

**DEPARTMENT OF VETERANS
AFFAIRS**
38 CFR Part 8
RIN 2900-AH03
National Service Life Insurance
AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulation.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its National Service Life Insurance (NSLI) policy loan regulation to provide that when an interest rate change is required on an NSLI variable rate loan the effective date of the new interest rate will be on or after the first day of October on the date the change is implemented through the insurance Automatic Data Processing (ADP) system. This action is being taken to allow sufficient time to make all necessary modifications to the Insurance ADP system without any adverse impact on NSLI policyholders or VA.

DATES: Comments must be received on or before October 3, 1994.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be available for public inspection in the Veterans Services Unit, Room 119 of the above address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Hosmer, Senior Insurance Specialist/Attorney, Department of Veterans Affairs Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, Pennsylvania 19101, (215) 951-5710.

SUPPLEMENTARY INFORMATION: Since 1987 the loan interest rate on all new NSLI policy loans has been a variable rate that is tied to an economic indicator. The indicator is the Ten-Year Constant Maturities Index of U.S. Treasury Securities for the month of June of each year. Current regulations require rate changes to be effective October 1, 38 CFR 8.28(c). The June 1, 1994, indicator has resulted in a need to increase the loan interest rate by two percentage points from 5% to 7%.

From an administrative standpoint, in all likelihood it appears that VA's computer resource staff will not be able to provide the necessary programming support to implement this change on

October 1 without adversely affecting two major insurance ADP projects. The first critical project involves the expansion of the insurance master record, which is scheduled to be implemented in October of this year. Because of the current limitation of the system, the insurance personnel have been forced to split policies into two and in some cases three or four policies in order to process loans in excess of funds over \$9,999.99. This results in the issuance of multiple policies, with separate billings for loan interest and premiums and separate annual statements. A similar situation arises when the amount payable on an insurance death claim exceeds \$9,999.99 and the policy must be split. These split policies adversely affect customer service and require a substantial amount of clerical intervention in order to process the desired actions.

The second project which would in all likelihood be delayed is the "rehosting" project which will consolidate insurance ADP processing onto one mainframe system. Today, the insurance system runs on two parallel systems, and IBM mainframe which does all of the batch processing and a Honeywell system that handles all of the data entry transactions. In running parallel systems VA incurs additional maintenance fees as well as redundant program costs to keep two systems synchronized.

In addition to our administrative concerns, the failure to program the ADP system by October 1 to reflect the rate change could have an adverse impact on certain NSLI policyholders. Implementing the interest rate change on October 1 without programming the ADP system to bill policyholders on that date would require us to bill policyholders for back interest, which could put some policyholders in immediate jeopardy of having their policies automatically cancelled. This would occur if the outstanding debt on the policy (the loan principal plus interest) exceeds the policy cash value. Amending the regulations in the manner proposed would allow us sufficient time to make all necessary ADP modifications without any adverse impact on our policyholders.

The Secretary of Veterans Affairs hereby certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this proposed regulation is, therefore, exempt from the initial and final regulatory flexibility analyses

requirements of section 603 and 604. The reason for this certification is that this proposed regulation will effect only certain Government life insurance policyholders. It will, therefore, have no significant direct impact on small entities in the terms of compliance costs, paperwork requirement or effects on competition.

The comment period for this proposed rule has been shortened from sixty days to thirty days. It has been determined that this is necessary in order to establish a final rule prior to October 1, 1994, when the next rate change is effective.

The catalog of Federal Domestic Assistance Program number for this regulation is 64.103.

List of Subjects 38 CFR Part 8

Life Insurance, Loan programs—veterans, Veterans.

Approved August 23, 1994.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 8 is proposed to be amended as set forth below.

**PART 8—NATIONAL SERVICE LIFE
INSURANCE**

1. The authority citation for part 8 continues to read as follows:

Authority: 38 U.S.C. 502, 1901-1924, 1981-1988, unless otherwise noted.

2. In § 8.28(c) the second sentence is removed and the following is added in place thereof:

§ 8.28 Policy loans.

* * * * *
(c) * * * Such loan rate shall be effective on the date on or after the first day of October on which the rate change is made in the insurance automatic data processing system, and shall remain in effect for not less than one year after the date of establishment. * * *

[FR Doc. 94-21651 Filed 8-31-94; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17
RIN 1018-AC50
**Endangered and Threatened Wildlife
and Plants; Reopening of Comment
Period on Proposed Endangered
Status for Three Insects From the
Santa Cruz Mountains of California**

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment period on the proposed determination of endangered status for the Mount Hermon june beetle (*Polyphylla barbata*), Zayante band-winged grasshopper (*Trimerotropis infantilis*), and Santa Cruz rain beetle (*Pleocoma conjungens conjungens*) is reopened. These insects are found in ponderosa pine sand parkland habitat in Santa Cruz County, California. All interested parties are invited to submit comments on this proposal.

DATES: The comment period, which originally closed on August 1, 1994, is reopened on September 1, 1994; the Service will accept written comments until October 31, 1994.

