SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Order, document FCC 17–26, adopted on March 23, 2017, and released on March 23, 2017 in CG Docket Nos. 10–51 and 03–123. The Notice of Inquiry and Further Notice of Proposed Rulemaking, FCC 17–26, adopted on March 23, 2017, and released on March 23, 2017, was published at 82 FR 17613, April 12, 2017; and the Report and Order, FCC 17–26, adopted on March 23, 2017, and released on March 23, 2017, was published at 82 FR 17754, April 13, 2017. The full text of these documents are available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (844) 432–2272 (videophone), or (202) 418–0432 (TTY).

Congressional Review Act

The Commission sent a copy of document FCC 17–26 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

FCC 17–26 Report and Order contains a modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the modified information collection requirements contained in FCC 17–26 Report and Order, as required by the Paperwork Reduction Act (PRA), Public Law 104–13, in a separate published **Federal Register** Notice (Notice). Public and agency comments are due on or before August 11, 2017. *See* Information Collection Being Reviewed by the Federal Communications Commission, Notice, published at 82 FR 26927, June 12, 2017. In addition, this document does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

Order on Server Based Routing

1. By way of background, in the *VRS Interoperability Order,* DA 17–76, the VRS Provider Interoperability Profile that was incorporated into the Commission's rules provides for the routing of inter-provider VRS and point-to-point video calls to a server of the terminating VRS provider that serves multiple VRS users and devices, rather than directly to a specific device. The technical standard specifies the inclusion of call routing information in the TRS Numbering Directory that contains, in addition to the call recipient's telephone number, a VRS provider domain name, rather than a user-specific IP address. However, 47 CFR 64.613(a) currently requires that the URI for a VRS user's telephone number ''shall contain the IP address of the user's device.''

2. The Commission has determined that until it acts on the *Further Notice of Proposed Rulemaking* in document FCC 17–26, which proposes to amend 47 CFR 64.613 to allow such server-based routing, 47 CFR 64.613 does not authorize VRS providers to provide to and retrieve from the TRS Numbering Directory the routing information specified by the VRS Provider Interoperability Profile.

3. Document DA 17–76 sets August 25, 2017 as the deadline for compliance with the VRS Provider Interoperability Profile. 47 CFR 64.621(b)(1). To avoid the possibility of subjecting VRS providers to conflicting obligations pending Commission action on the *Further Notice of Proposed Rulemaking,* in document FCC 17–26 Order, the Commission sets aside on its own motion the effectiveness of document DA 17–76 and 47 CFR 64.621(b)(1) with respect to the August 25, 2017 deadline for compliance with the VRS Provider Interoperability Profile.

Ordering Clauses

Pursuant to sections 1, 2, 225, and 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 225, 251, document FCC 17–26 is *adopted.*

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *has sent* a copy of document FCC 17–26 to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–12957 Filed 6–22–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2016–0102; FXES11130900000 178 FF09E42000]

RIN 1018–BB74

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of the Oregon Silverspot Butterfly in Northwestern Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), with the support of the State of Oregon Parks and Recreation Department (OPRD), will reestablish the Oregon silverspot butterfly (*Speyeria zerene hippolyta*)—a threatened species under the U.S. Endangered Species Act, as amended (Act)—within its historical range at two sites in northwestern Oregon: Saddle Mountain State Natural Area (SNA) in Clatsop County, and Nestucca Bay National Wildlife Refuge (NWR) in Tillamook County. This final rule classifies the reintroduced populations as a nonessential experimental population (NEP) under the authority of section 10(j) of the Act and provides for allowable legal incidental taking of the Oregon silverspot butterfly within the defined NEP areas.

DATES: This final rule is effective June 23, 2017.

ADDRESSES: This final rule is available on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2016–0102 and on our Web site at *https://www.fws.gov/oregonfwo/.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are also available for public inspection at *http://www.regulations.gov.* All comments, materials, and documentation that we considered in this rulemaking are available for public inspection, by appointment, during normal business hours, at the Newport Field Office, U.S. Fish and Wildlife Service, 2127 SE Marine Science Drive, Newport, OR 97365; telephone 541–867–4558. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Laura Todd, Field Supervisor, at the Newport Field Office, U.S. Fish and

Wildlife Service, 2127 SE Marine Science Drive, Newport, OR 97365; telephone 541–867–4558. Persons who use a TDD may call the Federal Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Statutory and Regulatory Framework

We listed the Oregon silverspot butterfly as a threatened species under the Act (16 U.S.C. 1531 *et seq.*) on October 15, 1980 (45 FR 44935, July 2, 1980). We designated critical habitat for the Oregon silverspot butterfly at the time of listing (45 FR 44935, July 2, 1980). On December 23, 2016, we published in the **Federal Register** a proposed rule to establish a nonessential experimental population of the Oregon silverspot butterfly in northwestern Oregon (81 FR 94296). The comment period on the proposed rule was open for 60 days, through February 21, 2017. Comments on the proposed rule are addressed below, under Summary of Comments and Recommendations.

Species listed as endangered or threatened are afforded protection primarily through the prohibitions of section 9 of the Act and the requirements of section 7 of the Act. Section 9 of the Act, among other things, prohibits the take of endangered wildlife. ''Take'' is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Our regulations in title 50 of the Code of Federal Regulations (50 CFR 17.31) generally extend the prohibition of take to threatened wildlife species. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitat. It mandates that all Federal agencies use their existing authorities to further the purposes of the Act by carrying out programs for the conservation of listed species. It also states that Federal agencies must, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private land unless they are authorized, funded, or carried out by a Federal agency.

The 1982 amendments to the Act (16 U.S.C. 1531 *et seq.*) included the addition of section 10(j), which allows for the designation of reintroduced populations of listed species as ''experimental populations.'' The provisions of section 10(j) were enacted to ameliorate concerns that reintroduced populations will negatively impact landowners and other private parties, by giving the Secretary greater regulatory flexibility and discretion in managing the reintroduction of listed species to encourage recovery in collaboration with partners, especially private landowners. Under section 10(j) of the Act and our regulations at 50 CFR 17.81, the Service may designate an endangered or threatened species that has been or will be released into suitable natural habitat outside the species' current natural range (but within its probable historical range, absent a finding by the Director of the Service in the extreme case that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed) as an experimental population.

As discussed below (see Relationship of the NEP to Recovery Efforts), we intend to reintroduce the Oregon silverspot butterfly into areas of suitable habitat within its historical range for the purpose of restoring populations to meet recovery goals. Oregon silverspot butterfly populations have been reduced from at least 20 formerly known locations to only 5, thus reintroductions are important to achieve biological redundancy in populations and to broaden the distribution of populations within the geographic range of the subspecies. The restoration of multiple populations of the Oregon silverspot butterfly distributed across its range is one of the recovery criteria identified for the subspecies (USFWS 2001, pp. 39–41).

When we establish experimental populations under section 10(j) of the Act, we must determine whether such a population is essential or nonessential to the continued existence of the species. This determination is based solely on the best scientific and commercial data available. Our regulations (50 CFR 17.80(b)) state that an experimental population is considered essential if its loss would be likely to appreciably reduce the likelihood of survival of that species in the wild. All other populations are considered nonessential. We find the experimental population of Oregon silverspot butterfly in northwestern Oregon to be nonessential for the following reasons:

(1) Oregon silverspot butterflies are currently found at five locations, from the central Oregon coast to northern California (see Biological Information, below).

(2) There are ongoing management efforts, including captive rearing and release, to maintain or expand Oregon silverspot butterfly populations at these five locations (VanBuskirk 2010, entire; USFWS 2012, entire).

(3) The experimental population will not provide demographic support to the existing wild populations (see Location and Boundaries of the NEP, below).

(4) The experimental population will not possess any unique genetic or adaptive traits that differ from those in the wild populations because it will be established using donor stock from extant wild populations of Oregon silverspot butterflies (see Donor Stock Assessment and Effects on Donor Populations, below).

(5) Loss of the experimental population will not preclude other recovery options, including future efforts to reestablish Oregon silverspot butterfly populations elsewhere. Therefore, we conclude the reintroduced populations of Oregon silverspot butterfly at two sites in northwest Oregon are appropriately established as a nonessential experimental population (NEP) under section 10(j) of the Act.

With the NEP designation, the relevant population is treated as if it were listed as a threatened species for the purposes of establishing protective regulations, regardless of the species' designation elsewhere in its range. This approach allows us to develop tailored take prohibitions that are necessary and advisable to provide for the conservation of the species. In these situations, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species. The protective regulations adopted for an experimental population in a section 10(j) rule contain the applicable prohibitions and exceptions for that population. These section 9 prohibitions and exceptions apply on all lands within the NEP.

For the purposes of section 7 of the Act, which addresses Federal cooperation, we treat an NEP as a threatened species when the NEP is located within a National Wildlife Refuge or unit of the National Park Service, and Federal agency conservation requirements under section 7(a)(1) and the Federal agency consultation requirements of section 7(a)(2) of the Act apply. Section 7(a)(1) of the Act requires all Federal agencies to use their authorities to carry out programs for the conservation of listed species. Section 7(a)(2) requires that Federal agencies, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely

to jeopardize the continued existence of a listed species or adversely modify its critical habitat. When NEPs are located outside a National Wildlife Refuge or National Park Service unit, then, for the purposes of section 7, we treat the population as proposed for listing and only section 7(a)(1) and section 7(a)(4) of the Act apply. In these instances, NEPs provide additional flexibility because Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed to be listed. The results of a conference are in the form of conservation recommendations that are optional to the agencies carrying out, funding, or authorizing activities. In this case, the NEP area within Nestucca Bay NWR will still be subject to the provisions of section 7(a)(2), and intra-agency consultation would be required on the refuge. Section 7(a)(2) consultation would not be required outside of the refuge.

