

Red italics are directions, **highlighted items** are inserts, **things in green 10pt font** are examples.

Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS– ~~RX~~–ES–20~~XX~~–XXXX]

[4500030113]

RIN 1018–~~XXXX~~

Endangered and Threatened Wildlife and Plants; **[Endangered/Threatened] Species
Status for **[Species Name]****

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine [endangered/threatened] species status under the Endangered Species Act of 1973 (Act), as amended, for [species common name (*Scientific name*) *[reverse names for plants]*], a X species from [insert where it is found]. The effect of this regulation will be to add this species to the lists of Endangered and Threatened Wildlife/Plants.

DATES: This rule becomes effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: This final rule is available on the internet at <http://www.regulations.gov> and [insert Region or Field Office site, if applicable]. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at <http://www.regulations.gov>. Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, [Field Office], [address]; [telephone]; [facsimile].

FOR FURTHER INFORMATION CONTACT: INSERT FO ADDRESS Wally “J” Murphy, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM 87113, by telephone 505–346–2525 or by facsimile 505–346–2542. Persons who use a telecommunications device for the deaf (TDD) may call the Federal

Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule. Elsewhere in today’s **Federal Register**, we finalize designation of critical habitat for the **SPECIES** under the Act.

This rule will finalize the listing of the **SPECIES (Scientific name)** as an **endangered/threatened** species.

The basis for our action. Under the Endangered Species Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. We have determined that **[fill in threat info for the species being designated]**.

Peer review and public comment. We sought comments from independent specialists to

ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all comments and information received during the comment period.

The status review report of the bearded seal is a compilation of the best scientific and commercial data available concerning the status of the species, including the past, present, and future threats to this species. The Biological Review Team (BRT) that prepared this report was composed of eight marine mammal biologists, a fishery biologist, a marine chemist, and a climate scientist from NMFS' Alaska and Northeast Fisheries Science Centers, NOAA's

Pacific Marine Environmental Lab, and the U.S. Fish and Wildlife Service (USFWS). The status review report underwent independent peer review by five scientists with expertise in bearded seal biology, Arctic sea ice, climate change, and ocean acidification. The status review report and other materials relating to this proposal can be found on the Alaska Region Website at: <http://alaskafisheries.noaa.gov/>.

Previous Federal Action

Please refer to the proposed listing rule for the SPECIES (FR citation; xx XX, 20XX) for a detailed description of previous Federal actions concerning this species.

Elsewhere in today's Federal Register, we finalize the designate critical habitat for the [species] under the Act.

[We may have to change this sentence at HQ if the CH lags behind because of OMB/interagency review, in which case we would substitute the following sentence:

We will also be finalizing a designation of designate critical habitat for the [species] under the Act in the near future.]

Background

Please refer to the proposed listing rule for the SPECIES (FR citation; xx XX, 20XX) for a summary of species information. *Update with any new/additional information not in the proposed rule.*

Summary of Biological Status and Threats

Summarize main points of biological assessment of species. Update with any new/additional information not discussed in the proposed rule. Include a brief discussion as to whether there are cumulative effects from or synergistic reactions between threats.

Please refer to section XX of the species status assessment for a more detailed discussion of the factors affecting the SPECIES (see ADDRESSES). Our assessment evaluated the biological status of the species and threats affecting its continued existence. It was based upon the best available scientific and commercial data and the expert opinion of the species status assessment team members.

Summary of Changes from the Proposed Rule

Describe any changes from the proposed rule that are now part of the final rule. If the list of primary constituent elements has changed from the proposed rule, be sure to include notation of that here, along with explanation of why (e.g., Based on information

we received in comments regarding x, we refined our description of the stressors regarding habitat for xyz species.)

Summary of Comments and Recommendations

In the proposed rule published on [date (FR citation)], we requested that all interested parties submit written comments on the proposal by [date]. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the [insert publications]. We [did/did not] receive any requests for a public hearing. *If applicable* We held a public hearing on [date]. All substantive information provided during comment periods has either been incorporated directly into this final determination or addressed below.

