DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2023–0014; FF09E22000 FXES1113090FEDR 245]

RIN 1018–BD66

Endangered and Threatened Wildlife and Plants; Removal of Northeastern Bulrush From the Federal 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 northeastern bulrush (*Scirpus ancistrochaetus*) from the Federal List of Endangered and Threatened Plants. After a review of the best available scientific and commercial information, we find that delisting the species is warranted. Our review indicates that the threats to the northeastern bulrush have been eliminated or reduced to the point that the species no longer meets the definition of an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). Accordingly, we propose to delist the northeastern bulrush. 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 northeastern bulrush.

DATES: We will accept comments received or postmarked on or before September 30, 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 September 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–R5–ES–2023–0014, 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, check 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–R5–ES–2023–0014, 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 the 5-year reviews, the Recovery Plan, and the species status assessment (SSA) report, are available at *https://www.regulations.gov* under Docket No. FWS–R5–ES–2023–0014.

FOR FURTHER INFORMATION CONTACT: Audrey Mayer, Field Supervisor, New England Ecological Services Field Office, 70 Commercial Street, Suite 300, Concord, NH 03301; telephone 603–223–2541. 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–R5–ES–2023–0014 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 northeastern bulrush from the List of Endangered and Threatened Plants.

(2) Relevant data concerning any threats (or lack thereof) to the northeastern bulrush, particularly any data on the possible effects of climate change as it relates to habitat, as well as the extent of State protection and management that would be provided to this plant as a delisted species;

(3) Current or planned activities within the geographic range of the northeastern bulrush that may have either a negative or positive impact on the species; and

(4) Considerations for post-delisting monitoring, including monitoring protocols and length of time monitoring is needed, as well as triggers for reevaluation.

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 species should remain listed as endangered, or we may conclude that the species should be reclassified from endangered to threatened. 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

A species status assessment (SSA) team prepared an SSA report for the northeastern bulrush. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

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 solicited independent scientific review of the information contained in the northeastern bulrush SSA report. The Service sent the SSA report to 3 independent peer reviewers and received 2 responses. Results of this structured peer review process can be found at *https://www.regulations.gov* under Docket No. FWS–R5–ES–2023–0014. In preparing this proposed rule, we incorporated the results of these reviews, as appropriate, into the final SSA report, which is the foundation for this proposed rule.

Summary of Peer Reviewer Comments

As discussed in Peer Review above, we received comments from 2 peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the information contained in the SSA report. Overall, the comments were supportive of the approach, analyses, and projections of the SSA. Information was presented that helped to improve the assessment and inform this proposed rule. Such information included new references, comments regarding using a spatial assessment of climate change projections, discussion of population responses to weather events, and new information to help inform our analysis of synergistic impacts to bulrush viability.

Previous Federal Actions

On May 7, 1991, we published in the **Federal Register** (56 FR 21091) a final rule listing the northeastern bulrush as an endangered species under the Act. On August 25, 1993, we approved the northeastern bulrush recovery plan (Service 1993, entire). On September 24, 2009, we completed a 5-year review (Service 2009, entire) of the status of the northeastern bulrush, which recommended reclassification from endangered to threatened status based on the increased number and status of known extant populations. On August 28, 2019, we completed a second 5-year review (Service 2019b, entire), resulting in a recommendation to delist the species, because, based on the species' current representation, resiliency, and redundancy, and our analysis of threats that may influence its future condition, the species no longer met the statutory definition of an endangered or a threatened species.

Background

Species Information

For more information on the description, biology, ecology, genetics, and habitat of the northeastern bulrush, please refer to the final listing rule (56 FR 21091; May 7, 1991), the northeastern bulrush (*Scirpus ancistrochaetus*) recovery plan (Service 1993, pp. 1–31), and the SSA report (Service 2019a, entire). These documents will be available as supporting materials at *https://www.regulations.gov* under Docket No. FWS–R5–ES–2023–0014.

Taxonomy and Species Description

The northeastern bulrush is a member of the Cyperaceae (sedge) family. It is a tall (80 to 120 centimeter), leafy, perennial herb that produces stems and leaves from short, thick, underground rhizomes. It is distinguished from other *Scirpus* species by its drooping, clustered, fruiting heads; dark, chocolate-brown florets; achene bristles that are barbed to the base; and broad bracts (Schuyler 1962, pp. 44–46).

