

Issued at Washington, DC, on May 21, 2012.

Saint Lawrence Seaway Development Corporation.

**Craig H. Middlebrook,**

*Acting Administrator.*

[FR Doc. 2012-12987 Filed 5-30-12; 8:45 am]

**BILLING CODE 4910-61-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R05-OAR-2012-0312; FRL-9679-5]

#### Approval of Negative Declaration and Withdrawal of Large Municipal Waste Combustors State Plan for Designated Facilities and Pollutants: Illinois

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve Illinois' negative declaration and request for EPA withdrawal of its 111(d)/129 State Plan to control air pollutants from "Large Municipal Waste Combustors" (LMWC). On February 1, 2012, the Illinois Environmental Protection Agency submitted a letter of certification to EPA that the only designated facility in the State Plan ceased operation and is completely shut down and requested that EPA withdraw the State Plan implementing the emission guidelines for LMWCs.

**DATES:** Comments must be received on or before July 2, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2012-0312, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email*: [nash.carlton@epa.gov](mailto:nash.carlton@epa.gov).
- *Fax*: (312) 692-2543.
- *Mail*: Carlton T. Nash, Chief, Toxics and Global Atmosphere Section, Air Toxics and Assessment Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

• *Hand Delivery*: Carlton T. Nash, Chief, Toxics and Global Atmosphere Section, Air Toxics and Assessment Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through

Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

#### FOR FURTHER INFORMATION CONTACT:

Margaret Sieffert, Environmental Engineer, Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AT-18J), Chicago, Illinois 60604, (312) 353-1151, [sieffert.margaret@epa.gov](mailto:sieffert.margaret@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Rules section of this **Federal Register**, EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: May 16, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2012-13204 Filed 5-30-12; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 99-25; Report No. 2950]

#### Petitions for Reconsideration of Action of Rulemaking Proceeding

**AGENCY:** Federal Communications Commission.

**ACTION:** Petition for reconsideration.

**SUMMARY:** In this document, Petitions for Reconsideration (Petitions) have been filed in the Commission's

Rulemaking proceeding against the adoption of a national cap of 50 applications and a market-based cap of one application per applicant per market for pending Auction No. 83 translator applications.

**DATES:** Oppositions to the Petition must be filed on or before June 15, 2012. Replies to an opposition must be filed on or before June 25, 2012.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Kelly Donohue, Media Bureau, 202-418-8192.

**SUPPLEMENTARY INFORMATION:** This is a summary of Commission's document, Report No. 2950, released May 24, 2012. The full text of this document is available for viewing and copying in Room CY-B402, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1-800-378-3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Notice* does not have an impact on any rules of particular applicability.

Subject: Creation of a Low Power Radio Service, published at 77 FR 21002, April 9, 2012, in MB Docket No. 99-25, and published pursuant to 47 CFR 1.429(e). See 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)).

Number of Petitions Filed: 5.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary, Office of Managing Director.*

[FR Doc. 2012-13152 Filed 5-30-12; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R1-ES-2011-0096; 4500030114]

RIN 1018-AX38

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Southern Selkirk Mountains Population of Woodland Caribou (*Rangifer tarandus caribou*)

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

**ACTION:** Proposed rule; availability of supplementary documents and announcement of public hearing.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the

reopening of the comment period on our November 30, 2011, proposed rule to designate critical habitat for the southern Selkirk Mountains population of woodland caribou (*Rangifer tarandus caribou*) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis of the proposed designation and an amended required determinations section of the proposal. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated draft economic analysis, and the amended required determinations section. We will also hold a public informational session and hearing (see **DATES** and **ADDRESSES**).

**DATES:** *Written Comments:* We will consider comments received or postmarked on or before July 2, 2012. Comments must be received by 11:59 p.m. Eastern Time on the closing date.

*Public informational session and public hearing:* We will hold a public informational session from 9:30 a.m. to 11 a.m., followed by a public hearing from 2 p.m. to 5 p.m., on June 16, 2012, in Coolin, Idaho. Speaker registration will begin at 1 p.m. (see **ADDRESSES**).

**ADDRESSES:**

*Document availability:* You may obtain copies of the proposed rule and the draft economic analysis on the internet at <http://www.regulations.gov> at Docket No. FWS-R1-ES-2011-0096 or by mail from the Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

*Written Comments:* You may submit comments by one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>. In the Search box, enter the docket number for this proposed rule, which is FWS-R1-ES-2011-0096. Please ensure that you have found the correct rulemaking before submitting your comment.

