§ 73.671 Educational and informational programming for children.

* * * * *

(c) * * *

(3) For commercial broadcast stations only, the program is identified as specifically designed to educate and inform children by the display on the television screen throughout the program of the symbol E/I. *

* * * * *

§ 73.3526 Local public inspection file of commercial stations.

(e) * * * *

(11) * * *

(iii) Children's television programming reports. For commercial TV broadcast stations on an annual basis, a completed Children's Television Programming Report ("Report"), on FCC Form 398, reflecting efforts made by the licensee during the preceding year to serve the educational and informational needs of children. The Report is to be placed in the public inspection file by the tenth day of the succeeding calendar year. By this date, a copy of the Report is also to be filed electronically with the FCC. The Report shall identify the licensee's educational and informational programming efforts, including programs aired by the station that are specifically designed to serve the educational and informational needs of children, and it shall explain how programs identified as Core Programming meet the definition set forth in § 73.671(c). The Report shall include the name of the individual at the station responsible for collecting comments on the station's compliance with the Children’s Television Act, and it shall be separated from other materials in the public inspection file. The Report shall also identify the program guide publishers to which information regarding the licensee's educational and informational programming was provided as required in § 73.673, as well as the station’s license renewal date. These Reports shall be retained in the public inspection file until final action has been taken on the station's next license renewal application. *

[FR Doc. 2018–15819 Filed 7–24–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17


RIN 1018–BC97

Endangered and Threatened Wildlife and Plants; Revision of the Regulations for Prohibitions to Threatened Wildlife and Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose to revise our regulations extending most of the prohibitions for activities involving endangered species to threatened species. For species already listed as a threatened species, the proposed regulations would not alter the applicable prohibitions. The proposed regulations would require the Service, pursuant to section 4(d) of the Endangered Species Act, to determine what, if any, protective regulations are appropriate for species that the Service in the future determines to be threatened.

DATES: We will accept comments received or postmarked on or before September 24, 2018. Comments submitted electronically using the Federal eRulemaking Portal (see ADDRESSES below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit comments by one of the following methods:

1. Electronically: Go to the Federal eRulemaking Portal: http://www.regulations.gov. In the Search box, enter FWS–HQ–ES–2018–0007, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on “Comment Now!”


We request that you send comments only by the methods described above. We will post all comments on http://www.regulations.gov. This generally means that we will post any personal information you provide us (see Request for Information, below, for more information).

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (“ESA” or “Act”; 16 U.S.C. 1531 et seq.), states that the purposes of the Act are to provide a means to conserve the ecosystems upon which listed species depend, to develop a program for the conservation of listed species, and to achieve the purposes of certain treaties and conventions. Moreover, the Act states that it is the policy of Congress that the Federal Government will seek to conserve threatened and endangered species and use its authorities to further the purposes of the Act. This proposed rulemaking action pertains primarily to
sections 4 and 9 of the Act: Section 9 sets forth prohibitions for activities pertaining to species listed under the Act, and section 4(d) pertains to protective regulations for threatened species. This proposed rule is one of three related proposed rules that are publishing in today’s Federal Register. All of these documents propose revisions to various regulations that implement the ESA.

In carrying out Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” the Department of the Interior (DOI) published a document with the title “Regulatory Reform” in the Federal Register of June 22, 2017 (82 FR 28429). The document requested public comment on how DOI can improve implementation of regulatory reform initiatives and policies and identify regulations for repeal, replacement, or modification. This proposed rule and the two related proposed rules in today’s Federal Register address some of the comments that DOI has received in response to the regulatory reform docket.

Proposed Changes to Part 17

The regulations that implement the ESA are located in title 50 of the Code of Federal Regulations. This proposed rule would revise regulations found in part 17 of title 50, particularly in subpart D, which pertains to threatened wildlife, and subpart G, which pertains to threatened plants.

We propose to amend §§ 17.31 and 17.71, along with conforming amendments to other sections of title 50. Among other changes, the proposal would add language in both sections to paragraph (a) to specify that its provisions apply only to species listed as threatened species on or before the effective date of this rule. Species listed or reclassified as a threatened species after the effective date of this rule, if finalized, would have protective regulations only if the Service promulgates a species-specific rule (also referred to as a special rule). In those cases, we intend to finalize the species-specific rule concurrent with the final listing or reclassification determination. Notwithstanding our intention, we have discretion to revise or promulgate species-specific rules at any time after the final listing or reclassification determination. However, we specifically request comments on our stated intention of finalizing species-specific rules concurrent with final listing rules, including whether we should include any binding requirement in the regulatory text to do so, such as setting a timeframe for finalizing species-specific rules after a final listing or reclassification determination.

