



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[4500030115]

### Endangered and Threatened Wildlife and Plants; 90-Day Findings for Five Species

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

**ACTION:** Notification of petition findings and initiation of status reviews.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on several petitions to list or reclassify wildlife or plants under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted with respect to the species mentioned in this notification. Therefore, with the publication of this document, we announce that we plan to initiate a review of the status of each of these species to determine if the petitioned actions are warranted. To ensure that these status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding these species. After completing the status reviews, we will issue 12-month findings on the petitions, which will address whether or not the petitioned action is warranted, in accordance with the Act. In addition, we announce a correction to information contained in the 90-day petition finding for the leopard (*Panthera pardus*), which clarifies the range and entity we are evaluating in our status review of the species.

**DATES:** These findings were made on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Summaries of the bases for the petition findings contained in this document are available on <http://www.regulations.gov> under the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). Supporting information in preparing these findings is available for public inspection, by appointment, during normal business hours by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**. If you have new information concerning the status of, or threats to, the species for which we made these petition findings, or their habitats, please submit that information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). Then, click on the Search button. After finding the correct document, you may submit information by clicking on “Comment Now!” If your information will fit in the provided comment box, please use this feature of <http://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see table under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on <http://www.regulations.gov>. This generally means that we

will post any personal information you provide us (see **Request for Information for Status Reviews**, below, for more information).

**FOR FURTHER INFORMATION CONTACT:**

<b>Common Name</b>	<b>Contact Person</b>
Oblong rocksnail	Brian Evans, 404-679-7118; brian_evans@fws.gov
Sturgeon chub and sicklefin chub	Justin Shoemaker, 309-757-5800 x214; justin_shoemaker@fws.gov
Tricolored bat	Krishna Gifford, 413-253-8619; krishna_gifford@fws.gov
Venus flytrap	Brian Evans, 404-679-7118; brian_evans@fws.gov
Leopard	Janine Van Norman, 703-358-2370; janine_vannorman@fws.gov

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

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Last year, the Service and the National Marine Fisheries Service of the Department of Commerce revised the regulations that outline the procedures for evaluating petitions (81 FR 66462; September 27, 2016). The new regulations at 50 CFR 424.14 were effective October 27,

2016. We received the petitions referenced in this document prior to that effective date. Therefore, we evaluated these petitions under the 50 CFR 424.14 requirements that were in effect prior to October 27, 2016, as those requirements applied when the petitions were received. The regulations in effect prior to October 27, 2016, establish that the standard for substantial scientific or commercial information with regard to a 90-day petition finding is “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (former 50 CFR 424.14(b)).

A species may be determined to be an endangered or threatened species because of one or more of the five factors described in section 4(a)(1) of the Act. The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); or

(e) Other natural or manmade factors affecting its continued existence (Factor E). These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence (i.e., threats). In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as for those that may ameliorate any negative effects and those that may have positive effects. In considering whether the petition presents substantial information indicating the species may be threatened or endangered, we must look beyond the exposure of the species to a threat to evaluate whether the species may respond to the threat in a way that causes actual

impacts to the species. The mere identification of threats that could affect a species negatively may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an “endangered species” or “threatened species” under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual, population, and species-level effects, and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect 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 that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an “endangered species” or “threatened species.”

If we find that a petition presents substantial scientific or commercial information, the Act requires us to promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

### **Summaries of Petition Findings**

The petition findings contained in this document are listed in the table below and the bases for the findings, along with supporting information, are available on

<http://www.regulations.gov> under the appropriate docket number.

**Table: Substantial findings and correction announced.**

<b>Common name</b>	<b>Docket no.</b>	<b>URL to Docket on <i>http://www.regulations.gov</i></b>
Oblong rocksnail	FWS-R4-ES-2017-0042	<a href="http://www.regulations.gov/docket?D=FWS-R-ES-2017-0042">http://www.regulations.gov/docket?D=FWS-R-ES-2017-0042</a>
Sturgeon chub and sicklefin chub	FWS-R6-ES-2017-0010	<a href="http://www.regulations.gov/docket?D=FWS-R6-ES-2017-0010">http://www.regulations.gov/docket?D=FWS-R6-ES-2017-0010</a>
Tricolored bat	FWS-R5-ES-2017-0011	<a href="http://www.regulations.gov/docket?D=FWS-R5-ES-2017-0011">http://www.regulations.gov/docket?D=FWS-R5-ES-2017-0011</a>
Venus flytrap	FWS-R4-ES-2017-0041	<a href="http://www.regulations.gov/docket?D=FWS-R4-ES-2017-0041">http://www.regulations.gov/docket?D=FWS-R4-ES-2017-0041</a>
Leopard	FWS-HQ-ES-2016-0131	<a href="http://www.regulations.gov/docket?D=FWS-HQ-ES-2016-0131">http://www.regulations.gov/docket?D=FWS-HQ-ES-2016-0131</a>

## **Evaluation of a Petition to List the Oblong Rocksnail as an Endangered or Threatened**

### **Species Under the Act**

#### *Species and Range*

Oblong rocksnail (*Leptoxis compacta*): Cahaba River, Shelby County, Alabama.

