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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**Docket No. FWS-HQ-ES-2013-0121; FWS-HQ-ES-2013-0122; FWS-HQ-ES-2013-0123;  
FWS-HQ-ES-2013-0124; FWS-HQ-ES-2013-0125**

**[450 003 0115]**

### **Endangered and Threatened Wildlife and Plants; 90-Day Findings on Five Petitions**

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

**ACTION:** Notice of petition findings and initiation of status reviews.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on five petitions to list 19 species as endangered or threatened, under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that these petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted.

Therefore, with the publication of this notice, we are initiating a review of the status of these species to determine if the petitioned actions are warranted. In order to assure that the best scientific and commercial data informs the status review and, if warranted, the subsequent listing determinations, and to provide an opportunity for all interested parties to provide information for consideration for the status assessment, we are requesting information regarding these species (see **Request for Information** below). Based on the status reviews, we will issue 12-month findings on the petitions, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

**DATES:** To allow us adequate time to conduct these status reviews, we request that we receive information no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Information submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** You may submit information by one of the following methods:

(1) Electronically: Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter the appropriate docket number (see table, below). You may submit information by clicking on “Comment Now!” If your information will fit in the provided comment box, please use this feature of <http://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document,

our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see table, below]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

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

<b>Species</b>	<b>Docket Number</b>
15 foreign bats	FWS-HQ-ES-2013-0121
Emperor penguin	FWS-HQ-ES-2013-0122
Flores hawk-eagle	FWS-HQ-ES-2013-0123
Ridgway's hawk	FWS-HQ-ES-2013-0124
Virgin Islands coquí	FWS-HQ-ES-2013-0125

**FOR FURTHER INFORMATION CONTACT:** Janine Van Norman, Chief, Branch of Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703-358-2171; facsimile 703-358-1735. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **Request for Information**

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on these species from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range ("Factor A");

(b) Overutilization for commercial, recreational, scientific, or educational purposes (“Factor B”);

(c) Disease or predation (“Factor C”);

(d) The inadequacy of existing regulatory mechanisms (“Factor D”); or

(e) Other natural or manmade factors affecting its continued existence (“Factor E”).

(3) The potential effects of climate change on these species or their habitats.

(4) We also seek the following species-specific information:

(a) For the Armenian whiskered bat (*Myotis hajastanicus*),

- Population surveys;
- Habitat requirements;
- Quality of forested habitat surrounding Lake Sevon, Armenia; and
- Information on current restoration efforts on and around Lake Sevon, Armenia.

(b) For the Flores hawk-eagle (*Spizaetus floris*),

- Information on habitat loss, including the impact of illegal logging and urban expansion on habitat, and the impact of El Niño forest fires from 1997-1998 on monsoon forest habitat in Lesser Sundas Islands (Nusa Tenggara); and
- Information on intentional killing of the species, particularly statistics on international trade in Flores hawk-eagles.

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.

Submissions merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your information concerning these status reviews by one of the methods listed in the **ADDRESSES** section. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Information and supporting documentation that we received and used in preparing this finding will be available for you to review at <http://www.regulations.gov>, or you may make an appointment during normal business hours at the appropriate lead U.S. Fish and Wildlife Service Office (see **FOR FURTHER INFORMATION CONTACT**).

## **Background**

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition and supporting information submitted with the petition. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to commence a review of the status of the species, which will be subsequently summarized in our 12-month finding.

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act (see **Request for Information**).

In considering what factors might constitute threats, we must look beyond the exposure

of the species to a factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat and, during the status review, we attempt to determine how significant a threat it is. The threat is significant if it drives, or contributes to, the risk of extinction of the species such that the species may warrant listing as endangered or threatened as those terms are defined in the Act. However, the identification of factors that could impact a species negatively may not be sufficient to compel a finding that the information in the petition and our files is substantial. The information must include evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of endangered or threatened under the Act.

**Review of Petition to List 15 Bat Species as Endangered or Threatened Under the Act**

Additional information regarding our review of this petition can be found at <http://www.regulations.gov> under Docket No. FWS-HQ-ES-2013-0121 in the document labeled Appendices for 15 Foreign Bats.

