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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2026–2938; FXES1111090FEDR–267–FF09E21000]

RIN 1018–BJ02

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Mazama Newt

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Mazama newt (*Taricha granulosa mazamae*), an amphibian species from the Crater Lake caldera in Crater Lake National Park in Klamath County, Oregon, as an endangered species under the Endangered Species Act of 1973, as amended (Act). This determination also serves as our 12-month finding on a petition to list the Mazama newt. After a review of the best scientific and commercial data available, we find that listing the species is warranted. If we finalize this rule as proposed, it would add this species to the List of Endangered and Threatened Wildlife and extend the Act's protections to the species. We find that designating critical habitat for this species is not determinable at this time.

DATES: Comments will be accepted 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.

We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

To ensure your comment is received and considered, you must submit it using one of the methods identified in the **ADDRESSES** section of this document. Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered.

ADDRESSES: *Comment submission:* All submissions must include the docket number (FWS–R8–ES–2026–2938) for this document. You must submit comments using one of the following methods:

(1) *Electronic submission:* Federal eRulemaking Portal at: https://www.regulations.gov. In the Search box, enter FWS–R8–ES–2026–2938, which is the docket number for this action. Then click the Search button. On the resulting page, you may submit a comment by clicking on "Comment." Please ensure that you have found the correct document before submitting your comments.

(2) *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R8–ES–2026–2938, Policy and Regulations Branch, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered.

We will post all comments at https://www.regulations.gov. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See **Information Requested**, below, for more information.

Availability of supporting materials: Supporting materials, such as the species status assessment (SSA) report, are available at https://www.regulations.gov under Docket No. FWS–R8–ES–2026–2938.

FOR FURTHER INFORMATION CONTACT: Jennie Land, Field Supervisor, U.S. Fish and Wildlife Service, Klamath Falls Ecological Services Field Office; 541–885–8481; jennie_land@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. Please see Docket No. FWS–R8–ES–2026–2938 on https://www.regulations.gov for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

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

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns and the locations of any additional populations of this species;

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

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

(2) Threats and conservation actions affecting the species, including:

(a) Factors that may be affecting the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors;

(b) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species; and

(c) Existing regulations or conservation actions that may be addressing threats to this species.

(3) Additional information concerning the historical and current status of this species.

Please include any supplemental information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made solely on the basis of the best scientific and commercial data available, and section 4(b)(2) of the Act directs that the Secretary of the Interior (Secretary) shall designate critical habitat on the basis of the best scientific data available.

You must submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**.

If you submit information via https://www.regulations.gov, your entire submission—including any personal identifying information—will be posted on the

website. If your submission is made via a hardcopy that includes personal identifying information, 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. We will post all hardcopy submissions on https://www.regulations.gov.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on https://www.regulations.gov at Docket No. FWS–R8–ES–2026–2938.

Our final determination may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive, we may conclude that the species is threatened instead of endangered, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the *Federal Register* and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the *Federal Register*. The use of virtual public hearings is consistent with our regulations at 50 Code of Federal Regulations (CFR) 424.16(c)(3).

Previous Federal Actions

On November 28, 2023, the Service received a petition, dated November 16, 2023, from the Center for Biological Diversity requesting that the Crater Lake Newt (or Mazama newt) be listed as an endangered species and critical habitat be designated under the Act. On October 8, 2024, we published a 90-day finding where we found that the petition presented substantial scientific or commercial information indicating that the petitioned action may be warranted (89 FR 81388). On July 3, 2025, the petitioners filed a complaint for declaratory and injunctive relief, alleging the Service failed to complete the 12-month petition finding for the Mazama newt in accordance with the statutory deadline (*Center for Biological Diversity* v. *U.S. Fish and Wildlife Service, et al.,* Case No. 6:25–cv–01158 (D. Or.)). By Order issued May 14, 2026, the court granted the Parties' Joint Motion to Enter Settlement Agreement in which the Service agreed to submit a 12-month petition finding to the *Federal Register* on or before October 7, 2026. This 12-month finding completes the Service's obligations under the settlement agreement.

Peer Review

We prepared an SSA report for the Mazama newt (Service 2026, entire). The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data available regarding the viability of the species, which is then used to support our decision regarding whether a species warrants listing under the Act.

In accordance with our joint policy with the National Marine Fisheries Services (NMFS) on peer review that published in the *Federal Register* on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing and recovery actions under the Act (https://www.fws.gov/sites/default/files/documents/peer-review-policy-directors-memo-2016-08-22.pdf), we solicited independent scientific review of the information contained

in the Mazama newt SSA report. We sent the SSA report to three independent peer reviewers and received three responses. The peer reviews can be found at https://www.regulations.gov at Docket No. FWS–R8–ES–2026–2938. In preparing this proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this proposed rule.

Summary of Peer Reviewer Comments

As discussed in **Peer Review**, above, we received comments from three peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the contents of the SSA report. The peer reviewers generally concurred with our methods and conclusions presented within the draft SSA report. They provided some additional information, references, clarifications, and suggestions for additional analyses. We incorporated most of the substantive comments into the SSA report (Service 2026, entire) and this proposed rule. We outline the substantive comments that we incorporated or did not incorporate into the SSA report below.

Comment 1: All reviewers expressed a desire to see more discussion or an analysis of future conditions for the Mazama newt.

Our response: We did not analyze future conditions in the SSA for Mazama newt and are not presenting future conditions in the SSA or proposed rule. Because we determined that the species meets the definition of an endangered species following the assessment of current condition, no future condition analysis was needed to inform this proposed rule.

Comment 2: One reviewer suggested that we do occupancy modeling of the Mazama newt survey data to quantify detection probability. While the peer reviewer acknowledged that Mazama newts have most likely declined with the introduction of

salmonid fishes and crayfish, they suggested we analyze the survey data for a predator-induced change in detection probability of newts over time.

