

listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification letter addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act**

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Administrator has determined that this rule is exempt from the requirements of the Regulatory

Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

**Regulatory Classification**

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Paperwork Reduction Act**

This rule does not involve any collection of information for purposes of

the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

**§ 64.6 [Amended]**

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
<b>Region VII</b>				
Nebraska: Bristow, Village of, Boyd County.	310012	January 13, 1976, Emerg; June 3, 1986, Reg; August 18, 2005, Susp.	08/18/05	08/18/05
Creighton, City of, Knox County.	310360	June 6, 1996, Emerg; September 1, 1996, Reg; August 18, 2005, Susp.	08/18/05	08/18/05
Crofton, City of, Knox County	310361	July 9, 1976, Emerg; September 1, 1986, Reg; August 18, 2005, Susp.	08/18/05	08/18/05
Lynch, Village of, Boyd County.	310013	November 21, 1975, Emerg; June 15, 1988, Reg; August 18, 2005, Susp.	08/18/05	08/18/05
Niobrara, Village of, Knox County.	310132	July 25, 1974, Emerg; August 19, 1986, Reg; August 18, 2005, Susp.	08/18/05	08/18/05
Spencer, Village of, Boyd County.	310399	July 9, 1976, Emerg; September 24, 1984, Reg; August 18, 2005, Susp.	08/18/05	08/18/05
Verdigre, Village of, Knox County.	310133	May 16, 1975, Emerg; September 1, 1986, Reg; August 18, 2005, Susp.	08/18/05	08/18/05

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: August 11, 2005.

**Michael K. Buckley,**

*Acting Deputy Director, Mitigation Division, Emergency Preparedness and Response Directorate.*

[FR Doc. 05-16381 Filed 8-17-05; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AJ08**

**Endangered and Threatened Wildlife and Plants; Removal of *Helianthus eggertii* (Eggert's Sunflower) From the Federal List of Endangered and Threatened Plants**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are removing the plant *Helianthus eggertii* (Eggert's

sunflower) from the List of Endangered and Threatened Plants pursuant to the Endangered Species Act of 1973, as amended (Act), because recovery actions have secured a number of populations and identified additional populations not previously known. Therefore, the threatened designation no longer correctly reflects the current status of this plant. This action is based on a review of all available data, which indicate that the species is now protected on Federal, State, and county lands; is more widespread and abundant than was documented at the time of listing; and is more resilient and less vulnerable to certain activities than previously thought. Due to the recent development of a management plan for

*H. eggertii*, a management plan for the barrens/woodland ecosystem, and an Integrated Natural Resources Management Plan at the U.S. Air Force's Arnold Engineering and Development Center, on whose land a significant number of sites/populations occur, new management practices will include managing for, and monitoring the areas that contain, this species. Occurrences of *H. eggertii* are also found on six other Federal, State, or county lands, five of which now have conservation agreements with us to protect, manage, and monitor the species. The remaining site is jointly owned by the Kentucky State Nature Preserves Commission and The Nature Conservancy and has a dedicated conservation easement and a management plan in place to protect *H. eggertii*.

At the time of listing, there were 34 known *H. eggertii* sites occurring in 1 county in Alabama, 5 counties in Kentucky, and 8 counties in Tennessee. The species was not defined in terms of "populations" at that time. Increased knowledge of *H. eggertii* and its habitat has resulted in increased success in locating new plant sites. Presently, there are 287 known *H. eggertii* sites (making up 73 populations) distributed across 3 counties in Alabama, 9 counties in Kentucky, and 15 counties in Tennessee. Consequently, *H. eggertii* is not likely to become endangered within the foreseeable future throughout all or a significant portion of its range and, therefore, is no longer considered to be threatened.

**DATES:** This final rule is effective September 19, 2005.

**ADDRESSES:** Comments and materials received, as well as supporting documentation used in preparation of this final rule, are available for public inspection, by appointment, during normal business hours at the Tennessee Field Office, U.S. Fish and Wildlife Service, 446 Neal Street, Cookeville, Tennessee 38501.

You may obtain copies of the final rule from the field office address above, by calling 931-528-6481, or from our Web site at <http://cookeville.fws.gov>.

**FOR FURTHER INFORMATION CONTACT:** Timothy Merritt, Tennessee Field Office (telephone 931-528-6481, extension 211; facsimile 931-528-7075).

**SUPPLEMENTARY INFORMATION:**

### Background

*Helianthus eggertii* (Eggert's sunflower) is a perennial member of the aster family (Asteraceae) known only from Alabama, Kentucky, and Tennessee. Although it was originally described in 1897, most collections have

been made since 1990, when extensive searches for the species began (Jones 1991; USFWS 1999a). The species is commonly associated with the barrens/woodland ecosystem, a complex of generally subxeric (somewhat dry) plant communities maintained by drought and fire with a grassy ground cover and scattered medium-to-small-canopy trees (USFWS 1999a).

*H. eggertii* is a tall plant, growing up to 2.5 meters (8 feet), with round stems arising from fleshy rhizomes (lateral storage stems that grow along or just below the soil's surface). The stems and upper leaf surfaces have a blue-waxy coloration and the lower leaf surfaces are conspicuously whitened (Jones 1991). It has opposite (rarely whorled) leaves that are sessile (without a stalk), lanceolate (lance-shaped) to narrowly ovate (egg-shaped) in shape, and are either scabrous (rough) or glabrous (smooth) on the upper surface. Leaf edges are smooth or minutely toothed, and the tip is usually pointed. Large yellow flowers 8 centimeters (3 inches) in diameter are borne on the upper third of the stem. Seeds are blackish or grayish and mottled, 5 to 6 millimeters (0.20 to 0.24 inch) long, faintly striated (striped), and with a few scattered hairs. Flowering begins in early August and continues through mid-September and achenes (small, dry, hard, one-celled, one-seeded fruit that stays closed at maturity) mature from early September to early October (Jones 1991). Jones (1991) observed fruit set at between 5 and 25 seeds per flower head. Originally, seed germination rates were thought to be low (rarely exceeding 25 percent), possibly requiring exposure to cold to break dormancy (USFWS 1999a). However, recent data suggest that seed germination rates are relatively high (around 65 percent) if the seeds go through a stratification process (a period of cold weather, moisture, and darkness needed to break dormancy) (Cruzan 2002).

