

U.S. Fish and Wildlife Service
Northeast Region Endangered Species Act Update
October 11, 2019

Proposed Regulation Changes

On August 27, 2019, the U.S. Fish and Wildlife Service and National Marine Fisheries Service published in the *Federal Register* final rules to revise the regulations at:

- 50 CFR 402, which implements consultation provisions found in section 7 of the ESA. The revisions address alternative consultation mechanisms (e.g., programmatic consultations), revise the definitions of “destruction or adverse modification” and “effects of the action”, address certainty of mitigation proposed by action agencies, and otherwise improve the consultation process.
- 50 CFR 424, which implements listing and critical habitat provisions found in section 4 of the Act. The revisions add a framework for interpreting foreseeable future; clarify that the standards for delisting, reclassification, and listing are the same; re-define and expand considerations in determining that designating critical habitat is not prudent; require that occupied habitat be evaluated before unoccupied habitat when designating critical habitat; and clarify when unoccupied areas would be determined to be essential for the conservation of the species.
- 50 CFR 17, which provides for protective regulations for threatened species. The revisions rescind the “blanket” 4(d) rules that extended the protections for endangered species to threatened species and require the Service to determine what, if any, protective regulations and section 9 prohibitions are appropriate for each species that the Service in the future determines to be a threatened species. The regulations for species already listed as threatened will not change.

On September 25, 2019, the Services published in the *Federal Register* a regulation delaying the effective date for the revisions to the section 7 regulations at 50 CFR 402. The effective date was delayed to October 28, 2019.

The final rules and the rule delaying the effective date for the revisions to the section 7 regulations can be found at

https://www.fws.gov/endangered/improving_ESA/regulation-revisions.html.

White-Nose Syndrome (WNS) (All States)

White-nose syndrome has been confirmed in 33 states and 7 Canadian provinces. Additionally, the disease-causing fungus has been detected or is suspected to be present in Mississippi, Texas, Wyoming, North Dakota and California without confirmation of disease. The disease has been

confirmed in at least 11 species of North American hibernating bats, with an additional six species of bats detected with the fungus only.

- WNS Grants:
 - FWS awarded about \$1.1 million in grants to 30 state management agencies, the District of Columbia and three tribes to conserve bats that are affected by or vulnerable to white-nose syndrome. The maximum individual award was just under \$50,000. These funds are awarded to implement conservation actions for bats, fulfill information needs of management entities, and implement the North American Bat Monitoring Program (NABat).
 - In 2019 the Service received proposals for 20 research projects through our annual WNS research funding opportunity. Eight projects totaling \$1.3 million are pending approval.
 - National Fish and Wildlife Foundation's Bats for the Future Fund is reviewing 7 proposals for white-nose syndrome treatment works submitted in 2019. Decisions on these proposals are expected to be made in November.
 - The FWS will be announcing a prize challenge on Challenge.gov and other venues during Bat Week (October 24-31), to seek creative solutions to permanently disarm or weaken the fungus that causes white-nose syndrome. Total prize money available is \$100,000. The prize challenge complements other efforts to fight white-nose syndrome.
- FWS has initiated a NABat working group to be comprised of personnel working in Ecological Services, National Wildlife Refuges, and Science Applications. The working group will advance coordination of NABat efforts to achieve objectives both for the national program as well as for local efforts for listed species and inventory and monitoring.
- Monthly Conference Calls: The Service continues to host two monthly WNS conference calls, held on the first and third Thursdays of each month, to discuss WNS-related topics with state, Federal, tribal, and nongovernmental partners in the United States and Canada. Please contact Jeremy Coleman, National WNS Coordinator (jeremy_coleman@fws.gov), with requests to be added to the email list.

More information on the national response to WNS can be found at <https://www.whitenosesyndrome.org/>.

For more information, contact Jeremy Coleman, jeremy_coleman@fws.gov, or Jonathan Reichard, jonathan_reichard@fws.gov, at the Regional Office.

5-Year Reviews

- 1) **Dwarf Wedgemussel – 5-Year Review** (CT, MA, MD, NH, NJ, NY, PA, VA, VT) – On August 28, 2019, the Service completed a 5-year review for the dwarf wedgemussel (*Alasmidonta heterodon*). The review recommends that the species remain classified as endangered.

The 5-year review can be found at

https://ecos.fws.gov/docs/five_year_review/doc6120.pdf.

For more information, contact Sandra Doran in our New York Field Office at sandra_doran@fws.gov

- 2) **Northern Riffleshell – 5-Year Review** (NY, PA, WV) –On August 28, 2019, the Service completed a 5-year review for the Northern riffleshell (*Epioblasma torulosa rangiana*). The review recommends that the species remain classified as endangered.

The 5-year review can be found at https://ecos.fws.gov/docs/five_year_review/doc6119.pdf.

For more information, contact Robert Anderson in our Pennsylvania Field Office at robert_m_anderson@fws.gov

- 3) **Clubshell – 5-Year Review** (NY, PA, WV) –On August 28, 2019, the Service completed a 5-year review for the Clubshell (*Pleurobema clava*). The review recommends that the species remain classified as endangered.

The 5-year review can be found at https://ecos.fws.gov/docs/five_year_review/doc6118.pdf.

For more information, contact Robert Anderson in our Pennsylvania Field Office at robert_m_anderson@fws.gov

- 4) **Puritan Tiger Beetle – 5-Year Review** (CT, MA, MD) –On July 25, 2019, the Service completed a 5-year review for the Puritan tiger beetle (*Cicindela puritana*). The review recommends that the species remain classified as threatened.

The 5-year review can be found at https://ecos.fws.gov/docs/five_year_review/doc6084.pdf.

For more information, contact Cherry Keller in our Pennsylvania Field Office at cherry_keller@fws.gov

- 5) **Northeastern Beach Tiger Beetle – 5-Year Review** (MA, MD, NJ, VA) –On August 28, 2019, the Service completed a 5-year review for the Northeastern beach tiger beetle (*Cicindela dorsalis dorsalis*). The review recommends that the species remain classified as threatened.