Our response: We do not have sufficient data to perform occupancy modeling for the Mazama newt. To our knowledge, surveys were not conducted in a manner to allow the detection probability of newts to be analyzed as suggested.

Comment 3: One reviewer wanted to see more of the survey data (crayfish and newts) for the intervening years between the figures shown for 2011 and 2025, to see the population estimates over time, and to assess whether there is a clear decline in newts versus fluctuation over time. The reviewer also suggested statistically correlating changes in crayfish density with changes in newt density and also doing the same with fish population numbers and lake temperatures over time.

Our response: We have added a table to the SSA report showing the annual average crayfish and Mazama newt counts in which we have data from 2008–2025 (Service 2026, table 1, p. 7). Table 1 in the SSA report shows the average detection trends of both crayfish and newts over time for the full suite of data that we have available. We do not have sufficient data to do a robust statistical analysis, and we also do not have data on fish population numbers over time. We have cited existing studies of temperature changes in the lake over time (Service 2026, p. 29).

Comment 4: One reviewer provided additional references for us to update our discussion of signal crayfish (*Pacifastacus leniusculus*) fecundity, food niche specialization, trophic position, impacts on benthic macroinvertebrate density, and the observed trend of signal crayfish density increasing following eradication efforts.

Our response: Based on information provided, we revised our estimates of eggs deposited by female signal crayfish, our discussion of the association between crayfish dietary specialization and population density, our description of signal crayfish as being primarily predatory, our discussion of how crayfish introductions have been documented

to impact the benthic invertebrate community, and the compensatory response that signal crayfish have been documented to have to trapping and removal efforts, and updated the associated references in the SSA report.

Comment 5: Two reviewers suggested that we include volcanic eruption and rockslides as potential catastrophic events for the Mazama newt. Given that the distribution of newts has contracted around the lake shore, a single rockslide may have a disproportionate effect on the overall population of Mazama newts.

Our response: While Mount Mazama is an active volcano, it is dormant and the likelihood of an eruption would be considered as a potential future event; we only evaluated current condition of the Mazama newt in the SSA report. We have edited the text to describe the relevant risks to the species from isolated rockslides in the current condition.

Comment 6: One reviewer was hesitant about our use of phenotypic plasticity as a measure of representation, since Mazama newts have had very little evolutionary history with crayfish and introduced salmonids, and the newts require the aquatic environment to breed and complete their life cycle.

Our response: We agree that the evolutionary overlap between newts and the species introduced to Crater Lake is minimal. However, there are other predators such as garter snakes (*Thamnophis sirtalis*) that co-occur with the newt, so there may be some phenotypic plasticity contributing to representation for the subspecies. We assume that the Mazama newt has inherently low representation due to likely reduction in abundance over time, presumed loss of genetic diversity, and limited opportunity to disperse.

I. Proposed Listing Determination

Background

A thorough review of the taxonomy, genetics, life history, and ecology of the Mazama newt is presented in the SSA report (Service 2026, pp. 9–20). The

rough-skinned newt (*Taricha granulosa*) occurs along the west coast of the United States from southeastern Alaska to the San Francisco Bay, ranging in elevations from sea level to 2,800 meters (m) (9,186 feet [ft]) (Petranka 1998, p. 464). The Mazama newt, also referred to as the Crater Lake newt, is a subspecies of rough-skinned newt endemic to the Crater Lake caldera (large bowl-shaped depression formed when a volcano erupts and collapses) in Oregon and has been separated from surrounding populations for approximately 7,000 years following the eruption of Mount Mazama (Ray et al. 2022, p. 523). Morphological and genetic analyses show the Mazama newt differs from adjacent rough-skinned newt populations. Specifically, individuals within the caldera have darker ventral pigmentation, distinct head shape, and unique nuclear and mitochondrial DNA signatures indicating divergence, though not complete divergence (Ray et al. 2022, entire). Mazama newts also have relatively low tetrodotoxin levels, which is a neurotoxin that can be lethal to predators (Stokes et al. 2015, p. 17) and which is found on the rough-skinned newt.

The subspecies occupies Crater Lake's ultraoligotrophic (i.e., very low availability of nutrients), cold, steep-walled caldera ecosystem (Ray et al. 2022, p. 523). Standardized surveys for occupancy since 2008 show a marked decline in detections, from 84 individuals in 2008, to 13 in 2024, and 4 in 2025, although non-standard intensive surveys in 2024–2025 found additional individuals in some limited areas (Hering 2025a, b, pers. comm.).

Although there is limited information on Mazama newt subspecies life history, we conclude that it is likely similar to its parent species, the rough-skinned newt or other taxonomically or ecologically similar newt species. Adults feed on aquatic invertebrates (Farner 1947, pp. 259–261). Non-reproductive rough-skinned newts can remain terrestrial for up to 18 months between breeding efforts (Lanoo 2005, p. 896). In some populations of rough-skinned newts, males remain aquatic while only females migrate to land-based

habitats (Lanoo 2005, p. 895). In rough-skinned newts, breeding males arrive to their breeding grounds a month earlier than breeding females, and females have been documented migrating in large groups, entering the water already carrying fully formed eggs in their oviducts in preparation for breeding and fertilization (Pimentel 1952, pp. 42–43, 68–69). Temperature may determine the length and timing of newt breeding season, with newts in the High Cascades having shorter and later breeding periods (Pimentel 1952, p. 47). Warmer water initiates egg laying (Pimentel 1952, p. 72). It is unknown if the Mazama newt breeds biannually (Pimentel 1960, p. 486), biennially (Lanoo 2005, p. 896; Petranka 1998, p. 465), or annually like low-elevation populations of rough-skinned newts (Efford and Mathias 1969, p. 734).