Population size may vary from year to year. In some cases, plants are absent above ground for several years before re-emerging (Service 2019a, p. 10). This is likely due to changes in environmental conditions, although the exact causal mechanisms are not well understood. When water levels and/or light availability are not favorable, the population becomes stressed, dwindles in size, and sometimes becomes completely absent above ground. When favorable habitat conditions return, the population may re-emerge.

The northeastern bulrush is a wetland obligate plant occurring in acidic to almost neutral wetlands including sinkhole ponds, wet depressions, and vernal pools (collectively, seasonal or ephemeral wetlands); American beaver (*Castor canadensis*) flowages; and other riparian areas found in hilly country (Schuyler 1962, p. 47). Optimal habitat includes abundant sunlight, higher organic matter (Lentz and Dunson 1999, p. 165), and seasonally and/or annually fluctuating water levels, although prolonged periods with too much or too little water may be detrimental.

Distribution

At the time of listing in 1991, only 13 populations of the northeastern bulrush scattered across 6 U.S. States were known to exist (Service 1991, entire); however, the species is now known from 148 extant populations in 8 States (Service 2019a, p. 2). The populations can be loosely organized into a northern region and a southern or Appalachian region, with a large gap in the distribution in southeastern New York. The northern region includes extreme eastern New York and the New England States of Vermont, New Hampshire, and Massachusetts; and the southern or Appalachian region includes southwestern New York, Pennsylvania, Maryland, Virginia, and West Virginia. The vast majority of populations are in Pennsylvania (59.5 percent), Vermont (20.9 percent), and New Hampshire (9.5 percent).

Recovery Criteria

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be

removed from the Lists of Endangered and Threatened Wildlife and Plants.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species or to delist a species is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

There are many paths to accomplishing recovery of a species, and recovery may be achieved without all of the criteria in a recovery plan being fully met. For example, one or more criteria may be exceeded while other criteria may not yet be accomplished. In that instance, we may determine that the threats are minimized sufficiently and that the species is robust enough that it no longer meets the definition of an endangered species or a threatened species. In other cases, we may discover new recovery opportunities after having finalized the recovery plan. Parties seeking to conserve the species may use these opportunities instead of methods identified in the recovery plan. Likewise, we may learn new information about the species after we finalize the recovery plan. The new information may change the extent to which existing criteria are appropriate for identifying recovery of the species. The recovery of a species is a dynamic process requiring adaptive management that may, or may not, follow all of the guidance provided in a recovery plan.

The objective identified in the northeastern bulrush recovery plan (Service 1993, p. 37), when there were 33 known extant populations, was to reclassify the species from endangered to threatened, and the plan provides three criteria for doing so: (1) 20 populations are permanently protected; (2) annual monitoring over a 10-year period shows that 20 representative populations are stable or increasing; and (3) life-history and ecological requirements are understood sufficiently to allow for effective protection, monitoring, and management. The recovery plan does not contain delisting criteria.

In the 2009 5-year review (Service 2009, entire), the Service determined that the downlisting criteria were partially met and recommended a change in listing status to threatened, because (1) the number of extant populations was three times greater than when the species was listed; [1] (2) approximately half of all known populations were on public lands; and (3) approximately half of the extant populations appeared to be stable or increasing. In the 2019 5-year review (Service 2019b, entire), the Service recommended delisting the northeastern bulrush, because it no longer meets the Act's definition of an endangered or a threatened species. While the recovery plan does not include delisting criteria, our analysis presented in the SSA report (Service 2019a, entire) shows that the intent of the recovery plan's downlisting criteria (Service 1993, p. 37) has been exceeded substantially, supporting our conclusion that the species is neither endangered nor threatened.

The purpose and intent of the first downlisting criterion calling for permanent protection of 20 populations was to provide evidence that a reasonable number of populations were reliably protected from development, which was identified as a threat to the species' viability. Currently, 89 (approximately 60 percent) of the 148 known extant populations occur on public lands, which affords consistent and reliable protection through a management structure conducive to conservation. In addition, although development was identified as an important threat at the time of listing, that threat appears to have diminished. Currently, oil and gas development in Pennsylvania is perhaps the most likely development threat; however, no available information indicates any populations are under known threat from oil and gas development. Although other types of activities such as road construction, forestry, recreation, and plant competition are factors that may affect the species, data indicate they are not primary factors influencing the viability of the northeastern bulrush. Also, because the species occurs in wetland habitats, which are provided some protections under State laws, the species is protected from many sources of impacts from human activities. As a result, the need for further affirmative protection from these threats on both public and private lands is less than previously determined at the time the recovery plan was issued in 1993. Together these factors lead to our conclusion that the purpose and intent of the first downlisting criterion of permanent protection for 20 populations has been substantially exceeded.

