



**Billing Code 4333-15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[Docket No. FWS-R9-ES-2012-0039; 4500030115]**

**Endangered and Threatened Wildlife and Plants; Listing the Scarlet Macaw**

**RIN 1018-AY39**

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

**ACTION:** Revised proposed rule; reopening of public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), notify the public that, based on new information, we are making changes to our proposed rule of July 6, 2012, to list as endangered the northern subspecies of scarlet macaw (*Ara macao cyanoptera*) and the northern distinct vertebrate population segment (DPS) of the southern subspecies (*A. m. macao*). We are also reopening the comment period. Comments previously submitted will be considered and do not need to be resubmitted. However, we invite comments on the new information presented in

this document relevant to our consideration of the changes described below. We encourage those who may have commented previously to submit additional comments, if appropriate, in light of this new information.

**DATES:** The comment period for the proposed rule published July 6, 2012 (77 FR 40222) is reopened. We will accept comments received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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.

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

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow instructions for submitting comments to Docket No. FWS-R9-ES-2012-0039.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: [FWS-R9-ES-2012-0039]; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, Falls Church, VA 22041.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Janine Van Norman, Chief, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS:ES, Falls Church, VA 22041; telephone 703-358-2171; facsimile 703-358-1735. If

you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

#### **SUPPLEMENTARY INFORMATION:**

Under the provisions of the Endangered Species Act, as amended (ESA or Act), based on new information and information overlooked in the development of our July 6, 2012 (77 FR 40222), proposed rule ("2012 Proposed Rule"), we are: (1) revising the location of what we consider to be the boundary between the two subspecies of *A. macao*; (2) providing additional information on the species in northeast Costa Rica, southeast Nicaragua, and Panama, and reevaluating the status of *A. m. cyanoptera*; (3) providing additional information on the northern DPS of *A. m. macao*, reevaluating the status of this DPS, and revising our proposed listing of this DPS from endangered status to threatened status; (4) adding a proposal to treat the southern DPS of *A. m. macao* and subspecies crosses (*A. m. macao* and *A. m. cyanoptera*) as threatened based on similarity of appearance to *A. m. cyanoptera* and to the northern DPS of *A. m. macao*; and (5) adding a proposed rule pursuant to section 4(d) of the Act to define the prohibitions and exceptions that apply to scarlet macaws listed as threatened.

#### **Public Comments**

Our intent is to use the best available scientific and commercial data as the foundation for all endangered and threatened species classification decisions. Further, we want any final rule resulting from this proposal to be as effective as possible. Therefore, we invite range countries, tribal and governmental agencies, the scientific community, industry, and other interested parties

to submit comments regarding our 2012 Proposed Rule and the changes we present in this revised proposed rule. Comments should be as specific as possible.

Before issuing a final rule to implement this proposed action, we will take into account all comments and any additional information we receive. Comments previously submitted will be considered and do not need to be resubmitted. Such communications may lead to a final rule that differs from our proposal. For example, new information provided may lead to a threatened status instead of an endangered status, an endangered status instead of a threatened status, or we may determine the entity may not warrant listing based on new information. Additionally, new information may lead to revisions to the proposed 4(d) rule and/or our proposed similarity of appearance finding. All comments, including commenters' names and addresses, if provided to us, will become part of the administrative record.

You may submit your comments and materials concerning our changes to the proposed rule by one of the methods listed in **ADDRESSES**. Comments must be submitted to <http://www.regulations.gov> before 11:59 p.m. (Eastern Time) on the date specified in **DATES**.

We will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. If you provide personal identifying information in your comment, 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.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Headquarters Office (see **FOR FURTHER INFORMATION CONTACT**).

### *Information Requested*

We intend that any final actions resulting from this revised proposed rule will be based on the best scientific and commercial data available. Therefore, we request comments or information from other concerned governmental agencies, the scientific community, or any other interested parties concerning this revised proposed rule. We particularly seek clarifying information concerning:

- (1) New information on taxonomy, distribution, habitat selection and trends, diet, and population abundance and trends specific to the northern DPS of *A. m. macao* and the northwest Columbia population.
- (2) Information on the effects of habitat loss and changing land uses on the distribution and abundance of this species in northwest Colombia.
- (3) Additional information pertaining to the northwest Colombia population, including any information on whether this population constitutes an SPR of the northern DPS of *A. m. macao*.

Additionally, we invite range countries, tribal and governmental agencies, the scientific community, industry, and other interested parties to submit comments regarding the revisions to our 2012 Proposed Rule as follows:

- (4) Revision of the status of the northern DPS of *Ara macao macao* from endangered to threatened;
- (5) Addition of the proposed similarity of appearance listing of the for the southern DPS of *A. m. macao* and subspecies crosses (*A. m. macao* and *A. m. cyanoptera*);
- (6) Our 2012 Proposed Rule pursuant to section 4(d) of the Act that define the prohibitions and exceptions that apply to scarlet macaws listed as threatened and, unless a permit for otherwise prohibited activities is obtained under 50 CFR 17.52, to scarlet macaw subspecies crosses and the southern DPS of *A.m. macao* treated as threatened under the similarity-of-appearance provisions of the Act.

Please include sufficient information with your submission (such as full references) to allow us to verify any scientific or commercial information you include. Submissions merely stating support for or opposition to the action 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.”

### ***Comment Period Extension***

During the public comment period for our 2012 Proposed Rule, we received several requests from the public for extension of the comment period. For this reason, and because we

are amending our 2012 Proposed Rule, we are reopening the comment period on this proposed rule for 60 days.

### ***Requests for Separate Listing of Captive Macaws***

During the public comment period, several commenters requested that the Service list the captive populations of the scarlet macaw in the United States by either (1) listing them as a distinct population segment (DPS), or (2) assigning them a separate listing status. In similar situations involving the agency's response to petitions to list all chimpanzees as endangered under the Endangered Species Act of 1973, as amended (Act or ESA) (78 FR 35201, June 12, 2013) and to delist U.S. Captive Populations of the Scimitar-horned Oryx, Dama Gazelle, and Addax (78 FR 33790, June 5, 2013), we have considered the appropriateness of assigning captive-held animals a separate legal status from their wild counterparts on the basis of their captive state, including through designation as a DPS. For the same reasons stated in those previous actions, we find that it would not be appropriate to differentiate the legal status of captive-held animals of scarlet macaw from those in the wild. We find that the ESA does not allow for captive-held animals to be assigned separate legal status from their wild counterparts on the basis of their captive state, including through designation as a DPS. In analyzing threats to a species, we focus our analyses on threats acting upon wild specimens, generally those within the native range of the species, because the goal of the Act is survival and recovery of endangered and threatened species and the ecosystems on which they depend. For more information, see our 12-month findings on a petition to delist three antelope species (78 FR 33790; June 5, 2013) and a petition to list chimpanzees (78 FR 35201; June 12, 2013).

### ***Proposed Rule Under Section 4(d) of the Act***

During the public comment period of the 2012 Proposed Rule, several commenters requested we propose a rule under section 4(d) of the Act addressing interstate commerce of scarlet macaws. See **Proposed 4(d) Rule** below.