Increasing water temperatures and lowering water levels are associated with newts exiting the water (Pimentel 1960, p. 481), with females documented departing the water when the temperatures exceed 20 degrees Celsius (°C) (68 degrees Fahrenheit [°F]) (Pimentel 1952, p. 72). Males are possibly more aquatic than females (Oliver and McCurdy 1974, p. 534; Ritter 1897, p. 92; Chandler 1918, p. 6). Post-egg laying, females will immediately move to the center of the pond and eventually become terrestrial, as the temperature of the water approaches 20 °C (68 °F) (Pimentel 1952, pp. 66, 72). This movement has been noted in other rough-skinned newt populations, as animals were documented moving from 20 °C (68 °F) to 15 °C (59 °F) waters (Neish 1971, p. 55). These movements in rough-skinned newts suggest that as the littoral zone of Crater Lake increases in temperature, Mazama newt females may seek cooler waters in the lake or become terrestrial. Similarly, post-transformation (i.e., growing limbs, losing gills and tails, and developing lungs), juveniles will become terrestrial and not return to the water until they are sexually mature (Petranka 1998, p. 467).

Based on observations in aquariums, newly hatched larvae have been documented to have little to no coordination or ability to move for up to a week (Pimentel 1952,

pp. 79, 84). This is likely the period when individuals are most susceptible to predation (Axelsson et al. 1997, p. 226). California newt (*Taricha torosa*) larvae showed very little antipredator behavior in the presence of crayfish and mosquitofish (Gamradt and Kats 1996, pp. 1160–1161). Due to high elevations and cold water temperatures, newts in Crater Lake may require two seasons before transformation (Farner and Kezer 1953, p. 452). As the larvae age, their probability of survival increases, with increased coordination and fleeing potential, hiding in between or under rocks and in dense vegetation with camouflaging coloration (Pimentel 1952, p. 85).

Rough-skinned newt metamorphs (i.e., juveniles or efts) post-transformation are documented leaving the water (Chandler 1918, p. 9) and remain terrestrial until they reach sexual maturity (Efford and Mathias 1969, p. 729; Pimentel 1952, p. 87). Some adults, called paedomorphs, reach sexual maturity yet retain juvenile aquatic features (gills or gill slits) and do not have a terrestrial component to their life history (Marangio 1978, p. 343). This lifeform is considered a sexually mature adult that retains physical characteristics of its larval life-stage. Multiple environmental scenarios promote this lifeform, including deep, fish-free waters (Denoël 2025, p. 251). Paedomorphs have been documented to occur within the Mazama newt subspecies (Farner and Kezer 1953, p. 452), and it is hypothesized that this lifeform is facultative (i.e., not obligate) in that when brought into more stable, captive environments, the gill tissue is reabsorbed (Marangio 1978, p. 343). This lifeform may allow for some differentiation of niche competition, as paedomorphs will continue to consume zooplankton as compared to metamorphs, which primarily consume terrestrial insects (Denoël et al. 1998, p. 90). The fully aquatic paedomorph lifeform is thought to be more susceptible to introduced aquatic predators as female palmate newts (*Lissotriton helveticus*) in the presence of introduced predators were not shown to metamorphose; rather, they used shelters more frequently for predator avoidance (Denoël et al. 2019,

p. 641).

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the CFR set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species.

The Act defines a "species" as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. In this document, we may refer to the Mazama newt as either a subspecies or species. The Act defines an "endangered species" as a species that is in danger of extinction throughout all or a significant portion of its range and a "threatened species" as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following 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 species' expected response 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.

The Act does not define the term "foreseeable future," which appears in the statutory definition of threatened species. Our regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; "M-Opinion," available online at

https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf). The foreseeable future extends as far into the future as the Service can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best scientific and commercial data available and taking into account considerations such as the species' life-history characteristics, threat projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. "Reliable" does not mean "certain"; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data available regarding the viability of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be proposed for listing as an endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and our regulations and policies.

To assess Mazama newt viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events); and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example,

climate conditions, pathogens). In general, species viability will increase with increases in resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into sequential stages. During the first stage, we evaluated the individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. Throughout both of these stages, we used the best scientific and commercial data available to characterize viability as the ability of a species to sustain populations in the wild over time, which we then used to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS–R8–ES–2026–2938 on https://www.regulations.gov.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' condition, in order to assess the species' overall viability and the risks to that viability.

Species Needs

Individual Needs

Mazama newts, similarly to all newts, require aquatic habitats for breeding and rearing with females laying their eggs in shallow water on the underside of rocks or aquatic vegetation. It is likely that this subspecies has a terrestrial component to its lifecycle like its parent species, the rough-skinned newt. All aquatic and terrestrial phases require adequate cover to protect individuals from native and introduced

predators. Terrestrially, rough-skinned newts can disperse 0.4 kilometers (km) (0.25 miles [mi]) (Pimentel 1960, p. 488) and Mazama newts are assumed to seasonally brumate (a state of sluggishness, inactivity or torpor), requiring very little prey. However, while aquatic, the subspecies predominantly consumes benthic, littoral species such as snails, amphipods, and aquatic larvae.

Population Needs

Populations need an abundance of individuals within habitat patches of adequate size and quality to maintain survival and reproduction despite disturbance. Mazama newts depend upon having adequate numbers of reproductive individuals so that they can withstand stochastic events. The population must be large enough to withstand annual variation in environmental or demographic characteristics (resiliency).