The intent of the second downlisting criterion calling for 20 stable or increasing populations was to demonstrate and ensure the species was not in active decline. This element of the recovery plan has also been exceeded by a wide margin. There are 148 known extant populations of the northeastern bulrush in 8 States, an increase of 31 percent from the 113 known extant populations in 7 States at the time of the 2009 5-year review. Our analysis of these populations in the SSA report (Service 2019a, p. 27) indicates that 132 (89 percent) of the 148 known extant populations demonstrate excellent, good, and fair resiliency, and only 16 (11 percent) of the populations demonstrate poor resiliency or have been extirpated. We determined that the recovery plan's terms ''stable'' and ''increasing'' are not appropriate for describing a species whose populations may naturally fluctuate dramatically in response to environmental stochasticity; for this reason, the number of populations in excellent, good, or fair condition is a better measure of the intent of this criterion. Also, because the number of populations in fair or better condition is an order of magnitude higher than the number of stable or increasing populations called for in the second downlisting criterion, we conclude that the intent of this criterion has been substantially exceeded.

The third downlisting criterion calling for increased understanding of the life-history and ecological requirements of the northeastern bulrush has been achieved in that we have sufficient information to support long-term management of populations. Research by State, Federal, and university partners on the effects of hydrology, shading, herbivory, genetics, propagation, transplantation, and nutrients on germination and plant growth has provided better understanding of how to more effectively protect, monitor, and manage the species. Therefore, lack of knowledge to support long-term management of populations no longer contributes a substantial risk to the species.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in

[1] There were 13 known extant populations at listing in 1991, 33 at the time of the recovery plan in 1993, and 113 in 2009 when the 5-year review was completed. To clarify the 2009 5-year review, the number of extant populations in 2009 was 8.7 times the number of populations known in 1991.

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 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. The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its 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.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects. The determination to delist a species must be based on an analysis of the same five factors.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; ''M-Opinion,'' available online at *https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf*). The foreseeable future extends as far into the future as the U.S. Fish and Wildlife Service and National Marine Fisheries Service (hereafter, the Services) can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat-projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be proposed for delisting. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess northeastern bulrush viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogen). In general, species viability will increase with increases in resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time which we then used to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found

at Docket No. FWS–R5–ES–2023–0014 on *https://www.regulations.gov.*

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability. In addition, the SSA report (Service 2019a, entire) and most recent 5-year review (Service 2019b, entire) document our comprehensive biological status review for the species, including an assessment of the potential threats to the species.

The following is a summary of this status review and the best available information gathered since that time that have informed this decision.

The northeastern bulrush is a wetland obligate plant occurring in acidic to almost neutral wetlands including sinkhole ponds, wet depressions, vernal pools (collectively, seasonal or ephemeral wetlands), beaver flowages, and other riparian areas found in hilly country (Schuyler 1962, p. 47). Optimal habitat includes abundant sunlight, higher organic matter (Lentz and Dunson 1999, p. 165), and seasonally and/or annually fluctuating water levels, although prolonged periods with too much or too little water may be detrimental. The northeastern bulrush may be found in a wide range of water depths from just a few centimeters up to a meter in depth, depending on seasonal fluctuations in water levels (Thompson 1991, p. 5). Plants typically grow in open areas surrounded by forest. Light availability is known to influence plant growth, reproduction, and distribution (Boardman 1977, p. 372; Lentz and Cipollini 1998, p. 126). Shaded plants are often taller, but at the expense of the roots and other organs (Lentz and Cipollini 1998, pp. 127, 129), and the species usually is absent from the highly shaded perimeter of wetlands.

Current Condition

As stated previously, when the northeastern bulrush was listed in 1991, only 13 populations were known to exist; however, the species is now known from 148 extant populations in 8 States (Service 2019a, p. 2). The populations can be loosely organized into a northern region and a southern or Appalachian region, with a large gap in the distribution in southeastern New York. As described in chapter 4 of the SSA report (Service 2019a, pp. 25–31), we used element occurrence (E.O.) rank to assess and describe the current resiliency of northeastern bulrush populations. E.O. rankings document the status and quality of plant population occurrences and assess the probability of an occurrence persisting. We consider the E.O. rank to be the most meaningful way to describe a population's status, as it requires an in-person observation and combines multiple components of a population's condition into a single metric. E.O. ranks are assigned by a surveyor based on observations beyond just population size, but also habitat conditions at the site at the time of the survey, conditions over time since its last observation, and probability of persistence. Our analysis of these populations (Service 2019a, p. 27) indicates that 132 (89 percent) of the 148 known extant populations demonstrate excellent, good, and fair resiliency, and only 16 (11 percent) of the populations demonstrate poor resiliency or have been extirpated.

