

section 642's effective date, rendering notice and comment prior to extending the effective date "unnecessary." In addition, in light of the disruptive effect of the national emergency on the daily activities of entities subject to section 642 and other interested parties, and the need for MVPDs and providers of fixed broadband internet access service to focus their resources on the national emergency, we find that delaying relief under the circumstances would not serve the purpose of the extension and would fail to yield the public interest benefits that notice and comment procedures are designed to produce.⁵

5. Because this blanket extension does not require notice and comment pursuant to the "good cause" exception of the Administrative Procedure Act, the Regulatory Flexibility Act does not apply.

6. This *Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

7. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is "non-major" under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the *Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

8. Accordingly, *it is ordered* that, pursuant to the authority found in sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), section 1004 of the Television Viewer Protection Act of 2019, section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553, and sections 0.5(c) and 0.283 of the Commission's rules, 47 CFR 0.5(c), 0.283, this *Order* is adopted. *It is further ordered* that, pursuant to section 1.113(a) of the Commission's rules, 47 CFR 1.113(a), the March 16, 2020 *Public Notice* in MB Docket No. 20–61 is hereby rescinded. *It is further ordered* that this *Order* shall be effective upon publication in the **Federal Register**.⁶ *It is*

further ordered that, should no petitions for reconsideration be timely filed, MB Docket No. 20–61 shall be terminated, and its docket closed.

Federal Communications Commission.

Thomas Horan,
Media Bureau.

[FR Doc. 2020–07968 Filed 4–22–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2015–0019;
4500090024]

RIN 1018–BC78

Endangered and Threatened Wildlife and Plants; Reclassifying the Golden Conure From Endangered to Threatened With a Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), reclassify the golden conure (*Gauruba guarouba*) under the Endangered Species Act of 1973, as amended (Act), from endangered to threatened on the Federal List of Endangered and Threatened Wildlife (List). Our determination is based on a thorough review of the best available scientific and commercial information, which indicates that the golden conure no longer meets the definition of an endangered species, but is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. We are also establishing a rule pursuant to section 4(d) of the Act for the golden conure to provide for its further conservation. Additionally, this final rule updates the List to reflect the latest scientifically accepted taxonomy and nomenclature for the species as *Guaruba guarouba*, golden conure.

DATES: This rule is effective May 26, 2020.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this rule, are available for public inspection at <http://www.regulations.gov> under Docket No. FWS–HQ–ES–2015–0019.

Federal Register publication, in order to provide certainty to affected providers during the current emergency as to the effective date of the new requirements.

FOR FURTHER INFORMATION CONTACT: Don Morgan, Chief, Branch of Delisting and Foreign Species, Ecological Services, U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone, 703–358–2444. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Previous Federal Actions

On September 5, 2018, we published in the **Federal Register** (83 FR 45073) our 12-month finding on a petition to remove the golden conure from the List of Endangered and Threatened Wildlife (*i.e.*, "delist" the species) or to reclassify the golden conure from an endangered to a threatened species (*i.e.*, "downlist" the species) determining that reclassification was warranted. Accordingly, we published a proposed rule to downlist the golden conure under the Act (16 U.S.C. 1531 *et seq.*) and proposed a rule pursuant to section 4(d) to further the conservation of the golden conure. Please refer to that document for information on Federal actions occurring before September 5, 2018, for the golden conure.

Summary of Changes From the Proposed Rule

During the comment period on our September 5, 2018, proposed rule (83 FR 45073), we received updated information regarding the golden conure reintroduction program occurring in the Belém region of Pará at Utinga State Park. We have incorporated this information under Conservation Measures and Regulatory Mechanisms in this rule and have updated the species status assessment (SSA) report.

Background

A thorough review of the taxonomy, life history, ecology, and overall viability of the golden conure is presented in the species status assessment (SSA) report for the golden conure (Service 2018; available at Docket No. FWS–HQ–ES–2015–0019 on <http://www.regulations.gov>). The SSA report documents the results of the comprehensive biological study for the golden conure and provides an account of the species' overall viability through forecasting of the species' condition in the future (Service 2018, entire). In the SSA report, we summarize the relevant biological data and a description of past, present, and likely future stressors, and we conduct an analysis of the viability of the species. The SSA report provides the scientific basis that informs our statutory decision regarding whether this species should be listed as an

⁵ Although the pleading cycle for the *Public Notice* was scheduled to conclude on April 13, 2020, given our finding of good cause to dispense with public comment, we hereby rescind the *Public Notice*.