Mazama newts need enough habitat to support a sustainable population. The subspecies has historically inhabited a small area restricted to the Crater Lake caldera, making adequate amounts of suitable habitat important for resiliency. Mazama newts need a sufficient quality of habitat to support sustainable populations. Habitat quality is measured by its ability to provide adequate food and cover to Mazama newts. Invasive species can negatively impact habitat quality directly by removing vegetation and disturbing sediment, which degrades Mazama newt breeding habitat (Angeler et al. 2001, p. 96; Wilson and Williams 2014, p. 15). Increased surface water temperature will also benefit nonnative crayfish and further impact habitat quality.

Mazama newts need sufficient population growth to support sustainable populations. The Mazama newt currently occurs in low numbers and at a single location (the Crater Lake caldera), making it especially vulnerable to stochastic and catastrophic events. The subspecies needs the ability to grow from small numbers to ensure adequate repopulation following periods of adverse conditions within its limited habitat. Mazama newts need to have populations large enough to be self-sustaining and to maintain their

long-term evolutionary potential in the isolated and spatially restricted habitat where they occur. No studies have been conducted to determine a minimum viable population size for the Mazama newt.

Species Needs

Whereas resiliency applies to populations, redundancy and representation apply to the subspecies as a whole and characterize its ability to recover from natural or anthropogenic catastrophic events (redundancy) and to maintain the genetic diversity necessary to adapt to future changes (representation). For the Mazama newt to have high viability, the subspecies needs to maintain its representation (adaptive capacity) by having sufficient population size to withstand demographic and genetic stochasticity. At the population level, the Mazama newt also needs to withstand potential catastrophic events that would result in the loss of a substantial component of the overall subspecies population across the caldera. For Mazama newt redundancy, our analysis assesses the population's size and distribution and evaluates the kinds and likelihood of reasonably plausible catastrophic events to which the subspecies could be exposed.

Threats (Stressors/Risk Factors)

Nonnative Species

Crater Lake has three introduced nonnative species: the kokanee salmon (*Oncorhynchus nerka*), rainbow trout (*Oncorhynchus mykiss*), and signal crayfish (*Pacifastacus leniusculus*). Fish introductions occurred irregularly between 1888–1941 (Buktenica 1988, p. 1), and crayfish were introduced in 1915 (Girdner et al. 2018, p. 721) as prey for the introduced fish. Crayfish and rainbow trout have been documented consuming both adult and larval Mazama newts or salamanders (Girdner et al. 2018, p. 736; Brode 1938, p. 57; Buktenica and Larson 1996, p. 309). Aside from direct predation, nonnative species may also cause behavioral shifts in Mazama newts (i.e., predator avoidance) and may compete with Mazama newts for limited food or other resources.

While there have been efforts to remove crayfish, there are not any existing regulatory mechanisms that address nonnative fish or crayfish (See **Available Conservation Measures**, below, for more details). Therefore, the effects of nonnative species have greatly reduced the resiliency of the Mazama newt throughout its range. The impacts of the crayfish and fish on Mazama newts and their habitat are described below.

Signal Crayfish—Signal crayfish, introduced to Crater Lake in 1915 (Girdner et al. 2018, p. 721), are now widespread along the shoreline (Hering 2025b, pers. comm.). They prey directly on Mazama newts, including adults and larvae (Girdner et al. 2018, p. 736), and occupy the same boulder-cobble littoral habitat as the newt (Umek 2016, p. 14). Crayfish are known predators of amphibian eggs, larvae, and adults, making Mazama newts vulnerable at all life stages (Cruz et al. 2006, p. 278; Axelsson et al. 1997, p. 226). Signal crayfish are highly invasive due to aggressive behavior, high reproductive output, and strong dispersal ability in both aquatic and terrestrial settings (Alves et al. 2025, p. 327; Thomas et al. 2019, unpaginated). Their activity increases sharply at warmer temperatures, peaking around 20 °C (68 °F) (Umek 2016, p. 21).

Crayfish populations are composed of established core areas and expanding invasion fronts. Invasion fronts tend to contain larger, more aggressive males with higher body condition and faster dispersal rates (4.1–17.5 m/day) (Alves et al. 2025, pp. 338–340; Thomas et al. 2019, unpaginated). Individuals in the core areas tend to rely more on food associated with submerged vegetation, periphyton, and detritus while the invading front individuals consume more macroinvertebrates, suggesting that food competition is higher in the denser cores than in the invading fronts (Alves et al. 2025, pp. 339–340).

Crayfish can dramatically reduce the abundance and diversity of benthic invertebrates, which are also important prey for Mazama newts (Umek 2016, p. 23). In 2 years (2009–2011), benthic invertebrate density decreased from 325 individuals per square meter to 6 individuals per square meter at sites with crayfish (Umek 2016, p. 58).

Additionally, between 2012–2016, crayfish in Crater Lake reduced the density and diversity of benthic invertebrates by 60 percent and 35 percent, respectively (Girdner et al 2018, p. 736). Their effects also extend to habitat alteration through removal of vegetation and sediment disturbance, which further degrades Mazama newt breeding habitat (Angeler et al. 2001, p. 96; Wilson and Williams 2014, p. 15).

Signal crayfish and Mazama newts both prefer cobbled, bouldered, littoral zones. Crayfish may also compete with newts for this interstitial habitat, thus displacing newts and exposing them to fish predation (see *Fish,* below) and increased ultraviolet exposure (Umek 2016, pp. 4, 14, 23) during these movements. Field surveys observed abnormally low numbers of adult California newts following a crayfish reintroduction and evidence of individuals leaving aquatic habitats because of crayfish aggression; these observations suggest that crayfish presence and behavior could limit the newts' access to breeding habitats (Wilson and Williams 2014, p. 15). These movements into terrestrial habitat use can lower reproduction and therefore recruitment (Winandy et al. 2017, unpaginated). Increased terrestrial movements can also result in risk of desiccation (Putnam and Hillman 1977, pp. 746–747, 749).

