DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0086; 4500030113]

RIN 1018–AZ60

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Physaria globosa (Short's Bladderpod), Helianthus verticillatus (Whorled Sunflower), and Leavenworthia crassa (Fleshy-Fruit Gladecress)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; revision and reopening of the comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the August 2, 2013, proposed designation of critical habitat for the *Physaria globosa* (Short's bladderpod), *Helianthus verticillatus* (whorled sunflower), and *Leavenworthia crassa* (fleshy-fruit gladecress) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis (DEA) of the proposed designation for these species as well as an amended required determinations section of the proposal. We also propose to increase the proposed designation of critical habitat for *Leavenworthia crassa* by approximately 0.04 hectare (0.1 acre) by adding one unit in Lawrence County, Alabama. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the revised proposed rule, the associated DEA, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: We will consider comments received or postmarked on or before June 30, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES:

Document availability: You may obtain copies of the proposed rule and the associated documents of the draft economic analysis (DEA) on the internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0086 or by mail from the Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written Comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Submit comments on the critical habitat proposal and associated DEA by searching for FWS–R4–ES–2013–0086, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit comments on the critical habitat proposal and associated DEA by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0086; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Mary E. Jennings, Field Supervisor, U.S. Fish and Wildlife Service, Tennessee Ecological Services Office, 446 Neal Street, Cookeville, TN 38501; telephone 931–528–6481, or by facsimile (931–528–7075). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress that was published in the **Federal Register** on August 2, 2013 (78 FR 47060), our DEA of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Specific information on:

(a) The distribution of Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress;

(b) The amount and distribution of habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress; and

(c) What areas occupied by the species at the time of listing that contain features essential for the conservation of the species we should include in the designation and why, and

(d) What areas not occupied at the time of listing are essential to the conservation of the species and why.

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

(4) The new area that we are proposing for critical habitat designation for the fleshy-fruit gladecress in this revised proposed rule.

(5) Information on the projected and reasonably likely impacts of climate change on Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress and proposed critical habitat.

(6) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, the benefits of including or excluding areas that exhibit these impacts.

(7) Information on the extent to which the description of economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts.

(8) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the associated documents of the draft economic analysis, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(9) Whether any areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(10) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

If you submitted comments or information on the proposed rule (78 FR 47060) during the initial comment period from August 2 to October 1,

2013, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning proposed critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the proposed rule or DEA by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and DEA, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0086, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule and the DEA on the Internet at *http://www.regulations.gov* at Docket Number FWS–R4–ES–2013–0086, or by mail from the Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress in this document. For more information on these species and their habitats or previous Federal actions concerning these species, refer to the proposed listing and critical habitat rule published in the **Federal Register** on August 2, 2013 (78 FR 47109), which is available online at *http://www.regulations.gov* (at Docket Number FWS–R4–ES–2013–0087) or from the Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

On August 2, 2013, we published a proposed rule to designate critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress (78 FR 47060). We proposed to designate approximately:

- 373 hectares (ha) (925.5 acres (ac)) of critical habitat in 20 units for Short's bladderpod in Posey County, Indiana; Clark, Franklin, and Woodford Counties, Kentucky; and Cheatham, Davidson, Dickson, Jackson, Montgomery, Smith, and Trousdale Counties, Tennessee.
- 624 ha (1,542 ac) of critical habitat for whorled sunflower in 4 units in Cherokee County, Alabama; Floyd County, Georgia; and Madison and McNairy Counties, Tennessee.
- 8.4 ha (20.5 ac) of critical habitat for fleshy-fruit gladecress in 6 units in Lawrence and Morgan Counties, Alabama.

That proposal had a 60-day comment period, ending October 1, 2013.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Proposed Changes to Critical Habitat

In this document, we are proposing to increase the designation of critical habitat for the fleshy-fruit gladecress by approximately 0.04 ha (0.1 ac), for a total of approximately 8.4 ha (20.6 ac) in 7 critical habitat units in Lawrence and Morgan Counties, Alabama.