Peer Reviewer Comments

For duplicate comments, only address once. For example, if a peer reviewer and other public commenters make a similar comment, address under peer review, but indicate that others made a similar comment. Example: One peer reviewer and several commenters emphasized the importance of the Eglin Air Force Base/Hurlburt Field metapopulation to the survival of the reticulated flatwoods salamander. Also, when addressing comments, refer to similar answers in other comments rather than writing the same answer multiple times.

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from X knowledgeable individuals with scientific expertise that included familiarity with [species] and its habitat, biological needs, and threats *edit as appropriate*. We received responses from X of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of [species]. **Briefly summarize the general opinion of the peer reviewers. Did they agree with the assessment? Did they provide additional information?** *Example:* The peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

(1) Comment:

Our Response:

(2) Comment:

Our Response:

Federal Agency Comments

(x) Comment:

Our Response:

Comments from States (Reminder: Did you do your 4i letter???)

(x) Comment:

Our Response:

Tribes

(x) Comment:

Our Response:

Public Comments (Group into general issues if appropriate.)

(x) Comment:

Our Response:

Determination

Boilerplate listing language, statutory definitions, explicit analysis of determination of E or T (or not-warranted)

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or

curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the **SPECIES**. Habitat loss from water withdrawals, sedimentation, and impoundments is occurring rangewide, has resulted in extirpation of the species from all but headwater habitats, and is not likely to be reduced in the future (Factor A). The species' range has been reduced by 90 percent in New Mexico, and current distribution is limited to three populations in 4.8 km (3 mi) of streams. Drought frequency and water withdrawals are likely to increase, further restricting habitat and fragmenting or eliminating populations. Predation from nonnative fish is occurring rangewide and has been shown to reduce recruitment and population size at one location; this situation is likely impacting other populations, as well (Factor C). State wildlife laws and Federal regulations such as the National Forest Management Act are not adequate to address the threats to the species (Factor D). Additionally, the Zuni bluehead sucker is not able to naturally recolonize unoccupied areas (Factor E). There is virtually no redundancy of populations within each occupied watershed, further increasing the risk of loss of representation of existing genetic lineages and, ultimately, extinction. These threats have already resulted in the extirpation of Zuni bluehead sucker throughout an estimated 90 percent of its range and are only likely to increase in severity. Although there is less information available on threats occurring on the Navajo Indian Reservation, the information we do have is similar in kind and intensity to that for New Mexico. These threats are ongoing, are rangewide, are expected to increase in the future, and are significant because they further restrict limited available habitat and decrease the resiliency of the Zuni bluehead sucker within those habitats.

The Act defines an endangered species as any species that is “in danger of extinction throughout all or a significant portion of its range” and a threatened species as any species “that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.” We find that the SPECIES is presently in danger of extinction throughout its entire range based on the severity and immediacy of threats currently impacting the species. The overall range has been significantly reduced, the remaining habitat and populations are threatened by a variety of factors acting in combination to reduce the overall viability of the species. The risk of extinction is high because the remaining populations are small, isolated, and have limited potential for recolonization. Therefore, on the basis of the best available scientific and commercial information, we are listing the SPECIES as endangered/threatened in accordance with sections 3(6) and 4(a)(1) of the Act. We find that a threatened species status is not appropriate for the Zuni bluehead sucker because of the contracted range (loss of 90 percent of its historic range), because the threats are occurring rangewide and are not localized, and because the threats are ongoing and expected to continue into the future.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. Because we have determined that [SPECIES] is [T or E] throughout all of its range, no portion of its range can be "significant" for purposes of the definitions of "endangered species" and "threatened species." See the Final Policy on Interpretation of the Phrase “Significant Portion of Its Range” in the Endangered Species Act’s Definitions of “Endangered Species” and “Threatened Species” (79 FR 37577).

Available Conservation Measures *(the protections, prohibitions, and conservation measures that are put into place once a species is listed)*

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (<http://www.fws.gov/endangered>) or from our [insert field office name here] (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily

or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State(s) of [insert state(s) name(s) here] will be eligible for Federal funds to implement management actions that promote the protection or recovery of the SPECIES. Information on our grant programs that are available to aid species recovery can be found at: <http://www.fws.gov/grants>.