⁶ The blanket extension adopted herein serves to "relieve" a restriction." For similar reasons, there is also good cause to make this *Order* effective upon

endangered or a threatened species under the Act. This decision involves the application of standards within the Act, its implementing regulations, and Service policies (see Determination, below). The SSA report contains the risk analysis on which this determination is based, and the following discussion is a summary of the results and conclusions from the SSA report. We solicited peer review of the draft SSA report from five qualified experts. We received responses from four of the reviewers, and we modified the SSA report as appropriate. In addition to our SSA report, the summary of the biological background of the species can also be found in our September 5, 2018, proposed rule (83 FR 45073).

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an “endangered species” or a “threatened 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 directs us to determine whether any species is an endangered species or a threatened species because of one or more of the following factors affecting its continued existence: (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 completed a comprehensive assessment of the biological status of the golden conure, and prepared a report of the assessment, which provides a thorough account of the species’ overall viability. In the discussion below, we summarize the conclusions of that SSA, which can be accessed at Docket No. FWS-HQ-ES-2015-0019 on <http://www.regulations.gov>. Please refer to the SSA report and the Summary of Factors Affecting the Species section in the proposed rule (83 FR 45073, September 5, 2018, pp. 45077–45080) for a more detailed discussion of the factors affecting the golden conure.

Habitat Loss—Deforestation

Large-scale deforestation in the Amazon has occurred since the 1970s and 1980s concurrent with the growth of Brazil’s economy (GFA 2017, unpaginated). The Brazilian Amazon is approximately the size of Western Europe, and as of 2016, an area the size of France has been lost to deforestation (Fearnside 2017a, pp. 1, 3). Approximately 30 to 35 percent of the golden conure’s range has already been lost to deforestation, primarily in the eastern states of Pará and Maranhão (Laranjeiras 2011a, unpaginated; Laranjeiras and Cohn-Haft 2009, p. 8), and another 23 to 30 percent of the golden conure’s habitat is predicted to be lost within 22 years or three generations (Bird *et al.* 2011, appendix S1). The golden conure’s range partially overlaps what is known as the “arc of deforestation,” an area in the southeastern Amazon where rates of deforestation and forest fragmentation have been the highest (Prioste *et al.* 2012, p. 701; Laranjeiras 2011a, unpaginated; Laranjeiras and Cohn-Haft 2009, p. 8).

After a long period of deforestation in the Amazon, rates of deforestation dropped dramatically to levels not recorded in recent decades (Alves *et al.* 2017, p. 76). However, despite declines in the deforestation rate, the total area deforested in Brazil’s Amazon has risen steadily since deforestation rates were first measured in 1988 (IPAM 2017, p. 7 using PRODES 2017 data). More recently, deforestation rates are increasing again (Fearnside 2017b, p. 1; IPAM 2017, p. 15; Biderman and Nogueron 2016, unpaginated), as global demand for agricultural commodities continues to rise (Brando *et al.* 2016, abstract), and the “arc of deforestation” is likely to continue to be a hotspot (Alves *et al.* 2017, p. 76).

Forest habitat degradation and fragmentation typically begin with road construction and subsequent human settlement. Nearly 95 percent of all deforestation occurred within 5.5 kilometers (km) (3.4 miles (mi)) of roads or 1 km (0.6 mi) of rivers (Barber *et al.* 2014, pp. 203, 205, 208). Roads are rapidly expanding in the region and contribute to further habitat degradation and fragmentation (Barber *et al.* 2014, p. 203).