The 5-year review can be found at https://ecos.fws.gov/docs/five_year_review/doc6121.pdf.

For more information, contact Jennifer Stanhope in our Pennsylvania Field Office at jennifer_stanhope@fws.gov

- 6) **Flat-spined Three-toothed Land Snail – 5-Year Review** (WV) –On August 23, 2019, the Service completed a 5-year review for the Flat-spined three-toothed land snail (*Triodopsis platysayoides*). The review recommends that the species remain classified as threatened.

The 5-year review can be found at https://ecos.fws.gov/docs/five_year_review/doc6114.pdf.

For more information, contact Barbara Douglas in our West Virginia Field Office at barbara_douglas@fws.gov

- 7) **Knieskern's Beaked-rush – 5-Year Review** (DE, NJ) – On July 25, 2019, the Service completed a 5-year review for the Knieskern's beaked-rush (*Rhynchospora knieskernii*). The review recommends that the species remain classified as threatened.

The 5-year review can be found at https://ecos.fws.gov/docs/five_year_review/doc6079.pdf.

For more information, contact Ron Popowski in our New Jersey Field Office at ron_popowski@fws.gov

- 8) **Northeastern Bulrush – 5-Year Review** (MD, MA, NH, NY, PA, VT, VA, WV) – On August 28, 2019, the Service completed a 5-year review for the Northeastern bulrush (*Scirpus ancistrochaetus*). The review recommends that the species be delisted due to recovery.

The 5-year review can be found at https://ecos.fws.gov/docs/five_year_review/doc6123.pdf.

For more information, contact Maria Tur in our New England Field Office at maria_tur@fws.gov.

- 9) **Notices of Initiation of 5-Year Reviews** – The Northeast Region published a *Federal Register* notice announcing the initiation of 5-year reviews for seven species on September 4, 2019: Appalachian monkeyface (*Quadrula sparsa*) (VA), Hay's spring amphipod (*Stygobromus hayi*) (DC), Atlantic salmon (*Salmo salar*) (ME), diamond darter (*Crystallaria cincotta*) (WV), Virginia round-leaf birch (*Betula uber*) (VA), Virginia spiraea (*Spiraea virginiana*) (VA, WV), and swamp pink (*Helonius bullata*) (DE, MD, NJ, VA).

The *Federal Register* notice can be found at <https://www.govinfo.gov/content/pkg/FR-2019-09-04/pdf/2019-19056.pdf>.

For more information, contact Abby Gelb in our Regional Office at abby_gelb@fws.gov.

The Service's Midwest Region has initiated 5-year reviews for three species occurring in the Northeast Region: gray bat (*Myotis grisescens*) (VA, WV), sheepnose mussel (*Plethobasus cyphus*) (PA, VA, WV), and Houghton's goldenrod (*Salidago houghtonii*) (NY). For more information, contact Laura Ragan in the Midwest Regional Office at laura_ragan@fws.gov.

- 10) **Bog Turtle – SSA to Inform 5-year Review** (CT, DE, MA, MD, NY, NJ, PA) – A species status assessment (SSA) is underway for the northern population of bog turtle (*Clemmys [=Glyptemys] muhlenbergii*). We expect to complete a draft of the SSA by September 2020 and the 5-year review in spring 2021.

For more information, contact Noelle Rayman-Metcalf in our New York Field Office at noelle_rayman@fws.gov.

- 11) American Hart's-Tongue Fern – SSA to Inform 5-year Review** (AL, MI, NY, TN, and Canada) – A species status assessment (SSA) is underway for the American hart's-tongue fern (*Asplenium scolopendrium* var. *americanum*) to evaluate current population status and trends and the relative effects of both positive and negative influences on the species' viability. The results of the SSA will inform a 5-year review recommendation whether to retain this species as threatened or delist it on the basis of recovery; the SSA results will also inform the current recovery needs for the species. A 5-year review recommendation to retain the species as threatened would lead to assessment of the 1993 recovery plan, possibly resulting in plan revision. The SSA core team includes state representatives and other experts. We expect to make the draft SSA report available for peer and state review and to complete the 5-year review in early FY2020.

For more information, contact John Wiley in our New York Field Office at john_wiley@fws.gov.

Recovery Planning

- 1) Virginia Big-Eared Bat Recovery Plan Amendment** (VA, WV) – The Service has prepared a draft recovery plan amendment for the endangered Virginia big-eared bat (*Corynorhinus (=Plecotus) townsendii virginianus*). The Service's West Virginia Field Office coordinated these efforts with state natural resource agency and Service field office personnel in West Virginia, Virginia, North Carolina, Tennessee, and Kentucky. A Notice of Availability of the draft plan amendment was published in the *Federal Register* on August 6, 2019, for public comment; the comment period ended on September 5, 2019. The Service expects to issue a final plan amendment in FY20.

The draft amendment can be found at

https://ecos.fws.gov/docs/recovery_plan/20190313_Draft%20VBEB%20Recovery%20Plan%20Amendment.

For more information, contact Barbara Douglas in our West Virginia Field Office at barbara_douglas@fws.gov.

- 2) Jesup's Milk-vetch Recovery Plan Revision** (NH, VT) – The Service issued a Revised Recovery plan for the endangered Jesup's milk-vetch (*Astragalus robbinsii* var. *jesupii*) on September 27, 2019. The Service's New England Field Office coordinated this effort with state natural resource agency personnel and experts in New Hampshire and Vermont. A Notice of Availability of the draft plan revision was published in the *Federal Register* on August 6, 2019, for public comment; the comment period ended on September 5, 2019.

The final plan revision can be found at

https://ecos.fws.gov/docs/recovery_plan/20190927_JMV_Revised%20Recovery%20Plan.pdf.

For more information, contact Susi vonOettingen in our New England Field Office at susi_vonoettingen@fws.gov.

