



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2020–0103; FF09E21000 FXES11110900000 212]

Endangered and Threatened Wildlife and Plants; 12-Month Finding for the Monarch Butterfly

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the monarch butterfly (*Danaus plexippus plexippus*) as a threatened species under the Endangered Species Act of 1973, as amended. After a thorough review of the best available scientific and commercial information, we find that listing the monarch butterfly as an endangered or threatened species is warranted but precluded by higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants. We will develop a proposed rule to list the monarch butterfly as our priorities allow. However, we ask the public to submit to us any new information relevant to the status of the species or its habitat at any time.

DATES: The finding in this document was made on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A detailed description of the basis for this finding is available on the Internet at <http://www.regulations.gov> under docket number FWS–R3–ES–2020–0103.

Supporting information used to prepare this finding is available for public inspection, by appointment, during normal business hours, by contacting the person specified under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning this finding to the person specified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Barbara Hosler, Regional Listing

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Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving any petition that we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (“12-month finding”). We must make a finding that the petitioned action is (1) not warranted, (2) warranted, or (3) warranted but precluded. “Warranted but precluded” means that (a) the petitioned action is warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened species, and (b) expeditious progress is being made to add qualified species to the Lists of Endangered and Threatened Wildlife and Plants (Lists) and to remove from the Lists species for which the protections of the Act are no longer necessary. Section 4(b)(3)(C) of the Act requires that, when we find that a petitioned action is warranted but precluded, we treat the petition as though it is resubmitted on the date of such finding, that is, requiring that a subsequent finding be made within 12 months of that date. We must publish these 12-month findings in the *Federal Register*.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists (found in 50 CFR part 17). The Act defines “endangered species” as any species that is in danger of extinction

throughout all or a significant portion of its range (16 U.S.C. 1532(6)) and “threatened species” as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species because of any of the following five factors:

- (A) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (B) Overutilization for commercial, recreational, scientific, or educational purposes;
- (C) Disease or predation;
- (D) The inadequacy of existing regulatory mechanisms; or
- (E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

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

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an “endangered species” or a “threatened species.” In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those

actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an “endangered species” or a “threatened species” only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term “foreseeable future,” which appears in the statutory definition of “threatened species.” Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term “foreseeable future” extends only so far into the future as the Services can reasonably determine that both the future threats and the species’ responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. “Reliable” does not mean “certain”; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species’ likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species’ biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the monarch butterfly meets the definition of an “endangered species” or “threatened species,” we considered and thoroughly evaluated the best scientific and commercial

information available regarding the past, present, and future threats to the species. We reviewed the petition, information available in our files, and other available published and unpublished information. This evaluation may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

The species assessment form for the monarch butterfly contains more detailed biological information, a thorough analysis of the listing factors, and an explanation of why we determined that this species meets the definition of an endangered species or a threatened species. This supporting information can be found on the Internet at <http://www.regulations.gov> under docket number FWS–R3–ES–2020–0103. The following is an informational summary of the finding in this document.

Previous Federal Actions

On August 26, 2014, we received a petition from the Center for Biological Diversity (CBD), Center for Food Safety (CFS), Xerces Society for Invertebrate Conservation, and Dr. Lincoln Brower, requesting that we list the monarch butterfly (*Danaus plexippus plexippus*) as a threatened species under the Act. On December 31, 2014, we published a 90-day finding that the petition presented substantial scientific or commercial information, indicating that listing the monarch butterfly may be warranted (79 FR 78775). On March 10, 2016, the CFS and CBD filed a complaint against the Service for not issuing a finding on the petition within the statutory timeframe, and on July 5, 2016, we entered a stipulated settlement agreement with CFS and CBD to submit the 12-month finding to the *Federal Register* by June 30, 2019. On May 24, 2019, the court granted an extension of this deadline to December 15, 2020.

Summary of Finding

The petition that the Service received in 2014 was for listing a subspecies of the monarch butterfly (*Danaus plexippus plexippus*) (Center for Biological Diversity et al. 2014, p. 4). The petition also requested a determination of whether any new North American subspecies of

Danaus plexippus should be listed. After careful examination of the literature and consultation with experts, there is no clearly agreed upon definition of potential subspecies of *Danaus plexippus* or where the geographic borders between these subspecies might exist. Given these findings, we examined the entire range of *Danaus plexippus*.

Monarch butterflies in eastern and western North America represent the ancestral origin for the species worldwide. They exhibit long-distance migration and overwinter as adults at forested locations in Mexico and California. These overwintering sites provide protection from the elements (for example, rain, wind, hail, and excessive radiation) and moderate temperatures, as well as nectar and clean water sources located nearby. Adult monarch butterflies feed on nectar from a wide variety of flowers. Reproduction is dependent on the presence of milkweed, the sole food source for larvae. Monarch butterflies are found in 90 countries, islands, or island groups. Monarch butterflies have become naturalized at most of these locations outside of North America since 1840. The populations outside of eastern and western North America (including southern Florida) do not exhibit long-distance migratory behavior.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the monarch butterfly, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary threats to the monarch's biological status include loss and degradation of habitat from conversion of grasslands to agriculture, widespread use of herbicides, logging/thinning at overwintering sites in Mexico, senescence and incompatible management of overwintering sites in California, urban development, and drought (Factor A); exposure to insecticides (Factor E); and effects of climate change (Factor E). Conservation efforts are addressing some of the threats from loss of milkweed and nectar resources across eastern and western North America and management at overwintering sites in California; however, these efforts and the existing regulatory mechanisms (Factor D) are not sufficient to protect the species from all of the threats. We found no evidence

that the monarch butterfly is currently impacted at the population level by overutilization for commercial, recreational, scientific, or educational purposes (Factor B) or predation or disease (Factor C), nor did we find information to suggest that the species will be impacted by these factors in the future.

