



**Billing Code: 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R2–ES–2019–N169; FXES11140200000–190–FF02ENEH00]**

**Notice of Availability: Draft Amendments to the Environmental Assessment and Oil and Gas Industry Conservation Plan for the American Burying Beetle in Oklahoma**

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

**ACTION:** Notice of availability of documents; request for public comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of an amended environmental assessment, under the National Environmental Policy Act, that evaluates the impacts of a 5-year extension of the Oil and Gas Industry Conservation Plan (ICP) for incidental take of the federally listed American burying beetle resulting from oil and gas industry activities. The ICP Planning Area consists of 45 counties in Oklahoma. Individual oil and gas companies would continue to apply for Endangered Species Act permits for incidental take and agree to comply with the terms and conditions of the ICP.

**DATES:** *Comments:* To ensure consideration, written comments must be received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Any comments we receive after the closing date or not postmarked by the closing date may not be considered in the final decision on this action.

**ADDRESSES:** *Obtaining Documents:*

- *Internet:* You may obtain copies of the draft amendments to the environmental assessment (EA) and Industry Conservation Plan (ICP) on the U.S. Fish and Wildlife Service's (Service) web site at [www.fws.gov/southwest/es/oklahoma/ABBICP](http://www.fws.gov/southwest/es/oklahoma/ABBICP).
- *U.S. Mail:* A limited number of CD-ROM and printed copies of the draft amendments to the EA and ICP are available, by request, from the Field Supervisor, by mail at the Oklahoma Ecological Services Field Office, 9014 E. 21st St., Tulsa, OK 74129; by phone at 918-581-7458; or by fax at 918-581-7467. Please note that your request is in reference to the ABB ICP.
- *In-Person:* Copies of the draft amendments to the EA and ICP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
  - U.S. Fish and Wildlife Service, 500 Gold Avenue, S.W., Room 6034, Albuquerque, NM 87102.
  - U.S. Fish and Wildlife Service, 9014 E. 21st St., Tulsa, OK 74129.

*Comment submission:* You may submit comments by one of the following methods.

Please note that your comments are in reference to the ABB ICP.

- *U.S. Mail:* U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office, 9014 E. 21st St., Tulsa, OK 74129; by phone at 918–581–7458; or by fax at 918–581–7467.
- *Electronically:* fw2\_hcp\_permits@fws.gov.

**FOR FURTHER INFORMATION CONTACT:** Jonna Polk, Field Supervisor, 918–581–7458 (phone).

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service, announce the availability of an amended environmental assessment, under the National Environmental Policy Act, that evaluates the impacts of a 5-year extension of the Oil and Gas Industry Conservation Plan (ICP) for incidental take of the federally listed American burying beetle (ABB) resulting from oil and gas industry activities. Individual oil and gas companies would continue to apply for Endangered Species Act permits for incidental take and agree to comply with the terms and conditions of the ICP.

Under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), this notice advises the public that we, the Service, have gathered the information necessary to determine impacts of the draft amendments to the EA and ICP related to the proposed issuance of incidental take permits (ITPs) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), to oil and

gas companies (applicants) who agree to the conditions in the ICP. The ICP is a habitat conservation plan (HCP) that covers take of the ABB that is incidental to covered activities associated with geophysical exploration (seismic), development, extraction, or transport of crude oil, natural gas, and/or other petroleum products, as well as maintenance, operation, repair, and decommissioning of oil and gas pipelines and well field infrastructure, and will include measures necessary to minimize and mitigate impacts to the covered species and its habitat to the maximum extent practicable.

The Service is proposing to amend the Industry Conservation Plan (ICP) to extend the timeframe for oil and gas companies' (industry) participation in the ICP and the expiration date of the ICP and permits by 5 years.