Fish—Kokanee salmon and rainbow trout were introduced into Crater Lake between 1888–1941 (Buktenica 1988, p. 1), with current populations estimated at roughly 60,000 individuals total. Both species occupy nearshore areas overlapping with Mazama newt habitat, including Wizard Island and the long shoreline of the caldera (Hubbard 1934, p. 20). They feed on aquatic insects, mollusks, and crustaceans (Buktenica and Larson 1996, p. 305; Hubbard 1934, pp. 25–35), and rainbow trout have been documented consuming salamanders in Crater Lake (Brode 1938, p. 57; Buktenica and Larson 1996, p. 309), but we do not have conclusive evidence that the salamanders were Mazama newts. However, it is likely that fish do not exclude Mazama newts (of any life stage) from their diets based on their documented consumption of salamanders and the

relatively low levels of the tetrodotoxin neurotoxin found in Mazama newts.

California newt larvae showed very little antipredator behavior in the presence of crayfish and mosquitofish (Gamradt and Kats 1996, pp. 1160–1161), and it is likely that Mazama newts also have little antipredator behavior. Introduced fish have eliminated paedomorphic life stages of newts in other systems (Denoël et al. 2016, pp. 65–66), indicating heightened risk for Mazama newts, especially given their relatively low tetrodotoxin levels, potentially making them more palatable to predatory fish (Stokes et al. 2015, p. 17). Introduced fish have also been documented in field and laboratory studies consuming significant numbers of newt larvae (Gamradt and Kats 1996, p. 1159). Even in an unpalatable toad species (boreal toad, *Anaxyrus boreas boreas*), the presence of trout delayed development and decreased survival of tadpoles, suggesting that nonconsumptive attacks lead to increased stress and presumably more time hiding and reduced foraging opportunities (Lanier et al. 2017, p. 499). Laboratory studies on European newts and fish interactions found that adult newts used terrestrial habitats more frequently, bred less frequently, laid fewer eggs, and avoided tanks with fish more frequently (Winandy et al. 2017, unpaginated). As described above in *Signal Crayfish*, these movements into terrestrial habitat can lower reproduction and recruitment and increase the risk of desiccation. It is likely that the novel presence of signal crayfish and introduced salmonids in Crater Lake are having similar effects on Mazama newts.

Increased Water Temperatures

Crater Lake National Park, as part of the Eastern Cascades Slope, is projected to see an appreciable conversion of precipitation from snowfall to rainfall, losing half of the snow water equivalent snowfall from 1950–2100 (Fleishman 2025, pp. 73–74). This loss of snow indicates winter warming temperatures in Crater Lake. In addition, Crater Lake surface water temperatures have increased from 12.09 °C (53.8 °F) to 15.56 °C (60° F) between 1965–2014 (Umek 2016, p. 21). Therefore, because crayfish activity increases

with warmer temperatures, the combination of warmer winter temperatures and increased surface water temperature is likely to continue to benefit the introduced crayfish and reduce the resiliency of the Mazama newt.

Conservation Efforts and Regulatory Mechanisms

Crater Lake National Park is governed by the National Park Service Organic Act of 1916, to conserve scenery, natural/historic objects, and wildlife, ensuring they remain "unimpaired for the enjoyment of future generations" (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4). Captive rearing efforts at the High Desert Museum (Bend, Oregon) and Oregon Zoo (Portland, Oregon) have brought 50 Mazama newts into captivity since 2024. Crayfish trapping efforts in 2012–2014 associated with the Phantom Ship area of Crater Lake removed thousands of crayfish; however, crayfish detections during snorkel surveys increased during these years (Buktenica et al. 2015, p. 5). Crayfish have been documented to have compensatory responses to trapping and removal with increased fecundity and juvenile survival (Kvistad et al. 2023, p. 2840). Crater Lake National Park has secured funding to begin removal in 2026 of nonnatives (fish and crayfish) in a small pond on Wizard Island (D. Hering 2026, in lit). As of April 2026, we are not aware of other crayfish removal or control activities occurring at Crater Lake.

Cumulative Effects

By using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative-effects analysis.

Current Condition

For our current condition analysis and this proposed rule, we considered the past and ongoing changes in the subspecies' habitat, demographics, and distribution (Smith et al. 2018, p. 306), including the effects of near-term threats. To assess the current condition of the Mazama newt, we used the best available scientific and commercial data to describe past and ongoing changes in the subspecies' habitat, demographic parameters, and distribution at the population scale. We completed a qualitative assessment of the Mazama newt's current condition, including past and ongoing threats and how these may affect detection trends for Mazama newts. We also qualitatively evaluated how much these threats and detection trends have changed from historical conditions. For our analysis, there is one analysis unit represented by the one Mazama newt population in the Crater Lake caldera. For a description of key uncertainties and assumptions related to available information on the subspecies, please see chapter 5.2 of the SSA report (Service 2026, pp. 32–33).

Resiliency

For the Mazama newt to maintain its viability, its population must be able to withstand stochastic events (e.g., demographic, environmental, anthropogenic). To be resilient to stochastic events, this subspecies needs an adequate number of individuals (population size) from all life stages (breeding adults, juveniles, etc.). The population extent should be large enough such that localized events do not cause extirpation. Higher elevations are correlated with an increased age to reach sexual maturity, and Mazama newts may reach sexual maturity between 3 to 5 years. Eggs and larvae may take longer to develop due to cold water and higher elevations, impacting the rate of recruitment into the population. Increasing numbers of nonnative predators (crayfish) are negatively impacting Mazama newts (directly through predation and indirectly through competition for food and cover). Documented warming water temperatures are also facilitating

crayfish recruitment and expansion in Crater Lake, exacerbating the effect of signal crayfish on Mazama newts. Overall, detection trends of Mazama newts have decreased since 2008, indicating a reduction in population size over time. Thus, the ability of the species to withstand stochastic events has been greatly reduced from historical condition.