Based on the past annual censuses, the eastern and western North American migratory populations have been generally declining over the last 20 years. The monarch butterfly is also known from 29 populations that are outside of the 2 migratory North American populations. At least 1 monarch butterfly has been observed in 25 of these populations since 2000, and these are considered extant. Monarch butterfly presence within the remaining four populations has not been confirmed since 2000, but they are presumed extant. We know little about population sizes or trends of most of the populations outside of the eastern and western North American populations (except for Australia, which has an estimate of just over 1 million monarch butterflies). We do not have information related to the threats acting on the populations outside of eastern and western North America; however, we determined that 15 of the 29 populations, including the Australian population, are classified as being “at risk” due to sea-level rise or increasing temperatures, resulting from climate change.

The North American migratory populations are the largest relative to the other rangewide populations, accounting for more than 90 percent of the worldwide number of monarch butterflies. For the two North American migratory populations, we estimated the probability of the population abundance reaching the point at which extinction is inevitable (pE) for each population. In its current condition, the eastern North American population has a pE less than 10 percent over the next 10 years. The western North American population has a much higher risk of extinction due to current threats, with a pE of 60–68 percent over the next 10 years. Looking across the range of future conditions that we can reasonably determine, the pE for the eastern population is estimated to be 24 percent to 46 percent in 30 years, and the pE for the western population is estimated to be 92 percent to 95 percent in 30 years. These pE estimates

incorporate the primary factors that influence the populations' resiliency, including availability of milkweed and nectar resources (losses as well as gains from conservation efforts), loss and degradation of overwintering habitat, insecticides, and effects of climate change. Additionally, at the current and projected population numbers, both the eastern and western populations become more vulnerable to catastrophic events (for example, extreme storms at the overwintering habitat). Also, under different climate change scenarios, the number of days and the area in which monarch butterflies will be exposed to unsuitably high temperatures will increase markedly. The potential loss of the North American migratory populations from these identified threats would substantially reduce the species' resiliency, representation, and redundancy.

To alleviate threats to the monarch butterfly, numerous conservation efforts have been developed and/or implemented since the species was petitioned in 2014, and these were considered in our assessment of the status of the species. Protection, restoration, enhancement and creation of habitat is a central aspect of recent monarch butterfly conservation strategies. In the breeding and migratory grounds, these habitat conservation strategies include the enhancement and creation of milkweed and nectar sources. Improved management at overwintering sites in California has been targeted to improve the status of western North American monarch butterflies. Major overarching landscape-level conservation plans and efforts include the Mid-America Monarch Conservation Strategy developed by the Midwest Association of Fish and Wildlife Agencies (MAFWA) and the Western Monarch Butterfly Conservation Plan developed by the Western Association of Fish and Wildlife Agencies (WAFWA). In early 2020, the Nationwide Candidate Conservation Agreement for Monarch Butterfly on Energy and Transportation Lands (CCAA/CCA) was finalized and will contribute to meeting the MAFWA Strategy and WAFWA Plan goals. Under this agreement, energy and transportation entities will provide habitat for the species along energy and transportation rights-of-way corridors across the country, including a 100 foot extension of the right-of-way onto private agricultural lands. Participants will carry out conservation measures to reduce or remove threats to the species and

create and maintain habitat annually. In exchange for implementing voluntary conservation efforts and meeting specific requirements and criteria, those businesses and organizations enrolled in the CCAA will receive assurance from the Service that they will not have to implement additional conservation measures should the species be listed. The goal of the CCAA, which participants may continue to join until a final listing rule is published, is enrollment of up to 26 million acres of land in the agreement, providing over 300 million additional stems of milkweed.

Many conservation efforts implemented under Federal, Tribal, State, or other programs, such as the Farm Service Agency's Conservation Reserve Program, the Natural Resource Conservation Service's (NRCS) Environmental Quality Incentives Program (EQIP), Agricultural Conservation Easement Program and Conservation Stewardship Program, and the Service's Partners For Fish and Wildlife Program, are expected to contribute to the overarching habitat and population goals of the MAFWA Strategy and WAFWA Plan. Smaller conservation efforts implemented by local governments, non-governmental organizations (NGOs), private businesses, and interested individuals will also play an important role in reaching habitat and population goals established in the MAFWA Strategy and WAFWA Plan. The Service developed the Monarch Conservation Database (MCD) to capture information about monarch butterfly conservation plans and efforts to inform the listing decision. As of June 1, 2020, there are 48,812 complete monarch butterfly conservation effort records in the MCD that have a status of completed, implemented, or planned since 2014, and 113 monarch butterfly conservation plans. Among the efforts included in the MCD are those provided by NRCS from EQIP, their program designed to provide financial and technical assistance to agricultural producers to address natural resource concerns. Across the 10 states that NRCS targeted for monarch butterfly conservation efforts through EQIP (Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Ohio, Oklahoma, Texas, and Wisconsin), efforts on 16,952 acres have already been implemented and NRCS anticipates conservation on an additional 31,322 acres through ongoing enrollment (see

<https://www.fws.gov/savethemonarch/mcd.html>). In addition to conservation of the breeding and migratory habitats, land managers in California are developing and implementing grove management strategies within the western population's overwintering sites as well.