#### *Petition History*

On June 21, 2016, we received a petition dated the same day from the Center for Biological Diversity and Cahaba Riverkeeper requesting that the oblong rocksnail be listed as endangered or threatened and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at former 50 CFR 424.14(a). This finding addresses the petition.

#### *Finding*

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the oblong rocksnail, based on Factors A and E as set forth in

section 4(a)(1) of the Act (for information about these factors, see **Background**, above).

However, during our status review, we will thoroughly evaluate all potential threats to the species, including the extent to which any protections or other conservation efforts have reduced those threats. Thus, for this species, the Service requests any information relevant to whether the species falls within the definition of either “endangered species” under section 3(6) of the Act or “threatened species” under section 3(20) of the Act, including information on the five listing factors under section 4(a)(1) (see **Request for Information for Status Reviews**, below).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R4–ES–2017–0042 under the Supporting Documents section.

### **Evaluation of a Petition to List the Sturgeon Chub and Sicklefin Chub as Endangered or Threatened Species Under the Act**

#### *Species and Range*

Sturgeon chub (*Macrhybopsis gelida*): Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, South Dakota, Tennessee, and Wyoming (Missouri River, tributaries to the Yellowstone and Missouri Rivers, Middle and Lower Mississippi River).

Sicklefin chub (*Macrhybopsis meeki*): Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Tennessee (Missouri River, Lower Yellowstone River, and Middle and Lower Mississippi River).

### *Petition History*

On August 15, 2016, we received a petition dated August 11, 2016, from WildEarth Guardians requesting that the sturgeon chub and sicklefin chub be listed as endangered or threatened and that critical habitat be designated for these species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at former 50 CFR 424.14(a). This finding addresses the petition.

### *Finding*

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the sturgeon chub and sicklefin chub, based on Factors A, C, D, and E as set forth in section 4(a)(1) of the Act (for information about these factors, see **Background**, above). However, during our status review, we will thoroughly evaluate all potential threats to the species, including the extent to which any protections or other conservation efforts have reduced those threats. Thus, for these species, the Service requests any information relevant to whether the species fall within the definition of either “endangered species” under section 3(6) of the Act or “threatened species” under section 3(20) of the Act, including information on the five listing factors under section 4(a)(1) (see **Request for Information for Status Reviews**, below).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R6–ES–2017–0010 under the Supporting Documents section.

## **Evaluation of a Petition to List the Tricolored Bat as an Endangered or Threatened Species Under the Act**

### *Species and Range*

Tricolored bat (*Perimyotis subflavus*): Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin; Canada (New Brunswick, Nova Scotia, Ontario, and Quebec); Mexico (Eastern and southern regions: Coahuila to Chiapas); Central America (Guatemala)

#### *Petition History*

On June 14, 2016, we received a petition dated June 14, 2016, from the Center for Biological Diversity and Defenders of Wildlife requesting that the tricolored bat be listed as endangered or threatened and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at former 50 CFR 424.14(a). This finding addresses the petition.

#### *Finding*

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the tricolored bat, based on Factors A, C, and E as set forth in section 4(a)(1) of the Act (for information about these factors, see **Background**, above). However, during our status review, we will thoroughly evaluate all potential threats to the species, including the extent to which any protections or other conservation efforts have reduced those threats. Thus, for this species, the Service requests any information relevant to whether the species falls within the definition of either “endangered species” under section 3(6) of the Act or

“threatened species” under section 3(20) of the Act, including information on the five listing factors under section 4(a)(1) (see **Request for Information for Status Reviews**, below).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R5–ES–2017–0011 under the Supporting Documents section.

## **Evaluation of a Petition to List the Venus Flytrap as an Endangered or Threatened Species Under the Act**

### *Species and Range*

Venus flytrap (*Dionaea muscipula* Ellis): Southeastern North Carolina and northeastern South Carolina, and one introduced population each in Florida and New Jersey.

### *Petition History*

On October 21, 2016, we received a petition dated the same day from Donald M. Waller, J.T. Curtis Professor of Botany and Environmental Studies, University of Wisconsin-Madison, and 25 additional supporters requesting that the Venus flytrap be listed as endangered or threatened and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at former 50 CFR 424.14(a). This finding addresses the petition.

### *Finding*

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Venus flytrap, based on Factors A, B, and D as set forth in section 4(a)(1) of the Act (see **Background**, above). However, during our status review, we will thoroughly evaluate all potential threats to the species, including the extent to which any

protections or other conservation efforts have reduced those threats. Thus, for this species, the Service requests any information relevant to whether the species falls within the definition of either “endangered species” under section 3(6) of the Act or “threatened species” under section 3(20) of the Act, including information on the five listing factors under section 4(a)(1) (see **Request for Information for Status Reviews**, below).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R4–ES–2017–0041 under the Supporting Documents section.