Before authorizing the release as an experimental population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Service must find, by regulation, that such release will further the conservation of the species. In making such a finding, the Service uses the best scientific and commercial data available to consider the following factors (see 49 FR 33893, August 27, 1984): (1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere (see Donor Stock Assessment and Effects on Donor Populations, below); (2) the likelihood that any such experimental population will become established and survive in the foreseeable future (see Likelihood of Population Establishment and Survival, below); (3) the relative effects that establishment of an experimental population will have on the recovery of the species (see Relationship of the NEP to Recovery Efforts, below); and (4) the extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area (see Extent to Which the Reintroduced Population May Be Affected by Land Management Within the NEP, below).

Furthermore, as set forth at 50 CFR 17.81(c), all regulations designating experimental populations under section 10(j) must provide: (1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s) (see Location and Boundaries of the NEP, below); (2) a finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild (see discussion in this section, above); (3) management restrictions, protective measures, or other special management concerns of that population, which may include but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from natural populations (see Extent to Which the Reintroduced Population May Be Affected by Land Management Within the NEP, below); and (4) a process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species (see Reintroduction Effectiveness Monitoring and Donor Population Monitoring, below).

Under 50 CFR 17.81(d), the Service must consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. To the maximum extent practicable, section 10(j) rules represent an agreement between the Service, the affected State and Federal agencies, and persons holding any interest in land that may be affected by the establishment of an experimental population.

Section 10(j)(2)(C)(ii) of the Act states that critical habitat shall not be designated for any experimental population that is determined to be nonessential. Accordingly, we cannot designate critical habitat in areas where we establish an NEP.

Biological Information

The Oregon silverspot butterfly is a small, darkly marked coastal subspecies of the Zerene fritillary, a widespread butterfly species in montane western North America (USFWS 2001, p. 1). Historically, the Oregon silverspot butterfly was documented at 20 locations, from the border of northern California to the southern coast of Washington (McCorkle *et al.* 1980, p. 7). Its current distribution is limited to five locations, one near Lake Earl, along the coast of Del Norte County, California; two on the central Oregon coast in Lane County, Oregon; and two in Tillamook County, Oregon. With the exception of the two populations on the central Oregon coast that are only about 5 miles (mi) (8 kilometers (km)) apart, all remaining populations are geographically isolated from one another (USFWS 2001, pp. 8–10).

The Oregon silverspot butterfly has a 1-year life cycle, which begins when female adults lay eggs on or near early blue violets (*Viola adunca*) during their flight period from mid-August through September. The eggs hatch within 10 days. The tiny first-instar caterpillars eat their eggshells and then go into diapause, a hibernation-like state, until late spring the following year when violets begin growing. Caterpillars are cryptic in habits and feed on early blue violets and a few other *Viola* species until pupation in the summer. Adult emergence starts in July and extends into September.

The Oregon silverspot butterfly occupies three types of grassland habitat: marine terrace and coastal headland meadows, stabilized dunes, and montane grasslands. Key resources needed by the Oregon silverspot butterfly in all of these habitats include: (1) The early blue violet, which is the primary host plant for Oregon silverspot caterpillars; (2) a variety of nectar plants that bloom during the butterfly flight period, including, but not limited to, yarrow (*Achillea millefolium*), pearly everlasting (*Anaphalis margaritacea*), Pacific aster (*Symphyotrichum chilense*), Canada goldenrod (*Solidago canadensis*), tansy ragwort (*Senecio jacobaea*), and edible thistle (*Cirsium edule*); (3) grasses and forbs in which the larvae find shelter; and (4) trees surrounding occupied meadows, which provide shelter for adult butterflies (45 FR 44935, July 2, 1980, p. 44939; USFWS 2001, p. 12).

Habitat quality is largely determined by violet densities and the abundance and availability of nectar plants during the flight season. Field studies have demonstrated that female Oregon silverspot butterflies select areas with high violet densities for egg-laying (Damiani 2011, p. 7). Based on laboratory studies, from 200 to 300 violet leaves are needed to allow an Oregon silverspot butterfly to develop from caterpillar to pupae (Andersen *et al.* 2009, p. 7). The caterpillars have limited foraging ability beyond a 3.3-foot (ft) (1-meter (m)) distance (Bierzychudek *et al.* 2009, p. 636). In the wild, a caterpillar would require a clump of approximately 16 violet plants for development, assuming each violet

could provide about 12 to 20 leaves (USFWS 2012, p. 8). Based on studies of other butterflies, nectar abundance and quality are also important to adult survival and particularly fecundity (Boggs and Ross 1993, p. 436; Schultz and Dlugosch 1999, p. 231; Mevi-Schutz and Erhard 2005, p. 411). Therefore, we consider high-quality Oregon silverspot butterfly habitat to have large numbers of violets distributed in dense patches for caterpillar forging and an abundance of nectar plants of differing species, blooming throughout the butterfly flight period (USFWS 2012, p. 8).

Historically, habitats with these key resources were likely widely distributed along the Oregon and Washington coasts (Hammond and McCorkle 1983, p. 222). Loss of habitat and key resources occurred as a result of human development and due to ecological succession and invasion of shrubs, trees, and tall introduced grasses, which crowd-out the subspecies' host plants and nectar resources (Hammond and McCorkle 1983, p. 222). Loss of habitat was the primary threat to the subspecies identified in our 2001 Revised Recovery Plan for the Oregon Silverspot Butterfly (USFWS 2001, entire). More recently, during a periodic review of the subspecies' status, we identified the reduced size, number, and isolation of Oregon silverspot butterfly populations as additional severe and imminent threats to the subspecies (USFWS 2012, pp. 24–25).

Additional information on the biology, habitat, and life history of the butterfly can be found in our Revised Recovery Plan for the Oregon Silverspot Butterfly *(Speyeria zerene hippolyta*) (USFWS 2001, pp. 11–19), which is available online at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2016–0102 or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**, above.

Relationship of the NEP to Recovery Efforts

We are establishing an NEP to promote the conservation and recovery of the Oregon silverspot butterfly. The recovery strategy for the Oregon silverspot butterfly, as detailed in our 2001 revised recovery plan, is to protect and manage habitat, and to augment and restore populations (USFWS 2001, pp. 39–41). Recovery criteria for the Oregon silverspot butterfly are (USFWS 2001, p. 42):

1. At least two viable Oregon silverspot butterfly populations exist in protected habitat in each of the following areas: Coastal Mountains, Cascade Head, and Central coast in Oregon; and Del Norte County in California; and at least one viable Oregon silverspot butterfly population exists in protected habitat in each of the following areas: Long Beach Peninsula, Washington, and Clatsop Plains, Oregon. This criterion includes the development of comprehensive management plans.

2. Habitats are managed long term to maintain native, early successional grassland communities. Habitat management maintains and enhances early blue violet abundance, provides a minimum of five native nectar species dispersed abundantly throughout the habitat and flowering throughout the entire flight-period, and reduces the abundance of invasive, nonnative plant species.

3. Managed habitat at each population site supports a minimum viable population of 200 to 500 butterflies for at least 10 years.

The reintroduction of Oregon silverspot butterflies within the NEP area will help address the limited number of populations and the subspecies' diminished geographic range. In addition, it is likely to contribute to meeting recovery criteria, as both NEP areas have the biological attributes to support a viable population of butterflies and will be managed consistent with the subspecies' biological needs.

Location and Boundaries of the NEP

Section 10(j) of the Act requires that an experimental population be geographically separate from other populations of the same species. We identified the boundary of the NEP as those Public Land Survey System sections intersecting with a 4.25-mi (6.8-km) radius around the release locations. This boundary was selected to encompass all likely movements of Oregon silverspot butterflies away from the release areas while maintaining geographic separation from existing populations. This 4.25-mi (6.8-km) radius is greater than the longest known flight distance of the Oregon silverspot butterfly (4.1 mi (6.6 km)) (VanBuskirk and Pickering 1999, pp. 3–4, Appendix 1). Although this flight distance had previously been reported as ''5 miles'' (VanBuskirk and Pickering 1999, p. 4; USFWS 2010, p. 10), a more precise measurement using the locations where the individual butterfly in question was marked and recaptured (rather than the general distance between the populations) resulted in a distance of 4.1 mi (6.8 km).

The NEP areas are geographically isolated from existing Oregon silverspot butterfly populations by a sufficient distance to preclude significant contact between populations. There is an extremely small potential that butterflies dispersing 4.1 mi (6.8 km) from the release site on Nestucca Bay NWR may interact with butterflies dispersing 4.1 mi (6.8 km) from Cascade Head, because these locations are 8 mi (13 km) apart. Nevertheless, the likelihood of butterflies from these two sites interbreeding is remote because of the distance between the sites and the fact that there is little or no suitable habitat with appropriate larval host plants and adult nectar sources between Nestucca Bay NWR and Cascade Head. Even if butterflies dispersed and were present within the same area, we do not believe the occasional presence of a few individual butterflies meets a minimal biological definition of a population.