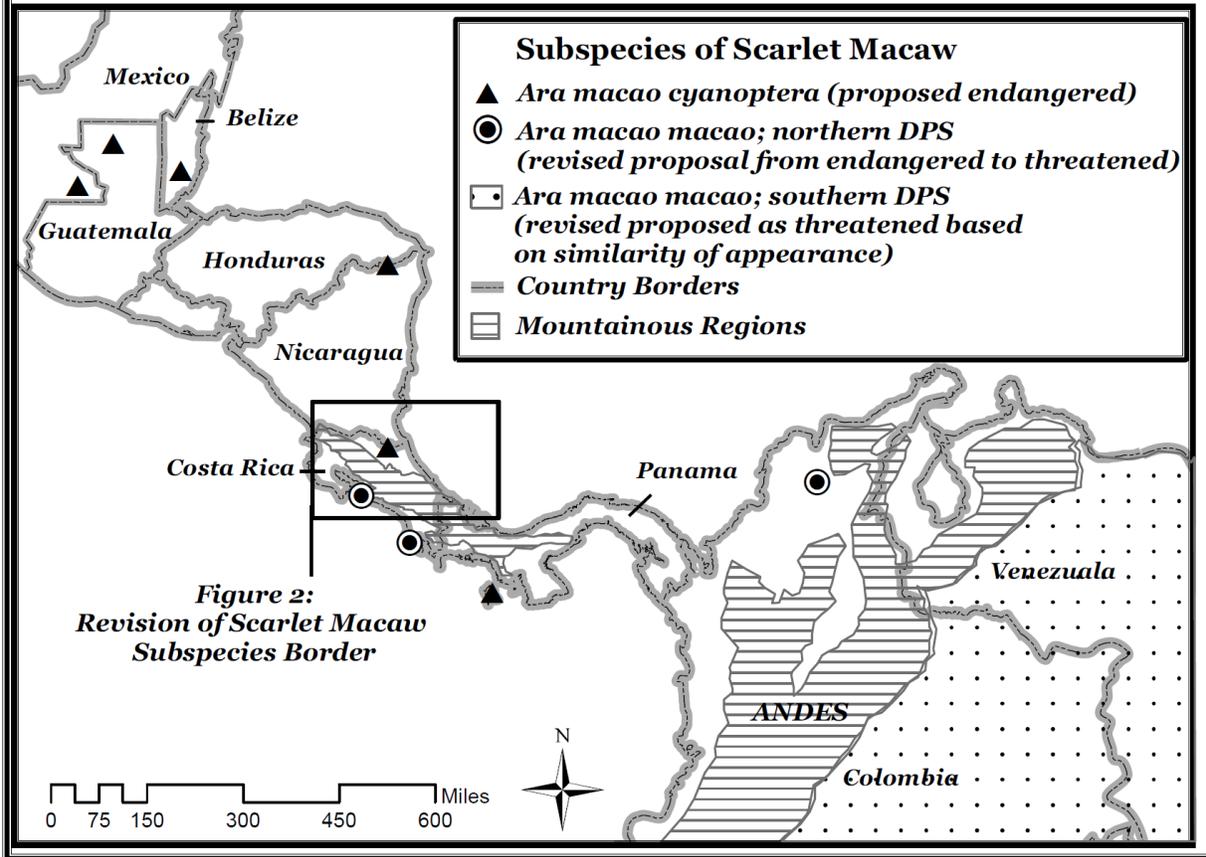
### **Previous Federal Actions**

On July 6, 2012, we published in the **Federal Register** a combined 12-month finding and proposed rule on a petition to list the scarlet macaw as threatened or endangered under the Act (77 FR 40222). In that proposed rule, we proposed listing the northern subspecies of scarlet macaw, *Ara macao cyanoptera*, found in Mexico, Guatemala, Honduras, and Nicaragua, as endangered. We identified two DPSs of the southern subspecies: the northern DPS of *A. m. macao*, found in Costa Rica, Panama, and northern Columbia, and the southern DPS of *A. m. macao*, found in southern Columbia, Venezuela, Guyana, Suriname, French Guyana, Brazil, Ecuador, Peru, and Bolivia. We proposed listing the northern DPS of *A. m. macao* as endangered, and determined that listing the southern DPS of *A. m. macao* as endangered or threatened was not warranted. The 2012 Proposed Rule had a 60-day comment period, ending September 4, 2012. We received no requests for a public hearing on the 2012 Proposed Rule; therefore, no public hearings were held.

## **Substantive Changes to the Proposed Rule**

Based on new information, some received from peer reviewers, we are proposing to make five substantive changes to our 2012 Proposed Rule. Specifically, we are: (1) revising the location of what we consider to be the boundary between the northern subspecies, *A. m. cyanoptera*, and the northern DPS of the southern subspecies, *A. m. macao*; (2) providing additional information on *A. m. cyanoptera* in northeast Costa Rica, southeast Nicaragua, and Panama, and reevaluating the status of the subspecies; (3) providing additional information on the northern DPS of *A. m. macao*, reevaluating the status of this DPS, and revising our proposed listing of this DPS from endangered status to threatened status; (4) adding a proposal to treat the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) as threatened based on similarity of appearance to *A. m. cyanoptera* and to the northern DPS of *A. m. macao*; and (5) adding a proposal under section 4(d) of the Act to define activities that are necessary and advisable for the conservation of scarlet macaws listed as threatened and crosses of the two scarlet macaw subspecies. See Figure 1, below, for a visual representation of these revisions. In this document, we focus our discussion on information we received that could potentially change our status determination for one or more of the entities evaluated in our proposed rule. For additional information on the biology and status of scarlet macaws, see our July 6, 2012, 12-month finding and proposed rule (77 FR 40222). In our final rule, we will address other comments and information, such as information we received that supports or clarifies information contained in our 2012 Proposed Rule.

**Figure 1:  
Proposed Listing of Scarlet Macaw Subspecies  
Revision of Subspecies Boundary**



**1. Consideration of Scarlet Macaws in the Pet Trade**

In analyzing the status of the scarlet macaw, we consider to what extent, if any, captive individuals contribute to the viability of the species within its native range in the wild. Many scarlet macaws are held as pets or captive bred for the pet trade. It has been suggested that scarlet macaws captive-bred for the pet trade contribute to the conservation of the species in the wild by reducing demand on wild populations for pets and, therefore, the number of individuals poached from the wild (Fischer 2004, entire). However, the effect of legal wildlife trade on market demand and wild populations is a complex phenomenon influenced by a variety of factors (Bulte and Damania 2005, entire; Fischer 2004, entire) and we are not aware of any

evidence indicating that scarlet macaws captive-bred for the pet trade currently benefit wild populations.

It has also been suggested that pet scarlet macaws and scarlet macaws captive-bred for the pet trade provide a safety net for the species by potentially providing a source of birds for reintroduction to the wild. However, pet scarlet macaws are poor candidates for re-introduction programs because those bred for the pet trade are bred with little regard for genetics and include an unknown number of subspecies crosses (Schmidt 2013, pp. 74–75), pets socialized with humans fail to act appropriately with wild individuals when released, and individuals held as pets may pose a disease risk to wild populations (Brightsmith et al 2005, p. 471). We are not aware of any evidence indicating that release of pet or pet-trade scarlet macaws benefit wild populations. For additional information regarding our evaluation of reintroduction efforts, see *Reintroduction Efforts* (under **Additional Information on Subspecies *A. m. cyanoptera*** and **Additional Information on the Northern DPS of *A. m. macao***, below).

As indicated above, we are not aware of any information indicating that scarlet macaws held as pets or captive-bred for the pet trade contribute to the conservation of the species in the wild. Therefore, we do not consider them further in our assessment of species status, except when assigning status to subspecies crosses (see **7. Adding a proposal to treat the Southern DPS of *A. m. macao* and Interspecific Crosses as Threatened Based on Similarity of Appearance**).

## ***2. Revising the Boundary between Subspecies and Reaffirming DPSs***

### *Revising the Boundary between A. m. cyanoptera and A. m. macao*

In our 2012 Proposed Rule, we considered the boundary of the subspecies *A. m. cyanoptera* and *A. m. macao* to be the general border region of Costa Rica and Nicaragua, based on information from Wiedenfeld (1994, entire) and Schmidt and Amato (2008, pp. 135–138). Brightsmith (2012, <http://www.regulations.gov>: Docket number FWS–R9–ES–2012–0039 #0066) provided additional information on scarlet macaws in northeast Costa Rica, but stated that it was unknown whether these birds belong to the subspecies *A. m. cyanoptera* or *A. m. macao*. However, Schmidt (2013, entire) provides new range-wide genetic information on the species. Consequently, we reexamined information on the distribution of the two scarlet macaw subspecies.

As indicated in our proposed rule, morphological evidence presented by Wiedenfeld (1994, entire) suggests southern Nicaragua and northern Costa Rica represent a transition zone between scarlet macaw subspecies. However, according to Schmidt (2013, p. 52), distribution of mitochondrial DNA haplotypes shows a general pattern of geographic segregation rather than co-occurrence; *cyanoptera* and *macao* lineages segregate at the central highlands of Costa Rica and patterns within the mitochondrial data argue against hybridization between the subspecies. Based on an evaluation of the specimens analyzed by Wiedenfeld, Schmidt (2013, pp. 55-56) indicates that although Wiedenfeld observed a cline in morphological traits across scarlet macaw

populations in lower Central America, limited and potentially biased sampling may have exaggerated the degree of phenotypic differentiation Wiedenfeld observed.

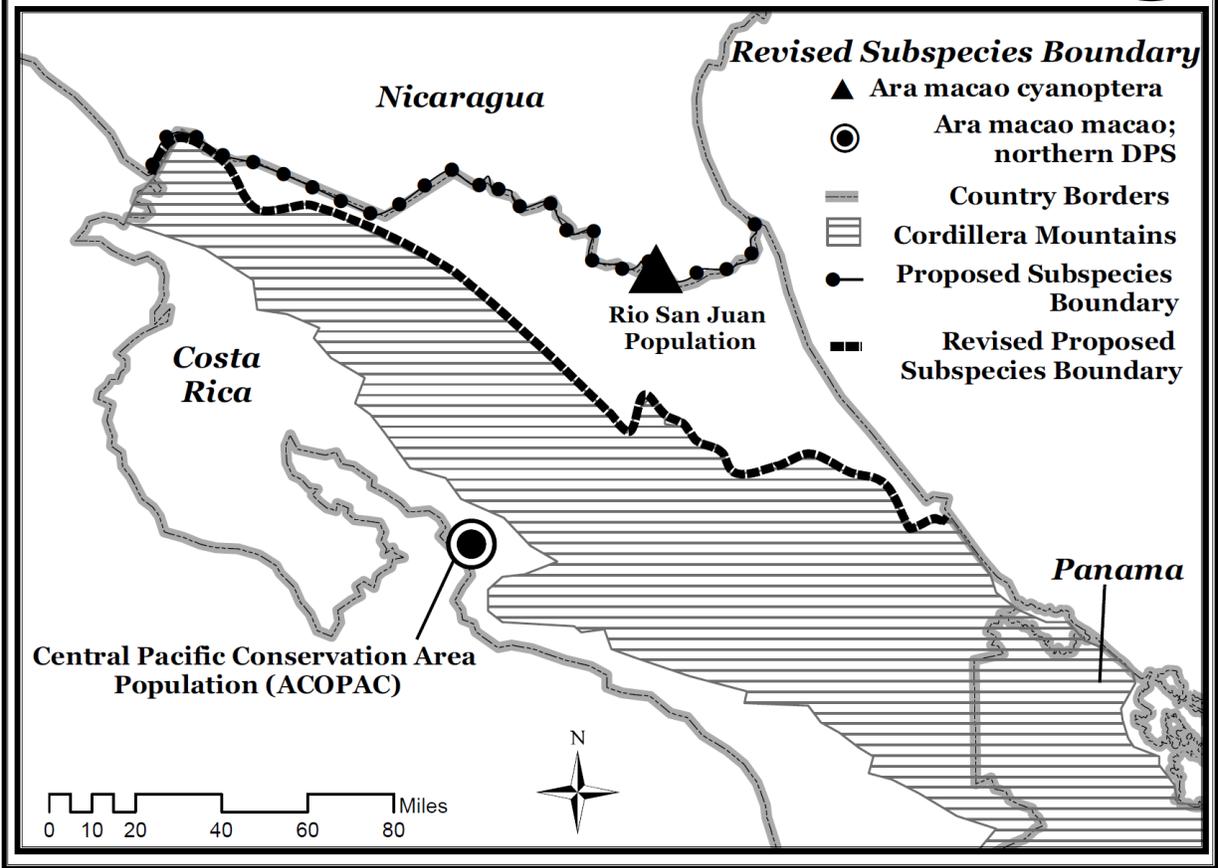
In addition to a pattern of geographic separation on the mainland, Schmidt (2013, pp. 69-73) found that genetic results from Isla Coiba (off the Pacific coast of Panama) are inconsistent with the broader phylogeographic patterns of diversity in the species. Four of five specimens from Isla Coiba carry a mitochondrial DNA haplotype characteristic of *A. m. cyanoptera*, whereas only one carries the expected haplogroup characteristic of *A. m. macao*. Schmidt discusses possible reasons for this inconsistency including the possibility that the origin of the four specimens were mislabeled or that Isla Coiba represents a biogeographic anomaly. According to Schmidt, one of the aberrant *cyanoptera* specimens (collected by Witmore) should be considered reliable and Schmidt's genetic results suggest the other three aberrant *cyanoptera* specimens (collected by Batty) were collected from the same location as the Witmore specimen. Based on an assessment by Olson (2008, in Schmidt 2013, pp. 71-72) of the collection trips made by Batty in the Veragua Archipelago, Schmidt concludes that the specimen carrying the *A. macao macao* haplotype likely originated on mainland Panama. Thus, Schmidt's results suggest that Isla Coiba represents a biogeographic anomaly, i.e. that scarlet macaws on the island carry a *cyanoptera* haplotype rather than the expected *macao* haplotype.