We are proposing to modify our proposed critical habitat designation by adding Unit 7 for the fleshy-fruit gladecress based on information received from the Tennessee Valley Authority about a previously unknown population and based on our field visits made on March 27, 2014. The change is described in Table 1 and the unit description below. Maps illustrating the changes from previously proposed unit boundaries are included in the rule portion of this document and are also available on the Internet at *http://www.regulations.gov* at docket number FWS–R4–ES–2013–0086.

TABLE 1—ADDITION TO LEAVENWORTHIA CRASSA PROPOSED CRITICAL HABITAT DESIGNATION IN ALABAMA

Proposed critical habitat unit	County	Land ownership	Size of proposed unit
Unit 7. Hillsboro Glade	Lawrence	Private	0.04 ha (0.1 ac).

Unit 7. Hillsboro Glade

Unit 7 consists of 0.04 ha (0.1 ac) of privately owned land in Lawrence County, Alabama. This unit is currently occupied and is located within a powerline right-of-way approximately 400 feet south of the intersection of County Roads 217 and 222, near Hillsboro. Habitat in this unit consists of a relatively small limestone glade outcrop within a powerline right-of-way that is bordered by a forested area. Well-illuminated, open areas (Primary Constituent Element (PCE) 2), with shallow soils and exposed limestone bedrock that are dominated by characteristic glade vegetation (PCE 1), are present within the unit. The features essential to the conservation of the species in this unit may require special management considerations or protection to address threats of the invasion of exotic species into open glades and possible changes in land use, including agriculture or development.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider among other factors, the additional regulatory benefits that an area would receive through the analysis under section 7 of the Act addressing the destruction or adverse modification of critical habitat as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of identifying areas containing essential features that aid in the recovery of the listed species, and any ancillary benefits triggered by existing local, State, or Federal laws as a result of the critical habitat designation.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to incentivize or result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress, the benefits of critical habitat include public awareness of the presence of these species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for these species due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

We have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. To consider information related to economic impact, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**).

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (e.g., under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts attributable to the listing of the species under the Act (i.e., conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct an optional 4(b)(2) exclusion analysis.

For this designation, we developed an Incremental Effects Memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress (IEc 2014, entire). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the screening analysis considers baseline costs (i.e., absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. The screening analysis filters out particular areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. The screening analysis also assesses whether units are unoccupied by the species and may require additional management or conservation efforts as a result of the critical habitat designation and may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM were used to develop our draft economic analysis of the proposed critical habitat designation for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress, and this information is summarized in the narrative below.

Executive Orders 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable. We assess, to the extent practicable, and if sufficient data are available, the probable impacts to both directly and indirectly impacted entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our IEM dated December 2, 2013, and modified on April 17, 2014

to include the additional critical habitat unit for the fleshy-fruit gladecress, probable incremental economic impacts associated with the following categories of activities: (1) Utility projects, including work on electricity transmission lines, gas pipelines, sewer pipelines, water pipelines, and telecommunications equipment; (2) recreation; (3) conservation projects; (4) transportation activities including bridge construction; (5) agriculture; and (6) residential and commercial development. We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement but only activities conducted, funded, permitted, or authorized by Federal agencies. In areas where Short's bladderpod, whorled sunflower, or fleshy-fruit gladecress are present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our IEM, we attempted to distinguish between the effects that will result from the species being listed and those attributable to the critical habitat designation (i.e., difference between the jeopardy and adverse modification standards) for the three plant species. Because the designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress was proposed concurrently with their listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical and biological features identified for critical habitat are the same features essential for the life requisites of the species and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to Short's bladderpod, whorled sunflower, or fleshy-fruit gladecress would also likely adversely affect the essential physical and biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for these species.

The proposed critical habitat designation for Short's bladderpod totals approximately 373 ha (925.5 ac) in 20 units, all of which are currently occupied by the species, and includes lands under Federal (30 percent), State or local government (6 percent), and private (64 percent) land ownership. All of the Federal lands are administered by the Army Corps of Engineers, which also holds leases on approximately four percent of the privately owned lands included in this proposed critical habitat designation. The proposed critical habitat designation for whorled sunflower totals approximately 624.2 ha (1,542.3 ac) in four units, all of which are currently occupied by the species and are located entirely within privately owned lands. The proposed critical habitat designation for fleshy-fruit gladecress totals 8.4 ha (20.6 ac) in seven units, all of which are currently occupied by the species, and includes Federal (6 percent) and privately owned (94 percent) lands.