Factors Influencing Viability

At the time of listing (see 56 FR 21091; May 7, 1991), habitat disturbance and destruction from development and other anthropogenic impacts, especially on private land, was identified as an important threat to the northeastern bulrush, even though there were only a few examples of populations that were under imminent threat from these activities. Since listing, one population has been lost to development, but overall, the anticipated threat of habitat loss from development has not materialized and has a much lower overall impact risk because of the increased number of known populations.

A search of the Service's Tracking and Integrated Logging System, which has information dating back approximately 15 years, revealed relatively few consultations under section 7 of the Act between the Service and Federal agencies on Federal actions that may affect the northeastern bulrush. Consultations often consider proposals for development, road construction and/or maintenance, or other habitat disturbance, and none of the consultations that included northeastern bulrush anticipated adverse effects to the species. While these search results do not capture non-Federal actions on private land, in the available survey and monitoring data, surveyors did not identify any northeastern bulrush populations as being under threat of extirpation as a result of development activities since regular surveys began. Moreover, there is no evidence that the lack of development impacts to the extant populations is attributable to the protections afforded by the Act.

At this time, oil and gas development in Pennsylvania is perhaps the most likely development threat; however, we are not aware of any information, such as project proposals, that indicates any populations are under threat from oil and gas development. Accordingly, we conclude that the threat of the destruction, modification, or curtailment of the northeastern bulrush's habitat from development is less than previously thought, and not a significant factor impacting the continued viability of the species. Although other types of activities such as road construction, forestry, and recreation are factors that may affect the species, to date they have not proved to be significant factors contributing to the risk of extinction of the northeastern bulrush. The 88 northeastern bulrush populations that occur on publicly owned land (approximately 60 percent of known populations) are provided long-term protection from risk of development. Publicly owned lands include State Game Lands, National Wildlife Refuges, National Park Service units, and lands protected by non-governmental organizations such as The Nature Conservancy. A description of these factors can be found in the SSA report (Service 2019a, pp. 21–24).

Native species are known to modify habitat for the northeastern bulrush and can have meaningful, although mostly temporary, impacts on populations. Beavers can create flood conditions that negatively impact the species through increasing water depth by constructing or adding to a dam and raising the water level in a wetland occupied by the northeastern bulrush. However, beavers also have a long-term positive effect on habitat quality by harvesting trees and other woody vegetation for food and shelter, thereby creating open canopy and increasing light availability. Trampling by white-tailed deer (*Odocoileus virginianus*) and trampling and wallowing by American black bears (*Ursus americanus*) have been noted in some northeastern bulrush populations, and these activities can have mixed, sometimes substantial, impacts, especially where bulrush populations are very small. Trampling and soil compaction occur as deer and bears move through northeastern bulrush sites. Bears excavate wallows near the edge of wetlands, and some northeastern bulrush populations have been impacted by this activity. Wallows can be big enough to affect entire populations if the populations are very small; however, wallows also can be beneficial as they help create areas of open water, which are important during

dry periods. These factors affect a small number of populations, and it appears that the timing, location, and scale of the trampling and wallows that would need to align to extirpate a population occur with such infrequency as to be discountable. Therefore, while beaver activity, trampling, and wallowing can cause substantial localized impacts to individual northeastern bulrush populations, these are not significant factors contributing to the risk of extinction.

There is no evidence the species is used for commercial or recreational purposes, or that the scientific and/or educational uses (*e.g.,* seed collection, surveys, etc.) have significant impacts. Similarly, disease has not been documented as a factor affecting the species. Browsing by white-tailed deer has been noted in some northeastern bulrush populations in the Appalachian region; although it has not been reported in the northern region, it likely occurs rangewide at a similar scale as the Appalachian region. Deer browsing may affect plant fitness, particularly if other factors, such as decreased light availability, are affecting the population. Deer browsing impacts under these conditions likely affects a small number of populations, and it appears that the timing, location, and scale of the browsing that would need to align to extirpate a population occur with such infrequency as to be discountable. Therefore, overutilization, disease, and predation do not constitute a risk to the northeastern bulrush.

