submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 6, 2016.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2016–09065 Filed 4–20–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

[Docket Nos. FWS–HQ–ES–2015–0016; DOC 150506429–5429–01; 4500030113]

RIN 1018–BA53; 0648–BF06

Endangered and Threatened Wildlife and Plants; Revisions to the Regulations for Petitions

AGENCY: U.S. Fish and Wildlife Service (FWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

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

SUMMARY: We, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (Services), announce revisions to the May 21, 2015, proposed rule that would revise the regulations pertaining to submission of petitions and the reopening of the public comment period. In this document, we are setting forth modified proposed amendments to the regulations based on comments and information we received during the May 21, 2015, proposed rule's public comment period. We are reopening the comment period to allow all interested parties an opportunity to comment on these revisions, as described in this document, and on the information collection requirements. Comments previously submitted need not be resubmitted, as they have been considered in development of this revised proposed rule and will be fully considered in preparation of the final rule.

DATES: We will consider comments received or postmarked on or before May 23, 2016. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. Comments on the information collection aspects of this proposed rule must be received on or before May 23, 2016.

ADDRESSES: *Comments on the Proposed Rule.* You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter the docket number for this proposed rule, which is FWS–HQ–ES–2015–0016. Then click on the Search button. In the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!'' Please ensure that you have found the correct document before submitting your comment.
- *By hard copy:* Submit by U.S. mail or hand delivery to: Public Comments Processing, Attn: Docket No. FWS–HQ–ES–2015–0016; U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see Request for Information, below, for more information).

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

Comments on the Information Collection Aspects of the Proposed Rule: You may review the Information Collection Request online at *http://www.reginfo.gov*. Follow the instructions to review Department of the Interior collections under review by the Office of Management and Budget (OMB). Send comments (identified by 1018–BA53) specific to the information collection aspects of this proposed rule to both the:

- Desk Officer for the Department of the Interior at OMB–OIRA at (202) 295–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email); and
- Service Information Collection Clearance Officer; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803 (mail); or *hope_grey@fws.gov* (email).

FOR FURTHER INFORMATION CONTACT: Bridget Fahey, U.S. Fish and Wildlife Service, Division of Conservation and Classification, 5275 Leesburg Pike, Falls Church, VA 22041–3803, telephone 703–358–2171, facsimile 703–358–1735; or Angela Somma, National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, telephone 301–427–8403. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2015, the Services proposed revising the regulations at 50 CFR 424.14 concerning petitions to improve the content and specificity of petitions and to enhance the efficiency and effectiveness of the petition process to support species conservation (80 FR 29286). Our revisions to § 424.14 are intended to clarify and enhance the procedures and standards by which the Services will evaluate petitions under section 4(b)(3) of the Endangered Species Act of 1973, as amended (ESA or Act; 16 U.S.C. 1531 *et seq.*), and to provide greater clarity to the public on the petition-submission process and, thereby, assist petitioners in providing complete, robust petitions. The proposed changes will improve the quality of petitions through expanded content requirements and guidelines, and, in so doing, better focus the Services' resources on species that merit further analysis. However, in response to the comments and information we received during the May 21, 2015, proposed rule's public comment period, the Services are revising the proposed rule to streamline the process for according States notice of petitions, to reduce the amount of information that would need to be submitted with petitions, and to provide additional clarifications. It is our intent to discuss here only those topics directly relevant

to the changes we are making to the proposed rule. Additional background information, along with the Services' rationales and explanations of the intended meaning of the proposed regulatory text generally, can be found in the proposed rule published on May 21, 2015 (80 FR 29286).

Changes From the May 21, 2015, Proposed Rule

General

For clarity and simplicity, we make small revisions in language in the proposed regulation text. These changes include:

- Throughout the proposed regulation text we replace the title ''the Secretary'' or ''the Secretaries'' with ''the Services,'' as the Services are the designees of the Secretaries of Commerce and the Interior, respectively, in implementing the Act.
- We revise the headings for § 424.14(c) and (d) to make them more uniform and clear; in this rule, those headings are ''*Information to be included in petitions to add or remove species from the lists, or change the listed status of a species*'' and ''*Information to be included in petitions to revise critical habitat,*'' respectively.
- In § 424.14(c)(3), we replace the phrase ''and, if so, how, including a description of the magnitude and imminence of the threats'' with the phrase ''and, if so, how high in magnitude and how imminent the threats to the species and its habitat are,'' for clarity.
- We expand the phrase ''available data layers if feasible'' in proposed § 424.14(d)(1) to ''sufficient supporting information to substantiate the requested changes, which may include Geographic Information System (GIS) data or boundary layers that relate to the request, if appropriate,'' for additional clarity.
- In proposed § 424.14(d)(2), we replace the phrase ''A description of physical or biological features essential for the conservation of the species'' with the phrase ''A description of any proposed revision to the already-identified physical or biological features essential for the conservation of the species,'' for clarity.
- In § 424.14(g)(1)(iii), we replace the phrase ''in light of any prior determinations by the Secretary for the species'' with ''in light of any prior reviews or findings the Services have made on the listing status of the species'' to clarify that context for petition findings comes not only from previous final decisions to list or not to list a species, but also from other findings on, or reviews of, the listing status of the species. For example, when the Services have already conducted a candidate assessment on their own initiative, a 90-day or 12-month finding on a petition to complete the same action, or a status review that occurs every 5 years for listed species, such a review or finding provides context for the petition finding. We similarly changed ''conducted a status review of that species'' to ''conducted a finding on, or review of, the listing status of that species'' for the same reason. We did not include specific reference to a ''5-year review'' since that term is used internally by the Services and is already encompassed by the broader language now used in the first sentence.
- Also in § 424.14(g)(1)(iii), we replace the reference to ''subsequent petition'' with ''any petition received thereafter'' as it removes the need to introduce and define new, potentially confusing terminology.
- Also in § 424.14(g)(1)(iii), we add the sentence, ''Where the prior review resulted in a final agency action, a petition generally would not be considered to present substantial scientific and commercial information indicating that the action may be warranted unless the petition provides new information not previously considered.'' Adding this sentence would maximize efficiency by allowing the Services to rely on previous final agency actions unless new information has since become available.
- In § 424.14(g)(1), (g)(2)(i), (g)(2)(ii), (g)(2)(iii)(B), (h)(1), and (h)(2), we remove the word ''promptly'' with respect to publishing the Services' findings. The word ''promptly'' is indefinite, and some might interpret it as the same day or within a few days. The Services intend their findings to be published as soon as possible, but cannot control precisely when publication in the **Federal Register** occurs and prefer to avoid language that could be misconstrued in this context.
- In § 424.14(g)(2)(ii) and (h)(2), we remove the phrase ''Within 12 months of receipt of the petition,'' with respect to the Services' final determination after conducting a status review, following a 90-day finding. The 12-month period is specified in the Act, and would be redundant and unnecessary to include in this regulation.

Requirements for Petitions—Paragraph (b)

We add clarification at proposed § 424.14(b)(2) that the requirement that only one ''species'' be the subject of each petition applies to ''taxonomic species.'' A petition may therefore address any configuration of members of that single taxonomic or biological species as defined by the Act (the full species, one or more subspecies, and, for vertebrate species, one or more distinct population segments (DPSs)). In other words, one petition may request consideration of, for example, both the full species entity and a subspecies of that entity, or, in the case of vertebrate species, one or more DPSs of the subject species as well. Separate petitions are not needed in this case.

At proposed § 424.14(b)(5), we add the word ''easily'' before ''locate the information cited in the petition, including page numbers or chapters as applicable.'' The Services should not have to hunt through reference material to try to locate specific information; the petition should provide clear, specific citations that allow the supporting information to be located easily. If the Services cannot locate the supporting information easily, they may not be able to conclude that the statement for which the reference material is cited constitutes substantial information.

At proposed § 424.14(b)(6), we remove the phrase ''or valid links to public Web sites where the supporting materials can be accessed,'' because Web sites can and do change. A link provided in a petition may become invalid by the time the Services receive and evaluate the petition, or by the time any subsequent status review may be done. Therefore, we believe it best that electronic or hard copies of supporting materials cited in the petition be provided with the petition.

At proposed § 424.14(b)(7), we add the phrase ''delist a species, or change the status of a listed species,'' so that § 424.14(b)(7) now reads ''For a petition to list a species, delist a species, or change the status of a listed species, information to establish whether the subject entity is a 'species' as defined in the Act.'' The reason for this addition is that the Services may be petitioned to delist an already-listed species on the basis that it is not a valid, listable entity under the Act. Another possible scenario may be that taxonomic revisions could result in a reconfiguration of a listed species into new entities, which may be determined to have a different listing status from the original entity, and thus the Services might be petitioned to change the status of a listed species on that basis. However, in simple petitions to uplist a species from threatened to endangered, or downlist a species from endangered to threatened, the petitioner would only need to point to the species' listed status to establish that the subject entity is a ''species'' as defined in the Act.