In these areas any actions that may affect the species or their habitat would also affect designated critical habitat and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of Short's bladderpod, whorled sunflower, or fleshy-fruit gladecress. Therefore, only administrative costs are expected to result from the proposed critical habitat designation. While this additional analysis will require time and resources by both the Federal action agency and the Service, it is believed that, in most circumstances, these costs would predominantly be administrative in nature and would not be significant.

The entities most likely to incur incremental costs are parties to section 7 consultations, including Federal action agencies and, in some cases, third parties, most frequently State agencies or municipalities. Activities we expect will be subject to consultations that may involve private entities as third parties are residential and commercial development that may occur on private lands. However, based on coordination efforts with State and local agencies, the cost to private entities within these sectors is expected to be relatively minor (administrative costs of less than $5,000 per consultation effort).

The probable incremental economic impacts of the critical habitat designations for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress are expected to be limited to additional administrative effort as well as minor costs of conservation efforts resulting from a small number of future section 7 consultations. This is due to the fact that all of the proposed critical habitat units are considered to be occupied by the species, and incremental economic impacts of critical habitat designation, other than administrative costs, are unlikely. The administrative costs are expected to range from $410 to $5,000 per consultation. At maximum, the incremental cost per year is not expected to exceed $16,000.00 annually. Therefore, future probable incremental economic impacts are not likely to exceed $100 million in any single year.

Required Determinations—Amended

In our August 2, 2013, proposed rule (78 FR 47060), we indicated that we would defer our determination of compliance with several statutes and executive orders until we had evaluated the probable effects on landowners and stakeholders and the resulting probable economic impacts of the designation. Following our evaluation of the probable incremental economic impacts resulting from the designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress, we have amended or affirmed our determinations below. Specifically, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 12630 (Takings), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on our evaluation of the probable incremental economic impacts of the proposed designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress, we are amending our required determination concerning the Regulatory Flexibility Act and E.O. 12630 (Takings).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*),

whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are required to evaluate the potential incremental impacts of rulemaking only on those entities directly regulated by the rulemaking itself and, therefore, are not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the Agency is not likely to adversely modify critical habitat. Therefore, under these circumstances only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Under these circumstances, it is our position that only Federal action agencies will be directly regulated by this designation. Federal agencies are not small entities and, to this end, there is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

E.O. 12630 (Takings)

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding or assistance, or require approval or authorization from a Federal agency, for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. The economic analysis found that no significant economic impacts are likely to result from the designation of critical habitat for Short's bladderpod, whorled sunflower, or fleshy-fruit gladecress. Because the Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the economic analysis and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that this designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress does not pose significant takings implications for lands within or affected by the designation.

Authors

The primary authors of this notice are the staff members of the Tennessee Ecological Services Field Office, Southeast Region, U.S. Fish and Wildlife Service.

Authority

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

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended on August 2, 2013, at 78 FR 47060, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.96(a) by revising paragraph (5) and adding paragraph (12) to the entry proposed at 78 FR 47060 for ''Family Brassicaceae: *Leavenworthia crassa* (fleshy-fruit gladecress)'', to read as follows:

§ 17.96 Critical habitat—plants.

