

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**Endangered and Threatened Wildlife and Plants; Findings on Certain Petitions and Reviews of Status for Several Species**

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

**ACTION:** Notice of findings on certain petitions and reviews of status.

**SUMMARY:** The Service reports the initial findings that have been made on substantiality of information for some petitions pending on October 13, 1982, and other petitions received subsequently, as required by the Endangered Species Act Amendments of 1982. Reviews of status for several species commence with this notice.

**DATE:** Comments may be submitted until further notice.

**ADDRESSES:** Interested persons or organizations are requested to submit comments to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service (OES), Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this notice are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

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

**SUPPLEMENTARY INFORMATION:** Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982, requires that the Service make a finding whether a petition to list or delist a species presents substantial scientific or commercial information that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the *Federal Register*. Similarly, Section 4(b)(3)(D)(i) of the Act requires a finding within 90 days on a petition to revise Critical Habitat, with prompt publication of the finding. When a positive finding is made on a petition to list or delist a species, the Service is required to promptly commence a review of the status of the species.

Furthermore, Section 2(b)(1) of the 1982 amendments (P.L. 97-304) to the Endangered Species Act requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This makes such past petitions subject to the new requirements of Section 4(b)(3), but

provides that such new procedural requirements "shall be deemed to be complied with" if similar pre-amendment requirements were satisfied before the enactment of P.L. 97-304; see Section 2(b)(1). The Service has recently conducted an analysis to consider all pending petitions. We have used the criteria in 50 CFR 424.14 to define and evaluate petitions and to distinguish them from comments. December 28, 1973, when the 1973 Endangered Species Act was enacted, is our starting date for the petition analysis.

Most petitions have already had findings made on the substantiality of their information and status reviews have been initiated when the finding was positive. For example, the December 15, 1980, notice of review (45 FR 82479-82569) is a comprehensive assessment of those native vascular plants that are considered candidates for the Act or that do not qualify. The majority of these plants were in the petitions of the Smithsonian Institution House Document 94-51, 1975, and E. S. Ayensu and R. A. DeFilipps, *Endangered and Threatened Plants of the United States*, Smithsonian Institution and World Wildlife Fund, (1978). With respect to requirements of the new Section 4(b)(3)(A), positive findings already have been made for the petitioned taxa in categories 1 and 2 of the 1980 notice, and findings of lack of substantial information have been made for taxa in category 3.

Below is a list of those pending petitions for which findings required by Section 4(b)(3)(A) or 4(b)(3)(D)(i) had not already been made: the administrative record for these findings was completed by January 11, 1983, and the findings are indicated for each taxon. Also listed are several petitions submitted after October 13, 1982, and our findings for them.

**EVALUATION OF CERTAIN PETITIONS**

Species	Action	Petitioner	Date	Substantial information
Graham's harvestman <i>Banksia grahami</i>	List	G. H. Meral	4/07/75	No.
Melones harvestman <i>Banksia melones</i>	do	do	4/07/75	No.
All Appendix II CITES species	do	S. P. Ross, D. Whittlesey and M. Klepper; Fund for Animals.	5/22/75	No.
Black bear in Pennsylvania <i>Ursus americanus</i> —Pa. population.	do	L. I. Cohen, E. C. Fishman and C. A. Branigan; Fund for Animals.	9/76	No.
Higgins eye pearly mussel, <i>Lampsilis higginsii</i>	Designate critical habitat	Wisconsin Department of Natural Resources	10/06/80	Yes.
Sheath-tailed bat <i>Emballonura semicaudata</i>	List	P. M. Calvo, Governor of Guam	12/14/81	No.
Rufous-fronted fantail, <i>Rhipidura rufifrons uraniae</i>	List with critical habitat	do	12/14/81	Yes.
Micronesian starling, <i>Aplonisopaca guami</i>	do	do	12/14/81	No.
Ufa-halomtano heritiera <i>longipetiolata</i>	do	do	12/14/81	No.
Hayun lagu <i>Senanthes nelsoni</i>	do	do	12/14/81	Yes.
Tsatsa, <i>Cyathea lunulata</i>	do	do	12/14/81	No.
Ozark cavefish <i>Amblyopsis rosae</i>	List	A. V. Brown	9/09/82	Yes.
Alabama beach mouse <i>Peromyscus polionotus ammobates</i>	do	D. C. Holliman	10/26/82	Yes.
Southern sea otter <i>Enhydra lutris nereis</i>	Reclassify from threatened to endangered.	L. van de Velde	11/07/82	No.
Three kangaroos <i>Macropus rufus</i> , <i>M. giganteus</i> , and <i>M. fuliginosus</i>	Delist	Australian Government	11/10/82	Yes.
San Francisco tree lupine moth <i>Grapholitha edwardsiana</i>	List	R. A. Arnold and J. A. Powell	11/28/82	Yes.
Larch Mountain salamander <i>Plethodon larselli</i>	do	AKI	12/08/82	No.

For three taxa in this list the required status reviews began with our December 30, 1982, vertebrate notice of review (47 FR 58454-58460); these taxa are *Rhipidura rufifrons uraniae*, *Amblyopsis rosae*, and *Peromyscus polionotus ammobates*. The reviews of status for the plant *Serianthes nelsonii* (Guam, Rota; category 1; Fabaceae), the moth *Grapholitha edwardsiana* (California), and the three listed kangaroos (50 CFR 17.11) commence with this notice; the December 15, 1980, notice of review on plants (45 FR 82479) is supplemented with the addition of *Serianthes nelsonii*.

The Service hereby solicit data concerning these five species now under notice of review. Especially sought is information regarding taxonomy, distribution, any recommended Critical Habitat for the native species, and threats to the five species. Comments received will be considered in any future actions for the taxa.

By October 13, 1983, the Service must decide whether the petitioned action is warranted for petitions that were pending on October 13, 1982, and for which findings of substantial information have been made, in accord with Sections 4(b)(3)(B) and 4(b)(3)(D)(ii) of the Act, as amended. For such

petitions received since October 13, 1982, the decision required within 12 months of the receipt of the petition.

The notice was prepared by Dr. Bruce MacBryde in the Service's Office of Endangered Species in Washington (703/235-1975), with evaluations by appropriate staff biologists in the Washington Office and Endangered Species Program staff of the Service's Regional Office and Field Stations.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

#### Part 17 Authority

This notice is published under the authority contained in the Endangered Species Act of 1973, as amended:

(Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*))

Dated: February 8, 1983.

**G. Ray Arnett,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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