This sunflower develops an extensive rhizome system that may result in the production of dense clusters or patches of stems. These rhizomes can live for many years. Because of this extensive rhizome system, the plant does not have to produce seeds every year to ensure its survival. If environmental conditions change (e.g., increased competition, shading, etc.), it can survive for several years by vegetative means, as Jones (1991) has noted in several populations. Plants may also be established from seeds within these patches, so a mix of different individuals can eventually contribute to these extensive patches (Jones 1991). Cruzan (2002) concluded that the level of genetic diversity in this

species appears to be relatively high and that the highest levels of genetic diversity occur in the southern portion of the species' range. Cruzan (2002) also concluded that the range of *H. eggertii* is not geographically subdivided into distinct genetic units.

*H. eggertii* is a hexaploid (composed of cells that have six chromosome sets) sunflower, and, although its distinctiveness as a species has been established by morphological studies (USFWS 1999a) and biochemical studies (Spring and Schilling 1991), it probably outcrosses (breeds with less closely related individuals) with other hexaploid sunflowers (Jones 1991). It is not known how commonly outcrossing occurs and to what degree this can eventually degrade the genetic integrity of the species. *Helianthus strumosus* (pale-leaved woodland sunflower), occasionally found in association with *H. eggertii*, has been identified as a sunflower with a compatible ploidy (number of sets of chromosomes) level (Jones 1991).

*H. eggertii* typically occurs on rolling-to-flat uplands and in full sun or partial shade. It is often found in open fields or in thickets along woodland borders and with other tall herbs and small trees. It persists in, and may even invade, roadsides, power line rights-of-way, or fields that have suitable open habitat. The distribution of this species shows a strong correlation with the barrens (and similar habitats) of the Interior Low Plateau Physiographic Province, with some records from the Cumberland Plateau Section of the Appalachian Plateau Physiographic Province.

When *H. eggertii* was listed as threatened in 1997, it was known from only 1 site in 1 county in Alabama, 13 sites in 5 counties in Kentucky, and 20 sites in 8 counties in Tennessee. While the species was not defined in terms of "populations" at that time, the Alabama site was described as vigorous, while most sites in Kentucky contained less than 15 stems, with 4 sites having 5 or fewer stems, and about 50 percent of the Tennessee sites contained fewer than 20 stems (62 FR 27973; May 22, 1997). When the recovery plan for this species was finalized in 1999, there was 1 known site in Alabama, 27 sites in 6 counties in Kentucky, and 203 sites in 12 counties in Tennessee.

The term "population," as it relates to *H. eggertii*, was first defined in the recovery plan as "a group of plants that is isolated by geographic discontinuity or a distance of one-half mile" (USFWS 1999a). Recent studies on *H. eggertii* genetics by Cruzan (2002) suggested that a population of fewer than 100 flowering stems is unlikely to be

sufficiently large enough to maintain genetic diversity, while more recently Starnes (2004) has stated that populations larger than 50 stems showed a "high amount of genetic diversity." Cruzan (2002) also estimated a reasonable fragmentation threshold of 1 kilometer (km) (0.6 mile (mi)); that is, sites within that distance of each other were close enough to exchange genetic material. The further use of the term "population" in this document indicates a site, or sites, that cumulatively have more than 100 flowering plants and that do not occur more than 1 km (0.6 mi) apart. Based on 2004 data from the Alabama, Kentucky, and Tennessee Natural Heritage Programs and the Service, there are 10 known sites in 3 counties in north Alabama, 33 sites in 9 counties in central Kentucky, and 244 sites in 15 counties in middle Tennessee (Alabama Natural Heritage Database 2003, 2004; Kentucky Natural Heritage Database 2003, 2004; Tennessee Natural Heritage Database 2003, 2004; Service unpublished data). Applying the definition above to the current situation for this species, Alabama has 7 populations, Kentucky has 18 populations, and Tennessee has 48 populations; 27 of these 73 populations occur on public lands. Furthermore, the total of 287 currently known sites of *H. eggertii* far exceeds the 34 sites known at the time the species was listed.

#### Previous Federal Actions

Federal actions on this species began in 1973, when the Act (16 U.S.C. 1531 *et seq.*) was passed. Section 12 of the Act directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 9451, was presented to Congress on January 9, 1975. On July 1, 1975, we published a notice in the **Federal Register** (40 FR 27823) that formally accepted the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act. By accepting this report as a petition, we also acknowledged our intention to review the status of those plant taxa named within the report. *Helianthus eggertii* was included in the Smithsonian report and also in the July 1, 1975, Notice of Review (FR 27823). On June 16, 1976, we published a notice in the **Federal Register** (41 FR 24523) that determined approximately 1,700 vascular plant taxa, including *H. eggertii*, to be endangered pursuant to section 4 of the Act.

The 1978 amendments to the Act required that all proposals that were not

finalized within 2 years be withdrawn. On December 10, 1979 (44 FR 70796), we published a notice withdrawing all plant species proposed in the June 16, 1976, rule. The revised Notice of Review for Native Plants published on December 15, 1980 (45 FR 82480), included *H. eggertii* as a category 2 species. Category 2 species were described as those taxa for which the Service had information indicating that proposing to list them as endangered or threatened might be appropriate, or for which substantial data on biological vulnerability and threats were not known at the time or were not on file to support the listing. It was subsequently retained as a category 2 species when the Notice of Review for Native Plants was revised in 1983 (48 FR 53640), 1985 (50 FR 39526), and 1990 (55 FR 6184).