At proposed § 424.14(b)(9), we replace text concerning pre-coordination of petitioners with States and gathering of information from State wildlife agencies with new text requiring only that petitioners notify affected States of their intention to file a petition to list, delist, change the status of, or revise critical habitat for a species, at least 30 days before submitting a petition to the Services. From the many comments we received on the proposed three options for pre-coordination, we realized that the complexity of attempting to contact and gather responsive data from multiple State wildlife agencies may cause an undue burden on the petitioner, and potentially slow down the petition process. Under the revised provision, the petitioner would be required to notify by letter each State in which the subject species occurs. A copy of the notification letter(s) would be required to be submitted with the petition when it is filed with either NMFS or FWS. We do not anticipate that this requirement would slow down the petition process, because petitioners can submit the letter to the States as soon as they begin to prepare the petition.

Moreover, requiring this early notice to the States is consistent with the direction in Section 6 (16 U.S.C. 1535) to coordinate with States to the maximum extent practicable. This proposed provision would allow the Services to benefit from the States' considerable experience and information on the species within their boundaries because the States would have an opportunity to submit to the Services any information they have on the species early in the petition process. The Services would have the option, in formulating an initial finding, to use their discretion to consider any information provided by the States (as well as other readily available information) as part of the context in which they evaluate the information contained in the petition. If a subsequent status review is conducted, the Services would of course consider all relevant data and information, including that provided by States and any other interested parties, in making their determination.

We remove proposed § 424.14(b)(10), which required that a petitioner gather all relevant information on the subject species and provide a certification attesting to that. Many comments received on the original proposed rule emphasized that this requirement would be difficult to implement and enforce. We believe that the requirement at proposed § 424.14(b)(4) to provide a detailed narrative justification for the recommended administrative action that contains an analysis of the information presented—in combination with the revised description at § 424.14(c)(5) (see discussion below) that a robust petition should present a complete, balanced representation of the relevant facts—will help promote the high quality of petitions that we encourage petitioners to submit.

Types of Information To Be Included in Petitions To List, Delist, or Change the Status of a Listed Species—Paragraph (c)

We add clarification at § 424.14(c)(4) that we seek information on conservation actions that States, as well as other parties, have initiated or that are ongoing.

We revise proposed § 424.14(c)(5). In our May 21, 2015, proposed rule, we included this language for § 424.14(c)(5):

> Except for petitions to delist, information that is useful in determining whether a critical habitat designation for the species is prudent and determinable (see § 424.12), including information on recommended boundaries and physical features and the habitat requirements of the species; however, such information will not be a basis for determining whether the petition has presented substantial information that the petitioned action may be warranted.

In this revised proposed rule, we add a new proposed § 424.14(c)(5) stating that a petitioner should provide a complete, balanced presentation of facts pertaining to the petitioned species, which would include any information the petitioner is aware of that contradicts claims in the petition. The intent of this provision is to discourage petitioners from presenting only that information that supports the claims in the petition, which might result in a biased, less-than-robust petition. Further, we removed the request for information useful in making determinations about critical habitat for the species; information regarding critical habitat is beyond the scope of information needed to make a 90-day finding, and is more appropriate for the Services to consider during subsequent status reviews and proposed listing determinations.

Information To Be Included in Petitions To Revise Critical Habitat—Paragraph (d)

We add clarification to proposed § 424.14(d)(2) that if a petitioner believes the already-identified physical or biological features in an existing critical habitat designation should be revised, they should provide information on such a revision. In other words, petitioners requesting revisions to critical habitat designations need not provide information on which physical or biological features are essential unless they contend that some features currently recognized as essential are not, or that features not currently recognized as essential should be.

In proposed § 424.14(d)(4), which outlines information to be included in petitions to remove areas from designated critical habitat within the geographical area occupied by the species, we clarify that ''features'' specifically refers to the ''physical or biological features,'' as described in our recent revision to 50 CFR 424.12 (81 FR 7413; February 11, 2016). Further, to utilize the same language as the revised 50 CFR 424.12, we replace the clause ''(including features that allow the area to support the species periodically, over time)'' with ''(including characteristics that support ephemeral or dynamic habitat conditions).''

We revise proposed § 424.14(d)(6) regarding providing information demonstrating that all relevant facts are presented in a petition to revise critical habitat, for the same reason discussed in our decision to remove proposed § 424.14(b)(10), above. The revised proposed § 424.14(d)(6) mirrors the revised proposed § 424.14(c)(5), stating that a petitioner should provide a complete, balanced presentation of facts pertaining to the petitioned species, which would include any information the petitioner is aware of that contradicts claims in the petition.

