

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order, and has determined that the rule's requirements do not constitute a taking. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 15, 2002.

Bertram C. Frey,

Acting Regional Administrator, Region 5.
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH 31

Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period and Notice of Availability of Draft Economic Analysis for Proposed Critical Habitat Determination for the Carolina Heelsplitter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of public comment period and availability of draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the draft economic analysis for the proposed designation of critical habitat for the Carolina heelsplitter (*Lasmigona decorata*). We also provide notice that the public comment period for the proposal is reopened to allow all interested parties to submit written comments on the proposal and the draft economic analysis. Comments previously submitted during the comment period need not be resubmitted as they will be incorporated into the public record and will be fully considered in the final determination on the proposal.

DATES: The original comment period closed on September 10, 2001. The comment period is hereby reopened until April 5, 2002. We must receive comments from all interested parties by the closing date. Any comments that we receive after the closing date will not be considered in the final decision on this proposal.

ADDRESSES: Copies of the draft economic analysis can be obtained by writing to or calling the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801; telephone 828/258–3939.

If you wish to comment, you may submit your comments by any one of several methods:

1. You may submit written comments and information to the State Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801.

2. You may hand-deliver written comments to our Asheville Field Office, at the above address or fax your comments to 828/258–5330.

Comments and materials received, as well as supporting documentation used

in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John A. Fridell, Fish and Wildlife Biologist (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

The Carolina heelsplitter is a medium sized freshwater mussel, reaching up to about 114.8 millimeters (4.6 inches in length), with a greenish brown to dark brown shell (Keferl 1991). It currently has a very fragmented, relict distribution but historically was known from several locations within the Catawba and Pee Dee River systems in North Carolina and the Pee Dee and Savannah River systems, and possibly the Saluda River system, in South Carolina (Clarke 1985, Keferl and Shelly 1988, Keferl 1991). Recent collection records (Keferl and Shelly 1988; Keferl 1991; Alderman 1995, 1998a, and 1998b; North Carolina Wildlife Resources Commission 1999 and 2000) indicate that the Carolina heelsplitter has been eliminated from the majority of its historical range, and only six populations of the species are known to exist. In Union County, North Carolina, one small remnant population occurs in Waxhaw Creek, a tributary to the Catawba River, and another small population occurs in both Goose Creek, a tributary in the Rocky River, and Duck Creek, a tributary to Goose Creek, in the Pee Dee River system. In South Carolina, there are four small surviving populations—one each in the Pee Dee and Catawba River systems and two in the Savannah River system. The population in the Pee Dee River system occurs in a relatively short reach of the Lynches River in Chesterfield, Lancaster, and Kershaw Counties and extends into Flat Creek, a tributary to the Lynches River in Lancaster County. In the Catawba River system, the species survives only in a short reach of Gills Creek in Lancaster County. In the Savannah River system, one population is found in Turkey Creek in Edgefield and McCormick Counties, and two of its tributaries, Mountain Creek and Beaverdam Creek in Edgefield County; and another smaller population survives in Cuffytown Creek, in Greenwood and McCormick Counties. Despite extensive surveys, no evidence of a surviving population has been found in recent years in the Saluda River system (Keferl and Shelly 1988; Keferl 1991; Alderman 1998a). Several factors adversely affecting the water and habitat quality of our creeks and rivers are believed to

have contributed to the decline and loss of populations of the Carolina heelsplitter and threaten the remaining populations. These factors include pollutants in wastewater discharges (sewage treatment plants and industrial discharges); habitat loss and alteration associated with impoundments and other stream alteration activities; and increased stormwater run-off and the run-off of silt, fertilizers, pesticides, and other pollutants from poorly implemented land-use activities (Service 1993, 1997, and 2001).

The Carolina heelsplitter requires cool, clean, well oxygenated water. It has been recorded from a variety of substrata (including mud, clay, sand, gravel, and cobble/boulder/bedrock) without significant silt accumulations, along stable, well-shaded stream banks (Keferl and Shelly 1988, Keferl 1991). The stability of the stream banks and stream-bottom substrata appear to be critical to the species (Service 1993, 1997, and 2001).

We listed the Carolina heelsplitter as endangered (58 FR 34926) under the Endangered Species Act of 1973, as amended (Act) on June 30, 1993. On July 11, 2001, we published in the **Federal Register** a proposal to designate critical habitat for this species (66 FR 36229). The proposal includes approximately 7.2 kilometers (km)—4.5 miles (mi)—of Goose Creek, 8.8 km (5.5 mi) of Duck Creek, and 19.6 km (12.25 mi) of Waxhaw Creek in Union County, North Carolina; 18.4 km (11.5 mi) of Flat Creek and 9.6 km (6.0 mi) of Gills Creek in Lancaster County, South Carolina; 23.6 km (14.75 mi) of the Lynches River in Lancaster, Chesterfield, and Kershaw Counties, South Carolina; 11.2 km (7.0 mi) of Mountain Creek and 10.8 km (6.75 mi) of Beaverdam Creek in Edgefield County, South Carolina; 18.4 km (11.5 mi) of Turkey Creek in Edgefield and McCormick Counties, South Carolina; and 20.8 km (13.0 mi) of Cuffytown Creek in Greenwood and McCormick Counties, South Carolina. All of the stream reaches proposed for designation as critical habitat for the Carolina heelsplitter are within the current occupied range of the species and include all known occurrences of the species.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the

area as critical habitat, provided such exclusion will not result in the extinction of the species. Consequently, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES** section).

Public Comments Solicited

We solicit comments on the draft economic analysis described in this notice, as well as any other aspect of the proposed designation of critical habitat for the Carolina heelsplitter. Our final determination on the proposed critical habitat will take into consideration comments and any additional information received by the date specified above. All previous comments and information submitted during the comment period need not be resubmitted. Written comments may be submitted to the State Supervisor (see **ADDRESSES** section).

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Referenced Cited

A complete list of all references cited in this document is available upon request from the Asheville Field Office (see **ADDRESSES** section).

Author

The primary author of this document is John A. Fridell (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: February 26, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02-5275 Filed 3-5-02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 022502A]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: On March 4, 2002, NMFS published a notification announcing that the New England Fishery Management Council (Council) will hold a 2-day Council meeting on March 19 and 20, 2002, to consider actions affecting New England fisheries in the U.S. exclusive economic zone (EEZ). This document republishes the March 4th document in its entirety and supplements the notification by providing additional information concerning a presentation by the Northeast Fisheries Science Center concerning the Northeast multispecies groundfish reference points. In addition, this document provides additional information concerning Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan.

DATES: The meeting will be held on Tuesday and Wednesday, March 19 and 20, 2002. The meeting will begin at 9 a.m. on Tuesday and 8:30 a.m. on Wednesday.

ADDRESSES: The meeting will be held at the Mystic Hilton Hotel, 20 Coogan Boulevard, Mystic, CT 06355; telephone (860) 572-0731. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465-0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465-0492.

SUPPLEMENTARY INFORMATION: On March 4, 2002, NMFS published a notification in the **Federal Register** (67 FR 9646) of the Council's 2-day meeting scheduled for March 19 and 20, 2002, to consider actions affecting New England fisheries in the EEZ. This action republishes the March 4, 2002, notification in its entirety and provides additional information concerning the Northeast multispecies groundfish reference points and Amendment 10 to the