As with definitions of ''population'' used in other experimental population rules (*e.g.,* 59 FR 60252, November 22, 1994; 71 FR 42298, July 26, 2006), we believe that a determination that a population is not geographically separate from the NEP area would require the presence of sufficient suitable habitat in the intervening area to support successfully reproducing Oregon silverspot butterflies over multiple years. Because there is little to no suitable habitat between Nestucca Bay NWR and Cascade Head, we conclude that although an occasional individual may move into this area, population establishment is unlikely to occur. Biologically, the term ''population'' is not normally applied to dispersing individuals, and any individual butterflies would be considered emigrants from the Cascade Head population. Finally, a few butterflies would not be considered a self-sustaining population. Self-sustaining populations need a sufficient number of individuals to avoid inbreeding depression and occurrences of chance local extinction; a general rule of thumb is that the effective population size needs to be at least 50 to reduce the likelihood of extinction in the short term because of harmful effects of inbreeding depression on demographic rates, and at least 500 to retain sufficient genetic variation to allow for future adaptive change (Jamieson and Allendorf 2012, p. 578).

Saddle Mountain State Natural Area

Saddle Mountain SNA, managed by OPRD, is located in central Clatsop County, in northwest Oregon. Saddle Mountain was historically occupied by the Oregon silverspot butterfly, which was last documented at this site in 1973 (McCorkle *et al.* 1980, p. 8). Butterfly surveys in 1980 and more recent surveys during the butterfly flight

period—in 2003, 2006, and 2010—did not document the species at Saddle Mountain (Mike Patterson, pers. comm. 2016), and the population there is presumed to be extirpated (VanBuskirk 2010, p. 27). The nearest extant Oregon silverspot butterfly population is 50 miles (80 km) south at Mount Hebo.

Saddle Mountain SNA is a 3,225-acre (ac) (1,305-hectare (ha)) park known for its unique botanical community, which thrives on the thin rocky soils, with few invasive weeds. Habitat suitable for the Oregon silverspot butterfly consists of approximately 60 ac (24 ha) of meadows on the slopes of Saddle Mountain near its upper peaks at 3,288 ft (1,002 m) above sea-level. Based on recent plant surveys (OPRD 2012, p. 2), the release site contains high-quality butterfly habitat with sufficient densities of the requisite species (*Viola adunca* and native nectar plants) to support an Oregon silverspot butterfly population (USFWS 2001, pp. 13–14). Habitat quality has been maintained through natural processes including vertical drainage patterns associated with steep ridges, thin rocky soils, elevation, and winter snow cover within the forb-rich Roemer fescue (*Festuca roemeri*) montane grassland community (ONHIC 2004, p. 2). In a letter to the Service dated October 15, 2011, and a follow up letter dated February 12, 2016, OPRD expressed their desire to have an NEP of Oregon silverspot butterfly and to return this native pollinator to the ecosystem (OPRD *in litt.,* 2011; OPRD *in litt.,* 2016).

We will reintroduce the Oregon silverspot butterfly at the Saddle Mountain NEP area, centered on the coastal prairie habitat on top of Saddle Mountain. The NEP encompasses all the Public Land Survey System sections that intersect with a 4.25-mi (6.8-km) radius around the release area. The subspecies is generally sedentary within habitat areas, and the reintroduced butterflies are expected to stay in or near meadows on top of Saddle Mountain, which have an abundance of the plant species they need to survive. The Saddle Mountain butterfly population will be released into permanently protected suitable habitat. Reintroduction of the Oregon silverspot butterfly as an NEP in this area will address OPRD's concerns regarding potential impacts to park management activities, such as trail maintenance, and potential opposition from surrounding landowners to the reintroduction of a federally listed species without an NEP. Surrounding land cover is primarily forest (OPRD 2014, pers. comm.) and is not suitable Oregon silverspot butterfly habitat; therefore, we do not expect butterflies to use areas outside of Saddle Mountain SNA.

Nestucca Bay National Wildlife Refuge

The Nestucca Bay NWR, managed by the Service, is located in the southwest corner of Tillamook County, along the northern Oregon coast. Although the Oregon silverspot butterfly was never documented at this site, it is within the historical range of the subspecies along the coast, and a small amount of remnant coastal prairie occurred on the site prior to commencement of restoration efforts in 2011. Therefore, it is reasonable to assume that the Oregon silverspot butterfly once inhabited the area, but no surveys were conducted to document its presence. Currently occupied Oregon silverspot butterfly sites nearest to the NEP area are 10 mi (16 km) to the east at Mount Hebo and 8 mi (13 km) south at Cascade Head, with little or no suitable habitat in between. There are currently no known extant Oregon silverspot butterfly populations to the north of the release site, but the subspecies was historically documented near Cape Meares, 20 mi (32 km) to the north of Nestucca Bay NWR, where it was last observed in 1968 (McCorkle *et al.* 1980, p. 7).

The Nestucca Bay National Wildlife Refuge Comprehensive Conservation Plan includes a goal to promote the recovery of the Oregon silverspot butterfly by establishing an NEP on the refuge (USFWS 2013, p. 2–4). The approximately 1,203-ac (487-ha) refuge has 25 to 30 ac (10 to 12 ha) of coastal prairie habitat in varying stages of restoration, including the conversion of degraded grasslands on the Cannery Hill Unit from nonnative pasture grasses to native coastal grasses and forbs with an emphasis on the plant species and structure required to support the Oregon silverspot butterfly. Since 2011, invasive weed abundance has been minimized, and thousands of violet and nectar plants have been planted to enhance and restore the coastal prairie ecosystem. Funding acquired by the refuge in 2015 is now being used to complete habitat restoration on the remaining acreage prior to the release of Oregon silverspot butterflies.

The NEP area is centered on coastal prairie habitat on the Cannery Hill Unit of the refuge, where we will release Oregon silverspot butterflies. The NEP encompasses all Public Land Survey System sections that intersect with a 4.25-mi (6.8-km) radius around the release area. We will release Oregon silverspot butterflies into permanently protected suitable habitat at Nestucca Bay NWR, which will be managed to provide the plant community needed for the butterfly to become established and to support a population. Reintroduction of the Oregon silverspot butterfly as an NEP in this area will address adjacent landowner concerns regarding the impact a federally listed species might have on the sale or development of their property. As little or no suitable habitat is currently available on adjacent properties, and Oregon silverspot butterflies are sedentary and non-migratory, we consider the likelihood of butterflies moving on to these adjacent lands to be low. Despite a few adjacent properties through which Oregon silverspot butterflies might occasionally move, the primary surrounding land cover is agriculture and forest (USFWS 2013, p. 4–3), which are not suitable habitat for the subspecies; therefore, occurrence of Oregon silverspot butterflies in surrounding areas, if any, is expected to be limited.

Likelihood of Population Establishment and Survival

The best available scientific data indicate that the reintroduction of Oregon silverspot butterflies into suitable habitat is biologically feasible and would promote the conservation of the species. Oregon silverspot butterfly population augmentations have been conducted on the central Oregon coast from 2000 through 2015 (USFWS 2012, p. 10; Engelmeyer 2015, p. 4). Based on the knowledge gained from these efforts, we anticipate the NEP areas will become successfully established. Butterflies will be released into high-quality habitat in sufficient amounts to support large butterfly populations, and no unaddressed threats to the species are known to exist at these sites.

The coastal headland meadows of the Nestucca Bay NWR are being restored with the specific intent of providing high densities of the plant species needed by the Oregon silverspot butterfly. Ongoing habitat enhancement and management will maintain suitable habitat and minimize the abundance and distribution of invasive, nonnative plant species, which degrade habitat quality. The Nestucca Bay NWR has committed to the management required to restore and maintain suitable habitat specifically for a population of the Oregon silverspot butterfly. The upper meadows of the Saddle Mountain SNA have an abundance of the key resources, including an intact plant community with an abundance of plants needed to support the Oregon silverspot butterfly. Habitat quality has been maintained through natural processes, including vertical drainage patterns associated with steep ridges, thin rocky soils,

elevation, and winter snow cover within the forb-rich Roemer fescue montane grassland community (ONHIC 2004, p. 2). The habitat at Saddle Mountain is self-sustaining, does not require active management (see Addressing Causes of Extirpation, below), and is adequately protected. Additionally, within both NEP areas, large trees surrounding the meadows provide needed cover for sheltering Oregon silverspot butterflies.

Based on all of these considerations, we anticipate that reintroduced Oregon silverspot butterflies are likely to become established and persist at Nestucca Bay NWR and Saddle Mountain SNA.

Addressing Causes of Extirpation

The largest threat to Oregon silverspot butterfly populations is a lack of suitable habitat. Without regular disturbance, coastal prairie habitat is vulnerable to plant community succession, resulting in loss of prairie habitat to brush and tree invasion. Invasive, nonnative plants also play a significant role in the degradation of habitat quality and quantity for this butterfly.

The reasons for the extirpation of the original population of Oregon silverspot butterflies on Saddle Mountain between 1973 and 1980 are unknown. The habitat on top of Saddle Mountain is currently suitable for supporting a population of the butterfly. The grassland habitat at this location has been self-sustaining likely due to the 3,000-ft (914-m) elevation, thin rocky soil type, steep slopes, primarily native composition of the plant community, and lack of human disturbance to the ecosystem. The Saddle Mountain SNA, protected as a special botanical area, has an annual day-use rate of 68,928 visitors per year. OPRD maintains a trail, accessible only by foot, which leads to the top of the mountain. The extremely steep grade on either side of the trail discourages visitors from straying off trail and into the adjacent meadow areas. Park rules do not allow collection of plants or animals (OPRD 2010). Continuance of this management regime is expected to protect the reintroduced population and contribute to its successful establishment. We acknowledge there is some uncertainty regarding population establishment and long-term viability at this site given that we have not identified the original cause of local extirpation. Nevertheless, this site has been identified as one of the most promising for a reintroduction effort given the lack of identifiable threats, density of host plants, and overall quality of habitat (VanBuskirk 2010, p. 27).

