Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for a scientific research permit (P504G) and modifications to two scientific research permits (P770#66 and P770#68).

SUMMARY: Notice is hereby given that the U.S. Army Corps of Engineers at Walla Walla, WA (Corps) has applied in due form for a permit and the Coastal Zone and Estuarine Studies Division, NMFS in Seattle, WA (CZESD) has applied in due form for modifications to permits to take endangered and threatened species for the purpose of scientific research.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before March 28, 1996.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: The Corps requests a permit and CZESD requests modifications to permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

The Corps (P504G) requests a 5-year permit to directly take juvenile, threatened, Snake River spring/summer and fall chinook salmon (*Oncorhynchus tshawytscha*) and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) and to incidentally take adult, threatened, Snake River spring/summer and fall chinook salmon associated with a study designed to monitor the operation of the new juvenile fish bypass system at Ice Harbor Dam on the Snake River in Washington. Run-of-the-river juvenile fish, a proportion of which will be ESA-listed fish, are proposed to be sampled from the bypass system, anesthetized, handled, allowed to recover from the anesthetic, and released. The primary purpose of sampling will be to ascertain fish condition and thereby certify that the bypass system is functioning correctly. Some adult fish, including listed adult salmon, are expected to fall back through the juvenile bypass system and are proposed to be incidentally captured and handled to return them to the river.

CZESD (P770#66) requests modification 3 to permit 900 to allow their annual take of listed juvenile fish authorized for Study 1, Survival Estimates for the Passage of Juvenile Salmonids through Dams and Reservoirs, to be supplemented with juvenile, listed, Snake River spring/summer chinook salmon captured indirectly by the National Biological Service (NBS), in association with a fall chinook salmon study, under the authority of permit 817. Permit 900 authorizes CZESD to directly take juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon and incidentally take juvenile, threatened, Snake River fall chinook salmon and juvenile, endangered, Snake River sockeye salmon for Study 1. In addition, CZESD would like to add the free-flowing Snake River, upstream of Lower Granite Reservoir, as a primary release location for the listed juvenile fish authorized to be captured and handled for Study 1. CZESD also requests a take of listed species associated with an additional project under Study 1 designed to evaluate the new surface collector at Lower Granite Dam on the Snake River in Washington. Modification 3 would be valid for the duration of Study 1 of the permit. Study 1 of permit 900 expires on December 31, 1998.

CZESD (P770#68) requests modification 2 to permit 946 to adjust for changes in the anticipated 1996 take associated with Study 2, Estuarine Recovery of Passive Integrated Transponder-tagged Juvenile Salmonids from the Lower Granite Dam Transportation Study. Permit 946 authorizes CZESD to take juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon and juvenile, endangered, Snake River sockeye salmon for Study 2. For the modification, CZESD requests an increase in the take of juvenile, endangered, Snake River sockeye salmon. Modification 2 would be valid for the duration of Study 2 of the permit. Study 2 of permit 946 expires on December 31, 1999.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on any of these applications would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in these application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: February 20, 1996.

Russell J. Bellmer,

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

[FR Doc. 96–4336 Filed 2–26–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Guidance on the Application of Best Management Practices to Mechanical Silvicultural Site Preparation Activities for the Establishment of Pine Plantations in the Southeast

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) issued a Memorandum to the Field dated November 28, 1995, on the application of best management practices to mechanical silvicultural site preparation activities for the establishment of pine plantations in the Southeast. The purpose of the guidance is to clarify those circumstances where mechanical silvicultural site preparation activities conducted in accordance with best management practices will not require a Clean Water Act Section 404 permit. Discussions with representatives of the forest industry, environmental organizations and State agencies provided key input during guidance development. The clarification of this site preparation issue relies in large part on State expertise in the development and implementation of best management practices associated with Forestry activities in wetlands. The guidance also discusses EPA and Corps support of follow-up efforts by the States and private interests to promote effective best management practices and protect wetland resources in Southeastern States.

FOR FURTHER INFORMATION CONTACT: Details are available from EPA and Corps field staff listed at the end of the memorandum, or Mr. John Goodin (EPA) at (202) 260–9910 or Mr. Victor Cole (Corps) at (202) 761–0201.

SUPPLEMENTARY INFORMATION: The following is the subject guidance

previously provided to the EPA and Corps field offices.

