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**From:** Hull, Josh </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EEC07E67E69E402394001503D62BAD4A-JOSH\_HULL>  
**To:** Drake, Madeline K  
**Sent:** 3/12/2020 7:40:21 PM  
**Subject:** Re: Fisher Listing Rule Request from HQ

Yes, thanks!

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**From:** Drake, Madeline K <madeline\_drake@fws.gov>  
**Sent:** Thursday, March 12, 2020 4:39 PM  
**To:** Hull, Josh <Josh\_Hull@fws.gov>  
**Subject:** Re: Fisher Listing Rule Request from HQ

Great! Should I pass it on to Dan?

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**From:** Hull, Josh <Josh\_Hull@fws.gov>  
**Sent:** Thursday, March 12, 2020 4:15 PM  
**To:** Drake, Madeline K <madeline\_drake@fws.gov>  
**Subject:** Re: Fisher Listing Rule Request from HQ

Thumbs up from Jen

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**From:** Drake, Madeline K <madeline\_drake@fws.gov>  
**Sent:** Thursday, March 12, 2020 2:30 PM  
**To:** Hull, Josh <Josh\_Hull@fws.gov>  
**Subject:** Re: Fisher Listing Rule Request from HQ

Sounds good, thanks Josh!

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**From:** Hull, Josh <Josh\_Hull@fws.gov>  
**Sent:** Thursday, March 12, 2020 2:30 PM  
**To:** Drake, Madeline K <madeline\_drake@fws.gov>  
**Subject:** Re: Fisher Listing Rule Request from HQ

Hi Madeline,  
I sent the revision to Jen for her review. Should have an answer shortly. Thanks!  
Josh

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**From:** Drake, Madeline K <madeline\_drake@fws.gov>  
**Sent:** Thursday, March 12, 2020 2:12 PM  
**To:** Hull, Josh <Josh\_Hull@fws.gov>  
**Subject:** Re: Fisher Listing Rule Request from HQ

Hi Josh,

Should I send this to Dan now?

-Madeline

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**From:** Kuyper, Richard <richard\_kuyper@fws.gov>  
**Sent:** Thursday, March 12, 2020 1:44 PM  
**To:** Drake, Madeline K <madeline\_drake@fws.gov>; Hull, Josh <Josh\_Hull@fws.gov>  
**Cc:** Kirby, Rebecca <rebecca\_kirby@fws.gov>; Eyes, Stephanie A <stephanie\_eyes@fws.gov>  
**Subject:** RE: Fisher Listing Rule Request from HQ

This works, thanks Madeline.

Rick

**From:** Drake, Madeline K <madeline\_drake@fws.gov>  
**Sent:** Thursday, March 12, 2020 11:45 AM  
**To:** Hull, Josh <Josh\_Hull@fws.gov>; Kuyper, Richard <richard\_kuyper@fws.gov>  
**Subject:** Re: Fisher Listing Rule Request from HQ

Oops my mistake, good catch Josh! Below is the correct version of red text that is new.

"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 proposed listing on proposed and ongoing activities within the range of the species proposed for listing. 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:

- (1) Any actions that may affect the SSN DPS of fisher that are authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with the consultation requirements for listed species pursuant to section 7 of the Act;
- (2) Any action taken for scientific research carried out under a recovery permit issued by us pursuant to section 10(a)(1)(A) of the Act;
- (3) Land actions or management carried out under a habitat conservation plan approved by us pursuant to section 10(a)(1)(B) of the Act, or an approved conservation agreement;
- (4) Recreation activities that comply with local rules including hiking and backpacking.

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

- (1) Unauthorized modification of the forest landscape within the fisher SSN DPS;
- (2) Unauthorized use of first- and second-generation anticoagulant rodenticides and neurotoxicant rodenticides within the fisher SSN DPS

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**From:** Hull, Josh <Josh\_Hull@fws.gov>  
**Sent:** Thursday, March 12, 2020 11:29 AM  
**To:** Drake, Madeline K <madeline\_drake@fws.gov>; Kuyper, Richard <richard\_kuyper@fws.gov>  
**Subject:** Re: Fisher Listing Rule Request from HQ

Hi Rick,  
Just to clarify, number 3 on the list of actions that would not violate section 9 is old and number 4 is new.  
Thanks,  
Josh

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**From:** Drake, Madeline K <madeline\_drake@fws.gov>  
**Sent:** Thursday, March 12, 2020 11:19 AM  
**To:** Hull, Josh <Josh\_Hull@fws.gov>; Kuyper, Richard <richard\_kuyper@fws.gov>  
**Subject:** Fisher Listing Rule Request from HQ

Hi Rick,

We received feedback this morning from HQ regarding the fisher rule and a particular section called the "Additional Conservation Measures". The HQ comment below does a good job of explaining the section and what they would like for us to include.

"My largest remaining thought pertains to the "Additional Conservation Measures" section where our policy states that we would provide information on the types of activities that would or would not result in a S9 violation. This section is supposed to help the regulated community what kinds of activities would or would not require consultation or a S10 permit. For the "woulds", I mostly see activities like those that alter the habitat (cutting trees, removing snags, etc) and for the "would nots" I've seen things like using pesticides in compliance with label restrictions, recreation activities that comply with the local rules. So, we should use this section to set the stage on what types of activities we expect them to talk with us about and those that we don't think they should worry about."

We updated the text to try to address HQ's comment. We wanted to run our language changes by you first before we passed them back to the region. The black text below is language we already had, which HQ was not satisfied with, and the red text is what we added to try to address their concerns. Please let us know if you are okay with these changes or would like to discuss further.

"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 proposed listing on proposed and ongoing activities within the range of the species proposed for listing. 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:

- (1) Any actions that may affect the SSN DPS of fisher that are authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with the consultation requirements for listed species pursuant to section 7 of the Act;
- (2) Any action taken for scientific research carried out under a recovery permit issued by us pursuant to section 10(a)(1)(A) of the Act;
- (3) Land actions or management carried out under a habitat conservation plan approved by us pursuant to section 10(a)(1)(B) of the Act, or an approved conservation agreement;
- (4) Recreation activities that comply with local rules including hiking and backpacking.

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

- (1) Unauthorized modification of the forest landscape within the fisher SSN DPS;
- (2) Unauthorized use of first- and second-generation anticoagulant rodenticides and neurotoxicant rodenticides within the fisher SSN DPS.

Thanks!

Madeline

Madeline Drake  
Senior Fish and Wildlife Biologist  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, W-2605  
Sacramento, CA 95825