(2) *U.S. mail or hand delivery:* Public Comments Processing, Attn: FWS-R1-ES-2011-0096; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

*Public informational session and public hearing:* The public informational session and hearing will

be held at The Inn at Priest Lake, 5310 Dickensheet Highway, Coolin, Idaho 83821. People needing reasonable accommodations in order to attend and participate in the public hearing should contact Brian Kelly, State Supervisor, Idaho Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Brian Kelly, State Supervisor, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709; telephone 208-378-5243; facsimile 208-378-5262. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Public Comments**

We will accept written comments and information during this reopened comment period on our proposed critical habitat for the southern Selkirk Mountains population of woodland caribou that was published in the **Federal Register** on November 30, 2011 (76 FR 74018), our draft economic analysis of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including information on any threats to the southern Selkirk Mountains population of woodland caribou from human activity, the degree of which can be expected to increase due to the designation, such that the designation of critical habitat may not be prudent.

(2) Specific information on:

(a) The amount and distribution of habitat for the southern Selkirk Mountains population of woodland caribou in the United States.

(b) What areas which were occupied at the time of listing and contain the physical and biological features essential to the conservation of the species should be included in the designation and why.

(c) What areas outside the geographical area occupied at the time of listing are essential for the conservation of the species and why.

(d) Special management considerations or protections that may be required for the physical or biological features essential to the conservation of

the southern Selkirk Mountains population of woodland caribou that have been identified in this proposal, including management for the potential effects of climate change.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on the proposed critical habitat.

(4) Any reasonably foreseeable economic, national security, or other relevant impacts of the proposed critical habitat designation. We are particularly interested in any impacts on small entities or families, and the benefits of including or excluding areas that exhibit these impacts.

(5) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act, and why.

(6) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

(7) Information on the extent to which the description of economic impacts in the draft economic analysis is complete and accurate.

(8) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the draft economic analysis, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

**Public Informational Session and Public Hearing**

Section 4(b)(5)(E) of the Act requires that we hold one public hearing on a proposed regulation, if any person files a request for such a hearing within 45 days after the date of publication of a general notice. At the request of the Governor of Idaho and the Commissioners of Boundary County, Idaho, we held an informational session (a brief presentation about the proposed rule with a question-and-answer period), and a public hearing on April 28, 2012, in Bonners Ferry, Idaho (77 FR 16512; March 21, 2012). With this notice, we are announcing an additional informational session and public hearing (see **DATES** and **ADDRESSES**). Anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a

written copy of their statement to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Speakers can sign up at the informational meeting and hearing if they desire to make an oral statement. Oral and written statements receive equal consideration at the hearing. There are no limits on the length of written comments submitted to us. If you have any questions concerning the public hearing, please contact Brian Kelly, State Supervisor, Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

The Service has conducted several outreach efforts to be responsive to public requests for additional information. On January 9, 2012, we presented information on the proposed critical habitat designation in Bonners Ferry, Boundary County, Idaho, at the request of the Kootenai Valley Resource Initiative (KVRI), and on January 24, 2012, we held an informational meeting in Priest Lake, at the request of the Bonner County Idaho Commission. On February 13, 2012, we participated in a meeting in Boundary County, Idaho, sponsored by the KVRI. On February 28, 2012, and March 26, 2012, we participated in meetings with the Bonner County Idaho Commission, and on April 19, 2012, we participated in a meeting with the Boundary County Idaho Commission. All meetings were open to the public.

Our final determination concerning critical habitat for the southern Selkirk Mountains population of woodland caribou will take into consideration all written comments we receive during the comment periods, comments from peer reviewers, comments and public testimony received during the public hearings, and all information we receive in response to the draft economic analysis. All public comments will be included in the public record for this rulemaking. On the basis of public comments, we may, during the development of our final determination, find that areas within the proposed designation do not meet the definition of critical habitat, that some modifications to the described boundaries are appropriate, or that areas may or may not be appropriate for exclusion under section 4(b)(2) of the Act.

If you previously submitted comments or information on this proposed rule, please do not resubmit them. We have incorporated them into the public record, and will fully consider them in the preparation of our final determination.

