



## **5-Year Review Guidance:**

### **Procedures for Conducting 5-Year Reviews Under the Endangered Species Act**

U.S. Fish and Wildlife Service  
and  
National Marine Fisheries Service

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Attachments:

5-Year Review Template  
5-Year Review Short Template

## 1 Purpose and Overview

A 5-year review is a periodic analysis of a species' status conducted to ensure that the listing classification of a species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (List) (50 CFR 17.11 – 17.12) is accurate. The 5-year review is required by section 4(c)(2) of the Endangered Species Act of 1973, as amended (ESA). This guidance has been developed by the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) (collectively Services) to promote a consistent nationwide approach to 5-year reviews and to clarify the scope and role of these reviews in relationship to other requirements under the ESA. Note that the term “species” is used throughout this document as it is defined in section 3 of the ESA, i.e., a species, subspecies, or a Distinct Population Segment (DPS)<sup>1</sup>, and also includes an Evolutionarily Significant Unit (ESU) of Pacific salmon, which is functionally the same as a DPS.

The 5-year review can be as straightforward as gathering current information on a species and determining whether recovery criteria have been met. This may be the case for species that have recovery plans with up-to-date criteria, including criteria that adequately address the five listing factors described under section 4(a)(1) of the ESA<sup>2</sup>. For species without recovery plans or with recovery criteria that are not up-to-date, a 5-year review entails analyzing information available on the species relative to the definitions of endangered and threatened and in the context of the five listing factors. Although 5-year reviews should generally focus on new information since the last status review, discussion of information from the listing and/or previous status reviews may be necessary to evaluate whether new information indicates a change in the status of the species and its threats and summarize the current status. A template is provided as part of this guidance to guide documentation of the 5-year review and, hopefully, to streamline the process (See Part II., 5-Year Review Template).

The scope of the 5-year review may vary depending on the species and situation. A 5-year review can be complex, particularly if a species is wide-ranging or a large amount of new information is available for a species. However, for many species, a 5-year review will entail a straightforward summary of relevant new information and an evaluation of how the species'

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1 A DPS is a population segment of a vertebrate species that is considered discrete and significant in keeping with the Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (61 FR 4722).

2 The five factors are given in Section 4 (a)(1) of the ESA as the following: (A) the present or threatened destruction, modification, or curtailment of [a species'] 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.

status and threats have changed in comparison to the last status review. In many cases, the 5-year review will confirm that no change in classification is warranted. It also should be noted that a 5-year review does not involve rulemaking; the review recommends whether or not to change the species' classification, thus indicating that a rulemaking may be necessary.<sup>3</sup> A *species classification cannot be changed until the rulemaking process is complete.*

All status reviews that are conducted on a listed species may fulfill the requirements of a 5-year review. For example, if either of the Services are petitioned to reclassify a species, the status review that would be conducted for the 12-month finding may qualify as a 5-year review. Also, an internally-driven status review that is conducted on a listed species because the Service is considering splitting it into two or more DPSs, combining DPSs, or for other reasons, may also qualify as a 5-year review. However, status reviews may only fulfill the requirement of a 5-year review if 1) the review addresses the status of the species described on the List, 2) a *Federal Register* notice announces that the species is under active review, and 3) a conclusion is made regarding the appropriate classification of the species. For status reviews that are primarily conducted for reasons other than a 5-year review but that will fulfill the requirements of a 5-year review, an abbreviated template should accompany the status review to document completion of the 5-year review and ensure that all requirements are met (see Part III., 5-Year Review Short Template).

Other ESA processes such as recovery planning or range-wide section 7 consultations may provide much of the information and analysis needed to complete a 5-year review. For this reason, you may want to conduct 5-year reviews directly subsequent to, or simultaneously with, completing a recovery plan or range-wide section 7 consultation. Indeed, when revising a recovery plan, the information gathering and analysis can serve both purposes, and one *Federal Register* notice can announce the plan revision and 5-year review and request information on the species. Completion of the template will ensure that all requirements of the 5-year review are met, including publication of a *Federal Register* notice announcing that the species is under active review, and making a recommendation with regard to the appropriate classification of the species. The 5-year review may summarize and incorporate by reference analyses contained in these other documents.

In addition to reviewing the classification of a species, a 5-year review presents an opportunity to track the progress of a species toward recovery and to propose appropriate next steps for its conservation. The latter is not required, but taking this extra step while undergoing a 5-year review is an expedient means to benefit the species by providing valuable information to guide future conservation efforts. Information gathered during the review can assist in prioritizing actions over the next 5 years, making funding allocation decisions, conducting interagency section 7 consultations (jeopardy analyses, as well as identification of the most effective

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<sup>3</sup> Note that a proposed reclassification of a species may occur without a 5-year review. The Secretary may review the status of any species at any time (50 CFR 424.21).

reasonable and prudent measures, reasonable and prudent alternatives, and conservation actions), making permitting decisions, determining whether to update a recovery plan, and conducting other actions under the ESA.

**Box 1.**

**What a 5-year review IS:**

- A summary and analysis of available information on a given species
- The tracking of a species' progress toward recovery
- The recording of the deliberative process used to make a recommendation on whether or not to reclassify a species
- A recommendation on whether reclassification of the species is indicated

**What a 5-year review IS NOT:**

- A re-listing or justification of the original (or any subsequent) listing action
- A process that requires the generation of new data through surveys, research, or modeling
- A process that requires acceleration of ongoing or planned surveys, research, or modeling
- A petition process
- A rulemaking

## 1.1 Statutory, Regulatory, and Policy Requirements

Below are various requirements and an excerpt from legislative history that are applicable to the 5-year review. Familiarity with these provisions as well as all *Federal Register* notices, policies, and guidance documents cited herein will be useful in conducting the review.

1) Section 4(c)(2) of the ESA:

The Secretary shall–

- (A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and
- (B) determine on the basis of such review whether any such species should–
  - (i) be removed from such list;
  - (ii) be changed in status from an endangered species to a threatened species; or
  - (iii) be changed in status from a threatened species to an endangered species.

Each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b) of this section.

2) H.R. Report No. 95-1625 (Sept. 25, 1978):

... The committee anticipates that the Secretary may decide to conduct the required review in increments. Any failure to review all of the species on the list would not invalidate the listing of any species.

3) *50 CFR 424.21* Periodic review:

At least once every 5 years, the Secretary shall conduct a review of each listed species to determine whether it should be delisted or reclassified. Each such determination shall be made in accordance with §§ 424.11, 424.16, and 424.17 of this part, as appropriate. A notice announcing those species under active review will be published in the *Federal Register*. Notwithstanding this section's provisions, the Secretary may review the status of any species at any time based upon a petition (see § 424.14) or upon other data available to the Service.

4) Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act:

Any Distinct Population Segment (DPS) of a vertebrate taxon that was listed prior to implementation of the DPS policy will be reevaluated on a case-by-case basis as recommendations are made to change the listing status for that distinct population segment. The appropriate application of the DPS policy will also be considered in the 5-year reviews of the status of listed species required by section 4(c)(2) of the Act (*61 FR 4722*).

5) Information Quality Act (Pub. L. No. 106-554, section 515), and December 15, 2004, Office of Management and Budget Final Information Quality Bulletin for Peer Review:

*Information Quality Act*

Section 515 of the Treasury and General Governmental Appropriations Act for Fiscal Year 2001 is called the Data Quality Act, also known as the Information Quality Act (IQA). Under the IQA the Office of Management and Budget (OMB) was directed to issue government-wide guidelines to "provide ... guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information ... disseminated by federal agencies." OMB then directed each Federal agency to develop guidelines, effective October 1, 2002. The National Oceanic and Atmospheric Administration's Information Quality Guidelines can be found at: <http://www.noaanews.noaa.gov/stories/iq.htm>. Department of Interior and Fish and Wildlife Service Information Quality Guidelines can be found at <http://www.fws.gov/informationquality>. In addition to ensuring quality of information, the IQA provides a mechanism for allowing the public to seek correction of disseminated information.

## *OMB Peer Review Bulletin*

The Office of Management and Budget Final Information Quality Bulletin for Peer Review (PRB) “establishes that important scientific information shall be peer reviewed by qualified specialists before it is disseminated by the federal government.” The PRB applies to two types of information products covered by the IQA: 1) influential scientific assessments, and 2) highly influential scientific assessments.

Some 5-year reviews may be considered influential in accordance with these definitions and require peer review in compliance with the PRB. The PRB generally directs agencies “to choose a peer review mechanism that is adequate, giving due consideration to the novelty and complexity of the science to be reviewed, the relevance of the information to decision making, the extent of prior peer reviews, and the expected benefits and costs of additional review.” For “influential scientific assessments”, the PRB: 1) requires informing peer reviewers of information quality standards under federal law; 2) provides guidance on selection of peer reviewers and choice of peer review mechanism; 3) requires posting of peer review reports (either actual comments of peer reviewers, or a summary of the views of peer reviewers as a whole, including any disparate or dissenting views) and related materials, including agency response; and 4) requires that certification of compliance with the PRB be included in the administrative record of any regulatory actions supported by influential scientific information. The PRB includes additional requirements for peer review of “highly influential scientific assessments.” (See section 2.3, Peer Review for further guidance)

### **1.2 Timeframe for Conducting the 5-Year Review**

There is no specific statutory timeframe established for completing a 5-year review once it has been initiated although it cannot be unreasonably delayed in accordance with the Administrative Procedure Act (APA). However, the Services should review the status of each species within 5 years of listing or the last status review. The amount of time required to complete a review depends on the amount of relevant new information and other circumstances. As a guideline, most 5-year reviews should be completed within several months to a year, allowing sufficient time for a public information request period, the review and analysis of information, peer review if needed, and internal agency review during the concurrence process. However, complex reviews or reviews for wide-ranging species may take longer, particularly if more than 5 years has passed since the listing or last status review. For example, 5-year reviews for wide-ranging species may require considerable coordination among offices and regions or review of complex or large datasets.

### **1.3 Consideration of the DPS Policy during the 5-Year Review**

The ESA defines species to include any subspecies of fish or wildlife or plants, and “any distinct population segment of any species of vertebrate fish or wildlife.” The 1996 Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (61 FR 4722) clarifies the interpretation of the phrase “distinct population segment of any species of vertebrate fish or wildlife” for the purposes of listing, delisting, and reclassifying

species under the ESA. The DPS policy directs that the appropriate application of the DPS policy should be considered and applied, as appropriate, during the 5-year review of listed species. The DPS Policy specifically calls for species listed prior to 1996 as DPSs to be evaluated for consistency with the policy (see Appendix A. Domestic Species Listed as Distinct Population Segments). If such an evaluation has already been conducted, it will not be necessary in the 5-year review unless there is specific new information relevant to the application of the DPS policy to the listed species.

Review of information relevant to the DPS policy may result in a recommendation for a listing action, and may or may not affect whether or not all portions of the 5-year review template should be completed. For instance, if it is found that the DPS policy was not applied appropriately and therefore the DPS does not qualify for listing under the ESA, the 5-year review could end with the DPS analysis (i.e., without analyzing information on the conservation status of the DPS) and a recommendation made to delist based on this analysis<sup>4</sup>. Although unlikely, there may be circumstances in which additional information relevant to the application of the DPS policy would be considered (see template section 2.1.4). For instance, if the species still qualifies for listing as a species, subspecies, or DPS, but information suggests that a species may be more appropriately listed as several DPSs, that several DPSs should be combined, or that any other change should be made in the entity listed, a 5-year review of the species could be conducted and organized in such a way as to make the case for separate or combined listings in the future. In this case, a recommendation would also be made to re-visit the listing, based on the DPS analysis in the 5-year review. However, the 5-year review must be conducted for, and arrive at a conclusion as to the appropriate classification of, the currently listed species as described in the List (50 CFR 17.11-17.12). An alternative is to do a separate status review which analyzes both the appropriate entity(s) for listing as well as the conservation status of those entities. Appropriate application of the DPS policy in the 5-year review should take into account Congress's intent that DPS listings be used sparingly.

#### **1.4 Rulemakings Associated with the Listed Species**

Rulemakings associated with a listed species may affect the status of the listed species, and thus, should be considered during the 5-year review.

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<sup>4</sup> Note: In assessing whether the population is “discrete” based on an international border across which there are significant differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms, the analysis should rest on any differences that would exist if the DPS were not listed under the ESA.



### **1.4.1 Similarity of Appearance Cases and Experimental Populations**

Rulemakings associated with the listed species include treatment of species on the List due to similarity of appearance under section 4(e) of the ESA and release of experimental populations under section 10(j) of the ESA. These regulations are associated with a threatened or endangered species and are used to facilitate enforcement and reduce threats (similarity of appearance), or promote recovery (experimental populations) of the listed species. Similarity of appearance cases and experimental populations appear as separate entries on the List but should not be treated as separate listed entities for the purposes of 5-year reviews.

The Services place a species on the List due to similarity of appearance because it resembles a threatened or endangered species so closely that distinguishing each species is difficult, resulting in difficulty in enforcement and thus an additional threat to the listed species. In these cases, the species is treated as endangered or threatened in order to facilitate enforcement and further the purposes and policies of the ESA (50 CFR 17.50 – 17.52). Although the status of the species on the List due to similarity of appearance should not be considered in the review of the listed species, the success of the similarity of appearance regulations in reducing threats to the species under review may be relevant information for the review.

Experimental populations of listed species are established to further the conservation of threatened or endangered species (section 10(j)(2)(A) of the ESA). Regulations exist for experimental populations of species under the jurisdiction of FWS (50 CFR 17.80 – 17.83), but no regulations exist for species under NMFS jurisdiction. Although experimental populations appear separately on the List, the experimental and non-experimental populations are considered to constitute a single listed species. Regardless of their classification as essential or non-essential, experimental populations must, by definition, contribute to the species' recovery (50 CFR 17.81), and thus the status of these experimental populations and their effects on the status of the species as a whole must be considered in the 5-year review.

### **1.4.2 4(d) Regulations**

Associated rulemakings also include regulations promulgated under section 4(d) of the ESA for threatened species. These regulations, commonly known as “4(d) rules” or “special rules”, define the specific take prohibitions and exceptions that would apply for that particular threatened species. Because 4(d) rules are intended to provide for the conservation of the species, their effects on the status of the species and its threats should be considered during the 5-year.

## 2 Process for Conducting the Review

A 5-year review includes the following steps:

Step 1 - Public Notification of Active Review and Information Gathering

Step 2 - Completion of the 5-Year Review Template (where appropriate?)

1.0 General Information

2.0 Review Analysis

2.1. Application of the DPS Policy (where appropriate)

2.2. Recovery Criteria

2.3. Updated Information and Current Species Status

2.4. Synthesis

3.0 Results

4.0 Recommendations for Future Actions

5.0 References

Step 3 - Peer Review (as appropriate, consistent with each agency's peer review guidelines)

Step 4 - Concurrence Process

Step 5 - Notification of Results

Each of these steps are presented and discussed below.

### 2.1 Public Notification of Active Review and Information Gathering

As with all status reviews conducted under the ESA, the 5-year review is based on the best scientific and commercial data available. These data include all information available in Service files and information available to Service employees at the time of the review, such as journal articles, interviews with state, academic, or other experts, material carried by public or academic libraries, material posted on the web, and information submitted by outside sources. Documents that summarize information, such as previous 5-year reviews and status reviews, should be used where appropriate. Information/data also is likely to be submitted in response to a notice published in the *Federal Register* or to information request letters. For species listed as DPSs prior to 1996, requests for information should specifically include information necessary to evaluate whether the DPS meets DPS policy standards. For species with tribal and transnational stakeholders, the appropriate contacts should be made with the tribal or foreign agency counterpart(s). If gathering information for a 5-year review requires corresponding with foreign governments, the regional office should coordinate with the International Affairs Program prior to sending information requests. Contact information for scientific and management authorities of foreign countries can be found at the following website:  
[http://www.cites.org/common/directy/e\\_directy.html](http://www.cites.org/common/directy/e_directy.html).

Information relevant to 5-year reviews includes the following:

- Species biology, abundance, population trends, demographics;
- Genetics, genetic variation;
- Taxonomic or nomenclature changes;
- Distribution;

- Habitat conditions, amount, distribution, and suitability;
- Status and trends of threats;
- Conservation measures that have been implemented and their effectiveness;
- Other new information, data, or corrections including, but not limited to, identification of erroneous information contained in the List.

Sources of information include peer-reviewed scientific literature, listing packages, 12-month findings, critical habitat designations, previous 5-year reviews, recovery plans, research and monitoring results, biological opinions, habitat conservation plans, and information received in response to the *Federal Register* notice notifying the public of the 5-year review. The reviewer also should be familiar with information contained in the most recent biennial recovery report to congress or annual FWS recovery data call, and any previous federal actions on the species (recovery plans and *Federal Register* notices are available in TESS (<http://ecos.fws.gov>)). Although 5-year reviews should generally focus on new information since the last status review, discussion of information from the listing and/or previous status reviews may be necessary to evaluate whether new information indicates a change in the status of the species and its threats and develop a summary of the species' status. 5-year reviews may also incorporate new information in the form of improved analyses (e.g. updated population viability analysis, new statistical analysis) of older information. Improved analyses of older information could provide results contrary to an earlier analysis on which a listing or recovery plan was based.

**Box 2. Grandfathered Species**

More than 100 domestic species were transferred onto the List from the Endangered Species Conservation Act of 1969 (including species listed under the Endangered Species Preservation Act of 1966). These “grandfathered” species have no listing package *per se*; however, Service files will likely have significant information on these species, including recovery plans and biological opinions.