The wetland habitats in which the northeastern bulrush occurs are protected by State statutes and regulations, although these mechanisms typically include a permitting process that allows direct impacts to wetlands. Some States have additional statutes or regulations or both that protect the northeastern bulrush or its habitat. For example, Vermont, New York, and Massachusetts require protection of upland buffers and permits to work within wetlands; however, State protection of upland areas around the wetlands is inconsistent, and disturbance such as roads or other development near wetlands can cause indirect effects such as sedimentation, altered hydrology, and introduction of invasive species.

The species is designated as State endangered throughout its range, except in West Virginia, and these State designations are independent of the species' Federal status. West Virginia does not have a State law to protect endangered species, but only three northeastern bulrush populations occur in West Virginia. The States that currently protect the northeastern bulrush under State law require, at a minimum, project proponents to coordinate with State resource agencies to develop minimization measures for projects that may affect the northeastern bulrush or its habitat. The *Regulatory Protection* discussion in the SSA report (Service 2019a, pp. 17–21) includes a summary of our current understanding of the laws and regulations regarding wetlands and buffers in States where the northeastern bulrush occurs. The best available information indicates that the northeastern bulrush is not threatened by inadequacy of existing regulatory mechanisms.

Climate change, especially in the southern portion of its range, is the primary factor influencing the viability of the northeastern bulrush. Although the species exists in wetlands that regularly experience fluctuating water levels, the northeastern bulrush and its habitat are susceptible to floods and droughts. Based on global, regional, and local climate models (Service 2019a, chapter 5), we expect that changes in climate will impact the northeastern bulrush's habitat by changing the amount, timing, and severity of precipitation and drought, and the number of extreme precipitation events. Higher temperatures, without increasing summer precipitation, may cause wetlands to dry up earlier, and an extended growing season may allow other vegetation to encroach upon, compete with, and increase shading of, northeastern bulrush plants. We expect these impacts to be more noticeable in populations that occur in seasonal wetlands. We expect beaver activity may at least partially mitigate effects of changing climate by regulating water levels through damming, maintaining larger wetlands and open area compared to seasonal wetlands, and removing trees and reducing shading at the wetland perimeter.

The 13 populations (8.7 percent of known extant populations) in seasonal wetlands that are currently in poor condition are the most vulnerable to the effects of changing climate and have a high risk of extirpation. However, the populations in beaver wetlands are much less vulnerable to the effects of changing climate and have a low risk of extirpation. Rangewide, most populations (78 percent) occur in seasonal wetlands, but the distribution is geographically disparate. In the New England region, 60.4 percent of populations (29 of 48) occur in beaver wetlands, while in the Appalachian region, 97 percent of populations (97 of 100) occur in seasonal wetlands (Service 2019a, p. 29). Additional information on the effects of climate change on the northeastern bulrush can be found in the SSA report (Service 2019a, pp. 33–34).

Future Condition Analysis

We modeled a single scenario to assess the potential future viability of the northeastern bulrush in the context of the factors influencing species viability and resiliency, representation, and redundancy. Due to uncertainties with factors such as fluctuating water levels, climatic stochasticity, light availability, and regulatory protection, we used EO rank to assess future resiliency condition, consistent with our current condition analysis.

We explored plausible changes in the factors considered in an EO ranking, such as population size, biotic factors, abiotic factors, and landscape context (Hammerson *et al.* 2008) to anticipate future changes in EO rank at each population. We were unable to explicitly predict changes in population size; however, we were able to use existing climate models to qualitatively anticipate effects of changing climate on biotic and abiotic factors (*i.e.,* habitat type and quality). We used the same population resiliency scoring model for future condition that we used for current condition. Accordingly, to describe plausible future viability, we model future resiliency at the population level and reasonably reliable trends in redundancy and representation at the rangewide scale (see Service 2019a, pp. 32–39).

We considered the potential consequences of climate change and carried the scenario approximately 30 years into the future (2050) to be considered our foreseeable future because we have information to reasonably reliably predict changes in climate within this timeframe. We first modeled the response of northeastern bulrush habitat to changes in climate consistent with representative concentration pathway (RCP) 8.5. The best available information, as summarized in the SSA report, generally presents this scenario as a plausible, high-emissions scenario anticipating greater changes in climate than moderate climate scenarios, such as RCP 4.5. Available information also suggests the probability of scenarios worse than RCP 8.5 is low. Therefore, RCP 8.5 presents a worst case, but still plausible, scenario for northeastern bulrush habitat. As our analysis using RCP 8.5 resulted in the northeastern bulrush not meeting the Act's definition of an endangered or a threatened species, it follows that additional analyses using RCP 4.5 or another

moderate-emissions climate model would result in lower magnitude effects on the species' habitat and, ultimately, the same listing determination. Therefore, we did not bracket our analysis with lower emissions climate models.