- 3) Furbish’s Lousewort Recovery Plan Amendment (ME)** –The Service issued a Revised Recovery Plan (RPI based on the SSA) for the endangered Furbish’s lousewort (*Pedicularis furbishiae*) on September 27, 2019. The Service’s Maine Field Office coordinated this effort with Maine natural resource agency personnel. A Notice of Availability of the draft plan amendment was published in the *Federal Register* on August 6, 2019, for public comment; the comment period ended on September 5, 2019.

The revised plan can be found at

https://ecos.fws.gov/docs/recovery_plan/20190926_furbishs%20lousewort%20Recovery%20Plan_signed.pdf.

For more information, contact Mark McCollough in our Maine Field Office at mark_mccollough@fws.gov.

- 4) Shenandoah Salamander – Not Practicable Determination for Recovery Criteria (VA)** – On July 22, 2019, the Service completed a Not Practicable Determination for recovery criteria of the endangered Shenandoah salamander (*Plethodon shenandoah*). Information is so limiting and inconclusive that priorities and mitigation cannot be identified at this time. Development of delisting criteria has been determined to be impracticable.

The finding can be found at

https://ecos.fws.gov/docs/recovery_plan/20190722%20Shenandoah%20salamander%20NPD%20Final%20signed.pdf.

For more information, contact Jennifer Stanhope in our Virginia Field Office at jennifer_stanhope@fws.gov.

- 5) Red Knot – Initiation of Recovery Planning (All States)** – The Service has initiated recovery planning for the threatened rufa red knot (*Calidris canutus rufa*). We have requested that internal and external partners provide any new information and invited biologists with knowledge of the species to participate in a series of webinar-based discussions. We anticipate announcement (in the *Federal Register*) of a public comment period on the draft recovery plan in late 2020 or early 2021.

For more information, contact Wendy Walsh in our New Jersey Field Office at wendy_walsh@fws.gov.

Section 7 Interagency Cooperation

Transportation Programmatic Biological Opinion for Bog Turtle (NJ) – In June 2019, the Service issued a Programmatic Biological Opinion (PBO) on the effects of New Jersey's

road network on the federally listed (threatened) bog turtle (*Glyptemys muhlenbergii*). The PBO evaluated over 150 activities involved in the operation, maintenance, and improvement of the road network and applied a framework of conservation measures to each. The PBO also includes procedures for project screening with Service review when appropriate, and provides for compensatory mitigation in cases where adverse effects cannot be avoided. The PBO was developed in close coordination with New Jersey's Department of Transportation (NJDOT) and Endangered and Nongame Species Program (ENSP), with funding from the Federal Highway Administration. In September 2019, the agencies provided in-person training to about 30 NJDOT staff on how to implement the PBO, which includes a User's Guide. In spring 2020, the ENSP will provide field training to select NJDOT staff to develop in-house capacity for conducting Phase 1 bog turtle surveys. The goals of the PBO are to improve efficiency of project reviews and the conservation of the bog turtle.

The PBO is available on ECOS at <https://ecos.fws.gov/tails/pub/document/14006993>.

For more information, contact Ron Popowski in our New Jersey Field Office at ron_popowski@fws.gov.

Section 10 Incidental Take Permits - Habitat Conservation Plans (HCPs)

- 1) **Pennsylvania Forestry HCP (PA)** – The Pennsylvania Game Commission (PGC) and the Department of Conservation and Natural Resources (DCNR) developed an HCP for take of the Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) resulting from forest management activities on 1.4 million acres of PGC State Game Lands, 2.2 million acres of DCNR State Forests, and 295,000 acres of DCNR State Parks. The State Agencies and the Service are finalizing a Programmatic Agreement with the Advisory Council on Historic Preservation that will facilitate compliance with section 106 of the National Historic Preservation Act. Once complete, the Service will publish in the *Federal Register* a Notice of Availability of the HCP and NEPA analysis (including the Programmatic Agreement) for public comment in fall 2019. For more information, contact Pamela Shellenberger in our Pennsylvania Field Office at pamela_shellenberger@fws.gov.
- 2) **Duke Energy North Allegheny Wind HCP (PA)** -- The Service concluded review of an incidental take permit application from North Allegheny Wind, LLC, a wholly owned subsidiary of Duke Energy Renewables, Inc., who owns and operates the North Allegheny Wind Facility, for take of Indiana bats (*Myotis sodalis*) resulting from operation of its 35-turbine wind facility in Blair and Cambria Counties, Pennsylvania. At the applicant's request, a decision on permit issuance has been postponed until January 2020. For more information, contact Melinda Turner in our Pennsylvania Field Office at melinda_turner@fws.gov.
- 3) **Oil and Gas Coalition Multi-State HCP (OH, PA, WV)** – A coalition of 10 oil and gas companies is developing an HCP to cover midstream and upstream oil and gas exploration, production, and maintenance activities in Ohio, Pennsylvania, and West Virginia over a 35-year period. The Coalition indicated that it intends to request ITP coverage for five bat

species: the endangered Indiana bat (*Myotis sodalis*), the threatened northern long-eared bat (*Myotis septentrionalis*), the little brown bat (*Myotis lucifugus*), the eastern small-footed bat (*Myotis leibii*), and the tricolored bat (*Perimyotis subflavus*). The Service is working with the Coalition on development of the HCP. For more information, contact Pamela Shellenberger in our Pennsylvania Field Office at pamela_shellenberger@fws.gov.