*Information through the Federal Register*

Publication of a *Federal Register* notice announcing those species under active review is required under 50 CFR 424.21 (see Appendix B, 5-Year Review *Federal Register* Notice Template). The primary purposes of the *Federal Register* notice are to notify the public of the 5-year review and to request information to assist in the review, rather than request comment on the 5-year review itself. The notice should include a brief explanation of the 5-year review process and the possible outcomes, and a request for relevant, new information on the species under review and the threats to that species. The notice should be written to encourage submission of substantiated and accurate information and data, and references to peer reviewed literature. To minimize irrelevant submissions, the notice should indicate what types of information/data are being sought.

The notice should request that information be submitted within a 30 to 90-day period. The information request period may be extended if necessary. Information submitted after the notice period may be incorporated at the reviewer's discretion. If the reviewer is unable to incorporate the information because it was submitted late, it will become part of the next review. Any information submitted that is not used by the reviewer should be annotated with the reason why it was not considered (e.g. not relevant, incomplete, unsubstantiated, too late) and included in the agency record.

Notices announcing 5-year reviews may be combined with notices announcing other actions such as 90-day findings, or may announce reviews for multiple species. If a status review is conducted on a species in response to a petition to reclassify or for any other reason and the review will be used as a 5-year review, the *Federal Register* notice that announces that review will satisfy the requirement under 50 CFR 424.21.

Other appropriate opportunities to announce a 5-year review are with a Notice of Intent to prepare a recovery plan or Notice of Availability of a draft recovery plan, when they will be prepared within the same timeframe for the same species. Combining information requests for revising a recovery plan and a 5-year review not only streamlines the announcement of these efforts but can also streamline the information gathering and analysis themselves by combining them. Combining announcement of 5-year reviews with other actions or notices should be considered on a case-by-case basis and utilized when doing so will facilitate conducting both actions. When combining announcement of 5-year reviews with other actions or notices that request public comment, the notice should clearly indicate that relative to the 5-year review we are requesting information to assist in preparing the 5-year review rather than requesting public comment.

#### *Information through Other Means*

In addition to the *Federal Register* notice, there may be a need to solicit information directly from various outside sources, including State agencies, other Federal agencies, tribes, universities, institutions, experts, foreign countries, and other interested parties. Solicitation of information can be made by letter (see Appendix C. Five-year Review Dear Interested Party Letter, as an example), e-mail, phone or in person, and should be coordinated with other offices, both field and regional, to avoid duplication of requests. A record of such requests should be kept for the agency record.

Other outreach efforts to ensure that interested parties are apprised of the opportunity to submit information may include preparation of press releases and "Frequently Asked Questions" documents for distribution. Prior to publication of the *Federal Register* notice, regional and field offices may wish to develop a mailing or contact list of interested parties to facilitate outreach and solicitation of information.

### *Information from Outside Experts*

The extent to which outside experts are used during the 5-year review depends on the reviewer's needs, timing, and Federal Advisory Committee Act (FACA) considerations. (For FWS guidance on FACA considerations, refer to 107 FW1 and <http://pdm.fws.gov/advcom.html>.) The Services may request up-to-date information from one or more outside experts prior to or during the review period. Active, recognized recovery teams, which are exempt from FACA, may be consulted during the review at the reviewer's discretion.

Outside experts or contractors also may be used to assist in gathering and evaluating information (see Appendix D. Process used in the Northern Spotted Owl 5-Year Review, as an example of a 5-year review process that utilized a contractor and outside experts). If you hire a contractor or use an outside party to gather and evaluate relevant information for the Service's use in completing 5-year reviews, it should be made clear through the process that the final decision on the status recommendation is made by the Services and that the contractor or outside expert should not provide a recommendation on the ESA classification of the species. Using a contractor or outside party to gather and evaluate information will generally be the exception, but may be useful when a large volume of new information is available, or needs to be collected from a wide variety of sources. However, in determining whether to use a contractor, also consider that Service staff and resources will be required to manage the contract, be available to answer questions from the contractor, and develop the final recommendation on appropriate species classification from the information and/or analyses provided by the contractor.

### *No new Information*

It is possible that no relevant new information on a species has been generated since its most recent comprehensive review. If no relevant new information is available, it may be advisable to make recommendations regarding what information/data should be generated, if possible, prior to the next review (see 2.2.4, Recommendations for Future Actions).

## **2.2 Completion of the Template**

The template provided with this guidance has been developed to aid in national consistency, to streamline the documentation of the review, and to document the deliberative process required for the review.

### **2.2.1 General Information**

This section asks the reviewer to identify participants in the review, provide a summary of the methodology used, and provide background information. The methodology section of the template asks the species reviewer to identify the method or process used in conducting the review. The methodology could include whether the review was conducted by an individual or team, whether some or all of the review was contracted out, whether a structured decision-making process was used, whether peer review was conducted and which kind of peer review processes and mechanisms were used, or whether certain documents or data were relied on more

heavily than others. The background section of the template asks the reviewer to provide general information about previous documentation regarding the species (e.g. listing documents, status reviews, associated actions, recovery plans). Information on any rulemaking, petition findings, and recovery planning is available for FWS species from TESS (<http://ecos.fws.gov>). This information provides the backdrop for the incorporation and analysis of new information when reviewing the species' status and classification.

## **2.2.2 Review Analysis**

The 5-year review analysis consists of four sections. The first three sections analyze information in context of the DPS policy, recovery criteria, and five listing factors. The final section summarizes the information from the previous three sections.

### **2.2.2.1 Application of the DPS Policy (where appropriate)**

Note that the ESA defines species to include any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife. This definition limits listings as distinct population segments (DPSs) only to vertebrate species of fish and wildlife. If the species under review is a plant or invertebrate, the DPS policy is not applicable, and therefore its application to the species listings is not reviewed. However, if the species under review is a vertebrate, particularly if listed as a DPS, the 5-year review begins with ensuring that the listed entity is appropriate. For most species (except those listed as DPSs before 1996; see Appendix A. Domestic Species Listed as Distinct Population Segments), the review of application of the DPS policy should be brief unless information is available that warrants a reconsideration of the listing (See section 1.3 Consideration of the DPS Policy during the 5-Year Review).

### **2.2.2.2 Recovery Criteria**

The next part of the review pertains to the species' recovery plan. If the recovery plan has recovery criteria that reflect the best information on the species (e.g., are not out of date) and take into account control of threats to the species (i.e., the five listing factors) per recovery planning guidance (FWS 1990; NMFS 2004), the information gathered in Step 1 may be analyzed in light of these criteria and the appropriate classification of the species evaluated. If recovery criteria clearly can be shown to address current threats to the species, evaluating whether recovery criteria have been met may be sufficient to evaluate the species listing classification. In this case, the analysis can be summarized in section 2.4 of the 5-Year Review Template and no further analysis in section 2.3 may be necessary. If there is no recovery plan, the recovery criteria are out of date, or criteria don't take all of the threats to the species into account, the reviewer must continue to the next section and conduct a 5-factor analysis. Although this portion of the 5-year review will generally consider criteria from final approved recovery plans, criteria in published draft recovery plans may be considered at the reviewer's discretion.

### **2.2.2.3 Updated Information and Current Species Status**

Section 2.3 of the 5-Year Review Template integrates relevant new information on species biology, habitat, and threats with information from the last status review to produce updated species information. Although 5-year reviews should generally focus on new information since the last status review, discussion of information from the listing and/or previous status reviews may be necessary to evaluate whether new information indicates a change in the status of the species and its threats and develop a summary of the species current status. Information should be summarized to provide a clear understanding of the species' status and threats, but should cite detailed information and analyses, (i.e., the summary should clearly relay the status of the species or threats without providing too much detail). If other recent documents adequately address and summarize the species' status and/or analyze threats to the species, you may cite those documents and provide a brief summary.

Section 2.3.1 of the 5-Year Review Template requests relevant updated information on species biology and habitat. Section 2.3.2 analyzes the extent of the endangerment of the species according to the five listing factors. Because the factors considered for delisting or reclassifying a species are the same as the 5 listing factors, per 50 CFR 424.11, a 5-factor analysis should be part of a 5-year review. For the 5-factor analysis, consider whether there is new information regarding implementation of conservation measures (e.g., restoration efforts, invasive species control, outplanting, HCP activities, implementation of section 7 conservation recommendations, safe harbor agreements, experimental populations, etc.), or regulatory mechanisms that affect the magnitude or imminence of a previously identified or newly identified threat. Note that when considering threats under factor D, the analysis should consider the adequacy of regulatory mechanisms if the ESA were not in place. If improvements in status are solely dependent on regulatory effects of the ESA and those effects would disappear upon delisting, then threats under factor D likely have not been reduced or eliminated. The 5-year review also presents an opportunity to update or develop a threats assessment to systematically characterize the threats to the species as part of updating the analyses of the five listing factors.

### **2.2.2.4 Synthesis**

The final section of the review analysis provides a synthesis of the information discussed in sections 2.1., 2.2., and 2.3, and an updated assessment of the status of the species and its threats. In this section, please note any significant changes in the species' status or its associated threats since the last review, and explain why the species meets the definition of threatened or endangered, as appropriate. This section should conclude with a recommended classification (downlist, uplist, delist, remain the same). Note that per 50 CFR 424.11 a species may be delisted for one or more of the following reasons: extinction, recovery, and data error. The synthesis will provide the basis for the results in section 3.0, Results, and the baseline by which to measure changes in status for the next review.

### 2.2.3 Results

Following the review section of the template, a recommendation of whether or not a change in classification may be warranted should be made, and the appropriate change, if any, indicated (i.e., uplisted from threatened to endangered, downlisted from endangered to threatened, or removed from the List).

Based on the 5-year review, indicate the appropriate Recovery Priority Number for the species. The 5-year review should substantiate any change, so provide only a brief rationale. For further guidance on determining the species recovery priority number, refer to Appendix E, Endangered and Threatened Species Listing and Recovery Priority Guidance (*48 FR 43098*; *48 FR 51935*; *55 FR 24296*). Note that the Recovery Priority Number can be changed regardless of whether a change in classification is recommended.

A recommendation to change the species' classification should be accompanied by a priority number for reclassification from threatened to endangered, or a priority number for de-listing or reclassification from endangered to threatened (see Appendix E, Endangered and Threatened Species Listing and Recovery Priority Guidance; *48 FR 43098*; *48 FR 43098*; *48 FR 51935*; *55 FR 24296*). For NMFS, the recommendation to change the species' classification should prompt a rule-making, using the 5-year review as its basis.

No change in a species classification will occur until the completion of the rule-making process (i.e., publication of a proposed rule with a public comment period and publication of a final rule).

### 2.2.4 Recommendations for Future Actions

Regardless of the result of the review, **it is strongly encouraged that recommendations for future actions be made.** These recommendations should be focused on actions that are most needed prior to the next 5-year review. Recommendations may address, but are not limited to, the following: conservation actions needed to improve the species status; data, survey or monitoring needs; possible actions on DPS-related issues; and revisions, amendments, or updates to recovery plans. Recommendations should be taken seriously; however, completion of recommended actions is not required, and subsequent reviews will not be precluded if the actions remain incomplete.

### 2.2.5 References

List all information and data sources used in the 5-year review. Include on this list any experts used and their affiliations and note whether they provided information or if they acted as peer-reviewers, or both.



### **2.3 Peer Review (as appropriate, consistent with each agency's peer review guidelines)**

Using outside experts for external peer review is not generally required but may be appropriate and, for some 5-year reviews, may be required under OMB's guidelines for implementing the IQA. Because the amount and type of peer review used could substantially change the timeframe, costs, and workload for conducting and completing a 5-year review, decisions regarding how to conduct peer review should be made as early as possible in the 5-year review process. As suggested in the Office of Management and Budget Final Information Quality Bulletin for Peer Review (PRB), choice of peer review mechanism should consider the novelty and complexity of the science to be reviewed, importance of the information to decision making, extent of prior peer review, and expected benefits and costs of review.

In general, the Services will use peer reviewed literature and conduct peer review of other information used in developing the 5-year review recommendation. In determining whether to conduct peer review on the 5-year review itself, factors to consider include whether we received significant new information since the listing or last status review, the level of public interest and/or scientific uncertainty or controversy, extent of prior peer review of the information on which the recommendation will be based, and whether the proposed recommendation would provide opportunities for future peer review of the information. Decisions regarding whether to conduct peer review will generally follow the guidelines below:

- 1) If a 5-year review results in a recommendation to change the status of the species, peer review will be conducted when the proposed rule to change the species status is issued. This is to avoid redundancy in peer reviews because peer review is required at the time of the proposed rule.
- 2) If a 5-year review results in a recommendation to leave the status unchanged because there was no new information, or all new information has undergone prior peer review, no peer review is necessary. This assumes that the level of public interest and/or scientific uncertainty or controversy is low.
- 3) If a 5-year review results in a recommendation to leave the status unchanged but is based on new information that has not been subject to peer review, or the level of public interest and/or scientific uncertainty or controversy is high, peer review of the information underlying the recommendation should be conducted.

If peer review is required, or it is determined that peer review would be beneficial in conducting the review, the following measures may facilitate constructive independent review:

- 1) Carefully consider and determine the instructions to peer reviewers in advance of selection of the peer reviewers. The instructions to peer reviewers should make clear that the peer reviewers are not to provide recommendations on the ESA classification of the species. However, peer reviewers may be asked to: comment specifically on models, data, or analyses used; identify oversights, omissions, and inconsistencies; provide advice on reasonableness of judgments made from scientific evidence; ensure that scientific

uncertainties are clearly identified and characterized, and that potential implications of uncertainties for the technical conclusions drawn are clear; and provide advice on the strengths and limitation of the overall product.

- 2) Supply peer reviewers with background information regarding the legal and administrative requirements for 5-year reviews, and inform peer reviewers of information quality standards under federal law.
- 3) Ensure a contact is available to answer questions from peer reviewers regarding the limits and breadth of their reviews.

The PRB requires posting on Service websites of this or other information relating to peer review of influential or highly influential scientific information. Posted information may include any instructions to the peer reviewers describing the scope and objectives of the peer review, a peer review report describing the nature of the peer reviews and their findings and conclusions, and the agency's response to the peer review.

## **2.4 Concurrence Process**

For FWS, the Field Supervisor must approve the completed 5-year review. The completed review should be forwarded to the Regional Director for concurrence. Concurrence may be delegated by the Regional Director no further than the Assistant Regional Director for Ecological Services. Written concurrence must be obtained from other Regional Directors for the regions in which the species occurs. Once the reviews have concurring signatures, the completed 5-year review will be forwarded to the Washington Office Endangered Species Program, Division of Consultation, Habitat Conservation Planning, Recovery and State Grants for reporting and tracking purposes.

For NMFS, the Office that completed the review should forward the completed review to the Regional Administrator for signature. Written concurrence must be obtained for other Regional Administrators for the regions in which the species occurs. After regional approval, the review should be forwarded to the Endangered Species Division of the Office of Protected Resources for the Assistant Administrator's concurrence, and for reporting and tracking purposes.

## **2.5 Reporting and Public Notification of Results**

The Services will notify the public in the following ways:

- 1) Prompt posting of the 5-year review on regional and national websites -- The Regions will post the 5-year review results on their websites and provide the Washington/Headquarters Office with the 5-year review results for posting on the national website. The Regions may also post the actual 5-year reviews or contact information for obtaining a copy of the 5-year review.
- 2) Inclusion in the Biennial Report to Congress -- The species reviewed during the reporting period will be identified as having been reviewed in the report. The reported species' status and/or percent recovery achieved reported should be checked for consistency with the 5-year review recommendations.

3) Announcement in the *Federal Register* (optional) -- Results may also be announced in the *Federal Register*, but this is not required. This notice may be combined with the notice announcing which species will be reviewed in the upcoming year.

### 3 Roles and Responsibilities

For FWS, Regional Offices, with input from the Field Offices, will determine which species are to be reviewed during the upcoming fiscal year. For NMFS, the lead office will be determined on a case-by-case basis (e.g., for marine turtles and some mammals, which cross domestic and international boundaries, determinations on recovery actions and status reviews are made out of the Headquarters Office; see discussion below). The lead office for a particular species will conduct the review in coordination with appropriate regional and field offices. The information collection and analysis for these reviews may be conducted by contractors, but the agency office that contracts the work is responsible for the ultimate product and, as such, agency staff should complete the template. For species involving state agencies, tribes, and other countries, the Services should make appropriate contacts regarding the review and request information as needed.

For FWS, after staff in the Field Office complete the 5-year review and the Field Supervisor approves the review, the 5-year review should be submitted to the Regional Office for concurrence. The delegation of signature authority for concurrence may be delegated by the Regional Director to the ARD for Ecological Services. Regional Offices must forward an electronic copy of all completed 5-year reviews to the Washington D.C. Office for tracking and posting. Any 5-year reviews that recommend a change in classification must be accompanied by a briefing paper to the Director summarizing the 5-year review and rationale for the recommendation. Lead Field Offices/lead Regions must ensure that other Field Offices/Regions within the range of the species have been provided an adequate opportunity to review and comment prior to the review's completion.

For NMFS, in many cases the Science Centers will compile the science and Regional Offices or Headquarters will interpret the science in term of the status of the species under the ESA. Reviews being conducted in the Regions (with the Science Centers) should be approved by the lead Regional Administrator, and submitted to the Office of Protected Resources in Headquarters for final review and concurrence. The lead office for sea turtles and some marine mammals is the Headquarters Division of Marine Mammals and Sea Turtles, which will submit the completed review to the Endangered Species Division for final review and concurrence. Lead offices must ensure that all Regions/Science Centers within the range of the species have been provided an adequate opportunity to review and comment prior to the review's completion, and written concurrence from all Regions within the species' range is required. The Assistant Administrator for Fisheries will approve and sign all 5-year reviews.

