

monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 17, 2010.

Reason Waived: This waiver was granted because this cost-saving measure would enable CHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410-5000, telephone (202) 708-0477.

- *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Dodge County Housing Authority (DCHA), Dodge County, WI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 17, 2010.

Reason Waived: This waiver was granted because this cost-saving measure would enable DCHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410-5000, telephone (202) 708-0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Tennessee Housing Development Agency (THDA), Nashville, TN.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: April 22, 2010.

Reason Waived: The participant, who has a disabled son, needed to remain in her current neighborhood as a reasonable accommodation for her son. To provide a reasonable accommodation so the participant could be assisted in her new unit and pay no more than 40 percent of her adjusted income toward the family share, the THDA was allowed to approve an exception payment

standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410-5000, telephone (202) 708-0477.

- *Regulation:* 24 CFR 982.505(d).

Project/Activity: Oklahoma Finance Agency (OFA), Oklahoma City, OK.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 10, 2010.

Reason Waived: The participant, who is disabled, needed to remain in her current unit because it accommodates her disability. To provide this reasonable accommodation so the participant could be assisted in her current unit and pay no more than 40 percent of her adjusted income toward the family share, the OFA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

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- *Regulation:* 24 CFR 983.51(b)(c) and (f).

Project/Activity: West Allis Community development Authority (WACDA), West Allis, WI.

Nature of Requirement: HUD's regulation at 24 CFR 983.51(b)(c)(d) and (f) basically require competitive selection of owner proposals for project-based vouchers (PBV) unless the units were competitively selected under a similar competitive process as described in the regulation.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: April 1, 2010.

Reason Waived: This waiver was granted in order to maintain the affordability of a Senior Housing Complex owned by the City of West Allis and operated by the WACDA due to rising maintenance costs and the need to charge market rents.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410-5000, telephone (202) 708-0477.

- *Regulation:* 24 CFR 983.206(b).

Project/Activity: Malden Housing Authority (MHA), Malden MA.

Nature of Requirement: HUD's regulation at 24 CFR 983.206(b) states that at the

discretion of the PHA and provided that the total number of units in a project that will receive project-based voucher (PBV) assistance or other project-based assistance will not exceed 25 percent of the number of dwelling units (assisted or unassisted) in the project or the 20 percent of authorized budget authority, a housing assistance payments (HAP) contract may be amended during the three-year period immediately following the execution date of the HAP contract to add additional PBV contract units in the same project.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 7, 2010.

Reason Waived: The regulation was waived to allow MHA to attach PBV assistance as enhanced vouchers turned over for up to the term of the HAP contract, 15 years, in order to maintain their affordability on a non-specified schedule.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410-5000, telephone (202) 708-0477.

- *Regulation:* 24 CFR 985.101(a).

Project/Activity: Housing Authority of New Orleans (HANO), New Orleans, LA.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states that a public housing agency must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: April 26, 2010.

Reason Waived: HANO is under receivership and the HUD-selected contractor assessed HANO's operation and determined a plan to bring the agency into compliance will not be in place until the third or fourth quarter of HANO's fiscal year ending September 30, 2010. SEMAP certifications will not have to be submitted by HANO until its fiscal year ending September 30, 2012.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410-5000, telephone (202) 708-0477.

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DEPARTMENT OF THE INTERIOR

[FWS-R9-FHC-2010-N212; 94400-1130-0000]

Discharge of Oil From Deepwater Horizon/Macondo Well, Gulf of Mexico; Intent To Conduct Restoration Planning

ACTION: Notice of intent.

SUMMARY: Under the Oil Pollution Act (OPA), Federal and State trustees for natural resources are authorized to assess natural resource injuries resulting from an oil discharge or the substantial threat of discharge, as well as response activities, and develop and implement a plan for restoration. This notice announces the intent of Federal and State trustees to conduct restoration planning regarding the discharge of oil from the Deepwater Horizon Mobile Offshore Drilling Unit and the Subsea Macondo Well into the Gulf of Mexico, an incident that occurred on or about April 20, 2010.

FOR FURTHER INFORMATION CONTACT: Cynthia Dohner, Regional Director, Southeastern Region, U.S. Fish and Wildlife Service, (404) 679-4000.

SUPPLEMENTARY INFORMATION: On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon* experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in discharges of oil and other substances from the rig and from the wellhead on the seabed into the Gulf of Mexico (referred to as the “*Deepwater Horizon* Incident or Incidents”). These discharges are estimated to have been in excess of thousands of barrels of oil per day and continue, along with associated removal activities, to adversely affect and threaten natural resources within the jurisdictions of the United States and the States of Louisiana, Mississippi, Alabama, Florida, and Texas.

Pursuant to section 1006 of the Oil Pollution Act (“OPA”), 33 U.S.C. 2701 *et seq.*, Federal and State trustees for natural resources are authorized to (1) assess natural resource injuries resulting from a discharge of oil or the substantial threat of a discharge and response activities, and (2) develop and implement a plan for restoration of such injured resources. The Federal trustees are designated pursuant to the National Contingency Plan, 40 CFR 300.600 and Executive Order 12777. State trustees are designated by the Governors of each State pursuant to the National Contingency Plan, 40 CFR 300.605.

