



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 240312-0079]

RIN 0648-BG26

Endangered and Threatened Species; Designation of Critical Habitat for Threatened Caribbean Corals; Correcting Amendment

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

ACTION: Final rule; correcting amendment.

SUMMARY: NMFS corrects an error in the final rule designating critical habitat for threatened Caribbean corals that published in the Federal Register on August 9, 2023. The final rule incorrectly identified the northern geographic extent of critical habitat designated for *Orbicella franksi* as St. Lucie Inlet, Martin County, Florida in the “Table of the Locations of the Critical Habitat Units for *Orbicella franksi*, *O. annularis*, *O. faveolata*, *Dendrogyra cylindrus*, and *Mycetophyllia ferox*,” codified at 50 CFR 266.230(b) and in Table 4 of the Critical Habitat Unit Descriptions in the preamble of the rule. This correcting amendment fixes that error by revising the description of the geographic extent of the OFRA-1 Unit to refer to Lake Worth Inlet, Palm Beach County, Florida.

DATES: This rule is effective on [*insert date of publication in the Federal Register*].

ADDRESSES: Information regarding this final rule correction can be found on the NMFS website at: <https://www.fisheries.noaa.gov/action/final-rule-designate-critical-habitat-threatened-caribbean-corals>.

FOR FURTHER INFORMATION CONTACT: Jennifer Moore, NMFS, SERO, 727-824-5312, Jennifer.Moore@noaa.gov; Heather Austin, NMFS, Office of Protected Resources, 301-427-8422, Heather.Austin@noaa.gov.

SUPPLEMENTARY INFORMATION:

Need for Correction

In the final rule designating critical habitat for the threatened Caribbean corals (88 FR 54026, August 9, 2023), NMFS inaccurately identified the northern geographic extent of *Orbicella franksi* as St. Lucie Inlet, Martin County, Florida in Table 2 of 50 CFR 226.230(b) and in Table 4 of the Critical Habitat Unit Descriptions in the preamble of the rule. The species has never occurred north of Lake Worth Inlet, Palm Beach County, Florida. The reference to St. Lucie Inlet, Martin County, Florida was an accidental conflation (*i.e.*, copy/paste error) with its sister species, *Orbicella faveolata*. The correct geographic extent of the OFRA-1 Unit is Lake Worth Inlet, Palm Beach County, Florida, as stated in Figure 13 of 50 CFR 226.230(f) (*i.e.*, the map of the OFRA-1 Unit). The correct geographic extent is also stated in Table 1 of 50 CFR 226.230(a) as extending only to Palm Beach County.

As directed by 50 CFR 424.12(c), each critical habitat area will be shown on a map, with more-detailed information discussed in the preamble of the rulemaking documents published in the Federal Register. Textual information may be included for purposes of clarifying or refining the location and boundaries of each area or to explain the exclusion of sites (*e.g.*, paved roads, buildings) within the mapped area. Each area will be referenced to the State(s), county(ies), or other local government units within which all or part of the critical habitat is located. Unless otherwise indicated within the critical habitat descriptions, the names of the State(s) and county(ies) are provided for informational purposes only and do not constitute the boundaries of the area. As noted above, the map of this unit at 50 CFR 226.230(f), which is the regulatory designation,

correctly identifies the northern extent of the species. The references to the State (Florida) and county (Palm Beach) are also correct in Table 1 of 50 CFR 226.230(a). Thus, NMFS corrects the information in Table 2 that identifies the geographic extent of *O. franksi* to refer to Lake Worth Inlet instead of St. Lucie Inlet.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive prior notice and opportunity for additional public comment because it would be unnecessary and contrary to the public interest. This correcting amendment corrects the identification of the geographic extent of one of the units of critical habitat for *O. franksi*. The public was provided prior notice and comment on the proposed designation, which correctly identified the boundary of the critical habitat unit for *O. franksi* in Table 1 of the preamble, in Table 1 at 50 CFR 266.230(a), and in the map of the unit (Figure 13 of 50 CFR 226.230(f)), which is the regulatory designation. No comments were received about this boundary. Therefore, providing prior notice and opportunity for public comment on this correction to Table 2 at 50 CFR 226.230(b) is unnecessary and contrary to the public interest because this is a non-substantive change and retaining the inconsistent and incorrect information may cause confusion.

For the reasons stated above, the Assistant Administrator also finds good cause, pursuant to 5 U.S.C. 553(d), to waive the 30-day delay in effective date for this correction amendment (*i.e.*, it is unnecessary and contrary to the public interest since it is a non-substantive change, the public was provided prior notice and comment on the proposed designation which correctly identified the boundary of the critical habitat unit for *O. franksi* in Table 1 of the preamble, in Table 1 at 50 CFR 266.230(a), and in the map of the unit (Figure 13 of 50 CFR 226.230(f)), which is the regulatory designation, and no comments were received about this boundary).

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable. Accordingly, no Regulatory Flexibility Analysis is required and none has been prepared.

List of Subjects in 50 CFR Part 226

Endangered and threatened species.

Dated: March 14, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 226 as follows:

PART 226 – DESIGNATED CRITICAL HABITAT

1. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

2. In § 226.230 (b), under the subheading “*Orbicella franksi*”, revise the table entry for OFRA-1 to read as follows:

§ 226.230 Critical habitat for the Caribbean Boulder Star Coral (*Orbicella franksi*), Lobed Star Coral (*O. annularis*), Mountainous Star Coral (*O. faveolata*), Pillar Coral (*Dendrogyra cylindrus*), and Rough Cactus Coral (*Mycetophyllia ferox*).

* * * * *

(b) * * *

Table 2 to paragraph (b) -Table of the Locations of the Critical Habitat Units for *Orbicella franksi*, *O. annularis*, *O. faveolata*, *Dendrogyra cylindrus*, and *Mycetophyllia ferox*

Species	Critical Habitat Unit Name	Location	Geographic Extent	Water Depth Range

<i>Orbicella franksi</i>	OFRA-1	Florida	Lake Worth Inlet, Palm Beach County to Government Cut, Miami-Dade County	2-40 m (6.5-131 ft)
		Florida	Government Cut, Miami-Dade County to Dry Tortugas	0.5-40 m (1.6-131 ft)

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