For jointly listed species, one Service serves as lead, and the other agency must review and sign each review. The lead agency should be decided by the Regional Director of FWS and Regional Administrator of NMFS. Signature and concurrence will be obtained from the Regional Director/ Assistant Administrator for Fisheries.

For both agencies, the respective Washington/Headquarters Office will 1) track the progress toward completing 5-year reviews for all listed species; 2) assist, as necessary, in the preparation and processing of *Federal Register* notices; 3) post results of the reviews on the national

website; 4) track recommendations for recovery plan revisions, amendments, and updates; and 5) provide training to the regions on the application of the guidance.

## Appendix A. Domestic Species Listed as Distinct Population Segments

<b>Domestic Species Listed As Distinct Population Segments (DPS) or as Populations That are Considered to be DPSs as of 03/03/06</b>				
<small>* Denotes species listed prior to the 2/7/96 FWS-NOAA Fisheries DPS Policy; ** Denotes species listed in compliance with 11/20/91 NOAA Evolutionary Significant Unit (ESU) Policy</small>				
Inverted Common Name	Scientific Name	Where Listed	Status	Date Listed
<i>Mammals</i>				
Bat, Mariana fruit *	<i>Pteropus mariannus mariannus</i>	Guam	E	8/27/1984
Bear, grizzly *	<i>Ursus arctos horribilis</i>	Coterminous U.S. (lower 48 states)	E	3/11/1967
Caribou, woodland *	<i>Rangifer tarandus caribou</i>	ID, WA, Canada (that part of S.E. British Columbia bounded by the U.S. - Canada border, Columbia River, Kooteney R., Kooteney Lake and Kootenai R.	E	1/14/1983
Deer, Columbia white-tailed	<i>Odocoileus virginianus leucurus</i>	Clark,Cowlitz,Pacific, Skamania, and Wahkiakum Counties, WA., and Clatsop,Columbia, and Multnomah Counties, OR	E	7/24/2003 (3/11/1967 original listing date *)
Lynx, Canada	<i>Lynx canadensis</i>	CO, ID, ME, MI, MN, MT, NH, NY, OR, UT, VT, WA, WI, WY	T	4/20/2000
Rabbit, Columbia Basin pygmy	<i>Brachylagus idahoensis</i>	Columbia Basin, WA	E	11/30/2001
Rice rat *	<i>Oryzomys palustris natator</i>	Lower FL Keys (west of Seven Mile Bridge)	E	4/30/1991
Sea-lion, Steller	<i>Eumetopias jubatus</i>	Entire, except the population segment west of 144° longitude	T	5/5/97 (11/26/90 original (final) listing date*)
		Population segment west of 144° longitude	E	
Sea-otter, northern (southwest Alaska DPS)	<i>Enhydra lutris kenyoni</i>	AK -Aleutian Islands, Alaska Peninsula coast, and Kodiak Archipelago	T	8/9/2005
Sheep, bighorn	<i>Ovis canadensis</i>	CA - Peninsular ranges	E	3/18/1998
Sheep, Sierra Nevada bighorn	<i>Ovis canadensis californiana</i>	CA - Sierra Nevada	E	4/20/1999
Whale, gray *	<i>Eschrichtius robustus</i>	Western North Pacific Ocean	E	6/16/1994
Wolf, gray	<i>Canis lupus</i>	U.S.A. (MN)	T	3/11/1967

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Inverted Common Name	Scientific Name	Where Listed	Status	Date Listed
		U.S.A., conterminous (lower 48) States, except MN and where listed as an experimental population; Mexico	E	
<b>Birds</b>				
Caracara, Audubon's crested	<i>Polyborus plancus audubonii</i>	FL	T	7/6/1987
Condor, California	<i>Gymnogyps californianus</i>	U.S.A. only	E	3/11/1967
Eagle, bald *	<i>Haliaeetus leucocephalus</i>	Lower 48 USA	T	3/11/1967
Eider, Steller's	<i>Polysticta stelleri</i>	AK breeding population only	T	6/11/1997
Kite, Everglade snail *	<i>Rostrhamus sociabilis plumbeus</i>	FL	E	3/11/1967
Murrelet, marbled *	<i>Brachyramphus marmoratus marmoratus</i>	CA, OR, WA	T	10/1/1992
Pelican, brown *	<i>Pelecanus occidentalis</i>	Entire, except U.S. Atlantic coast, FL, AL	E	6/2/1970
Plover, piping *	<i>Charadrius melodus</i>	Great Lakes, watershed in States of IL, IN, MI, MN, NY, OH, PA and WI, and Canada	E	12/11/1985
		Entire, except those areas where listed as endangered above	T	
Plover, western snowy *	<i>Charadrius alexandrinus nivosus</i>	CA, OR, WA, Mexico (within 50 miles of Pacific coast)	T	3/5/1993
Pygmy-owl, cactus ferruginous	<i>Glaucidium brasilianum cactorum</i>	AZ	E	3/10/1997
Rail, light footed clapper *	<i>Rallus longirostris levipes</i>	U.S.A. only (AZ, CA)	E	10/13/1970
Rail, Yuma clapper *	<i>Rallus longirostris yumanensis</i>	AZ, CA	E	3/11/1967
Stork, wood *	<i>Mycteria americana</i>	AL, FL, GA, SC	E	2/28/1984
Tern, least *	<i>Sterna antillarum</i>	AR, CO, IA, IL, IN, KS, KY, LA - Mississippi R. and tributaries north of Baton Rouge, MS - Mississippi R., MO, MT, ND, NE, NM, OK, SD, TN, TX - except within 50 miles of coast	E	5/28/1985
Tern, roseate *	<i>Sterna dougallii dougallii</i>	USA (Atlantic coast south to NC), Canada (Newfoundland, Nova Scotia, Quebec), Bermuda	E	11/2/1987

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Inverted Common Name	Scientific Name	Where Listed	Status	Date Listed
		Western Hemisphere and adjacent oceans, incl. U.S.A. (FL, PR, VI), where not listed as endangered.	T	
<b>Reptiles</b>				
Sea turtle, green *	<i>Chelonia mydas</i>	Breeding colony populations in FL and on Pacific coast of Mexico	E	7/28/1978
		Wherever found except where listed as endangered above	T	
Sea turtle, olive ridley *	<i>Lepidochelys olivacea</i>	Wherever found except where listed as endangered below	T	7/28/1978
		Breeding colony populations on Pacific coast of Mexico	E	
Snake, copperbelly water	<i>Nerodia erythrogaster neglecta</i>	IN north of 40° latitude, MI, OH	T	1/29/1997
Snake, Lake Erie water	<i>Nerodia sipedon insularum</i>	Lake Erie offshore islands and their adjacent waters (located more than 1 mile from mainland) - U.S.A. (OH), Canada (Ont.)	T	8/30/1999
Tortoise, desert *	<i>Gopherus agassizii</i>	Entire, except AZ south and east of Colorado R., and Mexico	T	8/20/1982
Tortoise, gopher *	<i>Gopherus polyphemus</i>	Wherever found west of Mobile and Tombigbee Rivers in AL, MS, and LA	T	7/7/1987
Turtle, bog	<i>Clemmys muhlenbergii</i>	Entire, except GA, NC, SC, TN, VA	T	11/4/1997
<b>Amphibians</b>				
Frog, Mississippi gopher	<i>Rana capito sevosa</i>	Wherever found west of Mobile and Tombigbee Rivers in AL, MS, LA	E	12/4/2001
Frog, mountain yellow-legged	<i>Rana muscosa</i>	Southern California	E	7/2/2002
<b>Fish</b>				



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<b>Inverted Common Name</b>	<b>Scientific Name</b>	<b>Where Listed</b>	<b>Status</b>	<b>Date Listed</b>
Salmon, Atlantic	<i>Salmo salar</i>	Gulf of Maine DPS, which includes all naturally reproducing wild populations and those river-specific hatchery populations of Atlantic salmon having historical, river-specific characteristics found north of and including tributaries of the lower Kennebec River to, but not including, the mouth of the St. Croix River at the U.S. - Canada border. To date, the Services have determined that these populations are found in the Dennys, East Machais, Machias, Pleasant, Narraguagus, Sheepscot, and Ducktrap Rivers in Cove Brook, Maine.	E	11/17/2000
Salmon, chinook **	<i>Oncorhynchus tshawytscha</i>	Sacramento River, CA winter run, wherever found	E	3/23/94 (originally listed as T in 11/30/90)
		Snake River (ID, OR, WA) mainstem and the following subbasins - Tucannon R., Grande Ronde R., Imnaha R., Salmon R., and Clearwater R., fall run, natural population(s), wherever found	T	4/22/1992
		Snake River (ID, OR, WA) mainstem and the following subbasins - Tucannon R., Grande Ronde R., Imnaha R., Salmon R., spring/summer run, natural population(s), wherever found	T	4/22/1992
		OR, WA, all naturally spawned populations from the Columbia R. and its tributaries upstream from its mouth to a point east of the Hood R. and White Salmon R. to Willamette Falls in Oregon, excluding the spring run in the Clackamas R.	T	8/2/1999

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Inverted Common Name	Scientific Name	Where Listed	Status	Date Listed
		WA, all naturally spawned populations in the Columbia R. tributaries upstream of Rock Island Dam and downstream of Chief Joseph Dam, excluding the Okanogan R. and the Columbia R. from a line between the west end of Clatop jetty, OR and the west end of Peacock jetty, WA, upstream to Chief Joseph Dam, including spring-run hatchery stocks (and their progeny) in Chiwawa R., Methow R., Twisp R., Chewuch R., White R., and Nason Creek.	T	8/2/1999
		CA, from Redwood Creek south to Russia R., inclusive, all naturally spawned populations in mainstems and tributaries	T	12/29/1999
		CA, all naturally spawned spring-run populations from the Sacramento San Joaquin R. mainstem and its tributaries	T	12/29/1999
		OR, all naturally spawned populations in the Clackamas R. and the Willamette R. and its tributaries above Willamette Falls	T	8/2/1999
		WA, all naturally spawned populations for rivers and streams flowing into Puget Sound, including the Straits of Juan de Fuca from the Elwha R. eastward and Hood Canal, South Sound, North Sound and the Strait of Georgia	T	8/2/1999
Salmon, chum **	<i>Oncorhynchus keta</i>	OR, WA, all naturally spawned populations in the Columbia R. and its tributaries	T	8/2/1999
		WA, all naturally spawned summer-run populations in Hood Canal and its tributaries and Olympic Peninsula rivers between Hood Canal and Dungeness Bay	T	

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<b>Inverted Common Name</b>	<b>Scientific Name</b>	<b>Where Listed</b>	<b>Status</b>	<b>Date Listed</b>
Salmon, coho **	<i>Oncorhynchus kisutch</i>	CA, naturally spawning populations in streams between Punta Gorda, Humboldt Co., CA and the San Lorenzo River, Santa Cruz, Co.	T	11/20/1996
		OR, CA - natural populations in river basins between Cape Blanco in Curry County, OR and Punta Gorda in Humboldt Co., CA	T	6/18/1997
Salmon, sockeye **	<i>Oncorhynchus nerka</i>	Snake River, ID stock, wherever found	E	1/3/1992
		WA - all naturally spawned populations in Ozette Lake and its tributary streams	T	8/2/1999
Sawfish, smalltooth	<i>Pristis pectinata</i>	U.S.A. only	E	4/1/2003
Shiner, Arkansas River	<i>Notropis girardi</i>	Arkansas River Basin (AR, KS, NM, OK, TX)	T	11/23/1998
Steelhead **	<i>Oncorhynchus mykiss</i>	All naturally spawned populations (and their progeny) in rivers from the Santa Maria R, San Luis Obispo County, CA (inclusive) to Malibu Cr., Los Angeles County, CA (inclusive)	E	6/17/1998
		All naturally spawned populations (and their progeny) in the Upper Columbia R. Basin upstream from Yakima R., WA, to the U.S./Canada border, and also including the Wells Hatchery stock.	E	6/17/1998
		All naturally spawned populations (and their progeny) in streams from the Russian R. to Aptos Cr., Santa Cruz County, CA (inclusive), and the drainages of San Francisco and San Pablo Bays eastward to the Napa R. (inclusive), Napa County, CA, excluding the Sacramento-San Joaquin R. Basin of the Central Valley of CA	T	6/17/1998

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Inverted Common Name	Scientific Name	Where Listed	Status	Date Listed
		All naturally spawned populations (and their progeny) in streams for the Pajaro R. (inclusive) located in Santa Cruz County, CA to (but not including) the Santa Marie R.	T	6/17/1998
		All naturally spawned populations (and their progeny) in streams in the Snake R. Basin of southeast WA, northeast OR, and ID	T	6/17/1998
		All naturally spawned populations (and their progeny) in streams and tributaries to the Columbia R. between the Cowlitz and Wind Rivers, WA, inclusive, and the Willamette and Hood Rivers, OR, inclusive, excluding the Upper Willamette River Basin above Willamette Falls and excluding the Little and Bid White Salmon Rivers in WA.	T	6/17/1998
		All naturally spawned populations (and their progeny) in the Sacramento and San Joaquin Rivers and their tributaries, excluding San Francisco and San Pablo Bays and their tributaries	T	6/17/1998
		OR, WA - All naturally spawned populations in streams above and excluding the Wind R. in Washington and the Hood R. in Oregon, upstream to, and including the Yakima R. Excluded are steelhead from the Snake River Basin.	T	8/2/1999
		OR - All naturally spawned winter-run populations in the Willamette R. and its tributaries from Willamette Falls to the Calapooia R., inclusive	T	8/2/1999
		All naturally spawned populations (and their progeny) in river basins from Redwood Creek in Humboldt County, CA to the Gualala River, in Mendocino County, CA (inclusive)	T	6/7/2000

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<b>Inverted Common Name</b>	<b>Scientific Name</b>	<b>Where Listed</b>	<b>Status</b>	<b>Date Listed</b>
Sturgeon, white *	<i>Acipenser transmontanus</i>	ID, MT, Canada (B.C.), (Kooteni R. system)	E	9/6/1994
Sucker, Santa Ana	<i>Catostomus santaanae</i>	Los Angeles River basin, San Gabriel River basin, Santa Ana River basin	T	4/12/2000
Topminnow, Gila *	<i>Poeciliopsis occidentalis</i>	AZ, NM	E	3/11/1967
Trout, bull	<i>Salvelinus confluentus</i>	Lower 48 U.S.A	T	11/1/1999 for the coterminous U.S. listing (first DPS listing was 6/10/1998)

**Appendix B. Five-year Review Federal Register Notice Templates – FWS and NMFS**

Billing Code 4310-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Initiation of a 5-Year Review of [SPECIES  
COMMON AND SCIENTIFIC NAME(S)]

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 5-year review of [SPECIES COMMON AND SCIENTIFIC NAME (S)] under section 4(c)(2)(A) of the Endangered Species Act of 1973 (Act) (16 U.S.C. 1531 et seq.). A 5-year review is a periodic process conducted to ensure that the listing classification of a species is accurate. A 5-year review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information on [SPECIES NAME(S)] that has become available since [ITS or THEIR] original listing[S] as [LISTING CLASSIFICATION] species in [YEAR (FEDERAL REGISTER NOTICE)] [and YEAR

(FEDERAL REGISTER NOTICE) RESPECTIVELY, *if multiple*]. Based on the results of [THIS or THESE] 5-year review[S], we will make the requisite finding[S] under section 4(c)(2)(B) of the ESA.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Submit information to the U.S. Fish and Wildlife Service, [RECIPIENT AND ADDRESS]. Information received in response to this notice and review will be available for public inspection, by appointment, during normal business hours, at the above address. [Information may also be sent to NAME OF DEDICATED EMAIL ADDRESS, *if applicable*].

FOR FURTHER INFORMATION CONTACT: [CONTACT(S)] at the above address, or at [PHONE NUMBER].

#### SUPPLEMENTARY INFORMATION:

Under the Act, the Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every five years. Then, on the basis of such reviews under section 4(c)(2)(B), we determine whether or not any species should

be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) the species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the Federal Register announcing those species currently under active review. This notice announces our active review of the [SPECIES NAME(S)] currently listed as [PROVIDE LISTING CLASSIFICATION, *if multiple repeat*].

#### Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, concerned governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of [SPECIES NAME(S)].

The 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Categories of requested information include (A) species biology, including but not limited to, population trends, distribution, abundance, demographics, and genetics; (B) habitat conditions, including but not limited to, amount, distribution, and suitability; (C) conservation measures that have been implemented that benefit the species; (D) threat status and trends; and



(E) other new information, data, or corrections, including but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

*{Add if species is a vertebrate population listing. [SPECIES NAME] was listed as a Distinct Population Segment (DPS) of a vertebrate taxon. A DPS is defined in the February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722). For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered: (1) the discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (i.e., is the population segment endangered or threatened?). Distinct population segments of vertebrate species, as well as subspecies of all listed species, may be proposed for separate reclassification or for removal from the list. As required by the DPS policy, we will apply the DPS policy during the 5-year review.}*

If you wish to provide information for [EITHER or THIS] 5-year review, you may submit your information and materials to the [RECIPIENT] (see ADDRESSES section). Our practice is to make submissions of information, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your submission. We will not, however, consider anonymous submissions. To the extent consistent

with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Information and materials received will be available for public inspection, by appointment, during normal business hours (see ADDRESSES section).