The following agencies are designated natural resources trustees under OPA and are currently acting as trustees for this Incident(s): The U.S. Department of the Interior (“DOI”), as represented by the National Park Service, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, and Bureau of Land Management; the National Oceanic and Atmospheric Administration (“NOAA”), on behalf of the U.S. Department of Commerce; the U.S. Department of Defense (“DOD”); the State of

Louisiana’s Coastal Protection and Restoration Authority, Oil Spill Coordinator’s Office, Department of Environmental Quality, Department of Wildlife and Fisheries and Department of Natural Resources; the State of Mississippi’s Department of Environmental Quality; the State of Alabama’s Department of Conservation and Natural Resources and Geological Survey of Alabama; the State of Florida’s Department of Environmental Protection; and the State of Texas’ Parks and Wildlife Department, General Land Office and Commission on Environmental Quality (collectively, the “Trustees”). In addition to acting as trustees for this Incident(s) under OPA, the States of Louisiana, Mississippi, Alabama, Florida, and Texas are also acting pursuant to their applicable State laws and authorities, including the Louisiana Oil Spill Prevention and Response Act of 1991, La. R.S. 30:2451 *et seq.*, and accompanying regulations, La. Admin. Code 43:101 *et seq.*; the Texas Oil Spill Prevention and Response Act, Tex. Nat. Res. Code, Chapter 40, Section 376.011 *et seq.*, Fla. Statutes, and Section 403.161, Fla. Statutes; the Mississippi Air and Water Pollution Control Law, Miss. Code Ann. §§ 49-17-1 through 49-17-43; and Alabama Code §§ 9-2-1 *et seq.* and 9-4-1 *et seq.*

The Responsible Parties (“RPs”) identified for this Incident(s) thus far are BP Exploration and Production, Inc. (“BP”); Transocean Holdings Inc. (“Transocean”); Triton Asset Leasing GmbH (“Triton”); Transocean Offshore Deepwater Drilling Inc. (“Transocean Offshore”); Transocean Deepwater Inc. (“Transocean Deepwater”); Anadarko Petroleum (“Anadarko”); Anadarko E&P Company LP (“Anadarko E&P”); and MOEX Offshore 2007 LLC (“MOEX”).

Pursuant to 15 CFR 990.14(c), concurrent with the publication of this notice, the Trustees are inviting the RPs identified above to participate in a Natural Resource Damage Assessment (“NRDA”). The Trustees have coordinated with BP representatives on activities undertaken to date as part of the NRDA process.

The Trustees began the Preassessment Phase of the NRDA in accordance with 15 CFR 990.40, to determine if they had jurisdiction to pursue restoration under OPA, and, if so, whether it was appropriate to do so. During the Preassessment Phase, the Trustees collected and analyzed and are continuing to collect and analyze the following: (1) Data reasonably expected to be necessary to make a determination of jurisdiction or a determination to conduct restoration planning, (2)

ephemeral data, and (3) information needed to design or implement anticipated emergency restoration and assessment activities as part of the Restoration Planning Phase.

Under the NRDA regulations applicable to OPA, 15 CFR part 990 (“NRDA regulations”), the Trustees prepare and issue a Notice of Intent to Conduct Restoration Planning (“Notice”) if they determine conditions that confirm the jurisdiction of the Trustees and the appropriateness of pursuing restoration of natural resources have been met.

Pursuant to 15 CFR 990.44, this Notice announces that the Trustees have determined to proceed with restoration planning to fully evaluate, assess, quantify, and develop plans for restoring, replacing, or acquiring the equivalent of natural resources injured and losses resulting from the *Deepwater Horizon* Incident or Incidents. The restoration planning process will include collection of information that the Trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including resource services, and to determine the need for, and type and scale of, restoration actions.

Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 CFR 990.41:

1. The explosion on the mobile offshore drilling unit *Deepwater Horizon* on April 20, 2010, and other associated occurrences resulted in discharges of oil into and upon navigable waters of the United States, including the Gulf of Mexico, as well as adjoining shorelines, all of which constitute an “Incident” or “Incidents” within the meaning of 15 CFR 990.30.

2. The discharges are not permitted pursuant to Federal, State, or local law; are not from a public vessel; and are not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. 1651 *et seq.*

3. Natural resources under the trusteeship of the Trustees have been and continue to be injured and/or threatened as a result of discharged oil and associated removal efforts. The discharged oil is harmful to natural resources exposed to the oil, including aquatic organisms, birds, wildlife, vegetation, and habitats. Discharged oil and the response activities to address the discharges of oil have resulted in adverse effects on natural resources in and around the Gulf of Mexico and along its adjoining shorelines, and impaired services that those resources provide. The full extent of potential injuries is currently unknown, and may

not be known for many years; however, current natural resources and resource services that have been impacted due to the discharged oil include but are not limited to the following (as of August 19, 2010):

- Over 950 miles of shoreline habitats, including salt marshes, sandy beaches, and mangroves.
 - A variety of wildlife, including birds, sea turtles, and marine mammals.
- As of June 29, 2010:

- Over 1,900 oiled birds captured and over 1,850 visibly oiled dead birds collected.
- Over 400 oiled sea turtles captured and 17 visibly oiled dead sea turtles collected.
- 5 visibly oiled dead marine mammals collected.