Please let us know if you are interested in participating in recovery efforts for the SPECIES. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or

threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the **INSERT AS APPROPRIATE** U.S. Fish and Wildlife Service, U.S. Forest Service, and National Park Service (Canyon De Chelly National Monument); issuance of section 404 Clean Water Act permits by the Army Corps of Engineers; and construction and maintenance of roads or highways by the Federal Highway Administration.

The following is for endangered wildlife:

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.21 make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the

Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. With regard to endangered wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

IF A THREATENED WILDLIFE SPECIES: DETERMINE WHETHER YOU WILL BE INVOKING BLANKET 4(D) RULE OR DRAFTING A SPECIES-SPECIFIC 4(D) RULE. IF YOU ARE DOING A SPECIES-SPECIFIC 4-D RULE, PLEASE ENSURE THAT THE RANGE STATES (WHERE THE SPECIES OCCURS) HAVE ENTERED INTO A COOPERATIVE AGREEMENT WITH FWS UNDER SECTION 6 OF THE ACT.

The following is for threatened wildlife without a species-specific 4(d) rule (i.e., the blanket provisions of 17.31 apply to this species):

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened species. The Act and its implementing regulations set forth a series of general prohibitions and exceptions

that apply to threatened wildlife. The prohibitions of section 9(a)(1) of the Act, as applied to threatened wildlife and codified at 50 CFR 17.31 make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) threatened wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

For threatened wildlife with a species-specific 4(d):

Under section 4(d) of the Act, the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened wildlife.

We may also prohibit by regulation with respect to threatened wildlife any act prohibited by section 9(a)(1) of the Act for endangered wildlife. For the [INSERT SPECIES NAME], the Service has developed a 4(d) rule that is tailored to the specific threats and conservation needs of this species. Exercising this discretion, the Service has developed a 4(d) rule containing all the general prohibitions and exceptions to those prohibitions; these are found at 50 CFR 17.31 and 50 CFR 17.32.

This 4(d) rule [INSERT WHAT THIS RULE DOES]...

Provisions of the 4(d) Rule

We believe these actions and activities, while they may have some minimal level of harm or disturbance to the [SPECIES], are not expected to adversely affect the species' conservation and recovery efforts.

We have reviewed comments from the public and peer reviewers. Exempted activities include [INSERT LIST]. [existing routine airport practices as outlined above by non-Federal entities on existing airports, agricultural and ranching activities, and routine single-family residential activities.]

We may issue permits to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. There

are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

The following is for endangered plants:

With respect to endangered plants, prohibitions outlined at 50 CFR 17.61 make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession any such plant species from areas under Federal jurisdiction. In addition, for endangered plants, the Act prohibits malicious damage or destruction of any such species on any area under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. Exceptions to these prohibitions are outlined in 50 CFR 17.62.

We may issue permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.62. With regard to endangered plants, the Service may issue a permit authorizing any activity otherwise prohibited by 50 CFR 17.61 for scientific purposes or for enhancing the propagation or survival of endangered plants.

The following is for threatened plants:

With respect to threatened plants, 50 CFR 17.71 provides that all of the provisions in 50 CFR 17.61 shall apply to threatened plants. These provisions make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession any such plant species from areas under Federal jurisdiction. In addition, the Act prohibits malicious damage or destruction of any such species on any area under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. However, there is the following exception for threatened plants. Seeds of cultivated specimens of species treated as threatened shall be exempt from all the provisions of 50 CFR 17.61, provided that a statement that the seeds are of “cultivated origin” accompanies the seeds or their container during the course of any activity otherwise subject to these regulations. Exceptions to these prohibitions are outlined in 50 CFR 17.72.

We may issue permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.72. With regard to threatened plants, a permit issued under this section must be for one of the following: scientific purposes, the enhancement of the propagation or survival of threatened species, economic hardship, botanical or horticultural exhibition, educational purposes, or other activities consistent with the purposes and policy of the Act.