This change would make our regulatory approach for threatened species parallel with the approach that the National Marine Fisheries Service (NMFS) has taken since Congress added section 4(d) to the Act, as discussed below. The protective regulations that currently apply to threatened species would not change, unless the Service adopts a species-specific rule in the future. As of the date of this proposal, there are species-specific protective regulations for threatened wildlife in subpart D of part 17, but the Service has not adopted any species-specific protective regulations for plants. The proposed regulations would not affect the consultation obligations of Federal agencies pursuant to section 7 of the Act. The proposed regulations would not change permitting pursuant to 50 CFR 17.32.

The policies set forth in ESA Section 9 expressly apply only to species listed as endangered under the Act, as opposed to threatened. 16 U.S.C. 1538(a). ESA Section 4(d), however, provides that the Secretaries may by regulation extend some or all of the Section 9 prohibitions to any species listed as threatened. Id. § 1533(d)(16). U.S.C. 1533(d)(See, also S. Rep. 93–307 (July 1, 1973) (in amending the ESA to include the protection of threatened species and creating “two levels of protection” for endangered species and threatened species, “regulatory mechanisms may more easily be tailored to the needs of the” species). Our existing regulations in §§ 17.31 and 17.71, extending most of the prohibitions for endangered species to threatened species unless altered by a specific regulation, is one reasonable approach to exercising the discretion granted to the Service by section 4(d) of the Act. See Sweet Home Chapter of Communities for a Great Or. v. Babbitt, 1 F.3d 1, 7 (D.C. Cir. 1993) (“regardless of the ESA’s overall design, § 1533(d) arguably grants the FWS the discretion to extend the protection to all threatened species at once, if guided by its expertise in the field of wildlife protection, it finds it expedient to do so”), altered on other grounds in rehearing, 17 F.3d 1463 (D.C. Cir. 1994). Another reasonable approach is the one that the Department of Commerce, through NMFS, has taken in regard to the species under its purview. NMFS did not adopt regulations that extended most of the prohibitions for endangered species to threatened species as we did. Rather, toachieve the protection they list as threatened, NMFS promulgates the appropriate regulations to put in place prohibitions, protections, or restrictions tailored specifically to that species. In more than 40 years of implementing the Act, NMFS has successfully implemented the provisions of the Act using this approach.

Moreover, we have gained considerable experience in developing species-specific rules over the years. Where we have developed species-specific 4(d) rules, we have seen many benefits, including removing redundant permitting requirements, facilitating implementation of beneficial conservation actions, and making better use of our limited personnel and fiscal resources by focusing prohibitions on the stressors contributing to the threatened status of the species. This revision allows us to capitalize on these benefits in tailoring the regulations to the conservation needs of the species.

For example, we finalized a species-specific 4(d) rule for the coastal California gnatcatcher (Polioptila californica californica) on December 10, 1993 (58 FR 65088). In that 4(d) rule, we determined that activities that meet the requirements of the State of California’s Natural Communities Conservation Plan for the protection of coastal sage scrub habitat would not constitute violations of section 9 of the Act. Similarly, in 2016, we finalized the listing of the Kentucky arrow darter (Etheostoma spilotum) with a species-specific 4(d) rule that exempts take as a result of beneficial in-stream habitat enhancement projects, bridge and culvert replacement, and maintenance of stream crossings on lands managed by the U.S. Forest Service in habitats occupied by the species (81 FR 68963, October 5, 2016). As with both of these examples, if the proposed rule is finalized, we would continue our practice of explaining in the preamble the rationale for the species-specific prohibitions included in each 4(d) rule.

Upon reviewing the approach NMFS has taken and in light of the benefits we have noted in developing species-specific rules, we now conclude these proposed changes will align our practices with those of NMFS regarding threatened species under Department of Commerce purview, but also that they will better tailor protections to the needs of the threatened species while still providing meaning to the statutory distinction between “endangered species” and “threatened species.”

The proposed regulations would remove the references to subpart A in § 17.31 and § 17.71. In § 17.71, we propose to specify which sections apply to revised regulations, as to which provisions contain exceptions to the prohibitions. In § 17.71, we propose...
to remove all reference to subpart A, because none of those exceptions apply
to plants.

In proposing the specific changes to the regulations that follow, and setting
out the accompanying clarifying discussion in this preamble, the Service
is establishing prospective standards only. Nothing in these proposed revised
regulations is intended to require (now or at such time as these regulations may
become final) that any previous listing, delisting, or reclassification
determinations or species-specific protective regulations be reevaluated on
the basis of any final regulations. The existing protections for currently-listed
threatened species are within the discretion expressly delegated to the
Secretary by Congress.