You may submit your comments and materials concerning our proposed rule or draft economic analysis by one of the methods listed in **ADDRESSES**.

We will post your entire comment—including any personal identifying information—on <http://www.regulations.gov>. If you provide personal identifying information, such as your street address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and draft economic analysis, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule and the draft economic analysis on the Internet at <http://www.regulations.gov> at Docket Number FWS-R1-ES-2011-0096, or by mail from the Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

### Background

It is our intent to discuss only those topics directly relevant to the designate of critical habitat for the southern Selkirk Mountains population of woodland caribou. For a description of the previous Federal actions concerning the southern Selkirk Mountains population of woodland caribou, please refer to the proposed critical habitat rule, as described below.

### Previous Federal Actions

On November 30, 2011 (76 FR 74108), we published a proposed rule to designate critical habitat for the southern Selkirk Mountains population of woodland caribou. We proposed to designate as critical habitat approximately 375,562 acres (ac) (151,985 hectares (ha)) in a single unit (with two subunits) in Boundary and Bonner counties in Idaho, and Pend Oreille County in Washington. That proposal had a 60-day comment period, ending on January 30, 2012. On March 21, 2012 (77 FR 16512), we reopened the comment period for an additional 60 days, and we conducted a public informational session and public hearing on April 28, 2012, in Bonners Ferry, Idaho, at the request of the

Governor of Idaho and the Bonner County, Idaho, Commissioners.

### Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the provisions of section 4 of the Act, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7(a)(2) of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions that may affect critical habitat must consult with us on the effects of their proposed actions pursuant to the requirements of section 7(a)(2) of the Act.

### Consideration of Impacts Under Section 4(b)(2) of the Act

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, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that failure to designate such area will result in the extinction of the species concerned.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific

area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of the southern Selkirk Mountains population of woodland caribou, the benefits of critical habitat include public awareness of the presence of the species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the species due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by, or with the authorization or permission of, Federal agencies.

We have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best available scientific and commercial data available, information obtained during the comment period concerning economic impacts, impacts to national security, or any other relevant impacts of the proposed designation. With regard to economic impacts, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**).

#### *Draft Economic Analysis*

The purpose of the draft economic analysis is to identify and analyze the reasonably foreseeable potential economic impacts associated with the proposed critical habitat designation for the southern Selkirk Mountains population of woodland caribou. The draft economic analysis describes the economic impacts of all potential conservation efforts for the species; some of these costs will likely be incurred regardless of whether we designate critical habitat. The economic impact of the proposed critical habitat designation is analyzed by comparing scenarios both “with critical habitat” and “without critical habitat.” The “without critical habitat” scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing and other Federal or State regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The “with critical habitat” scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. In other words, these incremental impacts would not occur but for the designation. These incremental impacts produce the costs

that we consider in the final designation of critical habitat when evaluating the benefits of excluding particular areas under section 4(b)(2) of the Act. The analysis looks retrospectively at baseline impacts incurred since the species was listed, and forecasts incremental impacts likely to occur if we finalize the proposed critical habitat designation.

As described above, the draft economic analysis separates conservation measures into two distinct categories according to “without critical habitat” and “with critical habitat” scenarios. Conservation measures implemented under the baseline (without critical habitat) scenario are described qualitatively within the draft economic analysis, but economic impacts associated with these measures are not quantified. Economic impacts are only quantified for conservation measures implemented specifically due to the designation of critical habitat (i.e., incremental impacts). For a further description of the methodology of the analysis, see Chapter 2, “Framework for the Analysis,” of the draft economic analysis.

The draft economic analysis provides estimated costs of the foreseeable potential economic impacts of the proposed critical habitat designation for the southern Selkirk Mountains population of woodland caribou over the next 20 years, from 2012 through 2031. We determined that this 20-year timeframe was the appropriate period for analysis because the availability of land-use planning information becomes very limited for most activities beyond that timeframe. The draft economic analysis identifies potential incremental costs as a result of the proposed critical habitat designation; these are those costs attributed to critical habitat over and above those baseline costs attributed to listing and other regulatory protections. The draft economic analysis quantifies economic impacts of the southern Selkirk Mountains population of woodland caribou conservation efforts associated with the following categories of activity: (1) Timber harvest; (2) fire, fire suppression, and forest management practices; (3) transportation and electricity projects; (4) mining; and (5) recreational activities.

