

Endangered and Threatened Wildlife and Plants; Listing Endangered and Threatened Species and Designating Critical Habitat

RIN 1018-BI73

Revisions

New proposed text is underlined while proposed deletions are indicated by strikethrough.

11/19/2025

§ 424.11 Factors for listing, delisting, or reclassifying species.

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(b) The Secretary shall make any determination required by paragraphs (c), (d), and (e) of this section solely on the basis of the best available scientific and commercial information regarding a species' status ~~without reference to possible economic or other impacts of such determination.~~

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(d) In determining whether a species is a threatened species, the Services must analyze whether the species is likely to become an endangered species within the foreseeable future. The term foreseeable future extends ~~as only so~~ far into the future as the Services can ~~make~~ reasonably determine that ~~both reliable predictions about the future threats to the species and the species' responses to those threats are likely.~~ The Services will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat-projection timeframes, and environmental variability. The Services need not identify the foreseeable future in terms of a specific period of time.

(e) The Secretary shall delist a species ~~will be delisted~~ if the Secretary finds that, after conducting a status review determines, based on ~~consideration of the factors and standards set forth in paragraph (c) of this section,~~ that the best scientific and commercial data available ~~substantiate that:~~

(1) The species is extinct;

(2) The species ~~has recovered to the point at which it no longer~~ does not meets the definition of an endangered species or a threatened species. In making such a determination, the Secretary shall consider the same factors and apply the same standards set forth in paragraph (c) of this section regarding listing and reclassification; or

(3) ~~New information that has become available since the original listing decision shows the listed entity does not meet the definition of an endangered species or a threatened species;~~ or

(4) ~~New information that has become available since the original listing decision shows t~~The listed entity does not meet the definition of a species.

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§ 424.12 Criteria for designating critical habitat.

(a) * * *

(1) ~~Designation of critical habitat~~The Secretary may, but is not required to, determine that a designation would not be prudent in the following circumstances such as, but not limited to, the following:

(i) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species;

(ii) The present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or threats to the species' habitat stem solely from causes that cannot be addressed through management actions resulting from consultations under section 7(a)(2) of the Act;

(iii) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States;

or

(iv) No areas meet the definition of critical habitat; or

(v) The Secretary otherwise determines that designation of critical habitat would not be prudent based on the best scientific data available.

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(b) * * *

~~(2) After identifying areas occupied by the species at the time of listing, †~~The Secretary will identify, designate as critical habitat, at a scale determined by the Secretary to be appropriate, specific areas outside the geographical area occupied by the species only upon a determination that such areas at the time of listing that the Secretary determines are essential for the conservation of the species. When designating critical habitat, the Secretary will first evaluate areas occupied by the species. The Secretary will only consider unoccupied areas to be essential where a critical habitat designation limited to geographical areas occupied would be inadequate to ensure the conservation of the species. In addition, for an unoccupied area to be considered essential, the Secretary must determine that there is a reasonable certainty both that the area will contribute to the conservation of the species and that the area contains one or more of those physical or biological features essential to the conservation of the species. Such a determination must be based on the best scientific data available.

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