of the population. This evaluation will include a progress report.

[49 FR 35954, Sept. 13, 1984 and 50 FR 30194, July 24, 1985, as amended at 51 FR 41797, Nov. 19, 1986; 52 FR 29780, Aug. 11, 1987; 53 FR 29337, Aug. 4, 1988; 53 FR 37580, Sept. 27, 1988; 54 FR 43969, Oct. 30, 1989; 56 FR 41488, Aug. 21, 1991; 58 FR 5657, Jan. 22, 1993; 58 FR 52031, Oct. 6, 1993; 59 FR 42711, 42714, Aug. 18, 1994; 59 FR 60279, Nov. 22, 1994; 60 FR 18947, Apr. 13, 1995; 61 FR 11332, Mar. 20, 1996; 61 FR 54057, Oct. 16, 1996; 62 FR 38939, July 21, 1997; 63 FR 1763, Jan. 12, 1998; 63 FR 52837, Oct. 1, 1998; 65 FR 60886, Oct. 13, 2000; 65 FR 69637, Nov. 17, 2000; 66 FR 33916, June 26, 2001; 67 FR 52427, Aug. 12, 2002; 68 FR 26508, May 16, 2003; 70 FR 1306, Jan. 6, 2005; 70 FR 17924, Apr. 8, 2005; 71 FR 42314, July 26, 2006]

§ 17.85 Special rules—invertebrates.

(a) Cumberland bean (pearlymussel) (*Villosa trabalis*), tubercled blossom (pearlymussel) (*Epioblasma torulosa torulosa*), turgid blossom (pearlymussel) (*Epioblasma turgidula*), yellow blossom (pearlymussel) (*Epioblasma florentina florentina*), catspaw (purple cat's paw pearlymussel) (*Epioblasma obliquata obliquata*), clubshell (*Pleurobema clava*), Cumberlandian combshell (*Epioblasma brevidens*), Alabama lampmussel (*Lampsilis virescens*), winged mapleleaf (mussel) (*Quadrula fragosa*), Cumberland monkeyface (pearlymussel) (*Quadrula intermedia*), oyster mussel (*Epioblasma capsaeformis*), birdwing pearlymussel (*Conradilla caelata*), cracking pearlymussel (*Hemistena lata*), dromedary pearlymussel (*Dromus dromas*), fine-rayed pigtoe (*Fusconaia cuneolus*), shiny pigtoe (*Fusconaia cor*), Anthony's riversnail (*Athearnia anthonyi*).

(1) *Where are these mollusks designated as nonessential experimental populations (NEPs)?* (i) The NEP Area for these 17 mollusks is within the species' historic ranges, and is defined as follows: The free-flowing reach of the Tennessee River from the base of Wilson Dam downstream to the backwaters of Pickwick Reservoir (river mile (RM) 259.4 [414.0 km] to RM 246.0 [393.6 km] and includes the lower 5 RM (8 km) of all tributaries to this reach in Colbert and Lauderdale Counties, Alabama.

(ii) None of the identified species are known to exist in any of the tributaries to the free-flowing reach of the Tennessee River below Wilson Dam or from below the backwaters of Pickwick Reservoir, Colbert and Lauderdale Counties, Alabama. In the future, if any of the 17 mollusks are found upstream of the lower 5 RM (8 km) of these tributaries or downstream into Pickwick Reservoir, we will presume the animals came from the reintroduced NEP, and we will amend this rule and enlarge the boundaries of the NEP Area to include the entire range of the expanded population.

(iii) We do not intend to change the NEP designations to ''essential experimental,'' ''threatened,'' or ''endangered'' within the NEP Area. Additionally, we will not designate critical habitat for these NEPs, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) *What activities are not allowed in the NEP Area?* (i) Except as expressly allowed in this rule, all the prohibitions of 17.31(a) and (b) apply to the mollusks identified in this special rule.

(ii) Any manner of take not described under paragraph (a)(3) of this section will not be allowed in the NEP Area. We may refer the unauthorized take of these species to the appropriate authorities for prosecution.

(iii) You may not possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever any of the identified 17 mollusks, or parts thereof, that are taken or possessed in violation of these regulations or in violation of the applicable State fish and wildlife laws or regulations or the Act.

(iv) You may not attempt to commit, solicit another to commit, or cause to be committed any offense defined in this paragraph (a).