Daniel R. Burns,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

Memorandum to the Field—Corps and EPA Regulatory Program Chiefs

Subject: Application of Best Management Practices to Mechanical Silvicultural Site Preparation Activities for the Establishment of Pine Plantations in the Southeast.

Date: November 28, 1995.

This memorandum [1] clarifies the applicability of forested wetlands best management practices to mechanical silvicultural site preparation activities for the establishment of pine plantations in the Southeast. Mechanical silvicultural site preparation activities [2] conducted in accordance with the best management practices discussed below, which are designed to minimize impacts to the aquatic ecosystem, will not require a Clean Water Act Section 404 permit. These best management practices further recognize that certain wetlands should not be subject to unpermitted mechanical silvicultural site preparation activities because of the adverse nature of potential impacts associated with these activities on these sites.

This memorandum recognizes State expertise that is reflected in the development and implementation of regionally specific best management practices (BMPs) associated with forestry activities in wetlands. Such BMPs encourage sound silvicultural operations while providing protection of certain wetlands functions and values. The U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA) believe that it is appropriate to apply the Clean Water Act Section 404 program in a manner that builds from, and is consistent with, this State experience. The Agencies will support and assist State efforts to build upon these BMPs at the State level, to ensure that mechanical silvicultural site preparation is conducted in a manner that best reflects the specific wetlands resource protection and management goals of each State.

Introduction

Forested wetlands exhibit a wide variety of water regimes, soils, and vegetation types that in turn provide a myriad of functions and values. The States in the Southeast contain forested wetlands systems that in many cases are also subject to ongoing timber operations. In developing silvicultural BMPs, States have identified those specific forestry practices that will protect water quality. This guidance was developed to respond to questions regarding the applicability of Section 404 to mechanical silvicultural site preparation activities. EPA and the Corps relied extensively on existing State knowledge to protect aquatic ecosystems with BMPs, including the types of wetlands, types of activities, and BMPs described below.

This memorandum reflects information gathered from the southeastern United States, where mechanical silvicultural site preparation activities are associated with the establishment of pine plantations in wetlands.[3] As such, this memorandum, and particularly the descriptions of wetlands, activities, and BMPs, necessarily focus on this area of the country. However, the guidance presented is generally applicable when addressing mechanical silvicultural site preparation activities in wetlands elsewhere in the country.

Circumstances Where Mechanical Silvicultural Site Preparation Activities Requires a Permit

The States, in coordination with the forestry community and the public, have recognized that mechanical silvicultural site preparation activities may have measurable and significant impacts on aquatic ecosystems when conducted in wetlands that are permanently flooded, intermittently exposed, and semi-permanently flooded, and in certain additional wetland communities that exhibit aquatic functions and values that are more susceptible to impacts from these activities. For the wetland types identified in this section, it is most effective to evaluate proposals for site preparation and potential associated environmental effects on a case-by-case basis as part of the individual permit process. Therefore, mechanical silvicultural site preparation activities in the areas listed below require a permit.[4]

A permit will be required in the following areas unless they have been so altered through past practices (including the installation and continuous maintenance of water management structures) as to no longer exhibit the distinguishing characteristics described below (see ''Circumstances Where Mechanical Silvicultural Site Preparation Activities Do Not Require a Permit'' below). Of course, discharges incidental to activities in any wetlands that convert waters of the United States to non-waters always require authorization under Clean Water Act Section 404.

(1) Permanently flooded, intermittently exposed, and semi-permanently flooded wetlands. The hydrology of permanently flooded wetland systems is characterized by water that covers the land surface throughout the year in all years. The hydrology of intermittently exposed wetlands is characterized by surface water that is present throughout the year except in years of extreme drought. The hydrology of semi-permanently flooded wetlands is characterized by surface water that persists throughout the growing season in most years and, when it is absent, the water table is usually at or very near the land surface.[5] Examples typical of these wetlands include Cypress-Gum Swamps, Muck and Peat Swamps, and Cypress Strands/Domes.

(2) Riverine Bottomland Hardwood wetlands: seasonally flooded (or wetter) bottomland hardwood wetlands within the first or second bottoms of the floodplains of river systems. Site-specific characteristics of hydrology, soils, vegetation, and the presence of alluvial features elaborated in paragraphs a, b, and c below will be determinative of the boundary of riverine bottomland hardwood wetlands. National Wetlands Inventory maps can provide a useful reference for the general location of these wetlands on the landscape.

