to Congress on the cost of operating POVs will be published in the Federal Register.

[FR Doc. 01–1466 Filed 1–19–01; 8:45 am]

BILLING CODE 6820–34–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 00–352]

Waivers, Reductions and Deferrals of Regulatory Fees; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of December 18, 2000, a document that was to deny the petition for reconsideration filed by the Cellular Telecommunications Industry Association on August 2, 1999 regarding the Report and Order in the matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1999 and also amend the Commission's rule regarding petitions for reduction of regulatory fees. Inadvertently, the document did not include the paragraph noting the denial of the petition for reconsideration. This document corrects that error.

DATES: Effective January 17, 2001.

FOR FURTHER INFORMATION CONTACT: Carla Conover, Office of General Counsel, (202) 418–7882.

SUPPLEMENTARY INFORMATION: In FR Doc. 00–31946, published in the **Federal Register** of December 18, 2000 (65 FR 78989), the paragraph noting the denial of a petition for reconsideration was not included. This correction includes that paragraph.

1. This supplementary information is a summary of the Commission's Memorandum Opinion and Order on Reconsideration (Order) in MD Docket No. 98–200 (FCC 00–352), adopted September 21, 2000, and released October 10, 2000. The complete text of the Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW., Washington, DC.

2. In FR Doc. 00–31946, on page 78989, in the first column, in the Summary, insert this sentence at the end of the paragraph: This document also denies the petition for reconsideration filed by the Cellular Telecommunications Industry Association on August 2, 1999 regarding the Report and Order adopted on June 11, 1999 in the matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1999.

3. On page 78989, in the third column, insert the following before the List of Subjects in 47 CFR Part 1: 4. The petition for reconsideration filed by the Cellular Telecommunications Industry Association on August 2, 1999 regarding the Report and Order adopted on June 11, 1999 in the matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1999 is denied.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–1251 Filed 1–19–01; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 17

RIN AG44

Response to Public Comments on Amending General Permitting Regulations Relating to Habitat Conservation Plans, Safe Harbor Agreements and Candidate Conservation Agreements With Assurances

AGENCIES: Fish and Wildlife Service, Department of the Interior.

ACTION: Final rule; affirmation.

SUMMARY: On June 17, 1999, the U.S. Fish and Wildlife Service (Service) published a final rule amending parts 13 and 17 of title 50 of the Code of Federal Regulations (CFR). This rule created regulations for the new Safe Harbor and Candidate Conservation Agreements with Assurances policies, and also dictated when the permitting requirements of Habitat Conservation Plan (HCP), Safe Harbor Agreement (SHA) and Candidate Conservation Agreement with Assurances (CCAA) permits, issued under the authority of section 10 of the Endangered Species Act of 1973, as amended (ESA), will vary from the Service's general part 13 permitting requirements. On February 11, 2000, we published a request for additional public comment on seven specific regulatory changes that altered the applicability of 50 CFR part 13 to permits for HCPs, SHAs and CCAAs. Based on our review of the comments, we have decided not to repropose any of the amendments to part 13 or part 17.

DATES: Final rule published on June 17, 1999 remains effective.

ADDRESSES: Chief, Division of Conservation and Classification, or Chief, Division of Consultation, Habitat Conservation Planning and Recovery, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, Virginia 22203 (Telephone 703/358–2171; Facsimile 703/358–1735).

FOR FURTHER INFORMATION CONTACT: Nancy Gloman, Chief, Division of Conservation and Classification, U.S. Fish and Wildlife Service (telephone 703/358–2171, facsimile 703/358–1735), or Renne Lohoefener, Chief, Division of Consultation, Habitat Conservation Planning and Recovery, U.S. Fish and Wildlife Service (telephone 703/358–2171, facsimile 703/358–1735).