The Nestucca Bay NWR will address habitat threats by monitoring and maintaining habitat quality for the benefit of the Oregon silverspot butterfly, in accordance with the Nestucca Bay National Wildlife Refuge Comprehensive Conservation Plan, which sets specific targets for abundance of violet and nectar species. All management actions taken in the vicinity of the reintroduced population will defer to the habitat needs of the butterfly (USFWS 2013, pp. 4–37–4–43). As described above, the Nestucca Bay NWR is actively working to restore habitat specifically for the benefit of the Oregon silverspot butterfly in anticipation of a potential reintroduction. Restoration efforts have proven successful in establishing high-quality habitat that is likely to support all life stages of the subspecies. Nestucca Bay NWR's demonstrated commitment to reestablishing and maintaining high-quality habitat suitable for the Oregon silverspot butterfly is expected to contribute to the successful establishment of the NEP at this site.

Release Procedures

We will use captive-reared butterflies to populate the NEP areas using proven release methods developed by the Oregon silverspot butterfly population augmentation program from 2000 to 2015 (USFWS 2012, p. 10; Engelmeyer 2015, p. 2). We will release captive-reared caterpillars or pupae into suitable habitat within the NEP areas, following the guidance in the Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire). We will determine the number of individuals to release based on the number of available healthy offspring and the amount of suitable habitat available, with violet densities as the primary measure of habitat suitability. The ultimate goal is the establishment of self-sustaining populations of between 200 to 500 butterflies for 10 years at each NEP area, similar to the recovery criteria for the other habitat conservation areas.

Based on guidance from the Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire), we will establish populations in each NEP area from offspring of at least 50 mated females. Because the number of female butterflies available for collection for the captive-rearing program is limited to 5 percent of the donor population per year, it may be necessary to release caterpillars or pupae incrementally over a period of a few years. We will use annual butterfly counts during the flight period to monitor population establishment success. Butterfly survey methods used at the occupied sites (Pollard 1977, p. 116; Pickering 1992, p. 3) will also be used to assess population establishment success in the NEP areas.

Donor Stock Assessment and Effects on Donor Populations

Individual Oregon silverspot butterflies used to establish populations at both NEP areas will most likely come from the offspring of the Mount Hebo population. Additional genetic research on the subspecies is in progress and may suggest that butterflies from other populations should be included in the captive-rearing program to enhance genetic diversity. If populations other than the Mount Hebo population are used as donor stock, we will evaluate the impact of taking females from those populations on the survival and recovery of the subspecies prior to issuing a recovery permit for such take.

The Mount Hebo Oregon silverspot butterfly population has historically been the largest and most stable population, averaging an annual index count of 1,457 butterflies per year between 2000 to 2014 (USFWS 2012, p. 10; Patterson 2014, p. 11); therefore, it is the least likely to be impacted by the removal of up to 5 percent of the population. Demographic modeling indicates that the optimal strategy for captive-rearing of Oregon silverspot butterflies to increase the probability of persistence is to take females from larger donor populations (Crone *et al.* 2007, p. 108). Regional persistence can be increased with captive-rearing, with negligible effects on the donor population (Crone *et al.* 2007, pp. 107–108). Measurable increases in regional persistence are predicted when one assumes each donor female produces four adult butterflies for release to the wild (*i.e.,* four adults/female). In reality, the number of adult butterflies produced per female captured from the donor population has been much higher in recent years. For example, during 2007–2009, between 24 and 29 females were captured, producing between 875 and 2,391 adults for release (31–83 adults/female) (VanBuskirk 2010, p. 12). In 2015, 14 females produced 815 adults for release (58 adults/female) (Engelmeyer 2015, p. 5). These rates of production far exceed what is needed to have a positive impact on regional persistence, even if all the females were removed from small donor populations (see Crone *et al.* 2007, p. 109). As an additional protective measure, we will release some caterpillars and pupae from the captive-rearing program back into the donor population each year,

concurrent with the reintroductions to the NEP areas. This process will further minimize any potential effects from the removal of a small number of adult females in the prior year.

The Mount Hebo population occurs in an environment similar to the Saddle Mountain NEP area (*i.e.,* similar elevation, native plant community, and distance from the coast). Therefore, offspring of butterflies from Mount Hebo will likely be well-adapted to the environment in the meadows on top of Saddle Mountain. The Mount Hebo population may also serve as the best donor population for the Nestucca Bay NEP area because it is genetically most similar to the existing population closest to the refuge (*i.e.,* the Cascade Head population) (VanBuskirk 2000, p. 27; McHugh *et al.* 2013, p. 8). We will consider all new scientific information when making annual decisions on an appropriate donor population; therefore, it is possible that we will use donor populations other than Mount Hebo.

The Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire) contains further information on the captive-rearing program, release procedures, genetic considerations, population dynamics, effects of releases on population viability of the Oregon silverspot butterfly, and the potential for reintroduction to Saddle Mountain SNA and Nestucca Bay NWR (copies of this document are available online at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2016–0102 or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**, above).

Legal Status of Reintroduced Populations

Based on the current legal and biological status of the subspecies and the need for management flexibility, and in accordance with section 10(j) of the Act, we are designating all Oregon silverspot butterflies released within the boundaries of the NEP areas as members of the NEP. Such designation allows us to establish special protective regulations for management of Oregon silverspot butterflies.

With the experimental population designation, the relevant population is treated as threatened for purposes of section 9 of the Act, regardless of the species' designation elsewhere in its range. Treating the experimental population as threatened allows us the discretion to devise management programs and specific regulations for such a population. When designating an experimental population, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species, and the section 10(j) rule contains the prohibitions and exemptions necessary and advisable to conserve that species.

The 10(j) rule will further the conservation of the subspecies by facilitating its reintroduction into two areas of suitable habitat within its historical range. The rule provides assurances to landowners and development interests that the reintroduction of Oregon silverspot butterflies will not interfere with natural resource developments or with human activities (although the Act's section 7(a)(2) consultation requirements would still apply on Nestucca Bay NWR). Without such assurances, some landowners and developers, as well as the State, would object to the reintroduction of Oregon silverspot butterflies to these two areas. Except as described in this NEP rule, take of any member of the Oregon silverspot butterfly NEP will continue to be prohibited under the Act.

Extent to Which the Reintroduced Population May Be Affected by Land Management Within the NEP

We conclude that the effects of Federal, State, or private actions and activities will not pose a threat to Oregon silverspot butterfly establishment and persistence at Saddle Mountain SNA or the Nestucca Bay NWR because the best information, including activities currently occurring in Oregon silverspot butterfly populations rangewide, indicates that activities currently occurring, or likely to occur, at prospective reintroduction sites within NEP areas are compatible with the species' recovery. The reintroduced Oregon silverspot butterfly populations will be managed by OPRD and the Service, and protected from major development activities through the following mechanisms:

(1) Development activities and timber harvests are not expected to occur in the Saddle Mountain SNA, which is protected as a special botanical area. Trail maintenance and other park maintenance activities will continue to occur within the NEP area, but are expected to have minimal impact on the butterfly meadow habitat areas due to the terrain and steepness of the slopes. Because of the rugged nature of the area, and also to protect the important botanical resources at this site, maintenance activities in this area are generally limited to trail maintenance by hand crews, with minimal impacts on the meadow areas. Additionally, the Oregon silverspot butterfly NEP area at Saddle Mountain SNA will be protected by the Oregon State regulations prohibiting collection of animals on State lands (Oregon Administrative Rule (OAR) 736–010–0055(2)(d)). Private timberlands surrounding the SNA do not contain suitable butterfly habitat, and, therefore, activities on adjacent lands are not expected to impact the butterfly.

(2) In accordance with the Nestucca Bay NWR Comprehensive Conservation Plan, all refuge management actions taken in the vicinity of the reintroduced population will defer to the habitat needs of the butterfly (USFWS 2013, pp. 4-37–4-43). In addition, the refuge must complete section 7(a)(2) consultation on all actions that may affect the butterfly. Oregon silverspot butterflies may occasionally visit or fly within adjacent properties near the NEP area, which may be subject to future development. However, given the lack of suitable habitat for this subspecies on adjacent properties, as well as the butterfly's sedentary and non-migratory nature, we consider negative impacts to the Oregon silverspot butterfly from development on adjacent sites to be unlikely, as there is little likelihood of individuals moving to these sites.

Management issues related to the Oregon silverspot butterfly NEP that have been considered include:

(a) *Incidental take:* The regulations implementing the Act define ''incidental take'' as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (50 CFR 17.3), such as agricultural activities and other rural development, and other activities that are in accordance with Federal, Tribal, State, and local laws and regulations. Experimental population rules contain specific prohibitions and exceptions regarding the taking of individual animals. Under this 10(j) rule, take of the Oregon silverspot butterfly anywhere within the NEP areas is not prohibited, provided that the take is unintentional, not due to negligent conduct, and is in accordance with this 10(j) rule; however, the section 7(a)(2) consultation requirement still applies on refuge lands. We expect levels of incidental take to be low because the reintroduction is compatible with ongoing activities and anticipated future actions in the NEP areas.

(b) *Special handling:* In accordance with 50 CFR 17.32, any person with a valid permit issued by the Service may take the Oregon silverspot butterfly for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act. Additionally, any employee or

agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an Oregon silverspot butterfly in the wild in the NEP area without a permit if such action is necessary for scientific purposes, to aid a law enforcement investigation, to euthanize an injured individual, to dispose of or salvage a dead individual for scientific purposes, or to relocate an Oregon silverspot butterfly to avoid conflict with human activities, to improve Oregon silverspot butterfly survival and recovery prospects or for genetic purposes, to move individuals into captivity or from one population in the NEP to the other, or to retrieve an Oregon silverspot butterfly that has moved outside the NEP area. Non-Service or other non-authorized personnel need a permit from the Service for these activities.

