

notice of partial deletion of the Hubbell/Tamarack City parcel of Operable Unit (OUI) of the Torch Lake Superfund Site (Site) located in Houghton County, Michigan, from the National Priorities List (NPL) and requests public comments on this notice of intent to delete. The Hubbell/Tamarack City parcel of OUI includes, tailing and slag piles associated with the Torch Lake Superfund Site. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Michigan, through the Michigan Department of Environmental Quality (MDEQ), have determined that all appropriate response actions under CERCLA have been completed. However, this partial deletion does not preclude future actions under Superfund. In the "Rules and Regulations" section of today's **Federal Register**, we are publishing a direct final notice of partial deletion of the Hubbell/Tamarack City parcel of the Torch Lake Superfund Site without prior notice of intent to delete because we view this as a non-controversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final notice of deletion. If we receive no adverse comment(s) on the direct final notice of deletion, we will not take further action. If we receive timely adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on adverse comments received on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by March 1, 2004.

ADDRESSES: Written comments should be addressed to: Dave Novak, Community Involvement Coordinator, U.S. EPA (P-19J), 77 W. Jackson, Chicago, IL 60604, 312-886-7478 or 1-800-621-8431.

FOR FURTHER INFORMATION CONTACT: Brenda Jones, Remedial Project Manager at (312) 886-7188, or Gladys Beard, State NPL Deletion Process Manager at

(312) 886-7253 or 1-800-621-8431, Superfund Division, U.S. EPA (SR-6J), 77 W. Jackson, IL 60604.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following address: EPA Region V Record Center, 77 W. Jackson, Chicago, IL 60604, (312) 353-5821, Monday through Friday 8 a.m. to 4 p.m.; Lake Linden/Hubbell Public Library, 601 Calumet St., Lake Linden, MI 49945, (906) 296-0698, Monday through Friday 8 a.m. to 4 p.m., Tuesday and Thursday 6 p.m. to 8 p.m.; Portage Lake District Library, 105 Huron, Houghton, MI 49931 (906) 482-4570, Monday, Tuesday and Thursday 10 a.m. to 9 p.m., Wednesday and Friday 10 a.m. to 5 p.m. and Saturday 12 p.m. to 5 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: January 14, 2004.

William E. Muno,

Acting Regional Administrator, Region V.
[FR Doc. 04-1544 Filed 1-28-04; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL MARITIME COMMISSION

46 CFR Part 515

[Docket No. 04-02]

Optional Rider for Proof of Additional NVOCC Financial Responsibility

AGENCY: Federal Maritime Commission.
ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its regulations governing proof of financial responsibility for ocean transportation intermediaries. The Commission proposes to allow an optional rider for additional coverage to be filed with a licensed non-vessel-operating common carrier's proof of financial responsibility for such carriers serving the U.S. oceanborne trade with the People's Republic of China.

DATES: Comments must be received no later than February 20, 2004. Requests for meetings to make oral presentations to individual Commissioners must be received, and the meetings completed, by this date as well. Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 2000, or earlier versions of these applications.

ADDRESSES: Address all comments concerning this proposed rule to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573-0001, (202) 523-5725, E-mail: secretary@fmc.gov.

FOR FURTHER INFORMATION CONTACT:

Amy W. Larson, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1018, Washington, DC 20573-0001, (202) 523-5740, E-mail: GeneralCounsel@fmc.gov.

Sandra A. Kusumoto, Director, Bureau of Consumer Complaints and Licensing, Federal Maritime Commission, 800 North Capitol Street, NW., Room 970, Washington, DC 20573-0001, (202) 523-5787, E-mail: otibonds@fmc.gov.

SUPPLEMENTARY INFORMATION: On January 22, 2004, the Federal Maritime Commission ("FMC" or "Commission") granted in part and denied in part a petition for rulemaking ("Petition") from the National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA"). Petition No. P10-03, *Petition of the National Customs Brokers and Forwarders Association of America, Inc. for Rulemaking*. NCBFAA, a trade association representing licensed ocean transportation intermediaries ("OTIs") in the U.S., whose members it claims are linked to 90% of the U.S. oceanborne cargo, petitioned the Commission to change its rules to effectuate concessions made by the People's Republic of China ("PRC" or "China") in a recently concluded U.S.-China Agreement on Maritime Transport ("Agreement"). The Agreement's associated Memorandum of Consultations provides that the Chinese government will not require U.S. NVOCCs to make a cash deposit in a Chinese bank, as long as the NVOCC: (1) Is a legal person registered by U.S. authorities; (2) obtains an FMC license as an NVOCC; and (3) provides evidence of financial responsibility in the total amount of RMB 800,000 or U.S. \$96,000. Therefore, it appears that an FMC-licensed NVOCC that voluntarily provides an additional surety bond in the amount of \$21,000, which by its conditions is responsive to potential claims of the Chinese Ministry of Communications ("MOC") (as well as

other Chinese agencies) for violations of the RIMT, would be able to register in the PRC without paying the cash deposit otherwise required by Chinese law and regulation. However, because current FMC regulations do not provide any mechanism for NVOCCs to file proof of such additional financial responsibility with the FMC, the Commission proposes to amend its regulations in order to permit licensed NVOCCs to file such additional proof in the form of optional riders to the required NVOCC bond.