All plant taxa included in the comprehensive plant notices are treated as if under a petition. Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. This was the case for *H. eggertii* because of the acceptance of the 1975 Smithsonian report as a petition. In 1983, we found that the petition calling for the listing of *H. eggertii* was not warranted because of insufficient data on its distribution, vulnerability, and degrees of threat. We funded a survey in 1989 to determine the status of *H. eggertii* in Alabama, Kentucky, and Tennessee. In 1990, the Service had not yet received the results of the survey we had funded, and it was believed that additional surveys of potential habitat and further identification of threats were needed before a decision could be made on whether to propose listing the species.

In 1991, we accepted a final report on these surveys (Jones 1991). Information contained in the 1991 final report completed informational gaps and provided what was then thought to be sufficient data to warrant preparation of a proposed rule to list the species. *H. eggertii* was accepted as a category 1 species on August 30, 1993, and was included in the revised Notice of Review for Native Plants published on September 30, 1993 (58 FR 51144). On September 9, 1994 (59 FR 46607), we published a proposal to list *H. eggertii* as a threatened species. A final rule placing *H. eggertii* on the Federal List of Endangered and Threatened Plants as a threatened species was published on May 22, 1997 (62 FR 27973). That

decision included a determination that the designation of critical habitat was not prudent for *H. eggertii*.

The final recovery plan for *H. eggertii* was completed in December 1999. The recovery plan provides the following criteria to consider *H. eggertii* for delisting: (1) The long-term conservation/protection of 20 geographically distinct, self-sustaining populations (distributed throughout the species' range or as determined by genetic uniqueness) must be provided through management agreements or conservation easements on public land or land owned by private conservation groups, and (2) these populations must be under a management regime designed to maintain or improve the habitat and each population must be stable or increasing for 5 years. There are presently 27 populations that are under a management regime that benefits the species and that occur on public land or land owned by a private conservation group (*i.e.*, The Nature Conservancy (TNC)). These are geographically distinct (separated by more than 1 km (0.6 mi)), and self-sustaining (greater than 100 flowering stems). These populations are scattered throughout the species' historic range. We have 5 years of monitoring data on each of the 27 populations that show they are stable or increasing. We have finalized cooperative management agreements with Kentucky Transportation Cabinet (KTC) (1 population), Tennessee Wildlife Resources Agency (TWRA) (8 populations), City of Nashville's A.G. Beaman Park (AGBP) (2 populations), TNC's Baumberger Barrens (1 population), Arnold Air Force Base (AAFB) (11 populations), and Mammoth Cave National Park (MCNP) (3 populations) for the long-term protection of *H. eggertii*. These cooperative management agreements will remain in place even if the species is delisted. The Kentucky State Nature Preserves Commission (KSNPC) and TNC each hold a 50 percent undivided interest in the Eastview Barrens in Hardin County, Kentucky. There is a permanent conservation easement for the Eastview Barrens as well as a management plan to protect and maintain the barrens, which includes one population of *H. eggertii*.

Other Federal involvement with *H. eggertii* subsequent to listing has included funding for recovery activities such as surveys for new locations, monitoring of known populations, population and ecological genetics studies, and collection and analysis of ecological and biological data. We have also been involved with the

development of the Eggert's Sunflower Management Plan, Barrens Management Plan, and the Integrated Natural Resources Management Plan for AAFB in Tennessee. All of these plans address *H. eggertii* and its habitat (see discussion under Factor A). We have evaluated potential impacts to this species from 262 Federal actions. The majority of these actions were highway and pipeline projects. We have conducted two formal consultations, one resulting in a "no effect" to the species finding and the other a "not likely to jeopardize the continued existence" of the species finding. No plants were adversely affected by either project.

On October 12, 2000, the Southern Appalachian Biodiversity Project filed suit against us, challenging our determination that designation of critical habitat for *H. eggertii* was not prudent (*Southern Appalachian Biodiversity Project v. U.S. Fish and Wildlife Service et al.* (CN 2:00-CV-361 (E.D. Tenn.)). On November 8, 2001, the District Court for the Eastern District of Tennessee issued an order directing us to reconsider our previous prudency determination and submit a new prudency determination for *H. eggertii* no later than December 29, 2003. On January 8, 2004, the court extended the submission deadline to March 30, 2004. On April 5, 2004, we published a proposal in the **Federal Register** (69 FR 17627) to delist *H. eggertii*. In that proposal, we submitted a new prudency determination in which we determined that designation of critical habitat for *H. eggertii* would not be prudent.

#### Summary of Comments and Recommendations

In the April 5, 2004, proposed rule, we requested that all interested parties submit comments or information concerning the proposed delisting of *Helianthus eggertii* (69 FR 17627). We provided notification of this document through e-mail, telephone calls, letters, and news releases faxed and/or mailed to the appropriate Federal, State, and local agencies, county governments, elected officials, media outlets, local jurisdictions, scientific organizations, interest groups, and other interested parties. We also provided the document on the Service's Tennessee Field Office Internet site following its release.

We accepted public comments on the proposal for 60 days, ending June 4, 2004. By that date, we received comments from two parties, specifically one Federal agency and one nonprofit organization. One commenter supported the proposed delisting, and one was opposed.

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited independent opinions from three knowledgeable individuals who have expertise with the species, who are within the geographic region where the species occurs, and/or are familiar with the principles of conservation biology. We received comments from all three of the peer reviewers, all of whom are employed by State agencies, which are included in the summary below and are incorporated into the final rule.

We reviewed all comments received from the peer reviewers and the public for substantive issues and new information regarding the proposed delisting of *H. eggertii*. Substantive comments received during the comment period have been addressed below and, where appropriate, incorporated directly into this final rule. The comments are grouped below according to peer review or public comments.