### **Correction to our Evaluation of a Petition To Reclassify the Leopard as an Endangered Species Throughout its Range**

On November 30, 2016, we published a document in the **Federal Register** (81 FR 86315) announcing 90-day findings on three petitions to list or reclassify wildlife or plants under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 et seq.). That document included a finding on a petition to reclassify leopard (*Panthera pardus*) as an endangered species throughout its range. However, in the discussion of our finding and supporting documentation, we made two errors. Therefore, with this document, we correct those errors, clarify our intent to evaluate the status of the species throughout its range. The public is welcome to submit information on the species in light of these corrections (see **ADDRESSES**, above). If you sent information previously, you need not resend it.

The first error we made in the November 30, 2016, 90-day finding is that we mistakenly titled the action “Evaluation of a Petition To Reclassify Leopards Currently Listed as Threatened Species to Endangered Species Under the Act,” inadvertently implying that we will evaluate the status of the species only in the countries in which it is currently listed as threatened. However,

the petition requests that we reclassify leopards as endangered throughout the species' current range, and we evaluated the petition based on that request. Our finding on the petition—that the petition contains substantial information that listing the leopard as endangered throughout its range may be warranted—has not changed. Therefore, we clarify that we will evaluate the status of leopards throughout their current range in our assessment of the species' status.

The second error we made in the November 30, 2016, 90-day finding is that we mistakenly described the current range of the leopard as: Democratic Republic of the Congo, Gabon, Kenya, and Uganda. However, the correct current range of the species is as follows:

#### *Species and Range*

Leopard (*Panthera pardus*): 62 countries in Africa and Asia.

The corrected information regarding our review of this petition can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–HQ–ES–2016–0131 in the Supporting Documents section.

#### **Request for Information for Status Reviews**

When we make a finding that a petition presents substantial information indicating that listing, reclassification, or delisting of a species may be warranted, we are required to review the status of the species (a status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on these species from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

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

- (a) Habitat requirements;
- (b) Genetics and taxonomy;
- (c) Historical and current range, including distribution patterns; and
- (d) Historical and current population levels and current and projected trends.

(2) The five factors described in section 4(a)(1) of the Act (see **Background**, above) that are the basis for making a listing, reclassification, or delisting determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), including past and ongoing conservation measures that could decrease the extent to which one or more of the factors affect the species, its habitat, or both.

(3) The potential effects of climate change on the species and its habitat, and the extent to which it affects the habitat or range of the species.

If, after the status review, we determine that listing is warranted, we will propose critical habitat (see definition at section 3(5)(A) of the Act) for domestic (United States) species under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we also request data and information (submitted as provided for in **ADDRESSES**, above) for the species listed in the table above on:

(1) What may constitute “physical or biological features essential to the conservation of the species,” within the geographical range occupied by the species;

(2) Where these features are currently found;

(3) Whether or not any of these features may require special management considerations or protection;

(4) Specific areas outside the geographical area occupied by the species that are “essential for the conservation of the species”; and

(5) What, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat falls within the definition of “critical habitat” at section 3(5) of the Act.

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

Submissions merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your information concerning these status reviews by one of the methods listed in **ADDRESSES**. If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

It is important to note that the standard for a 90-day finding differs from the Act’s standard that applies to a status review to determine whether a petitioned action is warranted. In making a 90-day finding, we consider information in the petition and sources cited in the petition, as well as information which is readily available, and we evaluate merely whether that information constitutes “substantial information” indicating that the petitioned action “may be

warranted.” In a 12-month finding, we must complete a thorough status review of the species and evaluate the “best scientific and commercial data available” to determine whether a petitioned action “is warranted.” Because the Act’s standards for 90-day and 12-month findings are different, a substantial 90-day finding does not mean that the 12-month finding will result in a “warranted” finding.

## **Conclusion**

On the basis of our evaluation of the information presented in the petitions under section 4(b)(3)(A) of the Act, we have determined that the petitions referenced above for the oblong rocksnail, sturgeon chub, sicklefin chub, tricolored bat, and Venus flytrap present substantial scientific or commercial information indicating that the requested actions may be warranted. Because we have found that these petitions present substantial information indicating that the petitioned actions may be warranted, we are initiating status reviews to determine whether these actions are warranted under the Act. At the conclusion of each status review, we will issue a finding, in accordance with section 4(b)(3)(B) of the Act, as to whether or not the petitioned action is warranted.

**Authors**

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

**Authority**

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

Dated: October 23, 2017.

James W. Kurth,  
Deputy Director,  
U.S. Fish and Wildlife Service,  
exercising the authority of the Director  
U.S. Fish and Wildlife Service.

**Billing Code: 4333-15**

[FR Doc. 2017-27389 Filed: 12/19/2017 8:45 am; Publication Date: 12/20/2017]