ADDRESSES: Written comments and materials should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 2140 Eastman Avenue, Suite 100, Ventura, California 93003, (fax 818/904-6288). Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Carl Benz at the Ventura Field Office (see ADDRESSES section), telephone 805/644-1766.

SUPPLEMENTARY INFORMATION:

Background

The Mount Hermon june beetle (*Polyphylla barbata*) is a small scarab beetle with a black head, and dark blackish-brown front wings with stripes and scattered long hair. The Zayante band-winged grasshopper (*Trimerotropis infantilis*) is a small grasshopper with a pale gray to light-brown body and dark crossbands on the forewing. The hind tibiae are blue-gray and the eye is banded. The Santa Cruz rain beetle (*Pleocoma conjungens conjungens*) is a large beetle, shining reddish-brown to blackish in color. The ventral surface of the body is clothed with long hair. The three species are found in ponderosa pine sand parkland habitat, a patchily distributed habitat restricted to inland marine sand deposits, and endemic to Santa Cruz County, California. Recent human activities in the Santa Cruz Mountains have resulted in the loss, fragmentation, and degradation of over 50 percent of this habitat. These three insects are threatened by urban development, sand mining, recreational uses, agricultural activities, and change in the natural frequency of fires.

On May 10, 1994, the Service published a proposed rule in the *Federal Register* (59 FR 24112) to list the Mount Hermon june beetle, Zayante band-winged grasshopper, and Santa Cruz rain beetle as endangered under the Endangered Species Act of 1973, as amended. As provided under section 4(b)(5)(e) of the Act, a public hearing was held on July 18, 1994 at the Santa Cruz County Government Center, Santa Cruz, California following a request from Dr. William Hazeltine, Oroville, California.

The comment period on the original proposal closed on August 1, 1994. Following a request from Mr. Doug Aikins and Ms. Erin Morton, Ware & Freidenrich, Palo Alto, California, the Service will reopen the public comment period until October 31, 1994 to allow submission of additional information and comments which will aid the Service in making a final determination. Written comments may now be submitted until October 31, 1994, to the Service office in the ADDRESSES section.

Author

The primary author of this notice is Jonathan Hoekstra, Ventura Field Office (see ADDRESSES section).

Authority

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

(Notice for Mount Hermon June Beetle, Zayante Band-winged Grasshopper, Santa Cruz Rain Beetle—Reopening of Comment Period)

Dated: August 26, 1994.

Thomas Dwyer,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 94-21579 Filed 8-31-94; 8:45 am]

BILLING CODE 4310-65-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 405

[Docket No. 940676-4176; I.D. 042194B]

RIN 0648-AG70; 1018-AC46

Prescription of Fishways Under Section 18 of the Federal Power Act

AGENCIES: Fish and Wildlife Service (FWS), Interior; and National Marine Fisheries Service (NMFS), National

Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of the Interior (DOI) and the Department of Commerce (DOC) (Departments) are considering proposing a rule to harmonize and codify their existing practices for prescribing fishways under section 18 of the Federal Power Act (FPA). A rule on this subject would clarify the process by which the Departments prescribe fishways for non-Federal hydropower projects licensed by the Federal Energy Regulatory Commission (Commission). The Departments anticipate that a fishway prescription rule would provide procedural guidance to agency staff; increase consistency and predictability in the fishway prescription process; and foster understanding between the Departments, license applicants, and the Commission. A rule would also explain how the Departments obtain information from, and coordinate with, license applicants and licensees throughout the prescription process.

DATES: Written comments must be received on or before October 31, 1994.

ADDRESSES: Comments should be sent to the Chief, Division of Habitat Conservation (400 ARLSQ), U.S. Fish and Wildlife Service, 1849 C Street, NW., Washington, DC 20240; or to the Director, Office of Habitat Protection, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282.

FOR FURTHER INFORMATION CONTACT: Estyn R. Mead, U.S. Fish and Wildlife Service, 703-358-2183 or Stephen M. Waste, National Marine Fisheries Services, 301-713-2325.

SUPPLEMENTARY INFORMATION: The Departments are inviting comments on the merits of proposing a rule to harmonize and codify their existing practices for prescribing fishways under section 18 of the Federal Power Act (FPA) (hereinafter referred to as Section 18). The Departments are not proposing new regulations at this time, rather they invite comments on whether the codification of current Departmental practice into regulations would be beneficial. To facilitate comments on the need for regulations, this notice provides background on the role of the Departments under Section 18, the Departments' reasons for believing rulemaking might be helpful, and the Departments' approach to key procedural practices fundamental to the fishway prescription process. The

Departments seek comments on all these issues.

I. Background

The Department of the Interior, acting through the Fish and Wildlife Service (FWS), and the Department of Commerce, acting through the National Marine Fisheries Service (NMFS), are the Federal agencies primarily responsible for the conservation and management of the Nation's fish and wildlife resources. The FWS has broad delegated responsibilities to protect and enhance fish and wildlife and related public resources and interests under authorities granted by the Fish and Wildlife Act of 1956 (FWA); the Fish and Wildlife Coordination Act (FWCA); the National Environmental Policy Act (NEPA); the Migratory Bird Treaty Act (MBTA); and the Endangered Species Act of 1973 (ESA). The NMFS is entrusted with Federal jurisdiction over marine, estuarine, and anadromous fishery resources under various laws, including the FWCA; the NEPA; the ESA; and the Magnuson Fishery Conservation and Management Act (MFCMA).