* * * * *

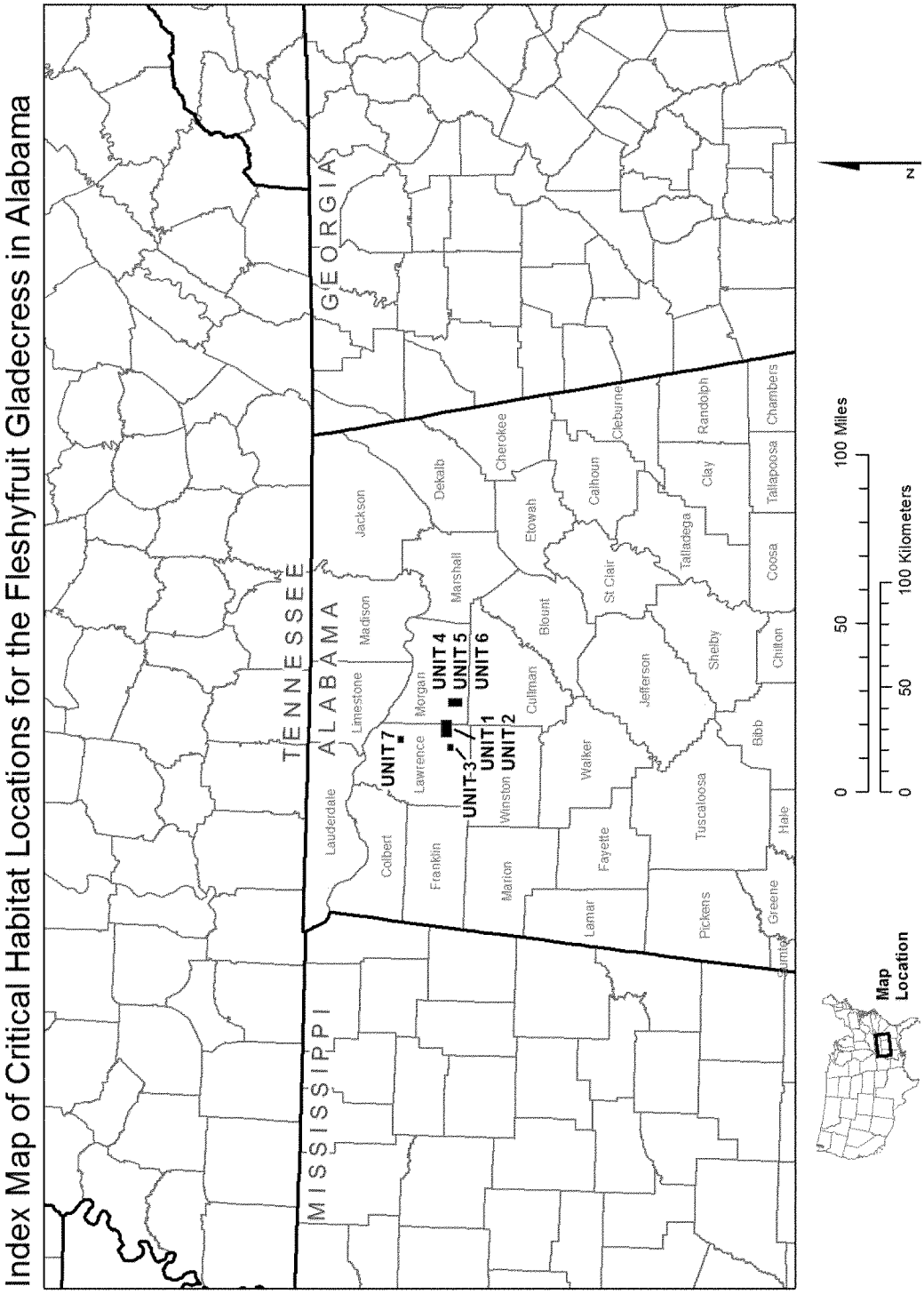
(a) * * *

Family Brassicaceae: *Leavenworthia crassa* (fleshy-fruit gladecress)