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: \_\_\_\_\_

\_\_\_\_\_

Regional Director, [REGION]

Fish and Wildlife Service

Billing Code 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. ]

Endangered and Threatened Species; Initiation of a 5-Year Review of [SPECIES COMMON NAME]

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of initiation of 5-Year Review; request for information.

SUMMARY: The National Marine Fisheries Service (NMFS) announces a 5-year review of [SPECIES COMMON AND SCIENTIFIC NAME (S)] under the Endangered Species Act of 1973 (ESA). A 5-year review is a periodic process conducted to ensure that the listing classification of a species is accurate. A 5-year review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information on [SPECIES NAME(S)] that has become available since [ITS or THEIR] original listing[S] as [LISTING CLASSIFICATION] species in [YEAR (FEDERAL REGISTER NOTICE)] [and YEAR (FEDERAL REGISTER NOTICE) RESPECTIVELY, if multiple].

Based on the results of [THIS or THESE] 5-year review[S], we will make the requisite finding[S] under the ESA.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than [insert date 60 days after the date of publication in the FEDERAL REGISTER].

However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Please submit information to the [NAME OF RECIPIENT], National Marine Fisheries Service, [ADDRESS]. Information received in response to this notice and review will be available for public inspection, by appointment, during normal business hours, at the above address. Comments may also be submitted by e-mail to: [Provide e-mail address]. Include in the subject line of the e-mail, the following identifier: Comments on 5-year review for [NAME OF SPECIES]. Comments may also be submitted via facsimile (fax) to [Add FAX NUMBER].

FOR FURTHER INFORMATION CONTACT: [CONTACT(S)] at the above address, or at [PHONE NUMBER].

#### SUPPLEMENTARY INFORMATION:

Under the ESA, the U.S. Fish and Wildlife Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews under section 4(c)(2)(B), we determine whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) the species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The regulations in

50 CFR 424.21 require that we publish a notice in the Federal Register announcing those species currently under active review. This notice announces our active review of the [SPECIES NAME(S)] currently listed as [PROVIDE LISTING CLASSIFICATION, if multiple repeat].

#### Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, concerned governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of [SPECIES NAME(S)].

The 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Categories of requested information include (A) species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (B) habitat conditions including, but not limited to, amount, distribution, and suitability; (C) conservation measures that have been implemented that benefit the species; (D) status and trends of threats; and (E) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

*{Add if species is a vertebrate population listing; otherwise delete paragraph. [SPECIES NAME] was listed as a Distinct Population Segment (DPS) of a vertebrate taxon. A DPS is defined in the February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate*

Population Segments (61 FR 4722). For a population to be listed under the ESA as a DPS, three elements are considered: (1) the discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (i.e., is the population segment endangered or threatened?). DPSs of vertebrate species, as well as subspecies of all listed species, may be proposed for separate reclassification or for removal from the list. As required by the DPS policy, we will apply the DPS policy during the 5-year review. }

If you wish to provide information for [EITHER or THIS] 5-year review, you may submit your information and materials to the [RECIPIENT] (see ADDRESSES section). Our practice is to make submissions of information, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your submission. We will not, however, consider anonymous submissions. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Information and materials received will be available for public inspection, by appointment, during normal business hours (see ADDRESSES section).

Authority: 16 U.S.C. 1531 et seq.

Dated: \_\_\_\_\_

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Angela Somma, Chief, Endangered Species Division, Office of Protected Resources, National  
Marine Fisheries Service

**Appendix C. Five-year Review Dear Interested Party Letter**

**United States Department of the Interior**

**FISH AND WILDLIFE SERVICE  
Oregon Fish and Wildlife Office  
2600 S.E. 98th Avenue, Suite 100  
Portland, Oregon 97266  
(503) 231-6179 FAX: (503) 231-6195**

April 21, 2003

Dear Interested Party:

On April 21, 2003, we (the U.S. Fish and Wildlife Service) published a notice in the Federal Register announcing our intent to conduct a 5-year review of the marbled murrelet (*Brachyramphus marmoratus marmoratus*) and the northern spotted owl (*Strix occidentalis caurina*) under section 4(c)(2)(A) of the Endangered Species Act (Act). We agreed to complete a 5-year review for each species by December 31, 2003, during settlement negotiations of two lawsuits, Western Council of Industrial Workers v. Secretary of the Interior, Civil No. 02-6100-AA (D. Or.) and American Forest Resource Council v. Secretary of the Interior, Civil No. 02-6087-AA (D. Or.). The settlement agreements for these two lawsuits are currently pending consideration by the District Court in Oregon.

A 5-year review is an assessment of a species' status examined in light of any new biological information available since its original listing, and will be based on the best scientific and commercial data available at the time of this review. The review will assess: (a) whether new information suggests that the species' population is increasing, declining, or stable; (b) whether existing threats are increasing, the same, reduced, or eliminated; (c) if there are any new threats; and (d) if new information or analysis calls into question any of the conclusions in the original listing determination as to the species' status. The review will also apply this new information to consideration of the appropriate application of the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 Federal Register 4722) to the marbled murrelet.

The information obtained in this review will be evaluated to determine if there is an indication that a change in the listing status of either species is warranted, based on the five factors described in the Act:

- 1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- 2) Overutilization for commercial, recreational, scientific, or educational purposes;
- 3) Disease or predation;
- 4) The inadequacy of existing regulatory mechanisms; or
- 5) Other natural or manmade factors affecting its continued existence.



We request your assistance in this effort by providing any new information that you may have on the marbled murrelet and/or the northern spotted owl since their original listing in 1992 and 1990, respectively. Specifically, we request any new information, analyses, or reports for either species that summarize and interpret: population status and threats, demographic or population trends; genetics and competition; dispersal and habitat use; habitat condition or amount; and adequacy of existing regulatory mechanisms, management, and conservation planning. We are requesting this information for all applicable land ownerships within the range of both species.

The information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. We will consider all information submitted, however, raw data that has not been analyzed or summarized may have limited usefulness in the review process. We realize that some parties may have extensive amounts of information pertinent to these reviews, so, as such, we request that if appropriate you provide a contact name (and phone number or email address) so that we may be able to discuss the information as appropriate or needed during these reviews.

To allow us adequate time to conduct this review within the time frame of the agreement, we request that you submit any information by June 19, 2003 to insure that your information contributes to our review. Please send your response to:

Field Office Supervisor, Attention Owl and Murrelet 5-year Review  
Oregon Fish and Wildlife Office  
2600 SE 98th Ave, Suite 100  
Portland, OR 97266

Information regarding the northern spotted owl may be sent electronically to **owl\_information@r1.fws.gov**. Information regarding the marbled murrelet may be sent electronically to **murrelet\_information@r1.fws.gov**.

If you have any questions regarding this request, contact Lee Folliard concerning marbled murrelets or Robin Bown for northern spotted owls at the above address, or at 503/231-6179. Thank you.

## **Appendix D. Process used in the Northern Spotted Owl 5-Year Review**

(summarized from methodology section of the Northern Spotted Owl 5-Year Review: Summary and Evaluation, November 2004)

Initiation of Review and Solicitation of information: A Federal Register Notice announced active review and solicited information. Information also was solicited through direct meetings with affected land management agencies and interested public.

Contract with SEI and expert panel: The firm SEI was contracted to produce a report on the status of the northern spotted owl, summarizing and evaluating new information available since its listing, and any new understanding of information that existed at the time of listing

SEI assembled a panel of scientists with expertise in different academic backgrounds relevant to the status review. These experts read the materials available or developed during the process, and participated in public meetings and several panel meetings convened by SEI. During their deliberations, the panel evaluated the strengths and weaknesses of the various data, hypotheses, and opinions.

The SEI panel produced a report titled “Scientific Evaluation of the Status of the Northern Spotted Owl.” This report provided the primary biological basis for the conclusions of the 5-year review.

Peer review: The SEI report was extensively reviewed, including peer review during and following drafting.

FWS review and analysis: Following the completion of a draft SEI report, the Service initiated steps to complete its regulatory requirements for a 5-year review under section 4(c) of the ESA.

*Issue panel:* The Service convened a panel of six managers to participate in a Workshop on Taxonomy and Range of the northern spotted owl (issues specific to northern spotted owl). Three geneticists were present to answer questions from the panel. The panel’s charge was to explore and discuss genetic issues relevant to the question of subspecies validity.

*Final Decision Support Workshop for Managers:* The Service convened a workshop panel consisting of seven Service managers. The managers had access to a range of background materials, including the draft SEI report. In a series of facilitated discussion and exercises, the managers explored biological risk information, including uncertainty, and clarified their assumptions about key terms in the ESA. This helped the managers compare the new biological information against their understanding of the statutory requirements to assess whether a change in listing status was potentially warranted.

Completion of 5-year review: The Service completed the 5-year review template and posted results on the Region 1 webpage.

# Appendix E. FWS Endangered and Threatened Species Listing and Recovery Priority Guidance

43098

Federal Register / Vol. 48, No. 184 / Wednesday, September 21, 1983 / Notices

Upon disqualification of the apparent high bidder, the next high bid will be honored.

2. The authorized officer may reject the highest qualified bid and release the bidder from his obligation and withdraw the tract for sale, if he determines that consummation of the sale would be inconsistent with the provisions of any existing law or collusive or other activities have hindered or restrained free and open bidding or consummation of the sale would encourage or promote speculation in public lands.

3. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

4. A right-of-way is reserved for ditches and canals constructed by the authority of the United States under the act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

5. The patent will be subject to road right-of-way held by the county and all other valid existing rights.

6. All minerals will be reserved to the United States.

Detailed information concerning the sale, including the environmental assessment, and the decision document is available for review at the Richfield District Office.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this notice. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: September 12, 1983.

Donald L. Pendleton,

District Manager.

[FR Doc. 83-25877 Filed 9-20-83; 8:45 am]

BILLING CODE 4310-84-M

[W-46102]

## Wyoming; Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of Pub. L. 31-245 and Title 43 Code of Federal Regulations, § 3108.2-1(c), and Pub. L. 97-451, a petition for reinstatement of oil and gas lease W-46102 for lands in Natrona County, Wyoming has been timely filed and was accompanied by all the required rentals accruing from their respective dates for termination.

The lessees have agreed to new lease terms for rentals and royalties at rates of \$10.00 per acre, and 16% percent, royalty, computed on a sliding scale

based on average production per well per day.

The lessees have paid the required \$500 administrative fee and will reimburse the Department of the cost of this Federal Register notice.

The lessees having met all the requirements for reinstatement of the leases as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease W-46102 effective August 31, 1979, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Harold G. Stinchcomb,

Chief, Branch of Fluid Minerals.

[FR Doc. 83-25879 Filed 9-20-83; 8:45 am]

BILLING CODE 4310-84-M

## Fish and Wildlife Service

### Endangered and Threatened Species Listing and Recovery Priority Guidelines

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Fish and Wildlife Service has developed guidelines governing the assignment of priorities to species for listing as Endangered and Threatened under the Endangered Species Act of 1973, as amended (Act) and development and implementation of recovery plans for species that are listed under the Act. The guidelines aid in determining how to make the most appropriate use of resources available to implement the Act.

**EFFECTIVE DATE:** The guidelines are adopted as of September 21, 1983.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235-2771).

#### SUPPLEMENTARY INFORMATION:

##### General

The Service recognizes that it is necessary to assign priorities to listing, delisting, reclassification, and recovery actions in order to make the most appropriate use of the limited resources available to implement the Act. The following priority systems are based on an analysis of such factors as degree and immediacy of threat faced by a species, needs for further information, and species' recovery potentials. Inasmuch as such assessments are subjective to some degree, and individual species may not be

comparable in terms of all considerations, the priority systems presented must be viewed as guides and should not be looked upon as inflexible frameworks for determining resource allocations. Draft guidelines were published on April 19, 1983 (49 FR 16756). These final guidelines are based on that draft.

### Summary of Comments and Recommendations

Comments were received from the following organizations: the Center for Environmental Education (also representing Defenders of Wildlife, Humane Society of the United States, and Natural Resources Defense Council); Chevron U.S.A., Inc.; The Ecological Society of America; Environmental Defense Fund; the law firm of McCarty, Noone and Williams (representing the Colorado River Water Conservation District); Pacific Legal Foundation; Western Timber Association; and Wildlife Legislative Fund of America. Three of the comments expressed general support for the guidelines as proposed, without offering any recommendations for change. Substantive recommendations are addressed below:

#### Comments on Listing, Delisting, and Reclassification Priorities

Because of the detailed and specific nature of comments on the listing portion of the guidelines, they are addressed individually. The Center for Environmental Education *et al.* (CEE) recommended that the Service emphasize listing of qualified species over delisting of species no longer in need of protection, and also stated that delisting should be undertaken only for species with no present need for protection and unlikely to need such protection in the future. The Service agrees in principal with this comment. It should be recognized, however, that the retention of recovered or extinct species on the lists undermines the overall credibility of the lists, and the Service believes that it is justifiable to devote resources to the removal of such species when they are identified.

CEE also expressed concern that consideration of degree and immediacy of threat be tempered by a consideration of benefit from listing and availability of information. They favored subsuming immediacy within degree of threat and adding the other two considerations as "pragmatic" criteria in the system. The Service continues to believe that separate consideration of immediacy is warranted in order to help ensure that the system is most effective in

forestalling imminent extinctions. Although, as noted by CEE, this may result in listing resources being devoted to species whose recovery would be difficult and costly, such considerations are addressed in the recovery priority system, where recovery potential is expressly considered. Inasmuch as listing is an identification process, it appears to be most appropriate to proceed on a "worst-first" basis and list those species in greatest immediate danger of extinction first. Inclusion of a "benefit from listing" criterion would not, in the opinion of the Service, improve the priority system. The Service believes that all listed species derive some benefit from their identification as Endangered or Threatened. The magnitude of such benefits, however, are often largely unpredictable at the time of listing and would be difficult to quantify within the framework of a simple, workable priority system. The Service also rejects the inclusion of an "availability of information" criterion in the priority system because this seems unnecessary. Availability of information adequate to determine a species' status is necessary before any assessment of the appropriateness of listing can be addressed. To this extent, availability of information is implicit in any priority system that might be adopted, and its statement as an explicit criterion adds little, if anything, to the effectiveness of the system. CEE also expresses concern that, if information were to become available on a group of species in a particular area indicating that some were eligible for listing as Endangered and others as Threatened, the proposed system might preclude listing of all the eligible species in the area. The Service believes that it retains sufficient flexibility under the proposed system to proceed with listings of all the appropriate species in such a situation when this would increase the overall efficiency of the listing process by avoiding duplicative regulations. It should be recognized that the setting of listing priorities is an intermittent, rather than continuous, activity, and that information developed on a species believed to have a high priority may indicate that a lower priority is justified, but that this situation would not necessarily preclude its being listed while the status information was available and current. CEE further takes issue with the proposed system's "taxonomy" criterion, stating:

It may be true that certain monotypic genera of plants such as the three redwoods that dominate particular ecosystems make an important and irreplaceable contribution to maintenance of the diversity of those ecosystems, but it doesn't follow that

subspecies of coyote bush are any more interchangeable or less important in chaparral ecosystems. An ecological preference for preserving monotypic genera of animals makes even less sense. It appears that the California condor, a monotypic genus, may have less ecosystem impact than any of several butterfly subspecies.

The Service believes that the CEE comment confounds two different concepts. Taxonomy is included in the proposed system as a crude reflection of genetic distinctness in an attempt to provide for the preservation of maximum genetic diversity in ecosystems. Genetic distinctness of a taxon, however, may have little bearing on the importance of the taxon's impact on the functioning of the ecosystem to which it belongs. Judging a taxon's functional contribution to its ecosystem is generally much more difficult and does not lend itself to the framework of a simple priority system. The Service recognizes that there are aspects of species' biology, such as this one, that are not appropriately incorporated within the listing priority system, and it is for this reason that the system is not designed to be used in a rigid fashion. The Service has attempted to use the system flexibly so that important biological considerations that fall outside the scope of consideration of the system can figure into particular decisions on an *ad hoc* basis.

The CEE comment further disputes the appropriateness of giving consideration to monotypic genera in setting listing priorities, citing the large number of monotypic genera of hummingbirds and the apparent lack of accompanying genetic diversity in the group. The Service recognizes that the consideration given monotypic genera is only an approximate measure of genetic distinctness and that taxonomic concepts and standards vary among different groups of organisms. Nevertheless, if used with proper understanding of this lack of taxonomic uniformity, the criterion appears to be useful and is retained in the priority system. In practical terms, the Service expects to only rarely have need for the priority categories reflecting monotypic genera, because there are relatively few such taxa among the candidate species now recognized, but believes that such taxa generally reflect a level of genetic distinctiveness worth noting in the system. It should also be recognized that the system only sets *relative* priorities and that this is the lowest order of priority-setting, so that a species would at most move up one level in priority by virtue of its representing a monotypic genus, and species not representing monotypic genera would only rank

below monotypic genera facing equally serious and immediate threats.

Finally, the CEE comment cites the 1982 Senate Committee Report on amendments to the Endangered Species Act and its stated preference only for listing species before subspecies and subspecies before populations as justification for deleting consideration for monotypic genera. CEE notes that the importance attached to monotypic genera in the proposed system appears to imply a value of species not provided for in Section 2 of the Act, which refers to "esthetic, ecological, educational, historical, recreational, and scientific" values of species. The Service believes that the Act's provision that species are of educational and scientific value more than adequately justifies the modest consideration proposed to be given monotypic genera, which may represent highly distinct gene-pools deserving of continuing scientific and educational attention.