- 4) **Laurel Mountain Wind HCP (WV)** – The Service received an incidental take permit application from AES Laurel Mountain, LLC, who owns and operates the Laurel Mountain Wind Facility, for take of the Indiana bat (*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus (=Plecotus) townsendii virginianus*) resulting from operation of its 65-turbine wind facility in Randolph County, West Virginia. The Service is developing an environmental assessment (EA) for the project and expects to publish in the *Federal Register* a Notice of Availability of the HCP and EA for public comment in fall 2019. For more information, contact Chase Allred in our West Virginia Field Office at chase_allred@fws.gov.
- 5) **Copenhagen Wind HCP (NY)** – The Service received an incidental take permit application from Copenhagen Wind Farm, LLC, who owns and operates the Copenhagen Wind Facility, for take of the Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) resulting from operation of its 40-turbine wind facility in Lewis and Jefferson Counties, New York. The Service is developing an environmental assessment (EA) for the project and expects to publish in the *Federal Register* a Notice of Availability of the HCP and EA for public comment in fall 2019. For more information, contact Robyn Niver in our New York Field Office at robyn_niver@fws.gov.
- 6) **Albany Pine Bush Preserve HCP (NY)** – The Albany Pine Bush Preserve Commission has applied for an incidental take permit for take of the Karner blue butterfly (*Lycaeides melissa samuelis*; KBB) (and frosted elfin (*Callophrys irus*), should it be listed in the future) resulting from development of a recreation trail and general/emergency maintenance on 1.94 acres of occupied habitat within its Discovery Center grounds in Albany County, New York. The applicant’s draft HCP and the Service’s NEPA Environmental Action Statement are undergoing internal review. The Service expects to publish in the *Federal Register* a Notice of Availability of the HCP and NEPA document for public comment in fall 2019. For more information, contact Noelle Rayman-Metcalf in our New York Field Office at noelle_rayman@fws.gov.
- 7) **Allegheny Wood Products HCP (WV)** – Allegheny Wood Products (AWP) is developing an HCP to cover take of nine listed and nonlisted species resulting from forest management and residential development on its Blackwater Canyon property in Tucker County, WV. The Service is working with AWP on development of the HCP. For more information, contact Chase Allred in our West Virginia Field Office at chase_allred@fws.gov.
- 8) **General Conservation Plan for the Indiana Bat and the Northern long-eared bat (NY, PA, WV, possibly others)** – The Service’s Northeast Regional Office, New York, Pennsylvania, and West Virginia Field Offices are collaborating on the development of a General Conservation Plan (GCP) for certain recurring project types that could result in

incidental take of the Indiana bat and the northern long-eared bat. If approved, the GCP could be adopted by eligible applicants as part of their applications for incidental take permits. Applicants that satisfy requirements outlined within the GCP and meet statutory and regulatory issuance criteria may be issued individual incidental take permits. For more information, contact Kevin Connally at the Northeast Regional Office at kevin_connally@fws.gov.

Classification – Candidate Assessment; Petition Findings; Listing, Delisting, Reclassification, Critical Habitat Designation Rulemakings

- 1) **National Listing Workplan** (All States) – On September 1, 2016, the Service announced a 7-year (FYs 2017 to 2023) plan to address our ESA listing workload. The National Workplan is based on the July 2016 final ESA Status Review Prioritization Methodology (<https://www.gpo.gov/fdsys/pkg/FR-2016-07-27/pdf/2016-17818.pdf>). The Prioritization Methodology and resulting Workplan allow us to address our current status review backlog in an efficient, predictable, and transparent manner. Under this approach, each status review is assigned to one of five priority categories, according to the imminence of threats, availability of relevant information, and ongoing conservation efforts by states and other stakeholders.

The National Workplan, updated as of May 2019, is posted at <https://www.fws.gov/endangered/what-we-do/listing-workplan.html>.

There are two documents:

- a FY 2019 plan that shows ongoing carryover actions from FY18 as well as new actions; this is a more complete picture of the Service’s listing work and helps explain why, due to workload capacity and conservation priority, there are actions scheduled for other years; and
- a FY18 to FY 2023 plan that shows only new actions scheduled according to workload capacity and conservation priority.

The National Workplan identifies each action’s completion date; work on the action will begin at least a year or two before this date, depending on the species’ range, other biological complexities, and staffing consideration. In initiating each scheduled Species Status Assessment (SSA), the Service will coordinate with State Directors and biological staff. If you have information or questions about the species that occur in your areas, we ask that you coordinate with the Field Office Supervisor in the appropriate state. For some of these species, the Service’s lead field office is one located in another Service Region. As of FY 2019, the National Workplan addresses status reviews for 101 species occurring in the Northeast Region (R5) (65 R5 lead; 36 non-R5 lead).

For more information, contact Krishna Gifford in our Regional Office at krishna_gifford@fws.gov.

- 2) **Candy Darter – Final Critical Habitat Designation** (VA, WV) – The Service is working on finalizing the proposed critical habitat rule for the candy darter (*Etheostoma osburni*) that was published in the *Federal Register* on Wednesday, November 21, 2018. The 2018 rule proposed to designate a total of approximately 596 stream kilometers (370 stream miles), in Virginia and West Virginia, of occupied habitat fall within the boundaries of the proposed critical habitat designation. The proposed rule opened a 60-day public comment period that ended on January 22, 2019. A final decision on the proposal is expected to be published in FY 2020.

The proposed rule can be found at <https://www.govinfo.gov/content/pkg/FR-2018-11-21/pdf/2018-25315.pdf>.

Supporting documents can be viewed through www.regulations.gov under docket # FWS–R5–ES–2018–0050.

For more information, contact Keith Hastie in our Regional Office at keith_hastie@fws.gov.

- 3) **American Burying Beetle – Proposed Rule to Downlist and Proposed 4(d) Rule** (AR, KS, OK, MA, NE, OH, RI, SD, TX) – On May 3, 2019, the Service published in the *Federal Register* a proposed rule to reclassify the American burying beetle (*Nicrophorus americanus*) from endangered to threatened and a proposed section 4(d) rule identifying activities that would be prohibited unless authorized. The proposed rules opened a 60-day public comment period that ended on July 2, 2019. At the request of the Center for Biological Diversity, a public hearing was scheduled for September 24, 2019, and the comment period was reopened for 30 days starting September 9, 2019, and closing October 9, 2019. A final decision on the proposal is expected to be published in FY 2020.

