

Questions and Answers

Louisiana Pinesnake Final 4(d) Rule

Q: What action is the U.S. Fish and Wildlife Service (Service) taking?

A: The Service is finalizing a rule under section 4(d) of the Endangered Species Act (ESA) for the Louisiana pinesnake, a reptile from Louisiana and Texas. This rule will reduce regulatory burdens while providing for the pinesnake's conservation.

Q: What is a Louisiana pinesnake and where can they be found?

A: Reaching up to about five feet long, Louisiana pinesnakes are non-venomous and secretive in nature, spending much of their time underground in burrows of its pocket gopher prey

Individuals are black, brown and russet colored, with a buff to yellowish background color marked with 28 to 38 dark blotches that become better defined towards the tail. The belly is either unmarked or boldly patterned with black markings. An interesting characteristic feature is that its body markings are always conspicuously different at opposite ends of its body. If the head and tail portions are lined up alongside each other, they appear to be from completely different kinds of snakes. Adults range from 48 to 56 inches in length. Louisiana pinesnakes are egg-laying constrictors with small heads and pointed snouts. They are good burrowers.

The Louisiana pinesnake is well-adapted to the longleaf pine ecosystem and is found in the pine forests of north and central Louisiana and east Texas. They primarily prey on pocket gophers, which helps ensure a balanced and functioning ecosystem. Like their prey, Louisiana pinesnakes are most often found in areas with sandy, well-drained soils in an open-canopied pine forest, with a reduced shrub layer and dense vegetation

Q: Why was the Louisiana pinesnake listed as threatened under the ESA?

A: The Service used the best scientific and commercial information available to assess the status of and threats to the Louisiana pinesnake and found that it meets the definition of a threatened species. This means that it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The pinesnake's range and numbers have declined primarily due to loss and fragmentation of suitable habitat. In addition, the pinesnake produces only 3-5 eggs per clutch, and its populations are already small, isolated, and genetically compromised. The longleaf pine ecosystem that the pinesnake depends on has disappeared from roughly 90 percent of its historic range.

An extensive partnership of federal and state agencies, landowners, businesses, zoos and conservation organizations has also been taking steps to increase conservation efforts and reduce threats to the Louisiana pinesnake. The partnership effort seeks to reverse the decline of suitable habitat to benefit the Louisiana pinesnake and the hundreds of other species that live in that habitat.

Q: What has the Service done to help conserve the pinesnake?

A: The Service and its partners have been working cooperatively for years to conserve the Louisiana pinesnake through a multi-party conservation agreement. The Louisiana pinesnake Candidate Conservation Agreement (CCA) covers this rare reptile's known habitat and brings together the Service and U.S. Forest Service in Texas and Louisiana. Also partnering to conserve the Louisiana pinesnake are the Natural Resources Conservation Service, U.S. Department of Defense's Fort Polk and the Joint Readiness Training Center, Texas Parks and Wildlife Department, Louisiana Department of Wildlife and Fisheries and the Association of Zoos and Aquariums.

In addition, the Service developed a second programmatic Candidate Conservation Agreement with Assurances (CCAA) with the Louisiana Department of Wildlife and Fisheries. The Louisiana pinesnake CCAA allows for the participation of the Service, Louisiana Department of Wildlife and Fisheries and private landowners in specific conservation activities benefiting the snake.

Q: What does the threatened listing mean for private landowners?

A: The basic responsibility of private landowners having Louisiana pinesnake populations on their lands is to avoid “take” of the species. Take means to harass, harm, kill, trap, capture or collect a species protected by the ESA. This definition includes land-use activities that result in death or harm to the species. For example, direct destruction of the habitat (e.g., clearing longleaf pine stands for non-forest uses such as agriculture or development) in an area where pinesnakes are known to occur would likely result in harm to, or death of, the snake.

The Service can work with the landowner to develop a Habitat Conservation Plan or put in place a Safe Harbor Agreement providing assurances for future management through measures designed to avoid, reduce and/or mitigate those impacts. The Service can also help private landowners by providing voluntary habitat restoration incentives through the Partners for Fish and Wildlife Program. Landowners that enter into an agreement through the Partners program can receive technical assistance and financial cost-share to implement habitat restoration actions beneficial to the snake. At the same time, these landowners would receive regulatory predictability through the provisions of the ESA section 7.

Most landowners whose property is outside the areas occupied by the Louisiana pinesnake will see no change in how they currently manage their property.

Q: How does the 4(d) rule change take prohibitions?

A: For a threatened species, the Service may use the flexibility provided under section 4(d) of the ESA to tailor the take prohibitions to what is necessary and advisable for the conservation of the species. This targeted approach can reduce regulatory burdens by exempting some activities that do not significantly harm, or are beneficial to the species to continue, while focusing protection efforts on the threats that are detrimental to the species' recovery.

The exemptions to the prohibition of take of the Louisiana pinesnake apply to landowners who manage for open-canopied pine forest to benefit the snake, while minimizing or avoiding impacts to the snake and its primary prey, the pocket gopher. These actions include thinning, harvesting,

planting and replanting pines, prescribed burning, and some herbicide applications, which can enhance vegetation preferred by the pocket gopher and the Louisiana pinesnake.

Exemptions include, but are not limited to:

- Most forestry activities, including tree thinning, harvest, planting and replanting pines (both mechanical and hand), and other silvicultural practices that maintain lands in forest land use and that result in the establishment and maintenance of open pine canopy conditions.
- Prescribed burning, including all fire break establishment and maintenance actions, as well as actions taken to control wildfires.
- Herbicide application that is generally targeted for invasive plant species control and mid-story/understory woody vegetation control.

Within specific areas occupied by the Louisiana pinesnake, the activities listed above would be exempted, but subsurface soil disturbance activities (e.g., stumping, disking – except during firebreak establishment and maintenance – root-raking, drum chopping, below-ground shearing, bedding, wind-rowing) would not be exempted under this rule. That doesn't mean landowners could not implement those kinds of management activities. It just means they need to consult with the Service ahead of time to determine whether those activities would harm the snake, and if so how they can avoid or minimize those impacts.

Q: Does this 4(d) rule apply to federal agencies?

A: The customized protections under section 4(d) of the ESA do not remove, or alter in any way, a federal agency's requirement to ensure any action authorized, funded or carried out does not jeopardize the continued existence of a listed species or adversely modify or destroy its critical habitat under section 7 of the ESA.