The monarch butterfly species assessment form and the Monarch Species Status Assessment report (Service 2020) provide additional details on the status of the monarch butterfly and the conservation efforts listed here (see **ADDRESSES**, above).

On the basis of the best scientific and commercial information available, we find that the petitioned action to list the monarch butterfly under the Act is warranted. We will make a determination on the status of the species as threatened or endangered when we complete a proposed listing determination. When we complete a proposed listing determination, we will examine whether the species may be endangered or threatened throughout all of its range or whether the species may be endangered or threatened in a significant portion of its range. However, an immediate proposal of a regulation implementing this action is precluded by work on higher priority listing actions and final listing determinations. This work includes all the actions listed in the National Listing Workplan discussed below under *Preclusion* and in the tables below under *Expeditious Progress*, as well as other actions at various stages of completion, such as 90-day findings for new petitions.

Preclusion and Expeditious Progress

To make a finding that a particular action is warranted but precluded, the Service must make two determinations: (1) That the immediate proposal and timely promulgation of a final regulation is precluded by pending proposals to determine whether any species is endangered or threatened; and (2) that expeditious progress is being made to add qualified species to either of the Lists and to remove species from the Lists (16 U.S.C. 1533(b)(3)(B)(iii)).

Preclusion

A listing proposal is precluded if the Service does not have sufficient resources available to complete the proposal, because there are competing demands for those resources, and the

relative priority of those competing demands is higher. Thus, in any given fiscal year (FY), multiple factors dictate whether it will be possible to undertake work on a proposed listing regulation or whether promulgation of such a proposal is precluded by higher priority listing actions—(1) The amount of resources available for completing the listing function, (2) the estimated cost of completing the proposed listing regulation, and (3) the Service’s workload, along with the Service’s prioritization of the proposed listing regulation in relation to other actions in its workload.

Available Resources

The resources available for listing actions are determined through the annual Congressional appropriations process. In FY 1998 and for each fiscal year since then, Congress has placed a statutory cap on funds that may be expended for the Listing Program (spending cap). This spending cap was designed to prevent the listing function from depleting funds needed for other functions under the Act (for example, recovery functions, such as removing species from the Lists) or for other Service programs (see House Report 105–163, 105th Congress, 1st Session, July 1, 1997). The funds within the spending cap are available to support work involving the following listing actions: Proposed and final rules to add species to the Lists or to change the status of species from threatened to endangered; 90-day and 12-month findings on petitions to add species to the Lists or to change the status of a species from threatened to endangered; annual “resubmitted” petition findings on prior warranted-but-precluded petition findings as required under section 4(b)(3)(C)(i) of the Act; critical habitat petition findings; proposed rules designating critical habitat or final critical habitat determinations; and litigation-related, administrative, and program-management functions (including preparing and allocating budgets, responding to Congressional and public inquiries, and conducting public outreach regarding listing and critical habitat).

For more than two decades the size and cost of the workload in these categories of actions have far exceeded the amount of funding available to the Service under the spending cap

for completing listing and critical habitat actions under the Act. Since we cannot exceed the spending cap without violating the Anti-Deficiency Act (31 U.S.C. 1341(a)(1)(A)), each year we have been compelled to determine that work on at least some actions was precluded by work on higher priority actions. We make our determinations of preclusion on a nationwide basis to ensure that the species most in need of listing will be addressed first, and because we allocate our listing budget on a nationwide basis. Through the listing cap and the amount of funds needed to complete court-mandated actions within the cap, Congress and the courts have in effect determined the amount of money remaining (after completing court-mandated actions) for listing activities nationwide. Therefore, the funds that remain within the listing cap—after paying for work needed to comply with court orders or court-approved settlement agreements—set the framework within which we make our determinations of preclusion and expeditious progress.

For FY 2019, through the Consolidated Appropriations Act of 2019 (Pub. L. 116-6, February 15, 2019), Congress appropriated the Service \$18,318,000 under a consolidated cap for all domestic and foreign listing work, including status assessments, listings, domestic critical habitat determinations, and related activities. For FY 2020, through the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94, December 20, 2019), Congress appropriated \$20,318,000 for all domestic and foreign listing work. The amount of funding Congress will appropriate in future years is uncertain.

Costs of Listing Actions

The work involved in preparing various listing documents can be extensive, and may include, but is not limited to: Gathering and assessing the best scientific and commercial data available and conducting analyses used as the basis for our decisions; writing and publishing documents; and obtaining, reviewing, and evaluating public comments and peer-review comments on proposed rules and incorporating relevant information from those comments into final rules. The number of listing actions that we can undertake in a given year also is influenced by the complexity of those listing actions; that is, more complex actions generally are more

costly. Our practice of proposing to designate critical habitat concurrent with listing species requires additional coordination and an analysis of the economic impacts of the designation, and thus adds to the complexity and cost of our work. Since completing all of the work for outstanding listing and critical habitat actions has for so long required more funding than has been available within the spending cap, the Service has developed several ways to determine the relative priorities of the actions within its workload to identify the work it can complete with the funding it has available for listing and critical habitat actions each year.

Prioritizing Listing Actions

The Service's Listing Program workload is broadly composed of four types of actions, which the Service prioritizes as follows: (1) Compliance with court orders and court-approved settlement agreements requiring that petition findings or listing or critical habitat determinations be completed by a specific date; (2) essential litigation-related, administrative, and listing program-management functions; (3) section 4 (of the Act) listing and critical habitat actions with absolute statutory deadlines; and (4) section 4 listing actions that do not have absolute statutory deadlines.