The proposed rule can be found at <https://www.govinfo.gov/content/pkg/FR-2019-05-03/pdf/2019-09035.pdf>.

The *Federal Register* notice announcing the public hearing can be found at <https://www.govinfo.gov/content/pkg/FR-2019-09-09/pdf/2019-19245.pdf>.

Information can be sent to Kevin Stubbs in the Oklahoma Field Office at kevin_stubbs@fws.gov.

- 4) **Black-capped Petrel – Proposed Rule to List** (offshore areas of VA, NC, SC, GA, FL; and Cuba, Bahamas, Dominican Republic, Haiti, and other Caribbean Islands) – On October 9, 2018, the Service published in the *Federal Register* a proposed rule to list the black-capped petrel (*Pterodroma hasitata*) as a threatened species with a 4(d) rule. This pelagic seabird breeds on the Caribbean Islands and migrates long distances to foraging areas in the western Atlantic and southern Caribbean basins. The Service has determined that designating critical habitat for the black-capped petrel is not prudent at this time, but is seeking public comment on that determination. The proposed rule opened a 60-day public comment period that ended on December 10, 2018. A final decision on the proposal is targeted for publication by December 2019.

The proposed rule can be found at:

<https://www.gpo.gov/fdsys/pkg/FR-2018-10-09/pdf/2018-21793.pdf>.

Additional information about the species, including the species status assessment (SSA) report and other supporting material, can be found at

<https://www.fws.gov/southeast/wildlife/birds/black-capped-petrel/>.

For more information, contact Tom White in our Puerto Rico Field Office at

thomas_white@fws.gov.

- 5) Eastern Black Rail – Proposed Rule to List** (AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MS, MI, NE, NH, NJ, NY, NC, OH, OK, PA, Puerto Rico, RI, SC, TN, TX, VA, Virgin Islands, WV) – On October 9, 2018, the Service published in the *Federal Register* a proposed rule to list the eastern black rail (*Laterallus jamaicensis jamaicensis*) as a threatened species with a 4(d) rule. Partially migratory, the eastern black rail is known to appear in as many as 36 states plus multiple territories and countries in the Caribbean and Central and South America. One of four subspecies of black rail, the eastern black rail, though rare, is broadly distributed but highly localized, and lives in salt, brackish, and freshwater marshes. The Service is not designating critical habitat for the eastern black rail at this time due to concerns that identifying such areas may attract birders seeking out these shy and elusive birds, placing additional stress on the bird. The proposed rule opened a 60-day public comment period that ended on December 10, 2018. A final decision on the proposal is targeted for publication by December 2019.

The proposed rule can be found at:

<https://www.gpo.gov/fdsys/pkg/FR-2018-10-09/pdf/2018-21799.pdf>.

Additional information about the species, including the species status assessment (SSA) report and other supporting material, can be found at

<https://www.fws.gov/southeast/wildlife/birds/eastern-black-rail/>.

For more information, contact Whitney Wiest in our South Carolina Field Office at

whitney_wiest@fws.gov.

- 6) Seaside Alder – Not Warranted 12-Month Petition Finding** (DE, MD, GA, OK) – On August 15, 2019, the Service published in the *Federal Register* a 12-month petition finding that listing the seaside alder (*Alnus maritima*) as an endangered or threatened species is not warranted. The finding is based on a species status assessment (SSA) report completed in May 2018.

The *Federal Register* notice for the 12-month finding can be found at

<https://www.govinfo.gov/content/pkg/FR-2019-08-15/pdf/2019-17536.pdf#page=1>.

The SSA report can be found at <https://ecos.fws.gov/ServCat/DownloadFile/164388>.

For more information, contact Cherry Keller in our Chesapeake Bay Field Office at cherry_keller@fws.gov.

- 7) **Brook Floater Mussel – Not Warranted 12-Month Petition Finding** (CT, DC, GA, MA, MD, ME, NC, NH, NJ, NY, PA, RI, SC, VA, VT, WV, Canada) – On August 15, 2019, the Service published in the *Federal Register* a 12-month finding that listing the brook floater (*Alasmidonta varicosa*) as an endangered or threatened species is not warranted. The finding is based on a species status assessment (SSA) report completed in July 2018.

The *Federal Register* notice for the 12-month finding can be found at <https://www.govinfo.gov/content/pkg/FR-2019-08-15/pdf/2019-17536.pdf#page=1>.

The SSA report can be found at <https://ecos.fws.gov/ServCat/DownloadFile/164394>.

For more information, contact Sandie Doran in our New York Field Office at sandra_doran@fws.gov.

- 8) **Yellow Lance Mussel – Proposed 4(d) Rule and Critical Habitat Designation** (MD, VA, NC, SC, GA) – On April 3, 2018, the Service published in the *Federal Register* a final rule listing the yellow lance (*Elliptio lanceolata*) as a threatened species. The Service expects to publish a proposed 4(d) rule and a proposed critical habitat designation in the *Federal Register* in FY 2020.

The final listing rule can be found at <https://www.gpo.gov/fdsys/pkg/FR-2018-04-03/pdf/2018-06735.pdf>.

Supporting documents can be viewed through www.regulations.gov under docket # FWS–R4–ES–2017–0017.

For more information, contact Sarah McRae in our Raleigh North Carolina Field Office at sarah_mcr@fws.gov.

- 9) **Yellow Banded Bumble Bee –Not Warranted 12-Month Petition Finding** (CT, IL, KY, MA, MD, ME, MI, MN, MT, NC, ND, NH, NY, OH, PA, RI, SD, TN, VA, VT, WI, WV, Canada) – On August 15, 2019, the Service published in the *Federal Register* a 12-month finding that listing the yellow banded bumblebee (*Bombus terricola*) as an endangered or threatened species is not warranted.

The *Federal Register* notice for the 12-month finding can be found at <https://www.govinfo.gov/content/pkg/FR-2019-08-15/pdf/2019-17536.pdf#page=1>.

