

submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve a State plan element as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993), 13563 (76 FR 3821, January 21, 2011) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the

greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." The EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The State did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of this proposed action, if finalized, this action is expected to have a neutral to positive impact on the air quality of the various ozone nonattainment areas covered by this proposed action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898, to achieve EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 25, 2024.

Martha Guzman Aceves,
Regional Administrator, Region IX.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R8-ES-2023-0088;
FF09E22000 FXES1113090FEDR 245]

RIN 1018-BG50

Endangered and Threatened Wildlife and Plants; Removal of White Sedge (*Carex albida*) From the List of Endangered and Threatened Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the white sedge (*Carex albida*) from the Federal List of Endangered and Threatened Plants (*i.e.*, "delist" the species). Our review of the best available scientific and commercial data indicate that the white sedge is not a discrete taxonomic entity and does not meet the definition of a species as defined by the Endangered Species Act of 1973, as amended (Act). White sedge has been synonymized with Lemmon's sedge (*Carex lemmonii*). This taxonomic revision means that the white sedge is no longer a scientifically accepted species. If we finalize this rule as proposed, the prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to the white sedge.

DATES: We will accept comments received or postmarked on or before September 3, 2024. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by August 16, 2024.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2023-0088, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment."

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R8-ES-2023-0088, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: This proposed rule and supporting documents, including a copy of the 5-year review referenced throughout this

document, are available at <https://www.regulations.gov> under Docket No. FWS-R8-ES-2023-0088.

FOR FURTHER INFORMATION CONTACT: Michael Fris, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Sacramento, CA 95825; telephone 916-414-6700. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Please see Docket No. FWS-R8-ES-2023-0088 on <https://www.regulations.gov> for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

- (1) Reasons we should or should not remove the white sedge from the List of Endangered and Threatened Plants; and
- (2) Additional taxonomic or other relevant data concerning the white sedge.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered species or a threatened species must be made solely on the basis of the best scientific and commercial data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send

comments only by the methods described in **ADDRESSES**.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>.

Our final determination may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. For example, based on the new information we receive (and, if relevant, any comments on that new information), we may conclude that the white sedge should remain listed as endangered. We will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of these virtual public hearings is consistent with our regulation at 50 CFR 424.16(c)(3).

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing and recovery actions under the Act, we will seek independent scientific reviews from at least three appropriate and independent specialists regarding scientific data and

interpretations contained in this proposed rule. We will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. We will ensure that the opinions of peer reviewers are objective and unbiased by following the guidelines set forth in the Director's Memo, which updates and clarifies Service policy on peer review (U.S. Fish and Wildlife Service 2016). The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, our final decision may differ from this proposal. Comments from peer reviewers will be posted at <https://www.regulations.gov> and included in the decision file for the final rule.

Previous Federal Action

Federal Government actions on white sedge began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975, and included white sedge as an endangered species (Ripley 1975, p. 56). We published a notice on July 1, 1975 (40 FR 27823), of our acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the Act (petition provisions are now found in section 4(b)(3) of the Act) and our intention thereby to review the status of the plant taxa named therein. White sedge was included in the July 1, 1975, notice (40 FR 27823 at 27833). On June 16, 1976, we published a proposal (41 FR 24523) to determine approximately 1,700 vascular plant species, including white sedge, to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled based on comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and our July 1, 1975, notice (40 FR 27823 at 27833). General comments received related to the 1976 proposal were summarized in an April 26, 1978, rule (43 FR 17909).

We published a proposed rule to list the white sedge as endangered on August 2, 1995 (60 FR 39314), and invited public comment. Processing of the proposed rule was delayed by a congressional moratorium on activities associated with final listings from April 10, 1995, through April 26, 1996 (Pub. L. 104-6, 109 Stat. 73, 86 (1995)). After the moratorium was lifted, we reopened the comment period on September 11,

1996, and scheduled a public hearing on October 3, 1996 (61 FR 47856). We published the final rule to list white sedge as an endangered species on October 22, 1997 (62 FR 55791).

