

from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

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

*Drafting Information*—William Knauer drafted these regulations under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Warren Eastland, Alaska Regional Office, Bureau of Indian Affairs; Greg Bos, Alaska Regional Office, U.S. Fish and Wildlife Service; and Ken Thompson, USDA-Forest Service provided additional guidance.

## List of Subjects

### 36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

### 50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Dated: July 24, 2002.

**Kenneth E. Thompson,**  
Subsistence Program Manager, USDA-Forest Service.

**Peggy Fox,**  
Acting Chair, Federal Subsistence Board.  
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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

#### 42 CFR Part 68d

#### RIN 0925-AA18

### Public Health Service; National Institutes of Health Loan Repayment Program for Research Generally (GR-LRP)

**AGENCY:** National Institutes of Health, Public Health Service, HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The National Institutes of Health (NIH) proposes to issue regulations to implement section 487C of the Public Health Service Act, as amended, authorizing the NIH Loan Repayment Program for Research Generally. The purpose of the program is to recruit and retain appropriately qualified health professionals, as employees of the NIH, to conduct research by providing repayment of qualified educational loans.

**DATES:** Comments must be received on or before October 4, 2002, in order to assure that NIH will be able to consider the comments in preparing the final rule.

**ADDRESSES:** Comments should be sent to Jerry Moore, NIH Regulations Officer, Office of Management Assessment, NIH, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20892. Comments may also be sent electronically by FAX (301-402-0169) or e-mail (*jm40z@nih.gov*).

**FOR FURTHER INFORMATION CONTACT:** Jerry Moore at the address above or telephone 301-496-4607 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On June 10, 1993, the United States Congress enacted the NIH Revitalization Act of 1993 (Public Law 103-43). Section 1621 of Pub. L. 103-43 amended the Public Health Service (PHS) Act by adding a new section 487C (42 U.S.C. 288-3). Subsequently, section 410 of the Health Professions Education Partnership Act of 1998 (Public Law 105-392), enacted on November 13, 1998, amended section 487C. As amended, section 487C directs the Secretary to implement and establish a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct research as employees of NIH for a period of at least three years, research in consideration of the Federal Government agreeing to repay, for each year of service, not more than \$35,000 of the principal and interest of the

educational loans of such health professionals. This program is known as the NIH Loan Repayment Program for Research Generally (GR-LRP). Section 487C further states that the provisions of subpart III of part D of title III of the PHS Act, which apply to the National Health Service Corps Loan Repayment Program, apply to the Loan Repayment Program for Research Generally, except to the extent they are inconsistent with the provisions of section 487C. The NIH is proposing to amend title 42 of the Code of Federal Regulations by adding a new part 68d to govern the administration of this loan repayment program.

The proposed regulations specify the scope and purpose of the program, who is eligible to apply, how individuals apply to participate in the program, how participants are selected, and the terms and conditions of the program. The purpose of this notice is to invite public comment on the proposed regulations. The following is provided as public information.

### Executive Order 12866

Executive Order 12866, Regulatory Planning and Review, requires that all regulatory actions reflect consideration of the costs and benefits they generate, and that they meet certain standards, such as avoiding the imposition of unnecessary burdens on the affected public. If a regulatory action is deemed to fall within the scope of the definition of the term "significant regulatory action" contained in § 3(f) of the Order, pre-publication review by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) is necessary. The OIRA reviewed this proposed rule under Executive Order 12866 and is deemed a significant regulatory action.

### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires that regulatory proposals be analyzed to determine whether they create a significant impact on a substantial number of small entities. The Secretary certifies that any final rule resulting from this proposal will not have any such impact.

### Executive Order 13132

Executive Order 13132, Federalism, requires that federal agencies consult with State and local government officials in the development of regulatory policies with federalism implications. The Acting Director, NIH, reviewed the proposed rule as required under the Order and determined that it does not have any federalism implications. The Secretary certifies that

the proposed rule will not have an effect on the States, or on the distribution of power and responsibilities among the various levels of government.

### Paperwork Reduction Act

This proposed rule does not contain any information collection requirements which are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The application forms used by the NIH Loan Repayment Program for Research Generally have been approved by OMB under OMB No. 0925-0361 (expires December 31, 2004).