SUPPLEMENTARY INFORMATION:

Background

The Service administers a variety of conservation laws that authorize the issuance of certain permits for otherwise prohibited activities. In 1974, we published 50 CFR part 13 to consolidate the administration of various permitting programs. Part 13 established a uniform framework of general administrative conditions and procedures that would govern the application, processing, and issuance of all Service permits. We intended that the general part 13 permitting provisions would apply to the various Federal wildlife and plant programs administered by the Service and that the specific permitting requirements applicable to each of these programs would supplement rather than replace the general part 13 requirements.

Subsequent to the 1974 publication of part 13, we added many wildlife regulatory programs to title 50 of the CFR. For example, we added part 18 in 1974 to implement the Marine Mammal Protection Act, modified and expanded part 17 in 1975 to implement the ESA, and added part 23 in 1977 to implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). These parts contained their own specific permitting requirements in addition to the general permitting provisions of part 13.

With respect to most of the programs under the ESA, the combination of part 13's general permitting provisions and part 17's specific permitting provisions have worked well since 1975. However, in three areas of emerging permitting policy under the ESA, the general approach of part 13 has turned out to be

inappropriately constraining and narrow. These three areas involve the Habitat Conservation Planning, Safe Harbor, and Candidate Conservation Agreements with Assurances programs.

Congress amended section 10(a)(1) of the ESA in 1982 to authorize incidental take permits associated with HCPs. Many HCP permits involve long-term conservation commitments that run with the affected land for the life of the permit or longer. We negotiate such long-term permits recognizing that a succession of owners may purchase or resell the affected property during the term of the permit. The Service does not view this system as a problem, where the requirements of such permits run with the land and successive owners agree to the terms of the HCP. Property owners similarly do not view this arrangement as a problem so long as we can easily transfer incidental take authorization from one property owner to the next.

In other HCP situations, the HCP permittee may be a State or local agency that intends to sub-permit or blanket the incidental take authorization to hundreds if not thousands of its citizens. We do not view this activity as a problem so long as the original agency permittee abides by, and ensures compliance with, the terms of the HCP.

The above HCP scenarios have not been easily reconcilable with certain sections of part 13. For example, 50 CFR sections 13.24 and 13.25 generally impose significant restrictions on right of succession and transferability of permits. While these restrictions are well justified for most wildlife permitting situations, they have imposed inappropriate and unnecessary limitations for HCP permits where the term of the permit may be lengthy and the parties to the HCP have foreseen the desirability of simplifying sub-permitting and permit transference from one property owner to the next, or from a State or local agency to citizens under its jurisdiction.

Similar problems also could have arisen in attempting to apply the general part 13 permitting requirements to permits issued under part 17 to implement SHAs and CCAAs. A major incentive for property owner participation in the Safe Harbor or Candidate Conservation Agreements with Assurances programs is the long-term certainty the programs provide, including the certainty that the take authorization will run with the land if it changes hands and the new owner agrees to be bound by the terms of the original Agreement. Property owners could have viewed the limitations in several sections (*e.g.,* sections 13.24 and 13.25) as impediments to the development of these Agreements.

We promulgated revisions to parts 13 and 17 of the regulations that specify the instances in which the specific permit procedures for HCP, SHA, and CCAA permits will differ from the general part 13 permit procedures. We published a proposed rule on June 12, 1997, (62 FR 32178) to change the regulations at 50 CFR part 17 in order to implement the new SHA and CCAA policies and to revise the way in which the part 13 regulations would apply to the specific HCP, SHA, and CCAA regulations. On June 17, 1999, we issued a final rule (64 FR 32706) that created regulations for the SHA and CCAA policies, and changed the applicability of parts of the general part 13 permit regulations to the HCP, SHA, and CCAA programs. We also published a notice on September 30, 1999, (64 FR 52676) to correct certain errors that appeared in the final regulations. On February 11, 2000, we published a request for additional public comment (65 FR 6916) on the seven specific regulatory changes that altered the applicability of part 13 to the HCP, SHA, and CCAA programs and that were part of the June 17, 1999, final rule. This document responds to the additional public comments we received as a result of the February 11, 2000, notice.