- Lost human use opportunities associated with various natural resources in the Gulf region, including fishing, swimming, beach-going and viewing of birds and wildlife.

- Waters of the Gulf of Mexico and adjoining coastal States.

- Various other biota, including benthic communities and fish.

- Water column habitat.

Accordingly, the Trustees have determined they have jurisdiction to pursue restoration under the OPA.

Determination To Conduct Restoration Planning

Pursuant to 15 CFR 990.42(a), the Trustees determined that:

1. Observations and data collected pursuant to 15 CFR 990.43 demonstrate that injuries to natural resources and the services they provide have resulted from the Incident or Incidents; however, the nature and extent of such injuries have not been fully determined at this time. The Trustees have identified numerous categories of impacted and potentially impacted resources, including fish, shellfish, marine mammals, turtles, birds, and other sensitive resources, as well as their habitats, such as wetlands, marshes, beaches, mudflats, bottom sediments, corals, and the water column, as well as effects to human use resulting from the impacts on the resources. The Trustees have been conducting, and continue to conduct, activities to evaluate injuries and potential injuries within these categories. More information on these resource categories will be available in the Administrative Record ("AR," as defined below), including assessment work plans developed jointly by the Trustees and BP and information gathered during the preassessment. The full nature and extent of injuries will be determined during the injury

assessment phase of restoration planning.

2. Response actions employed for this spill include in situ burning, dispersant applications, containment and skimming of oil, and removal operations. These response actions have not addressed and are not expected to address all injuries resulting from the discharges of oil. Although response actions were initiated soon after the explosion and continue to date, they have been unable to prevent injuries to many natural resources, and the size, nature, and location of the discharges have prevented recovery of most of the oil. In addition, some of these response actions have caused or are likely to cause injuries to natural resources and the services they provide, including destruction of sensitive marshes, beaches, and other habitats, and impacts to human uses of resources. While injured natural resources may eventually recover naturally to the condition they would have been in had the discharges not occurred, interim losses have occurred, or are likely to occur in the future, and these will continue until baseline conditions are achieved. In addition, there have been and will continue to be losses of and diminution of human uses of the resources resulting from the impacts to the natural resources and from the response actions themselves.

3. Feasible restoration actions exist to address the natural resource injuries and losses, including lost human uses, resulting from the discharges of oil. Assessment procedures are available to scale the appropriate amount of restoration required to offset these ecological and human use service losses. During the restoration planning phase, the Trustees will evaluate potential projects, determine the scale of restoration actions needed to make the environment and the public whole, and release a draft Restoration Plan for public review and comment.

Based upon these determinations, the Trustees intend to proceed with restoration planning for the Incident or Incidents.

Administrative Record

The U.S. Department of the Interior, acting on behalf of the Trustees, is in the process of establishing and opening an Administrative Record ("AR") in compliance with 15 CFR 990.45 and applicable State authorities. The AR will be publicly accessible and include documents considered by the Trustees during the preassessment, assessment, and restoration planning phases of the NRDA performed in connection with the Incident or Incidents. The AR will

be augmented with additional information over the course of the NRDA process. The availability of the AR will be addressed in one or more future notices and announcements. State-specific ARs may also be kept and will be made available by State trustees in their normal course of business.

Opportunity To Comment

The Trustees invite the public to participate in restoration planning for this Incident or Incidents in accordance with 15 CFR 990.14(d) and State authorities. The Trustees will be providing substantial opportunities for public involvement in the restoration planning for this Incident or Incidents. The opportunities for public involvement will be addressed in future notices and announcements.

Dated: September 2, 2010.

Cindy Dohner,

DOI Authorized Official, U.S. Department of the Interior.

[FR Doc. 2010-24706 Filed 9-29-10; 11:15 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R1-ES-2010-N185; 10120-1112-0000-F2]

Availability of a Draft Environmental Assessment and Habitat Conservation Plan, and Receipt of Application for an Incidental Take Permit From Benton County, OR

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of application and availability of documents for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), advise the public that Benton County, Oregon, has submitted an application to the Service for an incidental take permit (permit) under the Endangered Species Act of 1973, as amended (ESA). Included with the application is a habitat conservation plan (HCP) and a proposed implementing agreement (IA). We also announce the availability of a draft environmental assessment (EA) under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4371 *et seq.*).

DATES: We must receive any written comments on the draft EA, HCP, and IA from interested parties no later than November 1, 2010.

ADDRESSES: *Documents:* The draft EA, HCP, and IA are available electronically