Redundancy

While there has historically only been one population of Mazama newts, our analysis of redundancy concludes that the population has had its known distribution reduced from its known historical extent throughout the lake to just a few limited areas in the southwest portion of the lake. Although the Mazama newt's reduced distribution around the lake could make it vulnerable to a single catastrophic event, we have not identified any plausible events that would pose a species-level risk based on the best available information. Catastrophic wildfire is not expected to impact the Mazama newt because it is primarily aquatic and the caldera landscape provides adequate protection from this threat. Park management provides protection from introducing new invasive species to Crater Lake because public personal watercraft are not allowed in Crater Lake. Isolated rockslides may occur in the Mazama newt’s range and could negatively impact the population, but this is unlikely to impact the population in all areas where it occurs and is therefore not considered a plausible catastrophic event. Overall, the species has inherently low redundancy given it has one population with a highly restricted distribution.

Representation

In analyzing current representation for the Mazama newt, we consider both genetic and environmental factors. Because the Mazama newt occurs in a single population in Crater Lake and individuals use similar types of aquatic and terrestrial habitats across the lake; there is limited variation in environmental conditions across the small range of the subspecies. Given the limited range and reduction in numbers of

individuals over time due to decreased detection trends, the Mazama newt has likely lost genetic representation as the population has declined; however, we do not have any information regarding the size of the census population or its effective population size. Conversely, the subspecies is thought to have some phenotypic plasticity in their ability to become terrestrial, transform or remain as paedomorphs, or change their patterns of activity in relation to predator activity periods, which confers some level of adaptive capacity.

Representation is not only gauged by ecological and genetic diversity, but also by the subspecies' ability to colonize new areas. While there are no barriers to dispersal within the lake, individuals could occur in areas of Crater Lake where they have not been detected during snorkel surveys due to the limitations of the survey methodology. However, it is unlikely that Mazama newts could disperse outside of the caldera of Crater Lake due to its topography (greater than 30° slopes (Ray et al. 2022, p. 523), up to 2000 m (600 ft) tall (National Park Service 2026, unpaginated)) and a distance of up to 15 km (9.3 mi) to other known rough-skinned newt habitat (Ray et al. 2022, p. 524). Given the small range of the subspecies, likely reduction in numbers, presumed genetic loss, and limited opportunity to disperse, we conclude that Mazama newt has inherently low representation.

Determination of Status Background

Section 4 of the Act (16 U.S.C. 1533) and our regulations at 50 CFR part 424 set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following 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. We consider these five factors and the species' responses to these factors when making these determinations.

Section 3 of the Act defines endangered species and threatened species. An endangered species is any species which is in danger of extinction throughout all or a significant portion of its range, and a threatened species is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Both definitions include not only the phrase "throughout all," but also the phrase "or a significant portion of its range." Thus, there are ultimately four bases for listing a species under the Act (in danger of extinction throughout all of its range, in danger of extinction throughout a significant portion of its range, likely to become an endangered species within the foreseeable future throughout all of its range, or likely to become an endangered species within the foreseeable future throughout a significant portion of its range). These four bases are made up of two classifications (i.e., endangered or threatened) and two components (i.e., throughout all of its range or throughout a significant portion of its range).

Beginning in 2001, a number of judicial opinions addressed our interpretation of the phrase "or a significant portion of its range" (the SPR phrase) in the statutory definitions of endangered species and threatened species. In *Defenders of Wildlife* v. *Norton*, 258 F.3d 1136 (9th Cir. 2001) regarding the flat-tailed horned lizard, the court held that the interpretation of the SPR phrase that we had applied in analyzing the status of the flat-tailed horned lizard was unacceptable because it would allow for a species to warrant listing throughout a significant portion of a species' range only when the species "is in danger of extinction everywhere" (id. at 1141). The court held that the SPR phrase must be given independent meaning from the "throughout all" phrase to avoid making the SPR phrase in the statute superfluous.

In an attempt to address the judicial opinions calling into question our approach to evaluating whether a species was endangered or threatened throughout a significant portion of its range, the Services published a Final Policy on Interpretation of the Phrase "Significant Portion of Its Range" in the Endangered Species Act's Definitions of "Endangered Species" and "Threatened Species" (hereafter "2014 SPR Policy;" 79 FR 37578, July 1, 2014). The notice of the draft 2014 SPR Policy provides more detail about litigation before 2014 regarding the phrase (76 FR 76987, Dec. 9, 2011). The 2014 SPR Policy included four elements:

(1) Consequence—that the consequence of determining that a species warrants listing based on its status in a significant portion of its range is to list the species throughout all of its range;

(2) Significance—a definition of the term "significant";

(3) Range—that the species' "range" is the current range of the species; and

(4) DPS—that, if a [vertebrate] species is endangered or threatened in an SPR and the population in that SPR is a distinct population segment (DPS), the Service will list just the DPS.