Schmidt (2013) represents the only spatial analysis of scarlet macaw genetic variation across the historical geographic range of the species, and we consider Schmidt to be the best available information on subspecies range. Based on the results of Schmidt, the mainland Central America boundary between *A. m. cyanoptera* and *A. m. macao*, is the central mountain

range of Costa Rica, with *A. m. cyanoptera* found on the Atlantic (eastern) slope of the country and *A. m. macao* on the Pacific (western) slope. In addition, scarlet macaws on Isla Coiba are likely to be the subspecies *A. m. cyanoptera*. Therefore, in the absence of new information indicating otherwise, for the purposes of this rule, we now consider scarlet macaws in Mexico, Guatemala, Nicaragua, Honduras, the eastern (Caribbean) slope of Costa Rica, and Isla Coiba, Panama to be *A. m. cyanoptera*. Consequently, we consider new information provided on scarlet macaws in northeast Costa Rica and on Isla Coiba to pertain to the subspecies *A. m. cyanoptera*. Consistent with the mainland boundary revision, we consider birds on the western slope of Costa Rica and southward through the remainder of the species' range to be *A. m. macao*.

In sum, in this revised proposed rule, we revise what we consider to be the boundary between the two subspecies of scarlet macaw, from the previously proposed boundary in the general border region of Costa Rica and Nicaragua, to the revised boundary of the central highlands of Costa Rica (See Figure 2, below, for a visual representation of the revised proposed boundary between the two subspecies), with an anomalous population of *A. m. cyanoptera* on Isla Coiba.

**Figure 2:**  
**Revision of Scarlet Macaw Subspecies Boundary**



*Reaffirming A. m. macao DPSs*

In our 2012 Proposed Rule, we determined that listing the whole southern subspecies, *A. m. macao*, was not warranted under the ESA. As a result of this finding, we then considered whether any population segment within the subspecies constituted a DPS based on our 1996 DPS policy (see 61 FR 4722–4725, February 7, 1996). In our proposed rule, we determined that two population segments of *A. m. macao* met our definitions of a DPS (*See Northern DPS of A. m. macao: Distinct Population Segment, and Southern DPS of A. m. macao: Distinct*

**Population Segment, below):** *A. m. macao* north and west of the Andes (scarlet macaws in Costa Rica, Panama, and northwest Colombia), and *A. m. macao* south and east of the Andes (scarlet macaws in southeast Colombia and the remainder of the species' range in South America). During the public comment period, we received no additional information regarding our conclusion that the Andes represented the boundary between the two population segments or our conclusions that they were valid DPSs based on our DPS policy. Further, the results of Schmidt (2013, pp. 61–62) reaffirm genetic segregation of the two DPSs at the Andes. Therefore, the boundary between the two *A. m. macao* DPSs, and the range of the southern DPS, remains unchanged from that described in our 2012 Proposed Rule (See Figure 1 for a visual representation of the border between the northern and southern DPS of *A. m. macao*).

In this revised proposed rule, we reaffirm our previous DPS determinations. Although the area considered to be the northern DPS of *A. m. macao* has changed slightly due to the exclusion of northeast Costa Rica and Isla Coiba (Panama) from the DPS, on re-examination of our July 6, 2012 DPS analysis, we conclude that our previous analysis remains valid despite the slight boundary change because (1) both DPSs are discrete as a result of genetic and geographic separation at the Andes, and (2) both DPSs are also significant, because the loss of either would result in a significant gap in the subspecies' range as described in the DPS analysis in our proposed rule. Therefore, both are valid DPSs based on our DPS policy.

### ***3. Additional Information on Subspecies A. m. cyanoptera***

#### *Eastern Costa Rica-Nicaragua Border*

We received additional information from a peer reviewer and obtained additional information from literature on scarlet macaws in the eastern border region of Costa Rica and Nicaragua. The eastern border between the two countries follows the Rio San Juan (San Juan River), which separates southeast Nicaragua and northeast Costa Rica. Below we summarize additional information on scarlet macaws in this region.

#### Distribution and Trend

Anecdotal evidence on scarlet macaws in northeast Costa Rica obtained during several years of research on great green macaws (*Ara ambigua*) indicates that scarlet macaws in this region are increasing in number (Monge *et al.* 2012, p. 6, citing Chassot and Monge 2004, and Penard *et al.* in prep; Brightsmith 2012, <http://www.regulations.gov>: Docket number FWS-R9-ES-012-0039 #0066). In 2004, Chassot and Monge (2004, pp. 12–13) reported several groups of scarlet macaws in the Rio San Carlos area close to the eastern border with Nicaragua, in what is now designated as Maquenque National Wildlife Refuge (Refugio Nacional de Vida Silvestre mixto Maquenque). These included three groups numbering 18, 12, and 8 individuals. One of these groups was observed flying from Nicaragua over the Rio San Juan into Costa Rica, indicating the population's range includes forest on both sides of the border. According to Chassot and Monge (2004, pp. 12–13), many observations of scarlet macaws had been made during previous years of research on the great green macaw in this region, but never of as large a number of individuals.

In our 2012 Proposed Rule, we reported an estimate of 48–54 scarlet macaws in Maquenque National Wildlife Refuge in northeast Costa Rica based on McReynolds (2011 *in litt.*) citing Penard *et al.* (2008). However, according to a peer reviewer, this estimate is incorrect. The peer reviewer states that, as a result of the study’s methodology, a population estimate cannot be obtained from the data. The peer reviewer indicates that, during the study in question, researchers detected 30 groups of scarlet macaws and only 12 groups of great green macaws in 733 kilometers (km) (455 miles) of transects, with as many as 16 different individual scarlet macaws seen on a single transect. The peer reviewer suggests that, given that transect studies are poor at detecting rare species and *A. macao* detections outnumbered those of *A. ambigua* in the heart of the latter species’ Costa Rican range, the population of *A. macao* in this region may number well over 100 birds. The peer reviewer also states that multiple groups of three or four, likely representing adults with juveniles, were detected. Finally, the peer reviewer indicates that the species has recently expanded its range southward to La Selva Biological Station (approximately 35–40 km (15–18 miles) south of the Rio San Juan). According to the peer reviewer, the species was absent from the Station since it was established in the 1960s (D. McClearn and others as reported to Brightsmith, in Brightsmith 2012, <http://www.regulations.gov>: Docket number FWS–R9–ES–2012–0039 #0066), but has been observed breeding on adjacent land since the mid-2000s.

During the 2009 macaw breeding season, Monge *et al.* (2012, entire) conducted an intensive search for scarlet macaw nests in northeast Costa Rica and southeast Nicaragua as part

of a larger study to quantify and characterize nests of both scarlet macaw and great green macaw. Monge *et al.* (2012, p. 9) found 6 scarlet macaw nests (5 in Costa Rica, 1 in Nicaragua)

## Threats

Information pertaining to the scarlet macaw in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine if that factor rises to the level of a threat, meaning that it may drive or contribute to the risk of extinction of the species such that the species warrants listing as an endangered or threatened species as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered or threatened species under the Act.

As indicated in our 2012 Proposed Rule, one of the main threats to neotropical parrot species is loss of forest habitat. In northeast Costa Rica, Landsat TM satellite images from 1987, 1998, and 2005 showed a fragmented landscape with remnants of natural ecosystems. The annual rate of total deforestation was 0.88 percent for the 1987–1998 period and 0.73 percent for the 1998–2005 period, even considering recovery of secondary forest (Chassot *et al.* 2010, p.

37); this equates to a 15 percent decrease in total forest habitat from 1987 to 2005. More recently, Fagan *et al.* (2013, unpaginated) tracked agricultural expansion from 1986 to 2011 in the region and found a small net gain in forest cover overall after Costa Rica enacted a ban on forest clearing in 1996. However, scarlet macaws require substantial nesting cavities for reproduction; these types of cavities are most often located in older, larger trees which are found mostly in mature forested habitats. The authors found that the rate of mature forest loss decreased from 2.2 percent pre-ban to 1.2 percent post-ban. Although the ban seems to have successfully contributed towards reducing the loss of mature forest, the expansion of cropland into areas outside of mature forest, specifically into pastures and secondary forests, have decreased the reforestation rates. Ultimately, this reduces the total amount of forest habitat available to the species (Fagan *et al.* 2013, unpaginated).