Responses to Requests—Paragraph (e)

Proposed § 424.14(e)(1) stated that if a request (a purported petition) does not meet the requirements set forth at § 424.14(b), the Services will reject the request without making a finding. In this revised proposal we add language clarifying that the Services retain discretion to consider a request to be a petition and process that petition where the Services determine there has been substantial compliance with the relevant requirements. For example, if a petitioner cites 50 references, but provides copies of only 49 of the 50 references with the petition, it is not likely that the Services would choose to reject the request without making a finding (unless the missing reference was a keystone in supporting the request). However, we do want to encourage the petitioner to be careful to ensure all cited materials are included with the petition, as this is an important part in making the petitioner's case. If the petitioner cites a source as giving support to an element in a petition, the petitioner should have actually

reviewed that source and thus should be able to provide it along with the petition.

We also revise proposed § 424.14(e)(2) concerning acknowledgement of receipt of petitions that do meet the requirements set forth at § 424.14(b), by deleting ''in writing'' and ''within 30 days of receipt.'' We make this revision to allow the Services greater flexibility in the means and timing of communicating with the petitioner its determination of whether the petition complies with the mandatory requirements. This revision also reflects the fact that, in this day of modern electronic communications, it is more efficient for petitioners to refer to the Services' online lists of active petitions, which are accessible to the public. We find that continuing the practice of written confirmations no longer provides the most effective or efficient means of communicating to all interested parties regarding the status of petitions.

Findings on a Petition To List, Delist, or Reclassify—Paragraph (g)

In § 424.14(g)(1)(ii), which describes what additional information the Services may use in evaluating a petition, beyond that which is provided with the petition, we propose to delete the phrase ''in the agency's possession'' and revise this statement to simply state, ''The Services may also consider information readily available at the time the determination is made . . . .'' That information may not only be stored in the traditional hard copy format in files, but may be electronic data files as well, or stored on Web sites created by the Services or other Web sites routinely accessed by the Services. Further, the Services may consider information that they are able to retrieve through a quick Internet search. However, the Services are not required to search for or consider such information in making an initial finding on a petition, and would use that information only to provide context for evaluating the information in the petition rather than to supplement the petition.

We remove the phrase ''and so notify the petitioner'' that occurred in proposed § 424.14(g)(1), (g)(2)(i), and (h)(1) to describe the process the Services follow once findings are made. Our intention in using this phrase was to state that the publication of our findings in the **Federal Register** constitutes our notification to the petitioner, but the phrasing was awkward, and it is clearer just to state that we will publish our finding in the **Federal Register**.

We revised § 424.14(g)(1)(iii), which addresses situations in which the Services have already made a finding on or conducted a review of the listing status of a species, and, after such finding or review, receive a petition seeking to list, reclassify, or delist that species. As explained in the preamble to the original proposal, such prior reviews constitute information readily available to the Services and provide important context for evaluation of petitions. Prior reviews represent a significant expenditure of the Services' resources, and it would be inefficient and unnecessary to require the Services to revisit issues for which a determination has already been made, unless there is a basis for reconsideration. In the case of prior reviews that led to final agency actions (such as final listings, 12-month not warranted findings, and 90-day not-substantial findings), a petition generally would not be found to provide substantial information unless the petition provides new information or a new analysis not previously considered in the final agency action. By ''new'' we mean only that the information was not considered by the Services in the prior determination.

These revisions are not meant to imply that the Service's finding on a petition addressing the same species as a prior determination would necessarily be negative. For example, the more time that has elapsed from the completion of the prior review, the greater the potential that substantial new information has become available. As another example, the Services may have concluded a 5-year status review in which we find that a listed species no longer warrants listing, but have not as yet initiated a rule-making to delist the species (in other words, have not yet undertaken a final agency action). If we receive a petition to delist that species, in which the petitioner provides no new or additional information than was considered in the 5-year status review, we would likely still find that the petition presents substantial information that the petitioned action may be warranted.

Petitions To Designate Critical Habitat or Adopt Rules Under Sections 4(d), 4(e), or 10(j) of the Act—Paragraph (i)

We revise the heading of this paragraph to clarify what was meant by ''special rules.'' This paragraph describes petitions that the Services will review in accordance with the Administrative Procedure Act (APA; 5 U.S.C. Subchapter II), and specifically includes petitions to designate critical habitat and requests pertaining to ESA sections 4(d) (protective regulations for threatened species), 4(e) (similarity of appearance cases), and 10(j) (designation of experimental populations).

We replace the clause ''Upon receiving a petition to designate critical habitat or to adopt a special rule to provide for the conservation of a species, the Secretary will promptly conduct a review,'' with the clause ''The Services will conduct a review of petitions to designate critical habitat or to adopt a rule under sections 4(d), 4(e), or 10(j) of the Act,'' to use plain language and provide clarity.