The Ecological Society of America (ESA) expressed general support for the proposed system, but made several recommendations for changes. ESA recommended that greater emphasis be placed on listing candidate species than on delisting species no longer in need of protection, noting that the possibility of removing a species from the list is always open, whereas extinction may foreclose the option of listing some species. The Service agrees in principal with this comment, as explained below in response to a similar comment from the Environmental Defense Fund.

ESA also observed that the average number of species per genus is generally lower among higher organisms, e.g., mammals and birds, than among various invertebrate groups and plants, because of differing taxonomic concepts and standards. They expressed concern that the consideration afforded monotypic genera in the proposed system could thus work to favor vertebrate species, as in the former system that was expressly rejected by Congress. The Service believes that the benefit of affording consideration to taxonomic distinctness, if the consideration is applied flexibly and with due appreciation of differing taxonomic standards, outweighs any bias that might be introduced into the priority-setting process.

In a related observation, ESA pointed out that there are highly distinct organisms that are nevertheless not placed in monotypic genera, and that the taxonomic criteria contained in the system are inflexible. The Service, as has been pointed out previously, does not view any facet of the system as inflexible, and will reserve the

discretion to assign appropriate priorities to highly distinct and genetically isolated organisms whether or not they constitute monotypic genera.

Finally, ESA requested a clarification of the applicability of the proposed system to unnamed populations. The Act includes populations of vertebrate animals in its definition of "species." Because this portion of the definition applies only to vertebrates, it appears inadvisable to incorporate it formally into the priority system. The Service intends to generally afford vertebrate populations the same consideration as subspecies, but when a candidate subspecies and a candidate population have the same numerical priority, the candidate subspecies will generally have priority.

The Environmental Defense Fund (EDF) expressed concern that too much time might be devoted to setting of species priorities, and that this might detract from actual implementing of listing tasks. The Service agrees that no more time than is necessary should be devoted to the assigning of priorities. Because of this consideration, the Service has deliberately attempted to formulate a system that is simple and that assigns species priorities in a straightforward manner without the need for complex analysis. EDF also expressed concern over the interrelationship of the three systems contained in Tables 1., 2., and 3. As explained below in the summary of comments on the recovery priority system, Tables 1. and 2. are largely independent of Table 3. Further, it is not possible, in the opinion of the Service, to formulate a direct relationship between the systems in Tables 1. and 2. As is explained in the narrative portion of the guidelines, it is anticipated that the need to delist species or reclassify them from Endangered to Threatened will be identified largely through mandated 5-year reviews or through petitions. Once such actions have been identified and assigned priorities, they will be considered for possible action within the Service's annual planning process.

Establishing specific criteria for ranking the priorities of listing proposals versus delisting proposals would take away the flexibility needed by the Service to efficiently apportion its resources. Although the same statutory criteria apply to make the listing and delisting determinations, the factual considerations for setting listing and delisting priorities are quite different. General rules cannot govern this complex mesh of priorities. However, it would generally be found that candidate species facing immediate, critical threats

should have priority for listing over competing delisting proposals under consideration at the time. Likewise, a delisting proposal for a recovered species that would eliminate unwarranted restrictions on significant, identifiable activities may, in appropriate instances, take precedence over listing proposals for species not facing severe, imminent threats. In deciding on which proposals will receive priority, the Service must examine the overall "mix" of potential listings and delisting and assess the relative priorities of the various proposals in light of that "mix." Of course, this assessment process will constantly change as new candidate species are brought to the Service's attention and as listed species attain recovery or become extinct.

EDF also recommended that terms used in the proposed system be more precisely defined and, in particular, recommended that the "degree of threat" criterion be quantified in a way that parallels the standards for finding "jeopardy" under Section 7 of the Act. The Service believes that the circumstances applying to most species are individualistic enough as to be incapable of precise definition or quantification beyond the level proposed. In particular, with regard to determinations of degree of threat, the parallel with considerations under Section 7 of the Act seems faulty. Consultations under Section 7 address known and carefully identified actions that may affect the survival of a species. Degree-of-threat considerations for listing a species may address highly speculative future actions, or more frequently, documented decline of a species for poorly-known or unknown reasons. Such considerations often cannot be quantified, and an attempt to do so might only serve to make priority-setting, rather than listing, the main activity of the program, as feared by EDF (see above). The Service believes that it has access to sufficient biological expertise to permit the admittedly loose definitions of terms to be interpreted appropriately.

EDF also recommended that "degree" be replaced by "magnitude" under "threat." The Service agrees that the latter term is somewhat more precise, and has altered the final guidelines accordingly.

EDF expressed concern that the "immediacy" criterion for threat not be applied so rigidly that Endangered species would always be listed in preference to Threatened species, which might be more recoverable. In general, the Service intends that species judged

Endangered should be listed before those judged Threatened. Once again, it is worth noting that listing is an identification process and, other considerations being equal, should proceed on a "worst-first" basis. Nevertheless, the Service intends that species originally judged to be faced with immediate threats, but which prove not to face such immediate threats when sufficiently complete status information is developed, may be listed nevertheless in order that current status information need not be gathered again later on.

EDF supported the concept of immediacy of threat as a useful addition to the priority system but observed that:

Specifically, we are concerned that the immediacy of threat criterion may ultimately rely on and be distinguished by the availability of scientific information about such threats. Because such threats are not well-known, however, a dearth of information may preclude necessary and expeditious action by the Service. We therefore suggest that the immediacy of threat criterion should be defined and delimited by what are necessarily somewhat subjective best judgments about the expected temporal sequence and realization of a threat; not just the known or unknown occurrence of such threats. We believe the Service recognizes this in its attempt to distinguish two categories ("actual identifiable" versus "potential, intrinsically vulnerable") but falls short in that effort by distinguishing "latent" from "potential" by the presence or absence of information available about such threats (e.g., "known occurrence or lack of \* \* \*"). Hence, to the maximum extent possible, judgments about the immediacy of threat should be guided by how quickly the threat posed by any one of the five statutory factors may affect those populations of a candidate species at risk.

The Service believes that such a recommendation, if adopted, would render the system unworkable. It could make priorities responsive to highly speculative but rapidly-realized threats such as earthquake or volcanic eruption. The Service prefers in setting priorities to rely on known or reasonably predictable threats to a species' survival and known vulnerability to reasonably probable future conditions.

Because they believe that all threats are by definition potential, EDF recommends that "potential" be replaced by "non-imminent" in the system. Inasmuch as a threat in this context is one of extinction, and is only realized when a species is extinct, this is a point well taken by the Service. The final system is altered accordingly.

EDF also recommended that an "ecosystem" criterion be incorporated into the system, similar to the "conflict" criterion in Table 3. This would be intended to identify species of ecologic

importance and to accommodate the provision of the Senate Environmental and Public Works Committee's report on the 1982 amendments to the Act:

Biologically it makes sense to treat all taxonomic groups equally or even to place some special emphasis on protecting plants and invertebrates since they form the bases of ecosystems and food chains upon which all other life depends.

S. Rep. No. 418, 97th Cong., 2d Sess. 14 (1982).

The Service fully appreciates the importance of species that are ecologically significant, and intends to give this importance due consideration in determining listing goals, but does not consider this an appropriate element in the listing priority system. This kind of information is seldom available at the time a species is considered for listing and, if included, would only raise it in priority above species that were equal in all other respects under the system. In addition, the Service believes that all species are of some importance to ecosystems, so that a simple "yes-or-no" decision would rarely be possible. Thus, it appears most reasonable to consider "ecosystem importance" on an *ad hoc* basis outside the formal priority system, when such importance is identifiable. EDF also requests clarification of the consideration to be given vertebrate populations under the priority system. As explained above in reply to a similar enquiry from ESA, the Service intends that vertebrate populations generally be accorded the same consideration as that given subspecies.

Finally, EDF suggests that species may be identified for delisting or reclassification from Endangered to Threatened by virtue of their having met objectives for such action in recovery plans. The Service certainly intends to consider identified recovery goals in planning delistings or reclassifications, but will assign priority for such actions according to the criteria in Table 2.

The Pacific Legal Foundation (PLF) supported development of priority guidelines, expressing the opinion that the Endangered Species Act " . . . has been misused by some as a vehicle by which major construction projects and reasonable development of our natural resources have been delayed or stopped." The Service agrees that guidelines are desirable as a method of helping to ensure appropriate use of resources. The Service has always attempted to proceed on the basis of the best scientific knowledge available in implementing the Act, whether through the listing or recovery of Endangered and Threatened species. PLF also recommends that all listing, delisting, or

reclassification actions be undertaken in strict compliance with the guidelines and that, for every species that is listed, reclassified, or delisted, a discussion of each of the criteria in the relevant priority system table should be supplied. The Service, as has been mentioned above, does not view the priority systems as dictating actions so much as providing flexible guides in making rational decisions. In this light, it is counterproductive to explain how each action fits the priority system so long as species subject to the actions qualify under the conditions of the Act.

PLF also expressed the opinion that is redundant to consider both "degree" and "immediacy" of threat. As has been explained above, the Service continues to believe that the distinction is a useful one.

Finally, PLF requested a clarification to indicate that, " . . . no protection is afforded individual gene pools below the taxonomical level of subspecies." The Service notes that, in the case of vertebrate animals the Act specifically provides for the listing of populations. The recommendation of PLF in this instance would thus contradict the Act. As explained above, the Service intends to generally assign vertebrate populations the same priority of consideration as that afforded subspecies.

*Comments on recovery priorities.* Several of the comments on the recovery priority system are conveniently categorized and addressed topically below:

1. *Taxonomy.* Some concern (two comments) was expressed concerning the use of taxonomic uniqueness as a criterion for determining recovery priority. This issue has been addressed in the above section for listing priority.

In one comment, it was recommended that a better measure than taxonomy

would be the species' ecological significance. For this purpose, a species with "high" ecological significance would be one for which recovery measures would likely benefit the conservation of the listed or candidate species as well. It was recommended that Ecological Significance should substitute for Taxonomy in Table 3.

To the extent possible, the Service has adhered to this philosophy of considering ecosystems in its recovery plans. This is evident by the following recovery plans (includes both draft and approved plans) which utilize an ecosystem or multi-species approach: Antioch Dunes (three species), Eureka Valley Dunes (two species), Hawaiian Forest Birds (four species), Hawaiian Sea Birds (four species), Hawaiian Water Birds (three species), Kauai Forest Birds (six species), San Bruno Mountain (two species), San Clemente Island (seven species), NW Hawaiian Islands Passerine Birds (three species), and the San Marcos River Endangered and Threatened species (four species), (technical review draft stage).

Because ecosystems are already considered and it is difficult to quantify "Ecosystem Significance," the Service elects not to substitute Ecosystem Significance for Taxonomy in Table 3.

2. *Recovery potential and associated costs of recovery.* Two comments expressed concerns about the recovery potential of a species and an efficient investment of resources. The Service is in agreement with the concerns expressed and will expand the narrative of the guidelines to accommodate this concern. Priority will be given to those species and projects that offer the greatest potential for success. The recovery potential of a species will be determined by consideration of the following criteria:

	High recovery potential	Low recovery potential
Biological and ecological limiting factors.	Well understood	Poorly understood.
Threats to species existence.	Well understood easily alleviated	Poorly understood or pervasive and difficult to alleviate.
Management needed	Intensive management not needed, or techniques well documented with high probability of success.	Intensive management with uncertain probability of success, or techniques unknown or still experimental.

<sup>1</sup>When possible and biologically feasible, data pertinent to the recovery of a particular taxon will be extrapolated from known ecological requirements or management techniques for closely related taxa.

Regardless of this recovery potential, the Service will strive to undertake for every high threat species those minimum survival efforts which will at least stabilize its status and prevent its extinction. Once such "emergency" measures have been taken, further recovery work designed to eventually lead to delisting of the species will be

evaluated according to the recovery potential described above.

Several specific comments are addressed below:

Chevron expressed a desire to have greater public involvement in the preparation of recovery plans. This has been done to a limited degree in the past for those plans where a conflict, or

potential conflict, has been known to exist, e.g., Northern Rocky Mountain wolf, San Bruno Mountain, San Marcos River Endangered and Threatened species, and the small whorled pogonia. The Service will continue to invite public participation for those species where conflicts or controversies are known to exist.

PLF stated that it is unclear (in Table 3) if there is any differing treatment between Endangered and Threatened species. The distinction between Endangered and Threatened species occurs in the Degree of Threat criterion. It is generally understood that the Degree of Threat is greater for Endangered species than for Threatened species.

PLF also suggested that an additional column be added to Table 3 that would give greater priority in the preparation of recovery plans to those species which are Endangered throughout all their range over those species that are Endangered throughout a portion of their range. Although it is not specifically stated, this concern is reflected in the first criterion (Degree of Threat) of Table 3. A species which is Endangered throughout its range would be listed higher on the degree of threat scale than would be a species Endangered throughout a portion of its range. In reality, most species which are listed are Endangered throughout their ranges. Even though it is legally acceptable to list populations of vertebrates, this practice represents the exception rather than the rule.

ESA recommended that for listing and recovery efforts, populations and named subspecies should have the same priority, since the possession of a name is often based more on tradition than on any meaningful measure of distinctiveness. This issue is addressed in the above Listing Section. In addition, the above reply to a comment from PLF indicates that priority be given to species which are Endangered throughout all their range rather than just to a population. Populations will be addressed when there is sufficient justification, but this is the exception rather than the rule.

EDF expressed the hope that the Service will devote most of its resources to implementing listing and recovery planning efforts and not to prioritizing such tasks. The listing portion of this concern is addressed in the earlier section of this article. The Service is mandated by the Endangered Species Act, as amended, to the preparation of recovery plans giving priority to those species most likely to benefit from such

plans. In doing so, the Service will also focus on those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity. The proposed guidelines are intended to provide a means to identify, and rank, those species most likely to benefit from such plans. It is also necessary that the limited resources for the implementing of recovery actions be allocated in the most judicious fashion possible. This can only be possible by having a sound system for ranking proposed recovery actions.

EDF commented that it remains unclear specifically how the three priority models (Tables 1, 2, and 3) relate to one another. Table 3, Recovery Priority, is independent of Tables 1 and 2. It is to be expected that many species would have a similar ranking when evaluated by Tables 1 and 3. However, differences between species, or recovery potential could reduce these similarities of ranking. This concern is also addressed under listing comments, above.

EDF also found the tasks priority—recovery priority system somewhat confusing. They agreed that the Service's limited resources should be distributed equitably to all listed species, but were not sure specifically how this will be accomplished. They requested clarification of this situation. They commented that, "presumably recovery plans for species facing the highest degree of threat will designate more priority 1 tasks than those plans for species jeopardized by a lower degree of threat."

Generally, plans for species facing the highest degree of threat will designate more Priority 1 tasks than those plans for species jeopardized by a lower degree of threat. However, exceptions may occur. For example, a highly-Threatened isolated desert fish may be in imminent danger from siltation associated with adjacent cattle grazing. Possibly only one task, i.e., fencing, would warrant a Priority 1 designation.

Furthermore, as indicated in the earlier summary of comments on recovery potential and associated costs regardless of the recovery potential, the Service will strive to undertake for every high-threat species those minimum survival efforts which will at least stabilize its status and prevent its extinction. Once such "emergency" measures have been taken, further recovery work designed to eventually lead to delisting of species will be evaluated according to the recovery potential described above. To ensure consistency in the utilization of the

recovery priority system, all draft recovery plans will be reviewed by the same office at the Washington level. Additionally, all funding proposals for implementation of recovery actions will also be reviewed by the same office at the Washington level.

#### Priority Guidelines

*Listing, Delisting, and Reclassification Priorities.* In the past, the Service has informally assigned priorities for listing species as Endangered or Threatened on the basis of several different systems. In 1979, a report to Congress (General Accounting Office, 1979) recommended that the Service officially adopt a listing priority system based primarily on consideration of the degree of threat faced by a species. Following this report, the 1979 Amendments to the Endangered Species Act (Pub. L. 96-159, 93 Stat. 1241) required that guidelines be established and published in the **Federal Register**, including " \* \* \* a ranking system to assist in the identification of species that should receive priority review for listing \* \* \* ." Such a system was adopted (U.S. Fish and Wildlife Service, 1980), but not published in the **Federal Register**. This system was subsequently revised (U.S. Fish and Wildlife Service, 1981) so that priority for listing would be assigned within a given category of Degree of threat so as to generally favor vertebrate animals ("higher life forms") in the following order: mammals, birds, fishes, reptiles, amphibians, vascular plants, invertebrates.

The 1982 Amendments to the Endangered Species Act (Pub. L. 97-304) retained the requirement that guidelines be published. However, the amendments and the accompanying Conference Report necessitated revision of the 1981 system. Specifically, the amended Act requires that the priority system address delisting as well as listing of species and the Conference Report stated opposition to the adoption of any system that would give consideration to whether species were "higher or lower life forms." The present system is intended to satisfy the requirements of the amended Act.

1. *Listing and reclassification from Threatened to Endangered.* In considering species to be listed or reclassified from Threatened to Endangered, three criteria would be applied to establish 12 priority categories as follows (Table 1):

TABLE 1.—PRIORITIES FOR LISTING OR RECLASSIFICATION FROM THREATENED TO ENDANGERED

Threat		Taxonomy	Priority
Magnitude	Immediacy		
High	Imminent	Monotypic genus	1
		Species	2
		Subspecies	3
	Non-imminent	Monotypic genus	4
		Species	5
		Subspecies	6
Moderate to low	Imminent	Monotypic genus	7
		Species	8
		Subspecies	9
	Non-imminent	Monotypic genus	10
		Species	11
		Subspecies	12

*Explanation.* In keeping with the recommendation of the General Accounting Office (GAO) and the Service's previous policy, the first criterion would be magnitude of threat. Species facing the greatest threats to their continued existence would receive highest listing priority.