Subsequently, two district courts vacated the definition of "significant" contained in the 2014 SPR Policy (*Ctr. for Biological Diversity* v. *Jewell*, 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) ("*CBD* v. *Jewell*") and *Desert Survivors* v. *U.S. Dep't of the Interior*, 321 F. Supp. 3d 1011, 1070-74 (N.D. Cal. 2018) ("*Desert Survivors*")). The courts found that the definition in the 2014 SPR Policy set too high a threshold and rendered the SPR language in the statute superfluous, failing to give it independent meaning from the "throughout all" phrase. In 2020, another court (*Ctr. for Biological Diversity* v. *Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020) ("*Everson*")) also vacated the specific aspect of the 2014 SPR Policy under which, "if the Services determine that a species is threatened throughout all of its range, the Services will not analyze whether the species is

endangered in a significant portion of its range" (*id.* at 98). This was an extension of the definition of "significant," which required a stepwise process in which we only considered whether a species may be endangered or threatened throughout a significant portion of its range when the species was not endangered or threatened throughout all of its range. In an extension of the earlier rulings from *CBD* v. *Jewell* and *Desert Survivors*, the court found that this aspect of the definition of the 2014 SPR Policy was not only inconsistent with the statute because it "rendered the 'endangered in a significant portion of its range' basis for listing superfluous," but was also "inconsistent with [Endangered Species Act] principles" and "not a logical outgrowth from the draft policy." Under this ruling, if we find a species is not in danger of extinction throughout all of its range, we must evaluate whether the species is in danger of extinction throughout a significant portion of its range, even in cases where we have determined that the species is likely to become in danger of extinction within the foreseeable future (threatened) throughout all of its range. The remaining three elements of the 2014 SPR Policy remain intact.

In short, the courts have directed that the definition of "significant" must afford the phrase "or a significant portion of its range" an independent meaning from the "throughout all of its range" phrase. Therefore, to determine whether any species warrants listing, we determine for each classification (endangered and threatened) the appropriate component to evaluate (throughout all of its range or throughout a significant portion of its range).

We make this determination based on whether the best scientific and commercial data available indicate that the species has a similar extinction risk in all areas across its range (at a scale that is biologically appropriate for that species). When making a listing determination for a species that has a similar extinction risk *in all areas* across its range, we determine its regulatory status using the component "throughout all of its range." For example, in some cases there is no way to divide a species' range in a way that is

biologically appropriate. This could be because the range is so small that there is only one population or because the species functions as a metapopulation such that effects to one population directly result in effects to another population. On the other hand, when making a listing determination for a species whose extinction risk varies across its range, we determine its regulatory status using the component "throughout a significant portion of its range."

For either classification (endangered or threatened), we consider the five factors and the species' responses to those factors regardless of which component (throughout all of its range or throughout a significant portion of its range) we are evaluating. When assessing whether a species is endangered or threatened throughout a significant portion of its range, we address two questions because we must determine whether there is any portion of the species' range for which both (1) the portion is "significant" and (2) the species is in danger of extinction or likely to become in danger of extinction within the foreseeable future throughout that portion. We may address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Determination of the Mazama Newt's Status

We propose listing the Mazama newt as an endangered species because it is in danger of extinction *throughout all of its range*. We began by determining the scale that is biologically appropriate for a classification determination for a given species. There is no way to divide this species' range at a scale that is biologically appropriate for a classification determination because the Mazama newt functions as a single population that occurs within the Crater Lake caldera (approximately 8 by 10 km (5 by 6 mi) across, with approximately 35 km (21.7 mi) of shoreline), and the threats affect the species such that it has similar extinction risk throughout its entire range. Invasive species, particularly

signal crayfish, are currently distributed almost entirely around the shoreline of Crater Lake such that all remaining areas where Mazama newts occur are likely impacted. Thus, there is no possible portion to evaluate. Given that there is no possible portion to evaluate, there is no potential for the species to be in danger of extinction or likely to become so within the foreseeable future throughout a significant portion of its range. Therefore, we assessed the Mazama newt's status based upon the "throughout all of its range" component.

In undertaking this analysis of whether the Mazama newt is in danger of extinction throughout all of its range, we reviewed the best scientific and commercial data available regarding threats to the species, its responses to those threats, and any associated conservation measures. We then assessed the cumulative effects of those threats and conservation measures under the Act's section 4(a)(1) factors. We examined the following threats: nonnative species (Factor C) and increased water temperatures (Factor E), including cumulative effects and existing regulatory mechanisms (Factor D). The Mazama newt is a narrow endemic with one population distributed across a small portion of its known historical range where nonnative predators have impacted the subspecies. Nonnative species are expanding their range and continuing to impact Mazama newts through both predation and competition, and these effects have been exacerbated over the past decades due to increased water temperatures. Warming water temperatures have occurred and have likely contributed to the expansion of signal crayfish in the lake. Newt detection trends since 2008 have shown decreasing numbers of individuals, and thus, we conclude that there is reduced resiliency compared to historical conditions.

The subspecies' range is limited to one population in the caldera of Crater Lake, which limits redundancy; however, there are no known, plausible catastrophic events. Therefore, we assume that the number of populations is the same as historical conditions

(one population), but the redundancy within the one population has been reduced from its known historical extent throughout the lake as the population has contracted over time. We assume potential adaptive capacity for the Mazama newt may be expressed through phenotypic plasticity in their ability to become terrestrial, transform or remain as paedomorphs, or change their behavior in relation to predator activity periods. Current representation is reduced from historical conditions through the assumed loss of genetic diversity from the loss of individuals over time. The population may have some degree of adaptive capacity, although phenotypic plasticity may not be sufficient to withstand the current and increasing threats facing the subspecies.

After evaluating threats to the species, its responses to those threats and any associated conservation measures, and assessing the cumulative effects of those threats and conservation measures under the Act's section 4(a)(1) factors, we find that the Mazama newt is experiencing an extremely restricted range, decreasing detection trends over time, presumed genetic loss from population declines, ongoing direct and indirect threats from nonnative species expansion into Crater Lake, warming water associated with changing precipitation patterns likely exacerbating crayfish expansion, and the overall lack of ability to withstand current and increasing threats. Due to the ongoing threats that elevate the risk of extirpation across the small remaining areas of the subspecies' range, we have determined that the Mazama newt is currently in danger of extinction. We find that the existing regulatory mechanisms (Factor D) do not address the threats impacting the Mazama newt. A threatened status is not appropriate because the imminence and magnitude of the current threats have already resulted in the species being in danger of extinction.

