disposal of certain waste applicable in Indian Country, but would not create any mandate on Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866. However, this rule will affect decisions involving the environmental health or safety risks to children. It will benefit children by allowing environmentally protective disposal of residential lead-based paint waste in C&D landfills, which is less costly than disposal in MSWLFs in certain areas of the U.S., therefore reducing the cost of lead abatements. Reducing the cost of LBP abatements will also reduce the amount of time needed to complete abatements in public housing. Lower abatement costs may increase the amount of private homes undergoing abatements. By reducing costs associated with the disposal of LBP waste, the Agency believes that the number of abatements may marginally increase, thus resulting in a reduction of the number of children exposed to LBP.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. No. 104–113, § 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. Today's proposed rule does not involve technical standards, voluntary or otherwise. Therefore, the NTTAA does not apply to today's proposed rule.

I. Executive Order 12898: Environmental Justice Strategy

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

Today's proposed rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities. On the contrary, since the rule will reduce the cost of performing LBP abatements in certain regions of the U.S., EPA assumes that the savings will afford public housing authorities, in particular, the opportunity to conduct additional abatements of LBP hazards in affected housing units. Tenants of public housing units are possibly more likely to be minority and lower-income households, and the rule should have the effect of providing a differential benefit to such populations.

J. Executive Order 13211: Energy Effects

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 Fed. Reg. 28355 (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects

40 CFR Part 257

Waste treatment and disposal.

40 CFR Part 258

Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: September 28, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–26095 Filed 10–22–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding for a Petition to Revise Critical Habitat for the Cape Sable Seaside Sparrow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to revise critical habitat for the Cape Sable seaside sparrow (*Ammodramus maritimus mirabilis*), under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information, we find that revision of critical habitat is warranted. Currently, most of our listing budget must be directed to complying with numerous court orders, settlement agreements, litigation related activities, and due and overdue final listing determinations. We will proceed with a proposal to revise critical habitat for the Cape Sable seaside sparrow as soon as feasible, considering our workload priorities and available funding. We continue to address habitat needs of the sparrow through coordination with agencies that manage land and water in South Florida.

ADDRESSES: The complete file for this finding, including comments and information submitted, is available for public inspection, by appointment, during normal business hours at the South Florida Ecological Services Office, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960–3559.

FOR FURTHER INFORMATION CONTACT: David Martin (see **ADDRESSES** section), telephone 561/562–3909, extension 230.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(D)(ii) of the Act and our listing regulations (50 CFR 424.14(c)(3)) require that within 12 months after receiving a petition that is found to present substantial information indicating that revision of a critical habitat may be warranted, we shall determine how we intend to proceed with the requested revision, and promptly publish notice of such intention in the **Federal Register**.

On August 26, 1999, Mr. Sidney Maddock, Biodiversity Legal Foundation, submitted a petition to us, on behalf of himself, the Biodiversity Legal Foundation, the Florida Biodiversity Project, Brian Scherf, and Rosalyn Scherf, to revise critical habitat for the Cape Sable seaside sparrow. We received the petition on August 31, 1999.

After considering the petition and review of all available scientific and commercial information, we found that the petition presented substantial information indicating that the requested action may be warranted. We published a notice announcing our finding in the **Federal Register** on July 10, 2000 (65 FR 42316).

We designated critical habitat for the sparrow on August 11, 1977 (42 FR 40685). Currently designated critical habitat encompasses about 76,883 hectares (189,979 acres) in the southern Everglades along the eastern flank of Shark River Slough and along Taylor Slough. Most of the critical habitat is on Federal or State managed lands, including portions of Everglades National Park managed by the National Park Service, and portions of the Southern Glades Wildlife and Environmental Area managed by the Florida Fish and Wildlife Conservation Commission. Major constituent elements within the designated critical habitat requiring special management considerations or protection were not described in detail in this designation.

At the time the sparrow was listed, limited published information was available on the species' natural history and habitat requirements, and existing research had been conducted primarily on the sparrow's eastern habitats. To fill these gaps, much detailed research was conducted on the sparrow during the 1990s. Recent research has focused on determining natural history parameters, demographic parameters, and management strategies for habitat and populations. Agencies or organizations involved in these efforts include Everglades National Park, U.S. Geological Survey—Biological Resources Division, Army Corps of Engineers (Corps), and the Florida Fish and Wildlife Conservation Commission. Concerted efforts since the early 1990s have resulted in annual rangewide breeding season surveys, investigation of non-breeding season habitat use and movements, population modeling, habitat management including exotic vegetation and fire control, and a revised recovery plan. These efforts have expanded and refined our knowledge about critical habitat for the sparrow. Monitoring required for consultations under section 7 of the Act has also contributed to our database regarding critical habitat.

We have reviewed the petition, the information provided in the petition, other literature, and information gathered since the previous critical habitat designation, as well as submitted comments and information. Based on the best scientific and commercial information available, we find that revision of critical habitat is warranted for the Cape Sable seaside sparrow. Based on this new information, some new areas will likely need to be added and others removed from the designation.

Section 4(b)(3)(D)(ii) of the Act provides that with a 12-month warranted finding, we shall determine how we intend to proceed with the requested revision and publish such notice of our intention in the **Federal Register**. We have determined that the revision is warranted and we intend to proceed according to the following steps:

Habitat Assessment

Criteria for designating critical habitat are provided in our regulations at 50 CFR 424. We must consider for inclusion in critical habitat those areas that meet physiological, behavioral, ecological, and evolutionary requirements that are essential to the conservation of a species and that may require special management considerations or protection. Such requirements include, but are not limited to: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distribution of a species.