The SSA report can be found at <https://ecos.fws.gov/ServCat/DownloadFile/164401>.

For more information contact Sandra Lary in our Northeast Regional Office at sandra_lary@fws.gov.

10) Elk River Crayfish – SSA to Inform 12-Month Petition Finding (WV) – On September 27, 2011, the Service published in the *Federal Register* a 90-day finding that a petition to list the Elk River crayfish (*Cambarus elkensis*) presented substantial information indicating that listing the species may be warranted. The Service has initiated a species status review and will prepare a species status assessment (SSA) report, which will support a 12-month finding. On April 18, 2019, the Center for Biological Diversity filed a complaint that the Service had missed the statutory deadline for completing the 12-month finding. We expect to complete the SSA and resulting 12-month finding in mid-FY 2020.

The *Federal Register* notice for the 90-day finding can be found at <https://www.gpo.gov/fdsys/pkg/FR-2011-09-27/pdf/2011-24633.pdf>.

For more information, contact Barbara Douglas in our West Virginia Field Office at barbara_douglas@fws.gov.

11) Northern Virginia Well Amphipod – SSA to Inform a Discretionary Status Review (VA) – Originally scheduled for FY 2023, the Service has reprioritized the species status assessment and listing recommendation for the Northern Virginia well amphipod (*Stygobromus phreaticus*) to be completed in early FY 2020. The change in prioritization will be reflected in the forthcoming update to the National Listing Workplan (see item above). The species is currently known to occur on Fort Belvoir in Fairfax County, Virginia.

For more information, contact Sumalee Hoskin in our Virginia Field Office at sumalee_hoskin@fws.gov.

12) Peaks of Otter Salamander – Not Warranted 12-Month Petition Finding (VA) - On October 7, 2019, the Service published in the *Federal Register* a 12-month not warranted finding for the Peaks of Otter salamander (*Plethodon hubrichtii*). The finding is based on a species status assessment (SSA) report completed in February 2019.

The 12-month finding can be found at <https://www.govinfo.gov/content/pkg/FR-2019-10-07/pdf/2019-21605.pdf>.

The SSA Report can be found at <https://ecos.fws.gov/ServCat/DownloadFile/164412>.

For more information, contact Rose Agbalog in our Southwestern Virginia Field Office at rose_agbalog@fws.gov.

13) Big Sandy Crayfish and Guyandotte River Crayfish – Proposed Critical Habitat Designation (VA, WV, KY) – The Service is developing a proposed critical habitat designation rule for the Big Sandy crayfish (*Cambarus callainus*) and the Guyandotte River crayfish (*C. veteranus*), which were listed as threatened and endangered, respectively, on April 7, 2016.

On June 20, 2018, the Center for Biological Diversity (CBD) filed a lawsuit against the Service for failure to meet the statutory timeline for designating critical habitat for the two crayfish. On September 21, 2018, CBD agreed to stay further litigation on this until December 31, 2019. We expect to publish a proposed critical habitat designation rule in the *Federal Register* by December 31, 2019.

Documents pertaining to the listing can be found at the following links:

- Final rule: <https://www.gpo.gov/fdsys/pkg/FR-2016-04-07/pdf/2016-07744.pdf>
- Big Sandy and Guyandotte River Crayfishes website: <http://www.fws.gov/northeast/crayfish/>

For more information, contact Keith Hastie in our Regional Office at keith_hastie@fws.gov.

14) Longsolid Mussel – SSA to Inform 12-Month Petition Finding (AL, AR, GA, IL, IN, KY, NC, NY, OH, PA, TN, VA, WV) - On September 27, 2011, the Service published in the *Federal Register* a 90-day finding that a petition to list the longsolid mussel (*Fusconaia subrotunda*) presented substantial information indicating that listing the species may be warranted. The Service has initiated a species status review and will prepare a species status assessment (SSA) report, which will support a 12-month finding. We expect to complete the SSA and resulting 12-month finding in FY 2020.

For more information, contact Andrew Henderson in the Asheville North Carolina Field Office at andrew_henderson@fws.gov.

15) Purple Lilliput Mussel – SSA to Inform 12-Month Petition Finding (AL, AR, IL, MI, MO, IN, TN, VA) - On September 27, 2011, the Service published in the *Federal Register* a 90-day finding that a petition to list the purple lilliput (*Toxolasma lividus*) presented substantial information indicating that listing the species may be warranted. The Service has initiated a species status review and will prepare a species status assessment (SSA) report, which will support a 12-month finding. We expect to complete the SSA and resulting 12-month finding in FY 2020.

For more information, contact Andrew Henderson in the Asheville North Carolina Field Office at andrew_henderson@fws.gov.

16) Round Hickorynut Mussel – SSA to Inform 12-Month Petition Finding (AL, AR, GA, IL, IN, KY, MI, MS, OH, PA, TN, WV, Canada) - On September 27, 2011, the Service published in the *Federal Register* a 90-day finding that a petition to list the round hickorynut (*Obovaria subrotunda*) presented substantial information indicating that listing the species may be warranted. The Service has initiated a species status review and will prepare a species status assessment (SSA) report, which will support a 12-month finding. We expect to complete the SSA and resulting 12-month finding in FY 2020.

For more information, contact Andrew Henderson in the Asheville North Carolina Field Office at andrew_henderson@fws.gov.

17) Longhead Darter – Not Warranted 12-Month Petition Finding (NY, PA, OH, WV, KY, TN) – On October 7, 2019, the Service published in the *Federal Register* a 12-month not warranted finding for the longhead darter (*Percina macrocephala*). The finding is based on a species status assessment (SSA) report completed in October 2018.

The 12-month finding can be found at <https://www.govinfo.gov/content/pkg/FR-2019-10-07/pdf/2019-21605.pdf>.

The SSA Report can be found at <https://ecos.fws.gov/ServCat/DownloadFile/163715>.