#### Peer Review/State Comments

(1) *Comment:* The commenter concurred with our reasons for proposing to remove *H. eggertii* from the List of Endangered and Threatened Plants pursuant to the Act. The commenter stated that *H. eggertii* was indeed more widespread and abundant than previously known at the time of its listing and that it was also more resilient and less vulnerable to certain habitat-altering activities than previously believed. The species appears to be sufficiently protected on Federal, State, county, and private conservation lands. The commenter concurred that the species now meets the recovery criteria as defined in the species' recovery plan.

*Response:* We appreciate the support we have received from our Federal, State, and private partners and acknowledge their role in this joint effort to recover and delist this species.

(2) *Comment:* Although the 27 protected populations under a management regime are distributed across the species' known range, the commenter believes that cooperative management agreements should be pursued prior to removal of the species' protection under the Act in order to ensure population persistence.

*Response:* We have completed cooperative management agreements for 26 of the 27 populations on public lands and a conservation easement for 1 population on land owned by a private conservation group (*i.e.*, TNC). We have finalized cooperative management agreements with KTC (1 population), TWRA (8 populations), AGBP (2 populations), TNC Baumberger Barrens

(1 population), AAFB (11 populations), and MCNP (3 populations) for the long-term protection of *H. eggertii*. These cooperative management agreements will remain in place after the species is delisted. The KSNPC and TNC each hold a 50 percent undivided interest in the Eastview Barrens in Hardin County, Kentucky. There is a conservation easement for the Eastview Barrens as well as a management plan to protect and maintain the barrens, which includes one population of *H. eggertii*. This conservation easement is more restrictive than our cooperative management agreements.

(3) *Comment:* The commenter suggests that the Service work with the Tennessee Department of Transportation (TDOT) to develop and maintain rights-of-way mowing regimes similar to those developed in Kentucky and Alabama to benefit existing occurrences of *H. eggertii* along Tennessee's transportation rights-of-way.

*Response:* None of the 27 populations that occur on public lands are in rights-of-ways maintained by the State highway departments. The Service will continue to work with State highway departments to adopt a rights-of-way mowing regime that would be favorable to *H. eggertii*. However, these sites are not required in order to meet the delisting requirements for this species.

(4) *Comment:* The Tennessee Department of Environment and Conservation (TDEC) manages the Carter Cave State Natural Area in Franklin County, Tennessee. A population of *H. eggertii* occurs on this land. There was no mention in the proposed rule of a cooperative management agreement being pursued with TDEC for this site.

*Response:* We visited the Carter Cave State Natural Area site on August 8, 2003. We counted 250 total stems, including 150 flowering stems.

However, the entire stand appeared to have hybrid characteristics. We could not find any individuals that we could clearly determine to be pure *H. eggertii*. We believe that further research needs to be conducted to determine if this site contains any pure *H. eggertii* before a cooperative management agreement is pursued. Since we need only 20 protected populations to meet the delisting criteria and we have 27 protected populations, it was not necessary to complete an agreement for this site before *H. eggertii* could be delisted. We will pursue an agreement if it is determined that the site does contain non-hybridized *H. eggertii*.

(5) *Comment:* The commenter believes that the agencies which have signed cooperative management

agreements need to continue reporting the status of populations in Kentucky over the next few years.

*Response:* Under the Act, the status of all species that are delisted due to recovery must be monitored for at least 5 years. The Service is committed to conducting at least 5 years of monitoring of these 27 populations of *H. eggertii* to ensure that the species remains stable or improving. (For more information, see the Post-delisting Monitoring section later in this notice). If the monitoring data show that the species is declining, there is a mechanism for emergency re-listing of the species.

(6) *Comment:* The commenter believes that the inclusion of the relocated *H. eggertii* at the U.S. Army Corps of Engineers (USACE) property at Nolin Lake should not be considered a functioning population, since this was a preliminary experiment to determine whether this species could be relocated.

*Response:* Personnel with the USACE were contacted concerning the relocated *H. eggertii* at Nolin Lake in Kentucky. They advised us that in about 1999–2000, approximately 120 stems were moved onto Nolin Lake property from a highway project 0.8 km (0.5 mi) off of the USACE property. There are presently about 136 stems at the Nolin Lake site. We concur that this site, at this time, should not be considered a functioning population and, as such, have not included it in the 27 populations that are being protected and managed under a cooperative management agreement.

(7) *Comment:* The commenter believes that pertinent literature for the delisting proposal should be comprehensive, and should have included the 1994 journal article on “The status of *Helianthus eggertii* Small in the southeastern United States” in *Castanea* 59(4):319–330.

*Response:* The references listed were only those that were cited in the proposed rule. It was not intended to be a complete list of pertinent literature for the species.

(8) *Comment:* One commenter noted that several other species of sunflowers, especially *Helianthus strumosus*, can be easily misidentified as *H. eggertii*, and some populations that are attributed to *H. eggertii* may be of hybrid origin.

*Response:* We are aware that there are other species of sunflowers similar to *H. eggertii* and have even observed hybrid sunflowers in the field. However, we were diligent in identifying and counting only those sites that contained true *H. eggertii*. We also have confidence in the identifications made by State botanists for Alabama,

Kentucky, and Tennessee, since we revisited many of these sites and verified their findings.

(9) *Comment:* The unprotected populations of *H. eggertii* will continue to exist only if there is sufficient “natural” barrens habitat available, or if there is sufficient human-caused disturbance in the near vicinity of the populations.

*Response:* There are presently 73 populations of *H. eggertii* occurring in Alabama, Tennessee, and Kentucky. The majority of these populations occur along roadsides and power line right-of-ways. Most of these sites receive periodic mowing, which appears to be sufficient disturbance for the *H. eggertii* at these sites to continue to exist. We have cooperative management agreements in place for all of the 27 populations on public lands. These agreements ensure that these populations of *H. eggertii* will be properly managed. This exceeds the number of protected populations (20) required in the recovery plan for delisting.

