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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2016–0028; 4500030113]

RIN 1018–BB67

Endangered and Threatened Wildlife and Plants; Lesser Prairie-Chicken Removed From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, are issuing a final rule to comply with a court order that vacated the final rule listing the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as a threatened species under the Endangered Species Act of 1973, as amended (Act). This final rule amends our regulations by removing the lesser

prairie-chicken from the Federal List of Endangered and Threatened Wildlife and by removing the rule issued under section 4(d) of the Act for the lesser prairie-chicken.

DATES: This rule is effective [INSERT DATE OF FEDERAL REGISTER PUBLICATION].

FOR FURTHER INFORMATION CONTACT: Debra Bills, Field Supervisor, Arlington Ecological Services Field Office, 2005 NE Green Oaks Blvd. Suite 140, Arlington, TX 76006; by telephone 817-277-1100; or by facsimile 817-277-1129. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 2014, we published in the **Federal Register** a final rule (79 FR 19974) listing the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as a threatened species under the Act (16 U.S.C. 1531 et seq.) in part 17 of title 50 of the Code of Federal Regulations (50 CFR 17.11(h)). On the same day, we published a final rule under section 4(d) of the Act (“4(d) rule”) for the lesser prairie-chicken (79 FR 20074) at 50 CFR 17.41(d). Please see the April 10, 2014, final listing rule for a complete discussion of previous Federal actions.

On June 9, 2014, the Permian Basin Petroleum Association; Chaves County, New Mexico; Roosevelt County, New Mexico; Eddy County, New Mexico; and Lea County,

New Mexico (plaintiffs) filed a lawsuit challenging the Service's final rule to list the lesser prairie-chicken as a threatened species under the Act. On September 1, 2015, the U.S. District Court for the District of West Texas issued an order vacating the final listing rule for the lesser prairie-chicken. By invalidating the rule listing the species, the court decision also had the effect of invalidating the 4(d) rule.

Administrative Procedure

This rulemaking is necessary to comply with the September 1, 2015, court order. Therefore, under these circumstances, the Director has determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment are unnecessary. Because the court order had legal effect immediately upon being filed on September 1, 2015, the Director has further determined, pursuant to 5 U.S.C. 553(d)(3), that the agency has good cause to make this rule effective immediately upon publication.

Effects of the Rule

This rule is an administrative action to remove the lesser prairie-chicken from the Federal List of Endangered and Threatened Wildlife at 50 CFR 17.11(h) to reflect the court's order to vacate the final rule listing this species. Consequently, this rule also removes the regulations specific to the lesser prairie-chicken at 50 CFR 17.41(d).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, for the reasons given in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below.

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

§17.11 [Amended]

2. Amend §17.11(h) by removing the entry for “Prairie-chicken, lesser” from the List of Endangered and Threatened Wildlife.

§17.41 [Amended]

3. Amend §17.41 by removing and reserving paragraph (d).

Dated: July 7, 2016.

Signed: Daniel M. Ashe

Director, U.S. Fish and Wildlife Service.

Billing Code 4333–15

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