For more information, contact Melinda Turner in our Pennsylvania Field Office at melinda_turner@fws.gov.

18) Cobblestone Tiger Beetle – Not Warranted 12-Month Petition Finding (AL, IN, KY, MA, ME, NH, NJ, NY, OH, PA, SC, VT, WV; Canada (New Brunswick) – On October 7, 2019, the Service published in the *Federal Register* a 12-month not warranted finding for the cobblestone tiger beetle (*Cicindela marginipennis*). The finding is based on a species status assessment (SSA) report completed in November 2018.

The 12-month finding can be found at <https://www.govinfo.gov/content/pkg/FR-2019-10-07/pdf/2019-21605.pdf>.

The SSA Report can be found at <https://ecos.fws.gov/ServCat/DownloadFile/164797>.

For more information, contact Fred Pinkney in our Chesapeake Bay Field Office at fred_pinkney@fws.gov.

19) Tidewater amphipod - SSA to Inform 12-Month Petition Finding (MD, VA, NC) - On September 27, 2011, the Service published in the *Federal Register* a 90-day finding that a petition to list the Tidewater amphipod (*Stygobromus indentatus*) presented substantial information indicating that listing the species may be warranted. The Service initiated a species status review and will prepare a species status assessment (SSA) report that will support a 12-month finding. We anticipate completing the SSA report and listing determination in late FY 2020.

For more information, contact Julie Slacum Thompson in our Chesapeake Bay Field Office at julie_thompson@fws.gov.

20) Chowanoke crayfish - SSA to Inform 12-Month Petition Finding (VA, NC) - On September 27, 2011, the Service published in the *Federal Register* a 90-day finding that a petition to list the Chowanoke crayfish (*Faxonius [Orconectes] virginianensis*) presented substantial information indicating that listing the species may be warranted. The Service initiated a species status review and will prepare a species status assessment (SSA) report that will support a 12-month finding. We anticipate completing the SSA report and listing determination in late FY 2020.

For more information, contact Jennifer Stanhope in our Virginia Field Office at jennifer_stanhope@fws.gov.

- 21) Mountain doll's daisy - SSA to Inform 12-Month Petition Finding (PA, VA, NC) -** On September 27, 2011, the Service published in the *Federal Register* a 90-day finding that a petition to list the [Mountain] doll's daisy (*Boltonia montana*) presented substantial information indicating that listing the species may be warranted. The Service initiated a species status review and will prepare a species status assessment (SSA) report that will support a 12-month finding. We anticipate completing the SSA report and listing determination in late FY 2020.

For more information, contact Keith Hastie in our Regional Office at keith_hastie@fws.gov.

- 22) Monarch Butterfly – SSA to Inform 12-Month Petition Finding (All States) –** On December 31, 2014, the Service published in the *Federal Register* a 90-day finding that a petition to list the *plexippus* subspecies of the monarch butterfly (*Danaus plexippus*) presented substantial information indicating that listing the species may be warranted. The Service conducted a species status review and prepared a species status assessment (SSA) report, which will support a 12-month finding. A court-approved settlement agreement with the petitioners originally required the Service to complete the status review and publish a listing determination for the monarch butterfly in the *Federal Register* no later than June 30, 2019. The Service and plaintiffs have agreed to extend this deadline to December 15, 2020, to allow us to analyze data from the 2018-2019 overwintering survey and the upcoming 2019-2020 overwintering survey and incorporate these analyses into the status review.

Additional information about the monarch butterfly can be found online at <https://www.fws.gov/savethemonarch/>.

For more information, contact Barbara Hosler in the Midwest Regional Office at barbara_hosler@fws.gov.

- 23) Lake Sturgeon – SSA to Inform 12-Month Petition Finding (AL, AR, GA, IA, IL, KS, KY, MI, MN, MO, NC, ND, NE, NY, OH, PA, SD, TN, VT, WI, WV) –** In May 2018, the Center for Biological Diversity petitioned the Service to list the lake sturgeon (*Acipenser fulvescens*). On August 15, 2019, the Service published a 90-day finding indicating the petition to list the species presented substantial information. The Service will initiate a status review and write a species status assessment (SSA) report to support the listing determination. More information on when the listing determination will be scheduled is forthcoming.

The 90-day finding can be found at <https://www.govinfo.gov/content/pkg/FR-2019-08-15/pdf/2019-17569.pdf#page=1>.

For more information, contact Barbara Hosler in the Midwest Regional Office at barbara_hosler@fws.gov.

24) Saltmarsh Sharp-tailed Sparrow – SSA to Inform Discretionary Status Review (CT, DE, FL, GA, MA, MD, ME, NC, NH, NJ, NY, PA, RI, SC, VA) – The discretionary listing determination for the saltmarsh sharp-tailed sparrow (or saltmarsh sparrow for short) (*Ammodramus caudacutus*), originally scheduled for FY 2019, has been rescheduled for FY 2023. Rescheduling the listing determination will allow us to focus on the immediate conservation needs of the species and to fully incorporate into the species status assessment additional information about conservation efforts by our agency and partners, particularly through the Atlantic Coast Joint Venture. The Service will soon release a report describing the species' current condition and threats to bolster planning and implementation of conservation efforts.

Additional information about the saltmarsh sparrow can be found at <http://acjv.org/coordinated-conservation-for-saltmarsh-sparrow/>.

For more information, contact Suzanne Paton in our Southern New England Coastal Program office at suzanne_paton@fws.gov.

