

HUD's regulation at 24 CFR 50.3(i)(1) states as a matter of policy that all property to be used in HUD programs be free of hazardous substances, and § 50.3(i)(2) requires that HUD's environmental review include evaluation of previous uses of the site and other evidence of contamination on or near the site, "to assure that occupants of proposed sites are not adversely affected" by hazardous substances. Additionally, FHA's General Insurance Fund (GIF) and Mutual Mortgage Insurance (MMI) Fund can be at legal risk if HUD acquires a property and subsequently a hazardous substance is released or threatened to be released. For these reasons, adoption of the updated standard protects the GIF and MMI Fund from risks stemming from insuring sites with hazardous waste and/or petroleum product contamination. The updated standard will better equip HUD's Office of Housing/FHA staff to assess such risks as the standard includes updated definitions that will more fully inform the Office of Housing/FHA about the environmental conditions on the subject property.

One advantage of ASTM E 1527-13 is that it newly defines Controlled Recognized Environmental Conditions (CREC), which must be identified in the Phase I ESA. The new CREC definition will result in some environmental conditions being listed as CRECs if they have been remediated to restricted levels, as opposed to an unrestricted or de minimis level, and will be a great tool for Office of Housing/FHA staff to assess whether the site is appropriate for residential use. The definition does not create new analyses or documentation, as Phase I ESAs that were compliant with ASTM E 1527-05 would have discussed CRECs in the context of being either a Recognized Environmental Condition (REC) or a Historical Recognized Environmental Condition (HREC).

The ASTM E 1527-13 standard also newly defines migration, which includes hazardous waste or petroleum products in vapor form. Previous to this definition, it was unclear whether vapors had to be assessed under a Phase I ESA, and as a result many Phase I ESA reports did not include this analysis. The new definition will generally not change Office of Housing/FHA Phase I ESA report requirements, however, as the Office of Housing/FHA has required that a Vapor Encroachment Survey performed in accordance with ASTM E 2600-10 be incorporated into the Phase I ESA report for several years, and will continue to do so.

Finally, ASTM E 1527-13 modifies the definitions of HREC to require evaluation of whether a historical release of a hazardous waste or petroleum product that was addressed to the satisfaction of the regulatory authority in the past is considered a REC at the time the Phase I ESA is prepared because of a change in regulatory criteria. Such an analysis was conducted by many Phase I ESA preparers under the past standard, but the modification of the definition clarifies this requirement.

II. Action

ASTM E 1527-13 is formally adopted by the Office of Housing/FHA through this notice. Wherever ASTM E 1527-05 is referenced in Office of Housing/FHA guidance, participants in Office of Housing/FHA programs, funding recipients, FHA-insured mortgagees, and contractors must use ASTM E 1527-13. The Office of Housing/FHA will update guidance documents to reflect the adoption of ASTM E 1527-13 for Phase I ESA reports.

Dated: April 10, 2014.

Carol Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

**[FWS-R2-ES-2014-N040;
FXES11120200000-145-FF02ENEH00]**

Notice of Availability: Draft Environmental Assessment and Draft Oil and Gas Industry Conservation Plan for the American Burying Beetle in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of documents; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental assessment (EA), under the National Environmental Policy Act of 1969 (NEPA), that evaluates the impacts of, and alternatives to the proposed Oil and Gas Industry Conservation Plan (ICP) for incidental take of the federally listed American burying beetle resulting from activities associated with geophysical exploration (seismic), development, extraction, or transport of crude oil, natural gas, and/or other petroleum products, and maintenance, operation,

repair, and decommissioning of oil and gas pipelines and well field infrastructure. The proposed ICP Planning Area consists of 45 counties in Oklahoma. Individual oil and gas companies would apply for Endangered Species Act (ESA) permits for incidental take associated with activities covered in the ICP and agree to comply with the terms and conditions of the ICP.

DATES: *Comments:* We will accept comments received or postmarked on or before April 30, 2014. Comments submitted electronically must be received by 11:59 p.m. Central Time on the closing date. Comments submitted by U.S. mail must be postmarked by the closing date. Any comments we receive after the closing date or not postmarked by the closing date may not be considered in the final decision on this action.

ADDRESSES: *Obtaining Documents:*

- *Internet:* You may obtain copies of the draft EA and draft ICP on the Internet on the Service's Web site at www.fws.gov/southwest/es/oklahoma/ABBICP.

- *U.S. Mail:* A limited number of CD-ROM and printed copies of the draft EA and draft ICP are available, by request, from the Field Supervisor, by mail at Oklahoma Ecological Services Field Office, 9014 E. 21st St., Tulsa, OK 74129; by phone at 918-581-7458; or by fax at 918-581-7467. Please note that your request is in reference to the ICP for ABB in Oklahoma.

- *In-Person:* Copies of the draft EA and draft ICP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
 - U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 6034, Albuquerque, NM 87102.
 - U.S. Fish and Wildlife Service, 9014 E. 21st St., Tulsa, OK 74129.

