



## *Questions and Answers*

# **Dakota Skipper and Poweshiek Skipperling Listed as Threatened and Endangered**

### **1. What action is the Service taking?**

The Service is protecting two prairie butterflies under authority of the Endangered Species Act (ESA). We are listing the Dakota skipper as threatened and the Poweshiek skipperling as endangered. In addition to listing these butterflies, we are establishing a special “4(d)” rule for the Dakota skipper. This rule exempts routine ranching activities and mowing recreational trails from ESA prohibitions for the Dakota skipper. See questions 8 and 9 for detailed information about the 4(d) rule.

To list these prairie butterflies as threatened and endangered, the Service first published a proposed rule in the *Federal Register* Oct. 24, 2013. The proposed rule opened a 60-day public comment period. A separate proposed rule was published in the *Federal Register* on the same date to propose designating critical habitat for both butterflies. A final determination on designating critical habitat will be made at a later date.

The Service gathered and analyzed public comments and new information that were received. Based on that analysis, the Service determined that the Poweshiek skipperling is in danger of becoming extinct, and the Dakota skipper may become endangered in the foreseeable future. Therefore, we published a final rule in the *Federal Register* on October 24, 2014, that adds the Poweshiek skipperling and Dakota skipper to the list of threatened and endangered species.

### **2. Has the Service made a final decision about critical habitat?**

No, we have not made a final determination on designating critical habitat for the Dakota skipper and Poweshiek skipperling; that determination will be made at a later date. We are continuing our evaluation of the information we have received since critical habitat was proposed Oct. 24, 2013. In particular, we are evaluating if any of the lands proposed as critical habitat may be excluded from the final determination. When proposing critical habitat, the Service has little discretion under the law: If the area meets the legal definition, usually the Service must include it in the critical habitat proposal. However, when making the final decision to designate critical habitat, the Service has some discretion. We may exclude areas from a final designation based on a variety of factors, including the implementation of plans or preservation of partnerships that help conserve the species. If landowners have contracts or agreements (i.e. Conservation Reserve Program, WaterBank, easements) that protect or improve native plants in areas proposed as critical habitat, the Service may be able to exclude those areas from the final critical habitat designation.

### **3. What is the Dakota skipper and where is it found?**

The Dakota skipper is a small butterfly that lives in high-quality mixed and tallgrass prairie. It has been extirpated from Illinois and Iowa and now occurs in remnants of native mixed and tallgrass prairie in Minnesota, the Dakotas and southern Canada.

#### **4. What is the Poweshiek skipperling and where is it found?**

The Poweshiek skipperling is a small butterfly known to be present at only a few native prairie remnants and prairie fens in Wisconsin and Michigan and one location in Manitoba, Canada. It is extirpated from Illinois and Indiana and has experienced a broad and sharp decline in Iowa, Minnesota, South Dakota and North Dakota since about 2003; its status in those states is now uncertain.

#### **5. What is the difference between endangered and threatened?**

***Endangered*** - Any species that is in danger of extinction throughout all or a significant portion of its range.

***Threatened*** - Any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

In simple terms, endangered species are at the brink of extinction now, whereas threatened species are likely to be at the brink of extinction in the near future.

Although all the prohibitions described in section 9 of the ESA apply to species listed as endangered, under section 4(d) the Service has the authority to determine which protections should apply to each threatened species. In other words, we can select and fine-tune protections that best meet the conservation needs of threatened species by developing a 4(d) rule.

We have established a 4(d) rule for the Dakota skipper that exempts some routine livestock operation activities and recreation trail maintenance activities from the “take” prohibitions.

#### **6. Why did the Service list the Dakota skipper as threatened and the Poweshiek skipperling as endangered?**

##### ***Dakota Skipper***

The Dakota skipper has been extirpated from Illinois, Iowa and eastern Minnesota; it occurs in scattered, isolated prairie remnants in western Minnesota, the Dakotas and southern Canada. The Dakota skipper has been recognized as a species vulnerable to extinction since the 1970s. Since 2002, there has been a downward trend in the number of sites where surveyors have been able to find it, and that trend has sharpened since 2010. Since 2010, species experts have not been able to find the Dakota skipper on 75 percent of the sites where they were previously found. It was found at only one site in Minnesota in 2012, despite extensive surveys and this trend continued into 2013 and 2014. The Dakota skipper is now known from only one site in Minnesota. If trends continue, the species is likely to be in danger of extinction in the foreseeable future, thus is listed as a threatened species. We determined that “endangered” status was not appropriate because some Dakota skipper populations in North Dakota, South Dakota, Manitoba, and Saskatchewan still appear to be doing relatively well. In Manitoba, 14 to 15 sites are managed in a manner conducive to conservation of Dakota skipper (haying after the adult flight period), and threats at those sites are not imminent. Also, we believe this butterfly is present on several sites in scattered counties in Minnesota and South Dakota where threats to the population are low.