Summary of Comments Received

We received approximately 450 comments from individuals, conservation groups, trade associations, Federal, State and local agencies, businesses, and private organizations in response to our February 11, 2000, request for additional comments on our June 17, 1999, final rule. Because most of these letters included similar comments (more than 350 were form letters received electronically), we grouped the comments according to issues. We further divided these issues into two sets. The issues in the first set deal with the June 17, 1999, final rule as a whole. The issues in the second set pertain to the individual sections of the June 17, 1999, final rule and are organized accordingly. In addition, we received a number of comments, including comments on the February 23, 1998, ''No Surprises'' final rule (63 FR 8859) itself and on the HCP program in general. These comments are beyond the scope of our request and we are not responding to those comments as part of this process. The following is a summary of the relevant comments and the Service's responses.

General Issues

Issue 1: We received over 300 comments on the public notice process associated with the June 17, 1999, final rule. Most commenters appear to believe that the February 11, 2000, request for additional comments was in fact the first opportunity for the public to comment on the proposal to conform the general permit regulations of part 13 to the HCP program. For example, many of the commenters stated that they viewed it to be ''a flagrant subversion of the concept of public notice and comment for the government to make important final rule changes and subsequently, many months later, solicit public comment on them.''

Response 1: Although not within the scope of the request for public comments, we believe these comments warrant a response because they indicate a high level of confusion concerning the nature of the February 11, 2000, notice seeking additional public comment. We believe that we have provided the public more than adequate notice to review comment on the June 17, 1999, final rule. The February 11, 2000 request for public comment was the second opportunity, not the first, that the public had to comment on changes to part 13 contained within our June 17, 1999, final rule. We first proposed changes to part 13 in order to conform part 13 with the HCP program in June of 1997.

In the summary section of our June 12, 1997, proposed rule (62 FR 32178), we stated, ''in addition, the Service proposes technical amendments to its general regulations (50 CFR part 13) which are applicable to all of its various permitting programs. These proposed revisions would clarify the application of existing general permit conditions to the permitting procedures associated with Habitat Conservation Plans, Safe Harbor Agreements and Candidate Conservation Agreements issued under section 10 of the Act.'' The background section of the June 12, 1997, proposed rule went into great detail on the basis for proposing changes to part 13 stating, ''in most instances, the combination of part 13's general permitting provisions and part 17's specific permitting provisions have worked well since 1975. However, in three areas of emerging permitting policy the 'one size fits all' approach of part 13 is inappropriately constraining and narrow.'' In the public comments solicited section of the June 12, 1997, proposed rule, we also specifically requested comment on ''the proposed regulatory changes to 50 CFR parts 13 and 17.'' Our June 12, 1997, proposed

rule would have dealt with the potential for conflict between parts 13 and 17 by providing in the scope section of the part 13 (50 CFR 13.03) that the specific provisions in the HCP, SHA and CCAA regulations, and associated permits and agreements, would control wherever they were in conflict with the general part 13 permitting regulations. In the June 17, 1999, final rule, we chose to make seven specific changes to parts 13 and 17 that removed the potential for conflict, rather than to change the scope of part 13. We view the final approach as well within the scope of the initial proposal and completely conforming to the public notice requirements of the Administrative Procedure Act.

Specific Issues

In our public notice of February 11, 2000, we sought additional public comment on our specific changes to the permitting regulations found in our June 17, 1999, final rule. The specific issues we received are arranged according to the relevant regulation with a summary of the June 17, 1999, final rule changes. Our responses to the issues raised are as follows:

Section 13.21(b)(4)—Issuance of Permits

We revised the HCP permit issuance criteria in sections 17.22(b)(2) and 17.32(b)(2) to except HCP permits from section 13.21(b)(4) and also included a similar provision in the SHA and CCAA permit regulations (sections 17.22(c)(2) and (d)(2) and 17.32(c)(2) and (d)(2)). Section 13.21(b)(4) generally prevents the Service from issuing a permit for an activity that ''potentially threatens a wildlife or plant population.'' However, the specific issuance criteria for HCP, SHA, and CCAA permits all require a finding that the permit will ''* * * not appreciably reduce the likelihood of survival and recovery of the species in the wild.'' See, for example, 50 CFR 17.22(b)(2)(i)(D).