In previous years, the Service received many new petitions, including multiple petitions to list numerous species—a single petition even sought to list 404 domestic species. The emphasis that petitioners placed on seeking listing for hundreds of species at a time through the petition process significantly increased the number of actions within the third category of our workload—actions that have absolute statutory deadlines for making findings on those petitions. In addition, the necessity of dedicating all of the Listing Program funding towards determining the status of 251 candidate species and complying with other court-ordered requirements between 2011 and 2016 added to the number of petition findings awaiting action. Because we are not able to work on all of these at once, the Service's most recent effort to prioritize its workload focuses on addressing the backlog in petition findings that has resulted from the influx of large multispecies petitions and the 5-year period in which the Service was compelled to suspend

making 12-month findings for most of those petitions. The number of petitions that are awaiting status reviews and accompanying 12-month findings illustrates the considerable extent of this backlog. As a result of the outstanding petitions to list hundreds of species and our efforts to make initial petition findings within 90 days of receiving the petition to the maximum extent practicable, at the beginning of FY 2020, we had 422 12-month petition findings for domestic species yet to be initiated and completed.

To determine the relative priorities of the outstanding 12-month petition findings, the Service developed a prioritization methodology (methodology) (81 FR 49248; July 27, 2016) after providing the public with notice and an opportunity to comment on the draft methodology (81 FR 2229; January 15, 2016). Under the methodology, we assign each 12-month finding to one of five priority bins: (1) The species is critically imperiled; (2) strong data are already available about the status of the species; (3) new science is underway that would inform key uncertainties about the status of the species; (4) conservation efforts are in development or underway and likely to address the status of the species; or (5) the available data on the species are limited. As a general rule, 12-month findings with a lower bin number have a higher priority than, and are scheduled before, 12-month findings with a higher bin number. However, we make some limited exceptions—for example, we may schedule a lower priority finding earlier if batching it with a higher priority finding would generate efficiencies. We may also consider where there are any special circumstances whereby an action should be bumped up (or down) in scheduling. One limitation that might result in divergence from priority order is when the current highest priorities are clustered in a geographic area, such that our scientific expertise at the field office level is fully occupied with their existing workload. We recognize that the geographic distribution of our scientific expertise will in some cases require us to balance workload across geographic areas. Since before Congress first established the spending cap for the Listing Program in 1998, the Listing Program workload has required considerably more resources than the amount of funds Congress has allowed for the Listing Program. Therefore, it is important that

we be as efficient as possible in our listing process.

In 2016, we assigned the 12-month finding for monarch butterfly to bin 4 due to the many conservation efforts underway to address threats facing the species. We determined that these efforts were likely to reduce threats from loss of breeding habitat for the eastern and western North American populations and overwintering habitat for the western North American population. However, due to the stipulated settlement agreement, we are completing the 12-month finding for monarch butterfly before other higher priority actions.

After finalizing the prioritization methodology, we then applied that methodology to develop a multiyear National Listing Workplan (Workplan) for completing the outstanding status assessments and accompanying 12-month findings. The purpose of the Workplan is to provide transparency and predictability to the public about when the Service anticipates completing specific 12-month findings while allowing for flexibility to update the Workplan when new information changes the priorities. In May 2019, the Service released its updated Workplan for addressing the Act's domestic listing and critical habitat decisions over the subsequent 5 years. The updated Workplan identified the Service's schedule for addressing all domestic species on the candidate list and conducting 267 status reviews and accompanying 12-month findings by FY 2023 for domestic species that have been petitioned for Federal protections under the Act. As we implement our Workplan and work on proposed rules for the highest priority species, we increase efficiency by preparing multispecies proposals when appropriate, and these may include species with lower priority if they overlap geographically or have the same threats as one of the highest priority species.

Overall, 161 species on the Workplan (64 percent) have a higher bin number than the monarch butterfly. Current funding levels would not be sufficient to complete all of those 12-month findings in FY 2020, and listing appropriations for FY 2021 are not determined yet. The National Listing Workplan is available online at <https://www.fws.gov/endangered/what-we-do/listing-workplan.html>.

An additional way in which we determine relative priorities of outstanding actions in the section 4 program is application of the listing priority guidelines (48 FR 43098; September 21, 1983). Under those guidelines, which apply primarily to candidate species, we assign each candidate a listing priority number (LPN) of 1 to 12, depending on the magnitude of threats (high or moderate to low), immediacy of threats (imminent or nonimminent), and taxonomic status of the species (in order of priority: monotypic genus (a species that is the sole member of a genus), a species, or a part of a species (subspecies or distinct population segment)). The lower the listing priority number, the higher the listing priority (that is, a species with an LPN of 1 would have the highest listing priority). A species with a higher LPN would generally be precluded from listing by species with lower LPNs, unless work on a proposed rule for the species with the higher LPN can be combined for efficiency with work on a proposed rule for other high-priority species.

Based on our listing priority system, we are assigning an LPN of 8 for the monarch butterfly. This priority number indicates the magnitude of threats is moderate to low and those threats are imminent. The priority number also reflects that we are evaluating monarch butterflies at the species level. We will continue to monitor the threats to the monarch butterfly and the species' status on an annual basis, and should the magnitude or the imminence of the threats change, we will revisit our assessment of the LPN.