We generally anticipate, and modeling reflects, that climate change is likely to impact the species' habitat through higher water levels early in the growing season followed by hotter summers and a faster drying cycle. For the northeastern bulrush, this will affect fluctuating water levels, climatic stochasticity, and light availability, resulting in neutral effects on beaver wetlands and negative effects on seasonal wetlands. We expect beavers to mitigate anticipated climate changes at beaver wetlands by thinning canopy cover and regulating water levels by damming. In addition, while we are not aware of climate studies examining specific effects on beavers, beavers occur within and outside the range of the northeastern bulrush in diverse landscapes, some of which are hotter and have different precipitation regimes. Accordingly, we anticipate beavers will remain within the range of the northeastern bulrush through 2050. Therefore, we expect no reduction in northeastern bulrush population representation in beaver wetlands before 2050 beyond that which could occur through normal beaver use and disuse of wetlands.

Our future scenario anticipated moderate negative effects on resiliency, a slight decline in representation and redundancy, and extirpation of 13 populations (2 in the northern region and 11 in the Appalachian region) from seasonal wetlands. In 2050, approximately 135 populations would remain distributed across a large geographical range in at least three physiographic provinces, two habitat types, and all currently occupied States. The number of future populations could be slightly higher if new populations are discovered. The species likely would retain low genetic diversity, especially in the northern region. The species' apparent limited dispersal capacity will reduce its ability to shift its range in response to changing climate. However, the species would retain its redundancy driven by a wide geographic distribution and retain representation via the use of a variety of environmental settings (habitat and physiographic provinces).

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative-effects analysis.

Conservation Efforts and Regulatory Mechanisms

There are many conservation measures that benefit the northeastern bulrush's viability. These measures are consistent with those described in the recovery plan (Service 1993, entire) and include protection through State endangered species laws, protection through State wetland protection laws, protection of sites through perpetual conservation easements and public land ownership, surveys to monitor known populations and to locate additional populations, research efforts to better understand the species' life history, propagation and transplantation efforts, canopy thinning, invasive species control measures, and active management to address shrub encroachment.

Determination of Northeastern Bulrush Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its 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 Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we listed the northeastern bulrush in 1991 (see 56 FR 21091; May 7, 1991). At that time, there were only 13 known occurrences, and the species faced threats from habitat loss primarily due to land conversion for development. The northeastern bulrush has been the subject of recovery efforts since it was listed under the Act, and the discovery of previously unknown populations, research leading to the understanding of the species' needs, and identification of management actions that support those needs have led to a revised assessment of the status of the species since that time.

As explained above, while the recovery plan does not include delisting criteria, our analysis presented in the SSA report (Service 2019a, entire) shows that the intent of the recovery plan's downlisting criteria (Service 1993, p. 37) has been exceeded substantially, supporting our conclusion that the species is neither endangered nor threatened. The underlying purpose and intent of each of the three downlisting criteria has been exceeded by a wide margin. At the time of listing in 1991, there were 13 known extant populations in 6 States. By the time the recovery plan was approved 2 years later, in 1993, 33 extant populations had been identified. Largely due to increased survey effort, there are presently 148 known extant populations in 8 States; this amounts to a 4-fold increase in known populations since the downlisting criteria were established. The first downlisting criterion in the recovery plan calls for permanent protection of 20 populations. Eighty-nine (approximately 60 percent) of the 148 known extant populations occur on public lands. This number greatly exceeds the protected populations called for in the first downlisting criterion, and we have also determined that the threat from development is less than projected at the time we completed the recovery plan (1993). Accordingly, we conclude that the intent of this criterion has been substantially exceeded. The second criterion calls for 20 stable or increasing populations. Of the 148 extant populations, 132 are in excellent, good, or fair condition, which is an order of magnitude higher than the number of stable or increasing populations called for in the second downlisting criterion. The third downlisting criterion calls for increased understanding of the species' life-

history and ecological requirements. Research on the effects of hydrology, shading, herbivory, genetics, propagation, transplantation, and nutrients on germination and plant growth has provided understanding that is sufficient to support long-term management of northeastern bulrush populations (*e.g.,* Lentz and Cipollini 1998, entire; Lentz and Dunson 1998, entire).