The original ICP allows industry to apply for a permit to participate for the first 2 years (from the date of approval and signature – May 20, 2014, through May 20, 2016) and operations and maintenance for up to an additional 20 years (May 20, 2036). A previous amendment extended the ICP signup period for 3 years (until May 20, 2019), and this amendment would extend the signup period for an additional 5 years (until May 20, 2024). Permittees with existing ICP permits will not be automatically enrolled and must apply for an amendment to their permit to obtain coverage under the amended ICP. ICP applications must be received by May 20, 2024, but may be approved after that date. Applications for Individual Project Plans (IPP), under an approved ICP, must be received by May 20, 2027. All construction related to approved IPPs must be completed by May 20, 2030. Operation and maintenance activities are authorized until the permit expires on

May 20, 2039. Therefore, incidental take issued under this ICP may occur for a maximum of 25 years following the original ICP authorization on May 20, 2014. All incidental take coverage provided by the ICP will end when the permit expires on May 20, 2039, regardless of when the ICP or IPP applications were approved. Providing date-certain limits for each period will reduce confusion and simplify tracking for both permittees and the Service.

The Service has assessed the potential impacts of the 5-year extension for the ICP and reviewed the associated environmental assessment (EA) and biological opinion (BO) for industry-related activities within the eastern Oklahoma planning area. The estimates of potential impacts from industry activities for the ICP were based on recent history of development and industry predictions. Industry activity and impacts have been less than expected due to reduced petroleum prices and market conditions. Therefore, the amount of take issued under the ICP has been significantly lower than anticipated (32,234 acres allowed, with only about 5,255 acres issued as of December 19, 2018). The current ICP is only open for new applications through May 20, 2019, and incidental take authorized through the ICP is unlikely to approach the 32,234 acres allowed by that date.

The change in timelines is the only proposed revision to the ICP, EA, and BO. There are no proposed changes to the federally listed species or area covered, and no increases in the total amount of incidental take provided through this ICP amendment. The ABB is the only species with incidental take in the ICP. Extending the same level of take over additional years should reduce potential impacts to local habitat and ABB

populations. Much of the oil and gas related impacts are temporary and can be restored within 2–5 years. Spreading the soil disturbance impacts out to 2030 would allow temporary soil disturbance initiated in the first few years to be partially or fully restored before impacts from later projects have begun. The ABB is an annual species, and reducing take in any year should allow more adult beetles to survive into the next year. Incidental take authorized through the extension would not be increased, is a very small percentage of the total ABB habitat, and would not change the BO determination that the take would not jeopardize the continued existence of the ABB. The ICP Planning Area covers the following 45 Oklahoma counties: Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Craig, Creek, Delaware, Garvin, Haskell, Hughes, Johnson, Kay, Latimer, Le Flore, Lincoln, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Rogers, Seminole, Sequoyah, Tulsa, Wagoner, and Washington.

## **Background**

Potential impacts as a result of the extension are not expected to increase beyond those already identified in the EA. Environmental consequences were reviewed for the ICP extension, and potential impacts to the following resources were evaluated: Geology, Soils, Water Resources, Water Quality, Air Quality, Vegetation, Wetlands, General Wildlife, Threatened and Endangered Species, Land Use, Aesthetics and Noise, Socioeconomics, Environmental Justice, Tribal Jurisdiction, and Cultural Resources. Minor benefits to Water Resources, Water Quality, Air Quality, Vegetation, Wetlands,

General Wildlife, Threatened and Endangered Species, Land Use, and Aesthetics and Noise could occur, because any impacts of oil and gas construction activity would be spread out over more years. Local impacts of project-related soil disturbance, such as removal of vegetation, erosion, and dust, may be reduced, and some recovery of natural resources could be expected if spread out over additional years.

The ICP extension is not expected to significantly affect oil and gas activity, but would help support industry activity by streamlining ESA compliance, while continuing conservation efforts for the ABB. The 5-year ICP extension is expected to trigger no new environmental consequences; no new impacts to local economies or cultural resources; and no changes to direct, indirect, and cumulative effects. The ICP extension would not authorize any additional activities or incidental take. The same types and quantities of activities previously described in the EA are expected to occur with the 5-year extension. Based on the proposed amendment, construction-related impacts could occur until May 20, 2030, instead of only during the original 2-year timeframe, and operation and maintenance-related impacts could occur until May 20, 2039.

## **Public Availability of Comments**

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

## **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: February 5, 2019.

Amy Lueders,

*Regional Director, Southwest Region,  
Albuquerque, New Mexico.*

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