Deforestation is also ongoing in southeast Nicaragua. Southeast Nicaragua comprises the IMBR and its buffer zone. The reserve covers 306,980 ha (758,560 acres) (Chassot & Monge 2012, p. 63) and is one of Nicaragua's best preserved forested areas (Ravnborg *et al.* 2006, p. 2). However, the reserve is threatened by the growing human population in or around the reserve, a result of the continuous arrival of families from other parts of the country into the region in search of cheap land (Ravnborg 2010, pp. 12–13; Ravnborg *et al.* 2006, pp. 4–5). Ravnborg (2010, p. 10) reports that between 1998 and 2005 the population increased more than 100 percent (from 9,717 to 19,864 individuals) in the municipality of El Castillo, which is composed entirely of IMBR buffer zone and core area. According to Fundacion del Rio and the International Union for Conservation of Nature (IUCN) (2011, p. 12), the municipality has an annual population growth rate of 3.9 percent. The expansion of African palm plantations, pasture lands, human

settlements, and logging have contributed to an estimated 60 percent deforestation of the buffer zones surrounding IMBP and these activities are expanding in the reserve (Fundacion del Rio & IUCN 2011, pp. 7–8; Ravnborg 2010, pp. 12–13; Nygren 2010, pp. 193–194; Ravnborg *et al.* 2006, p. 2). Thus, despite the existence of this protected area, deforestation continues to occur and is a serious threat to biodiversity in this region (Fundacion del Rio 2012a, pp. 2–3; Fundacion del Rio 2012b, pp. 2–3; Fundacion del Rio & IUCN 2011, pp. 34, 37, 73–74; Chassot *et al.* 2006, p. 84).

Forest conservation efforts are ongoing in the Costa Rica–Nicaragua border region, particularly within Costa Rica’s 60,000-hectare (148,263-ac) San Juan–La Selva Biological Corridor (Chassot & Monge 2012, entire). Although these efforts have resulted in lower deforestation rates within the Corridor (Chassot & Monge 2012, p. 67, citing Chassot *et al.* 2010a), both primary and regrowth forest within the Corridor and within the larger border region of northeast Costa Rica and southeast Nicaragua continue to be threatened by timber extraction, and agricultural expansion (Fagan *et al.* 2013, unpaginated; Chassot & Monge 2012, p. 63; Chassot & Monge 2011, p. 1; Chassot *et al.* 2009, p. 9).

As indicated in our 2012 Proposed Rule, another main threat to neotropical parrot species, in general, is capture for the pet trade. Little information exists on the level of poaching of scarlet macaws in this region. However, poaching is recognized as a significant threat to the species in Nicaragua (77 FR 40235, July 6, 2012). In Nicaragua, capture of parrots for the pet trade is described as common, with scarlet macaws one of the most preferred species (77 FR 40235, July 6, 2012), and scarlet macaws are identified as one of the species most affected by

illegal trafficking along the Rio San Juan (Castellón 2008, p. 27). In Costa Rica, poaching is known to occur at both of the other two populations in the country and is believed to be occurring at an unsustainable level in the Área de Conservación del Pacífico Central (Central Pacific Conservation Area (ACOPAC)) (77 FR 40235–40236, July 6, 2012). Therefore, it is reasonable to conclude that poaching of scarlet macaws occurs in the population on the eastern border between these two countries, though the extent is unknown.

### *Isla Coiba*

In our 2012 Proposed Rule, we determined ongoing threats to the Isla Coiba, Panama population to be deforestation, poaching, and small population size in combination with other threats. We were not aware of any regulatory mechanisms addressing these threats; therefore, we concluded that the existing regulatory mechanisms were inadequate to protect the species. Based on comments from a peer reviewer, we obtained additional information on this population from additional experts and literature sources. Below we summarize this information.

### Distribution and Trend

In our 2012 Proposed Rule, we indicated that there were an estimated 100 scarlet macaws on Isla Coiba (Keller and Schmitt 2008). This estimate is based upon information obtained by Keller and Schmitt during discussions with biologists that worked on Coiba (Keller 2012, *in litt.*). McReynolds estimated fewer than 200 scarlet macaws in Panama (77 FR 40227, July 6, 2012), with most of these on Isla Coiba. Angehr (2012, *in litt.*), in response to our inquiry regarding the reasonableness of Coiba estimates, indicates that 100–200 is a reasonable estimate

for the number of scarlet macaws on Coiba. He further states that there is no reason to believe the population is currently declining.

## Threats

In our 2012 Proposed Rule, we indicated that some level of deforestation was occurring on Isla Coiba as a result of trampling and erosion caused by feral cattle (77 FR 40231, July 6, 2012). New information indicates that cattle on Coiba may be inhibiting the regrowth of former pasture to secondary forest, but are probably not having a significant impact on the larger forest trees on which *A. m. macao* depends (Angehr 2012, *in litt.*). Therefore, it is unlikely that cattle are currently a threat to the forest resources on which scarlet macaws depend on the island. As indicated in our proposed rule, cattle on Coiba are increasing in number and causing at least some level of deforestation and soil erosion via trampling. As a result, in the absence of natural or anthropogenic control measures, it is possible that, with increasing numbers, the feral cattle on Isla Coiba may move beyond current pasture areas into established forest and become a threat to scarlet macaw habitat at some time in the future. However, we are unaware of any information that indicates whether or when, and to what extent, such an outcome might occur.

In our 2012 Proposed Rule, we indicated that Coiba National Park and its Special Zone of Marine Protection was inscribed on the World Heritage List as of 2005. In the 2014 Mission Report by the World Heritage Committee and IUCN, the Committee makes note to acknowledge that the Country of Panama has a strategy and is making progress in the removal of livestock from the property. The report indicates that the country has made a commitment to have all

livestock removed by the end of 2014 (Douvere & Herrera 2014, unpaginated). However, we are not aware of any information indicating that the removal of cattle has occurred.

In our 2012 Proposed Rule, we indicated that poaching likely occurs at some level in Panama and that, because the current population is extremely small and isolated, even low levels of poaching would likely have a negative effect on the species in Panama. According to Angehr (2012) and Keller (2012), Panama's Autoridad Nacional del Ambiente (National Environmental Authority) maintains a ranger station on the north end of the island, but patrols elsewhere on the island are probably limited. Keller (2012) indicates that *A. macao* primarily occurs on the south end of the island and that poaching "is a strong possibility." However, Angehr (2012) indicates that, while macaws may occasionally be illegally captured on the island, he is not aware that such take is currently a major threat.

### *Reintroduction Efforts*

Additional information indicates that a recent program in Mexico is working to establish a viable population of *A. m. cyanoptera* for recovery purposes in Palenque, Mexico, by releasing captive-bred scarlet macaws into the wild (Estrada 2014, entire). Releases of captive scarlet macaws could potentially aid in recolonization of the macaw population's original range, to the extent that the habitat within that range remains suitable. Conversely, releases of captive scarlet macaws could potentially pose a threat to wild populations by exposing wild birds to diseases for which wild populations have no resistance, invoking behavioral changes in wild macaws that negatively affect their survival, or compromising the genetic integrity of wild populations (Dear

et al 2010, p. 20; Schmidt 2013, pp. 74-75; also see IUCN 2013, pp. 15-17). In response to an increasing number of reintroduction projects involving various species worldwide, the IUCN Species Survival Commission published guidelines for reintroductions to help ensure that reintroduction efforts achieve intended conservation benefits and do not cause adverse side-effects of greater impact (IUCN/SSC 2013, entire; IUCN/SSC 1998, entire). Additionally, White *et al.* (2012, entire) make recommendations specific to parrot reintroductions. According to Estrada (2014, p. 345), the program in Palenque, Mexico was designed to align as closely as possible to the IUCN guidelines and the recommendations made by White *et al.* So far, the program shows promise for establishing a viable population of *A. m. cyanoptera*—96 scarlet macaws were released between April 2013 and June 2014 with a 91% survival rate as of May 2015. In addition, 9 nesting events and successful use of wild foods by released birds have been observed. However, while this program shows promise for reintroduction efforts towards the establishment of viable populations in the future, it is currently uncertain as to whether this captive-release program has resulted in conservation benefits to the species at present (IUCN/SSC 2013, entire; IUCN/SSC 1998, entire).

#### ***4. Reevaluation of Status of A. m. cyanoptera***

In our 2012 Proposed Rule, we determined that *A. m. cyanoptera* is in danger of extinction based on threats to the subspecies in Mexico, Guatemala, Belize, Honduras, and Nicaragua. We indicated that *A. m. cyanoptera* occurs in only a few small, isolated populations, and that deforestation and forest degradation, capture for the pet trade, and small population size in combination with the cumulative effects of other threats pose significant threats to *A. m. cyanoptera* throughout the subspecies' range in these countries such that *A. m. cyanoptera* is in

danger of extinction. We determined that the existing regulatory mechanisms were not adequate to remove or reduce these threats. In the 2012 Proposed Rule, we identified four primary populations in this region, one each in southeast Mexico, northern Guatemala, and southwest Belize (hereafter collectively referred to as the Maya Forest region), and one in the Mosquitia region of Honduras and Nicaragua. As a result of new information we received and obtained on scarlet macaws in the eastern border region of Costa Rica and Nicaragua, and our subsequent revision of the border between the two subspecies of scarlet macaw such that we now consider the birds in this border region and on Isla Coiba to be *A. m. cyanoptera*, we now reevaluate the status of *A. m. cyanoptera*.