(c) *Coordination with landowners and land managers:* We have coordinated with landowners likely to be affected by the reintroduction. During this coordination we identified issues and concerns associated with reintroducing Oregon silverspot butterflies in the absence of an NEP designation. We also discussed the possibility of NEP designation. Affected State agencies, landowners, and land managers indicated support for, or no opposition to, the reintroduction if the reintroduced populations were designated an NEP and if the 10(j) rule allowed incidental take of Oregon silverspot butterflies in the NEP areas.

(d) *Public awareness and cooperation:* The NEP designation is necessary to secure needed cooperation of the States, landowners, agencies, and other interests in the affected area. We will work with our partners to continue public outreach on our effort to restore Oregon silverspot butterflies to parts of their historical range and the importance of these restoration efforts to the overall recovery of the subspecies.

(e) *Potential impacts to other federally listed species:* No federally listed species occur in the NEP areas that would be affected by the reintroductions.

(f) *Monitoring and evaluation:* Annual monitoring will be performed by qualified personnel with the cooperation of the OPRD Saddle Mountain SNA and Nestucca Bay NWR. Oregon silverspot butterflies will be counted on designated survey transects or public trails. We do not anticipate that surveys will disrupt or hamper public use and would likely be perceived by the public as normal activities in the context of a natural area.

Reintroduction Effectiveness Monitoring

Oregon silverspot butterfly surveys will be conducted annually within Oregon silverspot butterfly habitat at Nestucca Bay NWR and Saddle Mountain SNA using a modified Pollard walk methodology (Pickering *et al.* 1992, p. 7). This survey method is currently used at all occupied Oregon silverspot butterfly sites. The surveys will be conducted weekly during the butterfly flight period, July through September, on designated survey transects or public trails. The surveys produce an index of Oregon silverspot butterfly relative abundance that will be used to assess annual population trends to provide information on reintroduction effectiveness. We will prepare annual progress reports.

Habitat quality monitoring will also be conducted to ensure the resources needed by an Oregon silverspot butterfly population are maintained in large enough quantities to sustain the reintroduced populations. Violet density counts and other habitat quality parameters will be measured periodically, in conjunction with the butterfly population counts. Reintroduction efforts will be fully evaluated after 5 years to determine whether to continue or terminate the reintroduction efforts.

Donor Population Monitoring

We will conduct annual Oregon silverspot butterfly surveys within the populations where donor stock is obtained using a modified Pollard walk methodology (Pickering *et al.* 1992, p. 7). Our annual monitoring will be used to adaptively manage the captive-rearing program to ensure that the removal of donor stock will not jeopardize the continued existence of the population or the species as a whole.

Monitoring Impacts to Other Listed Species

We do not anticipate impacts to other listed species by the reintroduction of the Oregon silverspot butterfly.

Summary of Comments and Recommendations

In the proposed rule published on December 23, 2016 (81 FR 94296), we requested that all interested parties submit written comments on the proposal by February 21, 2017. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Daily Astorian, Lincoln County News Guard, and the Tillamook Headlight Herald. During the public comment period, we received public comments from six individuals or organizations, including three submissions by individuals asked to serve as peer reviewers. We did not receive any comments from Federal or State agencies or Tribes. We did not receive any requests for a public meeting.

We reviewed all comments received from the public and peer reviewers for substantive issues and new information regarding the establishment of an experimental population of Oregon silverspot butterfly in northwestern Oregon. Substantive comments are addressed in the following summary, and have been incorporated into the final rule as appropriate. Any substantive changes incorporated into the final rule are summarized in the Summary of Changes from the Proposed Rule section, below.

Peer Review Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from five knowledgeable individuals with scientific expertise in the species' biology, habitat, and butterfly reintroductions in general. We received responses from three of the peer reviewers.

All three peer reviewers expressed strong support for the reintroduction with an associated 10(j) rule and agreed the action is likely to contribute to the conservation of the subspecies. Two peer reviewers specifically stated that, in their judgment, we used the best available science. We incorporated specific updated information, comments, and suggestions from peer reviewers into the final rule as described in our responses, below.

(1) Comment: One peer reviewer suggested we change our description of the Oregon silverspot butterfly as being ''territorial'' to ''sedentary'' to convey the species as being unlikely to move away from areas of suitable habitat.

Our Response: We agree this terminology more accurately depicts the life history of the butterfly and have changed all references in the document from territorial to sedentary.

(2) Comment: Two peer reviewers suggested we monitor not only the butterfly populations following the reintroductions, but that we monitor habitat quality in conjunction with our population counts.

Our Response: We agree and we will monitor vegetation components needed by the butterfly in conjunction with our population counts following the reintroduction, with violet densities and blooming nectar plant abundance as our primary measures of habitat quality.

(3) Comment: One peer reviewer suggested we describe in greater detail how we define high-quality habitat for the Oregon silverspot butterfly.

Our Response: We agree and have updated the Biological Information section, above, to more clearly define what we mean by ''high-quality habitat.'' High-quality Oregon silverspot butterfly habitat has large numbers of violets distributed in dense patches for caterpillar forging and an abundance of nectar plants of differing species, blooming throughout the butterfly flight period (USFWS 2012, p. 8).

(4) Comment: One peer reviewer commented that we should not remove nonnative species such as tansy ragwort, which is also a nectar source for the Oregon silverspot butterfly, unless alternative native nectar sources are available.

Our Response: We agree and will assess the availability of alternative nectar sources prior to initiating the removal of nonnative nectar plants used by the Oregon silverspot butterfly.

(5) Comment: One peer reviewer commented that we should add stochastic weather and climatic events as a threat to the species and suggested the additional 10(j) populations may provide a ''survival cushion'' for the taxon.

Our Response: We agree that climatic events impact butterfly populations and additional populations may help to reduce the risk of extinction; increasing the redundancy of populations to ensure the persistence of the Oregon silverspot butterfly in the face of such events is one of the primary reasons for undertaking the establishment of this NEP of the subspecies.

Public Comments

(6) Comment: One nongovernmental organization commented that they support the reintroductions to achieve redundancy in populations and to broaden the butterfly's geographic range. The organization also urged the Service to establish protective rules that treat these populations as if they were listed.

Our Response: Please see the Legal Status of Reintroduced Populations section above, where section 10(j) of the Act is discussed in detail. Also see the section Extent to Which the Reintroduced Population May Be Affected by Land Management within the NEP, where the Saddle Mountain SNA is discussed as a protected site. An NEP designation allows us to tailor ESA protections in specific areas to increase public acceptance of a reintroduction effort that might not otherwise be achievable without such a designation. While the NEP rules are generally not as stringent as the protections afforded to threatened or endangered species, they are designed to ensure the effort will contribute to conservation of the species. Ultimately, the establishment of an NEP allows us to take important steps toward the recovery of a listed species while encouraging the support and engagement of the public and our conservation partners, and, as described above, this NEP will continue to receive legal protections in both of the NEP areas slated for reintroductions.

(7) Comment: One commenter expressed concern that the proposed reintroduction program may place the subspecies at risk.

Our Response: We carefully considered whether the removal of individuals from the potential source population (most likely Mount Hebo) might have a negative effect on that population, and by extension, the subspecies as a whole. We adhere to a strict limit on the number of individuals that may be removed, based on population monitoring (restricted to a maximum of 5 percent of the population), and our data from past years of removals for captive-propagation purposes indicate the small proportion of individuals removed is sustainable (see Donor Stock Assessment and Effects on Donor Populations, above). Our peer reviewers specifically considered this question as well and agreed with our conclusion that the limited removal of individuals, under the restrictions and protocol described here, are unlikely to result in a negative impact to the donor population.

(8) Comment: One commenter questioned whether it was wise to expend resources on the recovery of a nonessential species.

Our Response: We did not determine that the Oregon silverspot butterfly is a nonessential species. Our determination is that the populations proposed for reintroduction are a nonessential experimental population. An NEP is defined in our regulations as an experimental population whose loss is not likely to appreciably reduce the likelihood of the species' survival in the wild. Although we do not consider the experimental population essential to the species' survival in the wild, it is expected to meaningfully contribute to the conservation and recovery of the subspecies.

Summary of Changes From Proposed Rule

In response to peer review comments, in this final rule we have:

- Clarified the definition of ''high-quality habitat'' in our Biological Information section;
- Changed all references of the Oregon silverspot butterfly from being ''territorial'' to ''sedentary;'' and
- Clarified our intent to monitor habitat quality as well as Oregon silverspot butterfly population counts, following the reintroductions (see Reintroduction Effectiveness Monitoring, above, and Regulation Promulgation, below).

Findings

Based on the above information, and using the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that reintroducing the Oregon silverspot butterfly into the Saddle Mountain SNA and the Nestucca Bay NWR and the associated protective measures and management practices under this rulemaking will further the conservation of the subspecies. The nonessential experimental population status is appropriate for the reintroduction areas because we have determined that these populations are not essential to the continued existence of the subspecies in the wild.