The second criterion, immediacy of threat, is intended to assure that species facing actual, identifiable, threats are given priority over those for which threats are only potential or that are intrinsically vulnerable to certain types of threat but not known to be presently facing such threats. In assigning a species to a priority category under immediacy of threat, the Service would consider the known occurrence or lack of documented detrimental trade or harvest, habitat modification, significantly detrimental disease or predation, and other present or potential threats.

The third criterion is intended to devote resources on a priority basis to those species representing highly distinctive or isolated gene pools, as reflected by the taxonomic level at which they are recognized. The more isolated or distinctive a gene pool, the greater contribution its conservation is likely to make to the maintenance of ecosystem diversity. This final criterion implements the Act's stated concern for ecosystem conservation by recognizing the distinctness denoted by assignment of a species to a monotypic genus, as well as the relative distinctness denoted by the recognition of a taxon at the level of species or subspecies.

*2. Delisting and Reclassification from Endangered to Threatened.*—The Service currently reviews listed species every 5 years in accordance with Section 4(c)(2) of the Act to identify any that might qualify for removal from the lists, or reclassification. When species are identified in the course of these periodic reviews as warranting deletion from the lists or reclassification from Endangered

to Threatened, priority for preparation of regulations would be assigned according to the system below (Table 2), employing two criteria to yield six categories. It should be pointed out that the priority numbers in Table 1 and 2 are not comparable.

TABLE 2.—PRIORITIES FOR DELISTING AND RECLASSIFICATION FROM ENDANGERED TO THREATENED

Management impact	Petition status	Priority
High	Petitioned action	1
	Unpetitioned action	2
Moderate	Petitioned action	3
	Unpetitioned action	4
Low	Petitioned action	5
	Unpetitioned action	6

*Explanation.* In considering species for possible delisting or reclassification from Endangered to Threatened, this system is intended to focus on species whose original classification has become inappropriate due to changed circumstances or new information. Priority considerations would concern whether or not maximum protection under the Act is necessary any longer and whether the listing causes an unwarranted management burden or unnecessarily restricts human activities.

The first consideration of the system accounts for the management burden entailed by the species' being listed, which, if the current listing is no longer accurate, could divert resources from species more deserving of conservation efforts.

Because the Act mandates timely response to petitions, the system secondly considers whether the Service has been petitioned to remove a species from either of the lists or to reclassify it from Endangered to Threatened. This consideration is also intended to assign highest priority to those species whose delisting is likely to remove the greatest impacts on human activities inasmuch as such species would also be likely to be subjects of petitions.

It is not intended that existence of a petition or identified management impact with regard to a given species would automatically direct or mandate any particular decision regarding its removal from the lists or its reclassification. The priority system is intended only to set priorities for the development of rules for species that no longer satisfy the listing criteria for their particular designation under the Act. The decision regarding whether a species will be retained on the lists or in the Endangered category must still be based on the considerations contained in Section 4(a)(1) of the Act and 50 CFR 424.11.

*Recovery Plan Preparation and Implementation Priorities.* The importance of recovery plans as guiding documents for recovering species has been recognized since 1972, when the Service developed its first draft recovery plan. Although the Service strongly encouraged their development, and some plans were developed, preparing a recovery plan for a species was elective until the 1978 Amendments to the Act required the development of a recovery plan for every listed Endangered and Threatened species, except when the Secretary determines that " \* \* \* such a plan will not promote the conservation of the species."

Through fiscal year 1977, recovery plan development was not based on any established priority system. During fiscal year 1977, the Service developed a draft recovery priority system to be used as a guide for recovery planning and resource allocation. The system included three criteria—degree of threat, recovery potential, and taxonomic status, arranged in a matrix of 12 categories. The 1979 GAO report recommended that this draft recovery priority system be approved and implemented.

The present system expands the taxonomy criterion to include "monotypic genus." This would expand the matrix to yield 18 species recovery numbers (see Table 3). As described in the preceding section on listing, this addition is intended to devote resources on a priority basis to these species representing highly distinctive or isolated gene pools.

The previous system (as referenced in the 1979 GAO report) was adopted in 1980 (U.S. Fish and Wildlife Service, 1980). This system was subsequently revised to give priority within the existing matrix to taxonomic groups (higher life forms) as in the 1981 listing priority system. The system presently adopted deletes this preference for higher life forms and adds a new criterion on conflict required by the 1982 Amendments.

In particular, the 1982 Amendments specify that recovery plans shall, to the maximum extent practicable, give priority to those Endangered species or Threatened species most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity. The present system is intended to satisfy the requirements of the amended Act. It utilizes a modification of the three-factor system originally adopted by the FWS in 1980 but includes a fourth factor, conflict,



which, if applicable, elevates the species in priority for development of a recovery plan and is to be an additional element in determining what actions are to be implemented for the recovery of a species. This fourth factor gives priority within each category in the preparation of recovery plans to those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity. Thus, the species will retain its numerical rank and will acquire the letter designation of "C" indicating conflict, e.g., priority 7 would become 7C. The categories would be assigned as follows:

TABLE 3.—RECOVERY PRIORITY

Degree of threat and recovery potential	Taxonomy	Priority	Conflict
High:			
High.....	Monotypic genus.....	1	1C, 1.
High.....	Species.....	2	2C, 2.
High.....	Subspecies.....	3	3C, 3.
Low.....	Monotypic genus.....	4	4C, 4.
Low.....	Species.....	5	5C, 5.
Low.....	Subspecies.....	6	6C, 6.
Moderate:			
High.....	Monotypic genus.....	7	7C, 7.
High.....	Species.....	8	8C, 8.
High.....	Subspecies.....	9	9C, 9.
Low.....	Monotypic genus.....	10	10C, 10.
Low.....	Species.....	11	11C, 11.
Low.....	Subspecies.....	12	12C, 12.
Low:			
High.....	Monotypic genus.....	13	13C, 13.
High.....	Species.....	14	14C, 14.
High.....	Subspecies.....	15	15C, 15.
Low.....	Monotypic genus.....	16	16C, 16.
Low.....	Species.....	17	17C, 17.
Low.....	Subspecies.....	18	18C, 18.

**Explanation.** The first step for the conservation of any species is to prevent its extinction. Thus the species with the highest degree of threat have the highest priority for preparing and implementing recovery plans. A species can be put in either a high, moderate, or low category, which represents the degree of threat. The high category means extinction is almost certain in the immediate future because of a rapid population decline or habitat destruction. Moderate means the species will not face extinction if recovery is temporarily held off, although there is continual population decline or threat to its habitat. A species in the low category is rare, or is facing a population decline which may be a short-term, self-correcting fluctuation, or the impacts of threats of the species' habitat are not fully known.

Within the above categories, resources should be used in the most cost-effective manner. Priority for preparing and implementing recovery plans would go to species with the greatest potential for success. Recovery potential is based on how well biological and ecological limiting factors and threats to the species' existence are

understood, and how much management is needed.

Priority will be given to those species and projects that offer the greatest potential for success. The recovery potential of a species will be determined by consideration of the following criteria:

	High recovery potential	Low recovery potential
Biological and ecological limiting factors.	Well understood.....	Poorly understood.
Threats to species' existence.	Well understood or easily alleviated.	Poorly understood or pervasive and difficult to alleviate.
Management needed <sup>1</sup> .	Intensive management not needed, or techniques well documented with high probability of success.	Intensive management with uncertain probability of success, or techniques unknown or still experimental.

<sup>1</sup>When possible and biologically feasible, data pertinent to the recovery of a particular taxon will be extrapolated from known ecological requirements or management techniques for closely related taxa.

Taxa that are most genetically distinct should receive priority within any given category of degree of threat. Monotypic genera will be given priority over species, subspecies, or populations. This last criterion is in recognition that the loss of the most genetically distinct taxa is of greater significance than the loss of less genetically distinct taxa. That is, for example, the loss of a full genus is of greater significance than the loss of a single species or population of that species.

The second requirement concerning recovery plans mandated by the 1982 Amendments is that priority be given to those species "that are, or may be, in conflict with construction or other development projects or other forms of economic activity." This requirement will be satisfied by having any listed species or subspecies, lacking a recovery plan, and identified as being, or having a recognizable potential for being, in conflict with a construction or development project, automatically qualify for the conflict column of the matrix. This species would then be considered high priority for having a recovery plan developed.

Conflict with construction or other development projects would be identified in large part by consultations conducted with Federal agencies under Section 7 of the Act. Any species identified through Section 7 consultations as having generated a negative biological opinion which concluded that a given proposed project would violate Section 7(a)(2) of the Endangered Species Act or resulted in the recommendation of reasonable and

prudent alternatives to avoid a negative biological opinion, would be assigned to the conflict category and would be given priority over all other candidates for recovery plan preparation and implementation in the same numerical category not involving a conflict. The Service would also contact other Federal agencies for their identification of listed species that are, or may be, in conflict with construction or other development projects or other forms of economic activity. Any species identified by this process would be assigned to the conflict category and would also be given priority over other candidates for recovery plan preparation and implementation within the same numerical category (see Table 3) not involving a conflict.

A task priority (1-3) is used in conjunction with species recovery numbers (1-18 or 1C-18C) in ranking those tasks that need to be accomplished for the recovery of a species. This combination results in a two-tiered priority system (species recovery number-task priority number) which serves to distribute the resources of the program equitably for all listed species. Recovery tasks will be assigned priorities based on the following:

1. **Priority 1.** An action that must be taken to prevent extinction or to prevent the species from declining irreversibly.
2. **Priority 2.** An action that must be taken to prevent a significant decline in species population/habitat quality, or some other significant negative impact short of extinction.
3. **Priority 3.** All other actions necessary to provide for full recovery of the species. (Recognizing that the ultimate success of the Program is species recovery, priority 3 action likely to lead to full recovery and delisting of a species in the foreseeable future will tend to rank higher than other priority 3 actions.)

The highest priority activity (research proposal, permit proposal, etc.) is a 1C-1 priority (species recovery number 1C; task priority number 1).

This is an action necessary to prevent extinction for a monotypic genus, with a high recovery potential, under a high degree of threat and in conflict with a construction or other development project. If resources were channeled into activities based solely on the recovery priority of a species, these resources would be utilized primarily for species with a recovery priority of 1C to 6. However, when the species' priority is viewed in conjunction with the task priority, we are able to identify the most critical activities for all species. This system would insure that resources are

distributed to the most critically Endangered species and would recognize those species approaching recovered status.

#### References

General Accounting Office. 1979. Endangered Species—A Controversial Issue Needing Resolution. Washington, D.C.  
U.S. Fish and Wildlife Service. 1980. Appendix I. Priority System. pp. i-iv. In: Endangered Species Program Management Document. Washington, D.C.  
U.S. Fish and Wildlife Service. 1981. Service prepares guidelines for ranking candidate species. Endangered Species Technical Bulletin 6(8):1

#### Authors

This notice was prepared by Dr. John J. Fay and Mr. W. L. Thomas of the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: September 15, 1983.

#### J. Craig Potter

Acting Assistant Secretary for Fish and Wildlife and Park/Date.

[FR Doc. 83-25716 Filed 9-20-83; 8:45 am]

BILLING CODE 4310-55-M

#### Asian Elephant; Emergency Exemption, Issuance

On September 13, 1983, a letter waiving the 30-day public comment period was issued to Hawthorn Corporation, Grayslake, Illinois, authorizing emergency action to enhance the survival of one female Asian elephant (*Elephas maximus*). This waiver was granted to allow the interstate commerce of one Asian elephant from Gentle Jungle, Inc., Burbank, California (being held at the Animal Wayside Station, Riverside, California) to Hawthorn Corporation.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist, that the health and life of the elephant is threatened and that no reasonable alternative to the proposed action is available to the applicant.

A copy of the letter of waiver is herewith presented. This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended by Pub. L. 94-359 (90 Stat. 911).

Dated: September 14, 1983.

#### R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

In reply refer to: FWS/WPO PRT 2-11086.

Mr. John F. Cuneo, Jr.,  
President, Hawthorn Corporation, 23675 W. Chardon Road,  
Grayslake, Illinois 60030, September 13, 1983.

Dear Mr. Cuneo: This letter will serve to

waive the 30-day public comment period required prior to issuance of a permit subsequent to your application to purchase in interstate commerce one female Asian elephant (*Elephas maximus*) from Gentle Jungle, Inc., Burbank, California.

This is an emergency exemption from the provisions of the Endangered Species Act (ESA) of 1973 (re: ESA Sec. 10(c)). It has been determined by the Service that an emergency exists, that the health and life of the elephant, identified as "Misty", is threatened and that no reasonable alternative is available for placement of the elephant. This animal killed a man in California and was ordered destroyed by local authorities unless removed from the State prior to September 15, 1983. Hawthorn Corporation has other Asian elephants and has shown that they have the expertise and facilities to care for the animal.

The enclosed permit, PRT 2-11086, authorizes you to purchase this elephant under the U.S. Endangered Species Act. The emergency exemption is granted conditional to the provisions of the permit. A copy of the permit has been sent to the Twin Cities, Minnesota Office, Division of Law Enforcement.

Any questions you may have should be directed to Maggie Tieger of the Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203 (703/235-1903).

Sincerely,

Roman H. Koenigs,

Acting Director.

Enclosure.

[FR Doc. 83-25734 Filed 9-20-83; 8:45 am]

BILLING CODE 4310-55-M

#### Minerals Management Service

[DES 83-6511]

#### Alaska Outer Continental Shelf; Availability of a Draft Environmental Impact Statement for a Proposed Oil and Gas Lease Offering in the Diapir Field Region of the Beaufort Sea

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service (MMS) has prepared a draft environmental impact statement (EIS) relating to a proposed June 1984 offshore oil and gas lease offering in the Diapir Field off the northern coast of Alaska.

Single copies of the draft EIS can be obtained from the Regional Manager, Alaska OCS Region, P.O. Box 10-1159, Anchorage, Alaska 99510.

Copies of the draft EIS will also be available for inspection in the following public libraries: Alaska Federation of Natives, Suite 304, 1577 O Street, Anchorage, AK 99501; Anchor Point Public Library, Anchor Point, AK 99556; Department of the Interior Resources Library, Box 36, 701 C Street,

Anchorage, AK 99513; Cordova Public Library, Box 472, Cordova, AK 99574; Kenai Community Library, Box 157, Kenai, AK 99611; Elim Learning Center, Elim, AK 99739; Haines Public Library, P.O. Box 36, Haines, AK 99827; North Star Borough Library, Fairbanks, AK 99701; University of Alaska, Institute of Social and Economic Research Library, Fairbanks, AK 99801; Homer Public Library, Box 356, Homer, AK 99603; Z. J. Loussac Public Library, 427 F Street, Anchorage, AK 99801; Juneau Memorial Library, 114 W. 4th Street, Juneau, AK 99824; Alaska State Library, Documents Librarian, Pouch G, Juneau, AK 99811; Ketchikan Public Library, 629 Dock Street, Ketchikan, AK 99901; Department of Defense, Army Corps of Engineers Library, P.O. Box 7002, Anchorage, AK 99501; Kodiak Library, P.O. Box 985, Kodiak, AK 99615; Metlakatla Extension Center, Metlakatla, AK 99926; Department of the Interior, Bureau of Mines Library, AF-F.O. Center, P.O. Box 550, Juneau, AK 99802; Petersburg Extension Center, Box 289, Petersburg, AK 99833; Seldovia Public Library, Drawer D, Seldovia, AK 99663; Seward Community Library, Box 537, Seward, AK 99664; University of Alaska Juneau Library, P.O. Box 1447, Juneau, AK 99801; Sitka Community Library, Box 1090, Sitka, AK 99835; Douglas Public Library, Box 469, Douglas, AK 99824; University of Alaska Anchorage Library, 3211 Providence Drive, Anchorage, AK 99504; University of Alaska Elmer E. Rasmuson Library, Fairbanks, AK 99701; Wrangell Extension Center, Box 651, Wrangell, AK 99929.

In accordance with 30 CFR 256.26, the MMS will hold a public hearing in order to receive comments and suggestions relating to the EIS. The exact location and date of this hearing will be announced at a later date. Comments concerning the draft EIS will be accepted until Thursday, November 10, 1983, and should be addressed to the Regional Manager, Alaska OCS Region, Minerals Management Service, P.O. Box 10-1159, Anchorage, Alaska 99510.

#### Gary Bennethum,

Acting Director, Minerals Management Service.

August 26, 1983.

Approved: September 16, 1983.

#### Bruce Blanchard,

Director Environmental Project Review.

[FR Doc. 83-25724 Filed 9-20-83; 8:45 am]

BILLING CODE 4310-MR-M

reality action and will issue a final determination.

Detailed information concerning the proposed lease is available for review at the Price River Resource Area office at P.O. Drawer AB, 900 North 700 East, Price, Utah 84501.

Dated: November 7, 1983.

Gene Nodine,  
District Manager.

[FR Doc. 83-30730 Filed 11-14-83; 8:45 am]  
BILLING CODE 4310-84-M

**Bureau Form Submitted to Office of Management and Budget for Review**

**SUMMARY:** The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Richard Otis, at 202-395-7340.

Title: Offer to Lease and Lease for Oil and Gas

Bureau Form Number: 3100-11  
Frequency: On occasion

Description of Respondents: General public, small businesses, and oil companies

Annual Responses: 25,000

Annual Burden Hours: 12,500

Bureau Clearance Officer (alternate):  
Linda Gibbs 202-653-8853

Dated: August 12, 1983.

