

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Annual Description of Progress on Listing Actions and Findings on Recycled Petitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Annual notice of listing progress and petition findings.

SUMMARY: The Service describes its progress in revising the lists of Endangered and Threatened Wildlife and Plants during the period from October 1, 1989, to September 30, 1990. The Service also announces its findings on recycled petitions.

DATES: The description of the Service's progress in revising the lists is current as of October 1, 1990.

ADDRESSES: Information, comments, or questions may be submitted to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/358-2171 or FTS 921-2171).

FOR FURTHER INFORMATION CONTACT: Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/358-2171 or FTS 921-2171).

SUPPLEMENTARY INFORMATION:**Background**

Section 4(b)(3) of the Endangered Species Act (Act), as amended in 1982 (16 U.S.C. 1531 *et seq.*), sets out required procedures for responding to petitions under the Act (*i.e.*, petitions to revise the lists of Endangered and Threatened Wildlife and Plants or to revise critical habitat for listed species). The revised procedures required the Service to treat any petitions that were pending on the date of enactment of the Amendments as if they were filed again on that date (October 13, 1982). Those petitions, and all subsequent petitions determined to present substantial scientific or commercial information supporting the requested actions, require findings on their merits within 12 months after receipt.

The 1982 Amendments further stipulated that petitioned actions may be determined to be warranted but precluded by other actions to revise the lists if it is also determined that the Service is making simultaneous expeditious progress in revising the lists. Petitions for which a 12-month finding of "warranted but precluded" is made are treated as if they were resubmitted on the date of such an administrative

finding (with substantial information that the petitioned action may be warranted). They therefore require a new finding within a year after the most recent "warranted but precluded" finding.

This notice describes the Service's annual progress in revising the lists during fiscal year 1990. It also reports administrative findings on recycled petitions that became due during that period.

A table describing the Service's 12-month findings for recycled animal petitions was published December 29, 1988 (53 FR 52746). The findings for fiscal year 1989 were published April 25, 1990 (55 FR 17475). A current revision of the comprehensive plant Notice of Review was published in the **Federal Register** on February 21, 1990 (55 FR 6184).

Progress in Revision of the Lists

The Service's progress in revising the lists during fiscal year 1990 is described below. The described activities precluded immediate action on other petitioned actions determined during fiscal year 1990 to be "warranted but precluded," including the majority of plant species identified in the Smithsonian plant listing petitions of 1975 and 1978.

The Service's progress in listing and delisting qualified species during fiscal year 1990 is represented by the publication in the **Federal Register** of emergency listing action for one species, final listing actions for 50 species, final critical habitat designation for one species, and proposed listing actions for 108 species. Three species proposed for listing as threatened due to similarity of appearance are not included in the counts above or in Table 1. Table 1 presents the number of species affected by each other type of listing action published during this period.

TABLE 1.—SUMMARY OF LISTING ACTIONS FROM OCTOBER 1, 1989, TO SEPTEMBER 30, 1990.

Type of action	Number of species affected
Emergency endangered status.....	1
Final endangered status.....	28
Final threatened status.....	18
Final reclassification from threatened to endangered.....	2
Final critical habitat designation.....	1
Final delisting.....	1
Proposed endangered status.....	93
Proposed threatened status.....	13
Proposed reclassification from endangered to threatened.....	1
Proposed delisting.....	1

The Service intends to increase listing efficiency in the future by emphasizing

ecosystem and multi-species listing approaches wherever possible.

Petition Findings

Section 4(b)(3)(B) of the Act requires that the Service make one of the following 12-month findings on each petition presenting substantial information: (i) the petitioned action is not warranted; (ii) the petitioned action is warranted and will be proposed promptly; or (iii) the petitioned action is warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in other listing actions. Petitioned actions found to be warranted are the subjects of proposed rules that are published promptly in the **Federal Register**.

In 1973, the Act directed the Secretary of the Smithsonian Institution to prepare a report on endangered and threatened plant species, which was later published as House Document No. 94-51. The Service's first Notice of Review for plants, published on July 1, 1975 (40 FR 27823), indicated acceptance of the original Smithsonian recommendations as a listing petition under the terms of the Act. A revision of the Smithsonian's report was published in 1978 as a book: E. S. Ayensu and R. A. DeFilippis, *Endangered and Threatened Plants of the United States*, Smithsonian Institution and World Wildlife Fund, Washington, D.C. Because this revision indicated some additional taxa as vulnerable, and recommended that the Service officially recognize their status as endangered or threatened, it was also accepted as a listing petition. Because of the large number of plants included in the two Smithsonian plant petitions (in excess of 3,000 species), findings on the plants are made by status categories as published in the most recent plant Notice of Review on February 21, 1990 (55 FR 6184).

The plant petition findings for fiscal year 1990 generally repeated the findings made in October 1989 and announced in the **Federal Register** on April 25, 1990 (55 FR 17475). Those plant species proposed for listing as threatened or endangered during fiscal year 1990 were determined to be "warranted" for listing as reported in the proposed rules. The Service proposed 76 plant species for listing in that period. Of those 76 species, 57 were included in the 1978 Smithsonian plant petition. The Service has determined that listing is "not warranted" for the petitioned species designated in Category 3 of the plant Notice of Review published February 21, 1990 (55 FR 6184). Determinations of "warranted but precluded" by other actions to revise the

candidates because of recent status survey results often markedly different from information previously known or published in petition findings or notices. Such species are frequently proposed for listing before a periodic notice of review can announce their category change. The proposed rule addresses any new data upon which the category change is based.

It is Service policy to use the listing priority guideline criteria to the extent that available knowledge will permit in allocating limited resources among category 2 candidate species for status survey. In this process, evidence of significant threats to survival confers a higher priority for survey funding than the mere fact of being a subject of a listing petition. For required petition determinations the policy is also to use the best scientific and commercial information available when the finding is due.

The general plant and animal notices of review are important tools for gathering data on species that are candidates for listing and for informing interested parties of the Service's general views on the status of present and past candidate species. A current revision of the comprehensive plant notice was published February 21, 1990 (55 FR 6184). The most recent previous general Notice of Review for plants was published on September 27, 1985 (50 FR 39526). The most recent comprehensive Notice of Review for animals was published on January 6, 1989 (54 FR 554), and is being revised for republication in 1991. The plant and animal notices of review will be republished on a biennial schedule.

Author

This notice was prepared by Dr. George Drewry of the Division of Endangered Species.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

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

Dated: September 19, 1991.

Bruce Blanchard

Acting Director, U.S. Fish and Wildlife Service

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