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbered program affected by the proposed regulations is:

93.232—NIH Loan Repayment Program for General Research

### List of Subjects in 42 CFR Part 68d

Health—medical research; Loan repayment programs—health.

Dated: March 31, 2002.

**Ruth L. Kirschstein,**

*Acting Director, National Institutes of Health.*

Approved: May 29, 2002.

**Tommy G. Thompson,**

*Secretary.*

For reasons presented in the preamble, it is proposed to amend title 42 of the Code of Federal Regulations by adding a new Part 68d to read as set forth below.

## PART 68d—NATIONAL INSTITUTES OF HEALTH (NIH) LOAN REPAYMENT PROGRAM FOR RESEARCH GENERALLY (GR-LRP)

Sec.

- 68d.1 What is the scope and purpose of the NIH Loan Repayment Program for Research Generally (GR-LRP)?
- 68d.2 Definitions.
- 68d.3 Who is eligible to apply?
- 68d.4 Who is eligible to participate?
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- 68d.6 How do individuals apply to participate in the GR-LRP?
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- 68d.8 What does the GR-LRP provide to participants?
- 68d.9 What loans qualify for repayment?
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- 68d.11 How does an individual receive loan repayments beyond the initial three-year contract?
- 68d.12 What will happen if an individual does not comply with the terms and conditions of participation in the GR-LRP?

- 68d.13 Under what circumstances can the service or payment obligation be canceled, waived, or suspended?
- 68d.14 When can a GR-LRP payment obligation be discharged in bankruptcy?
- 68d.15 Additional conditions.
- 68d.16 What other regulations and statutes apply?

**Authority:** 42 U.S.C. 288–3.

### § 68d.1 What is the scope and purpose of the NIH Loan Repayment Program for Research Generally (GR-LRP)?

The regulations of this part apply to the award of educational loan payments under the NIH Loan Repayment Program for Research Generally (GR-LRP) authorized by section 487C of the Public Health Service Act (42 U.S.C. 288–3). The purpose of this program is to address the need for biomedical and behavioral researchers by providing an economic incentive to appropriately qualified health professionals to conduct research as employees of the NIH.

### § 68d.2 Definitions.

As used in this part:

*Act* means the Public Health Service Act, as amended (42 U.S.C. 201 et seq.).

*Applicant* means an individual who applies to and meets the eligibility criteria for the GR-LRP.

*Approved research* means research approved by the General Research Loan Repayment Committee.

*Commercial loans* means loans made for educational purposes by banks, credit unions, savings and loan associations, not-for-profit organizations, insurance companies, schools, and other financial or credit institutions which are subject to examination and supervision in their capacity as lending institutions by an agency of the United States or of the State in which the lender has its principal place of business.

*Current payment status* means that a qualified educational loan is not past due in its payment schedule as determined by the lending institution.

*Debt threshold* means the minimum amount of qualified educational debt an individual must have, on their program eligibility date, in order to be eligible for Program benefits. Debt threshold is the amount of qualified educational debt equal to 20 percent of an individual's annual NIH salary on his/her program eligibility date.

*Educational expenses* means the cost of the health professional's undergraduate, graduate, and health professional school's education, including the tuition expenses and other educational expenses such as fees, books, supplies, educational equipment and materials, and laboratory expenses.

*General Research Loan Repayment Committee (GR-LRC)* means the scientific board, whose members are appointed by the Director, NIH, assembled to review, rank, and approve or disapprove General Research Loan Repayment Program applications. The GR-LRC is composed of NIH scientific staff and chaired by the Deputy Director for Intramural Research, NIH. Members are nominated by the Deputy Directors for Extramural and Intramural Research, NIH.

*General Research Loan Repayment Program (GR-LRP or Program)* means the NIH Loan Repayment Program for Research Generally authorized by section 487C of the Act, as amended.

*General Research Loan Repayment Program (GR-LRP or Program) contract* refers to the agreement, which is signed by an applicant and the Secretary, wherein the applicant agrees to engage in approved research as an employee of the NIH and the Secretary agrees to repay qualified educational loans for a prescribed period as specified in this part.