Issue 2: We received four comments specifically on the applicability of section 13.21(b)(4). One commenter opposed the revision, and three commenters supported it. The comment in opposition to the change believed that it would shift the standard for permit issuance from ''survival and recovery'' to ''continued existence.''

Response 2: The old provision under section 13.21(b)(4) was unnecessary and potentially in conflict with the issuance criteria for permits under the HCP, SHA, and CCAA programs. The decision to rely on the permit issuance criteria in section 10 of the ESA instead of on part 13 has not changed our standard for HCP permits. The provision in section 13.21(b)(4) predates the creation of the HCP program by Congress in 1982. Although the standard in section 13.21(b)(4), with its focus on ''potential threats to a wildlife population,'' works well for research permits, it is not well suited to the HCP program which does allow for incidental take in a population if it is minimized and mitigated to the maximum extent practicable. This standard is also arguably inconsistent with the species-focused statutory issuance criteria created by the 1982 amendments to the ESA. Our June 17, 1999, final rule changes to parts 17.22(b)(2), (c)(2), (d)(2) and 17.32(b)(2), (c)(2), and (d)(2) retain the criteria for the issuance of permits associated with an HCP, SHA, or CCAA as, among others, ''* * not appreciably reduce the likelihood of survival and recovery. * * *'' Therefore, this standard for these permits did not shift.

Section 13.23(b)—Amendment of Permits

We revised section 13.23(b), which generally reserves to the Service the right to amend permits ''for just cause at any time.'' The revision clarified that the Service's reserved right to amend HCP, SHA, and CCAA permits must be exercised consistently with the assurances provided to permit holders through the permits and regulations.

Issue 3: We received four comments on the change to section 13.23(b). All four commenters supported the change, noting that the old provision was arguably inconsistent with the ''No Surprises'' final rule.

Response 3: We agree that the revision removes a potential conflict between the general provisions of part 13 and the more specific permit regulations in part 17.

Sections 13.24 and 13.25—Right of Succession by Certain Persons and Transfer of Permits and Scope of Permit Authorization

We revised sections 13.24 and 13.25 in order to expand and streamline the process for permit succession or transfer. We also revised section 13.25(d) to describe the circumstances under which a person is considered to be acting under the direct control of a state or local governmental entity and therefore is entitled to act under the authority of an incidental take permit issued to the state or local governmental entity.

Issue 4: We received six comments on the revisions to sections 13.24 and 13.25. Five of the comments voiced support for the changes, noting that ease of transferability will make the permit more worthwhile to landowners. One comment, on behalf of a number of local governmental entities, raised two issues concerning the revisions to section 13.25(d). This commenter felt that the term ''under the jurisdiction'' was vague and suggested we use non-limiting examples to indicate that any person whose activities are subject to the customary planning, permitting, and regulatory activities of a local government would be considered a person ''under the jurisdiction'' of the governmental entity for purposes of section 13.25(d). This commenter also felt that the use of the term ''permit'' was problematic because local governments sometimes operate in a permitting capacity without actually issuing a permit (*e.g.*, resolutions, ''conditions'' or ''requirements'').

Response 4: The old provisions at 13.24 and 13.25 were justified for most wildlife permitting situations, but not for HCPs, SHAs, and CCAAs. These agreements often involve substantial long-term conservation commitments, and we negotiate such agreements recognizing that there may be succession or transfer in land ownership during the term of the permit.

We agree that any person whose activities are subject to the customary planning, permitting, and regulatory activities of a state or local government would be considered a person ''under the jurisdiction'' of the governmental entity for purposes of section 13.25(d). We also believe that the second qualifying statement that ''the permit provides that such persons may carry out the authorized activity'' sufficiently narrows the scope of the transfer of take authorization.