Listing Program Workload

The National Listing Workplan that the Service released in 2019 outlined work for domestic species over the period from 2019 to 2023. Tables 1 and 2 under *Expeditious Progress*, below, identify the higher priority listing actions that we completed through FY 2020 (September 30, 2020), as well as those we have been working on in FY 2020 but have not yet completed. For FY 2020, our National Listing Workplan includes 74 12-month findings or proposed listing actions that are at various stages of completion at the time of this finding. In addition to the actions scheduled in the National Listing Workplan, the overall Listing Program workload also

includes the development and revision of listing regulations that are required by new court orders or settlement agreements, or to address the repercussions of any new court decisions, as well as proposed and final critical habitat designations or revisions for species that have already been listed. The Service's highest priorities for spending its funding in FY 2019 and FY 2020 are actions included in the Workplan and actions required to address court decisions. As described in "Prioritizing Listing Actions," above, listing of the monarch butterfly is a lower priority action than these types of work. Therefore, these higher priority actions precluded immediate proposal of a regulation implementing the petitioned action in FY 2020, and the Service anticipates that they will continue to preclude work on listing the monarch butterfly in FY 2021 and the near future.

Expeditious Progress

As explained above, a determination that listing is warranted but precluded must also demonstrate that expeditious progress is being made to add and remove qualified species to and from the Lists. Please note that, in the Code of Federal Regulations, the "Lists" are grouped as one list of endangered and threatened wildlife (50 CFR 17.11(h)) and one list of endangered and threatened plants (50 CFR 17.12(h)). However, the "Lists" referred to in the Act mean one list of endangered species (wildlife and plants) and one list of threatened species (wildlife and plants). Therefore, under the Act, expeditious progress includes actions to reclassify species—that is, either remove them from the list of threatened species and add them to the list of endangered species, or remove them from the list of endangered species and add them to the list of threatened species.

As with our "precluded" finding, the evaluation of whether expeditious progress is being made is a function of the resources available and the competing demands for those funds. As discussed earlier, the FY 2020 appropriations law included a spending cap of \$20,318,000 for listing activities, and the FY 2019 appropriations law included a spending cap of \$18,318,000 for listing activities.

As discussed below, given the limited resources available for listing, the competing demands for those funds, and the completed work cataloged in the tables below, we find that we are making expeditious progress in adding qualified species to the Lists.

The work of the Service's domestic listing program in FY 2019 and FY 2020 (as of September 30, 2020) includes all three of the steps necessary for adding species to the Lists: (1) Identifying species that *may* warrant listing (90-day petition findings); (2) undertaking an evaluation of the best available scientific data about those species and the threats they face to determine whether or not listing is warranted (a status review and accompanying 12-month finding); and (3) adding qualified species to the Lists (by publishing proposed and final listing rules). We explain in more detail how we are making expeditious progress in all three of the steps necessary for adding qualified species to the Lists (identifying, evaluating, and adding species). Subsequent to discussing our expeditious progress in adding qualified species to the List, we explain our expeditious progress in removing from the Lists species that no longer require the protections of the Act.

First, we are making expeditious progress in identifying species that may warrant listing. In FY 2019 and FY 2020 (as of September 30, 2020), we completed 90-day findings on petitions to list 14 species.

Second, we are making expeditious progress in evaluating the best scientific and commercial data available about species and threats they face (status reviews) to determine whether or not listing is warranted. In FY 2019 and FY 2020 (as of September 30, 2020), we completed 12-month findings for 69 species. In addition, we funded and worked on the development of 12-month findings for 34 species and proposed listing determinations for 9 candidates. Although we did not complete those actions during FY 2019 or FY 2020 (as of September 30, 2020), we made expeditious progress towards doing so by initiating and making progress on the status reviews to determine whether adding the species to the Lists is warranted.

Third, we are making expeditious progress in adding qualified species to the Lists. In FY

2019 and FY 2020 (as of September 30, 2020), we published final listing rules for 7 species, including final critical habitat designations for 1 of those species and final protective regulations under section 4(d) of the Act for 2 of the species. In addition, we published proposed rules to list an additional 20 species (including concurrent proposed critical habitat designations for 13 species and concurrent protective regulations under the Act's section 4(d) for 14 species).

As required by the Act, we are also making expeditious progress in removing species from the Lists that no longer require the protections of the Act. Specifically, we are making expeditious progress in removing (delisting) domestic species, as well as reclassifying endangered species to threatened species status (downlisting). This work is being completed under the Recovery program in light of the resources available for recovery actions, which are funded through the recovery line item in the budget of the Endangered Species Program. Because recovery actions are funded separately from listing actions, they do not factor into our assessment of preclusion; that is, work on recovery actions does not preclude the availability of resources for completing new listing work. However, work on recovery actions does count towards our assessment of making expeditious progress because the Act states that expeditious progress includes both adding qualified species to, and removing qualified species from, the Lists of Endangered and Threatened Wildlife and Plants. During FY 2019 and FY 2020 (as of September 30, 2020), we finalized downlisting of 1 species, finalized delisting rules for 7 species, proposed downlisting of 7 species, and proposed delisting of 11 species. The rate at which the Service has completed delisting and downlisting actions in FY 2019 and FY 2020 (as of September 30, 2020) is higher than any point in the history of the Act.

The tables below catalog the Service's progress in FY 2019 and FY 2020 (as of September 30, 2020) as it pertains to our evaluation of making expeditious progress. Table 1 includes completed and published domestic listing actions; Table 2 includes domestic listing actions funded and initiated in previous fiscal years and in FY 2020 that are not yet complete as of September 30, 2020; and Table 3 includes completed and published proposed and final

downlisting and delisting actions for domestic species.