(10) *Comment:* One commenter noted that attempting to protect a plant species by maintaining only a few populations on public land is like trying to protect endangered mammals by only keeping a few breeding pairs in zoos, and not worrying about those in the wild. These efforts are rarely successful.

*Response:* The 27 protected populations on public lands are in habitat that is as wild and natural as that of any of the other 46 populations that occur on private lands. We have exceeded the delisting criteria of 20 protected populations. Even though the populations on private lands do not have cooperative management agreements, it is highly unlikely that all of these 46 populations that are not covered by an agreement will disappear. Many of these populations occur along road and power line rights-of-way and receive periodic maintenance that keeps these areas open and free of trees. All of the 46 populations have 100 or more flowering stems. However, even if we lose all the 46 populations, we still have enough protected populations on public lands to delist the species and ensure its continued survival.

#### Public Comments

(11) *Comment:* One commenter noted that the protection of barrens habitat was overlooked in the proposal to delist *H. eggertii*.

*Response:* Protection under section 4 of the Act is limited to listed species and designated critical habitat (which was not designated for this plant). However, since *H. eggertii* does occur on

barrens habitat, barrens have also received some ancillary protection by the listing of *H. eggertii*. For example, AAFB, which contains the largest known concentration of *H. eggertii* (11 populations), has developed and implemented a barrens restoration plan that includes protections for many of the species normally associated with a barrens habitat, including *H. eggertii*. We concur that the barrens habitat needs to be protected, and we are working with our partners to protect this habitat type along with *H. eggertii*. However, our current actions have enabled us to meet the delisting criteria in the recovery plan and we believe that this species no longer needs the protections of the Act.

(12) *Comment:* One commenter noted that because there has been no determination of the optimal habitat for seedling establishment, the actions required under the recovery plan have not been met.

*Response:* We have met the recovery criteria outlined in the recovery plan for delisting this species. While not every recovery task has been completed, we have taken the steps necessary to ensure the long-term conservation/protection of 27 populations of *H. eggertii* that are distributed throughout its range. The recovery plan only requires 20 populations. Recent research has shown that genetic diversity was high at both MCNP (3 populations) and AAFB (11 populations) (Starnes 2004). Starnes (2004) found that the high genetic diversity observed suggests that while clones may exist in a population, seedling establishment is actively putting new genetically diverse individuals into a population. Starnes’ results showed that the current management strategies (burning and mowing) are suitable for protecting this species. We have incorporated these two management strategies into each of the cooperative management agreements in place for the 27 *H. eggertii* populations on publicly owned lands.

(13) *Comment:* Cruzan (2002) suggested that populations with less than 100 stems are unlikely to be self-sustaining, but there are no data to suggest what is sufficient. More research is required to determine what constitutes a viable population before delisting proceeds.

*Response:* The recovery plan requires self-sustaining populations. As defined in the recovery plan, a self-sustaining population is one that is self-regenerating and maintains sufficient genetic variation to enable it to survive and respond to natural habitat changes. Cruzan (2002) suggested that less than 100 flowering stems within an isolated

1 km (0.6 mi) radius are “unlikely to be sufficiently large for the maintenance of genetic diversity” and included areas of 100 or more flowering stems within a 1 km radius in the study area into his estimation of functional metapopulations. Furthermore, in a more recent study, Starnes (2004) stated that a “high amount of genetic diversity [was] seen in populations larger than 50 stems.” The recovery plan also requires that these populations must be under a management regime designed to maintain or improve the habitat and each population must be stable or increasing for 5 years. Based on the best available science, we believe that a population of *H. eggertii* that contains 100 flowering stems or more and has been stable or improving for the past 5 years meets the definition of a self-sustaining population. We have 27 populations throughout the range of the species (Alabama, Kentucky, and Tennessee) that are self-sustaining, based on the above definition, and are protected through cooperative management agreements on public lands. The recovery plan only requires 20 protected populations to meet the delisting criteria. Further, while we use the more conservative minimum number of flowering stems (*i.e.*, 100) to define a self-sustaining population, it is important to note that all of the 27 populations we have identified consist of well over 100 flowering stems.

(14) *Comment:* The Tennessee National Guard (TNG) expressed its support of the proposed removal of *H. eggertii* from the Federal List of Endangered and Threatened Plants and its belief that the existing Barrens Restoration and Management Plan, Integrated Natural Resources Management Plan, Eggert’s Sunflower Management Plan, and the Cooperative Management Agreement between AAFB and the Service will ensure the long-term protection of *H. eggertii*.

*Response:* We appreciate the opportunity to work with the TNG to recover *H. eggertii*. We concur that the Barrens Restoration and Management Plan, Integrated Natural Resource Management Plan, Eggert’s Sunflower Management Plan, and the cooperative management agreement with AAFB will ensure the long-term protection of *H. eggertii* on AAFB property, including the TNG training area.

#### Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and the regulations (50 CFR part 424) issued to implement the listing provisions of the Act set forth five criteria to be used in determining whether to add, reclassify,

or remove a species from the Federal List of Endangered and Threatened Wildlife and Plants. These five factors and their application to *Helianthus eggertii* are as follows:

*A. The present or threatened destruction, modification, or curtailment of its habitat or range.* In 1997, when *H. eggertii* was listed as threatened, most of the 34 known sites of this species were thought to be threatened with destruction or modification of their habitat. It was estimated that over 50 percent of the known sites were threatened by the encroachment of more competitive herbaceous vegetation and/or woody plants that produce shade and compete with this species for limited water and nutrients. Active management was listed as a requirement to ensure the plant’s continued survival at all sites. Since most of the sites where this species survives are not natural barrens, but areas such as rights-of-way or similar habitats that mimic barrens, direct destruction of this habitat for commercial, residential, or industrial development or intensive rights-of-way maintenance (*e.g.*, herbicide use) was thought to be a significant threat to the known sites at the time of listing.