Threats acting on *A. m. cyanoptera* throughout most of the subspecies' range (Mexico, Guatemala, Honduras, Belize, and Nicaragua) are severe and immediate (77 FR 40229–40242, July 6, 2012). While anecdotal observations suggest the population in the eastern border region of Costa Rica and Nicaragua has increased in recent years and the population on Isla Coiba is currently stable, both populations appear to be isolated and the regions in which they occur represent an extremely small fraction of the subspecies' current range. In addition, deforestation in the region in which the Costa Rica-Nicaragua border population occurs is ongoing. Although scarlet macaws are tolerant of some level of habitat fragmentation or modification, provided sufficient large trees remain for nesting and feeding requirements, several studies indicate the species occurs in disturbed or secondary forest at lower densities (for a summary of these studies, see 77 FR 40224, 40225, July 6, 2012). Thus, it is reasonable to conclude that the extent of increase in the population in this region will likely be limited due to past and ongoing deforestation in the region. Further, while the population on Isla Coiba is not currently being

negatively impacted by loss of habitat and may or may not be negatively impacted by poaching, the population is very small and isolated (Ridgely 1981, p. 253; McReynolds 2011, *in litt.*). As indicated in our 2012 Proposed Rule, small, isolated populations are vulnerable to extinction due to a variety of factors, including loss of genetic variability, inbreeding depression, and demographic and environmental stochasticity (77 FR 40239–40240, July 6, 2012; Gilpin & Soule 1986, entire).

Subspecies estimates for each of the *A. m. cyanoptera* populations are included in Table 1.

**Table 1. *Ara macao cyanoptera* population estimates.**

<b>Population Range</b>	<b>Population Name</b>	<b>Population Estimates</b>	<b>Literature Cited</b>
Southeast Mexico	Usamacinto–Southeast Mexico	< 200 breeding pairs	Inigo–Elias 1996, pp. 96–97; Garcia <i>et al.</i> 2008, pp. 52–53
Guatemala	Northern Peten	150–250	McNab 2008, p. 7; Wildlife Conservation Society Guatemala 2005, in McReynolds 2011, <i>in litt.</i> ; Garcia <i>et al.</i> 2008, pp. 52–53
Belize	Chiquibul	60–219	McReynolds 2011, <i>in litt.</i> ; Garcia <i>et al.</i> 2008, pp. 52–53; Schmidt and Amato 2008, p. 137
Eastern Honduras, Northeastern Nicaragua	Mosquitia	Honduras: 1,000–1,500; Nicaragua: 100–700	Wiedenfeld 1994, pp. 101–102; Lezama 2010, in McReynolds 2011, <i>in litt.</i> ; Feria and de los Monteros 2007, in McReynolds 2011, <i>in litt.</i> ;
Southeast Nicaragua Border and Northeast Costa Rica	Rio San Juan (San Juan–La Selva/San Juan–El Castillo)	possibly >100	Brightsmith 2012, <i>in litt.</i>
Isla Coiba, Panama	Coiba	100–200	Keller 2012, <i>in litt.</i> ; Angehr 2012, <i>in litt.</i> ; McReynolds 2011, <i>in litt.</i>

*Finding for the Northern Subspecies A. m. cyanoptera*

As discussed in our 2012 Proposed Rule, we conclude that the low numbers of this subspecies throughout its range, the extreme fragmentation of its habitat and population throughout its range, and the substantial threats acting on this subspecies throughout its range place this subspecies in danger of extinction. Therefore, we reaffirm our July 6, 2012, finding (77 FR 40222) that *A. m. cyanoptera* is in danger of extinction in its entirety.

##### ***5. Additional Information on the Northern DPS of A. m. macao***

In our 2012 Proposed Rule, we determined the northern DPS of *A. m. macao* to be in danger of extinction (endangered). We based our determination of the status of this DPS on the status of the birds in Panama and Costa Rica due to the lack of information on the species in northwest Colombia. We determined ongoing threats to what we then considered the three remaining known populations of *A. m. macao* within the DPS (those at ACOPAC, Costa Rica; Area de Conservación de Osa (Osa Conservation Area) (ACOSA), Costa Rica; and Isla Coiba, Panama) to be poaching, and small population size in combination with other threats (ACOPAC, ACOSA, and Isla Coiba). We determined that the existing regulatory mechanisms were not adequate to remove or reduce these threats. We also determined deforestation to be a threat to the species on Isla Coiba, Panama. We received two peer reviews of our proposal. Although one peer reviewer agreed with our determination, the other questioned our determination to list the northern DPS of *A. m. macao* as endangered, and also provided additional information on the species. We also obtained additional information on scarlet macaw status and threats in this DPS from additional experts and literature sources. As indicated above, based on new information, we revised the area of this DPS such that scarlet macaws in the Isla Coiba population of Panama are no longer considered part of this DPS. Below we summarize the additional information on

what we now consider the northern DPS of *A. m. macao*, as explained in *Revising the Border Between A. m. cyanoptera and A. m. macao*, above.

### *Central Pacific Costa Rica*

The Central Pacific Costa Rica (ACOPAC) population numbers approximately 450 birds. According to a peer reviewer, the population at ACOPAC has been variably increasing and declining but is not in drastic decline according to the work by Vaughan et al. (2005). As indicated in our 2012 Proposed Rule, Vaughan (2005, p. 127) describes an increase in the previously declining ACOPAC population after implementation of intensive anti-poaching efforts in 1995 and 1996, but also indicates that neither these efforts nor the increasing trend of the macaw population was sustained. Rather, counts of macaws remained almost constant from 1996 to 2003. As indicated in our 2012 Proposed Rule, poaching of wildlife is reported to occur in the area and scarlet macaws are susceptible to overharvest due to their demographic traits and naturally low rate of reproduction (77 FR 40235–40236, July 6, 2012). However, Vaughan indicates that the population was stable even with the level of poaching during that time. As a result, we specifically request information on the current trend of the ACOPAC scarlet macaw population.

### *South Pacific Costa Rica*

We received two pieces of anecdotal information on the South Pacific Costa Rica (ACOSA) scarlet macaw population. One peer reviewer states that land owners along the south

Pacific coast have informed him that scarlet macaws are being seen more commonly north of the Osa Peninsula, and it seems as though the species may be spreading north through this region. In addition, one commenter states that dozens can be seen on a daily basis on his property at the north end of the Golfo Dulce, where 10 years ago, none existed.

In our 2012 Proposed Rule, we stated that, “In ACOSA, Dear *et al.* (2010, p. 10) indicate that 85 percent of residents interviewed in 2005 believed scarlet macaws were more abundant than 5 years prior, which suggests this population may be increasing.” However, as pointed out by a peer reviewer, we failed to consider this study in our finding. For the purposes of reevaluating our July 6, 2012, finding on this DPS, we provide additional information from Dear *et al.* (2010, entire) below.

In 2005, Dear *et al.* conducted interviews with 105 residents, representing 30 areas within ACOSA. Based on answers to a series of questions, scarlet macaws were found to occur throughout the Osa Peninsula, with the northern limit of the population occurring outside the peninsula in Playa Piñuelas. The southern mainland limit was Chacarita (about 15 km (roughly 9 miles) north of Golfito), in ACOSA. Estimates of the population’s size ranged from 800 to 1,200 individuals, and interviewees generally believed that the numbers were increasing. Of 105 interviews, 89 (85%) believed that scarlet macaws were more abundant than 5 years prior, 12 interviewees (11%) considered the population had remained stable, and 4 (4%) thought there were fewer scarlet macaws. Dear *et al.* (2010, pp. 17, 20) state that both (1) the ACOSA population has increased and (2) that the population “is currently stable with the distribution thought to be increasing.”

Dear *et al.* (2010, p. 19) states that although it is believed that poaching still exists in the region, results suggest incidence of chick poaching has decreased. Approximately half (48%) of those interviewed by Dear *et al.* believed that macaws were still being poached in ACOSA, and the others stated the activity did not currently occur (52%). Additionally, 43 percent of the interviewees mentioned that less poaching activity is occurring now than before, and none said the activity had increased. Based on interviews and information from park guards, Dear *et al.* estimate 25–50 chicks are poached each year. Dear *et al.* also state that, although results suggest incidence of chick poaching has decreased, the activity still occurs.

### *Northwest Colombia*

#### Distribution and Trend

Hilty and Brown (1986, p. 200) describe the range of scarlet macaw in northwest Colombia as the northern lowlands from eastern Cartagena to the low Magdalena Valley, southward to southeast Córdoba, and the middle Magdalena Valley southwest of Santander. The range in northwest Colombia includes the tropical zone of the Caribbean region, and the inter-Andean valleys, the largest of which are the Magdalena and Cuaca River valleys (Salaman *et al.* 2009, p. 21).

We are not aware of any estimates of the numbers of scarlet macaws in northwest Colombia. The species is reported as probably close to extinction in the Magdalena Valley, Cuaca Valley, and north (Donegan 2013, *in litt.*; Ellery 2013, *in litt.*; McMullen 2010, p. 60).

The species is reported to occur in the more remote and inaccessible western part of the region, but its status in this area is not clear. A 2009 scientific expedition in the Manso River Forest and Tigre River floodplain forest within Parque Nacional Natural Paramillo (PNN Paramillo), reported scarlet macaws as present. A 2004 study of the perceptions and uses of wild fauna by the Embera-Katios (Katios) indigenous communities in the San Jorge River Valley within the buffer zone of PNN Paramillo, reported that the Katios categorized the species as abundant (Racero *et al.* 2008, p. 124). However, the authors note that these indigenous communities recognize only 25 species of birds (Racero *et al.* 2008, p. 127), that the richness of the avifauna in this area is likely greater, and that they (the authors) did not verify the identification of scarlet macaws in the study area. As a result, given that the study site is also within the range of the red and green macaw (*Ara chloropterus*), which is similar in appearance to the scarlet macaw (Iñigo-Elias 2010, unpaginated), some portion of the macaws characterized as abundant by the Katios could have been red and green macaws.