Pursuant to section 10(j) of the Act, members of experimental populations
are generally treated as threatened species and, pursuant to 50 CFR 17.81,
populations are designated through population-specific regulation found in
§§ 17.31–17.34. Because under our existing practice, each such population-specific
regulation will contain all of the applicable prohibitions, along with any
exceptions to prohibitions, for that experimental population. None of the
changes associated with this rulemaking will change existing special rules for
experimental populations. Any 10(j) special rules promulgated after the
effective date of this rule which make applicable to a non-essential
experimental population some or all of the prohibitions that statutorily apply to
endangered species will not refer to 50 CFR 17.31(a); rather, they will instead
independently articulate those prohibitions or refer to 50 CFR 17.21.

**Request for Information**

Any final rule based on this proposal will consider information and
recommendations timely submitted from all interested parties. We solicit
comments, information, and recommendations from governmental
agencies, Native American tribes, the scientific community, industry groups,
environmental interest groups, and any other interested parties on this proposed
rule. All comments and materials received by the date listed in DATES,
avove, will be considered prior to the approval of a final rule.

You may submit your information concerning this proposed rule by one of the
methods listed in ADDRESSES. If you submit information via http://
www.regulations.gov, your entire submission—including any personal
identifying information—will be posted on the website. If your submission is
made via a hardcopy that includes personal identifying information, you
may request at the top of your document that we withhold this personal
identifying information from public review. However, we cannot guarantee
that we will be able to do so. We will post all hardcopy submissions on http://
www.regulations.gov.

Information and supporting documentation that we receive in
response to this proposed rule will be available for you to review at http://

**Required Determinations**

**Regulatory Planning and Review**

(Executive Orders 12866 and 13563)

Executive Order 12866 provides that the
Office of Management and Budget's
Office of Information and Regulatory
Affairs (OIRA) will review all significant
rules. OIRA has determined that this
rule is significant.

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

**Executive Order 13771**

This proposed rule is expected to be
an Executive Order 13771 deregulatory
action.

**Regulatory Flexibility Act**

Under the Regulatory Flexibility Act
(as amended by the Small Business
Regulatory Enforcement Fairness Act
(SBREFA) of 1996; 5 U.S.C. 601 et seq.),
whenever a Federal agency is required to
table notice of rulemaking for
any proposed or final rule, it must
prepare, and make available for public
comment, a regulatory flexibility
analysis that describes the effect of the
rule on small entities (i.e., small
businesses, small organizations, and
small government jurisdictions).

However, no regulatory flexibility
analysis is required if the head of an
agency, or his designee, certifies that the
rule will not have a significant
economic impact on a substantial
number of small entities. SBREFA
amended the Regulatory Flexibility Act
to require Federal agencies to provide a
statement of the factual basis for
certifying that a rule will not have a
significant economic impact on a
substantial number of small entities.
We certify that, if adopted as proposed, this
proposed rule would not have a
significant economic effect on a
substantial number of small entities.
The following discussion explains our
rationale.

This rulemaking revises the
regulations for 4(d) rules for species
determined to meet the definition of a
threatened species” under the Act. The
changes in this proposed rule are
instructive regulations and do not affect
small entities.

The Service is the only entity that is
directly affected by this proposed
regulation change at 50 CFR part 17
because we are the only entity that is
affected by changes to this section of the
Code of Federal Regulations. No
external entities, including any small
businesses, small organizations, or small
governments, will experience any
economic impacts from this rule.
Consequently, this proposed rulemaking
action is not a major rule under
SBREFA.

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

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

(a) On the basis of information
contained in the Regulatory Flexibility
Act section above, this proposed rule
would not “significantly or uniquely”
afflict small governments. We have
determined and certify pursuant to the
Unfunded Mandates Reform Act, 2
U.S.C. 1502, that this rule would not
impose a cost of $100 million or more
in any given year on local or State
governments or private entities. A Small
Government Agency Plan is not
required. As explained above, small
governments would not be affected
because the proposed rule would not
place additional requirements on any
city, county, or other local
municipalities.

(b) This proposed rule would not
produce a Federal mandate on State,
local, or tribal governments or the private sector of $100 million or greater in any year; that is, this proposed rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act. This proposed rule would impose no obligations on State, local, or tribal governments.

Takings (E.O. 12630)

In accordance with Executive Order 12630, this proposed rule would not have significant takings implications. This proposed rule would not pertain to “taking” of private property interests, nor would it directly affect private property. A takings implication assessment is not required because this proposed rule (1) would not effectively compel a property owner to suffer a physical invasion of property and (2) would not deny all economically beneficial or productive use of the land or aquatic resources. This proposed rule would substantially advance a legitimate government interest (conservation and recovery of endangered and threatened species) and would not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this proposed rule would have significant Federalism effects and have determined that a federalism summary impact statement is not required. This proposed rule pertains only to prohibitions for activities pertaining to threatened species under the Endangered Species Act and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (E.O. 12988)

This proposed rule does not unduly burden the judicial system and meets the applicable standards provided in section 3(a) and section 3(b)(2) of Executive Order 12988. This proposed rule would clarify the prohibitions to threatened species under the Endangered Species Act.