Overall, the activities affecting the species’ habitat, such as encroachment of more competitive vegetation, direct destruction of habitat for commercial and residential development, intensive rights-of-way maintenance, and conversion of barrens habitat to croplands, pasture, or development, appear to have changed very little since listing. However, the risk that those threats pose for *H. eggertii*’s survival and conservation are considerably less than what was understood at the time of listing. *H. eggertii* appears to respond favorably to mild-to-moderate types of disturbance. One site that occurs in Coffee County, Tennessee, was known to have hundreds of stems in 1998, before the site was clearcut. In 2000, TDEC found that there were very few plants left, and it was thought that the logging had resulted in the destruction of the plants at this site. However, in 2003, we found that the site had 1,578 total stems, including 951 flowering stems. Logging had only a temporary negative effect, and the land disturbance resulted in greatly increasing the population size and vigor of the plants at this site (Service, unpublished data). This same phenomenon has occurred on AAFB. Pine stands that had few to no *H. eggertii* had been clearcut, followed by either the new appearance of *H. eggertii* or a significant increase in population size and vigor of existing plants (K. Fitch, Arnold Engineering

and Development Center, pers. comm. 2003). Many of the known *H. eggertii* sites occur along road and power line rights-of-way. This is probably due to the disturbance of these areas from continual maintenance activities. Plants will not grow and flower well in very deep shade (*i.e.*, 80 percent shade). Moderate levels of shade (from 40 to 60 percent) where *H. eggertii* normally occurs do not appear to have large negative consequences for its growth or reproduction (Cruzan 2002). Cruzan (2002) also found that *H. eggertii* competes well against other more widespread species under full sunlight and 60 percent shade conditions, a fact that was not known at the time of listing.

At the time of listing, we did not fully understand that *H. eggertii* could readily adapt to certain manmade disturbances that are replacing the dwindling natural barrens. We originally thought the species was restricted to these natural barren areas. When *H. eggertii* was listed, manmade areas were thought to be low-quality sites where the species was making a last-ditch effort to survive. Upon discovering that manmade sites were a significant habitat that *H. eggertii* was exploiting and in which it was thriving, we began finding a significant number of new sites. In fact, since listing, an additional 253 sites have been found that contain the species (Alabama Natural Heritage Database 2003, 2004; Kentucky Natural Heritage Database 2003, 2004; Tennessee Natural Heritage Database 2003, 2004; Service unpublished data). The species is also more widespread than originally thought, occurring in 3 counties in Alabama, 9 counties in Kentucky, and 15 counties in Tennessee. The number of stems has also increased dramatically from the time of listing. In Alabama, the one site known at the time of listing was described as vigorous; presently, there are 10 sites and 7 have more than 100 stems (Alabama Natural Heritage Database 2003, 2004; Service unpublished). In Kentucky, most of the 13 original sites at the time of listing contained fewer than 15 stems and 4 sites had fewer than 5 stems. Presently in Kentucky, there are 33 known sites; 18 of these sites have more than 100 stems, and are now considered viable populations (Kentucky Natural Heritage Database 2003, 2004). In Tennessee, about one-half of the 20 original sites at the time of listing contained fewer than 20 stems. Currently in Tennessee, there are 244 known sites, 63 of which have more than 100 stems and are now considered viable populations

(Tennessee Natural Heritage Database 2003, 2004; Service unpublished data).

Of the 287 sites where *H. eggertii* is known to occur in Alabama, Kentucky, and Tennessee, 126 (which make up 27 total populations) are in public ownership or on land owned by TNC and are being managed to protect the species. Protection for the species will continue on these sites after it is delisted. AAFB has 115 of these sites (11 populations) and is the largest Federal landowner harboring this species. Protection and management strategies for *H. eggertii* are covered by AAFB's Integrated Natural Resources Management Plan (INRMP), a Barrens Management Plan (BMP), and a separate Eggert's Sunflower Management Plan (ESMP). The INRMP, BMP, and ESMP are active management plans that provide for the long-term conservation of this species by focusing on restoring barrens habitat and maintaining the necessary ecological processes in habitats the species requires. These processes include various silvicultural treatments (e.g., clearcuts, marked thinning, and row thinning), prescribed burning, and invasive pest plant management (e.g., manual removal and herbicide spot application). Regardless of the Federal status of *H. eggertii*, the BMP, ESMP, and INRMP will continue to provide for the protection and management of this species (U.S. Air Force (USAF) 2001, 2002). AAFB also recently signed a Cooperative Management Agreement with us to further ensure the protection of *H. eggertii* populations on its property even after delisting. In Kentucky, MCNP has three populations. MCNP is actively managing *H. eggertii* populations and has implemented a prescribed burning regime to provide for the long-term protection of this species. In 2004, we signed a 10-year Cooperative Management Agreement with MCNP to provide long-term protection of the three *H. eggertii* populations occurring on Park property. These populations, and the barrens habitats on which they occur, will be sustained by implementing habitat management activities, such as prescribed burns, tree thinning, and invasive plant removal, and will be monitored. These cooperative management agreements will aid in sustaining *H. eggertii* populations on these Federal lands regardless of the Federal status of this species.

*H. eggertii* is an early successional species and, while historic barrens habitat is becoming increasingly rare, this species readily responds to barrens restoration activities and colonizes manmade disturbed areas. The key to

long-term survival of *H. eggertii* is periodic burning, mowing, or thinning of the competing vegetation. KTC has signed a management agreement with us to maintain, enhance, and monitor *H. eggertii* on its property (41 acres, one population) which includes restoring barrens habitat by thinning the existing trees near *H. eggertii* occurrences, conducting periodic prescribed burns, and monitoring the success of these management practices to refine them if necessary.