## Threats

Scarlet macaws in northwest Colombia are believed to be affected primarily by habitat loss, and to a lesser extent trade (Donegan 2013, *in litt.*). Loss of forest habitat in northwest Colombia has been extensive over the past several decades. The Magdalena and Caribbean regions have approximately only 7 percent and 23 percent (respectively) of their land area in original vegetation, with the remainder converted primarily to grazing land (79% and 68%, respectively) (Etter *et al.* 2006, p. 376). The Magdalena region lost 40 percent of its forest cover between 1970 and 1990, and an additional 15 percent between 1990 and 1996 (Restrepo & Syvitski 2006, pp. 69, 72). Within the Caribbean region, Miller *et al.* (2004) reports that PNN

Paramillo (460,000 ha (1,136,680 ac)), Santuario de Fauna y Flora Los Colorados (Los Colorados Fauna and Flora Sanctuary) (1,000 ha (2,500 ac)), and Reserva Forestal de Montes de Maria (Montes Maria Forest Reserve) (7,460 ha (18,500 ac)) have lost 42, 71, and 70 percent of their forest, respectively, since they were created in the late 1970s and early 1980s.

Deforestation is ongoing in northwest Colombia (Colombia Gold Report 2012, pp. 1–2; Ortega & Lagos 2011, pp. 81–82). A few large tracts of forest remain within the range of the scarlet macaw in this region, and all are deforestation hotspots (Ortega & Lagos 2011, p. 82; Salaman *et al.* 2009, p. 21). Forest loss in the region is due primarily to conversion of land to pasture and agriculture, but also mining, illicit crops, and logging (Ortega & Lagos 2011, pp. 85–86). Further, resource management in Colombia is highly decentralized, and governmental institutions responsible for oversight appear to be inconsistent throughout the country (Blaser *et al.* 2011, pp. 292–293). The International Tropical Timber Organization considers the Colombian forestry sector to be lacking in law enforcement and on-the-ground control of forest resources, with no specific standards for large-scale forestry production, no forestry concession policies, and a lack of transparency in the application of the various laws regulating wildlife and their habitats (Blaser *et al.* 2011, pp. 292–298). Consequently, there is currently no effective vehicle for overall coordination of species management for multijurisdictional species such as macaws. Therefore, we conclude that deforestation is a significant threat to the species in this region.

Regarding trade, parrots and macaws in the buffer zone of PNN Paramillo are often captured by settlers for the regional illegal markets (Racero 2008, pp. 127–128). We are

unaware of any other information indicating that capture of scarlet macaws for the pet trade may be a threat to the species in northwest Colombia.

### *Reintroduction Efforts*

According to Dear *et al.* (2010, pp. 15–17), three scarlet macaw captive-release programs are located on the mainland coast of Southern Pacific Costa Rica, 15 to 20 km (9 to 12 miles) across the Gulf (Golfo Dulce) from the Osa Peninsula and its wild population of scarlet macaws. These include Santuario Silvestre de Osa (SSO) and Zoo Ave, which release birds in the Golfito area, and Amogos de las Aves, which releases birds at Punta Banco (Dear *et al.* 2010, pp. 15, 17; Forbes 2005, p. 97). SSO receives macaws confiscated from poachers in the area, and releases them in the area surrounding the sanctuary. The others receive macaws from all parts of Costa Rica and normally release only offspring of these confiscated birds, though Zoo Ave released five confiscated macaws. Macaws from the 3 facilities began to be released in 1997 and totaled 77 birds—9 released in Punta Banco and 68 in the Golfito area (Dear *et al.* 2010, p. 16). According to Dear *et al.* (2010, p. 16), of the 77 released birds, 67 are still alive.

The range of birds released at Punta Banco has grown to reach 84 square km (32 square miles) (Dear *et al.* 2010, p. 17, citing Forbes 2005). According to Dear *et al.* 2010, (p. 19), the destiny of scarlet macaws released in the Golfito area is unknown, but wild and reintroduced populations could be mixing. They further indicate that reintroduction programs could be either an advantage or disadvantage for the natural population (see *Additional Information on Subspecies A. m. cyanoptera—Reintroduction Efforts*). According to the authors, releases could

potentially aid in recolonization of the macaw population's original range, to the extent that the habitat within that range remains suitable. However, if wild and released macaws are in contact, diseases could be passed to the wild population that may have no resistance to these diseases. Further, macaws accustomed to humans could invoke behavioral changes in native scarlet macaws. For instance, scarlet macaws allowing humans to approach closely could facilitate the capture of adults.

We are not aware of any information indicating that these three captive-release programs adhere to the IUCN Species Survival Commission guidelines for re-introductions, published by IUCN to help ensure that re-introduction efforts achieve intended conservation benefits and do not cause adverse side-effects of greater impact (IUCN/SSC 2013, entire; IUCN/SSC 1998, entire). Nor are we aware that these reintroduction programs adhere to recommendations of White *et al.* (2012, entire) for the reintroduction of parrots. Therefore, because we are unaware of information indicating that these captive-release programs are contributing to either the recovery or endangerment of the DPS, we do not consider these programs or the birds in these programs to be consequential in evaluating the status of this DPS.

#### ***6. Reevaluation of Status of the Northern DPS of *A. m. macao****

In our 2012 Proposed Rule, we determined the northern DPS of *A. m. macao* to be in danger of extinction (“endangered”). We based our determination of status of this DPS on the status of the birds in Panama (on Isla Coiba) and Costa Rica (in ACOPAC and ACOSA) due to the lack of information on the species in northwest Colombia. We determined ongoing threats to

the three remaining populations in Costa Rica and Panama to be: deforestation (Isla Coiba), poaching, and small population size in combination with other threats. We found that the existing regulatory mechanisms were inadequate in addressing these threats.

Based on our revision of the border between *A. m. cyanoptera* and *A. m. macao*, the northern DPS of *A. m. macao* no longer includes the scarlet macaw population on Isla Coiba. The DPS consists of two known viable scarlet macaw populations in Costa Rica, an unknown number of birds in northwest Colombia, an isolated group of 10–25 birds in Palo Verde in northwest Costa Rica (Dear *et al.* 2010, p. 8), and a few groups of captive-released birds in a few locations within the Costa Rica portion of the DPS (Dear *et al.* 2010, p. 8; Forbes 2005, entire; Brightsmith *et al.* 2005, entire). As indicated in our 2012 Proposed Rule, the Palo Verde group is extremely small, and we are unaware of any information suggesting that this group represents a self-sustaining, viable population.

As indicated in our 2012 Proposed Rule and this revised proposed rule, *A. m. macao* has been extirpated from mainland Panama and much of its former range in Costa Rica, and the species has been all but extirpated from large areas of northwest Colombia. Its remaining distribution is highly fragmented, consisting of two isolated populations (ACOPAC and ACOSA) and an unknown number of birds isolated in northwest Colombia.

The ACOPAC scarlet macaw population numbers approximately 450 birds. As indicated above and in our 2012 Proposed Rule, poaching of wildlife is reported to occur in this area. Scarlet macaws are one of the most susceptible species to poaching due to the species' slow rate

of reproduction. However, the population was holding steady even with the amount of poaching occurring during that time (Vaughan 2005, p. 127). This apparent stability of the population indicates that poaching may not currently be major threats to this population. However, we specifically seek additional information on the status of this population.

The most recent estimate of the ACOSA population, based on interviews with community members, is about 800–1,200 birds. Although the majority of residents interviewed indicated that there appeared to be more macaws in the year 2005 than in the 5 years previous (the year 2000), these results are based on perceptions of scarlet macaw abundance at two points in time over a limited time period (2000 versus 2005). Thus, although scarlet macaws appeared to be more abundant in 2005 than in 2000, whether this conclusion reflects an increasing population trend is unknown. For this reason, we consider the results of Dear *et al.* to indicate that the ACOSA scarlet macaw population is currently stable and that the distribution is increasing (Dear *et al.* 2010, p. 20). Although poaching of scarlet macaw chicks is known to occur in the region, the apparent stability of the population suggests poaching is not currently having a negative impact.

The number of scarlet macaws in northwest Colombia is unknown, but habitat loss has caused the decline of the species there, such that the species has been all but extirpated from large areas in the region. Much of northwest Colombia has been deforested. Large tracts of forest remain, for instance, in the areas of Serrania de San Lucas and PNN Paramillo. However, deforestation in the region is expected to continue. According to Gonzales *et al.* (2011, p. 45), the Caribbean region of northwest Colombia showed the highest projected rate of change of

forest cover for the year 2030 of all regions evaluated. Because deforestation has resulted in the near extirpation of the species from large areas of northwest Colombia and deforestation is projected to continue within the species' range in this region, it is reasonable to conclude that deforestation is a significant threat to the species in northwest Colombia. Table 2 includes the most recent estimated population densities for the northern DPS of *A. m. macao*.