(a) the hydrologic characteristics included in this definition refer to seasonally flooded or wetter river floodplain sites where overbank flooding has resulted in alluvial features such as well-defined floodplains, bottoms/terraces, natural levees, and

[1] This guidance is written to provide interpretation and clarification of existing EPA and Corps regulations and does not change any substantive requirements of these regulations. This memorandum is further intended to provide clarification regarding the exercise of discretion under current agency regulations.

[2] Mechanical silvicultural site preparation activities include shearing, raking, ripping, chopping, windrowing, piling, and other similar physical methods used to cut, break apart, or move logging debris following harvest for the establishment of pine plantations.

[3] Information was considered from the following States in the Southeast: Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Louisiana, and Arkansas.

[4] The community descriptions draw extensively from: Schafale, M.P., and A.S. Weakley, 1990. Classification of the Natural Communities of North Carolina. North Carolina Natural Heritage Program, Raleigh, NC. 325pp.

[5] Cowardin, L.M., et al. 1979. Classification of wetlands and deepwater habitats of the United States. U.S. Fish and Wildlife Service, Washington, DC. 131pp.

backswamps. For the purposes of this guidance definition, ''seasonally flooded'' bottomland hardwood wetlands are characterized by surface water that is present for extended periods, especially early in the growing season [6] (usually greater than 14 consecutive days), but is absent by the end of the season in most years. When surface water is absent, the water table is often near the land surface. Field indicators of the presence of surface water include water-stained leaves, drift lines, and water marks on trees.

(b) the vegetative characteristics included in this definition refer to forested wetlands where hardwoods dominate the canopy. For the purposes of this guidance definition, riverine bottomland hardwoods do not include sites in which greater than 25% of the canopy is pine.

(c) The soil characteristics included in this definition refer to listed hydric soils that are poorly drained or very poorly drained. For the purposes of this guidance definition, riverine bottomland hardwoods do not include sites with hydric soils that are somewhat poorly drained or that, at a particular site, do not demonstrate chroma, concretions, and other field characteristics verifying it as a hydric soil.

(3) White Cedar Swamps: wetlands, greater than one acre in headwaters and greater than five acres elsewhere, underlain by peat of greater than one meter, and vegetated by natural white cedar representing more than 50% of the basal area, where the total basal area for all tree species is 60 square feet or greater.

(4) Carolina Bay wetlands: oriented, elliptical depressions with a sand rim, either (a) underlain by clay-based soils and vegetated by cypress; or, (b) underlain by peat of greater than one-half meter and typically vegetated with an overstory of Red, Sweet, and Loblolly Bays.

(5) Non-riverine Forest Wetlands: wetlands in this group are rare, high quality wet forests, with mature vegetation, located on the Southeastern coastal plain, whose hydrology is dominated by high water tables. Two forest community types fall into this group: [7]

(a) Non-riverine Wet Hardwood Forests—poorly drained mineral soil interstream flats (comprising 10 or more contiguous acres), typically on the margins of large peatland areas, seasonally flooded or saturated by high water tables, with vegetation dominated (greater than 50% of basal area per acre) by swamp chestnut oak, cherrybark oak, or laurel oak alone or in combination.

(b) Non-riverine Swamp Forests—very poorly drained flats (comprising 5 or more contiguous acres), with organic soils or mineral soils with high organic content, seasonally to frequently flooded or saturated by high water tables, with vegetation dominated by bald cypress, pond cypress, swamp tupelo, water tupelo, or Atlantic white cedar alone or in combination.

The term ''high quality'' used in this characterization refers to generally undisturbed forest stands, whose character is not significantly affected by human activities (e.g., forest management). Non-riverine Forest wetlands dominated by red maple, sweetgum, or loblolly pine alone or in combination are not considered to be of high quality, and therefore do not require a permit.

(6) Low Pocosin wetlands: central, deepest parts of domed peatlands on poorly drained interstream flats, underlain by peat soils greater than one meter, typically vegetated by a dense layer of short shrubs.

(7) Wet Marl Forests: hardwood forest wetlands underlain with poorly drained marl-derived, high pH soils.