Withdrawal of Petition—Paragraph (j)

We remove the requirement that a request from a petitioner to withdraw their petition must include the petitioner's name, signature, address, telephone number, if any, and the association, institution, or business affiliation, if any, of the petitioner. Such information has already been provided in the petition.

Request for Information

Any final rule based on the May 21, 2015, proposed rule (80 FR 29286), as amended by this revised proposed rule, will consider information and recommendations timely submitted from all interested parties. We solicit comments, information, and recommendations from governmental agencies, Native American tribes, the scientific community, industry groups, environmental interest groups, and any other interested parties on this revised proposed rule. All comments and materials received by the date listed in **DATES**, above, will be considered prior to the approval of a final rule.

We specifically request comments and information evaluating the changes in this revised proposed rule, as discussed above and presented below under Proposed Regulation Promulgation. We are particularly interested in comments on our modified proposal to limit petitions to a single taxonomic species, in light of our clarification that a single petition may seek the listing of alternative configurations of the members of that species (*i.e.,* as a species, subspecies, or one or more distinct population segments).

Comments previously submitted on the original proposed rule need not be resubmitted, as they will be fully considered in preparation of the final rule.

You may submit your information concerning this proposed rule by one of the methods listed in **ADDRESSES**.

Information and supporting documentation that we receive in response to this proposed rule will be

available to review at *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Conservation and Classification (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

Based on our most current data, we affirm the following required determinations made in the May 21, 2015, proposed rule (80 FR 29286); see that document for descriptions of our actions to ensure compliance with the following statutes and Executive Orders:

- *Regulatory Planning and Review (Executive Order 13563);*
- *Regulatory Flexibility Act;*
- *Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.);*
- *Takings (Executive Order 12630);*
- *Federalism (Executive Order 13132);*
- *Civil Justice Reform (Executive Order 12988);*
- *Government-to-Government Relationship With Tribes;*
- *Energy Supply, Distribution or Use (Executive Order 13211); and*
- *Clarity of This Proposed Rule*

Our additional determinations follow:

Regulatory Planning and Review (Executive Order 12866)

The Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not significant under Executive Order 12866.

Paperwork Reduction Act of 1995 (PRA)

This proposed rule contains a collection of information that the Services have submitted to OMB for approval under the PRA (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Any interested person may submit a written petition to the Services requesting to add a species to the Lists of Endangered or Threatened Wildlife and Plants (Lists), remove a species from the Lists, change the listed status of a species, or revise the boundary of an area designated as critical habitat. We are asking OMB to approve the collection of information associated with these petitions:

Petitions. This proposed rule specifies the information that must be included in petitions, including but not limited to:

(1) Petitioner's name; signature; address; telephone number; and association, institution, or business affiliation;

(2) Scientific and any common name of the species that is the subject of the petition;

(3) Clear indication of the administrative action the petitioner seeks (*e.g.,* listing of a species or revision of critical habitat);

(4) Detailed narrative justification for the recommended administrative action that contains an analysis of the supporting information presented;

(5) Literature citations that are specific enough for the Services to easily locate the supporting information cited by the petition, including page numbers or chapters, as applicable;

(6) Electronic or hard copies of supporting materials (*e.g.,* publications, maps, reports, letters from authorities) cited in the petition;

(7) For petitions to list, delist, or reclassify a species include:

- Information to establish whether the subject entity is a ''species'' as defined in the Act;
- Information on the current geographic range of the species, including range States or countries; and
- Copies of notification letters to States.

(8) Information on current population status and trends and estimates of current population sizes and distributions, both in captivity and the wild, if available;

(9) Identification of the factors under section 4(a)(1) of the Act that may affect the species and where these factors are acting upon the species;

(10) Whether any or all of the factors alone or in combination identified in section 4(a)(1) of the Act may cause the species to be an endangered species or threatened species (*i.e.,* place the species in danger of extinction now or in the foreseeable future), and, if so, how, including a description of the magnitude and imminence of the threats to the species and its habitat;

(11) Information on existing regulatory protections and conservation activities that States or other parties have initiated or have put in place that may protect the species or its habitat;

(12) For petitions to revise critical habitat:

- Description and map(s) of areas that the current designation (a) does not include that should be included or (b) includes that should no longer be included, and the rationale for designating or not designating these specific areas as critical habitat. Petitioners should include available data layers if feasible;
- When the petitioner requests that the physical or biological features identified in the designation should be changed, a description of the physical or biological features essential for the conservation of the species and whether they may require special management considerations or protection;
- For any areas petitioned to be added to critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas contain the physical or biological features that are essential to the conservation of the species and may require special management considerations or protection. The petitioner should also indicate which specific areas contain which features;
- For any areas petitioned for removal from currently designated critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas do not contain the physical or biological features that are essential to the conservation of the species, or that these features do not require special management consideration or protections; and
- For areas petitioned to be added to or removed from critical habitat that were outside the geographical area occupied by the species at the time it was listed, information indicating why the petitioned areas are or are not essential for the conservation of the species.