*Government loans* means loans made by Federal, State, county, or city agencies which are authorized by law to make such loans.

*Institute, Center or Agency (ICA)* means an institute, center, or agency of the National Institutes of Health.

*Living expenses* means the reasonable cost of room and board, transportation and commuting costs, and other reasonable costs incurred during an individual's attendance at an educational institution.

*Participant* means an individual whose application to the GR-LRP has been approved and whose Program contract has been executed by the Secretary.

*Participant obligation* means the amount of qualified educational debt payable by the participant. Specifically, participants are obligated to repay 50 percent of their debt threshold.

*Program* means the NIH Loan Repayment Program for Research Generally.

*Program eligibility date* means the date on which an individual's Program contract is executed by the Secretary and that individual is engaged in approved research as an employee of the NIH.

*Qualified educational loans and interest/debt* include Government and commercial educational loans and interest for:

(1) Undergraduate, graduate, and health professional school tuition expenses;

(2) Other reasonable educational expenses required by the school(s)

attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) Reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other reasonable living expenses incurred.

*Reasonable educational and living expenses* means those educational and living expenses which are equal to or less than the sum of the school's estimated standard student budget for educational and living expenses for the degree program and for the year(s) during which the participant was enrolled in school. If there is no standard budget available from the school or if the participant requests repayment for educational and living expenses which exceed the standard student budget, reasonableness of educational and living expenses incurred must be substantiated by additional contemporaneous documentation, as determined by the Secretary.

*Repayable debt* means the proportion, as established by the Secretary, of an individual's total qualified educational debt relative to the NIH salary, which can be paid by the GR-LRP. Specifically, qualifying educational debt amounts in excess of 50 percent of the debt threshold will be considered for repayment.

*Salary* means base pay. For individuals appointed under Title 42, salary includes base pay only; for those employed under Title 5, it includes base pay plus locality pay. For individuals appointed under the U.S.

Commissioned Corps, salary includes base pay plus Basic Allowance for Subsistence (BAS) and Basic Allowance for Housing (BAH) and excludes special pays.

*School* means undergraduate, graduate, and health professions schools which are accredited by a body or bodies recognized for accreditation purposes by the Secretary of Education.

*Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

*Service* means the Public Health Service.

*State* means one of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the

Marshall Islands, and the Republic of Palau).

*Withdrawal* means a request by a participant, prior to the Program making payments on his or her behalf, for withdrawal from Program participation. A withdrawal is without penalty to the participant and without obligation to the Program.

#### **§ 68d.3 Who is eligible to apply?**

To be eligible to apply to the GR-LRP, an individual must be a citizen, national, or permanent resident of the United States; hold a Ph.D., M.D., D.O., D.D.S., D.M.D., D.V.M., D.P.M., Pharm.D., A.D.N./B.S.N., or equivalent degree; and have qualified educational debt in excess of the debt threshold.

#### **§ 68d.4 Who is eligible to participate?**

To be eligible to participate in the GR-LRP, an applicant must have the recommendation of the employing ICA Scientific Program Director, the concurrence of the employing ICA Director, and the approval of the GR-LRC. Since participation in the Program is contingent, in part, upon employment with NIH, a Program contract may not be awarded to an applicant until an employment commitment has been made by the employing ICA Personnel officer.

#### **§ 68d.5 Who is ineligible to participate?**

The following individuals are ineligible for GR-LRP participation:

(a) Persons who are not eligible applicants as specified under § 68d.3;

(b) Persons who owe an obligation of health professional service to the Federal Government, a State, or other entity, unless a deferral is granted for the length of his/her service obligation under the GR-LRP. The following are examples of programs which have a service obligation: Physicians Shortage Area Scholarship Program, National Research Service Award Program, Public Health Service Scholarship, National Health Service Corps Scholarship Program, Armed Forces (Army, Navy, or Air Force) Professions Scholarship Program, National Institutes of Health Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, and Indian Health Service Scholarship Program; or

(c) Persons who are not NIH employees, such as Intramural Research Training Award (IRTA) recipients, Cancer Research Training Award (CRTA) recipients, Visiting Fellows, National Research Service Award (NRSA) recipients, Guest Researchers or Special Volunteers, NIH-National Research Council (NRC) Biotechnology Research Associates Program

participants, and Intergovernmental Personnel Act (IPA) participants.