Government-to-Government Relationship With Tribes

In accordance with the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951), Executive Order 13175, and the Department of the Interior’s manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We are analyzing this proposed regulation in accordance with the criteria of the National Environmental Policy Act (NEPA), the Department of the Interior regulations on Implementation of the National Environmental Policy Act (43 CFR 46.10–46.450), and the Department of the Interior Manual (516 DM 8).

We anticipate that the categorical exclusion found at 43 CFR 46.210(i) likely applies to these proposed regulation changes. At 43 CFR 46.210(i), the Department of the Interior has found that the following category of actions would not individually or cumulatively have a significant effect on the human environment and are, therefore, categorically excluded from the requirement for completion of an environmental assessment or environmental impact statement: “Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature.”

We invite the public to comment on the extent to which this proposed regulation may have a significant impact on the human environment, or fall within one of the categorical exclusions for actions that have no individual or cumulative effect on the quality of the human environment. We will complete our analysis, in compliance with NEPA, before finalizing this proposed rule.

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

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule, if made final, is not expected to affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

1. Be logically organized;
2. Use the active voice to address readers directly;
3. Use clear language rather than jargon;
4. Be divided into short sections and sentences; and
5. Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in ADDRESSES. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

§ 17.31 Prohibitions.

(a) Except as provided in §§ 17.4 through 17.8, or in a permit issued under this subpart, all of the provisions of § 17.21, except § 17.21(c)(5), shall apply to threatened species of wildlife that were added to the List of Endangered and Threatened Wildlife in § 17.11(h) on or prior to [EFFECTIVE DATE OF THE FINAL RULE], unless the Secretary has promulgated species-specific provisions (see paragraph (c) of this section).

(b) In addition to any other provisions of this part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency that is operating a conservation program pursuant to the
DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 402

[FR Doc. 2018–15811 Filed 7–24–18; 8:45 am]

AGENCY: U.S. Fish and Wildlife Service (FWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: We, FWS and NMFS (collectively referred to as the “Services” or “we”), propose to amend portions of our regulations that implement section 7 of the Endangered Species Act of 1973, as amended. The Services are proposing these changes to improve and clarify the interagency consultation processes and make them more efficient and consistent.

DATES: We will accept comments from all interested parties until September 24, 2018. Please note that if you are using the Federal eRulemaking Portal (see ADDRESSES below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Standard Time on this date.

ADDRESSES: You may submit comments by one of the following methods:

(1) Electronically: Go to the Federal eRulemaking Portal: http://www.regulations.gov. In the Search box, enter FWS–HQ–ES–2018–0009, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on “Comment Now!”

(2) By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–HQ–ES–2018–0009; U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 or National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910. We request that you send comments only by the methods described above.

We will post all comments on http://www.regulations.gov. This generally means that we will post any personal information you provide us (see Request for Information below for more information).

FOR FURTHER INFORMATION CONTACT:
Craig Aubrey, U.S. Fish and Wildlife Service, Division of Environmental Review, 5275 Leesburg Pike, Falls Church, VA 22041–3803, telephone 703/358–2442; or Cathy Tortorici, ESA Interagency Coordination Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, telephone 301/427–8495. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:
Background

The purposes of the Endangered Species Act of 1973, as amended (“ESA” or “Act”; 16 U.S.C. 1531 et seq.) are to provide a means to conserve the ecosystems upon which listed species depend, to develop a program for the conservation of listed species, and to achieve the purposes of certain treaties and conventions. Moreover, the Act states that it is the policy of Congress that the Federal Government will seek to conserve threatened and endangered species, and use its authorities in furtherance of the purposes of the Act.

The Secretaries of the Interior and Commerce share responsibilities for implementing most of the provisions of the Act. Generally, marine species are under the jurisdiction of the Secretary of Commerce, and all other species are under the jurisdiction of the Secretary of the Interior. Authority to administer the Act has been delegated by the Secretary of the Interior to the Director of the U.S. Fish and Wildlife Service (FWS) and by the Secretary of Commerce to the Assistant Administrator for the National Marine Fisheries Service (NMFS). References in this document to “the Services” mean FWS and NMFS.

There have been no comprehensive amendments to the Act since 1988, and no comprehensive revisions to the implementing regulations since 1986. In the years since those changes took place, much has happened: The Services have gained considerable experience in implementing the Act, as have other Federal agencies, States, and property owners; there have been numerous court decisions regarding almost every provision of the Act and its implementing regulations; the Government Accountability Office has completed reviews of the Act’s implementation; there have been many