(13) A complete, balanced representation of the relevant facts, including contrary facts.

Notification of States. For petitions to list, delist, or change the status of a species, or for petitions to revise critical habitat, petitioners must notify applicable States of their intention to submit a petition. This notification must be made at least 30 days prior to submission of the petition. Copies of the notification letters must be included with the petition.

Calculation of Burden Estimates. The burden information below includes estimates for both Services.

We estimate the amount of time a petitioner may spend in preparing a petition, including researching literature and information sources and writing the petition, as 120 hours. We realize the time spent may be more or less than this estimate, but we believe this represents a realistic average. We invite comment on this as well as our other estimates in this PRA determination.

Further, based on the average number of species per year over the past 5 years regarding which FWS and NMFS were petitioned, we estimate the average annual number of petitions received by both Services combined to be 50 (25 for

FWS and 25 for NMFS). Because each petition will be limited to a single taxonomic species under the proposed regulations, the average number of species included in petitions over the past 5 years may be more accurate than the average number of petitions as a gauge of the number of petitions we are likely to receive going forward. This estimate of the number of petitions the Services will receive in the future may be generous.

We estimate that there will be a need for a petitioner to notify an average of 10 States per petition. Many species are narrow endemics and may only occur in one State, but others are wide-ranging and may occur in many States. However, we are erring on the side of over-estimating the potential number of States petitioners will need to notify on average.

We estimate the non-hour cost burden per petition for printing and mailing to be minimal and have used a value of $20.00 in our calculation.

OMB Control No: 1018–XXXX.

Title: Petitions, 50 CFR 424.14.

Service Form Number(s): None.

Description of Respondents: Individuals, businesses, or organizations.

Respondent's Obligation: Required to obtain or retain a benefit.

Estimated Annual Number of Respondents: 50.

Frequency of Collection: On occasion.

Total Annual Nonhour Cost Burden: $1,000.00.

Activity/requirement	Estimated number of annual responses	Completion time per response (hours)	Estimated total annual burden hours
Petitioner—prepare petition	50	120	6,000
Petitioner—notify States	500	1	500
Total	550	.....	6,500

As part of our continuing efforts to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of the reporting burden associated with this proposed information collection. We specifically invite comments concerning:

- Whether or not the collection of information is necessary for the proper performance of our management functions, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for the collection of information,
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

If you wish to comment on the information collection requirements of this proposed rule, send your comments directly to OMB (see detailed instructions under the heading *Comments on the Information Collection Aspects of the Proposed Rule* in **ADDRESSES**). Please identify your comments with 1018–BA53. Provide a copy of your comments to the Service Information Collection Clearance Officer (see detailed instructions under the heading *Comments on the Information Collection Aspects of the Proposed Rule* in **ADDRESSES**).

National Environmental Policy Act

We are analyzing this proposed regulation in accordance with the criteria of the National Environmental Policy Act (NEPA), the Department of the Interior regulations on Implementation of the National Environmental Policy Act (43 CFR 46.10–46.450), the Department of the Interior Manual (516 DM 1–4 and 8)), and National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216–6. Our analysis includes evaluating whether this action is procedural, administrative, technical, or legal in nature, and therefore whether a categorical exclusion applies (see 43 CFR 46.210(i) and NOAA Administrative Order 216–6, section 6.03c.3(i)). We invite the public to comment on whether and, if so, how this proposed regulation may have a significant effect upon the human environment, including any effects identified as extraordinary circumstances at 43 CFR 46.215. We will complete our analysis, in compliance with NEPA, before finalizing these proposed regulations.

List of Subjects in 50 CFR Part 424

Administrative practice and procedure, Endangered and threatened species.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 424, subchapter A of chapter IV, title 50 of the Code of Federal Regulations as set forth below:

PART 424—LISTING ENDANGERED AND THREATENED SPECIES AND DESIGNATING CRITICAL HABITAT

■ 1. The authority citation for part 424 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

■ 2. Add § 424.03 to read as follows:

§ 424.03 Has the Office of Management and Budget approved the collection of information?