Both FWS and NMFS have special expertise and responsibility for fishery resources which are particularly germane to the Commission's hydropower licensing decisions. Prior to licensing a hydropower project, the Commission has an affirmative duty to consult with FWS and NMFS pursuant to the FWCA and the FPA to determine measures necessary to protect, mitigate damages to, and enhance fishery resources including related spawning grounds and habitat. FWS and NMFS recommend to the Commission license conditions for fish protection, mitigation, and enhancement and prescribe mandatory conditions for the construction, operation, and maintenance of fishways. Together, FWS and NMFS share a mandate to conserve, protect, enhance, and restore fish populations and habitat for commercial, recreational, and tribal fisheries, both national and international.

A. Roles of the Departments Under Section 18

Section 18 of the FPA expressly authorizes the Departments to issue fishway prescriptions. Section 18 states that the licenses issued by the Commission must require fishways when they have been prescribed by the Departments. After a thorough review of Section 18 and its history, the Commission stated in *Lynchburg Hydro Associates*, 39 FERC ¶ 61,079, at 61,218 (1987) that:

We have no discretionary authority in this regard; fishways must be required when properly prescribed by the Secretaries.

This decision recognized the mandatory nature of the Departments' authority to prescribe fishways under Section 18. The FWS has developed all fishway prescriptions issued by the DOI, and the NMFS has developed the DOC's prescriptions (FWS and NMFS are henceforth referred to as "agencies").

The Departments' fishway prescriptions include those elements of fishway construction, operation, and maintenance necessary to ensure effective fish passage over the term of a hydropower project license. A fishway facilitates the unimpeded movement of fish past a hydropower project, whether upstream or downstream, for purposes such as spawning, rearing, feeding, dispersing, and the seasonal utilization of habitat. Consequently, fishway prescriptions are often unique, matching the project's site-specific characteristics with the biological requirements of the fishery resources involved. Fishway prescriptions take the form of general directives, specific standards, or design criteria or plans. Fishway prescriptions address such issues as site access, inspection and compliance, modification, monitoring, and evaluation. Additional considerations include design factors resulting from fishway studies regarding physical structures, and project operations and measures related to physical structures.

B. Need for Rulemaking

There are two primary reasons why the Departments are considering proposing a rule for the prescription of fishways. First, Congressional debate during the enactment of the Comprehensive Energy Policy Act of 1992 (Pub. L. No. 102-486) indicated that a rule might be appropriate to codify how the Departments' authority for prescribing fishways is exercised.

Secondly, while the Commission has adopted detailed regulations governing the hydropower licensing process, there is no codification of the Departments' existing practices regarding the prescription of fishways. At present, the means and measures by which the Departments develop fishway prescriptions are sometimes not fully understood by prospective license applicants. A rule codifying present agency practices for formulating fishway prescriptions would be helpful in this regard.

II. The Fishway Prescription Process

As presently practiced, the fishway prescription process is a coordinated, interactive effort between the agencies

and the license applicant to fully address the biological, engineering, and design questions regarding the movement of fish upstream and downstream past a hydropower project. This process includes cooperative interaction with fish passage specialists; Indian tribes; Federal agencies, including the Bureau of Indian Affairs; state fishery management agencies; and other interested parties. If necessary, fishway studies are conducted by the applicant, in consultation with the agencies, to determine whether or not fishways are needed. Where fishways are needed, license applicants conduct studies, in consultation with the agencies, to develop site-specific information necessary to facilitate project and fishway designs that provide for the effective passage of fish, and to identify the structural and operational elements required to meet this goal. The agencies provide technical review and comment on the license applicant's fishway studies and proposed fishway design. At the end of this interactive effort, the agencies formulate their fishway prescriptions.

If proposed, the rule would codify this process into a set of sequential steps that would address the coordination, design, and conduct of fishway studies; to review and evaluation of completed fishway studies; the formulation of fishway prescriptions; and the reservation of Section 18 authority to prescribe and/or modify fishways. This process would occur concurrently with the Commission's pre- and post-application consultation processes.

III. Required Determinations

This notice has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

After the Departments consider the comments received on this advanced notice, they will decide whether to develop a proposed rule. Should the Departments proceed with rulemaking, they would examine impacts of a proposed rule on Federal-state relationships pursuant to E.O. 12612 (Federalism), the economic impacts on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601), and any significant impacts on the quality of the human environment pursuant to the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). In addition, the Departments would address all other applicable law.

IV. Comment Procedure

The Departments invite interested persons to submit written comments and suggestions on all aspects of the fishways prescription process in order

to clarify the current process. Comments from license applicants, constituent groups, and other interested parties stating their views on how the fishway prescription process interfaces with the current Commission licensing process are of particular interest.

Dated: August 18, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.

Dated: August 9, 1994.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

[FR Doc. 94-21629 Filed 8-31-94; 8:45 am]

BILLING CODE 3510-22-M; 4310-65-M