Comment submission: You may submit written comments by one of the following methods:

- *U.S. Mail:* U.S. Fish and Wildlife Service, 9014 E. 21st St., Tulsa, OK 74129.

- *Electronically:* ABB_ICP@fws.gov.

FOR FURTHER INFORMATION CONTACT:

Alisa Shull, Acting Field Supervisor, by U.S. mail at the U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office, 9014 E. 21st St., Tulsa, OK 74129; or by phone at 918-581-7458.

SUPPLEMENTARY INFORMATION: Under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), this notice advises the public that we, the Service, have gathered the information necessary to determine impacts and formulate alternatives for the draft EA related to

the proposed issuance of incidental take permits (ITPs) under section 10(a)(1)(B) of the ESA to oil and gas companies (Applicants) who agree to the conditions in the Industry Conservation Plan (ICP). The ICP is a habitat conservation plan (HCP) that will cover take of the American burying beetle (ABB) that is incidental to covered activities associated with geophysical exploration (seismic), development, extraction, or transport of crude oil, natural gas, and/or other petroleum products, as well as maintenance, operation, repair, and decommissioning of oil and gas pipelines and well field infrastructure, and will include measures necessary to minimize and mitigate impacts to the covered species and their habitats to the maximum extent practicable.

After the ICP is approved, individual companies may apply for ESA section 10(a)(1)(B) Incidental Take Permits (ITPs) if they agree to implement the ICP. Requested ITPs, if granted, would authorize incidental take of the ABB (covered species) and be in effect from the date of issuance through the life of the ICP (24 months for development, and up to 20 years for operations and maintenance). The ICP Planning Area covers 35,716 square miles in the following 45 Oklahoma counties: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Craig, Creek, Delaware, Garvin, Haskell, Hughes, Johnson, Kay, Latimer, Le Flore, Lincoln, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa, Wagoner, and Washington. No more than 32,234 acres of the 19,612,333 acres of ABB habitat in the Planning Area will be impacted under the ICP.

Background

We developed this short-term ICP to provide project proponents with a mechanism for incidental take authorization for project construction during the next two ABB active seasons (24 months) and up to a 20-year term for operations and maintenance of qualifying projects.

Alternatives

We are considering two alternatives as part of this process:

No Action—No ITPs would be issued under the proposed ICP or a similar short-term HCP. Oil and gas companies in Oklahoma within the range of the ABB would comply with the ESA by avoiding impacts (take) to the covered

species where practicable. If take could not be avoided and a Federal nexus exists (funded, authorized, or carried out by a Federal agency), an operator or individual may receive take coverage through a biological opinion issued by the Service to the Federal action agency. If no Federal involvement exists, Applicants or individuals could apply for an ITP from the Service on a project-by-project basis. Each ITP would require development of an HCP and independent evaluation under NEPA.

Alternative 1: Activities as Proposed in the ICP—This alternative is issuance of ITPs by the Service for covered species in the 45-county ICP Planning Area, pursuant to section 10(a)(1)(B) of the ESA under the approved ICP, which would have a duration of 24 months for development and up to 20 years for operations and maintenance. Incidental take authorized by the requested ITP would result from construction, operation, maintenance, repair, or decommissioning of pipelines or other well field development activities. These activities are summarized below and explained in detail in the ICP.

Exploration and Extraction Activities (Upstream Production):

Exploration activities include seismic activities such as:

- Explosives
- Land vibroseis (where a truck is used to drop a heavy weight on hard surfaces, such as paved roads, to generate the designated frequency)

Extraction activities include construction, operation, maintenance, and reclamation of well field infrastructure, including the following:

- Well pads
- Gas flaring (with adequate flame enclosure)
- Work and access roads
- Electrical distribution lines (under 34.5 kilovolts)
- Off-site impoundments
- Communication towers (under 200 feet, unlit, without guy wires)
- Decommissioning of well field infrastructure

Transport of Petroleum Product (Midstream Development):

This includes gathering, processing/treating, transmission, and distribution of oil, natural gas, or other petroleum products, specifically including the following:

- Construction of gathering, transmission, and distribution pipeline
- Construction of surface ancillary facilities, including:
 - Access roads
 - Booster, compressor, and pump stations
 - Meter stations, mainline valves, pig launchers/receivers, regulator facilities, and other appurtenances

- Natural gas processing and treating facilities
- Communication towers (under 200 feet, unlit, without guy wires)
- Electric distribution lines (under 34.5 kilovolts)
- Electric substations
- Operation and maintenance of pipeline and surface ancillary facilities
- Decommissioning and reclamation of pipeline and surface ancillary facilities

Requested ITPs would be valid in their specific Permit Area within the 45-county ICP Planning Area, and be in effect from the date of issuance through the remaining duration of the ICP.

To meet the requirements of a section 10(a)(1)(B) ITP, the Applicant would agree to the conditions in the ICP, which describes the conservation measures to minimize and mitigate for incidental take of the covered species to the maximum extent practicable.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: March 20, 2014.

David Mendias,

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

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