



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R2–ES–2021–0015; FXES1111090FEDR–267–FF09E21000]

RIN 1018–BB27

Endangered and Threatened Wildlife and Plants; Removal of Northern and Southern Distinct Population Segments of the Lesser Prairie-Chicken from the List of Endangered and Threatened Wildlife in Compliance with Court Order

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: In response to a court order, we, the U.S. Fish and Wildlife Service (Service) are removing the northern and the southern distinct population segments (DPSs) of the lesser prairie-chicken (*Tympanuchus pallidicinctus*) from the Federal List of Endangered and Threatened Wildlife. Additionally, we are rescinding the rule issued under section 4(d) of the Act for the northern DPS. As a result of the court's orders, the regulatory protections under the Endangered Species Act of 1973, as amended (Act) no longer apply to either DPS.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. However, the court's orders had legal effect upon filing on March 29, 2025, and August 12, 2025.

ADDRESSES: This final rule is available on the internet at <https://www.regulations.gov> at Docket No. FWS–R2–ES–2021–0015.

FOR FURTHER INFORMATION CONTACT: Clay Nichols, Biologist, Southwest Regional Office, 817–277–1100, clay_nichols@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY,

TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION

Background

On September 8, 2016, we received a petition from WildEarth Guardians, Defenders of Wildlife, and Center for Biological Diversity to list the lesser prairie-chicken as an endangered species throughout its entire range or in three distinct population segments (DPSs) under the Endangered Species Act (Act). On November 25, 2022, we published a final rule listing the northern DPS of the lesser prairie-chicken (*Tympanuchus pallidicinctus*) as a threatened species and the southern DPS of the lesser prairie-chicken as an endangered species (87 FR 72674). The final rule was effective March 27, 2023 (88 FR 4087). Please see our proposed listing rule (86 FR 29432 at 29434; June 1, 2021) for a complete discussion of previous Federal actions.

On March 21, 2023, the States of Texas, Oklahoma, and Kansas filed a lawsuit challenging the Service's November 25, 2022, final listing rule for the lesser prairie-chicken and the protective regulations under section 4(d) of the Act (4(d) rule) for the northern DPS (*State of Texas, et al. v. Dep't of the Interior, et al.*, No. 23-cv-00047 (W.D. TX)). On March 21, 2023, the Permian Basin Petroleum Association; the National Cattlemen's Beef Association; Texas Cattle Feeder's Association; Kansas Livestock Association; Oklahoma Cattlemen's Association; New Mexico Cattle Grower's Association; Kansas Independent Oil & Gas Association; Petroleum Alliance of Oklahoma; Chaves County, New Mexico; Roosevelt County, New Mexico; and Lea County, New Mexico, similarly filed a lawsuit challenging the final listing rule and 4(d) rule (*Permian Basin Petroleum Association, et. al., v. Dep't of the Interior*, No. 23-cv-00049 (W.D. TX); this case was consolidated into No. 23-cv-00047 above). On July 20,

2023, the Kansas Natural Resource Coalition; Cameron Edwards; Lone Butte Farm, LLC; Schilling Land, LLC; and JDC Farms, Inc. filed a lawsuit challenging the 4(d) rule for the northern DPS (*Kansas Natural Resource Coalition, et al. v. United States Fish and Wildlife Service, et al.*, No. 7:23-cv-00159 (W.D. Tex.)). On March 29, 2025, the U.S. District Court for the Western District of Texas vacated the 4(d) rule for the northern DPS of the lesser prairie-chicken (*Kan. Nat. Res. Coal., v. U.S. Fish and Wildlife Serv.*, No. 7:23-cv-00159 (W.D. Tex.) ECF No. 39). On August 12, 2025, the U.S. District Court for the Western District of Texas issued an order vacating the final listing rule for both the northern and southern DPSs of the lesser prairie-chicken (*State of Texas, v. Dep't of the Interior*, No. 23-cv-00047 (W.D. TX) ECF No. 109).

Administrative Procedure

This rulemaking is necessary to comply with the March 29, 2025, and August 12, 2025, court orders. Therefore, the Service Director has determined, pursuant to 5 U.S.C. 553(b)(4)(B), that prior notice and opportunity for public comment are impractical and unnecessary. Because the court orders had legal effect immediately upon being filed on March 29, 2025, and August 12, 2025, 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

As a result of the March 29, 2025, and August 12, 2025, district court orders, all protections under the Act were removed for the northern and southern DPSs of the lesser-prairie chicken. We are issuing this rule to amend the regulations to reflect that removal of protections. This rule removes the northern and southern DPSs of the lesser prairie-chicken from the Federal List of Endangered and Threatened Wildlife at 50 CFR 17.11(h). This rule also removes the rule issued under section 4(d) of the Act for the northern DPS at 50 CFR 17.41(k).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, 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; 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

2. In §17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by removing the entry for “Prairie-chicken, lesser [Northern DPS]” and the entry for “Prairie-chicken, lesser [Southern DPS]” under BIRDS.

§ 17.41 [Amended]

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

Brian R. Nesvik,

Director,

U.S. Fish and Wildlife Service.

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