25) Frosted Elfin Butterfly – SSA to Inform Conservation Strategy (AL, AR, CT, DC, DE, FL, GA, IL, IN, KY, KS, LA, MA, MD, MI, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI, WV; Canada (Ontario) – The Service is proactively assessing the conservation status of the frosted elfin (*Callophrys irus*), including whether the species may warrant listing under the ESA. The Service has prioritized the frosted elfin's status review, using the July 2016 Methodology for Assessing Status Reviews, as a Bin 4 (species for which proactive conservation efforts by states, landowners, and stakeholders are underway or being developed). As such, making a recommendation on the frosted elfin's status is scheduled for September 30, 2023, in our National Listing Workplan. To facilitate coordination among partners and implementation of conservation actions, we prepared a biological report describing the species' current condition and threats to support development of a conservation strategy. To reduce species distribution data gaps, we drafted pilot rangewide survey protocols and initiated surveys, primarily in the Northeast Region, in spring 2019. We will complete an SSA before making a recommendation on its status in FY2023.

For more information, contact Robyn Niver in our New York Field Office at robyn_niver@fws.gov.

26) Tricolored Bat – SSA to Inform 12-Month Petition Finding (All States) – On December 20, 2017, the Service published in the *Federal Register* a substantial 90-day finding on a petition to list the tricolored bat (*Perimyotis subflavus*) as an endangered or threatened species. A substantial finding means that the petition presented substantial information indicating that ESA listing of the tricolored bat may be warranted. The finding includes a request for information and initiation of a status review of the best available scientific and commercial information. The tricolored bat's 90-day finding, batched with findings for other species, can be found at <https://www.federalregister.gov/documents/2017/12/20/2017-27389/endangered-and-threatened-wildlife-and-plants-90-day-findings-for-five-species>.

We may accept information at any time, using the methods specified in the above *Federal Register* notice, until completion of the status review and subsequent 12-month finding. The 12-month finding will be a decision whether the species warrants listing. A warranted finding would be accompanied by a proposal to list the species as threatened or endangered, and a proposal to designate critical habitat if it is prudent and determinable to do so.

The status review and subsequent 12-month finding are scheduled to be completed in FY 2021 and are reflected in the FY 2019 National Workplan update (see above).

For more information, contact Krishna Gifford in our Regional Office at krishna_gifford@fws.gov.

- 27) Rufa Red Knot – Proposed Critical Habitat Designation (All States)** – The Service is developing a proposed critical habitat designation rule for the red knot (*Calidris canutus rufa*), which was listed as a threatened species on December 11, 2014. A date for this determination has not been set.

On June 22, 2018, Defenders of Wildlife filed a lawsuit against the Service for failure to meet the statutory timeline for designating critical habitat for the *rufa* subspecies of red knot.

Documents pertaining to the listing rulemaking can be found at <http://www.fws.gov/northeast/redknot/>.

For more information, contact Krishna Gifford in our Regional Office at krishna_gifford@fws.gov.

- 28) Canada Lynx – SSA , 5-Year Review, Proposed Delisting Rule, and Proposed Post-delisting Monitoring Plan (ME, NH, VT)** – On January 11, 2018, the Service announced that it has completed a species status assessment (SSA) for the U.S. Distinct Population Segment (DPS) of Canada lynx (*Lynx canadensis*) and a 5-year review recommendation based on results of the assessment. The Service’s recommendation is that the DPS no longer warrants threatened status and should be considered for delisting due to recovery. The Service is developing a proposed delisting rule and post-delisting monitoring plan that are expected to be made available for public comment this fall.

Documents pertaining to the Canada lynx can be found at <https://www.fws.gov/mountain-prairie/es/canadaLynx.php>.

For more information, contact Anne Hecht in our Regional Office at anne_hecht@fws.gov.

- 29) Furbish’s Lousewort – SSA, 5-year Review, and Proposed Downlisting Rule (ME)** – In September 2018, the Service completed a species status assessment for the Furbish’s lousewort (*Pedicularis furbishiae*) to inform a 5-year review recommendation whether to retain this species as endangered, reclassify it to threatened, or delist it on the basis of recovery. The Service’s Maine Field Office coordinated this effort with Maine natural resource agency personnel. On February 21, 2019, the Service completed the 5-year review,

which recommends that the species be reclassified to threatened; the Service is now preparing a draft proposed downlisting rule and expects to publish the rule in the *Federal Register* for public comment in FY 2020.

The 5-year review can be found at

https://ecos.fws.gov/docs/five_year_review/doc5965.pdf.

For more information, contact Mark McCollough in our Maine Field Office at mark_mccollough@fws.gov.

30) Sandplain Gerardia – Proposed Delisting Rule (MA, RI, CT, NY, MD) – On June 19, 2019, the Service completed a 5-year review for the sandplain gerardia (*Agalinis acuta*). The review recommends that the species be delisted due to a change in taxonomy. The review is based on a review of the results of genetics analyses contracted by the Service in 2005, along with peer-reviewed papers published in 2009 and 2011. This research indicates that the sandplain gerardia is part of a more widespread *Agalinis* species (*A. decemloba*). The Service is now preparing a draft proposed delisting rule and expects to publish the rule in the *Federal Register* for public comment in FY 2020.

The 5-year review can be found at

https://ecos.fws.gov/docs/five_year_review/doc6037.pdf.

For more information, contact Steve Sinkevich in our Long Island Field Office at steve_sinkevich@fws.gov.

31) Mussels – Technical Correction (AL, AR, IL, IA, KS, KY, MI, MN, MO, TN, VA, WI, WV) – Taxonomic updates to six freshwater mussels are needed based on Williams et al.’s (2017) “A Revised List of the Freshwater Mussels (Mollusca: Bivalvia: Unionida) of the United States and Canada.” Within our Region, this includes changes in genus nomenclature for the Cumberland monkeyface (*Quadrula intermedia*), Appalachian monkeyface (*Quadrula sparsa*), spectaclecase (*Cumberlandia monodonta*), slabside pearlymussel (*Pleuonaia dolabelloides*), and James spinymussel (*Pleurobema collina*) and changes in species nomenclature for the fluted kidneyshell (*Ptychobranthus subtentum*). We are preparing a direct final rulemaking to effect these changes, which will be published in FY 2020.

For more information, contact Jordan Richard in our Southwest Virginia Field Office at jordan_richard@fws.gov.