*Species and Range*

<b>Common name(s)</b>	<b>Scientific name</b>	<b>Range</b>
Armenian myotis,	<i>Myotis hajastanicus</i>	Armenia

Armenian whiskered bat		
Aru flying fox	<i>Pteropus aruensis</i>	Aru Islands, Indonesia
Bonin flying fox	<i>Pteropus pselaphon</i>	Japan
Christmas Island pipistrelle	<i>Pipistrellus murrayi</i>	Christmas Island, Australia
Cuban greater funnel-eared bat	<i>Natalus primus</i>	Cuba
Greater monkey-faced bat	<i>Pteralopex flanneryi</i>	Papua New Guinea
Hill's horseshoe bat	<i>Rhinolophus hilli</i>	Rwanda
Jamaican greater funnel-eared bat	<i>Natalus jamaicensis</i>	Jamaica
Lamotte's roundleaf bat	<i>Hipposideros lamottei</i>	Guinea, Liberia, and Côte d'Ivoire
Lord Howe long-eared bat	<i>Nyctophilus howensis</i>	Australia
Montane monkey-faced bat	<i>Pteralopex pulchra</i>	Solomon Island
Negros naked-backed fruit bat, Philippine bare-backed fruit bat	<i>Dobsonia chapmani</i>	Philippines
New Caledonia long-eared bat	<i>Nyctophilus nebulosus</i>	New Caledonia
New Zealand greater short-tailed bat	<i>Mystacina robusta</i>	New Zealand
Paraguayan mustached bat	<i>Pteronotus paraguayensis</i>	Venezuela

*Petition History*

On October 25, 2010, we received a petition dated October 25, 2010, from WildEarth Guardians, requesting that 15 species of bats be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(a). This finding addresses the petition.

### *Finding*

Based on information provided in the petition, in the sources cited in the petition, and available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for all 15 species under section 4(a)(1) of the Act:

- Armenian myotis based on factors D and E (see Appendix A);
- Aru flying fox based on factor E (see Appendix B);
- Bonin flying fox based on factor E (see Appendix C);
- Christmas Island pipistrelle based on factors A, C, D, and E (see Appendix D);
- Cuban greater funnel-eared bat based on factors A and E (see Appendix E);
- Greater monkey-faced bat based on factors A and D (see Appendix F);
- Hill's horseshoe bat based on factor A and D (see Appendix G);
- Jamaican greater funnel-eared bat based on factors A, D, and E (see Appendix H);

- Lamotte’s roundleaf bat based on factors A, D, and E (see Appendix I);
  - Lord Howe long-eared bat based on factor E (see Appendix J);
  - Montane monkey-faced bat based on factors A, D, and E (see Appendix K);
  - Negros naked-backed fruit bat/Philippine bare-backed fruit bat based on factors A, B, D, and E (see Appendix L);
  - New Caledonia long-eared bat based on factors A and E (see Appendix M);
  - New Zealand greater short-tailed bat based on factors C and E (see Appendix N);
- and
- Paraguayan mustached bat based on factors A, D, and E (see Appendix O).

Thus, for each of these species, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

### **Review of Petition to List the Emperor Penguin as Endangered or Threatened under the Endangered Species Act**

Additional information regarding our review of this petition can be found at <http://www.regulations.gov> under Docket No. FWS-HQ-ES-2013-0122 in the document labeled Appendix for the Emperor Penguin.

### *Species and Range*

This petition concerns the emperor penguin (*Aptenodytes forsteri*), with a range in Antarctica.

### *Petition History*

On December 5, 2011, we received a petition dated November 28, 2011, from Center for Biological Diversity requesting that the emperor penguin be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). This finding addresses this petition.

### *Finding*

Based on our review of the information provided in the petition, in the sources cited in the petition, and available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the emperor penguin based on factors A, D, and E.

Thus, for the emperor penguin, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

## **Review of Petition to List the Flores Hawk-Eagle as Endangered or Threatened under the Endangered Species Act**

Additional information regarding our review of this petition can be found at <http://www.regulations.gov> under Docket No. FWS-HQ-ES-2013-0123 in the document labeled Appendix for the Flores Hawk-eagle.

### *Species and Range*

This petition concerns the Flores hawk-eagle (*Spizaetus floris*), with a range in Indonesia.