Logging in the Amazon was once restricted to areas bordering major rivers, but the construction of highways and strategic access roads and the depletion of hardwood stocks in the south of Brazil made logging an important, growing industry (Veríssimo *et al.* 1992, p. 170). Logging operations

typically occur on private lands (GFA 2018a and b, unpaginated). After logging, the land may be clear-cut and burned, in preparation for crops (Reynolds 2003, p. 10). Although the Brazilian forest code requires private landowners in the Amazon to maintain 80 percent of their land as forest, the code has been poorly enforced (GFA 2018b, unpaginated), and full compliance has not been achieved (Azevedo *et al.* 2017, entire; see Conservation Measures and Regulatory Mechanisms, below). Logging on public lands is allowed via concessions where logging companies are granted logging rights for a fee (GFA 2018a, unpaginated). However, the concession system is not currently working as intended, and illegal logging in public protected areas remains a serious threat, particularly logging of mahogany (*Swietenia macrophylla*) (BLI 2016, p. 5), a CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) Appendix II species (CITES 2018b). Although selective logging and requirements for minimum tree sizes are intended to minimize effects to the forest, logging of larger trees is likely to have a greater effect on the golden conure because the species uses larger, older trees for its nesting and roosting (Yamashita 2003, p. 38).

Expanding crop production and ranching are also major drivers of deforestation in the Amazon basin. Soy beans are primarily used for cattle feed, and in the 1990s and early 2000s, high demand for beef created a “soy-cattle pasture deforestation dynamic,” where soy production replaced existing cattle pasture, and forced new deforestation into the Amazon for cattle ranching (GFA 2018c, unpaginated). In the 2 years preceding the moratorium (instituted in 2006), approximately 30 percent of soy expansion occurred through deforestation rather than by replacement of pasture or other previously cleared lands; by 2014, just 1 percent of soy expansion was responsible for deforestation in Brazil’s Amazon (Gibbs *et al.* 2015, p. 377). The soy moratorium was renewed indefinitely in 2016, or until it is no longer needed (Patiño 2016, unpaginated).

Cattle ranching is the largest cause of deforestation in every Amazon country and is responsible for about 80 percent of current deforestation rates (GFA 2018d, unpaginated). Brazil is the largest beef exporter in the world, supplying about one quarter of the world market (GFA 2018d, unpaginated). In 2015 and 2016, new markets for Brazilian beef were opened

up via agreements with Russia, the United States, and China (Fearnside 2017b, p. 14). The Chinese market, in particular, has significant potential demand for both beef and leather, with China being the world's largest manufacturer of shoes (Fearnside 2017b, p. 16).

Conversion of native forest for the cultivation of palm plantations for the production of palm oil is likely to further reduce the amount of habitat available to the golden conure. The Brazilian government plans to increase biofuel production in the next decade, driven primarily by demands for fuel (ethanol and biodiesel) (Villela *et al.* 2014, p. 273). A recent study of regional avian biodiversity in palm oil plantations concluded that they are as detrimental to avian biodiversity as other forms of agriculture such as cattle pasture (Lees *et al.* 2015, entire). Therefore, any native forest converted to palm plantations will result in habitat loss for the golden conure, and any degraded land that is planted for palm oil will not regenerate or be restored to suitable habitat for the species.

Increased fire risk from human settlement and the activities noted above further contribute to deforestation (Barber *et al.* 2014, p. 203) (see *Projected Effects from Climate Change*, below). Fire for land management is now common in rural Amazonia (Malhi *et al.* 2008, p. 171), but wildfires in tropical forests of the Amazon were rare over the past millennia, and trees are not adapted for fire (Fearnside 2009, p. 1005). Amazonian trees have thin bark and fire heats the cambium under the bark at the base of the trunk, causing the tree to die and further contributing to deforestation (Fearnside 2009, p. 1005).

Hydroelectric dams are also a major contributor to deforestation in the Amazon. Brazil is the second-largest producer of hydroelectricity in the world (after China), and hydropower supplies about 75 percent of Brazil's electricity (GFA 2018e, unpaginated; Fearnside 2017c, unpaginated). The Brazilian government recently announced an end to the construction of large dams in the Amazon (Branford 2018, unpaginated), but smaller dams within the golden conure's range are still under construction or planned (GFA 2018e, unpaginated; Fearnside 2017c, unpaginated; Nobre *et al.* 2016, p. 10763).