Need for Immediate Effective Date

As set forth above in **DATES**, this rule is effective upon the date of publication in the **Federal Register**. We are making this rule effective in less than the 30 days usually required by the Administrative Procedure Act at 5 U.S.C. 553(d) as we have good cause in accordance with 5 U.S.C. 553(d)(3). There is a narrow window of opportunity to implement the provisions of this rule and begin the reintroduction process this year, imposed by the timing of the development of the larvae (caterpillars) that have been raised in captivity and are now nearing the appropriate stage for release. After the caterpillars hatch and begin feeding, development proceeds rapidly and there is a short 2-week window during which maximum survivorship is anticipated for released individuals. A date later in the summer would require release during the pupation stage, which significantly reduces the chances of survival.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Executive Order 13771

Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), signed on January 30, 2017 (82 FR 9339, February 3, 2017), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.'' Office of Management and Budget (OMB) guidance clarifies that Executive Order 13771 only applies to rules designated by OMB as significant pursuant to Executive Order 12866. OMB has not designated this final rule a significant regulatory action under section 3(f) of Executive Order 12866. As this rule is not a significant regulatory action, the requirements of Executive Order 13771 are not applicable to it. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled Reducing Regulation and Controlling Regulatory Costs''' (February 2, 2017).

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

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 60 *et seq.*), whenever a Federal 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 effect of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We are certifying that this rule will not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

The area that would be affected under this rule includes the release areas at Saddle Mountain SNA and Nestucca Bay NWR and adjacent areas into which individual Oregon silverspot butterflies may disperse. Because of the regulatory flexibility for Federal agency actions provided by the NEP designation and the exemption for incidental take in the rule, we do not expect this rule to have significant effects on any activities within Federal, State, or private lands within the NEP. In regard to section 7(a)(2) of the Act, the population would be treated as proposed for listing, and Federal action agencies are not required to consult on their activities, except on National Wildlife Refuge and National Park land where the subspecies is managed as a threatened species. Section 7(a)(4) of the Act requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a proposed species. However, because the NEP is, by definition, not essential to the survival of the species, conferring will likely never be required for the Oregon silverspot butterfly populations within the NEP areas. Furthermore, the results of a conference are advisory in nature and do not restrict agencies from carrying out, funding, or authorizing activities. In addition, section 7(a)(1) of the Act requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which would apply on any lands within the NEP areas. Within the boundaries of the Nestucca Bay NWR, the subspecies would be treated as a threatened species for the purposes of section 7(a)(2) of the Act. As a result, and in accordance with these regulations, some modifications to proposed Federal actions within Nestucca Bay NWR may occur to benefit the Oregon silverspot butterfly, but we do not expect projects to be substantially modified because these lands are already being administered in a manner that is compatible with Oregon silverspot butterfly recovery.

This rule broadly authorizes incidental take of the Oregon silverspot butterfly within the NEP areas. The regulations implementing the Act define ''incidental take'' as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity such as, agricultural activities and other rural development, camping, hiking, hunting, vehicle use of roads and highways, and other activities in the NEP areas that are in accordance with Federal, Tribal, State, and local laws and regulations. Intentional take for purposes other than authorized data collection or recovery purposes would not be authorized. Intentional take for research or recovery purposes would require a section 10(a)(1)(A) recovery permit under the Act.

The principal activities on private property near the NEP areas are timber production, agriculture, and activities associated with private residences. We believe the presence of the Oregon silverspot butterfly will not affect the use of lands for these purposes because there will be no new or additional economic or regulatory restrictions imposed upon States, non-Federal entities, or private landowners due to the presence of the Oregon silverspot butterfly, and Federal agencies would have to comply with sections 7(a)(1) and 7(a)(4) of the Act only in these areas, except on Nestucca Bay NWR lands where section 7(a)(2) of the Act applies. Therefore, this rulemaking is not expected to have any significant adverse impacts to activities on private lands within the NEP areas.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This rule will not ''significantly or uniquely'' affect small governments. We have determined and certify under the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking would not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments would not be affected

because the NEP designation would not place additional requirements on any city, county, or other local municipalities.

(2) This rule will not produce a Federal mandate of $100 million or greater in any year (*i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act). The NEP area designations for the Oregon silverspot butterfly would not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule allows for the take of reintroduced Oregon silverspot butterflies when such take is incidental to an otherwise legal activity, such as recreation (*e.g.,* hiking, birdwatching), forestry, agriculture, and other activities that are in accordance with Federal, State, and local laws and regulations. Therefore, we do not believe that the NEP will conflict with existing or proposed human activities.

A takings implication assessment is not required because this rule (1) will not effectively compel a property owner to suffer a physical invasion of property, and (2) will not deny all economically beneficial or productive use of the land or aquatic resources. This rule will substantially advance a legitimate government interest (conservation and recovery of a listed species) and will not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this rule has significant Federalism effects and have determined that a federalism summary impact statement is not required. This rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this rule with the affected resource agencies in Oregon. Achieving the recovery goals for this subspecies will contribute to its eventual delisting and its return to State management. No intrusion on State policy or administration is expected; roles or responsibilities of Federal or State governments will not change; and fiscal capacity will not be substantially directly affected. The rule maintains the existing relationship between the State and the Federal Government, and is undertaken in coordination with the State of Oregon. Therefore, this rule does not have significant Federalism effects or implications to warrant the preparation of a federalism summary impact statement under the provisions of Executive Order 13132.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule will not unduly burden the judicial system and meets the requirements of sections (3)(a) and (3)(b)(2) of the Order.

Paperwork Reduction Act

This rule does not contain any new collection of information that requires approval by OMB under the PRA of 1995. OMB has previously approved the information collection requirements associated with Service permit application forms and activities associated with native endangered and threatened species and assigned OMB Control Number 1018–0094. That approval expired May 31, 2017; however, the Service is currently seeking new approval. In accordance with 5 CFR 1320.10, the agency may continue to conduct or sponsor this collection of information while the submission is pending at OMB. We estimate the annual burden associated with this information collection to be 17,166 hours per year. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The reintroduction of native species into suitable habitat within their historical or established range is categorically excluded from NEPA documentation requirements consistent with the Department of Interior's Department Manual (516 DM 8.5B(6)).

Government-to-Government Relationship With Tribes

In accordance with the presidential memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951; May 4, 1994), Executive Order 13175 (65 FR 67249; November 9, 2000), and the Department of the Interior Manual Chapter 512 DM 2, we have considered possible effects on federally recognized Indian tribes and have determined that there are no tribal lands affected by this rule.

Energy Supply, Distribution, or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, or use. Because this action is not a significant energy action, no Statement of Energy Effects is required.

References Cited

A complete list of all references cited in this final rule is available at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2016–0102 or upon request from the Newport Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are staff members of the Service's Newport Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE

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

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

■ 2. Amend § 17.11(h) by revising the entry for ''Butterfly, Oregon silverspot'' under INSECTS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	* * *	*	*
INSECTS				
*	*	* * *	*	*
Butterfly, Oregon silverspot.	*Speyeria zerene hippolyta*.	Wherever found, except where listed as an experimental population.	T	45 FR 44935, 7/2/1980; 50 CFR 17.95(i)[CH].
Butterfly, Oregon silverspot.	*Speyeria zerene hippolyta*.	U.S.A. (OR—specified portions of Clatsop and Tillamook Counties; see § 17.85(d)).	XN	82 FR [Insert **Federal Register** page where the document begins]; 06/23/2017.
*	*	* * *	*	*

■ 3. Amend § 17.85 by adding paragraph (d) to read as follows:

§ 17.85 Special rules—invertebrates.

* * * * *

(d) Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*).

(1) *Where is the Oregon silverspot butterfly designated as a nonessential experimental population (NEP)?* (i) The NEP areas for the Oregon silverspot butterfly are within the subspecies' historical range in Tillamook and Clatsop Counties, Oregon. The boundary of the NEP includes those Public Land Survey System sections intersecting with a 4.25-mile (6.8-kilometer) radius around the release locations. This boundary was selected to encompass all likely movements of Oregon silverspot butterflies away from the release areas while maintaining geographic separation from existing populations.

(A) The Nestucca Bay NEP area, centered on the coastal prairie habitat on the Cannery Hill Unit of the Nestucca Bay National Wildlife Refuge (Nestucca Bay NEP area), includes Township 4 South, Range 10 West, Sections 15 through 36; Township 4 South, Range 11 West, Sections 13, 24, 25, and 36; Township 5 South, Range 10 West, Sections 2 through 11, 14 through 23, 27 through 30; and Township 5 South, Range 11 West, Sections 12, 13, 24, and 25.

(B) The Saddle Mountain NEP area, centered on the coastal prairie habitat on top of Saddle Mountain State Natural Area (Saddle Mountain NEP area), includes Township 6 North, Range 7 West, Sections 7, 17 through 20, 29 through 32; Township 6 North, Range 8 West, Sections 1 through 36; Township 6 North, Range 9 West, Sections 1, 11 through 14, 23 through 26, 35, and 36; Township 5 North, Range 7 West, Sections 5 through 8, 17, 18, and 19; Township 5 North, Range 8 West, Sections 1 through 24; and Township 5 North, Range 9 West, Sections 1, 2, 3, 11, 12, 13, and 14.

(ii) The nearest known extant population to the Nestucca Bay NEP area is 8 miles (13 kilometers) to the south, beyond the longest known flight distance of the butterfly (4.1 miles (6.6 kilometers)) and with little or no suitable habitat between them. The nearest known extant population to the Saddle Mountain NEP area is 50 miles (80 kilometers) to the south, well beyond the longest known flight distance of the butterfly (4.1 miles (6.6 kilometers)). Given its habitat requirements, movement patterns, and distance from extant populations, the NEP is wholly separate from extant populations, and we do not expect the reintroduced Oregon silverspot butterflies to become established outside the NEP areas. Oregon silverspot butterflies outside of the NEP boundaries will assume the status of Oregon silverspot butterflies within the geographic area in which they are found.