### *Poweshiek Skipperling*

Once common and abundant throughout native prairies in eight states and at least one Canadian province, the Poweshiek skipperling and its habitat have experienced astonishing declines. Currently, the species is known to be present at only one or two native prairie remnants in Wisconsin, at a few sites in Oakland County, Michigan, and in one location in Manitoba, Canada. All of the few locations where we believe the species to be present are subject to some level of threat to each population. The Poweshiek skipperling is likely extirpated from Illinois and Indiana and its status is uncertain in Iowa, Minnesota, North Dakota and South Dakota, where it has undergone an extensive and sharp decline since 2003. Until recently these four states contained more than 90 percent of the species' records, but despite extensive survey efforts, the Poweshiek skipperling has not been found in any of the states since 2008. The Poweshiek skipperling is currently in danger of extinction throughout its entire range.

### **7. How does the Endangered Species Act protect listed species?**

The ESA protects species by prohibiting take (harming, harassing, injuring or killing a species ). Actions that cause direct mortality are prohibited, but significant habitat modification or habitat degradation that leads to the death or injury of listed animals are also forms of take. States may also have their own laws that protect federally threatened and endangered species.

In addition to the general prohibitions against take, section 7 of the ESA protects listed species by requiring that all federal agencies consult with the Service to ensure that their actions are not likely to jeopardize the continued existence of a listed species. Through consultation, the Service works with federal agencies and advises them on whether their actions would harm a species or its critical habitat and ways to avoid that harm and further the conservation of the species. Applicants for federal permits or federal funding, including private landowners, often play an important role in these consultations by providing information or assistance to the consulting agencies.

Listing under the ESA helps conserve species in other ways. Listed species often become priorities for grants and other funding because the ESA requires all federal agencies to conserve threatened and endangered species. Additionally, the ESA requires the Service to prepare a recovery plan for all listed species. Recovery plans identify and prioritize conservation actions necessary for a species' recovery, which helps direct funding toward the most important conservation actions.

### **8. How does listing affect private landowners who have these butterflies on their property?**

Theoretically, any activity that harms or destroys (i.e. takes) a butterfly or its larvae would be prohibited. However, we recognize the Dakota skipper and Poweshiek skipperling remain only on lands where management has allowed them to survive, while the butterflies have died off elsewhere. These landowners deserve credit for their stewardship, and we want to encourage the management they practice that supports the butterflies.

To minimize impacts to landowners and promote continued cooperation with them while trying to recover and eventually delist the Dakota skipper, the Service established a 4(d) rule under the ESA. Section 4(d) allows the Service to develop special regulations that can reduce or expand the normal protections for species listed as threatened (but not for species listed as endangered)

to conserve the species. The 4(d) rule for the Dakota skipper exempts incidental take of Dakota skippers caused by certain routine livestock operation activities (including grazing) and mowing of recreational trails. See question 9 for more detail on the 4(d) rule.

Any take that results from private landowner activities not exempted under the 4(d) rule would require a permit from the Service. Therefore, private landowners with Dakota skippers on their property should become familiar with the contents of the 4(d) rule and contact the Service if they have questions. Actions that may cause take and require a permit from the Service include prescribed burns, haying before July 16, broadcast herbicide treatments, some insecticide treatments, and permanent conversion of the Dakota skipper's grassland habitats. A separate set of Questions and Answers titled "Dakota Skipper 4(d) Rule" provides more information.

The 4(d) rule does not apply to take of the Poweshiek skipperling because it is listed as endangered, and the ESA does not allow 4(d) rules for endangered species. Take of Poweshiek skipperlings would not be allowed without a permit from the Service. In addition to the activities listed above that take Dakota skippers (e.g., prescribed fire), interruption of groundwater flows into prairie fens where Poweshiek skipperling lives may result in take. At this time, Poweshiek skipperlings are found only certain to be found in Wisconsin and Michigan in the United States.

Landowners could also be affected indirectly by provisions of section 7 of the ESA. Section 7 protects listed species by requiring that federal agencies ensure their actions do not jeopardize the continued existence of a listed species. To meet this requirement, federal agencies must consult with the Service. Although only the section 9 take prohibitions apply directly to private landowners, federal agencies such as the Natural Resources Conservation Service would have to consult with the Service on their actions that could affect these butterflies, even if the actions are on private property. In Michigan, where Poweshiek skipperlings are primarily on wetlands regulated by the Michigan Department of Environmental Quality, actions that require a Clean Water Act section 404 permit would be subject to review by the Service and the U.S. Environmental Protection Agency.

### **9. What is a 4(d) rule, and what activities does the rule allow?**

*A separate set of Questions and Answers titled "Dakota Skipper 4(d) Rule" provides more information. [www.fws.gov/midwest/endangered/insects/dask](http://www.fws.gov/midwest/endangered/insects/dask)*

### **10. Now that these butterflies are listed, will the government have free access to my land?**

No, the presence of a listed species does not give government employees or representatives any rights to access private property.

### **11. As a public land manager, must I manage for these species?**

The ESA does not require non-federal public or private landowners to actively manage for a listed species. However, federal land managers should be aware that section 7(a)(1) of the ESA requires federal agencies to use their authorities to further the conservation of listed species.

The Service has programs, including Partners for Fish and Wildlife and state and tribal grant programs, to develop projects and partnerships to conserve these and other species.

## 12. How can I get more information?

We have information about listing the Dakota skipper and Poweshiek skipperling on our website at [www.fws.gov/midwest/angered/insects/dask](http://www.fws.gov/midwest/angered/insects/dask). You may also request information by writing or calling:

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