James M. Parker,  
Acting Director.

[FR Doc. 83-30742 Filed 11-14-83; 8:45 am]  
BILLING CODE 4310-84-M

**Fish and Wildlife Service**

**Endangered and Threatened Species Listing and Recovery Priority Guidelines**

*Correction*

In FR Doc. 83-25716 beginning on page 43098 of the issue of Wednesday, September 21, 1983, make the following correction: On page 43104, first column, Table 3 should read as set forth below:

Table 3. Recovery Priority

Degree of Threat	Recovery Potential	Taxonomy	Priority	Conflict
High	High	Monotypic genus	1	1C
	High	Species	2	2C
	High	Subspecies	3	3C
	Low	Monotypic genus	4	4C
	Low	Species	5	5C
	Low	Subspecies	6	6C
Moderate	High	Monotypic genus	7	7C
	High	Species	8	8C
	High	Subspecies	9	9C
	Low	Monotypic genus	10	10C
	Low	Species	11	11C
	Low	Subspecies	12	12C
Low	High	Monotypic genus	13	13C
	High	Species	14	14C
	High	Subspecies	15	15C
	Low	Monotypic genus	16	16C
	Low	Species	17	17C
	Low	Subspecies	18	18C

BILLING CODE 1505-01-M

# Appendix F. NMFS Endangered and Threatened Species Listing and Recovery Priority Guidance

6/15/90

24296

Federal Register / Vol. 55, No. 118 / Friday, June 15, 1990 / Notices

## National Oceanic and Atmospheric Administration

[Docket No. 71015-0067]

### Endangered and Threatened Species; Listing and Recovery Priority Guidelines

**AGENCY:** National Marine Fisheries Service (NOAA Fisheries), NOAA, Commerce.

**ACTION:** Notice.

**SUMMARY:** NOAA Fisheries issues guidelines for assigning priorities to species for listing, delisting, and reclassification as endangered and threatened under the Endangered Species Act of 1973 (Act) and for developing and implementing recovery plans for species that are listed under the Act.

**FOR FURTHER INFORMATION CONTACT:** Patricia Montanio, Protected Species Management Division, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, MD 20910, (301/427-2322).

#### SUPPLEMENTARY INFORMATION:

##### Background

For those species under the jurisdiction of the Secretary of Commerce, section 4(a) of the Act requires NOAA Fisheries to determine whether any species of wildlife or plant should be: (1) Listed as an endangered or threatened species (listing); (2) changed in status from threatened to endangered or changed in status from endangered to threatened (reclassification); or (3) removed from the list (delisting). Section 4(h) of the Act requires that NOAA Fisheries establish agency guidelines which include a priority ranking system for listing, reclassification, or delisting.

Section 4(f) of the Act requires NOAA Fisheries to develop and implement recovery plans for the conservation and survival of all endangered or threatened species, unless such a plan will not promote the conservation of the species. In general, listed species which occur entirely outside U.S. jurisdiction are not likely to benefit from recovery plans. Foreign species are more likely to benefit from bilateral or multilateral agreements under section 6 of the Act

and other forms of international cooperative efforts. Section 4(f) of the Act also requires NOAA Fisheries to give priority to those endangered or threatened species (without regard to taxonomic classification) most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other developmental projects or other forms of economic activity. Section 4(h) of the Act requires that NOAA Fisheries establish a system for developing and implementing recovery plans on a priority basis.

The assignment of priorities to listing, reclassification, delisting, and recovery actions will allow NOAA Fisheries to use the limited resources available to implement the Act in the most effective way. On May 30, 1988, NOAA Fisheries published proposed guidelines in the Federal Register (54 FR 22925) and requested comments. No comments were received from the public. NOAA Fisheries issues these final guidelines with only slight modifications from the proposal based on internal reviews.

These guidelines are based primarily on guidelines published by the U.S. Fish and Wildlife Service (FWS) on September 21, 1983 (48 FR 43098). NOAA Fisheries believes that, to the extent practical, both agencies should follow similar priority guidelines for listing, reclassification, delisting and recovery. To the extent possible, NOAA Fisheries has adopted the priority guidelines in use by FWS. However, due to the smaller number of listed species and the anticipated smaller number of candidate species under NOAA Fisheries jurisdiction, NOAA Fisheries believes that fewer priority categories are necessary and the FWS guidelines have been modified accordingly.

These priority systems are guidelines and should not be interpreted as inflexible frameworks for making final decisions on funding or on performance of tasks. They will be given considerable weight by the agency in making decisions; however, the agency will also evaluate the cost-effectiveness of funding and tasks and take advantage of opportunities. For example, the agency may be able to conduct a relatively low priority item in conjunction with an ongoing activity at little cost.

#### A. Listing, Reclassification, and Delisting Priorities

##### 1. Listing and Reclassification From Threatened to Endangered

In considering species to be listed or reclassified from threatened to

endangered, two criteria will be evaluated to establish four priority categories as shown in Table 1.

TABLE 1.—PRIORITIES FOR LISTING OR RECLASSIFICATION FROM THREATENED TO ENDANGERED

Magnitude of threat	Immediacy of threat	Priority
High	Imminent	1
	Non-imminent	2
Low to Moderate	Imminent	3
	Non-imminent	4

The first criterion, magnitude of threat, gives a higher listing priority to species facing the greatest threats to their continued existence. Species facing threats of low to moderate magnitude will be given a lower priority. The second criterion, immediacy of threat, gives a higher listing priority to species facing actual threats than to those species facing threats to which they are intrinsically vulnerable, but which are not currently active.

2. Delisting and Reclassification From Endangered to Threatened

NOAA Fisheries currently reviews listed species at least every five years in accordance with section 4(c)(2) of the Act to determine whether any listed species qualify for reclassification or removal from the list. When a species warrants reclassification or delisting, priority for developing regulations will be assigned according to the guidelines given in Table 2. Two criteria will be evaluated to establish six priority categories.

TABLE 2.—PRIORITIES FOR DELISTING AND RECLASSIFICATION FROM ENDANGERED TO THREATENED

Management impact	Petition status	Priority
High	Petitioned action	1
	Unpetitioned action	2
Moderate	Petitioned action	3
	Unpetitioned action	4
Low	Petitioned action	5
	Unpetitioned action	6

The priorities established in Table 2 are not intended to direct or mandate decisions regarding a species' reclassification or removal from the list. The priority system is intended only to set priorities for developing rules for species that no longer satisfy the listing criteria for their particular designation under the Act. The decision regarding whether a species will be retained on

the list, and in which category, will be based on the factors contained in section 4(a)(1) of the Act and 50-CFR 424.11.

The first consideration of the system outlined in Table 2 accounts for the management impact entailed by a species' inclusion on the list. Management impact is the extent of protective actions, including restrictions on human activities, which must be taken to protect and recover a listed species. If the current listing is no longer accurate, continuing protective management actions could divert resources from species more in need of conservation and recovery efforts, or impose an unnecessary restriction on the public. Because the Act mandates timely response to petitions, the system also considers whether NOAA Fisheries has been petitioned to remove a species from the list or to reclassify a species from endangered to threatened. Higher priority will be given to petitioned actions than to unpetitioned actions that are classified at the same level of management impact.

There is no direct relationship between the systems outlined in Tables 1 and 2. Although the same statutory criteria apply in making listing and delisting determinations, the considerations for setting listing and delisting priorities are quite different. Candidate species facing immediate, critical threats will be given a higher priority for listing than species being considered for delisting. Likewise, a delisting proposal for a recovered species that would eliminate unwarranted utilization of limited resources may, in appropriate instances, take precedence over listing proposals for species not facing immediate, critical threats.

B. Recovery Plan Preparation and Implementation Priorities

The recovery priority system will be used as a guide for recovery plan development, recovery task implementation and resource allocation. It consists of two parts—species recovery priority and recovery task priority. Species recovery priority will be used for recovery plan development. Recovery task priority, together with species recovery priority, will be used to set priorities for funding and performance of individual recovery tasks as explained below.

1. Species Recovery Priority

Species recovery priority is based on three criteria—magnitude of threat, recovery potential and conflict. These criteria are arranged in a matrix yielding

twelve species recovery priority numbers (Table 3).

TABLE 3.—SPECIES RECOVERY PRIORITY

Magnitude of threat	Recovery potential	Conflict	Priority	
High	High	Conflict	1	
		No conflict	2	
		Conflict	3	
Moderate	Low to moderate	No conflict	4	
		Conflict	5	
	Low to moderate	No conflict	6	
		Conflict	7	
	Low	High	No conflict	8
			Conflict	9
No conflict			10	
Low	Low to moderate	Conflict	11	
		No conflict	12	

The first criterion, magnitude of threat, is divided into three categories: High, moderate, and low. The high category means extinction is almost certain in the immediate future because of a rapid population decline or habitat destruction. Moderate means the species will not face extinction if recovery is temporarily held off, although there is a continuing population decline or threat to its habitat. Taxa in the low category are rare, or are facing a population decline which may be a short-term, self-correcting fluctuation, or the impacts of threats to the species' habitat are not fully known.

The second criterion, recovery potential, assures that resources are used in the most cost effective manner within each magnitude of threat ranking. Priority for preparing and implementing recovery plans would go to species with the greatest potential for success. Recovery potential is based on how well biological and ecological limiting factors and threats to the species' existence are understood, and the extent of management actions needed. A species has a high recovery potential if the limiting factors and threats to the species are well understood and the needed management actions are known and have a high probability of success. A species has a low to moderate recovery potential if the limiting factors or threats to the species are poorly understood or if the needed management actions are not known, are cost-prohibitive or are experimental with an uncertain probability of success.

The third criterion, conflict, reflects the Act's requirement that recovery priority be given to those species that are, or may be, in conflict with construction or other developmental projects or other forms of economic

activity. Thus, species judged as being in conflict with such activities will be given higher priority for recovery plan development and implementation than non-conflict species within the same magnitude of threat/recovery potential ranking. Species in conflict with construction or other developmental projects or other forms of economic activity would be identified in large part through consultations conducted with Federal agencies under section 7 of the Act.

## 2. Recovery Task Priority

Recovery plans will identify specific tasks that are needed for the recovery of a listed species. NOAA Fisheries will assign tasks priorities of 1 to 3 based on the criteria set forth in Table 4.

TABLE 4.—RECOVERY TASK PRIORITY.

Priority	Type of task
1	An action that must be taken to prevent extinction or to identify those actions necessary to prevent extinction.
2	An action that must be taken to prevent a significant decline in population numbers, habitat quality, or other significant negative impacts short of extinction.
3	All other actions necessary to provide for full recovery of the species.

It should be noted that even the highest priority tasks within a plan are not given a Priority 1 ranking unless they are actions necessary to prevent a species from becoming extinct or to identify those actions necessary to prevent extinction. Therefore, some plans will not have any Priority 1 tasks. In general, Priority 1 tasks only apply to a species facing a high magnitude of threat (species recovery priority 1-4).

When the task priorities (Table 4) are combined with the species recovery priority (Table 3), the most critical activities for each listed species can be identified and evaluated against other species recovery actions. This system recognizes the need to work toward the recovery of all listed species, not simply those facing the highest magnitude of threat. In general, NOAA Fisheries intends that Priority 1 tasks will be addressed before Priority 2 tasks and Priority 2 tasks before Priority 3 tasks. Within each task priority, species recovery priority will be used to further rank tasks. For example, a Priority 1 task for a species with a recovery priority of 4 would rank higher than a priority 2 task for a species with a

recovery priority of 1; and, a Priority 1 task for a species with a recovery priority of 2 would rank higher than a Priority 1 task for a species with a recovery priority of 4. For tasks with the same priority ranking, the Assistant Administrator will determine the appropriate allocation of available resources.

## C. Recovery Plans

As recovery plans are developed for each species, specific recovery tasks are identified and prioritized according to the criteria discussed above. As new information warrants, these plans, including tasks and priorities, will be reviewed and revised. In addition, funding and implementation of the tasks identified in recovery plans will be tracked in order to aid in effective management of the recovery program.

NOAA Fisheries believes that periodic review and updating of plans and tracking of recovery efforts are important elements of a successful recovery program. Information from tracking and implementing recovery actions and other sources will be used to review plans and revise them as necessary. These and other elements of NOAA's recovery planning process will be discussed in more detail in Recovery Planning Guidelines that the agency is developing.

## Classification

The General Counsel of the Department of Commerce certified to the Small Business Administration that these guidelines would not have a significant economic impact on a substantial number of small entities because they do not direct or mandate decisions on a species' listing, reclassification or delisting. Rather, they set up priorities for later decisions as to agency review of species, recovery plan development and recovery task implementation. As a result, a regulatory flexibility analysis was not prepared.

Dated: June 8, 1990.

William W. Fox, Jr.,  
Assistant Administrator for Fisheries,  
National Oceanic and Atmospheric  
Administration.

[FR Doc. 90-13895 Filed 6-14-90; 8:45 am]  
BILLING CODE 3510-22-M

## **5-Year Review Template**

### **INTRODUCTION**

The following template is designed to guide a reviewer through the analysis and documentation steps of the 5-year review process, and to record available information and a deliberative process during the review of the species. The use of summary documents (past reviews, etc.) may streamline the process; however, you should have confidence that these documents contain valid information and any questionable information should be verified. The result should not be an exhaustive report; rather, the review should be a concise document that summarizes and cites sufficient information to reflect the rationale and thought process used to arrive at the results.

If, in the 5-year review, a change in classification is recommended, the recommended change will be further considered in a separate rule-making process.

### **TEMPLATE SEQUENCE**

The template is provided as a general guide to conducting a 5-year review. Section 1.0 addresses general information about how the review was conducted, who conducted the review, what species was reviewed, and its history under the Endangered Species Act (ESA). Section 2.0 is the Review Analysis. Section 2.1., Application of the 1996 Distinct Population Segment (DPS) policy, pertains only to vertebrate species and is only required if it was listed as a DPS prior to 1996, or if new information leads the agency to re-consider its DPS status. It reviews whether a DPS is a listable entity under the ESA (meets the discreteness and significance criteria of the DPS policy). This section appears first because a determination that the species is not a valid DPS (does not meet the discreteness or significance criteria) could lead to a recommendation to delist the species without the need to analyze the species conservation status (review of recovery criteria in section 2.2. or status and threats in section 2.3.). Section 2.2., Recovery Criteria, assesses whether recovery criteria are up-to-date and adequately address threats to the species. If the reviewer determines the recovery criteria are indeed up-to-date and address threats under the five listing factors, evaluating whether or not recovery criteria have been met may be sufficient to determine appropriate classification without completing section 2.3., Updated Information and Current Species Status. The reviewer should note that although the DPS and recovery criteria sections are provided first, they may not be applicable for some species (species that cannot be listed as DPSs or species without recovery plans). Section 2.3 should be completed for all species that do not have recovery plans with up-to-date recovery criteria. All the information from the previous sections is then summarized in section 2.4., Synthesis. This synthesis provides the rationale for the recommendations regarding whether or not to change a species' classification in section 3.0, Results. Section 3.0, Results also recommends a new recovery priority number for the species and a reclassification or delisting priority number, if applicable. Section 4.0, Recommendations for Future Actions, makes use of the information collected during the review to recommend next steps to address the species' recovery needs. The reviewer is strongly encouraged to make recommendations that can guide future conservation actions for the species in this section of the 5-year review.

Guidance on how to complete each section of the template is provided in section 2.2 of the guidance, Completion of the Template. An optional cover page and table of contents are

included to facilitate producing a document ready for posting on the web. The template introduction and italicized explanatory text may be deleted upon completion of the 5-year Review. Note any sections that are not applicable. Portions of the template applicable only to one of the Services (i.e. only to FWS or NMFS) may be deleted where appropriate



**Common Name**  
*(Scientific name)*

**5-Year Review:**  
**Summary and Evaluation**

**U.S. Fish and Wildlife Service/  
National Marine Fisheries Service**  
**Office Name**  
**City, State**

## **5-YEAR REVIEW**

**Species reviewed:** common name (*scientific name*)

### **TABLE OF CONTENTS**

*(optional: a table of contents may be useful for longer 5-year reviews or any 5-year reviews that provide figures or appendices as attachments)*

**5-YEAR REVIEW**  
**common name/scientific name**

**1.0 GENERAL INFORMATION**

**1.1 Reviewers** (*list primary reviewers of species information below*)

**Lead Regional or Headquarters Office** (*Contact name(s), Office, and phone numbers*):

**Lead Field Office** (*Contact name(s), Office, and phone numbers*):

**Cooperating Field Office(s)** (*Contact name(s), Office, and phone numbers*):

**Cooperating Regional Office(s)** (*Contact name(s), Office, and phone numbers*):

**Cooperating Science Center(s) (NMFS only)** (*Contact name(s), Office, and phone numbers*):

**1.2 Methodology used to complete the review:**

*Briefly provide information that describes the method or process used in conducting this 5-year review; for example, whether the review was a team or individual effort, whether some or all of the review was contracted out, whether certain documents and data were relied on more heavily than others, whether a structured decision-making process was used, and other pertinent information. If all or portions of the review were peer reviewed, provide information on peer review methods or processes used or, if done in accordance with the OMB Peer Review Bulletin, give the weblink to the peer review information.*

**1.3 Background:**

*The background section of the template asks the reviewer to provide general information and identify previous documentation regarding the species (e.g. listing documents, status reviews, associated actions, recovery plans). This provides the backdrop for the incorporation and analysis of new information when reviewing the species' status and classification.*

**1.3.1 FR Notice citation announcing initiation of this review:**

### **1.3.2 Listing history**

#### Original Listing

**FR notice** (*Federal Register Volume and page number*):

**Date listed:**

**Entity listed** (*species, subspecies, DPS; exactly as listed in 50 CFR 17.11 or 17.22*):

**Classification** (*threatened or endangered*):

#### Revised Listing, if applicable

**FR notice** (*Federal Register Volume and page number*):

**Date listed:**

**Entity listed** (*species, subspecies, DPS*):

**Classification** (*threatened or endangered*):

**1.3.3 Associated rulemakings** (*if applicable, identify any critical habitat, 4(d) rules, experimental populations, or similarity of appearance cases and provide FR citations*):

**1.3.4 Review History** (*List, in chronological order, agency status review(s), 5-year review(s) or other relevant reviews/documents. Include dates, and results, if applicable*):

**1.3.5 Species' Recovery Priority Number at start of 5-year review** (*For FWS, information is available from TESS; for NMFS, information is available in the most recent biennial Recovery Report to Congress*):

### **1.3.6 Recovery Plan or Outline**

**Name of plan or outline:**

**Date issued:**

**Dates of previous revisions, if applicable:**

## **2.0 REVIEW ANALYSIS**

### **2.1 Application of the 1996 Distinct Population Segment (DPS) policy**

*Using section 1.3 of the 5-year Review Guidance, Consideration of the DPS Policy during the 5-year review, and the DPS Policy (61 FR 4722) to guide you, respond to the questions below. Note that only a vertebrate can be listed as a DPS under the ESA (see guidance for more information).*

#### **2.1.1 Is the species under review a vertebrate?**

- Yes**, go to section 2.1.2.  
 **No**, go to section 2.2.