As discussed, under current conditions, there are 148 known populations of northeastern bulrush distributed throughout 4 physiographic provinces in 8 States—New Hampshire, Vermont, Massachusetts, New York, Pennsylvania, Maryland, Virginia, and West Virginia. The increase in known populations since listing is due primarily to increased survey effort, and it is possible that more populations will be found in the future. Despite the dynamic nature of the species' life history, there have been only a few (9) documented extirpations of extant populations (Service 2019a, p. 27). Some populations have benefited from habitat management, but we are not aware of any populations that were newly established or re-established after extirpation as a result of outplanting or other restoration efforts. Our analysis of these populations in the SSA report (Service 2019a, p. 27) indicates that 89 percent of the populations demonstrate excellent, good, and fair resiliency, and only 11 percent of the populations demonstrate poor resiliency.

Development activities are no longer considered a significant threat. Deer browsing and trampling, as well as trampling and wallowing by black bears, have been noted in some populations, and these activities can have detrimental effects on a population, particularly if other factors, such as decreased light availability, are affecting the population. However, these factors affect only a small number of populations, and the likelihood is low that browsing, trampling, or wallowing would occur in a particular population with poor resiliency and with sufficient magnitude to affect the entire population. Accordingly, we conclude that browsing, trampling, and wallowing either individually or cumulatively are not likely to cause the extirpation of a population and, therefore, are not significant factors contributing to the risk of extinction of the northeastern bulrush.

Regulatory protections afforded to the northeastern bulrush include State wetland protections and State endangered species regulations. These protections apply independently of the species' Federal status under the Act and, at a minimum, require project proponents to coordinate with State resource agencies to develop minimization measures for projects that may affect the northeastern bulrush or its habitat. A description of the States' regulatory protections can be found in the SSA report (Service 2019a, pp. 17–21).

Since the listing of the northeastern bulrush in 1991, we have become aware of the potential for the effects of climate change to affect organisms and ecosystems, including the northeastern bulrush. To inform our understanding of the species' risk of extinction, we modeled a single future scenario detailed above in *Summary of Biological Status and Threats.* This future scenario, by itself, does not provide an estimate of the species' risk of extinction, but it does help us better understand the extent to which threats would have to further affect the species to cause extinction, considering the present population figures and resiliency status. Based on the best information regarding the species' current condition and threats, we projected how the threats would manifest under this ''worst case'' scenario and how the species would respond.

To summarize, our greater knowledge regarding the prevalence of northeastern bulrush populations and the impacts of natural and artificial systems and disturbances on the species results in a conclusion that the overall extinction risk for the northeastern bulrush is much lower than we had previously determined it to be at the time the species was listed in 1991 (see 56 FR 21091; May 7, 1991). Considering our modeled ''worst case'' future scenario, it is apparent that the risk of threats manifesting in such a way as to cause extinction of the species is very low. Known impacts at the time of listing, such as habitat loss due to development and inadequate regulatory protections, that could have resulted in the extirpation of populations have either been reduced or have not materialized since listing. Through our assessment of future condition, including the status of known stressors and probable impacts of climate change, we anticipate that 88 percent of populations across the range of the species would maintain high, moderate, or fair resiliency over a timeframe of approximately 30 years into the future. We, therefore, conclude the previously recognized impacts to the northeastern bulrush from present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; and other natural or manmade factors affecting its continued existence do not rise to a level of significance, either individually or in combination, such that the species is in danger of extinction now or likely to become so within the foreseeable future. Thus, after assessing the best available scientific information, we conclude that the northeastern bulrush is not in danger of extinction now or likely to become so within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. Having determined that the northeastern bulrush is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction (*i.e.,* endangered) or likely to become so in the foreseeable future (*i.e.,* threatened) in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and, (2) the species is in danger of extinction or likely to become so in the foreseeable future in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

In undertaking this analysis for northeastern bulrush, we choose to address the status question first. We began by identifying portions of the range where the biological status of the species may be different from its biological status elsewhere in its range. For this purpose, we considered information pertaining to the geographic distribution of (a) individuals of the species, (b) the threats that the species faces, and (c) the resiliency condition of populations.

We evaluated the range of the northeastern bulrush to determine if the species is in danger of extinction now or likely to become so in the foreseeable future in any portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways. We focused our

analysis on portions of the species' range that may meet the definition of an endangered species or a threatened species. For northeastern bulrush, we considered whether the threats or their effects on the species are greater in any biologically meaningful portion of the species' range than in other portions such that the species is in danger of extinction now or likely to become so in the foreseeable future in that portion.