We do not believe that the ''permit'' concept should be broadened to include circumstances in which an individual does not execute some type of document with the Service or a local governmental entity sponsoring an HCP. We structured section 13.25(d) to accommodate situations in which a local government is not regulating an activity through a local permit, but still wants to sponsor a regional HCP permit using a subpermitting process. In those situations the local government must still use some type of written instrument to include individuals within the permit's coverage, in accordance with the implementing agreement for the HCP. We, therefore, do not view the current language in section 13.25(d) as posing the problem raised by the comment.

Issue 5: Another commenter believed that the emphasis in section 13.25(d) on local governments meant that private conservation banks would not be allowed. The commenter recommended that this section be changed to allow

private entities to pass on the take authorization of a permit to individuals who purchase conservation bank credits.

Response 5: We designed section 13.25(d) to provide a process for local governments to assist with HCP implementation on a regional basis through the exercise of local land use authority. We do not view section 13.25(d) as prohibiting private conservation banks in any way, but we also do not view it as the appropriate regulatory provision to convey take authorization to purchasers of conservation bank credits. The current regulatory framework provides flexibility on how permits should be structured around conservation banks and we believe this issue can be addressed through the development of policy on conservation banking instead of through regulatory revisions.

Issue 6: One commenter objected that the new requirements for permit transfer required more for SHAs than the Safe Harbor policy did. The commenter specifically pointed to the requirement for a ''joint submission'' by the current and prospective landowner instead of the simpler requirement for a new landowner on their own to simply express an interest in continuing with the SHA.

Response 6: We agree with the commenter that it would be an odd result if it were easier to apply for a SHA than to transfer an existing agreement during the purchase of property. We do not believe that the changes to section 13.25 make it more difficult to transfer an existing permit than to apply for a new one. We also do not believe that the requirement set forth in section 13.25 for a ''joint submittal'' on the part of the old and new landowners is particularly onerous. The original landowner needs to provide some sort of communication to the Service in order to inform us of that landowner's desire to terminate the agreement. The new landowner would similarly be providing the Service with an indication of whether they seek to continue the SHA of their predecessor or not. We do not believe it will be difficult for the two entities to provide a joint submittal when the intent is to carry on the SHA. We will continue to track this issue as we gain experience with the Safe Harbor program and will consider modifications to the program in the future should the requirement for a ''joint submittal'' prove troublesome.

Section 13.26—Discontinuance of Permit Activity

In the June 17, 1999, final rule, we added a new subparagraph (7) to sections 17.22(b) and 17.32(b) to make clear that HCP permittees remain responsible for mitigation required under the terms of their permits even after surrendering their permits. The general provision on permit surrender at section 13.26 did not address this issue. The new provisions made it clear that any mitigation owed for take occurring prior to permit surrender would still be required after the permit was surrendered.

Issue 7: We received three comments on the addition of subparagraph (7) to sections 17.22(b) and 17.32(b). Two of the commenters supported the new provision addressing post termination mitigation, finding that it was a reasonable way to address the issue. One commenter did not favor the provision and suggested it was unfair to the permittee to be asked for mitigation after the permit has been surrendered or revoked.

Response 7: We have limited the requirement for post termination mitigation to those situations in which the take has occurred prior to permit surrender, but the mitigation that was agreed to has not been completed. In order to obtain a permit, the HCP must include measures that minimize and mitigate the anticipated impacts and ensure that adequate funding for the plan will be provided. In addition, the HCP must not appreciably reduce the likelihood of survival and recovery of the species to be permitted. With the issuance of the permit the Service makes a finding that the HCP has met the issuance criteria based on the assumption that the implementation of the operating conservation program will offset the proposed impacts. Therefore, we believe it is fair to require the permittee to complete mitigation for take that has already occurred.