#### **§ 68d.6 How do individuals apply to participate in the GR-LRP?**

An application for participation in the GR-LRP shall be submitted to the NIH office which is responsible for the Program's administration, in such form and manner as the Secretary may prescribe.

#### **§ 68d.7 How are applicants selected to participate in the GR-LRP?**

To be selected for participation in the GR-LRP, applicants must satisfy the following requirements:

(a) Applicants must meet the eligibility requirements specified in § 68d.3 and § 68d.4.

(b) Applicants must not be ineligible for participation as specified in § 68d.5.

(c) Applicants must be selected for approval by the GR-LRC, based upon a review of their applications.

#### **§ 68d.8 What does the GR-LRP provide to participants?**

(a) *Loan repayments.* For each year of service the individual agrees to serve, with a minimum of 3 years of obligated service, the Secretary may pay up to \$35,000 per year of a participant's repayable debt.

(b) Payments on repayable debt will be made directly to a participant's lender(s). If there is more than one outstanding qualified educational loan, the Secretary will repay the loans in the following order, unless the Secretary determines significant savings would result from paying loans in a different order of priority:

(1) Loans guaranteed by the U.S. Department of Health and Human Services;

(2) Loans guaranteed by the U.S. Department of Education;

(3) Loans made or guaranteed by a State;

(4) Loans made by a School;

(5) Loans made by other entities.

(c) *Tax liability payments.* The Secretary shall make payments to partially reimburse the participant for the increased Federal tax liability resulting from loan repayments received under the GR-LRP. These Federal tax payments are 39 percent of the total annual loan repayments being made and are made to the Federal Reserve Bank as a credit to the participant's IRS account. The Secretary may make additional tax liability payments to those participants who show increased Federal, State and/or local tax liability.

(d) Under paragraphs (a), (b) and (c) of this section, the Secretary will make payments in the discharge of debt and resulting tax liabilities to the extent

appropriated funds are available for these purposes.

#### **§ 68d.9 What loans qualify for repayment?**

(a) The GR-LRP will repay participants' lenders the principal, interest, and related expenses of qualified Government and commercial educational loans obtained by participants for the following:

(1) Undergraduate, graduate, and health professional school tuition expenses;

(2) Other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) Reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other living expenses as determined by the Secretary.

(b) The following educational loans are ineligible for repayment under the GR-LRP:

(1) Loans obtained from other than a government entity or commercial lending institution;

(2) Loans for which contemporaneous documentation is not available;

(3) Loans or portions of loans obtained for educational or living expenses which exceed the standard of reasonableness as determined by the participant's standard school budget for the year in which the loan was made, and are not determined by the Secretary to be reasonable based on additional documentation provided by the individual;

(4) Loans, financial debts, or service obligations incurred under the following programs: Physicians Shortage Area Scholarship Program, National Research Service Award Program, Public Health and National Health Service Corps Scholarship Training Program, National Health Service Corps Scholarship Program, Armed Forces (Army, Navy, or Air Force) Health Professions Scholarship Program, Indian Health Service Program, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, and similar programs, upon determination by the Secretary, which provide loans, scholarships, loan repayments, or other awards in exchange for a future service obligation;

(5) Any loan in default or not in a current payment status;

(6) Loan amounts which participants have paid or were due to have paid prior to the program eligibility date;

(7) Loans (other than consolidation loans) for which promissory notes have been signed after the program eligibility date; and

(8) Payments on loan consolidations which include the underlying loans of spouses or other individuals.

#### **§ 68d.10 What does an individual have to do in return for loan repayments received under the GR-LRP?**

Individuals must agree to be primarily engaged in approved research, as employees of the NIH, for a minimum initial period of three consecutive years.

#### **§ 68d.11 How does an individual receive loan repayments beyond the initial three-year contract?**

An individual may apply for and the Secretary may grant extension contracts for one-year periods, if there is sufficient debt remaining to be repaid and the individual is engaged in approved research as an NIH employee.

