

# Proposed Rules

Federal Register

Vol. 86, No. 115

Thursday, June 17, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FF09E21000 FXES11110900000 212]

#### Endangered and Threatened Wildlife and Plants; 90-Day Findings for Two 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 two petitions to add species to the List of Endangered and Threatened Wildlife 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. Therefore, with the publication of this document, we announce that we plan to initiate status reviews of the Temblor

legless lizard (*Anniella alexanderae*) and Santa Ana speckled dace (*Rhinichthys osculus*) to determine whether the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding the species and factors that may affect their status. Based on the status reviews, we will issue 12-month petition findings, which will address whether or not the petitioned actions are warranted, in accordance with the Act.

**DATES:** These findings were made on June 17, 2021. As we commence our status reviews, we seek any new information concerning the status of, or threats to, the species or their habitats. Any information we receive during the course of our status reviews will be considered.

**ADDRESSES: Supporting documents:** Summaries of the basis 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**). In addition, this supporting information is available by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

**Status reviews:** If you have new scientific or commercial data or other information concerning the status of, or threats to, the species for which we are initiating status reviews, please provide

those data or 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 to: Public Comments Processing, Attn: [Insert appropriate docket number; see table under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: PRB/3W, 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).

Species common name	Contact person
Temblor legless lizard .....	Michael Fris, Project Leader, Sacramento Fish and Wildlife Office, 916–414–6700, <a href="mailto:Michael.Fris@fws.gov">Michael.Fris@fws.gov</a> .
Santa Ana speckled dace .....	Scott Sobiech, Field Supervisor, Carlsbad Fish and Wildlife Office, 760–431–9440, <a href="mailto:Scott_Sobiech@fws.gov">Scott_Sobiech@fws.gov</a> .

#### FOR FURTHER INFORMATION CONTACT:

If you use a telecommunications device for the deaf, please call the Federal Relay Service 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 species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part

17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (*i.e.*, “list” a species), remove a species from the List (*i.e.*, “delist” a species), or change a listed species’ status from endangered to threatened or from threatened to endangered (*i.e.*, “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**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition’s claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the

five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). 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); and
- (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. 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, affect individuals of a species negatively. 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) 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 are expected to 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 under the Act.

If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we 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 basis for each finding, along with supporting information, is available on <http://www.regulations.gov> under the appropriate docket number.

TABLE—STATUS REVIEWS

Common name	Docket No.	URL to docket on <a href="http://www.regulations.gov">http://www.regulations.gov</a>
Temblor legless lizard .....	FWS-R8-ES-2021-0024	<a href="https://www.regulations.gov/docket/FWS-R8-ES-2021-0024">https://www.regulations.gov/docket/FWS-R8-ES-2021-0024</a> .
Santa Ana speckled dace ...	FWS-R8-ES-2021-0023	<a href="https://www.regulations.gov/docket/FWS-R8-ES-2021-0023">https://www.regulations.gov/docket/FWS-R8-ES-2021-0023</a> .

*Evaluation of a Petition To List the Temblor Legless Lizard*

Species and Range

Temblor legless lizard (*Anniella alexanderae*); California.

Petition History

On October 20, 2020, we received a petition dated the same, from the Center for Biological Diversity, requesting that we list the Temblor legless lizard as an endangered or threatened species and designate critical habitat for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). 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 Temblor legless lizard due to potential threats associated with the following: Oil and gas development, urbanization, habitat fragmentation, and industrial solar projects (Factor A); and climate change and wildfires (Factor E). The petition also presented substantial information that existing regulatory mechanisms and conservation measures may be inadequate to address impacts of these threats (Factor D).

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-R8-ES-2021-0024 under Supporting Documents.

*Evaluation of a Petition To List the Santa Ana Speckled Dace*

Species and Range

Speckled dace (*Rhinichthys osculus*); Southern California.

Petition History

On May 11, 2020, we received a petition dated the same, from the Center for Biological Diversity, requesting that we list the Southern California population of the speckled dace (Santa Ana speckled dace), either as a taxonomically defined species or as a distinct population segment under our Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (61 FR 4722; February 7, 1996), as an endangered or threatened species and designate critical habitat for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). 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 the petitioned entity (Santa Ana speckled dace) may be a distinct population segment (DPS) and that the petitioned action may be warranted due to potential threats associated with the following: Dams, reservoirs, and water diversions; barriers to migration and movement; roads; pollution; mining; concentrated recreational use; and off-road vehicle use (Factor A); predation (Factor C); and drought, wildfires and flooding, introduced species, climate change, and population fragmentation (Factor E). We further find that the petition presents substantial scientific or commercial information indicating that existing regulatory mechanisms may be inadequate to fully ameliorate the identified threats (Factor D), although there is also information indicating that these regulatory mechanisms and other conservation efforts provide some protection to the Santa Ana speckled dace.

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-R8-ES-2021-0023 under the Supporting Documents section.

### Conclusion

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) and 4(b)(3)(D)(i) of the Act, we have determined that the petitions summarized above for the Tumbler legless lizard and Santa Ana speckled dace present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating status reviews of these species to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an

endangered species or a threatened species.

### Request for Information for Status Reviews

When we make a finding that a petition presents substantial information indicating that listing, delisting, or reclassification 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 the 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:

- Habitat requirements;
- Genetics and taxonomy;
- Historical and current range, including distribution patterns; and
- 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, delisting, or reclassification determination for a species under section 4(a) of the Act, 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.

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 the status review 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 that 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.

### 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.*).

### Martha Williams,

*Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2021-12814 Filed 6-16-21; 8:45 am]

**BILLING CODE 4333-15-P**