When considering how to revise the designation of critical habitat, we will focus on the principal biological or physical constituent elements that are essential to the Cape Sable seaside sparrow's conservation. Known primary constituent elements will be listed with the critical habitat. Areas that contain these primary constituent elements must be determined for the sparrow.

We will designate as critical habitat areas essential to the conservation of the sparrow. The quantity and overall quality of habitat, ownership, land use, and connectivity with other sparrow habitat changes significantly from site to site. Once identified, the habitats must be delineated, mapped, and described for the proposed designation process. This process may include review of aerial photography, ownership maps, field ground truthing, locating landmarks or other geographical markers using survey techniques such as geographic positioning systems to locate latitude and longitude, with the final product being a usable map.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial data available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We will conduct the economic analysis for the proposed critical habitat designation prior to making a final determination. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species.

Proposed Revision

We will develop and publish a proposed rule to revise critical habitat for the Cape Sable seaside sparrow as soon as feasible, considering our workload priorities and available funding. Currently, most of our listing budget must be directed to complying with numerous court orders, settlement agreements, litigation related activities, and due and overdue final listing determinations.

Coordination

We will coordinate with Federal, State, Tribal, local, and private landowners during the habitat assessment process.

At this time, we are part of the Federal government's efforts to improve water management in the Everglades, and thus conserve species, including the Cape Sable seaside sparrow, that depend on appropriate water levels. In

1999, we issued a Jeopardy Biological Opinion to the U.S. Army Corps of Engineers (Corps) for the Modified Water Deliveries to Everglades National Park project, Experimental Water Deliveries Program, and the C–111 Project proposed by the Corps in South Florida. This opinion contains Reasonable and Prudent Alternatives (RPAs) that address all of the currently known subpopulations of the Cape Sable seaside sparrow. These RPAs include elements that are designed to protect and improve the habitat of all of these subpopulations, regardless of whether the specific location of that habitat is currently designated as critical habitat. As a result of that Opinion, we have been working with the Corps, Everglades National Park, and the South Florida Water Management District to establish water-management practices that will achieve the aims of the RPAs, including protection and improvement of all known areas where sparrows have been documented since the early 1980s. Efforts for protection of the sparrow and its habitat in the near future will include coordination with the Florida Fish and Wildlife Conservation Commission and the Miccosukee Tribe of Indians. Through this section 7 process and our work with the Federal and State agencies in south Florida, we will continue to protect and improve habitat for the Cape Sable seaside sparrow.

Author

The primary author of this document is David Martin (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531–1544).

Dated: October 17, 2001.

Marshall P. Jones, Jr.,

Director, Fish and Wildlife Service.

[FR Doc. 01–26746 Filed 10–22–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[Docket No. 011005244–1244–01; I.D. No. 092401D]

RIN 0648–AP08

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Foreign Fishing and Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; 2002 Specifications and Foreign Fishing Restrictions

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed Rule, 2002 initial specifications; request for comments.

SUMMARY: NMFS announces initial specifications for the 2002 fishing year for Atlantic mackerel, squid, and butterfish (MSB). Regulations governing these fisheries require NMFS to publish specifications for the upcoming fishing year and to provide an opportunity for public comment. The intent of this action is to fulfill this requirement and to promote the development and conservation of the MSB resources. This action also proposes an inseason adjustment procedure for the 2002 mackerel joint venture processing (JVP) annual specifications. Finally, NMFS proposes to revise the regulations to add a provision that specifies a method for carrying over *Loligo* squid Quarter I underages into Quarter III.

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on November 23, 2001.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790. The EA/RIR/IRFA is accessible via the Internet at http:/www.nero.gov/ro/doc/nr.htm.

Comments on the proposed specifications should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Please mark the envelope, ''Comments-2002 MSB Specifications.'' Comments also may be sent via facsimile (fax) to 978–281–9135. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Anderson, Fishery Management Specialist 978–281–9226, fax 978–281–9135, e-mail jennifer.anderson@noaa.gov.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP), prepared by the Mid-Atlantic Fishery Management Council (Council), appear at 50 CFR part 648, subpart B. Regulations governing foreign fishing appear at 50 CFR part 600, subpart F. These regulations, at §§ 600.516(c) and 648.21, require that NMFS, based on the maximum optimum yield (Max OY) of each fishery as established by the regulations, annually publish a proposed rule specifying the initial amounts of the initial optimum yield (IOY), as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), total allowable level of foreign fishing (TALFF), and JVP for the affected species managed under the FMP. The regulations also specify that there will be no JVP or TALFF specified for *Loligo* squid, *Illex* squid, or butterfish, except that a butterfish bycatch TALFF will be specified if TALFF is specified for Atlantic mackerel. Procedures for determining the initial annual amounts are found in § 648.21.

On August 10, 2001, regulations were implemented under Framework Adjustment 1 to the FMP to allow the specification of quota set-asides to be used for research purposes. For each of the four species managed under the FMP, the Council recommended that up to 2 percent of the 2002 IOY be set aside for scientific research purposes. A Request for Proposals has been published to solicit proposals for 2002 based on research priorities identified by the Council (66 FR 38636, July 25, 2001, and 66 FR 45668, August 29, 2001). The deadline for submission was September 14, 2001, and proposals are currently under review. The quota set-asides will be adjusted in the final rule establishing the annual specifications for the MSB fisheries, consistent with projects forwarded to the NOAA Grants Office for award. If the awards are not made for any reason, NMFS will publish an additional rule to restore the unused set-aside amount to the annual quota.