(8) Tidal Freshwater Marshes: wetlands regularly or irregularly flooded by freshwater with dense herbaceous vegetation, on the margins of estuaries or drowned rivers or creeks.

(9) Maritime Grasslands, Shrub Swamps, and Swamp Forests: barrier island wetlands in dune swales and flats, underlain by wet mucky or sandy soils, vegetated by wetland herbs, shrubs, and trees.

Circumstances Where Mechanical Silvicultural Site Preparation Activities Do Not Require a Permit

Mechanical silvicultural site preparation activities in wetlands that are seasonally flooded, intermittently flooded, temporarily flooded, or saturated, or in existing pine plantations and other silvicultural sites (except as listed above), minimize impacts to the aquatic ecosystem and do not require a permit if conducted according to the BMPs listed below. Of course, silvicultural practices conducted in uplands never require a Clean Water Act Section 404 permit.

The hydrology of seasonally flooded wetlands is characterized by surface water that is present for extended periods, especially early in the growing season, but is absent by the end of the season in most years (when surface water is absent, the water table is often near the surface). The hydrology of intermittently flooded wetland systems is characterized by substrate that is usually exposed, but where surface water is present for variable periods without detectable seasonable periodicity. The hydrology of temporarily flooded wetlands is characterized by surface water that is present for brief periods during the growing season, but also by a water table that usually lies well below the soil surface for most of the season. The hydrology of saturated wetlands is characterized by substrate that is saturated to the surface for extended periods during the growing season, but also by surface water that is seldom present.[8] Examples typical of these wetlands include Pine Flatwoods, Pond Pine Woodlands, and Wet Flats (e.g., certain pine/hardwood forests).

Best Management Practices

Every State in the Southeast has developed BMPs for forestry to protect water quality and all but two have also developed specific BMPs for forested wetlands. These BMPs have been developed because silvicultural practices have the potential to result in impacts to the aquatic ecosystem. Mechanical silvicultural site preparation activities include shearing, raking, ripping, chopping, windrowing, piling, and other similar physical methods used to cut, break apart, or move logging debris following harvest. Impacts such as soil compaction, turbidity, erosion, and hydrologic modifications can result if not effectively controlled by BMPs. States have developed BMPs that address not only types of wetlands and types of activities, but also detail specific measures to protect water quality through establishing special management zones, practices for stream crossings, and practices for forest road construction.

In developing forested wetlands BMPs, States in the Southeast have recognized that certain silvicultural site preparation techniques are more effective when conducted in areas that have drier water regimes. The BMPs stated below represent a composite of State expertise to protect water quality from silvicultural impacts. These BMPs also address the location, as well as the nature, of activities. The Corps and EPA believe that these forested wetlands BMPs are effective in protecting water quality and therefore are adopting them

[6] Consistent with the 1987 Corps of Engineers Wetlands Delineation Manual, growing season starting and ending dates are determined by the 28 degrees F or lower temperature threshold.

[7] These forest types are a subset of those described in Schafale and Weakley, 1990.

[8] Cowardin et al., 1979.

to protect these functions and values considered under Section 404.

The following forested wetlands BMPs are designed to minimize the impacts associated with mechanical silvicultural site preparation activities in circumstances where these activities do not require a permit (authorization from the Corps is necessary for discharges associated with silvicultural site preparation in wetlands described above as requiring a permit [9]). The BMPs include, at a minimum, the following:

(1) position shear blades or rakes at or near the soil surface and windrow, pile, and otherwise move logs and logging debris by methods that minimize dragging or pushing through the soil to minimize soil disturbance associated with shearing, raking, and moving trees, stumps, brush, and other unwanted vegetation;

(2) conduct activities in such a manner as to avoid excessive soil compaction and maintain soil tilth;

(3) arrange windrows in such a manner as to limit erosion, overland flow, and runoff;

(4) prevent disposal or storage of logs or logging debris in streamside management zones—defined areas adjacent to streams, lakes, and other waterbodies—to protect water quality;

(5) maintain the natural contour of the site and ensure that activities do not immediately or gradually convert the wetland to a non-wetland; and

(6) conduct activities with appropriate water management mechanisms to minimize off-site water quality impacts.