The rule the Commission proposes differs from that requested by NCBFAA in its Petition as described in the Commission's order granting the Petition in part and denying it in part. The rule changes proposed herein reflect the grant of that Petition in most substantive respects. However, while NCBFAA's Petition requests a rule that would "provide that the bond would * * * be available for the payment of fines or reparation awards," the language proposed by NCBFAA does not include "reparation awards" imposed by the Chinese Ministry of Communications ("MOC"). NCBFAA Petition at 2. Thus, NCBFAA's request is internally inconsistent. Therefore we are proposing a rule which would relate only to "fines and penalties" imposed by MOC, as provided in NCBFAA's proposed language for the optional rider form. Comments on the proposed coverage of the optional rider are invited.

As requested by NCBFAA, the Commission proposes to amend its rules to add a new subsection to provide for the optional rider at § 515.25. As suggested by NCBFAA, the Commission proposes to provide for group security bonds by the addition of § 515.25(c), changes to § 515.21(b), and the addition of Appendix F. Finally, the Commission declines to propose changes requested by NCBFAA which would have the effect of creating a procedure by which the Commission would administer the payment of claims against these optional riders. NCBFAA Petition at 5. The Commission declines to propose such changes because it would be inappropriate for the Commission to be involved in the collection of claims arising from decisions of the MOC, whether involving reparations, fines or penalties. The issuers of such bonds may wish to propose language to be included in the optional rider itself that would relate to procedures by which claims may be exercised against the optional rider, such as whether the English language must be used for all claims, whether the surety will not pay any claim earlier than 30 days after it

has been notified of the claim, or what documentation the surety will require before paying a claim. The Commission invites comments on this issue.

Pursuant to Rule 53(a) of the Commission's Rules of Practice and Procedure, 46 CFR 502.53(a), in notice-and-comment rulemakings the Commission may permit interested persons to make oral presentations in addition to filing written comments. The Commission has determined to permit interested persons to make such presentations to individual Commissioners in this proceeding, at the discretion of each Commissioner.

Interested persons may request one-on-one meetings at which they may make presentations describing their views on the proposed rule. Any meeting or meetings shall be completed before the close of the comment period. The summary or transcript of oral presentations will be included in the record and must be submitted to the Secretary of the Commission within 5 days of the meeting. Interested persons wishing to make an oral presentation should contact the Office of the Secretary to secure contact names and numbers for individual Commissioners.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chairman of the Federal Maritime Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The Commission recognizes that the majority of businesses that would be affected by this rule qualify as small entities under the guidelines of the Small Business Administration. The rule, however, would establish an optional provision for U.S. licensed NVOCCs, which may be used at their discretion. The rule would pose no economic detriment to small business entities. Rather, it would provide a cost effective alternative, than would otherwise be available, to assist licensed NVOCCs with their business endeavors in the PRC. As such, the rule would help to promote U.S. business interests in the PRC and facilitate U.S. foreign commerce.

This regulatory action is not a "major rule" under 5 U.S.C. 804(2).

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980, as amended. Public reporting burden for this collection of information is estimated to be 1 hour per response, including time for reviewing instructions, searching existing data sources, gathering and

maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Austin L. Schmitt, Deputy Executive Director, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Maritime Commission, Washington, DC 20503.

List of Subjects for 46 CFR Part 515

Common carriers, Exports, Non-vessel-operating common carriers, Ocean transportation intermediaries, Financial responsibility requirements, Reports and recordkeeping requirements, Surety bonds.

Accordingly, the Federal Maritime Commission proposes to amend 46 CFR part 515 subpart C as follows:

Subpart C—Financial Responsibility Requirements; Claims Against Ocean Transportation Intermediaries

1. The authority citation for part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; Pub. L. 105–383, 112 Stat. 3411; 21 U.S.C. 862.

2. Revise 46 CFR 515.21(b) to add a new sentence at the end as follows:

§ 515.21 Financial responsibility requirements.

* * * * *

(b) * * * A group or association of ocean transportation intermediaries may also file an optional additional bond as provided for by § 515.25(c).

* * * * *

3. Amend 46 CFR 515.23 to add paragraph (d) to read as follows:

§ 515.23 Claims against an ocean transportation intermediary.