* * * * *

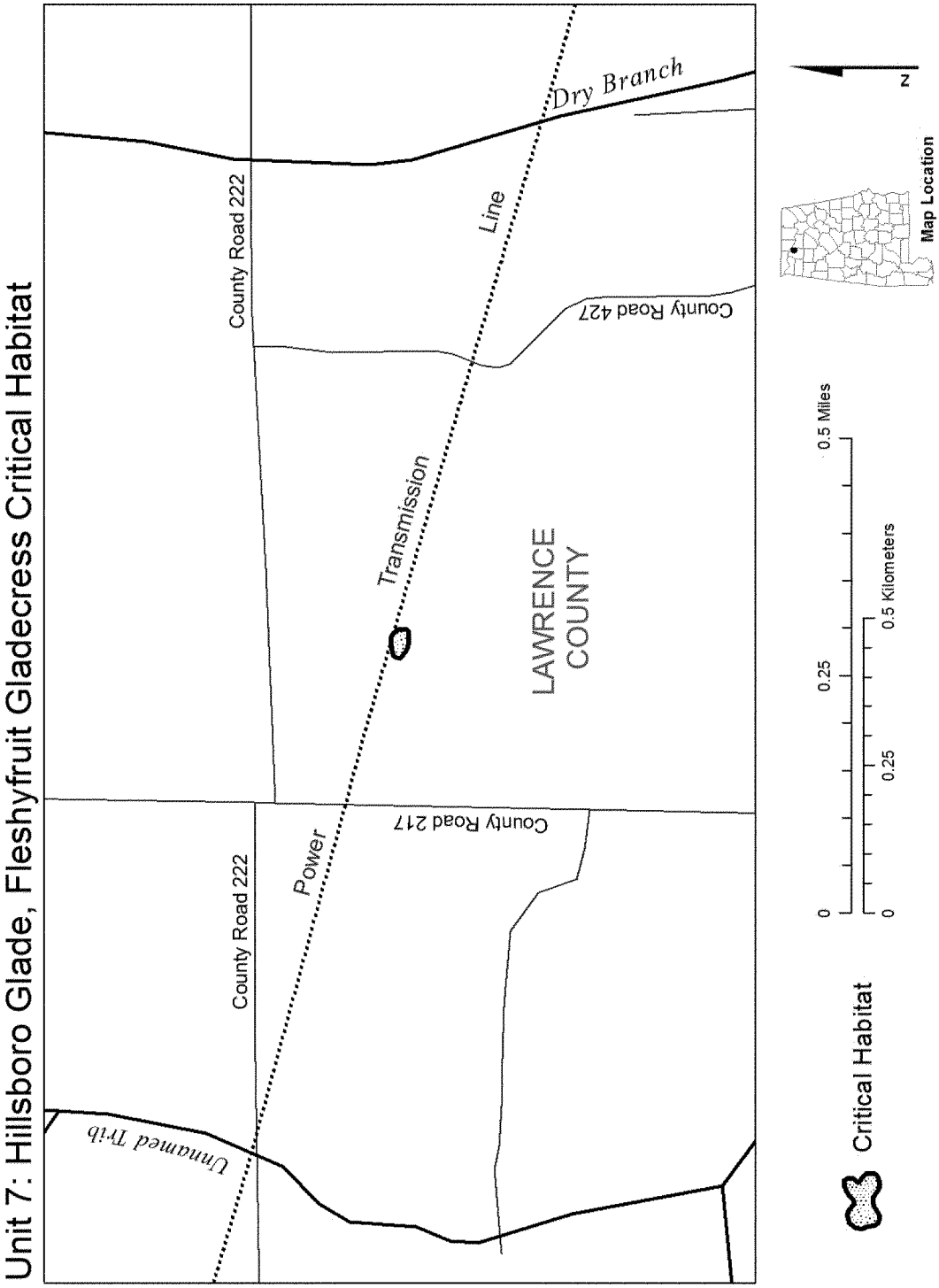
(5) Index map follows:

BILLING CODE 4310–55–P



* * * * *

(12) Unit 7: Hillsboro Glade, Lawrence County, Alabama. Map of Unit 7 follows:


Unit 7: Hillsboro Glade, Fleshyfruit Gladecress Critical Habitat
Unnamed Trib
County Road 222
Power
Transmission
Line
County Road 217
County Road 222
Dry Branch
County Road 427
LAWRENCE COUNTY
N
Map Location
0
0.25
0.5 Miles
0
0.25
0.5 Kilometers
Critical Habitat

* * * * *

Dated: May 21, 2014.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–12501 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140128077–4375–01]

RIN 0648–BD93

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States

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

ACTION: Proposed rule; request for comments.