#### **§ 68d.12 What will happen if an individual does not comply with the terms and conditions of participation in the GR-LRP?**

(a) Absent withdrawal (see § 68d.2), or termination under paragraph (d) of this section, any participant who fails to complete the minimum three-year service obligation required under the initial Program contract will be considered to have breached the contract and will be subject to assessment of monetary damages and penalties as follows:

(1) Participants who leave during the first year of the initial contract are liable for amounts already paid by the NIH on behalf of the participant plus an amount equal to \$1,000 multiplied by the number of months of the original obligation.

(2) Participants who leave after the first year but before the end of the second year of the contract are liable for amounts already paid by the NIH on behalf of the participant plus \$1,000 for each unserved month.

(3) Participants who leave after the second year but before the end of the third year of the contract are liable for amounts already paid by the NIH on behalf of the participant for periods of obligated service not served plus \$10,000 if the individual fails to provide a one-year notice of the intended breach (or such shorter time as is determined to be adequate to find a replacement).

(b) Payments of any amount owed under paragraph (a) of this section shall be made within one year of the participant's breach.

(c) Participants who sign a continuation contract for any year beyond the initial three-year period and fail to complete the one-year period are liable for the pro rata amount of any benefits advanced beyond the period of completed service.

(d) Terminations will not be considered a breach of contract in cases where such terminations are beyond the control of the participant as follows:

(1) Terminations for cause or for convenience of the Government will not be considered a breach of contract and monetary damages will not be assessed.

(2) Occasionally, a participant's research assignment may evolve and change to the extent that the individual is no longer engaged in approved research. Similarly, the research needs and priorities of the ICA and/or the NIH may change to the extent that a determination is made that the health professional's skills may be better utilized in a non-approved research assignment. Under these circumstances, the following will apply:

(i) Program participation and benefits will cease as of the date an individual is no longer engaged in approved research; and

(ii) Normally, job changes of this nature will not be considered a breach of contract on the part of either the NIH or the participant. Based on the recommendation of the ICA Director and concurrence of the Secretary, the participant will be released from the remainder of his or her service obligation without assessment of monetary penalties. The participant in this case will be permitted to retain all Program benefits made or owed by NIH on his/her behalf up to the date the individual is no longer engaged in approved research, except for the pro rata amount of any benefits advanced beyond the period of completed service.

#### **§ 68d.13 Under what circumstances can the service or payment obligation be canceled, waived, or suspended?**

(a) Any obligation of a participant for service or payment will be canceled upon the death of the participant.

(b) The Secretary may waive or suspend any service or payment obligation incurred by the participant upon request whenever compliance by the participant:

(1) Is impossible,

(2) Would involve extreme hardship to the participant, or

(3) If enforcement of the service or payment obligation would be against equity and good conscience. The Secretary may approve a request for a suspension of the service or payment obligations for a period of 1 year. A renewal of this suspension may also be granted.

(c) Compliance by a participant with a service or payment obligation will be considered impossible if the Secretary determines, on the basis of information and documentation as may be required,

that the participant suffers from a physical or mental disability resulting in the permanent inability of the participant to perform the service or other activities which would be necessary to comply with the obligation.

(d) In determining whether to waive or suspend any or all of the service or payment obligations of a participant as imposing an undue hardship and being against equity and good conscience, the Secretary, on the basis of information and documentation as may be required, will consider:

- (1) The participant's present financial resources and obligations;
- (2) The participant's estimated future financial resources and obligations; and
- (3) The extent to which the

participant has problems of a personal nature, such as a physical or mental disability or terminal illness in the immediate family, which so intrude on the participant's present and future ability to perform as to raise a presumption that the individual will be unable to perform the obligation incurred.

#### **§ 68d.14 When can a GR-LRP payment obligation be discharged in bankruptcy?**

Any payment obligation incurred under § 68d.12 may be discharged in bankruptcy under Title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment is required and only if the bankruptcy court finds that a non-discharge of the obligation would be unconscionable.