(iii) We will not change the NEP designations to ''essential experimental,'' ''threatened,'' or ''endangered'' within the NEP areas without engaging in notice-and-comment rulemaking. Additionally, we will not designate critical habitat for this NEP, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) *What take of the Oregon silverspot butterfly is allowed in the NEP areas?* (i) Oregon silverspot butterflies may be taken within the NEP area, provided that such take is not willful, knowing, or due to negligence, and is incidental to carrying out an otherwise lawful activity, such as agriculture, forestry and wildlife management, land development, recreation, and other activities that are in accordance with Federal, State, Tribal, and local laws and regulations.

(ii) Any person with a valid permit issued by the Service under 50 CFR 17.32 may take the Oregon silverspot butterfly for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act. Additionally, any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an Oregon silverspot butterfly in the wild in the NEP area if such action is necessary:

(A) For scientific purposes;

(B) To relocate Oregon silverspot butterflies to avoid conflict with human activities;

(C) To relocate Oregon silverspot butterflies within the NEP area to improve Oregon silverspot butterfly survival and recovery prospects or for genetic purposes;

(D) To relocate Oregon silverspot butterflies from one population in the NEP into another in the NEP, or into captivity;

(E) To euthanize an injured Oregon silverspot butterfly;

(F) To dispose of a dead Oregon silverspot butterfly, or salvage a dead Oregon silverspot butterfly for scientific purposes;

(G) To relocate an Oregon silverspot butterfly that has moved outside the NEP area back into the NEP area; or

(H) To aid in law enforcement investigations involving the Oregon silverspot butterfly.

(3) *What take of Oregon silverspot butterfly is not allowed in the NEP area?* (i) Except as expressly allowed in paragraph (d)(2) of this section, all of the provisions of 50 CFR 17.31(a) and (b) apply to the Oregon silverspot butterfly in areas identified in paragraph (d)(1) of this section.

(ii) A person may not possess, sell, deliver, carry, transport, ship, import, or export by any means, Oregon silverspot butterflies, or parts thereof, that are taken or possessed in a manner not expressly allowed in paragraph (d)(2) of this section or in violation of applicable State fish and wildlife laws or regulations or the Act.

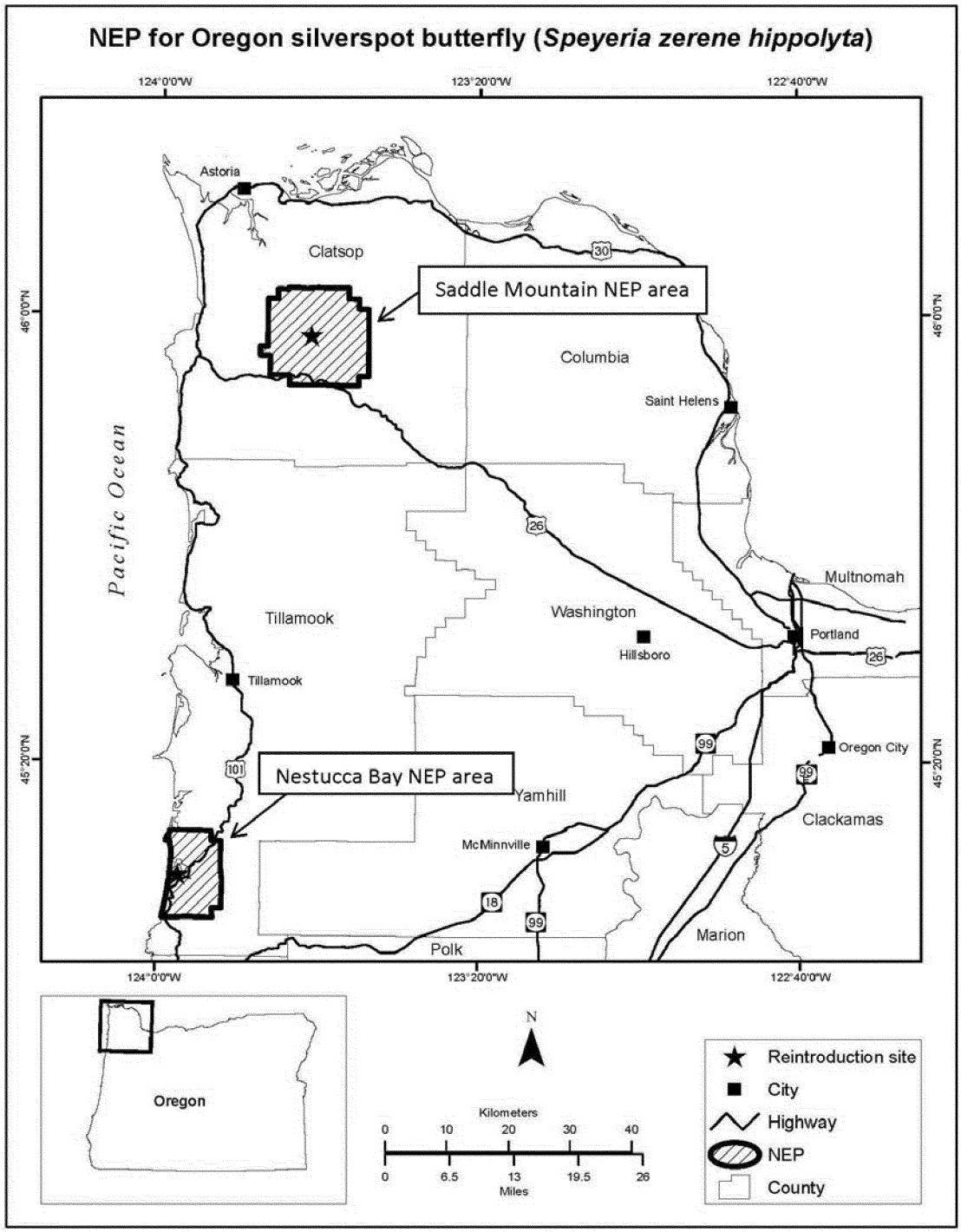
(iii) Any manner of take not described under paragraph (d)(2) of this section is prohibited in the NEP areas.

(iv) A person may not attempt to commit, solicit another to commit, or cause to be committed any take of the Oregon silverspot butterfly, except as expressly allowed in paragraph (d)(2) of this section.

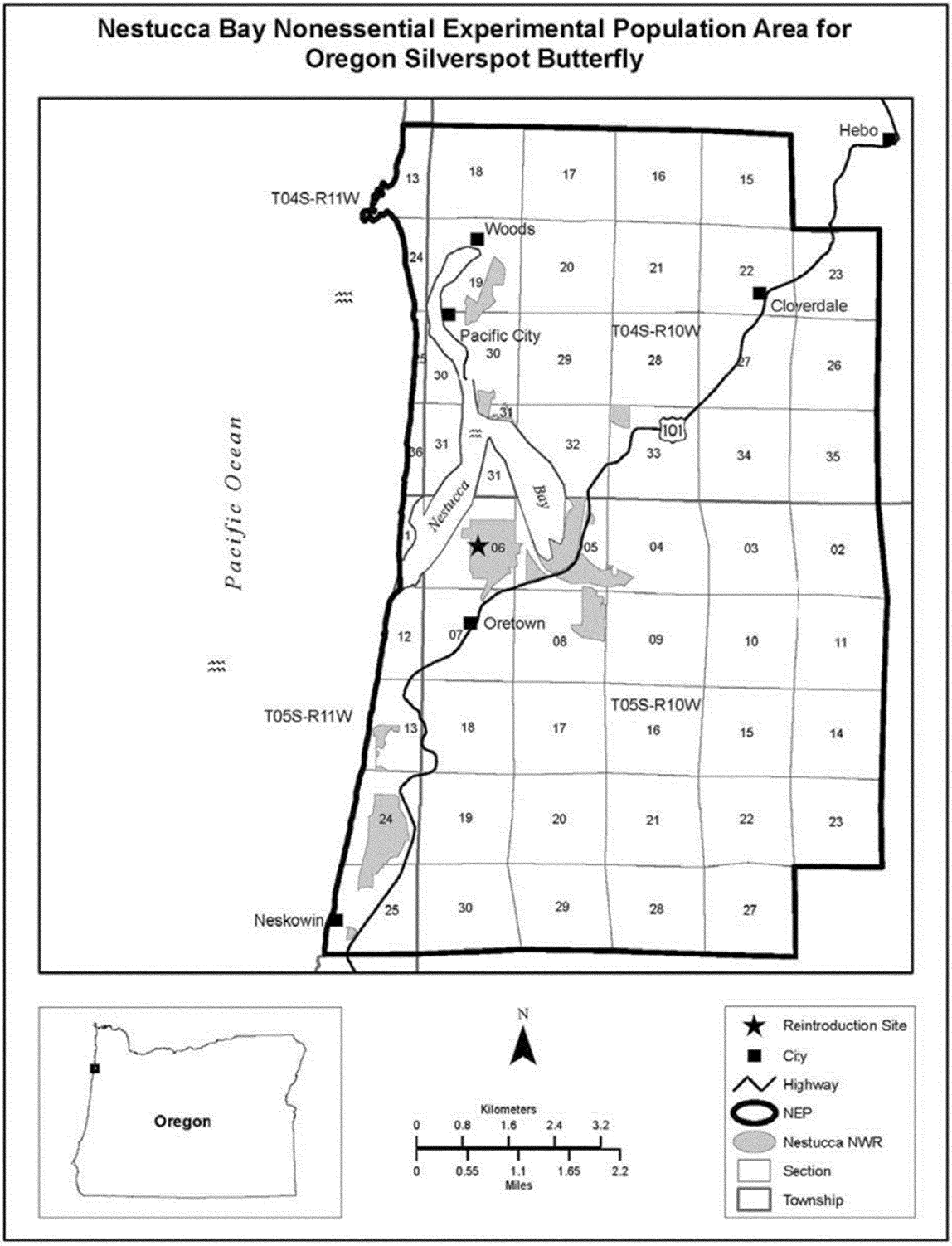
(4) *How will the effectiveness of these reintroductions be monitored?* We will monitor populations annually for trends in abundance in cooperation with partners, monitor habitat quality, and prepare annual progress reports. We will fully evaluate reintroduction efforts after 5 years to determine whether to continue or terminate the reintroduction efforts.