SUMMARY: At the request of the New England Fishery Management Council, this action would add a new method for on-reel trawl gear stowage when fishing vessels are transiting closed areas or fishing in areas with mesh size restrictions. Specifically, this action proposes to allow the use of a highly visible orange mesh material, in addition to the current requirement to use a tarp or similar canvas material. In addition, this action would remove the requirement to detach the towing wires from the doors for all on-reel gear stowage. Finally, to help streamline the gear stowage requirements, this action also proposes to reorganize the current gear stowage regulations. This action would be implemented under authority delegated to the NMFS Regional Administrator, at the request of the Council. This action is intended to improve safety of fishing operations while at sea.

DATES: Comments must be received on this action by June 30, 2014.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2014–0018, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0018*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Gear Stowage.''

Instructions: All comments received are part of the public record and will generally be posted to *www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted via Microsoft Word, Microsoft Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, phone: (978) 281–9177.

SUPPLEMENTARY INFORMATION:

Background

The current trawl gear stowage regulations, at 50 CFR 648.23(b), require that trawl gear being stowed on the net reel be covered with a ''canvas or similar opaque material'' when transiting closed areas and areas with mesh size restrictions. The industry typically uses a commonly available opaque plastic tarp to meet this requirement, which is intended to help facilitate enforcement. However, industry has raised two safety concerns with this requirement. First, the tarps most frequently used have very few places where a rope or similar material can be attached to assist in pulling the tarp over the net reel. As a result, crew members at sea often have to climb or stand on the net reel or surrounding parts of the vessel to successfully cover the reel. This creates a safety concern for crew members who may slip or fall and injure themselves or others. In addition, because the tarps are non-porous, they catch wind, similar to a sail, adding to the difficulty of covering the net reel and increasing the safety risks.

As a result of these safety concerns, the New England Fishery Management Council's Enforcement Committee has been working with the fishing industry and the United States Coast Guard (USCG) to develop an alternative to the tarp requirement for stowing trawl nets on the reel. Through public workshops and at-sea trials, the industry, USCG, and NOAA's National Marine Fisheries Service (NMFS) developed an orange mesh material as a safer alternative to the current tarp requirement. At its September 2013 meeting, the Council approved a motion requesting that the Regional Administrator implement two new trawl gear stowage methods and modify one provision of the existing methods. This action proposes to add a provision to allow the use of a highly visible orange mesh material, as an alternative to the current requirement to use a tarp or similar canvas material. This action would be implemented under authority delegated to the NMFS Regional Administrator at § 648.23(b)(5), at the request of the Council.

In addition, when considering this revision to the gear stowage regulations, the Committee examined whether the current requirement that the ''towing wires are detached from the doors'' also presents safety concerns. When trawl gear is being stowed, detaching the wires leaves the doors unsecured and swinging freely, which can result in damage to the vessel. This is particularly problematic for smaller fiberglass vessels. If the wires were allowed to remain attached to the doors, the doors could be held securely in place, preventing them from moving and causing damage to the vessel or injuring crew. The Committee, with concurrence from the USCG and NMFS Office of Law Enforcement, concluded that this measure is no longer needed to conduct enforcement and, as such, recommends this measure be removed from the regulations pertaining to all on-reel gear stowage requirements.

As a result, the new stowage method would not include the requirement to remove the towing wires from the doors for all on-reel trawl gear stowage methods where it currently applies.

NMFS is also taking this opportunity under its authority at section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act to reorganize the current gear stowage regulations. Currently, all Northeast region gear stowage regulations reside under the Atlantic mackerel, squid, and butterfish (MSB) regulations at subpart B of 50 CFR part 648. The gear stowage regulations were originally implemented in Amendment 1 to the Northeast Multispecies Fishery Management Plan as part of the exempted fishing programs. These regulations were subsequently expanded and modified a number of times. In 1996, NMFS undertook a comprehensive reorganization of fishery regulations in response to a Presidential directive. As a result, the gear stowage regulations that had previously been part of the Northeast multispecies regulations were moved to the MSB