The primary long-term threat to the southern Selkirk Mountains population of woodland caribou is the ongoing loss and fragmentation of contiguous old growth forests and forest habitats due to a combination of timber harvest, wildfires, and human activities that involve road development. The effects to woodland caribou associated with habitat loss and fragmentation are: (1)

Reduction of the amount of space available for caribou, limiting the ecological carrying capacity; (2) reduction of the arboreal lichen supply, which is the caribou’s key winter food source; (3) potential impacts to caribou movement patterns; (4) potential effects to the caribou’s use of remaining fragmented habitat because suitable habitat parcels will be smaller and discontinuous; and (5) increased susceptibility of caribou to predation as available habitat is compressed and fragmented (Stevenson *et al.* 2001, p. 10; MCTAC 2002, pp. 20–22; Cichowski *et al.* 2004, pp. 10, 19–20; Apps and McLellan 2006, pp. 92–93; Wittmer *et al.* 2007, pp. 576–577).

Approximately 79 percent of the proposed critical habitat area is on Federal land, most of which is managed by the U.S. Forest Service (USFS). The Bureau of Land Management (BLM) manages 231 ac (93 ha) of the proposed critical habitat as a wilderness study area and for grizzly bear conservation, and approximately 294,716 ac, (119,065 ha) are managed by the USFS. National Forest lands involved in the proposed designation include the Idaho Panhandle National Forests (IPNF) in Idaho and Washington, and Colville National Forest (CNF) in Washington. Land and resource management plans (LRMPs) for the IPNF and CNF have been revised to incorporate management objectives and standards to address the above identified threats to the southern Selkirk Mountains population of woodland caribou, as a result of section 7 consultation between the Service and USFS (USFWS 2001a, b). Standards for management of habitat for the southern Selkirk Mountains population of woodland caribou were incorporated into the IPNF’s 1987 and CNF’s 1988 LRMP, to avoid the likelihood of jeopardizing the continued existence of the species, to contribute to caribou conservation, and to ensure consideration of the biological needs of the species during forest management planning and implementation actions (USFS 1987, pp. II–6, II–27, Appendix N; USFS 1988, pp. 4–10–4–17, 4–38, 4–42, 4–73–4–76, Appendix I). A review of our section 7 consultation records with the USFS indicates that no project modifications have been required to date, because the activities were either not within habitat for the southern Selkirk Mountains population of woodland caribou, or conservation measures were already incorporated into project designs to avoid impacts to the species or its habitat.

Of the remaining 21 percent of the proposed critical habitat designation, 17 percent (65,218 ac, 26,393 ha) is State

land, and 4 percent (15,379 ac, 6,225 ha) covers privately owned lands. The draft economic analysis concludes that critical habitat designation may affect timber harvest on private lands if Federal permits to use USFS roads are required, but estimates few additional costs associated with the implementation of other activities within the proposed critical habitat area. We believe activities on State or private lands are unlikely to have a Federal nexus or be subject to section 7 consultation, based on a review of our consultation records to date. However, the draft economic analysis includes a highly conservative estimate of potential administrative costs related to section 7 consultation on non-Federal lands, by assuming that almost all activities on non-Federal land would have a Federal nexus, and those lands would be subject to timber harvest over the next 20 years. The draft economic analysis, therefore, presents a worst-case scenario with regard to economic impacts to non-Federal lands. However, there is no information available to the Service that would indicate either of the above presumptions is reasonably foreseeable, and those estimates are included solely to provide additional perspective to reviewers regarding the potential economic impacts of the proposed critical habitat designation.

Due to the extensive existing baseline protections for caribou and other listed species (grizzly bear (*Ursus arctos horribilis*), Canada lynx (*Lynx canadensis*), and bull trout (*Salvelinus confluentus*)), the incremental impacts of critical habitat designation would be limited to Federal agency (primarily USFS) administrative costs of considering adverse modification during section 7 consultation with the Service (about 19 percent of total forecast costs) as well as incremental costs for timber harvesting on private lands, including time delays in harvesting (about 81 percent of total forecast costs). For small entities (private land owners, which comprise approximately 10 percent of the private land in the area proposed for designation), the draft economic analysis estimates incremental impacts to be \$30,300 annually, or \$343,000 over a 20-year period based on the present value discounted at seven percent. This estimated cost would be associated with potential reductions in timber harvest due to time delays affecting privately owned forest land controlled by small entities, if they were to occur. However, we have no available information which would indicate delays are probable or reasonably foreseeable. Forest Capital Partners, LLC, which owns 90 percent of

the private land within the area proposed for designation, is not considered a small entity. The total incremental costs (including Federal, State, and private lands) are estimated to be \$132,000 annually, or \$1.5 million over a 20-year period, based on the present value discounted at seven percent.