Determination of Status

Based on the best scientific and commercial data available, we determine that the Mazama newt meets the Act's definition of an endangered species because it is in danger

of extinction throughout all of its range. Therefore, we propose to list the Mazama newt as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition as a listed species, planning and implementation of recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, Tribal, and local agencies, foreign governments, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies, including the Service, and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the Lists of Endangered and Threatened Wildlife and Plants.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for

the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species, or to delist a species, is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species and other experts, including those from Federal and State agencies, Tribes, the academic community, or nongovernmental organizations) may be established to develop or implement recovery plans. The recovery outline, draft recovery plan, final recovery plan, and any revisions will be available on our website as they are completed (https://www.fws.gov/program/endangered-species) or from our Klamath Falls Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their ranges may occur primarily or solely on non-Federal lands. Recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If this species is listed, funding for recovery actions may be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations.

In addition, pursuant to section 6 of the Act, the State of Oregon would be eligible for Federal funds to implement management actions that promote the protection or recovery of the Mazama newt. Information on our grant programs that are available to aid species recovery can be found at: https://www.fws.gov/service/financial-assistance.

Although the Mazama newt is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7 of the Act is titled, "Interagency Cooperation," and it mandates all Federal action agencies to use their existing authorities to further the conservation purposes of the Act and to ensure that their actions are not likely to jeopardize the continued existence of listed species or destroy or adversely modify critical habitat. Regulations implementing section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. If a determination is made that the action may affect listed species or critical habitat, formal consultation is required (50 CFR 402.14(a)), unless the Service concurs in writing that the action is not likely to adversely affect listed species or critical habitat. At the end of a formal consultation, the Service issues a biological opinion, containing its determination of whether the Federal action is likely to result in jeopardy or adverse modification.

In contrast, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. Although the conference procedures are required only when an action is likely to result in jeopardy or adverse modification, action agencies may voluntarily confer with the Service on actions that may affect species proposed for listing or critical habitat proposed to be designated. In the event that the subject species is listed or the relevant critical habitat is designated, a conference opinion may be adopted as a biological opinion and serve as compliance with section 7(a)(2) of the Act.

Examples of discretionary actions for the Mazama newt that may be subject to conference and consultation procedures under section 7 are management of Federal lands administered by the National Park Service, as well as actions that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 et seq.)) or actions funded by Federal agencies such as the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency. Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation. Federal agencies should coordinate with the Klamath Falls Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**) with any specific questions on section 7 consultation and conference requirements.

The Act and its implementing regulations set forth a series of prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, and the Service's implementing regulations codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to

commit, to solicit another to commit or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. Certain exceptions to these prohibitions apply to employees or agents of the Service, the NMFS, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits for endangered wildlife are codified at 50 CFR 17.22, and general Service permitting regulations are codified at 50 CFR part 13. With regard to endangered wildlife, a permit may be issued: for scientific purposes, for enhancing the propagation or survival of the species, or for take incidental to otherwise lawful activities. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

II. Critical Habitat

Background

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate a species' critical habitat concurrently with listing the species. Critical habitat is defined in section 3(5)(A) of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (i.e., range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (e.g., migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3(3) of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that each Federal action agency ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. The designation of critical habitat

does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal agency would have already been required to consult with the Service even absent the designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the listed species. Even if the Service were to conclude after consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement "reasonable and prudent alternatives" to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at

the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the *Federal Register* on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information compiled in the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

A critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, would continue to be subject to: (1) conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to

jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act. These protections and conservation tools will continue to contribute to recovery of the species. Similarly, critical habitat designations made on the basis of the best scientific data available at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available at the time of those planning efforts calls for a different outcome.

Critical Habitat Determinability

Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of "critical habitat."

We reviewed the available information pertaining to the biological needs of the species and habitat characteristics where the Mazama newt is located. A careful assessment of the economic impacts that may occur due to critical habitat designation is not yet complete, and we are in the process of acquiring the information needed to perform that assessment. Because the information sufficient to perform a required analysis of the impacts of the designation is lacking, we conclude that the designation of critical habitat for the Mazama newt is not determinable at this time. The Act allows the Service an additional year to publish a critical habitat designation that is not determinable at the time of listing (16 U.S.C. 1533(b)(6)(C)(ii)).

Required Determinations

Clarity of the Rule

We are required by Executive Orders (E.O.) 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 the numbers 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.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994 ("Government-to-Government Relations with Native American Tribal Governments"; 59 FR 22951, May 4, 1994), E.O. 13175 ("Consultation and Coordination with Indian Tribal Governments"), the President's memorandum of November 30, 2022 ("Uniform Standards for Tribal Consultation"; 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations on a government-to-government basis. In accordance with Secretary's Order 3206 of June 5, 1997 ("American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act"), we readily acknowledge our

responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We sent letters to affected Tribes (The Klamath Tribes, The Modoc Nation, Coquille, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI), The Cow Creek Band, the Confederated Tribes of Grande Ronde, The Confederated Tribes of Siletz, The Confederated Tribes of Warm Springs) when we began developing our 12-month finding for the Mazama newt. We will continue to work with relevant Tribal entities during the development of any final rules for the Mazama newt.

References Cited

A complete list of references cited in this rulemaking is available on the internet at https://www.regulations.gov at Docket No. FWS–R8–ES–2026–2938 and upon request from the Klamath Falls Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to 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.

2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by adding an entry for “Newt, Mazama” in alphabetical order under AMPHIBIANS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
* * * * * * *				
AMPHIBIANS				
* * * * * * *				
Newt, Mazama	*Taricha granulosa mazamae*	Wherever found	E	[*Federal Register* citation when published as a final rule].
* * * * * * *				

Brian Nesvik,
Director,
U.S. Fish and Wildlife Service.

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