### *Petition History*

On October 6, 2011, we received a petition, dated September 30, 2011, from WildEarth Guardians requesting that the Flores hawk-eagle be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a December 20, 2011, letter to the petitioner, we responded that we reviewed the information presented in the petition and did not find that the petition warranted an emergency listing. This finding addresses the petition.

### *Finding*

Based on our review of the information provided in the petition, in the sources cited in the petition, and readily available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Flores hawk-eagle based on factors A, B, D, and E.

Thus, for the Flores hawk-eagle, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

### **Review of Petition to List Ridgway's Hawk as Endangered or Threatened under the Endangered Species Act**

Additional information regarding our review of this petition can be found at <http://www.regulations.gov> under Docket No. FWS-HQ-ES-2013-0124 in the document labeled Appendix for Ridgway's Hawk.

#### *Species and Range*

This petition concerns the Ridgway's hawk (*Buteo ridgwayi*), with a range in the Dominican Republic.

#### *Petition History*

On October 6, 2011, we received a petition dated September 28, 2011, from WildEarth Guardians requesting that Ridgway's hawk be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a December 20, 2011, letter to the petitioner, we responded that we were currently required to complete a significant number of listing and critical habitat actions by the end of Fiscal Year 2016 pursuant to court orders, judicially approved settlement agreements, and other statutory deadlines, and we may conduct a review of the petition prior to Fiscal Year 2016 should budget and workload permit. This finding addresses the petition.

#### *Finding*

Based on our review of the information provided in the petition, in the sources cited in the petition, and readily available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Ridgway's hawk based on factors A, D, and E.

Thus, for the Ridgway's hawk, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

## **Review of Petition to List the Virgin Islands Coquí as Endangered or Threatened under the Endangered Species Act**

Additional information regarding our review of this petition can be found at <http://www.regulations.gov> under Docket No. FWS-HQ-ES-2013-0125 in the document labeled Appendix for the Virgin Island Coquí.

### *Species and Range*

This petition concerns the Virgin Islands coquí (*Eleutherodactylus schwartzi*), with a range in the British Virgin Islands.

### *Petition History*

On October 6, 2011, we received a petition dated September 28, 2011, from WildEarth Guardians requesting that the Virgin Islands coquí be listed as endangered or threatened under the Act. The petitioner also requested designation of critical habitat in the U.S. Virgin Islands. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a December 20, 2011, letter to the petitioner, we responded that we were currently required to complete a significant number of listing and critical habitat actions by the end of Fiscal Year 2016 pursuant to court orders, judicially approved settlement agreements, and other statutory deadlines, and we may conduct a

review of the petition prior to Fiscal Year 2016 should budget and workload permit. This finding addresses the petition.

### *Finding*

Based on our review of the information provided in the petition, in the sources cited in the petition, and readily available in our files, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Virgin Islands coquí based on factors A, C, and D.

Thus, for the Virgin Island coquí, the Service requests information on the five listing factors under section 4(a)(1) of the Act, including the factors identified in this finding (See REQUEST FOR INFORMATION).

### **Conclusion**

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petitions summarized above present substantial scientific or commercial information indicating that the requested actions may be warranted and are initiating status reviews to determine whether these actions under the Act are warranted. At the conclusion of the status reviews, we will issue 12-month findings in accordance with section 4(b)(3)(B) of the Act, as to whether or not listing is warranted.

It is important to note that the “substantial information” standard for a 90-day finding differs from the Act’s “best scientific and commercial data” standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough review of the species. Because the Act’s standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

## **References Cited**

On <http://www.regulations.gov>, the docket for each species or group of species (see table under **ADDRESSES**) contains the relevant appendix or appendices mentioned above. Each appendix contains a complete list of references cited. Each appendix is also available upon request from the Branch of Foreign Species (see **FOR FURTHER INFORMATION CONTACT**).

## **Authors**

The primary authors of this notice are the staff members of the Branch of Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

## **Authority**

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

Dated: January 8, 2014

Stephen Guertin

Acting Director, U.S. Fish and Wildlife Service

*[FR Doc. 2014-01184 Filed 01/21/2014 at 8:45 am; Publication Date: 01/22/2014]*