* * * * *

(d) The Federal Maritime Commission shall not serve as depository or distributor to third parties of optional bond riders as described in § 515.25(c), Appendix E to Subpart C of this Part [Optional Rider to Form FMC–48] or Appendix F to Subpart C of this Part [Optional Rider to Form FMC–69]. Administration of claims against such optional bond riders will be pursuant to the terms of the optional bond rider itself.

4. Revise 46 CFR 515.25 to add paragraph (c) to read as follows:

§ 515.25 Filing of proof of financial responsibility.

* * * * *

(c) Optional bond rider. Any person operating as an NVOCC in the United States as defined by § 515.2(o)(2), in addition to the bond required by § 515.21(a)(2), may file with the Commission proof of additional financial responsibility in the form of a rider as provided for in Appendix E or Appendix F of this Part.

5. Add Appendix E to read as follows:

**Appendix E to Subpart C of Part 515—
Optional Rider for Additional NVOCC
Financial Responsibility (Optional Rider to
Form FMC-48) [Form 48A]**

Form FMC-48A

RIDER

The undersigned [____], as Principal and [____], as Surety do hereby agree that the existing Bond No. [____] to the United States of America and filed with the Federal Maritime Commission pursuant to Section 19 of the Shipping Act of 1984 is modified as follows:

1. The following condition is added to this Bond:

An additional condition of this Bond is that \$[____] shall be available to pay any fines and penalties imposed by the Ministry of Communications of the People's Republic of China or its authorized competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government or the State Administration of Industry and Commerce pursuant to the Regulations of the People's Republic of China on International Maritime Transportation and the Implementing Rules of the Regulations of the PRC on International Maritime Transportation promulgated by MOC Decree No. 1, January 20, 2003. Such amount is separate and distinct from the bond amount set forth in the first paragraph of this Bond. Payment under this Rider shall not reduce the bond amount in the first paragraph of this Bond.

2. The liability of the Surety shall not be discharged by any payment or succession of payments pursuant to section 1 of this Rider, unless and until the payment or payments shall aggregate the amount set forth in section 1 of this Rider. In no event shall the Surety's obligation under this Rider exceed the amount set forth in section 1 regardless of the number of claims.

3. This Rider is effective the [____] day of [____], 200[____], and shall continue in effect until discharged, terminated as herein provided, or upon termination of the Bond in accordance with the sixth paragraph of the Bond. The Principal or the Surety may at any time terminate this Rider by written notice to the Federal Maritime Commission at its office in Washington, DC. The Surety also shall send notice to the Ministry of Communications of the People's Republic of China via telecopier or e-mail. Evidence of transmission of the notice to the Ministry of Communications shall constitute proof of notice. Such termination shall become

effective thirty (30) days after receipt of said notice by the Commission, or transmission of the notice to the Ministry of Communications, whichever occurs later. The Surety shall not be liable for fines or penalties imposed on the Principal after the expiration of the 30-day period but such termination shall not affect the liability of the Principal and Surety for any fine or penalty imposed prior to the date when said termination becomes effective.

4. Bond No. [____] remains in full force and effect according to its terms except as modified above.

In witness whereof we have hereunto set our hands and seals on this [____] day of [____], 200[____].

[Principal]

By:

[Surety]

By:

Privacy Act and Paperwork Reduction Act Notice.

The collection of this information is authorized generally by Section 19 of the Shipping Act of 1984, 46 U.S.C. app. § 1718.

This is an optional form. Submission is completely voluntary. Failure to submit this form will in no way impact the Federal Maritime Commission's assessment of your firm's financial responsibility.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Copies of this form will be maintained until the corresponding license has been revoked.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 20 minutes; Learning about the form, 20 minutes; Preparing and sending the form to the FMC, 20 minutes.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573-0001 or e-mail: secretary@fmc.gov.

6. Add Appendix F to read as follows:

**Appendix F to Subpart C of Part 515—
Optional Rider for Additional NVOCC
Financial Responsibility for Group
Bonds [Optional Rider to Form FMC-
69] [Form 69A]**

Form FMC-69A

RIDER

The undersigned [____], as Principal and [____], as Surety do hereby agree that the existing Bond No. [____] to the United States of America and filed with the Federal Maritime Commission pursuant to Section 19 of the Shipping Act of 1984 is modified as follows:

1. The following condition is added to this Bond:

An additional condition of this Bond is that \$[____] shall be available to any NVOCC enumerated in Appendix A to pay

any fines and penalties imposed by the Ministry of Communications of the People's Republic of China or its authorized competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government or the State Administration of Industry and Commerce pursuant to the Regulations of the People's Republic of China on International Maritime Transportation and the Implementing Rules of the Regulations of the PRC on International Maritime Transportation promulgated by MOC Decree No. 1, January 20, 2003. Such amount is separate and distinct from the bond amount set forth in the first paragraph of this Bond. Payment under this Rider shall not reduce the bond amount in the first paragraph of this Bond. The Surety shall indicate the amount available to pay such fines and penalties on the Appendix A listing for each NVOCC wishing to exercise this option.