Section 13.28a—Permit Revocation

We modified the permit revocation criteria in section 13.28(a) to provide that the section 13.28(a)(5) criterion shall not apply to HCP, SHA, and CCAA permits. We determined that it would be more appropriate to refer instead to the statutory issuance criterion in 16 U.S.C. 1539(a)(2)(B)(iv) that prohibits the issuance of a permit unless the Service finds the permit will not appreciably reduce the likelihood of survival and recovery of the species. We, therefore, included in the HCP regulations a provision (sections 17.22(b)(8) and 17.32(b)(8)) that allows a permit to be revoked if continuing the permitted activity would be inconsistent with 16 U.S.C. 1539(a)(2)(B)(iv) and the inconsistency had not been remedied in a timely fashion. We also included similar provisions for SHA and CCAA permits (sections 17.22(c)(7) and (d)(7), and sections 17.32(c)(7) and (d)(7)).

Issue 8: We received numerous comments on the provisions addressing permit revocation. The comments ranged widely, but generally fell into two categories, one of which is that the agency did not go far enough with the revocation provision and the other is that the agency went too far with the revocation provision. With respect to comments objecting because the revocation provision did not go far enough, many of the commenters stated that they did not see any reason why the old provision in section 13.28(a) should be replaced with a standard they viewed as less protective. These commenters also stated that the revocation provision should have mandatory language like the word ''shall'' to indicate that revocation is not discretionary. Many commenters questioned why the Service should have to step in at public expense to remedy jeopardy situations before a permit can be revoked. Some questioned what the standard ''in a timely fashion'' means. One commenter suggested that the revocation provision also contain a reference to adverse modification of critical habitat, while another commenter recommended that the word ''jeopardy'' be used instead of ''appreciable reduction in likelihood of survival and recovery'' because the commenter viewed ''jeopardy'' to be a higher standard.

With respect to comments expressing concern that the Service has gone too far, we received a number of comments stating that the revocation provision undermined the ''No Surprises'' rule. These commenters strongly opposed any further expansion of the revocation provision and suggested further expansion would be contrary to congressional intent. A number of commenters requested that the Service reaffirm the principles of ''No Surprises'' and noted that revocation should be ''an action of last resort.'' Another commenter requested that we limit revocation to instances where the permittee is not in compliance with the permit or, at a minimum, add to the revocation provision a statement to indicate that the burden is on the agency to establish that the conditions for revocation exist. Another commenter stated that the revocation provision is not applicable to the Safe Harbor context and that Safe Harbor revocation should be limited to instances where the permittee is not in compliance or has refused efforts to salvage animals or to sell land at fair market value.

Response 8: We believe that it is inappropriate to have a standard for

revocation of a permit that is different from the standard for issuing the permit in the first place. When Congress amended the ESA in 1982 to create the HCP permit program, it clearly indicated that the relevant focus would be at the species level. Section 13.28(a)(5) predates the 1982 amendments and focuses only on the wildlife population in the permitted area. We therefore believe that it is appropriate to replace section 13.28(a)(5) with a provision that more accurately reflects the congressional intent behind the 1982 amendments. The new revocation provision established in sections 17.22 and 17.32 is written in a manner that indicates when revocation is not permissible instead of when it is. As a result, the suggestion that the word ''may'' be changed to ''shall'' is not practical. In addition, decisions involving permit revocation are fact-intensive and will require the exercise of discretion on the part of the agency. It is therefore questionable whether permit revocation standards can be described as being mandatory versus discretionary.

In the February 23, 1998, ''No Surprises'' final rule, we provided the rationale for committing the agency to step in and attempt to remedy jeopardy situations in cases where the permittee is in full compliance with the permit and has a properly implemented conservation plan in place. In exchange for assurances, the HCP permittee has agreed to undertake extensive planning and to include contingencies to address changed circumstances. This requirement does not exist in other Federal permitting programs. We believe it is fair, therefore, to commit the agency to step in and address unforeseen circumstances in the very rare circumstance that this will be required.

Because each HCP is so case-specific it is not possible to indicate what remedying the jeopardy situation in ''a timely fashion'' means in all instances. Whether a response can be deemed timely or not will depend on highly fact-specific issues, including the species involved and the source of the problem.