(3) *What take is allowed in the NEP Area?* (i) Take of these species that is accidental and incidental to an otherwise lawful activity such as fishing, boating, commercial navigation, trapping, wading, or mussel harvesting, is allowed.

(ii) Any individual collecting or harvesting mussels must check their collection prior to leaving the immediate area and return any NEP mussels to the site where they were obtained.

(4) *How will the effectiveness of these reintroductions be monitored?* We will prepare periodic progress reports and

fully evaluate these reintroduction efforts after 5 and 10 years to determine whether to continue or terminate the reintroduction efforts.

[66 FR 32263, June 14, 2001]

§ 17.86 Special rules—plants. [Reserved]

Subpart I—Interagency Cooperation

§ 17.94 Critical habitats.

(a) The areas listed in § 17.95 (fish and wildlife) and § 17.96 (plants) and referred to in the lists at §§ 17.11 and 17.12 have been determined by the Director to be Critical Habitat. All Federal agencies must insure that any action authorized, funded, or carried out by them is not likely to result in the destruction or adverse modification of the constituent elements essential to the conservation of the listed species within these defined Critical Habitats. (See part 402 for rules concerning this prohibition; see also part 424 for rules concerning the determination of Critical Habitat).

(b) The map provided by the Director does not, unless otherwise indicated, constitute the definition of the boundaries of a Critical Habitat. Such maps are provided for reference purposes to guide Federal agencies and other interested parties in locating the general boundaries of the Critical Habitat. Critical Habitats are described by reference to surveyable landmarks found on standard topographic maps of the area and to the States and county(ies) within which all or part of the Critical Habitat is located. Unless otherwise indicated within the Critical Habitat description, the State and county(ies) names are provided for informational purposes only.

(c) Critical Habitat management focuses only on the biological or physical constituent elements within the defined area of Critical Habitat that are essential to the conservation of the species. Those major constituent elements that are known to require special management considerations or protection will be listed with the description of the Critical Habitat.

(d) The sequence of species within each list of Critical Habitats in §§ 17.95 and 17.96 will follow the sequences in the lists of Endangered and Threatened wildlife (§ 17.11) and plants (§ 17.12). Multiple entries for each species will be alphabetic by State.

[45 FR 13021, Feb. 27, 1980]

§ 17.95 Critical habitat—fish and wildlife.

(a) *Mammals.*

INDIANA BAT (*Myotis sodalis*)

Illinois. The Blackball Mine, La Salle County.

Indiana. Big Wyandotte Cave, Crawford County; Ray's Cave, Greene County.

Kentucky. Bat Cave, Carter County; Coach Cave, Edmonson County.

Missouri. Cave 021, Crawford County; Cave 009, Franklin County; Cave 017, Franklin County; Pilot Knob Mine, Iron County; Bat Cave, Shannon County; Cave 029, Washington County (numbers assigned by Division of Ecological Services, U.S. Fish and Wildlife Service, Region 6).

Tennessee. White Oak Blowhole Cave, Blount county.

West Virginia. Hellhole Cave, Pendleton County.

NOTE: No map.

MARIANA FRUIT BAT (*Pteropus mariannus mariannus*)

(1) The critical habitat unit for the Mariana fruit bat is depicted for the Territory of Guam on the maps below.

(2) Within this area, the primary constituent elements required by the Mariana fruit bat for the biological needs of foraging, sheltering, roosting, and rearing of young are found in areas supporting limestone, secondary, ravine, swamp, agricultural, and coastal forests composed of native or introduced plant species. These forest types provide the primary constituent elements of:

(i) Plant species used for foraging, such as *Artocarpus* sp. (breadfruit), *Carica papaya* (papaya), *Cycas circinalis* (fadang), *Ficus* spp. (fig), *Pandanus tectorius* (kafu), *Cocos nucifera* (coconut palm), and *Terminalia catappa* (talisai); and

(ii) Remote locations, often within 328 ft (100 m) of clifflines that are 260 to 590 ft (80 to 100 m) tall, with limited exposure to human disturbance; land that contains mature fig, *Mammea odorata* (chopak), *Casuarina equisetifolia* (gago), *Macaranga thompsonii* (pengua), *Guettarda speciosa* (panao), *Neisosperma oppositifolia* (fagot), and other tree species that are used for roosting and breeding.

(3) Critical habitat does not include existing features and structures within the boundaries of the mapped units, such as