We examined the following threats and cumulative impacts of these threats: (1) habitat disturbance and destruction from development; (2) beaver activity; (3) deer and bear activities, such as trampling, browsing, and wallowing; and (4) climate change. As stated previously under *Summary of Biological Status and Threats,* when this species was listed, habitat disturbance and destruction from development and other anthropogenic impacts was identified as an important threat to the northeastern bulrush. However, since listing, the anticipated threat of habitat loss from development has not materialized in any portion of the range, and we conclude that the threat of habitat disturbance and destruction from development does not rise to a level that threatens the species now or into the future. Similarly, while we identified threats of beaver activity, trampling, and wallowing that can cause localized impacts to individual northeastern bulrush populations, these factors are not occurring at a significant level in any portion of the species' range.

The effects of climate change differ between the northern and southern portions of the range of the northeastern bulrush, as most populations in the southern portion of the range occur in seasonal wetlands while populations in the northern portion are more evenly distributed between seasonal wetlands and beaver marshes. Changing climatic conditions will include more precipitation during winters, higher temperatures throughout the species' range, and an increased frequency of extreme precipitation events. We project these conditions will have more negative effects on seasonal wetlands and neutral effects on beaver marshes, equating to a slightly elevated risk from climate change in the southern portion of the range. As described in the SSA report (Service 2019a, pp. 32–39), climate change under a worst-case scenario could contribute to extirpation of 13 populations (2 populations in the northern portion and 11 in the southern portion) across the species' range. However, there are still projected to be 135 populations remaining: 46 populations in the northern portion (96% of extant populations) and 89 in the southern portion (89%), providing representation and redundancy within each portion and across the species' range. Moreover, it is projected that the southern and northern portions of the range will each retain strong resiliency, with more than 85 percent of populations in the southern portion and 93 percent in the northern portion projected to maintain high, moderate, or fair resiliency.

Our conclusion regarding the current and future viability of the species is supported by multiple, sufficiently resilient populations distributed across representative ecological settings and physiographic provinces and encompassing most of the species' known genetic diversity. We found no biologically meaningful portion of the northeastern bulrush's range where the condition of the species differs from its condition elsewhere in its range such that the status of the species in that portion differs from its status in any other portion of the species' range.

Therefore, we find that the species is not in danger of extinction now or likely to become so in the foreseeable future in any significant portion of its range. This does not conflict with the courts' holdings in *Desert Survivors* v. *U.S. Department of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d. 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not apply the aspects of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014), including the definition of ''significant'' that those court decisions held to be invalid.

Determination of Status

Our review of the best scientific and commercial data available indicates that the northeastern bulrush does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. In accordance with our regulations at 50 CFR 424.11(e)(2), currently in effect, the species has recovered to the point at which it no longer meets the definition of an endangered species or a threatened species. Therefore, we propose to remove northeastern bulrush from the Federal List of Endangered and Threatened Plants.

Effects of This Rule

This proposed rule, if made final, would revise 50 CFR 17.12(h) by removing northeastern bulrush [species] 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 northeastern bulrush.

There is no critical habitat designated for this species, so there would be no effect to 50 CFR 17.96.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a monitoring program for not less than 5 years for all species that have been recovered. Post-delisting monitoring (PDM) refers to activities undertaken to verify that a species delisted due to recovery remains secure from the risk of extinction after the protections of the Act no longer apply. The primary goal of PDM is to monitor the species to ensure that its status does not deteriorate, and if a decline is detected, to take measures to halt the decline so that proposing it as endangered or threatened is not again needed. If at any time during the monitoring period data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

We will coordinate with other Federal agencies, State resource agencies, interested scientific organizations, and others as appropriate to develop and implement an effective PDM plan for northeastern bulrush. The PDM plan will build upon current research and effective management practices that have improved the status of the species since listing. Ensuring continued implementation of proven management strategies that have been developed to sustain the species will be a fundamental goal for the PDM plan. The PDM plan will identify measurable management thresholds and responses for detecting and reacting to significant changes in northeastern bulrush numbers, distribution, and persistence. If declines are detected equaling or exceeding these thresholds, the Service, in combination with other PDM participants, will investigate causes of these declines. The investigation will be to determine if the northeastern bulrush warrants expanded monitoring, additional research, additional habitat protection, or resumption of Federal protection under the Act.

We appreciate any information on what should be included in post-

delisting monitoring strategies for these species (see Information Requested, above).

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 New England Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the New England Ecological Services Field Office.

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.

§ 17.12 [Amended]

■ 2. In § 17.12, amend paragraph (h) by removing the entry for ''*Scirpus ancistrochaetus*'' under FLOWERING PLANTS from the List of Endangered and Threatened Plants.

Martha Williams,

Director, U.S. Fish and Wildlife Service.

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