#### **§ 68d.15 Additional conditions.**

When a shortage of funds exists, participants may be funded only partially, as determined by the Secretary. However, once a GR-LRP contract has been signed by both parties, the Secretary will obligate such funds as necessary to ensure that sufficient funds will be available to pay benefits for the duration of the period of obligated service unless, by mutual written agreement between the Secretary and the participant, specified otherwise. Benefits will be paid on a quarterly basis after each service period unless specified otherwise by mutual written agreement between the Secretary and the participant. The Secretary may impose additional conditions as deemed necessary.

#### **§ 68d.16 What other regulations and statutes apply?**

Several other regulations and statutes apply to this part. These include, but are not necessarily limited to:

- (a) Debt Collection Act of 1982, Public Law 97-365, as amended (5 U.S.C. 5514);
- (b) Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*);
- (c) Federal Debt Collection Procedures Act of 1990, Public Law 101-647 (28 U.S.C. 1); and
- (d) Privacy Act of 1974 (5 U.S.C. 552a).

[FR Doc. 02-19610 Filed 8-2-02; 8:45 am]  
BILLING CODE 4140-01-P

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Recovery of endangered or threatened animals and plants is a primary goal of our endangered species program. A species is considered recovered when the species' ecosystem is restored and/or threats to the species are removed so that self-sustaining and self-regulating populations of the species can be supported as persistent members of native biotic communities. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for downlisting or delisting listed species, and estimate time and cost for implementing the measures needed for recovery.

The Endangered Species Act of 1973, as amended in 1988 (Act) (16 U.S.C. 1531 *et seq.*), requires that recovery plans be developed for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires that during recovery plan development, we provide public notice and an opportunity for public review and comment. Information presented during the comment period has been considered in the preparation of the final recovery plan, and is summarized in an appendix to the recovery plan. We will forward substantive comments regarding recovery plan implementation to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions.

The thelypody was listed as a threatened species on June 25, 1999. This taxon is endemic to the Baker-Powder River Valley in eastern Oregon. It is currently found in five populations in Baker and Union Counties, Oregon. It formerly also occurred in the Willow Creek Valley in Malheur County. The species grows in alkaline meadows in valley bottoms, usually in and around shrubs such as greasewood or rabbitbrush. The plants are threatened by habitat modification such as grazing during spring and early summer, trampling, urban development, and competition from non-native plants.

The objective of this plan is to provide a framework for the recovery of the thelypody so that protection by the Act is no longer necessary. As recovery criteria are met, the status of the species will be reviewed and it will be considered for removal from the List of Endangered and Threatened Wildlife (50 CFR part 17). The Howell's spectacular thelypody will be considered for delisting when: (1) At least five stable or increasing thelypody

#### **DEPARTMENT OF THE INTERIOR**

##### **Fish and Wildlife Service**

##### **50 CFR Part 17**

#### **Notice of Availability of a Final Recovery Plan for the Howell's Spectacular Thelypody (*Thelypodium howellii* ssp. *spectabilis*)**

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

**ACTION:** Notice of document availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of a final recovery plan for the Howell's spectacular thelypody (*Thelypodium howellii* ssp. *spectabilis*; thelypody). This threatened plant, a member of the mustard family, occurs on fewer than 12 small sites located within 100 acres of private lands near North Powder and Haines in eastern Oregon (Baker and Union Counties). The thelypody occurs in mesic, alkaline meadow habitats and all remaining populations occur within or directly adjacent to agricultural fields or urban areas. Actions needed for recovery include permanent protection of remaining populations and habitat, and management to provide for naturally reproducing populations that have stable or increasing trends.

**ADDRESSES:** Recovery plans that have been approved by the U.S. Fish and Wildlife Service are available on the World Wide Web at <http://www.r1.fws.gov/ecoservices/endangered/recovery/default.htm>. Recovery plans may also be obtained from: Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, Maryland 20814, (301) 429-6403 or 1-800-582-3421. The fee for the plan varies depending on the number of pages of the plan.

**FOR FURTHER INFORMATION CONTACT:** Johnna Roy, Wildlife Biologist, U.S. Fish and Wildlife Service, Snake River Fish and Wildlife Office, 1387 South Vinnell Way, Boise, ID 83709; phone (208) 378-5243.