The Alabama and Tennessee State Departments of Transportation are working with us to develop and maintain roadside mowing regimes that would benefit existing *H. eggertii* sites. This will also encourage new establishment of plants along road rights-of-way by reducing the competing vegetation and keeping the areas open. TWRA, which owns four wildlife management areas that contain eight *H. eggertii* populations, is managing these areas for small game, which indirectly benefits this species by keeping the area in early successional vegetation. TWRA has signed a Cooperative Management Agreement with us to provide for the long-term protection of *H. eggertii* on its lands. This agreement, like agreements with Federal agencies, involves habitat management activities such as prescribed burns, tree thinning, and invasive plant removal, and monitoring the plants and their habitat to ensure the protection and management of these sites regardless of the Federal status of *H. eggertii*. Similarly, we have signed a Cooperative Management Agreement with the City of Nashville, Metro Parks and Recreation, which owns and operates A.G. Beaman Park in Davidson County, Tennessee. AGBP contains two populations of *H. eggertii*. This park is new and plans are being developed for future uses such as hiking trails, picnic areas, park headquarters, and maintenance buildings. The Cooperative Management Agreement will ensure that AGBP and the Service will continue to work together to protect the existing *H. eggertii* populations regardless of the species' Federal status.

TNC in Kentucky owns a site known as Baumberger Barrens, which contains one population of *H. eggertii*. TNC has an existing management plan for the barrens that includes *H. eggertii*. The site is undergoing management, such as removal of woody species, periodic prescribed burns, and invasive plant removal, to ensure the native barrens species, including *H. eggertii*, are maintained and protected. We signed a 10-year Cooperative Management Agreement with TNC to manage and

monitor the *H. eggertii* population that occurs on this site.

TNC of Kentucky and the State of Kentucky each own 50 percent of a site known as Eastview Barrens. One population of *H. eggertii* occurs at Eastview Barrens. These two landowners are working together to manage the barrens on this site by removing woody species, conducting periodic prescribed burns, and preventing and removing invasive plants to ensure the native barrens species, including *H. eggertii*, are maintained and protected. This site is protected by a conservation easement that will protect the natural barrens and *H. eggertii* in perpetuity for the citizens of Kentucky.

The large increase in new *H. eggertii* sites (253) since listing, the increased understanding of the plant's adaptability, and the protection and management provided by State and Federal landowners and nongovernmental organizations have led us to conclude that the threats to *H. eggertii*'s habitat have been adequately addressed and habitat destruction is no longer considered to be a threat to the species.

**B. Overutilization for commercial, recreational, scientific, or educational purposes.** We have no documented evidence, records, or information to indicate that overutilization for commercial, recreational, scientific, or educational purposes is a threat to *H. eggertii*. We have found no records of unauthorized collection during our literature review or in discussions with researchers. This species is not believed to be a significant component of the commercial trade in native plants, and overutilization does not constitute a threat for this species.

**C. Disease or predation.** Disease has been observed by the Service and other observers on small numbers of *H. eggertii* plants (T. Gulya, U.S. Department of Agriculture, pers comm. 2004). This disease is believed to be a rust fungus of either the *Puccinia* or *Coleosporium* genera (T. Gulya, pers comm. 2004). This rust attacks the vegetation and causes orange-to-brown pustules (raised bumps or areas) on the surfaces. It does not appear to kill the plants, and we do not believe that it is a threat to the species' existence. Predation from insects and herbivores has also been noted on small isolated patches of *H. eggertii*. These incidents appear to result from normal environmental conditions. Because of the ability of this plant to sprout stems from rhizomes, the small amount of predation observed does not pose a threat to this species.

D. *The inadequacy of existing regulatory mechanisms.* The Act does not provide protection for plants on private property unless the landowner's activity is federally funded or requires Federal approval. In all three States (Alabama, Kentucky, and Tennessee), plants have no direct protection under State law on private property. Plants on private property are afforded ancillary protection under State criminal trespass laws. Once this delisting rule is in effect, the only change to the protection of *H. eggertii* on private land would be that we would no longer consult under section 7 of the Act for the activities that are federally funded or require Federal approval. However, there are enough populations of *H. eggertii* on public lands (27 populations) to afford the long-term conservation of this species based on the recovery criteria (20 populations) in the recovery plan. The recovery criteria called for the 20 populations to be distributed throughout the species' historical range and, based on the number and distribution of populations known at that time, determined that the relative proportions would be 1 population in Alabama, 3 populations in Kentucky, and 16 populations in Tennessee. Although none of the seven populations in Alabama are currently under a management plan, we believe that the current distribution of populations under such plans meets the intent of the recovery criteria because they are "distributed throughout the species' historical range," including populations that occur near the Tennessee/Alabama border.

Section 9(a)(2)(B) of the Act prohibits removal and possession of endangered plants from areas under Federal jurisdiction. Kentucky has 4 populations and Tennessee has 11 populations of *H. eggertii* that occur on Federal lands. None of the seven populations in Alabama occurs on public lands. *H. eggertii* sites on MCNP in Kentucky are also protected from take by Code of Federal Regulations (CFR), Title 36, Volume 1, which protects all plants on Department of the Interior lands. We have Cooperative Management Agreements with the MCNP and AAFB. These agreements provide for the management and protection of these important *H. eggertii* sites, regardless of the Federal status of the species. Both the plant and its habitat will be protected, managed, and monitored under these agreements.

On public lands in Tennessee and Kentucky, on which 27 populations (composed of 126 of the 287 known sites, and including the 15 populations on Federal lands just discussed) of the

plants are found, *H. eggertii* is adequately protected by other laws. Air Force Instruction 32-7064 at 7.1.1 provides the same protection for candidate and State listed species as for federally listed species "when practical" on AAFB. It is our understanding that the State of Tennessee has no plans to delist *H. eggertii* in the immediate future. In addition, as mentioned previously, *H. eggertii* is covered under three management plans covering AAFB (INRMP, BMP, and ESMP), all of which will continue for some years regardless of whether the species is delisted. TWRA has a rule (1660-1-14-.14) that protects all vegetation on designated wildlife management areas from take regardless of its State or Federal status. There are eight known populations of *H. eggertii* that occur on four different State wildlife management areas managed by the TWRA (Service unpublished data 2004). We mentioned in error 10 populations in our proposed rule. There were only 7 populations known at the time of the proposed rule (69 FR 17627), and now there are 8 with the additional one discovered on Laurel Hill Wildlife Management Area in 2004. On public lands in Kentucky, every natural component is considered public domain and is, therefore, protected from take under State law. Kentucky has three populations of *H. eggertii* that occur on State-owned public lands. This State law will remain in effect regardless of whether this species remains federally listed or not.