Table 1. Completed domestic listing actions in FY 2019 and FY 2020 (as of September 30).

Publication Date	Title	Action(s)	<i>Federal Register Citation</i>
10/9/2018	Threatened Species Status for Coastal Distinct Population Segment of the Pacific Marten	Proposed Listing—Threatened with Section 4(d) Rule and 12-Month Petition Finding	83 FR 50574–50582
10/9/2018	Threatened Species Status for Black-Capped Petrel With a Section 4(d) Rule	Proposed Listing—Threatened with Section 4(d) Rule and 12-Month Petition Finding	83 FR 50560–50574
10/9/2018	12-Month Petition Finding and Threatened Species Status for Eastern Black Rail With a Section 4(d) Rule	Proposed Listing—Threatened with Section 4(d) Rule and 12-Month Petition Finding	83 FR 50610–50630
10/9/2018	Threatened Species Status With Section 4(d) Rule and Critical Habitat Designation for Slenderclaw Crayfish	Proposed Listing—Threatened with Section 4(d) Rule and Critical Habitat and 12-Month Finding	83 FR 50582–50610
10/11/2018	Threatened Species Status With Section 4(d) Rule and Critical Habitat Designation for Atlantic Pigtoe	Proposed Listing—Threatened with Section 4(d) Rule and Critical Habitat and 12-Month Finding	83 FR 51570–51609
11/21/2018	Endangered Species Status for the Candy Darter	Final Listing—Endangered	83 FR 58747–58754
12/19/2018	12-Month Findings on Petitions to List 13 Species as Endangered or Threatened Species	12-Month Petition Findings	83 FR 65127–65134
12/28/2018	Threatened Species Status for Trispot Darter	Final Listing—Threatened	83 FR 67131–67140
4/4/2019	12-Month Findings on Petitions to List Eight Species as Endangered or Threatened Species	12-Month Petition Findings	84 FR 13237–13242

4/4/2019	12-Month Petition Finding and Endangered Species Status for the Missouri Distinct Population Segment of Eastern Hellbender	Proposed Listing— Endangered and 12-Month Petition Finding	84 FR 13223–13237
4/26/2019	90-Day Findings for Four Species (3 domestic species and 1 foreign species)*	90-Day Petition Findings	84 FR 17768–17771
5/22/2019	Threatened Species Status with Section 4(d) Rule for Neuse River Waterdog and Endangered Species Status for Carolina Madtom and Proposed Designations of Critical Habitat	Proposed Listings— Threatened Status with Section 4(d) Rule with Critical Habitat; Endangered Status with Critical Habitat and 12-Month Petition Findings	84 FR 23644–23691
8/13/2019	Endangered Species Status for Franklin’s Bumble Bee	Proposed Listing— Endangered and 12-Month Petition Finding	84 FR 40006–40019
8/15/2019	12-Month Findings on Petitions to List Eight Species as Endangered or Threatened Species	12-Month Petition Findings	84 FR 41694–41699
8/15/2019	90-Day Findings for Three Species	90-Day Petition Findings	84 FR 41691–41694
9/6/2019	90-Day Findings for Three Species	90-Day Petition Findings	84 FR 46927–46931
10/07/2019	Twelve Species Not Warranted for Listing as Endangered or Threatened Species	12-Month Petition Findings	84 FR 53336-53343
10/21/2019	Endangered Species Status for Barrens Topminnow	Final Listing— Endangered	84 FR 56131-56136
11/08/2019	12-Month Finding for the California Spotted Owl	12-Month Petition Finding	84 FR 60371-60372
11/21/2019	Threatened Species Status for Meltwater Lednian Stonefly and Western Glacier Stonefly With a Section 4(d) Rule	Final Listing— Threatened with Section 4(d) Rule	84 FR 64210-64227
12/06/2019	Endangered Species Status for Beardless Chinchweed With Designation of Critical Habitat, and Threatened Species Status for Bartram's Stonecrop With Section 4(d) Rule	Proposed Listings — Endangered with Critical Habitat; Threatened with Section 4(d) Rule and 12-Month Petition Findings	84 FR 67060-67104
12/19/2019	Five Species Not Warranted for Listing as Endangered or Threatened Species	12-Month Petition Findings	84 FR 69707-69712

12/19/2019	90-Day Findings for Two Species	90-Day Petition Findings	84 FR 69713-69715
01/08/2020	Threatened Species Status for the Hermes Copper Butterfly With 4(d) Rule and Designation of Critical Habitat	Proposed Listing—Threatened with Section 4(d) Rule and Critical Habitat	85 FR 1018-1050
01/08/2020	Endangered Status for the Sierra Nevada Distinct Population Segment of the Sierra Nevada Red Fox	Proposed Listing—Endangered	85 FR 862-872
05/05/2020	Endangered Status for the Island Marble Butterfly and Designation of Critical Habitat	Final Listing—Endangered with Critical Habitat	85 FR 26786-26820
05/15/2020	Endangered Species Status for Southern Sierra Nevada Distinct Population Segment of Fisher	Final Listing—Endangered	85 FR 29532-29589
7/16/2020	90-Day Finding for the Dunes Sagebrush Lizard	90-Day Petition Finding	85 FR 43203-43204
7/22/2020	90-Day Findings for Two Species	90-Day Petition Findings	85 FR 44265-44267
7/23/2020	Four Species Not Warranted for Listing as Endangered or Threatened Species	12-Month Petition Findings	85 FR 44478-44483
8/26/2020	Endangered Species Status for Marron Bacora and Designation of Critical Habitat	Proposed Listing-Endangered with Critical Habitat and 12-Month Petition Finding	85 FR 52516-52540
9/1/2020	Two Species Not Warranted for Listing as Endangered or Threatened Species	12-Month Petition Findings	85 FR 54339-54342
9/16/2020	Findings on a Petition To Delist the Distinct Population Segment of the Western Yellow-Billed Cuckoo and a Petition To List the U.S. Population of Northwestern Moose**	12-Month Petition Finding	85 FR 57816-57818
9/17/2020	Threatened Species Status for Chapin Mesa milkvetch and Section 4(d) Rule with Designation of Critical Habitat	Proposed Listing-Threatened With Section 4(d) Rule and Critical Habitat	85 FR 58224-58250
9/17/2020	Threatened Species Status for Big Creek crayfish and St. Francis River Crayfish and With Section 4(d) Rule with Designation of Critical	Proposed Listings-Threatened With Section 4(d) Rule and Critical Habitat	85 FR 58192-58222