#### **2.1.2 Is the species under review listed as a DPS?**

- Yes**, go to section 2.1.3.  
 **No**, go to section 2.1.4

#### **2.1.3 Was the DPS listed prior to 1996?**

- Yes**, give date and go to section 2.1.3.1.  
 **No**, go to section 2.1.4.

##### **2.1.3.1 Prior to this 5-year review, was the DPS classification reviewed to ensure it meets the 1996 policy standards?**

- Yes**, provide citation and go to section 2.1.4.  
 **No**, go to section 2.1.3.2.

##### **2.1.3.2 Does the DPS listing meet the discreteness and significance elements of the 1996 DPS policy?**

- Yes**, discuss how it meets the DPS policy, and go to section 2.1.4.  
 **No**, discuss how it is not consistent with the DPS policy and consider the 5-year review completed. Go to section 2.4., Synthesis.

#### **2.1.4 Is there relevant new information for this species regarding the application of the DPS policy?**

**Yes**, provide citation(s) and a brief summary of the new information; explain how this new information affects our understanding of the species and/or the need to list as DPSs. This may be reflected in section 4.0, Recommendations for Future Actions. If the DPS listing remains valid, go to section 2.2, Recovery Criteria. If the new information indicates the DPS listing is no longer valid, consider the 5-year review completed, and go to section 2.4, Synthesis.

\_\_\_ *No, go to section 2.2., Recovery Criteria.*

## **2.2 Recovery Criteria**

*Recovery plans contain downlisting and delisting criteria which, if up-to-date with regard to both the species' status and threats, should simplify the 5-year review process. If current, a recommendation on whether or not to change the species status may be made based on evaluating whether recovery criteria have been achieved, and completing section 2.3, Updated Information and Current Species Status, should not be necessary.*

**2.2.1 Does the species have a final, approved recovery plan<sup>1</sup> containing objective, measurable criteria?** *(Note: Some plans may not contain recovery criteria, either because they are older plans, or because criteria could not be determined due to lack of information. These plans may still contain goals or other objectives that provide a benchmark for measuring progress toward recovery and may warrant discussion in this section. If you discuss them here, be sure to distinguish them from formal recovery criteria.)*

\_\_\_ *Yes, continue to section 2.2.2.*

\_\_\_ *No, consider recommending development of a recovery plan or recovery criteria in section IV, Recommendations for Future Actions, and go to section 2.3., Updated Information and Current Species Status.*

### **2.2.2 Adequacy of recovery criteria.**

*Recovery criteria should reflect the best available and most up-to-date information on the species and its habitat and address threats to the species relative to the five factor analysis. If criteria are current, the status of the species and its threats should be discussed briefly under each criterion in section 2.2.3., which will serve as the updated information on which the 5-year review results are based.*

**2.2.2.1 Do the recovery criteria reflect the best available and most up-to date information on the biology of the species and its habitat?**

\_\_\_ *Yes, go to section 2.2.2.2.*

\_\_\_ *No, go to section 2.2.3, and note why these criteria do not reflect the best available information. Consider developing recommendations for revising recovery criteria in section 4.0.*

---

<sup>1</sup> Although the guidance generally directs the reviewer to consider criteria from final approved recovery plans, criteria in published draft recovery plans may be considered at the reviewer's discretion.

**2.2.2.2 Are all of the 5 listing factors that are relevant to the species addressed in the recovery criteria (and is there no new information to consider regarding existing or new threats)?** *(Note: If it can be clearly articulated how recovery criteria address all current threats to the species, evaluating whether recovery and/or downlisting criteria have been met in section 2.2.3 may be sufficient to evaluate the species listing classification and no further analysis may be necessary.)*

\_\_\_\_\_ **Yes**, go to section 2.2.3.

\_\_\_\_\_ **No**, go to section 2.2.3, and note which factors do not have corresponding criteria. Consider developing recommendations for revising recovery criteria in section 4.0.

**2.2.3 List the recovery criteria as they appear in the recovery plan, and discuss how each criterion has or has not been met, citing information** *(for threats-related recovery criteria, please note which of the 5 listing factors are addressed by that criterion. If any of the 5-listing factors are not relevant to this species, please note that here):*

**If you answered yes to both 2.2.2.1. and 2.2.2.2., evaluating whether recovery and/or downlisting criteria have been met in section 2.2.3 may be sufficient to evaluate the species listing classification and no further analysis may be necessary; go to section 2.4., Synthesis.**

**If you answered no to either 2.2.2.1 or 2.2.2.2, continue to section 2.3. , Updated Information and Current Species Status, and consider adding updating of recovery criteria in section 4.0, Recommendations for Future Actions.**

## **2.3 Updated Information and Current Species Status**

*Briefly summarize new information, citing detailed information and analyses. Each summary of information below should indicate whether there is a change in species status or change in magnitude or imminence of threats since the last status review.*

### **2.3.1 Biology and Habitat**

*Provide an updated status of the species, citing new information about the species and its habitat; then go to 2.3.2. For species that are presumed extinct, note whether surveys have been completed or any other information that could be relevant to the species. The following provides a checklist of possible information to consider.*

#### **2.3.1.1 New information on the species' biology and life history:**

**2.3.1.2 Abundance, population trends (e.g. increasing, decreasing, stable), demographic features (e.g., age structure, sex ratio, family size, birth rate, age at mortality, mortality rate, etc.), or demographic trends:**

**2.3.1.3 Genetics, genetic variation, or trends in genetic variation (e.g., loss of genetic variation, genetic drift, inbreeding, etc.):**

**2.3.1.4 Taxonomic classification or changes in nomenclature:**

**2.3.1.5 Spatial distribution, trends in spatial distribution (e.g. increasingly fragmented, increased numbers of corridors, etc.), or historic range (e.g. corrections to the historical range, change in distribution of the species' within its historic range, etc.):**

**2.3.1.6 Habitat or ecosystem conditions (e.g., amount, distribution, and suitability of the habitat or ecosystem):**

**2.3.1.7 Other:**

**2.3.2 Five-Factor Analysis (threats, conservation measures, and regulatory mechanisms) -** *For each of the five listing factors outlined below, provide a brief summary and citation(s) of any relevant new information, including conservation measures, regarding the magnitude (scope and severity) and imminence of previously identified threats to the species or new threats to the species. Note if any of the factors are not relevant to the species. Upon completion, go to 2.4., Synthesis.*

**2.3.2.1 Present or threatened destruction, modification or curtailment of its habitat or range:**

**2.3.2.2 Overutilization for commercial, recreational, scientific, or educational purposes:**

**2.3.2.3 Disease or predation:**

**2.3.2.4 Inadequacy of existing regulatory mechanisms:**

**2.3.2.5 Other natural or manmade factors affecting its continued existence:**

**2.4 Synthesis -** *Provide a synthesis of the information discussed in sections 2.1., 2.2., and 2.3, to provide an updated assessment of the status of the species and its threats. Please note any significant changes in the species' status or its associated threats since the last review, and explain why the species meets the definition of threatened or endangered, as appropriate. This section should conclude with a recommended classification (downlist, uplist, delist, remain the same). See guidance and 50 CFR 424.11 (the factors considered for delisting are the same factors considered for listing; species may be delisted due to*



*extinction, recovery, and/or data error). This synthesis will provide a basis for the results provided in section 3.0, Results, and the baseline by which to measure changes in status for the next review.*

### 3.0 RESULTS

**3.1 Recommended Classification:** *Given your responses to previous sections, particularly section 2.4. Synthesis, make a recommendation with regard to the listing classification of the species*

\_\_\_\_ **Downlist to Threatened**

\_\_\_\_ **Uplist to Endangered**

\_\_\_\_ **Delist** (*Indicate reasons for delisting per 50 CFR 424.11*):

\_\_\_\_ *Extinction*

\_\_\_\_ *Recovery*

\_\_\_\_ *Original data for classification in error*

\_\_\_\_ **No change is needed**

**3.2 New Recovery Priority Number** (*indicate if no change; see Appendix E*):

**Brief Rationale:**

**3.3 Listing and Reclassification Priority Number**, if reclassification is recommended (*see Appendix E*)

**Reclassification (from Threatened to Endangered) Priority Number:** \_\_\_\_

**Reclassification (from Endangered to Threatened) Priority Number:** \_\_\_\_

**Delisting (Removal from list regardless of current classification) Priority Number:** \_\_\_\_

**Brief Rationale:**

**4.0 RECOMMENDATIONS FOR FUTURE ACTIONS** - *Provide recommendations for future actions that stem from this review and that focus on the highest priority actions needed prior to the next 5-year review. Recommendations may address, but are not limited to, data needs for future 5-year reviews, implementation of high priority recovery actions, actions on DPS-related issues identified in section 2.1., revisions or updates of recovery plans, or development or modification of special rules. For species where little to no new relevant information was available, make specific recommendations to address data and information needs. Completion of these recommended actions is not required, and subsequent reviews will not be precluded should recommended actions remain incomplete. If any of the recommended actions are identified in the species recovery plan, indicate the recovery action number.*

**5.0 REFERENCES** - *List all information and data sources used in this review. Include on this list any experts used and their affiliations and note whether they provided information or if they acted as peer-reviewers, or both.*

**U.S. FISH AND WILDLIFE SERVICE**  
**5-YEAR REVIEW of *species x***

**Current Classification:**

**Recommendation resulting from the 5-Year Review:**

- Downlist to Threatened
- Uplist to Endangered
- Delist
- No change needed

**Appropriate Listing/Reclassification Priority Number, if applicable:**

**Review Conducted By:**

**FIELD OFFICE APPROVAL:**

**Lead Field Supervisor, Fish and Wildlife Service**

Approve \_\_\_\_\_ Date \_\_\_\_\_

*The lead Field Office must ensure that other offices within the range of the species have been provided adequate opportunity to review and comment prior to the review's completion. The lead field office should document this coordination in the agency record.*

**REGIONAL OFFICE APPROVAL:**

*The Regional Director or the Assistant Regional Director, if authority has been delegated to the Assistant Regional Director, must sign all 5-year reviews.*

**Lead Regional Director, Fish and Wildlife Service**

Approve \_\_\_\_\_ Date \_\_\_\_\_

*The Lead Region must ensure that other regions within the range of the species have been provided adequate opportunity to review and comment prior to the review's completion. Written concurrence from other regions is required.*

**Cooperating Regional Director, Fish and Wildlife Service**

Concur     Do Not Concur

Signature \_\_\_\_\_ Date \_\_\_\_\_

**NATIONAL MARINE FISHERIES SERVICE**  
**5-YEAR REVIEW**  
*species*

**Current Classification:**

**Recommendation resulting from the 5-Year Review**

- Downlist to Threatened
- Uplist to Endangered
- Delist
- No change is needed

**Review Conducted By:**

**REGIONAL OFFICE APPROVAL:**

**Lead Regional Administrator, NOAA Fisheries**

Approve: \_\_\_\_\_ Date: \_\_\_\_\_

*The Lead Region must ensure that other Regions within the range of the species have been provided adequate opportunity to review and comment prior to the review's completion. Written concurrence from other regions is required.*

**Cooperating Regional Administrator, NOAA Fisheries**

Concur     Do Not Concur

Signature \_\_\_\_\_ Date \_\_\_\_\_

**HEADQUARTERS APPROVAL:**

**Assistant Administrator, NOAA Fisheries**

Concur     Do Not Concur

Signature \_\_\_\_\_ Date \_\_\_\_\_

## 5-Year Review Short Template\*

### 5-Year Review: Summary and Evaluation

**Common Name** (*Scientific name*)

**Current Classification:** (*i.e., threatened or endangered*)

**Agency**  
**Office Name**  
**City, State**

#### 1.0 GENERAL INFORMATION

**1.1 Reviewers** (*list primary reviewers of species information below*)

**Lead Regional or Headquarters Office** (*Contact name(s), Office, and phone numbers*):

**Lead Field Office** (*Contact name(s), Office, and phone numbers*):

**Cooperating Field Office(s)** (*Contact name(s), Office, and phone numbers*):

**Cooperating Regional Office(s)** (*Contact name(s), Office, and phone numbers*):

**Cooperating Science Center(s) (NMFS only)** (*Contact name(s), Office, and phone numbers*):

**1.2 Methodology used to complete the review:** *Note if the review was conducted for a 12-month finding to a delisting petition or another status review (for example – “...was accomplished through the status review conducted for the 12-month finding to a delisting petition). Briefly provide information that describes the method or process used; for example, whether the review was a team or individual effort, whether some or all of the review was contracted out, whether certain documents and data were relied on more heavily than others, whether a structured decision-making process was used, and other pertinent information. If all or portions of the review were peer reviewed, provide information on peer review methods or processes used or, if done in accordance with the OMB Peer Review Bulletin, give the weblink to the peer review information.*

**1.3 FR Notice citation announcing initiation of this review:**

\*This short template is to be used ONLY when the 5-year review is being done concurrent with another status review such as a 12-month finding on a delisting petition. Attach a copy of the final 12-month finding or other status review to this form.

## **2.0 REVIEW ANALYSIS**

### **2.1 Application of the 1996 Distinct Population Segment (DPS) Policy:**

*(Applies only to vertebrate species listed as DPSs.) Species listed as a DPS prior to the 1996 policy should be reviewed to determine whether or not the listing meets the policy with regards to the discreteness and significance elements. Provide a citation for any review of application of the DPS policy to the species listing (for example – “...please refer to the 12-month finding completed on x date and published in the FR on y date (provide citation) for a complete analysis of the existing species DPS in context of the DPS policy...”). Provide a brief summary of the results.*

**2.2 Review Summary:** *Provide a citation for the status review (for example – “...please refer to the 12-month finding completed on x date and published in the FR on y date (provide citation) for a complete 5 factor analysis and a discussion on the species status including biology and habitat, threats, and management efforts...”). Provide a brief summary of the results of the status review. This should provide enough detail to explain why the species meets the definition of threatened or endangered, and support the recommendation given below in section 3.0, Results.*

\*This short template is to be used ONLY when the 5-year review is being done concurrent with another status review such as a 12-month finding on a delisting petition. Attach a copy of the final 12-month finding or other status review to this form.



### 3.0 RESULTS

**3.1. Recommended Classification:** *Make a recommendation with regard to the listing classification of the species.*

**Downlist to Threatened**

**Uplist to Endangered**

**Delist** (*Indicate reasons for delisting per 50 CFR 424.11*):

*Extinction*

*Recovery*

*Original data for classification in error*

**No change is needed**

**3.2. New Recovery Priority Number** (*indicate if no change; see Appendix E*):

**Brief Rationale:**

**3.3. Listing and Reclassification Priority Number**, *if reclassification is recommended (see Appendix E)*

**Reclassification (from Threatened to Endangered) Priority Number:**

**Reclassification (from Endangered to Threatened) Priority Number:**

**Delisting Priority Number:**

**Brief Rationale:**

\*This short template is to be used ONLY when the 5-year review is being done concurrent with another status review such as a 12-month finding on a delisting petition. Attach a copy of the final 12-month finding or other status review to this form.

**4.0. RECOMMENDATIONS FOR FUTURE ACTIONS -** *Provide recommendations for future actions that stem from this review and that focus on the highest priority actions needed prior to the next 5-year review. Recommendations may address, but are not limited to, data needs for future 5-year reviews, implementation of high priority recovery actions, actions on DPS-related issues identified in section 2.1., revisions or updates of recovery plans, or development or modification of special rules. For species where little to no new relevant information was available, make specific recommendations to address data and information needs. Completion of these recommended actions is not required, and subsequent reviews will not be precluded should recommended actions remain incomplete. If any of the recommended actions are identified in the species recovery plan, indicate the recovery action number.*

*\*This short template is to be used ONLY when the 5-year review is being done concurrent with another status review such as a 12-month finding on a delisting petition. Attach a copy of the final 12-month finding or other status review to this form.*