The Act protects plants on private lands only if the actions which might adversely impact them are conducted, permitted, or funded by a Federal agency, or constitute criminal trespass or theft of the plants. The limited protection afforded by the Act under these circumstances would be lost through delisting, and other existing regulations do not provide complete protection to all existing habitat on private lands. However, we believe the significant protections afforded to the 27 populations occurring on public lands are adequate to ensure those populations of *H. eggertii* remain viable, and such populations by themselves meet or exceed the recovery goals listed in the recovery plan.

E. *Other natural or manmade factors affecting its continued existence.* Extended drought conditions and an increase in the potential for inbreeding depression due to dwindling numbers were thought to affect the continued existence of *H. eggertii* at the time of listing. The known sites of *H. eggertii* have now increased in number to 287 (73 populations) and are scattered

throughout 27 counties in 3 States. This makes the likelihood of a drought adversely affecting all the known sites much less than originally thought, when there were only 34 known sites. Also, there are 7 populations in Alabama, 18 populations in Kentucky, and 48 populations in Tennessee, for a total of 73 populations that have more than 100 flowering stems. The recovery plan criterion requires only 20 populations to be considered for delisting. Cruzan (2002) suggested that 100 flowering stems or more were needed to maintain genetic diversity and prevent inbreeding depression within a population. Inbreeding depression due to low numbers of individuals per population is no longer a threat to *H. eggertii*. We believe the known number of sites, the numbers of existing populations, and their distribution are sufficient to protect against potential catastrophic events (e.g., drought) and no longer consider such events to be a threat to this species. There are no other natural or manmade factors known to affect the continued existence of *H. eggertii*; therefore, we do not believe these factors will affect the continued existence of this species.

#### Summary of Findings

According to 50 CFR 424.11(d), a species may be delisted if the best scientific and commercial data available substantiate that the species is neither endangered nor threatened because of (1) extinction, (2) recovery, or (3) error in the original data for classification of the species.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Helianthus eggertii*. Based on surveys conducted in 2001, 2002, 2003, and 2004, we conclude that the threatened designation no longer correctly reflects the current status of this plant. Relative to the information available at the time of listing, recovery actions have resulted in new information that shows a significant (1) expansion in the species' known range, (2) increase in the number of known sites, and (3) increase in the number of individual plants. Furthermore, recovery efforts have provided increased attention and focus on this species. This in turn has led to greater protection for the species such that the recovery criteria in the recovery plan for this species have been met. After conducting a review of the species' status, we have determined that the species is not in danger of extinction throughout all or a significant portion of its range, nor is it likely to become in danger of extinction within the

foreseeable future throughout all or a significant portion of its range. Given the expanded range, number of newly discovered population locations and individuals, the increased knowledge of the genetics of this species, and the protection offered by State and Federal landowners, we conclude, based on the best scientific and commercial information, that *H. eggertii* does not warrant the protection of the Act. Therefore, we are removing *H. eggertii* from the Federal List of Endangered and Threatened Plants.

#### Effect of This Rule

This rule will revise 50 CFR 17.12(h) to remove *Helianthus eggertii* from the List of Endangered and Threatened Plants. Because no critical habitat was ever designated for this species, this rule will not affect 50 CFR 17.96.

Once this species is removed from the List of Endangered and Threatened Plants, Endangered Species Act protection will no longer apply. Removal of *H. eggertii* from the List of Endangered and Threatened Plants will relieve Federal agencies from the need to consult with us to insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of this species.

#### Post-Delisting Monitoring

The 1988 amendments to the Act (section 4(g)(1)) require us to implement a system, in cooperation with the States, to monitor all species that have been delisted due to recovery for at least 5 years following delisting. The purpose of this post-delisting monitoring (PDM) is to verify that a species that is delisted due to recovery remains secure from the risk of extinction after it no longer has the protections of the Act. If the species does not remain secure, we can use the emergency listing authorities under section 4(b)(7) of the Act. Section 4(g) of the Act explicitly requires cooperation with the States in development and implementation of PDM programs. However, we are responsible for compliance with section 4(g) and must remain actively engaged in all phases of the PDM.

The Service has drafted a PDM plan for Eggert's sunflower and is making it available for review and comment in a separate notice in this issue of the **Federal Register** (see the Notices section of today's **Federal Register**). Following the end of the comment period, any comments will be incorporated as appropriate into the final PDM plan.

#### Paperwork Reduction Act of 1995

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which

implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), require that Federal agencies obtain approval from OMB before collecting information from the public. This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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

We have determined that we do not need to prepare an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

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#### Author

The primary author of this proposed rule is Timothy Merritt (see **ADDRESSES** section).

#### List of Subjects in 50 CFR Part 17

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

#### Regulation Promulgation

■ For the reasons given in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

#### PART 17—[AMENDED]

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

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

#### § 17.12 [Amended]

■ 2. Amend § 17.12(h) by removing the entry “*Helianthus eggertii*” under “Flowering Plants” from the List of Endangered and Threatened Plants.

Dated: July 20, 2005.

#### Marshall Jones,

Acting Director, Fish and Wildlife Service.  
[FR Doc. 05–16274 Filed 8–17–05; 8:45 am]  
**BILLING CODE 4310–55–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 080405B]

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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