	Habitat		
9/29/2020	Threatened Species Status for longsolid and round hickorynut mussel and Section 4(d) Rule With Designation of Critical Habitat, Not Warranted 12-Month Finding for purple Lilliput	Proposed Listings-Threatened With Section 4(d) Rule and Critical Habitat; 12-Month Petition Findings	85 FR 61384-61458
9/29/2020	Threatened Species Status for Wright's Marsh Thistle and Section 4(d) Rule With Designation of Critical Habitat	Proposed Listing-Threatened With Section (4) Rule and Critical Habitat	85 FR 61460-61498

*90-day finding batches may include findings regarding both domestic and foreign species. The total number of 90-day findings reported in this assessment of expeditious progress pertains to domestic species only.

**Batched 12-month findings may include findings regarding listing and delisting petitions. The total number of 12-month findings reported in this assessment of expeditious progress pertains to listing petitions only.

Table 2. Domestic listing actions funded and initiated in previous FYs and in FY 2020 that are not yet complete as of September 30, 2020.

Species	Action
northern spotted owl	12-month finding
false spike	12-month finding
Guadalupe fatmucket	12-month finding
Guadalupe orb	12-month finding
Texas fatmucket	Proposed listing determination or not warranted finding
Texas fawnsfoot	Proposed listing determination or not warranted finding
Texas pimpleback	Proposed listing determination or not warranted finding
South Llano Springs moss	12-month finding
peppered chub	12-month finding
whitebark pine	Proposed listing determination or not warranted finding
Key ringneck snake	12-month finding
Rimrock crowned snake	12-month finding
<i>Euphilotes ancilla cryptica</i>	12-month finding
<i>Euphilotes ancilla purpura</i>	12-month finding
Hamlin Valley pyrg	12-month finding
longitudinal gland pyrg	12-month finding
sub-globose snake pyrg	12-month finding
Louisiana pigtoe	12-month finding
Texas heelsplitter	12-month finding

triangle pigtoe	12-month finding
prostrate milkweed	12-month finding
alligator snapping turtle	12-month finding
Black Creek crayfish	12-month finding
bracted twistflower	Proposed listing determination or not warranted finding
Canoe Creek clubshell	12-month finding
Clear Lake hitch	12-month finding
Doll's daisy	12-month finding
frecklebelly madtom	12-month finding
longfin smelt (San Francisco Bay-Delta DPS)	Proposed listing determination or not warranted finding
magnificent Ramshorn	Proposed listing determination or not warranted finding
Mt. Rainier white-tailed ptarmigan	12-month finding
Ocmulgee skullcap	12-month finding
Penasco least chipmunk	Proposed listing determination or not warranted finding
Puerto Rico harlequin butterfly	Proposed listing determination or not warranted finding
Puget oregonian snail	12-month finding
relict dace	12-month finding
Rocky Mountain monkeyflower	12-month finding
sickle darter	12-month finding
southern elktoe	12-month finding
southern white-tailed ptarmigan	12-month finding
tidewater amphipod	12-month finding
tufted puffin	12-month finding
western spadefoot	12-month finding

Table 3. Completed domestic recovery actions (proposed and final downlistings and delistings) in FY 2019 and FY 2020 (as of September 30, 2020).

Publication Date	Title	Action(s)	Federal Register Citation
10/18/2018	Removing Deseret Milkvetch (<i>Astragalus desereticus</i>) From the Federal List of Endangered and Threatened Plants	Final Rule—Delisting	83 FR 52775–52786
02/26/2019	Removing the Borax Lake Chub From the List of Endangered and Threatened Wildlife	Proposed Rule—Delisting	84 FR 6110–6126
03/15/2019	Removing the Gray Wolf (<i>Canis lupus</i>) From the List of Endangered and Threatened Wildlife	Proposed Rule—Delisting	84 FR 9648–9687