The Office of Management and Budget reviewed and approved the information collection requirements contained in subpart B and assigned OMB Control No. 1018–XXXX. We use the information to evaluate and make decisions on petitions. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection requirements to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, at the address listed at 50 CFR 2.1(b).

■ 3. Revise § 424.14 to read as follows:

§ 424.14 Petitions.

(a) *Ability to petition.* Any interested person may submit a written petition to the Services requesting that one of the actions described in § 424.10 be taken for a species.

(b) *Requirements for petitions.* A petition must clearly identify itself as such, be dated, and contain the following information:

(1) The name, signature, address, telephone number, if any, and the association, institution, or business affiliation, if any, of the petitioner;

(2) The scientific and any common name of the species that is the subject of the petition. Only one taxonomic species, along with any subspecies or distinct population segments of that species, may be the subject of a petition;

(3) A clear indication of the administrative action the petitioner

seeks (*e.g.,* listing of a species or revision of critical habitat);

(4) A detailed narrative justification for the recommended administrative action that contains an analysis of the information presented;

(5) Literature citations that are specific enough for the Services to easily locate the information cited in the petition, including page numbers or chapters as applicable;

(6) Electronic or hard copies of supporting materials (*e.g.,* publications, maps, reports, letters from authorities) cited in the petition;

(7) For a petition to list a species, delist a species, or change the status of a listed species, information to establish whether the subject entity is a ''species'' as defined in the Act;

(8) For a petition to list a species, delist a species, or change the status of a listed species, information on the current geographic range of the species, including range States or countries; and

(9) For a petition to list a species, delist a species, or change the status of a listed species, or for petitions to revise critical habitat, petitioners must provide notice to the State agency responsible for the management and conservation of fish, plant, or wildlife resources in each State where the species that is the subject of the petition occurs. This notification must be made at least 30 days prior to submission of the petition. Copies of the notification letters must be included with the petition.

(c) *Information to be included in petitions to add or remove species from the lists, or change the listed status of a species.* The Services' determinations as to whether the petition provides substantial information that the petitioned action may be warranted will depend in part on the degree to which the petition includes the following types of information; failure to include adequate information on any one or more of the following may result in a finding that the petition does not present substantial information:

(1) Information on current population status and trends and estimates of current population sizes and distributions, both in captivity and the wild, if available;

(2) Identification of the factors under section 4(a)(1) of the Act that may affect the species and where these factors are acting upon the species;

(3) Whether any or all of the factors alone or in combination identified in section 4(a)(1) of the Act may cause the species to be an endangered species or threatened species (*i.e.,* place the species in danger of extinction now or is likely to do so in the foreseeable future), and, if so, how high in magnitude and how imminent the threats to the species and its habitat are;

(4) Information on adequacy of regulatory protections and conservation efforts that States, as well as other parties, have initiated or that are ongoing, that may protect the species or its habitat; and

(5) A complete, balanced representation of the relevant facts, including information that may contradict claims in the petition.

(d) *Information to be included in petitions to revise critical habitat.* The Services' determinations as to whether the petition provides substantial information that the petitioned action may be warranted will depend in part on the degree to which the petition includes the following types of information; failure to include adequate information on any one or more of the following may result in a finding that the petition does not present substantial information:

(1) A description and map(s) of areas that the current designation does not include that should be included, or includes that should no longer be included, and the benefits of designating or not designating these specific areas as critical habitat. Petitioners should include sufficient supporting information to substantiate the requested changes, which may include GIS data or boundary layers that relate to the request, if appropriate;

(2) A description of any proposed revision to the already-identified physical or biological features essential for the conservation of the species, and whether they may require special management considerations or protection;

(3) For any areas petitioned to be added to critical habitat within the geographical area occupied by the species at time it was listed, information indicating that the specific areas contain the physical or biological features that are essential to the conservation of the species and may require special management considerations or protection. The petitioner should also indicate which specific areas contain which features;

(4) For any areas petitioned for removal from currently designated critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas do not contain the physical or biological features (including characteristics that support ephemeral or dynamic habitat conditions) that are essential to the conservation of the species, or that these features do not require special management consideration or protections;

(5) For areas petitioned to be added to or removed from critical habitat that were outside the geographical area occupied by the species at the time it was listed, information indicating why the petitioned areas are or are not essential for the conservation of the species; and

(6) A complete, balanced representation of the relevant facts, including information that may contradict claims in the petition.

(e) *Response to requests.* (1) If a request does not meet the requirements set forth at paragraph (b) of this section, the Services will generally reject the request without making a finding, and will notify the sender and provide an explanation of the rejection. However, the Services retain discretion to process a petition where the Services determine there has been substantial compliance with the relevant requirements.

