copies of the documents by contacting the FWS's Washington Fish and Wildlife Office (*see FOR FURTHER INFORMATION CONTACT* above). The public is invited to submit comments and any other relevant information regarding: The adequacy of the mitigation, minimization, and monitoring measures proposed under the draft Lewis County HCP, particularly with respect to proposed riparian forest buffers in relation to those required under Washington State forest practices regulations; and the adequacy of the draft IA provisions.

All comments received will become part of the public record for this proposed action. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal information—may be made publicly available at any time. While you can ask in your comment to withhold your personal identifying information from public review, this cannot be guaranteed.

Dated: March 21, 2011.

**Richard Hannan,**

*Deputy Regional Director, Region 1, U.S. Fish and Wildlife Service.*

Dated: March 22, 2011.

**Therese Conant,**

*Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2011-7238 Filed 3-28-11; 8:45 am]

BILLING CODE 4310-55-3510-22-P

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS-R6-ES-2011-0022; 92220-1113-0000-C3]

#### **Nonessential Experimental Populations of Gray Wolves in the Northern Rocky Mountains; Lethal Take of Wolves in the West Fork Elk Management Unit of Montana; Draft Environmental Assessment**

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental assessment (EA) of the Montana Department of Fish, Wildlife, and Parks (MFWP) proposal to lethally take wolves in the West Fork Elk Management Unit (EMU) in western Montana in response to impacts on elk populations. The MFWP's proposal was submitted under the Endangered Species Act (ESA) and our special regulations under the ESA for the central Idaho and Yellowstone area nonessential experimental populations of gray wolves in the Northern Rocky Mountains. The draft EA describes the environmental effects of two alternatives: (1) The preferred alternative, which would approve the