05/03/2019	Reclassifying the American Burying Beetle From Endangered to Threatened on the Federal List of Endangered and Threatened Wildlife With a 4(d) Rule	Proposed Rule— Downlisting	84 FR 19013–19029
08/27/2019	Removing <i>Trifolium stoloniferum</i> (Running Buffalo Clover) From the Federal List of Endangered and Threatened Plants	Proposed Rule—Delisting	84 FR 44832–44841
09/13/2019	Removing the Foskett Speckled Dace From the List of Endangered and Threatened Wildlife	Final Rule—Delisting	84 FR 48290–48308
10/03/2019	Removal of the Monito Gecko (<i>Sphaerodactylus micropithecus</i>) From the Federal List of Endangered and Threatened Wildlife	Final Rule—Delisting	84 FR 52791–52800
10/07/2019	Removal of <i>Howellia aquatilis</i> (Water Howellia) From the List of Endangered and Threatened Plants	Proposed Rule—Delisting	84 FR 53380–53397
10/09/2019	Removing the Kirtland’s Warbler From the Federal List of Endangered and Threatened Wildlife	Final Rule—Delisting	84 FR 54436–54463
10/24/2019	Removal of the Interior Least Tern From the Federal List of Endangered and Threatened Wildlife	Proposed Rule—Delisting	84 FR 56977–56991
11/05/2019	Removing <i>Oenothera coloradensis</i> (Colorado Butterfly Plant) From the Federal List of Endangered and Threatened Plants	Final Rule—Delisting	84 FR 59570–59588
11/26/2019	Removing Bradshaw’s Lomatium (<i>Lomatium bradshawii</i>) From the Federal List of Endangered and Threatened Plants	Proposed Rule—Delisting	84 FR 65067–65080
11/26/2019	Reclassification of the Endangered June Sucker to Threatened With a Section 4(d) Rule	Proposed Rule— Downlisting	84 FR 65080–65098
11/26/2019	Removal of the Nashville Crayfish From the Federal List of Endangered and Threatened Wildlife	Proposed Rule—Delisting	84 FR 65098–65112

12/19/2019	Reclassifying the Hawaiian Goose From Endangered to Threatened With a Section 4(d) Rule	Final Rule—Downlisting	84 FR 69918–69947
01/02/2020	Removing the Hawaiian Hawk From the Federal List of Endangered and Threatened Wildlife	Final Rule—Delisting	85 FR 164–189
01/06/2020	Removing the Kanab Ambersnail From the List of Endangered and Threatened Wildlife	Proposed Rule—Delisting	85 FR 487–492
01/22/2020	Reclassification of the Humpback Chub From Endangered to Threatened With a Section 4(d) Rule	Proposed Rule— Downlisting	85 FR 3586–3601
03/10/2020	Removing <i>Lepanthes eltoroensis</i> From the Federal List of Endangered and Threatened Plants	Proposed Rule—Delisting	85 FR 13844–13856
4/27/2020	Removing <i>Arenaria cumberlandensis</i> (Cumberland Sandwort) From the Federal List of Endangered and Threatened Plants	Proposed Rule—Delisting	85 FR 23302–23315
06/01/2020	Removing San Benito Evening-Primrose (<i>Camissonia benitensis</i>) From the Federal List of Endangered and Threatened Plants	Proposed Rule—Delisting	85 FR 33060–33078
06/11/2020	Removing the Borax Lake Chub From the List of Endangered and Threatened Wildlife	Final Rule—Delisting	85 FR 35574–35594
07/24/2020	Reclassification of Morro Shoulderband Snail (<i>Helminthoglypta walkeriana</i>) From Endangered to Threatened With a 4(d) Rule	Proposed Rule— Downlisting	85 FR 44821–44835
08/19/2020	Reclassification of Stephens' Kangaroo Rat From Endangered to Threatened With a Section 4(d) Rule	Proposed Rule— Downlisting	85 FR 50991–51006
9/30/2020	Reclassification of <i>Layia carnosa</i> (Beach Layia) From Endangered To Threatened Species Status With Section 4(d) Rule	Proposed Rule— Downlisting	85 FR 61684–61700
9/30/2020	Reclassifying the Virgin Islands Tree Boa From Endangered To Threatened	Proposed Rule— Downlisting	85 FR 61700–61717

	With a Section 4(d) Rule		
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When a petitioned action is found to be warranted but precluded, the Service is required by the Act to treat the petition as resubmitted on an annual basis until a proposal or withdrawal is published. If the petitioned species is not already listed under the Act, the species becomes a “candidate” and is reviewed annually in the Candidate Notice of Review. The number of candidate species remaining in FY 2020 is the lowest it has been since 1975. For these species, we are working on developing a species status assessment, preparing proposed listing determinations, or preparing not-warranted 12-month findings.

Another way that we have been expeditious in making progress in adding and removing qualified species to and from the Lists is that we have made our actions as efficient and timely as possible, given the requirements of the Act and regulations and constraints relating to workload and personnel. We are continually seeking ways to streamline processes or achieve economies of scale, such as batching related actions together for publication. Given our limited budget for implementing section 4 of the Act, these efforts also contribute toward our expeditious progress in adding and removing qualified species to and from the Lists.

The monarch butterfly will be added to the candidate list, and we will continue to evaluate this species as new information becomes available. Continuing review will determine if a change in status is warranted, including the need to make prompt use of emergency listing procedures.

A detailed discussion of the basis for this finding can be found in the monarch butterfly species assessment form and other supporting documents (see **ADDRESSES**, above).

New Information

We intend that any proposed listing rule for the monarch butterfly will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all

concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding. We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, threats to, or conservation actions for the monarch butterfly to the person specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor this species and make appropriate decisions about its conservation and status. We encourage all stakeholders to continue cooperative monitoring and conservation efforts.

References Cited

The list of the references cited in the petition finding is available on the Internet at <http://www.regulations.gov> under docket number FWS–R3–ES–2020–0103 and upon request from the person specified under **FOR FURTHER INFORMATION CONTACT**.

Authors

The primary authors of this document are the staff members of the Fish and Wildlife Service’s Species Assessment Team.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Aurelia Skipwith,
Director,
U.S. Fish and Wildlife Service.