The proposed critical habitat designation is unlikely to generate economic impacts beyond administrative costs of section 7 consultation associated with the adverse modification analysis. Further, project proponents and land managers are aware of the species' presence throughout its range, and the need to consult with the Service for projects that have a Federal nexus that may affect the species. In conclusion, we have no information that would indicate the proposed designation of critical habitat for the southern Selkirk Mountains population of woodland caribou would change the outcome of future section 7 consultations. Any conservation measures implemented to minimize impacts to the species would very likely be sufficient to also minimize impacts to critical habitat. Therefore, we do not believe any additional conservation measures would be needed solely to minimize impacts to critical habitat.

We are soliciting data and comments from the public on the draft economic analysis, as well as all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, 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, provided the exclusion will not result in the extinction of the species.

#### Required Determinations—Amended

In our November 30, 2011, proposed rule (76 FR 74018), we indicated that we would defer our determination of compliance with several statutes and executive orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the draft economic analysis. We have now made use of the draft economic analysis data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 12630 (Takings), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy,

Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951). However, based on the draft economic analysis data, we are amending our required determination concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement describing the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. Based on comments we receive, we may revise this determination as part of our final rulemaking.

According to the Small Business Administration, small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). For example, small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that

might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term “significant economic impact” is meant to apply to a typical small business firm’s business operations.

To determine if the proposed designation of critical habitat for the southern Selkirk Mountains population of woodland caribou would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities, such as timber companies. In order to determine whether it is appropriate for our agency to certify that this rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. We also considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the southern Selkirk Mountains population of woodland caribou is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In the draft economic analysis, we evaluated the potential economic effects on small entities resulting from implementation of conservation actions related to the proposed designation of critical habitat for the southern Selkirk Mountains population of woodland caribou. As estimated in Chapter 4 of

the draft economic analysis, incremental impacts of the proposed designation are limited to additional administrative costs of considering adverse modification during section 7 consultation with the Service, as well as incremental costs associated with timber harvesting and permitting delays on private land. Approximately 17 percent of the total estimated incremental costs are projected to be borne by Federal agencies, and approximately 83 percent are projected to be incurred by private entities. Small entities may participate in section 7 consultation as a third party (the primary consulting parties being the Service and the Federal action agency); therefore, it is possible that small entities may spend additional time considering critical habitat during section 7 consultation for the southern Selkirk Mountains population of woodland caribou. Some of the forecast consultations for the southern Selkirk Mountains population of woodland caribou may involve third parties, such as timber companies and private land owners who may want to harvest timber on their land. The maximum annualized incremental impact to third parties is anticipated to total \$107,000, based on a 7 percent discount rate; such costs are expected to be distributed between multiple third parties. The number of landowners is not known, therefore, we are unable to determine the incremental costs per entity. However, even if all incremental costs were borne by one small timber tract operations entity, which is unlikely, the entity would experience a 0.86 percent annual loss in revenue. This estimate is based on an average revenue for small timber tract operations companies of \$3.53 million. Small entities are consequently anticipated to bear a relatively low cost impact as a result of the designation of critical habitat for the southern Selkirk

Mountains population of woodland caribou. We do not believe this designation will have a significant impact on these small entities or affect a substantial number of them. Please refer to Appendix A of the draft economic analysis of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. Information for this analysis was gathered from the Small Business Administration, stakeholders, and the Service. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

A complete list of references cited in this rule is available on the internet at <http://www.regulations.gov> and upon request from the Idaho Fish and Wildlife Office (See **FOR FURTHER INFORMATION CONTACT**, above).

#### Authors

The primary authors of this notice are the staff members of the Idaho Fish and Wildlife Office, Pacific Region, U.S. Fish and Wildlife Service.

#### Authority

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

Dated: May 14, 2012.

**Rachel Jacobson,**

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

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