**Table 2. *Ara macao macao* (northern DPS) population estimates.**

<b>Population Range</b>	<b>Population Name</b>	<b>Population Estimates</b>	<b>Literature Cited</b>
Costa Rica	Costa Rica's Central Pacific Conservation Area (ACOPAC)	~450	Arias <i>et al.</i> 2008, in McReynolds 2011, <i>in litt.</i>
Costa Rica	Costa Rica's Osa Conservation Area (ACOSA)	800–1,200	Dear et al. 2005 and Guzman 2008, in McReynolds 2011, <i>in litt.</i>
Northwest Colombia	Northwest Colombia	~unknown~	Donegan 2013, <i>in litt.</i> ; Ellery 2013, <i>in litt.</i> ; McMullen 2010, p. 60

*Finding for the Northern DPS of A. m. macao*

The Act defines “endangered” as “any species which is in danger of extinction throughout all or a significant portion of its range” and “threatened” as “any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” In our 2012 Proposed Rule, we determined the northern DPS of *A. m. macao* to be in danger of extinction (“endangered”). However, new information indicates that the ACOPAC population is currently stable, and that the ACOSA population—the largest of the DPS—is currently stable or possibly increasing. New information indicates that poaching does not currently act as a threat on these two populations. Therefore, as the two largest populations within the DPS are currently stable, it is reasonable to conclude that the northern

DPS of *A. m. macao* is not currently in danger of extinction. The best available information indicates that the population in northwest Colombia faces significant ongoing threats and may be potentially extirpated from Colombia. If this population is lost, the DPS would contain only two scarlet macaw populations. However, although no current population estimates are available for northwest Colombia, this region is reported to have large tracts of forest suitable for supporting a population which may provide sufficient resiliency and redundancy for the DPS. If, during the public comment period, we receive additional information on the northern DPS of scarlet macaw (*A. m. macao*) and/or on the northwest Colombia population indicating that listing the DPS rangewide is not warranted, then we may consider whether the Colombia population constitutes a significant portion of the range (SPR) of the DPS and would, at that time, determine whether the DPS warrants a threatened or endangered status. We encourage the public to provide us with any additional information pertaining to this population, including any information on whether this population constitutes an SPR of the DPS. Although the ACOPAC and ACOSA populations are considered stable, both are small and isolated, and their range represents only a portion of the range of the DPS. Therefore, although the two largest populations currently appear to be stable and may be increasing, we find that the best available information indicates that current threats to scarlet macaws in northwest Colombia (deforestation), and the small and isolated status of the ACOPAC and ACOSA populations, place this DPS in danger of extinction in the foreseeable future. Therefore, we revise our July 6, 2012, proposal of listing the northern DPS of the *A. m. macao* from “endangered” to “threatened” in accordance with the definitions of each as they pertain to the Act.

**7. Treating the Southern DPS of *A. m. macao* and Subspecies Crossings (*A. m. macao* and *A. m. cyanoptera*) as Threatened under 4(e) Similarity of Appearance Provisions**

In our 2012 Proposed Rule, we determined that the scarlet macaws (*A. m. macao*) south and east of the Andes (northern South America), constituted a valid DPS of the subspecies *A. m. macao* pursuant to our 1996 DPS Policy (77 FR 40222, 40242, July 6, 2012) (See ***Revising the Border Between Subspecies and Reaffirming DPSs: Reaffirming *A. m. macao* DPSs above***). Additionally, we determined that listing the southern DPS of *A. m. macao* throughout its range was not warranted. During the public comment period, we received no additional information indicating that threats on this DPS have elevated to the point that it would warrant an endangered or threatened listing.

However, in our 2012 Proposed Rule, we discussed a potential listing of the southern DPS of *A. m. macao* and subspecies crossings based on the similarity of appearance provisions of the Act and requested information regarding scarlet macaw morphological differences that may provide a mechanism for distinguishing between the listed entities and the non-listed entities. During the public comment period, we received additional information supporting a similarity of appearance listing for the southern DPS of *A. m. macao* and scarlet macaw subspecies crossing (crosses between *A. m. cyanoptera* and *A. m. macao*).

**Standard**

Section 4(e) of the Act authorizes the treatment of a species, subspecies, or distinct population segment as endangered or threatened if: “(a) such species so closely resembles in

appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species; (b) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and (c) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this Act.” All applicable prohibitions and exceptions for species treated as threatened under section 4(e) of the Act due to similarity of appearance to a threatened or endangered species will be set forth in a rule proposed under section 4(d) of the Act.

### *Analysis*

In our 2012 Proposed Rule, we requested information regarding scarlet macaw morphological differences that may provide a mechanism for distinguishing between the listed entities and the non-listed entities. During the public comment period, we received information on several factors which make differentiating between scarlet macaw listable entities difficult. First, the scarlet macaw subspecies, *Ara macao macao* and *Ara macao cyanoptera*, primarily differ in the coloration of their wing coverts (a type of feather) and wing size. However, these differences are not always apparent, especially in birds from the middle of the species’ range (which may include crosses between *A. m. cyanoptera* and *A. m. macao*), making it difficult or impossible to visually differentiate between subspecies (Schmitt 2011 *pers. comm.*; Weidenfeld 1994, pp. 99–100). According to information received from the Service’s Forensics Laboratory, many scarlet macaw remains submitted for examination by Office of Law Enforcement special agents and wildlife inspectors do not consist of intact carcasses; rather, evidence is usually in the form of partial remains, detached feathers, and artwork incorporating their feathers. Therefore,

identification of subspecies and/or the geographic origin of these birds are highly improbable without genetic analysis, which would add considerable difficulties and cost for law enforcement. Second, we are not aware of any information indicating that distinguishing morphological differences between the northern and southern DPS of *A. m. macao* would allow for visual identification of the origin of a bird of this subspecies. Lastly, many commenters noted that aviculturists have bred the species without regard for taxa, resulting in crosses of the two subspecies (*A. m. cyanoptera* and *A. m. macao*) that maintain a combination of characteristics of either parent, being present in trade (Wiedenfeld 1994, p. 103). As a result, the similarity of appearance between the unlisted southern DPS of *A. m. macao* and subspecies crosses to the listed northern DPS of *A. m. macao* and *A. m. cyanoptera* may result in the ability to pass off a protected specimen as the unlisted DPS or unlisted subspecies cross and poses an additional threat to the Northern DPS and *A. m. cyanoptera*. Therefore, we consider this difficulty in discerning the unlisted DPS and unlisted subspecies crosses from the listed Northern DPS and *A. m. cyanoptera* as an additional threat to the listed entities.

Thus, this close resemblance between the listed entities and the unlisted entities makes differentiating the scarlet macaw entities proposed for listing (the subspecies *A. m. cyanoptera* and the northern DPS of the subspecies *A. m. macao*) from those that are not proposed for listing (individuals of the southern DPS of *A. m. macao* and subspecies crossings (*A. m. cyanoptera* and *A. m. macao*)) difficult for law enforcement, making it difficult for law enforcement to enforce and further the provisions and policies of the Act.

We determine that treating the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) under the 4(e) similarity of appearance provisions under the Act will substantially facilitate law enforcement actions to protect and conserve scarlet macaws. If the southern DPS of *A. m. macao* or subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) were not listed, importers/exporters could inadvertently or purposefully misrepresent a specimen of *A. m. cyanoptera* or the northern DPS of *A. m. macao* as a specimen of the unlisted entity, creating a loophole in enforcing the Act's protections for listed species of scarlet macaw. The listing will facilitate Federal and state law-enforcement efforts to curtail unauthorized import and trade in *A. m. cyanoptera* or the northern DPS of *A. m. macao*. Extending the prohibitions of the Act to the similar entities through this listing of those entities due to similarity of appearance under section 4(e) of the Act and providing applicable prohibitions and exceptions in a rule issued under section 4(d) of the Act will provide greater protection to *A. m. cyanoptera* and the northern DPS of *A. m. macao*. Additionally, although the 4(e) provisions of the Act do not contain criteria as to whether a species listed under the similarity of appearance provisions should be treated as endangered or threatened, we find that treating the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) as threatened is appropriate because the 4(d) rule, for the reasons mentioned in our necessary and advisable finding, provides adequate protection for these entities. For these reasons, we are proposing to treat the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) as threatened due to the similarity of appearance to *A. m. cyanoptera* and the northern DPS of *A. m. macao*, pursuant to section 4(e) of the Act.

*Finding for the Southern DPS of A. m. macao and Subspecies Crossings*

For the reasons discussed above, we propose to treat the southern DPS of *A. m. macao* and subspecies crosses (*A. m. cyanoptera* and *A. m. macao*) as threatened due to similarity of appearance to the endangered *A. m. cyanoptera* and the threatened northern DPS of *A. m. macao*, pursuant to section 4(e) of the Act.

#### **8. Proposed 4(d) Rule**

The ESA provides measures to prevent the loss of species and their habitats. Section 4 of the Act sets forth the procedures for adding species to the Lists of Endangered and Threatened Wildlife and Plants, and section 4(d) authorizes the Secretary of the Interior (Secretary) to extend to threatened species the prohibitions provided for endangered species under section 9 of the Act. Our implementing regulations for threatened wildlife, found at title 50 of the Code of Federal Regulations (CFR) in § 17.31, incorporate the ESA section 9 prohibitions for endangered wildlife, except when a species-specific rule under section 4(d) of the Act is promulgated. For threatened species, section 4(d) of the Act gives the Service discretion to specify the prohibitions and any exceptions to those prohibitions that are appropriate for the species, as well as include provisions that are necessary and advisable to provide for the conservation of the species. A rule issued under section 4(d) of the Act allows us to include provisions that are tailored to the specific conservation needs of that threatened species and which may be more or less restrictive than the general provisions at 50 CFR 17.31.

We are proposing a 4(d) rule that would apply to the southern subspecies of scarlet macaw (*A. m. macao*) and to crosses of the two scarlet macaw subspecies, *A. m. macao* and *A. m.*

*cyanoptera*. We are including subspecies crosses in this rule because aviculturists have bred the species without regard to their taxa, resulting in crosses of the two subspecies being present in trade (Wiedenfeld 1994, p. 103). If the proposed 4(d) rule is adopted, all prohibitions of 50 CFR 17.31 will apply to *A. m. macao* and subspecies crosses of *A. m. macao* and *A. m. cyanoptera*, except that import and export of certain *A. m. macao* and scarlet macaw subspecies crosses into and from the United States and certain acts in interstate commerce will be allowed without a permit under the Act, as explained below. For activities otherwise prohibited under the 4(d) rule involving specimens of the southern DPS of the scarlet macaw and scarlet macaw subspecies crosses, such activities would require authorization pursuant to the similarity-of-appearance permit regulations at 50 CFR 17.52. If an applicant is unable to meet the issuance criteria for a similarity-of-appearance permit and demonstrate that the scarlet macaw in question is a subspecific cross or originated from the Southern DPS of the *A.m. macao*, authorization for an otherwise prohibited activity would need to be obtained under the general permit provisions for threatened species found at 50 CFR 17.32. For activities otherwise prohibited under the 4(d) rule involving specimen of the northern DPS of the scarlet macaw (*A. m. macao*), such activities would require authorization pursuant to the general permit provisions for threatened species found at 50 CFR 17.32.