2. The liability of the Surety shall not be discharged by any payment or succession of payments pursuant to section 1 of this Rider, unless and until the payment or payments shall aggregate the amount set forth in section 1 of this Rider. In no event shall the Surety's obligation under this Rider exceed the amount set forth in section 1 regardless of the number of claims.

3. This Rider is effective the [____] day of [____], 200[____], and shall continue in effect until discharged, terminated as herein provided, or upon termination of the Bond in accordance with the sixth paragraph of the Bond. The Principal or the Surety may at any time terminate this Rider by written notice to the Federal Maritime Commission at its office in Washington, DC. The Surety also shall send notice to the Ministry of Communications of the People's Republic of China via telecopier or email. Evidence of transmission of the notice to the Ministry of Communications shall constitute proof of notice. Such termination shall become effective thirty (30) days after receipt of said notice by the Commission, or transmission of the notice to the Ministry of Communications, whichever occurs later. The Surety shall not be liable for fines or penalties imposed on the Principal after the expiration of the 30-day period but such termination shall not affect the liability of the Principal and Surety for any fine or penalty imposed prior to the date when said termination becomes effective.

4. Bond No. [____] remains in full force and effect according to its terms except as modified above.

In witness whereof we have hereunto set our hands and seals on this [____] day of [____], 200[____].

[Principal]

By:

[Surety]

By:

Privacy Act and Paperwork Reduction Act Notice.

The collection of this information is authorized generally by Section 19 of the Shipping Act of 1984, 46 U.S.C. app. § 1718.

This is an optional form. Submission is completely voluntary. Failure to submit this

form will in no way impact the Federal Maritime Commission's assessment of your firm's financial responsibility.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Copies of this form will be maintained until the corresponding license has been revoked.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 20 minutes; Learning about the form, 20 minutes; Preparing and sending the form to the FMC, 20 minutes.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573-0001 or e-mail: secretary@fmc.gov.

By the Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 04-1808 Filed 1-28-04; 8:45 am]

BILLING CODE 6730-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-A174

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Arabis perstellata* (Braun's Rock-cress)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; revisions to proposed critical habitat, reopening of comment period, and notice of availability of revised draft economic analysis.

SUMMARY: We, the Fish and Wildlife Service, give notice of a proposed extension of Units 18 (Scales Mountain), 19 (Sophie Hill), and 20 (Indian Mountain) and the addition of two new units in Rutherford and Wilson Counties, Tennessee (Unit 21-Grandfather Knob and Unit 22-Versailles Knob) to the proposed critical habitat for *Arabis perstellata* (Braun's rock-cress). We are reopening the comment period on the proposal to designate critical habitat for this plant species to allow all interested parties to comment on the proposed rule, including the new information regarding Units 18, 19, and 20, the two new proposed units in Tennessee (Units 21 and 22). We also announce the

availability of a revised draft economic analysis of the proposed designation.

DATES: The comment period is hereby reopened until March 1, 2004. Comments should be received from all interested parties by the closing date. Any comments that we receive after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: Written comments and materials may be submitted to us by any one of the following methods:

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, TN 38501.

2. You may hand-deliver written comments and information to our Tennessee Field Office, at the above address, or fax your comments to (931) 528-7075.

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

Comments and materials received, as well as supporting documentation used in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT:

Timothy Merritt, at the above address, telephone (931) 528-6481, extension 211; facsimile (931) 528-7075.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We solicit comments on: (a) the original proposed critical habitat designation (June 3, 2003, 68 FR 33058); (b) the new information regarding the expanded, proposed critical habitat for three units in Tennessee and the addition of two new proposed critical habitat units in Tennessee which we present in this proposed rule document; and (c) the revised draft economic analysis. We are particularly interested in comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the species resulting from designation;

(2) Specific information on the amount and distribution of *Arabis perstellata* and its habitat, and which habitat is essential to the conservation of this species and why;

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

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families; and

(5) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

All previous comments and information submitted during the initial comment period need not be resubmitted. Refer to the **ADDRESSES** section for information on how to submit written comments and information. Our final determination on the proposed critical habitat will take into consideration all comments and any additional information received.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: RIN 1018-A174" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact us directly at our Tennessee Field Office (see **ADDRESSES** section and **FOR FURTHER INFORMATION CONTACT**).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The revised draft economic analysis is available on the Internet at <http://cookeville.fws.gov>. You may request copies by writing to the Field Supervisor, U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, TN 38501, or by calling Timothy Merritt, Tennessee Field Office, at telephone 931/528-6481, extension 211.

Background

Arabis perstellata (Braun's rock-cress) was listed as an endangered species