

Gregory, Bridge Administrator, Fifth Coast Guard District, (757) 398-6222.

### Collection of Information

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This proposed rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal

Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2-1, paragraph (32)(e) of the Instruction, from further environmental documentation. Allowing the draw to remain closed for vessels at the times indicated on the last Wednesday and Thursday in July of every year would have no individually or cumulatively significant impact on the environment.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499, Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. § 117.1005 is added to read as follows:

### § 117.1005 Chincoteague Channel.

The draw of the SR 175 bridge, mile 3.5 at Chincoteague need not open for the passage of vessels from 7 a.m. to 5 p.m. on the last Wednesday and Thursday in July of every year.

Dated: December 31, 2003.

**Sally Brice-O'Hara,**

*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-A173

### Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for Three Threatened Mussels and Eight Endangered Mussels in the Mobile River Basin

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

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period for the proposed rule to designate critical habitat for 11 mussels in the Mobile River Basin under the Endangered Species Act of 1973, as amended (Act). The comment period is being reopened to provide notification to Clay, Elmore, Lee, and Lowndes Counties, Alabama, and to allow all interested parties another opportunity to comment on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted and will be fully considered in the final determination of the proposal.

**DATES:** The comment period is hereby reopened until January 23, 2004. We must receive comments on the proposal and draft economic analysis from all interested parties by the closing date. Any comments that we receive after the closing date will not be considered in the final rule.

**ADDRESSES:** Copies of the proposed designation and draft economic analysis are available on the Internet at <http://southeast.fws.gov/hotissues>, or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, MS 39213; or by calling Mississippi Field Office, telephone 601/965-4900.

Written comments and materials concerning the proposal or draft economic analysis may be submitted to us by any one of several methods:

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, MS 39213.

2. You may hand-deliver written comments and information to our Mississippi Field Office, at the above address, or fax your comments to 601/965-4340.

3. You may send comments by electronic mail (e-mail) to [paul\\_hartfield@fws.gov](mailto:paul_hartfield@fws.gov). For directions on how to submit electronic filing of comments, see the "Public Comments Solicited" section.

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:** Paul Hartfield, Mississippi Field Office, at the above address (telephone 601/321-1125, facsimile 601/965-4340).

**SUPPLEMENTARY INFORMATION:**

**Background**

We listed the fine-lined pocketbook, orange-nacre mucket, and Alabama moccasinshell as threatened species, and the Coosa moccasinshell, ovate clubshell, southern clubshell, dark pigtoe, southern pigtoe, triangular kidneyshell, upland combshell, and southern acornshell as endangered species under the Act on March 17, 1993 (58 FR 14330).

On March 26, 2003, we published in the **Federal Register** a proposed rule to designate critical habitat for these species (68 FR 14752). The proposed designation includes portions of the Tombigbee River drainage in Mississippi and Alabama; portions of the Black Warrior River drainage in Alabama; portions of the Alabama River drainage in Alabama; portions of the Cahaba River drainage in Alabama; portions of the Tallapoosa River drainage in Alabama and Georgia; and portions of the Coosa River drainage in Alabama, Georgia, and Tennessee. The proposed designation encompasses a total of approximately 1,760 kilometers (km) (1,093 miles (mi)) of river and stream channels.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific 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 prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES** section). On August 14, 2003 (68 FR 48581), the comment period was reopened through October 14, 2003, to receive comments on the draft economic analysis and to accommodate a public hearing. The public hearing was held on October 1, 2003, in Birmingham, Alabama.

Section 4(b)(5) of the Act requires that we give actual notice of the proposed regulation to the States and to each county in which the species are believed to occur.

Following closure of the second comment period on October 14, 2003, we became aware that we had failed to directly notify four of the counties affected by the proposed critical habitat designation. Therefore, we have provided the regulation to Clay, Elmore, Lee, and Lowndes Counties, Alabama, and reopened the comment period until the date specified above in **DATES**, to allow all interested parties another opportunity to comment on the proposed rule and the associated draft economic analysis. Legal notices announcing the reopening of the comment period are being published in newspapers concurrently with this **Federal Register** notice. For further information regarding the proposed critical habitat for the 11 Mobile River Basin mussels, please refer to the proposed rule (68 FR 14752; March 26, 2003).

**Public Comments Solicited**

We are soliciting comments and information from the public, governmental agencies, the scientific community, industry, or any other interested party on any aspects of the proposed designation of critical habitat for the 11 Mobile River Basin mussels

or the draft economic analysis. The comment period for both the proposed rule and the draft economic analysis now closes on the date specified above in **DATES**. Previously submitted comments and information need not be resubmitted. Our final determination on the proposed critical habitat will take into consideration comments and any additional information received by the date specified above.

Please submit electronic comments as an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: RIN 1018-A173" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Mississippi Field Office (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.

**Author**

The primary author of this notice is Paul Hartfield (see **ADDRESSES** section).

**Authority**

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

Dated: December 23, 2003.

**Paul Hoffman,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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