Mining for minerals also contributes to deforestation of the Amazon; it grew from 1.6 percent of gross domestic product (GDP) in 2000, to 4.1 percent in 2011, and is projected to increase by a factor of 3 to 5 by 2030 (Brasil Ministério de Minas e Energia 2010, as

cited by Ferreira *et al.* 2014, p. 706). Mining leases, exploration permits, and concessions collectively encompass 1.65 million square kilometers (km²) (0.64 million square miles (mi²)) of land, with about 60 percent located in the Amazon forest (Departamento Nacional de Produção Mineral 2012, as cited in Sonter *et al.* 2017, p. 1).

Deforestation Rates and Gross Domestic Product

Annual deforestation rates in the Brazilian Amazon have always varied, but have generally been correlated with national economic growth as measured by GDP (Petherick 2013, p. 7; Hochstetler and Viola 2012, p. 759). However, beginning in 2005, measures of deforestation and GDP have separated or “decoupled” (Lapola *et al.* 2014, p. 27; Petherick 2013, p. 7). The Amazon experienced dramatic reductions in annual average rates of deforestation from almost 21,000 km² (8,108 mi²) between 2000 and 2004—to about 7,000 km² (2,703 mi²) in 2009 and 2010 (Prodes 2017, unpaginated; Petherick 2013, p. 8; Hochstetler and Viola 2012, p. 759) and 6,418 km² (2,478 mi²) in 2011 (Prodes 2017, unpaginated). During this same period, Brazil's GDP rose steadily, indicating strong, sustained growth from an export commodity boom (Petherick 2013 p.7; Hochstetler and Viola 2012, pp. 759–760).

Decoupling has been attributed to a number of factors with no clear consensus on which factor has been the most effective (Moutinho 2015, p. 2). Contributing factors include government strategies and policies for forest conservation (Assunção *et al.* 2012, p. 697) such as: (1) The expansion of protected areas, which reduced the supply of unclaimed forest land (Nepstad *et al.* 2014, p. 1118); (2) an effort that began in 2007 to blacklist the worst deforesters; and (3) efforts to monitor and control municipalities with high levels of illegal deforestation through sanctions and restricted access to credit (Moutinho 2015, p. 3; Assunção *et al.* 2012, p. 698). Reductions in deforestation have also been attributed to market and social forces, such as decreases in the price of agricultural commodities (including soy and beef) in 2005 (Fearnside 2017b, p. 1; Assunção *et al.* 2012, entire) and the 2006 soy moratorium (Gibbs *et al.* 2015, pp. 377–378).

Brazil is one of the countries that currently has comparatively low productivity levels and is projected to grow faster as it catches up with more developed countries (Guardian 2012, unpaginated). Forecasts vary for Brazil's

GDP purchasing power parity (GDP PPP), with one forecast predicting that GDP PPP will rise steadily through 2050 (PWC Global 2016, unpaginated), while a more recent forecast predicts that GDP PPP will stagnate and then drop after about 2050 (Knoema 2018, unpaginated).

Illegal Collection and Trade

The golden conure is highly prized as an aviary bird and has been extensively trapped for both the domestic and international pet trade in the past (BLI 2016, p. 5; Alves *et al.* 2013, p. 60; Laranjeiras 2011a, unpaginated; Yamashita 2003, p. 38; Snyder *et al.* 2000, p. 132; Collar 1992, p. 304; Oren and Novaes 1986, pp. 329, 334–335). However, there is little evidence that this practice is continuing in international trade (Laranjeiras 2011a, unpaginated; Silveira and Belmonte *in press*, unpaginated).

In contrast, the illegal domestic market for the species is still occurring at some level (Silveira and Belmonte *in press*, unpaginated). Historically, keeping birds was an important part of local indigenous tradition and culture (Carvalho 1951 and Cascudo 1973, as cited by Alves *et al.* 2013, p. 54). Young birds were taken from the wild to raise as pets and for feathers, but now are also sold to bird traders (Oren and Novaes 1986, p. 335). Much of the area occupied by the golden conure is poor, and selling the birds for the domestic pet trade provides an extra source of income (Yamashita 2003, p. 39).