We do not see the need to add a reference to adverse modification of critical habitat or to use the word ''jeopardy'' in the revocation provisions. Instead we view it to be preferable to simply reference the statutory permit issuance criterion. Although one commenter viewed the terms ''jeopardy'' and ''appreciable reduction of survival and recovery'' to mean two different things, we view the terms to be synonymous, and in fact the agency's definition of ''jeopardy'' is to ''reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild.''

As we stated in our notice of February 11, 2000, ''the Service is firmly committed, as required by the ''No Surprises'' final rule, to utilizing its resources to address any such unforeseen circumstances,'' and we view the revocation provision as available ''as a last resort in the narrow and unlikely situation in which an unforeseen circumstance results in likely jeopardy to a species covered by the permit and the Service as not been successful in remedying the situation through other means.'' (65 FR 6916, 6918). We further view the likelihood of the revocation provision applying in the Safe Harbor context to be extremely remote and likely to occur only in the limited circumstances described by the commenter. Because the revocation provision is based on a biological situation and therefore applies to more situations than those in which the permittee is in non-compliance, we decline to narrow the provision as requested by one commenter. We believe that the current revocation provision is consistent with congressional intent and strikes the right balance between the need for permittee certainty and the need to avoid jeopardy to the species covered by the permit. We also believe that existing regulatory provisions, both in part 13 and the ''No Surprises'' final rule, adequately detail the agency's burden in permit revocation contexts and that there is, therefore, no need to add the suggested process changes to the revocation provision.

Section 13.50—Acceptance of Liability

We revised section 13.50 to allow more flexibility where the permittee is a State or local governmental entity and has thus taken a leadership role and is assisting in implementation of the permit program. In this limited situation, the governmental permittee would not be liable for activity conducted by sub-permittees under the authority of the permit issued to the governmental entity.

Issue 9: We received one comment in support of the change to section 13.50. The commenter noted that the change to limit the liability of State and local governments that hold master permits would encourage greater regional HCP planning.

Response 9: We agree and believe that the revision to section 13.50 is warranted. In large regional plans, the local jurisdiction largely administers the implementation of the HCP. In doing so, the local jurisdiction extends the incidental take authority of their permit to other non-Federal entities undertaking activities in accordance with the HCP. We believe it is those entities that should be responsible for their actions involving implementation of the HCP and incidental take permit, rather than the governmental entity that holds the master permit.

Sections 17.22(c)(5), (d)(5) and 17.32(c)(5), (d)(5)—Assurances Provided to the Permittee in the Case of Changed or Unforeseen Circumstances

We extended the ''No Surprises'' assurances that apply to HCP permits to SHA and CCAA permits. We did this by adding a new subparagraph (5) to sections 17.22(c) and (d) and 17.32(c) and (d).

Issue 10: We received two comments supporting the addition of assurances to the SHA and CCAA programs.

Response 10: Many landowners would be willing to manage their lands voluntarily to benefit fish, wildlife, and plants, especially those in decline, provided that they are not subjected to additional regulatory restrictions as a result of their conservation efforts. Therefore, we agree that when a landowner voluntarily implements the provisions of a SHA or CCAA, in accordance with the respective standards of those programs, the landowner should receive assurances that we will not require any additional conservation measures without their consent.

Summary

After careful review of all of the comments received, we have determined that none of the comments revealed problems with the current regulatory framework that would warrant a reproposal of the permit regulation changes. Based on our review of the comments, we believe that the changes to the permit regulations effectively achieve the goal of conforming part 13 to the more recently created permit programs for HCPs, SHAs, and CCAAs and that they strike the proper balance. Accordingly, we have decided not to repropose any of the amendments to part 13 or part 17.

Authority

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

Dated: January 10, 2001.

Jamie R. Clark,

Director, Fish and Wildlife Service.

[FR Doc. 01–1483 Filed 1–19–01; 8:45 am]

BILLING CODE 4310–55–P