We published a 5-year status review for the species on May 2, 2019, and recommended white sedge be removed from the List of Endangered and Threatened Plants based on taxonomic error (Service 2019, pp. 3–4). White sedge has been synonymized with (*i.e.*, considered to be the same species as) Lemmon's sedge (*Carex lemmonii*), a wide-ranging and abundant taxon endemic to California that is distributed throughout the Northern Coast and Sierra-Cascade mountain ranges (Calflora 2022, entire; Zika et al. 2015, entire). Therefore, white sedge is no longer considered a valid species that is distinct from the more widely abundant and distributed Lemmon's sedge.

Background

White sedge, as previously identified, is an herbaceous perennial in the sedge family (Cyperaceae). The first white sedge specimen was collected in 1854 by Dr. Jacob M. Bigelow during an exploratory expedition to find a railway route from the Mississippi River to the Pacific Ocean (Torrey and Gray 1857, p. 98). This specimen was collected from Santa Rosa Creek in the Laguna de Santa Rosa wetland complex in Sonoma County (Howell 1957, pp. 178–179; Best et al. 1996, p. 252). No additional locations were recorded until the 1900s (Howell 1957, p. 178). The immaturity of the specimen when collected and lack of additional collections in the following decades resulted in doubt regarding its taxonomic validity (Zika and Wilson 2012, p. 171).

Several early taxonomic studies questioned the validity of white sedge as a distinct species, resulting in numerous taxonomic revisions. In 1922, white sedge was combined with woodrush sedge (*C. luzulina*) (Mackenzie 1922, p. 64). In 1935, white sedge was grouped with Lemmon's sedge (Mackenzie 1935, p. 314; 1940, pp. 198–199). In 1937, white sedge was described as the distinct species *C. sonomensis* (Stacey 1937, pp. 63–64), and in 1957, white sedge and *C. sonomensis* were grouped together and the grouped entity was described as distinct from Lemmon's sedge (Howell 1957, pp. 178–180; 1965, pp. 1454–1455). This nomenclature was followed for The Jepson Manual (Mastroggiuseppe, 1993, p. 1111), which was the most current information considered for the listing of white sedge as an endangered species in 1997. This nomenclature continued to be followed for Flora of

North America (Ball and Mastroggiuseppe, 2002, pp. 479–480). The 2nd edition of The Jepson Manual (Zika et al. 2012, p. 1328), based on analysis of the characteristics of white sedge and Lemmon's sedge (Zika and Wilson, 2012, pp. 176–177), treats white sedge as a synonym for Lemmon's sedge.

Taxonomic studies used morphological characters of foliage, perigynia (scale-like leaf enclosing a pistil (female flower)), achenes (small, dry seed or fruit), and inflorescences (group of flowers) to distinguish white sedge from other species of *Carex* (Zika and Wilson 2012, p. 171). White sedge has inflorescences with staminate (male) flowers above the pistillate (female) flowers (especially on the terminal inflorescence), lateral spikelets, and leaves that are shorter than the stems, measuring 3 to 5 mm (0.1 to 0.2 in) wide (62 FR 55791 at 55793, October 22, 1997). The final rule to designate white sedge as an endangered species notes that some individuals may resemble Lemmon's sedge but differ in perigynium and achene size, or in other respects (62 FR 55791 at 55793, October 22, 1997). Taxonomists often use the shape of perigynia to separate closely related *Carex* species (Zika and Wilson 2012, p. 173).

To clarify previous taxonomic classifications of white sedge and to explain the revised classification in Zika et al. (2012, p. 1328), 18 morphological characters that have been used to differentiate white sedge and Lemmon's sedge were compared and evaluated (Zika and Wilson 2012, p. 173). In a preliminary study, the range of variation of 13 characters was determined for 39 herbarium specimens of white sedge and 270 specimens of Lemmon's sedge (Zika and Wilson 2012, p. 172). Analysis of variance (ANOVA), non-metric multidimensional scaling (NMS), and principal components analysis (PCA) were applied on a subset of 6 specimens of white sedge and 57 specimens of Lemmon's sedge across 18 morphological characters (Zika and Wilson 2012, p. 172).