(5) *Maps of the NEP areas for the Oregon silverspot butterfly in Northwest Oregon.*

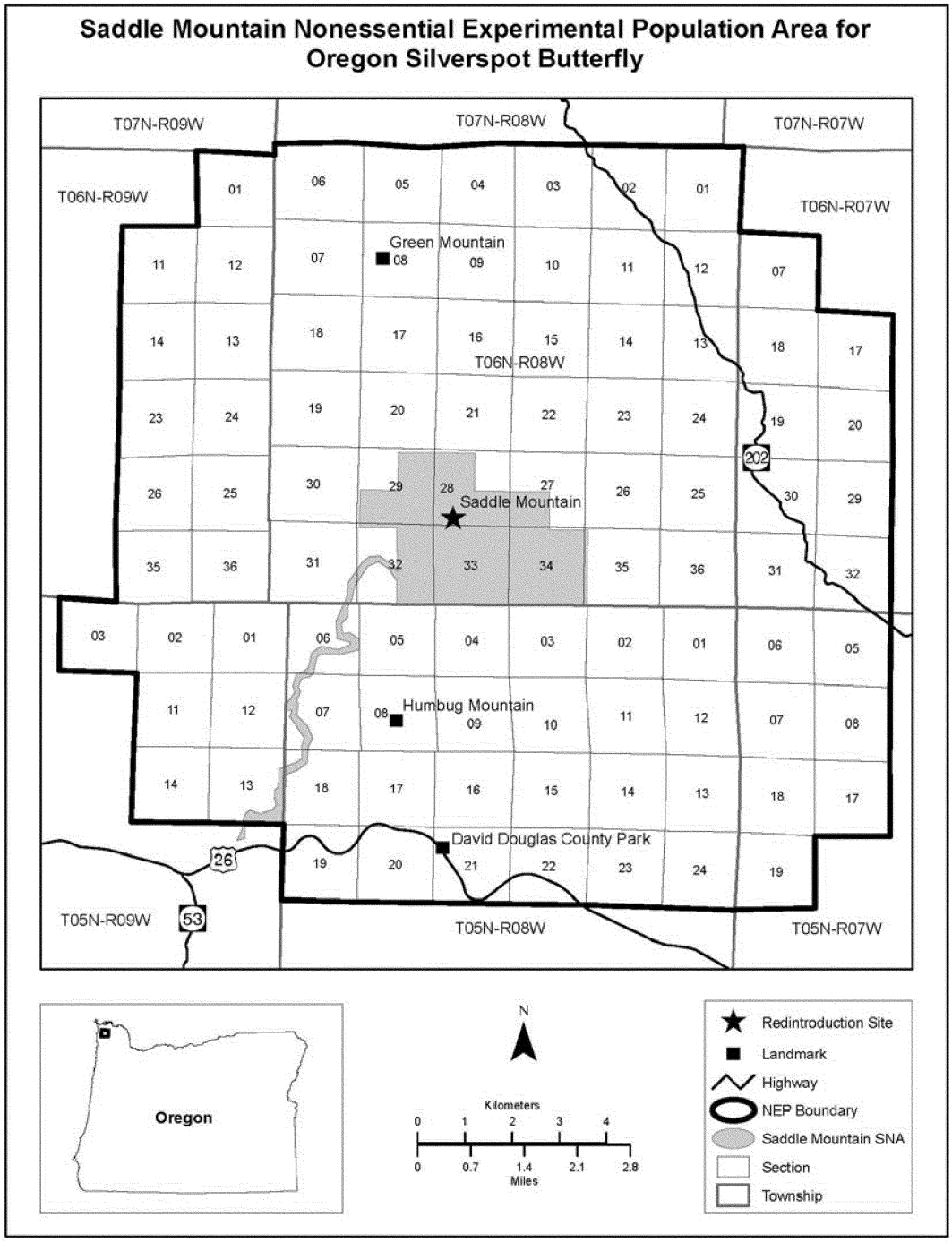
(i) *Note:* Map of the Oregon silverspot butterfly NEP follows:



(ii) *Note:* Map of Nestucca Bay NEP area for the Oregon silverspot butterfly follows:



(iii) *Note:* Map of Saddle Mountain NEP area for the Oregon silverspot butterfly follows:



* * * * *

Dated: June 13, 2017.

Virginia H. Johnson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2017–13163 Filed 6–22–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2015–0028; FXES11130900000–178–FF09E42000]

RIN 1018–AX99

Endangered and Threatened Wildlife and Plants; Removal of the Hualapai Mexican Vole From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the authority of the Endangered Species Act of 1973, as amended (Act), we, the U.S. Fish and Wildlife Service (Service), are removing the Hualapai Mexican vole (*Microtus mexicanus hualpaiensis*) from the Federal List of Endangered and Threatened Wildlife due to recent data indicating that the original classification is now erroneous. This action is based on a thorough review of the best available scientific and commercial information, which indicates that the currently listed subspecies is not a valid taxonomic entity. Therefore, we are removing the entry for the Hualapai Mexican vole from the Federal List of Endangered and Threatened Wildlife because subsequent investigations have shown that the best scientific or commercial data available when the subspecies was listed were in error.

DATES: This rule is effective July 24, 2017.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2015–0028 and at the Service's Web sites at *http://www.fws.gov/southwest/es/arizona* and *http://www.fws.gov/endangered.* Comments and materials received, as well as supporting documentation used in the preparation of this rule, are available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 9828 North 31st Avenue, Phoenix, AZ 85051; telephone 602–242–0210. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Steven Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office (see **ADDRESSES**), telephone 602–242–0210. Individuals who are hearing impaired or speech-impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

Under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), we administer the Federal Lists of Endangered and Threatened Wildlife and Plants, which are set forth in title 50 of the Code of Federal Regulations at part 17 (50 CFR 17.11 and 17.12). The factors for listing, delisting, or reclassifying species are described at 50 CFR 424.11. According to section 3(16) of the Act, we may list any of three categories of vertebrate animals: A species, subspecies, or a distinct population segment of a vertebrate species of wildlife. We refer to each of these categories as a ''listable entity.'' If we determine that there is a species, or ''listable entity,'' for the purposes of the Act, our status review next evaluates whether the species meets the definitions of an ''endangered species'' or a ''threatened species'' because of any of the five listing factors established under section 4(a)(1) of the Act. Delisting may be warranted as a result of: (1) Extinction; (2) recovery; or (3) a determination that the original scientific data used at the time the species was listed, or interpretation of that data, were in error. We examine whether the Hualapai Mexican vole is a valid subspecies, and thus a ''species'' (or listable entity) as defined in section 3 of the Act.

Previous Federal Actions

We listed the Hualapai Mexican vole as an endangered subspecies on October 1, 1987, without critical habitat (52 FR 36776). At the time of listing, the primary threats to the Hualapai Mexican vole were degraded habitat due to drought, elimination of ground cover from grazing by livestock and elk (*Cervus elaphus*), and human recreation. A recovery plan for the Hualapai Mexican vole was completed in August 1991 (Service 1991, pp. 1–28). At that time, grazing, mining, road construction, recreational uses, erosion, and nonnative wildlife were attributed as the reasons for the decline in Hualapai Mexican vole populations (Service 1991, pp. iv-6). The recovery plan outlined recovery objectives and dictated management and research priorities, but did not contain recovery criteria for changing the subspecies' status from endangered to threatened (*i.e.,* downlisting) or for removing the subspecies from the List of Endangered and Threatened Wildlife (*i.e.,* delisting) because of lack of biological information in order to develop objective, measurable criteria (Service 1991, p. iv).

Petition History

On August 23, 2004, we received a petition dated August 18, 2004, from the Arizona Game and Fish Department (AGFD) requesting that the Hualapai Mexican vole be removed from the Federal List of Endangered and Threatened Wildlife (List) under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, as required at 50 CFR 424.14(a). Included in the petition was information in support of delisting the Hualapai Mexican vole based on an error in original classification due to evidence that the Hualapai Mexican vole is not a valid subspecies.

The petition asserts that the original scientific data used at the time the subspecies was classified were in error and that the best available scientific data do not support the taxonomic recognition of the Hualapai Mexican vole as a distinguishable subspecies (AGFD 2004, p. 4). The petition's assertions are primarily based on the results of an unpublished genetic analysis (Busch *et al.* 2001) and on taxonomic and genetic reviews of Busch *et al.*'s 2001 report. The petition did not claim that the Hualapai Mexican vole is extinct or has been recovered (no longer an endangered or threatened species), nor do we have information in our files indicating such. However, the petition did indicate that ''fieldwork and genetic analyses have documented at least seven, but likely 14, populations (including one in Utah) of *M. m. hualpaiensis.*'' Only one population was known at the time of listing.

On May 15, 2008, we announced a 90-day finding in the **Federal Register** (73 FR 28094) that the petition presented substantial information to indicate that the petitioned action may be warranted. On June 4, 2015, we published a warranted 12-month finding on the petition and a proposed rule to remove the Hualapai Mexican vole from the List because the original scientific classification is no longer the appropriate determination for the subspecies (80 FR 31875), meaning that