(2) If a request does meet the requirements set forth at paragraph (b) of this section, the Services will acknowledge receipt of the petition.

(f) *Supplemental information.* If the petitioner provides supplemental information before the initial finding is made and asks that it be considered in making a finding, the new information, along with the previously submitted information, is treated as a new petition that supersedes the original petition, and the statutory timeframes will begin when such supplemental information is received.

(g) *Findings on petitions to add or remove a species from the lists, or change the listed status of a species.* (1) To the maximum extent practicable, within 90 days of receiving a petition to add a species to the lists, remove a species from the lists, or change the listed status of a species, the Services will make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. The Services will publish the finding in the **Federal Register**.

(i) For the purposes of this section, ''substantial scientific or commercial information'' refers to credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted. Conclusions drawn in the petition without the support of credible scientific or commercial information will not be considered ''substantial information.''

(ii) The Services will consider the information referenced at paragraphs

(b), (c), and (f) of this section. The Services may also consider information readily available at the time the determination is made in reaching the initial finding on the petition. The Services are not required to consider any supporting materials cited by the petitioner if the cited documents are not provided in accordance with paragraph (b)(6) of this section.

(iii) The ''substantial scientific or commercial information'' standard must be applied in light of any prior reviews or findings the Services have made on the listing status of the species that is the subject of the petition. Where the Services have already conducted a finding on, or review of, the listing status of that species (whether in response to a petition or on the Services' own initiative), the Services will evaluate any petition received thereafter seeking to list, reclassify, or delist that species to determine whether a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted despite the previous review or finding. Where the prior review resulted in a final agency action, a petition generally would not be considered to present substantial scientific and commercial information indicating that the action may be warranted unless the petition provides new information not previously considered.

(2) If a positive 90-day finding is made, the Services will commence a review of the status of the species concerned. The Services will make one of the following findings:

(i) The petitioned action is not warranted, in which case the Services shall publish a finding in the **Federal Register**.

(ii) The petitioned action is warranted, in which case the Services will publish in the **Federal Register** a proposed regulation to implement the action pursuant to § 424.16; or

(iii) The petitioned action is warranted, but:

(A) The immediate proposal and timely promulgation of a regulation to implement the petitioned action is precluded because of other pending proposals to list, delist, or change the listed status of species; and

(B) Expeditious progress is being made to list, delist, or change the listed status of qualified species, in which case such finding will be published in the **Federal Register** together with a description and evaluation of the reasons and data on which the finding is based. The Services will make any determination of expeditious progress in relation to the amount of funds available after complying with nondiscretionary duties under section 4 of the Act and court orders and court-approved settlement agreements to take actions pursuant to section 4 of the Act.

(3) If a finding is made under paragraph (g)(2)(iii) of this section with regard to any petition, the Services will, within 12 months of such finding, again make one of the findings described in paragraph (g)(2) of this section with regard to such petition.

(h) *Findings on petitions to revise critical habitat.* (1) To the maximum extent practicable, within 90 days of receiving a petition to revise a critical habitat designation, the Services will make a finding as to whether the petition presents substantial scientific information indicating that the revision may be warranted. The Services will publish such finding in the **Federal Register**.

(i) For the purposes of this section, ''substantial scientific information'' refers to credible scientific information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the revision proposed in the petition may be warranted. Conclusions drawn in the petition without the support of credible scientific information will not be considered ''substantial information.''

(ii) The Services will consider the information referenced at paragraphs (b), (d), and (f) of this section. The Services may also consider other information readily available at the time the determination is made in reaching its initial finding on the petition. The Services are not required to consider any supporting materials cited by the petitioner if the cited documents are not provided in accordance with paragraph (b)(6) of this section.

(2) The Services will determine how to proceed with the requested revision, and will publish notice of such intention in the **Federal Register**. Such finding may, but need not, take a form similar to one of the findings described under paragraph (g)(2) of this section.

(i) *Petitions to designate critical habitat or adopt rules under sections 4(d), 4(e), or 10(j) of the Act.* The Services will conduct a review of petitions to designate critical habitat or to adopt a rule under sections 4(d), 4(e), or 10(j) of the Act in accordance with the Administrative Procedure Act (5 U.S.C. 553) and applicable Departmental regulations, and take appropriate action.

(j) *Withdrawal of petition.* A petitioner may withdraw the petition at any time during the petition process by submitting such request in writing. If a petition is withdrawn, the Services may, at their discretion, discontinue action on the petition finding, even if the Services have already made a substantial 90-day finding.

Dated: April 4, 2016.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

Dated: April 13, 2016.

Samuel D. Rausch, III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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