In those analyses, Lemmon's sedge could be distinguished from similar sedges, including *C. luzulina*, *C. luzifolia*, and *C. fissuricola*, through perigynia differences (Zika and Wilson 2012, p. 173). However, Lemmon's sedge plants from Sonoma County (*i.e.*, populations previously referred to as white sedge) are not distinguishable from specimens in Mariposa County (Zika and Wilson 2012, p. 173). Similarly, variations in perigynia of *C. sonomensis* are consistent with variations in perigynia of Lemmon's

sedge. Analyses of other characters resulted in similar conclusions; there were no characters that reliably distinguished between white sedge and Lemmon's sedge (Zika and Wilson 2012, p. 173). Additionally, Lemmon's sedge individuals from Butte, Mariposa, and San Bernardino Counties exhibited a wide variation in many characters, resulting in some individuals that closely resembled herbarium specimens and cultivated plants of white sedge (Zika and Wilson 2012, p. 174).

ANOVA results for all quantitative characters indicate that white sedge is not morphologically distinct from Lemmon's sedge (Zika and Wilson 2012, p. 175). Except for leaf width, all white sedge morphological traits are within the range of variation found among the 57 Lemmon's sedge specimens (Zika and Wilson 2012, p. 175). When considered alone, the variation of leaf width between the two taxa is statistically significant (Zika and Wilson 2012, p. 176). However, there is considerable overlap in leaf width variation, and Zika and Wilson (2012, pp. 174–175) do not consider this character to have practical taxonomic significance. PCA and NMS yield similar results (Zika and Wilson 2012, p. 176). Therefore, statistical results fail to distinguish white sedge and Lemmon's sedge as distinct entities based on morphological characters. Because Lemmon's sedge was described before white sedge, it is appropriate to synonymize both entities under the same scientific name of *Carex lemmonii*.

Following the findings of Zika and Wilson (2012, pp. 176–177), white sedge was removed from the California Native Plant Society's Rare Plant Inventory and from Global Rank G1 (critically imperiled) and State Rank S1 (critically imperiled) of the California Natural Diversity Database (Sims and Lazar 2013, p. 2). Further, the California Natural Diversity Database (2023, p. 4) no longer tracks white sedge, as they consider white sedge a synonym of Lemmon's sedge.

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species. On April 5, 2024, jointly with the National Marine Fisheries Service, the Service issued a final rule that revised the regulations in 50 CFR part 424 regarding how we add,

remove, and reclassify endangered and threatened species and what criteria we apply when designating listed species' critical habitat (89 FR 24300). This final rule is now in effect and is incorporated into the current regulations. "Species" is defined by the Act as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)).

Our regulations at 50 CFR 424.11(e) identify four reasons why, after conducting a status review based on the best scientific and commercial data available, we shall delist a species: (1) The species is extinct; (2) the species has recovered to the point at which it no longer meets the definition of an endangered species or a threatened species; (3) new information that has become available since the original listing decision shows the listed entity does not meet the definition of an endangered species or a threatened species; or (4) new information that has become available since the original listing decision shows the listed entity does not meet the definition of a species.

Determination of White Sedge Status

In accordance with our regulations at 50 CFR 424.11(e)(4) currently in effect, our review of the best scientific and commercial data available indicates that the white sedge does not meet the statutory definition of a species. Therefore, we propose to remove the white sedge from the Federal List of Endangered and Threatened Plants. The white sedge does not require a post-delisting monitoring (PDM) plan because the requirements for a PDM do not apply to delisting species due to the

listed entity no longer meeting the statutory definition of a species.

Effects of This Proposed Rule

This proposed rule, if made final, would revise 50 CFR 17.12(h) by removing the white sedge from the Federal List of Endangered and Threatened Plants. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to this species. Federal agencies would no longer be required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect the white sedge. There is no critical habitat designated for this species, so there would be no effect to 50 CFR 17.96.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too

long, the sections where you feel lists or tables would be useful, etc.

References Cited

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> and upon request from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are staff members of the Service's Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

- 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

- 2. In § 17.12, amend paragraph (h) by removing the entry for "Carex albida (White sedge)" under Flowering Plants from the List of Endangered and Threatened Plants.

Martha Williams,

Director, U.S. Fish and Wildlife Service.

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