Implementation

EPA and the Corps will continue to work closely with State forestry agencies to promote the implementation of consistent and effective BMPs that facilitate sound silvicultural practices. In those States where no BMPs specific to mechanical silvicultural site preparation activities in forested wetlands are currently in place, EPA and the Corps will coordinate with those States to develop BMPs. In the interim, mechanical silvicultural site preparation activities conducted in accordance with this guidance will not require a Section 404 permit.

In order to ensure consistency in the application of this guidance over time, changes to the vegetation of forested wetlands associated with human activities conducted after the issuance of this guidance will not alter its applicability. For example, this guidance is not intended to establish the requirement for a permit for mechanical silvicultural site preparation where tree harvesting results in the establishment of site characteristics for which a permit would otherwise be required (e.g., where the selective cutting of naturally occurring pine in a Riverine Bottomland Hardwood wetland site with originally greater than 25% pine in the canopy results in a site ''where hardwoods dominate the canopy''). In a similar manner, while harvesting of timber consistent with the requirements of Section 404(f) is exempt from regulation and natural changes (e.g., wildfire, succession) may change site characteristics, human manipulation of the vegetative characteristics of a site does not alter its status for the purposes of this guidance (e.g., removal of all the Atlantic White Cedar in an Atlantic White Cedar Swamp does not eliminate the need for a permit for mechanical silvicultural site preparation if the area would have required a permit before the removal of the trees).

Finally, the Agencies will encourage efforts at the State level to identify additional wetlands which may be of special concern and could be incorporated into State BMPs and cooperative programs, initiatives, and partnerships to protect these wetlands. To facilitate this effort, stakeholders are encouraged to develop a process after the issuance of this guidance to identify and protect unique and rare wetland sites on lands of the participating stakeholders. EPA and the Corps will monitor the application of this guidance, progress with conserving special wetland sites through cooperative programs and initiatives, and consider any new information, such as advances in silvicultural practices, improvements to State BMPs, or data relevant to potential impacts to wetlands, to determine whether the list of wetlands subject to the permit requirement should be modified or other revisions to this guidance are appropriate.

Further Information

The Corps and EPA will work closely with the States, forestry community, and public to answer any questions that may arise with regard to this guidance. For further information on this memorandum, please contact Mr. John Goodin of EPA's Wetlands Division at (202) 260–9910 or Mr. Sam Collinson of the Corps of Engineer's Regulatory Branch at (202) 761–0199. The public may also contact:

EPA Region IV: Tom Welborn (404) 347–3871 ext. 6507
EPA Region VI: Bill Cox (214) 665–6680
EPA Region III: Barbara D'Angelo (215) 597–9301
Corps Wilmington District: Wayne Wright (910) 251–4630
Corps Charleston District: Bob Riggs (803) 727–4330
Corps Savannah District: Nick Ogden (912) 652–5768
Corps Jacksonville District: John Hall (904) 232–1666
Corps Norfolk District: Woody Poore (804) 441–7068
Corps Mobile District: Ron Krizman (334) 690–2658
Corps Little Rock District: Louie Cockman (501) 324–5296
Corps Memphis District: Larry Watson (901) 544–3471
Corps Nashville District: Randy Castleman (615) 736–5181
Corps New Orleans District: Ron Ventola (504) 862–2255
Corps Vicksburg District: Beth Guynes (601) 631–5276

Robert H. Wayland, III,

Director, Office of Wetlands, Oceans, and Watersheds, Environmental Protection Agency.

Michael L. Davis,

Chief, Regulatory Branch, U.S. Army Corps of Engineers

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BILLING CODE 3710–92–M

[9] Contact the nearest Corps District listed at the end of this document for further information.

DEPARTMENT OF EDUCATION

[CFDA No.: 84.162A]

Emergency Immigrant Education Program

Notice inviting applications for new awards for fiscal year (FY) 1996.

Purpose of Program: This program provides grants to State educational agencies (SEAs) to assist local educational agencies (LEAs) that experience large increases in their student population due to immigration. These grants are to be used to provide high-quality instruction to immigrant children and youth and to help those children and youth make the transition into American society and meet the same challenging State performance standards expected of all children and youth.

Eligible Applicants: State educational agencies.

Deadline for Transmittal of Applications: May 15, 1996.

Deadline for Intergovernmental Review: July 15, 1996.

Applications Available: February 28, 1996.

Available Funds: $37.5 million.

Note: The Department is not bound by any estimates in this notice.