#### Import and Export

The proposed 4(d) rule will apply to all commercial and noncommercial international shipments of live and dead southern subspecies of scarlet macaws and subspecific crosses of *A. m. macao* and *A. m. cyanoptera* and their parts and products, including the import and export of

personal pets and research samples. In most instances, the proposed rule will adopt the existing conservation regulatory requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Wild Bird Conservation Act (WBCA) as the appropriate regulatory provisions for the import and export of certain scarlet macaws. The import into the United States and export from the United States of birds taken from the wild after the date this species is listed under the Act; conducting an activity that could take or incidentally take scarlet macaws; and certain activities in foreign commerce would require a permit under the Act. Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species and § 17.32 for threatened species. With regard to endangered wildlife, a permit may be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. For threatened species, a permit may be issued for the same activities, as well as zoological exhibition, education, and special purposes consistent with the Act. Although the general permit provisions for threatened species are found at 50 CFR 17.32, the Service issues permits for otherwise prohibited activities involving endangered or threatened species treated as threatened due to similarity of appearance under the regulatory criteria at 50 CFR 17.52.

However, this proposed 4(d) rule would allow a person to import or export either: (1) A specimen held in captivity prior to the date this species is listed under the Act; or (2) a captive-bred specimen, without a permit issued under the Act, provided the export is authorized under CITES and the import is authorized under CITES and the WBCA. If a specimen was taken from

the wild and held in captivity prior to the date this species is listed under the Act, the importer or exporter will need to provide documentation to support that status, such as a copy of the original CITES permit indicating when the bird was removed from the wild or museum specimen reports. For captive-bred birds, the importer would need to provide either a valid CITES export/re-export document issued by a foreign CITES Management Authority that indicates that the specimen was captive-bred by using a source code on the face of the permit of either “C,” “D,” or “F.” For exporters of captive-bred birds, a signed and dated statement from the breeder of the bird, along with documentation on the source of their breeding stock, would document the captive-bred status of U.S. birds.

The proposed 4(d) rule will apply to birds captive-bred in the United States and abroad. The terms “captive-bred” and “captivity” used in this proposed rule are defined in the regulations at 50 CFR 17.3 and refer to wildlife produced in a controlled environment that is intensively manipulated by man from parents that mated or otherwise transferred gametes in captivity. Although the proposed 4(d) rule requires a permit under the Act to “take” (including harm and harass) a scarlet macaw, “take” does not include generally accepted animal-husbandry practices, breeding procedures, or provisions of veterinary care for confining, tranquilizing, or anesthetizing, when such practices, procedures, or provisions are not likely to result in injury to the wildlife when applied to captive wildlife.

We assessed the conservation needs of the scarlet macaw in light of the broad protections provided to the species under CITES and the WBCA. The scarlet macaw is listed in Appendix I of CITES, a treaty that contributes to the conservation of the species by monitoring

international trade and ensuring that trade in Appendix-I species is not detrimental to the survival of the species. The purpose of the WBCA is to promote the conservation of exotic birds and to ensure that imports of exotic birds into the United States do not harm them. The best available data indicate that the current threat to the scarlet macaw stems mainly from illegal trade in the domestic markets of Central and South America (Weston and Memon 2009, pp. 77–80, citing several sources; Shanee 2012, pp. 4–9). Thus, the general prohibitions on import and export contained in 50 CFR 17.31, which extend only within the jurisdiction of the United States, would not regulate such activities. Accordingly we find that the import and export requirements of the proposed 4(d) rule provide the necessary and advisable conservation measures for this species.

#### Interstate Commerce

Under the proposed 4(d) rule, a person may deliver, receive, carry, transport, or ship *A. m. macao* and scarlet macaw subspecies crosses in interstate commerce in the course of a commercial activity, or sell or offer to sell in interstate commerce *A. m. macao* and scarlet macaw subspecies crosses without a permit under the Act. At the same time, the prohibitions on take under 50 CFR 17.31 would apply under this proposed rule, and any interstate commerce activities that could incidentally take *A. m. macao* and scarlet macaw subspecies crosses or otherwise prohibited acts in foreign commerce would require a permit under the Act. We have no information to suggest that current interstate commerce activities are associated with threats to the scarlet macaw or would negatively affect any efforts aimed at the recovery of wild populations of the species. Therefore, because interstate commerce within the United States has not been found to threaten the scarlet macaw, the species is otherwise protected in the course of interstate commercial activities under the take provisions and foreign commerce provisions

contained in 50 CFR 17.31, and international trade of this species is regulated under CITES, we find this proposed rule contains all the prohibitions and authorizations necessary and advisable for the conservation of the scarlet macaw.

## **Required Determinations**

### ***Clarity of 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 page numbers and the names 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.

### ***Paperwork Reduction Act (44 U.S.C. 3501, et seq.)***

This proposed rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rulemaking will not impose new recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

We have determined that we do not need to prepare an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted under section 4(a) of the Act. We published a notice outlining our reasons for this determination in the Federal Register on October 25, 1983 (48 FR 49244).

**References Cited**

A complete list of all references cited in this proposed rule is available on the Internet at <http://www.regulations.gov> or by contacting the office listed in **FOR FURTHER INFORMATION CONTACT**.

**Authority**

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

**Author**

The primary author of this revised proposed rule is the staff of the Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, VA 22203 (see **FOR FURTHER INFORMATION CONTACT**).

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

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

**Proposed Regulation Promulgation**

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended on July 6, 2012, at 77 FR 40222, 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; 4201–4245; unless otherwise noted.

2. Amend § 17.11(h) by adding four entries for “Macaw, scarlet” to the List of Endangered and Threatened Wildlife in alphabetical order under Birds, to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * * * *							
Birds							
* * * * *							
Macaw, scarlet	<i>Ara macao cyanoptera</i>	Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama	Entire	E		NA	NA
Macaw, scarlet (Northern DPS)	<i>Ara macao macao</i>	Bolivia, Brazil, Colombia, Costa Rica, Ecuador, French Guiana, Guyana, Panama, Peru, Suriname, Venezuela	Colombia (northwest of the Andes), Costa Rica, Panama	T		NA	17.41(c)
Macaw, scarlet (Southern DPS)	<i>Ara macao macao</i>	Bolivia, Brazil, Colombia, Costa Rica, Ecuador, French Guiana, Guyana, Panama, Peru, Suriname, Venezuela	Bolivia, Brazil, Colombia (southeast of the Andes), Ecuador, French Guiana, Guyana, Peru, Suriname, Venezuela	T(S/A)		NA	17.41(c)
Macaw, scarlet (Subspecies crosses)	<i>Ara macao macao x Ara macao cyanoptera</i>	Costa Rica, Nicaragua	Entire	T(S/A)		NA	17.41(c)
* * * * *							

3. Amend § 17.41 by revising paragraph (c) to read as follows:

**§ 17.41 Special rules--birds.**

\* \* \* \* \*

(c) The following species in the parrot family: Salmon-crested cockatoo (*Cacatua moluccensis*), yellow-billed parrot (*Amazona collaria*), white cockatoo (*Cacatua alba*), and scarlet macaw (*Ara macao macao* and scarlet macaw subspecies crosses (*Ara macao macao* and *Ara macao cyanoptera*)).

(1) Except as noted in paragraphs (c)(2) and (3) of this section, all prohibitions of § 17.31 of this part apply to these species.

(2) *Import and export.* You may import or export a specimen from the southern DPS of *Ara macao macao* and scarlet macaw subspecies crosses without a permit issued under § 17.52 of this part, and you may import or export all other specimen without a permit issued under § 17.32 of this part, only when the provisions of parts 13, 14, 15, and 23 of this chapter have been met and you meet the following requirements:

(i) *Captive-bred specimens:* The source code on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) document accompanying the specimen must be “F” (captive born), “C” (bred in captivity), or “D” (bred in captivity for commercial purposes) (see 50 CFR 23.24); or

(ii) *Specimens held in captivity prior to certain dates:* You must provide documentation to demonstrate that the specimen was held in captivity prior to the applicable date specified in paragraph (c)(2)(ii)(A), (B), or (C) of this section. Such documentation may include copies of

receipts, accession or veterinary records, CITES documents, or wildlife declaration forms, which must be dated prior to the specified dates.

(A) *For salmon-crested cockatoos:* January 18, 1990 (the date this species was transferred to CITES Appendix I).

(B) *For yellow-billed parrots:* April 11, 2013 (the date this species was listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*)).

(C) *For white cockatoos:* July 24, 2014 (the date this species was listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*)).

(D) *For scarlet macaws:* [EFFECTIVE DATE OF THE FINAL RULE] (the date this species was listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*)).

(3) *Interstate commerce.* Except where use after import is restricted under § 23.55 of this chapter, you may deliver, receive, carry, transport, or ship in interstate commerce and in the course of a commercial activity, or sell or offer to sell, in interstate commerce the species listed in this paragraph (c) without a permit under the Act.

Dated: March 24, 2016.

James W. Kurth  
Acting Director, U.S. Fish and Wildlife Service

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