The following is for all rules:

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

INSERT AS APPROPRIATE FOR SPECIES

- (1) Normal agricultural and silvicultural practices, including herbicide and pesticide use, which are carried out in accordance with any existing regulations, permit and label requirements, and best management practices; and,
- (2) Normal residential landscape activities.

IF WE ARE NOT ABLE TO IDENTIFY ACTIVITIES AT THIS TIME THAT ARE NOT LIKELY TO RESULT IN A VIOLATION OF SECTION 9 YOU MAY INSERT LANGUAGE EXPLAINING WHY.

At this time, we are unable to identify specific activities that would not be considered to result in a violation of section 9 of the Act because the Oregon spotted frog occurs in a variety of habitat conditions across its range and it is likely that site specific conservation measures may be needed for activities that may directly or indirectly affect the species.

Based on the best available information, the following activities may potentially result in a violation of section 9 the Act; this list is not comprehensive:

INSERT AS APPROPRIATE FOR SPECIES

Activities that the Service believes could potentially harm the southwestern willow flycatcher and result in “take,” include, but are not limited to:

- (1) Handling or collecting of the species;

- (2) Destruction/alteration of the species' habitat by discharge of fill material, draining, ditching, tiling, pond construction, stream channelization or diversion, or diversion or alteration of surface or ground water flow into or out of the wetland (i.e., due to roads, impoundments, discharge pipes, stormwater detention basins, etc.);
- (3) Livestock grazing that results in direct or indirect destruction of riparian habitat;
- (4) Activities such as continued presence of cattle and fragmentation of flycatcher habitat that facilitate brood parasitism by the brown-headed cowbird; and
- (5) Pesticide applications in violation of label restrictions.

(1) Introduction of nonnative species that compete with or prey upon the Zuni bluehead sucker, such as the introduction of nonnative green sunfish to the States of Arizona and New Mexico;

(2) Release of biological control agents that attack any life stage of this species;

(3) Modification of the channel or water flow of any stream or removal or destruction of emergent aquatic vegetation in any body of water in which the Zuni bluehead sucker is known to occur; and

(4) Discharge of chemicals or fill material into any waters in which the Zuni bluehead sucker is known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the XXXX Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

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 (Consultation and Coordination With Indian Tribal Governments), 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. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at <http://www.regulations.gov> and upon request from the XXXX Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the XXXX Ecological

Services Field Office.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend §17.11(h) *17.12(h) for plants* by adding the following entry to the List of Endangered and Threatened [Wildlife/Plants] in alphabetical order under [“X”]

Example: FLOWERING PLANTS, CLAMS, etc.

§ 17.11 Endangered and threatened wildlife. **§ 17.12 Endangered and threatened plants**

* * * * *

(h) * * *

Example table for Wildlife.

Common name	Scientific name	Where Listed	Status	Listing Citations and Applicable Rules
* * * *	* * *			
INSECTS				
* * * *	* * *			
Bumble bee, rusty patched	<i>Bombus affinis</i>	Wherever found	E	82 FR [insert Federal Register page where the document begins], [Insert date of publication in the Federal Register].
* * * *	* * *			

Example table for Plants.

Scientific Name	Common Name	Where Listed	Status	Listing Citations and Applicable Rules
FLOWERING PLANTS				
* * * *	* * *			
<i>Lepidium papilliferum</i>	Slickspot peppergrass	Wherever found	T	74 FR 52013; 10/8/2009 81 FR [<u>Insert Federal Register page where the document begins</u>]; [<u>Insert date of publication in the Federal Register</u>]
* * * *	* * *			

* * * * *

Dated: _____

Signed: _____

James W. Kurth

Deputy Director

U.S. Fish and Wildlife Service

Exercising the Authority of the Director

U.S. Fish and Wildlife Service

[~~Endangered and Threatened Wildlife and Plants;~~ **Endangered/Threatened** Status for the
XXXX SPECIES]