There are mixed reports regarding the degree to which illegal capture of golden conures from the wild (“poaching”) occurs. The Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) has licensed and regulated bird breeding in an effort to reduce poaching (Alves *et al.* 2013, p. 61). As a result, several sources believe poaching is no longer a major concern for the species because trade is thought to mostly be from the substantial captive population (Silveira *in litt.* 2012, Lees *in litt.* 2013, in BLI 2016, p. 5). However, some level of illegal capture and trade of the species is still believed to occur (Lima *in litt.* 2018). Captive rearing may not be a practical alternative to illegal trade, particularly in low-income areas, because the price of commercially bred birds is approximately 10 times higher than wild-caught individuals (Renctas 2001, as cited in Alves *et al.* 2013, p. 61; Machado 2002, as cited in Alves *et al.* 2010, p. 155).

Additionally, oversight of domestic wildlife-breeding facilities in Brazil is limited (Alves *et al.* 2010, entire), and

many wild bird species declared to be captive-bred are actually born in the wild and traded under fraudulent documentation (Alves *et al.* 2013, p. 61). Most wildlife centers responsible for managing, licensing, and inspecting all categories of breeders, traders, and zoos (Kuhnen and Kanaan 2014, p. 125) lack resources and funding (Padrone 2004, as cited in Kuhnen and Kanaan 2014, p. 125). Also, there are not enough inspections at market places and commercial breeding facilities to fight illegal domestic trade (Alves *et al.* 2010, pp. 154–155).

The United States is a major importer of pet birds, yet relatively little trade in the golden conure has been observed. We reviewed all records of legal and intercepted illegal trade in the CITES annual trade records submitted by the U.S. Fish and Wildlife Service from 1981 to 2016. Overall, the U.S. trade in the golden conure has been relatively low compared with other pet birds, likely because the golden conure was included in CITES Appendix I in 1975 and we listed the species under the Act in 1976.

Projected Effects From Climate Change

Changes in Brazil's climate and associated changes to the landscape are likely to result in additional habitat loss for the golden conure. Across Brazil, temperatures are projected to increase and precipitation to decrease (Barros and Albernaz 2014, p. 811; Carabine and Lemma 2014, p. 11). The 2013 Intergovernmental Panel on Climate Change (IPCC) predicted that by 2100, South America will experience temperature increases ranging from 1.7 to 6.7 degrees Celsius (°C) (3.06 to 12.06 degrees Fahrenheit (°F)) under Representative Concentration Pathway (RCP) 4.5 and RCP 8.5, respectively (Carabine and Lemma 2014, p. 10; Magrin *et al.* 2014, p. 1502). Projected changes in precipitation in South America vary by region, with rainfall reductions in the Amazon estimated with medium confidence (about a 5 out of 10 chance) (IPCC 2018, unpaginated; Carabine and Lemma 2014, p. 11; Magrin *et al.* 2014, p. 1502).

Downscaled models, based in part on the 2007 IPCC data, predict more severe changes than the average expected global variation, with the greatest warming and drying occurring over the Amazon rainforest, particularly after 2040 (Marengo *et al.* 2011, pp. 8, 15, 27, 39, 48; Féres *et al.* 2009, p. 2). Estimates of temperature changes in the Amazon by the end of the 21st century are 2.2 °C (4 °F) under a low greenhouse gas emission scenario and 4.5 °C (8 °F) under a high-emission scenario

(Marengo *et al.* 2011, p. 27). The downscaled model for the Amazon used a previously provided set of scenarios known as the Special Report on Emissions Scenarios (SRES) to project the low-emissions using scenario (SRES B1) and high-emissions scenario (SRES A2) (Marengo *et al.* 2011, p. 27). More recently, a newer set of scenarios (*i.e.*, RCPs) were prepared that include a wider range of future conditions and emissions. However, to compare the SRES and RCP scenarios, SRES B1 is roughly comparable to RCP 4.5 and SRES A2 is similar to RCP 8.5 (U.S. National Climate Change Assessment 2014, p. 821). These similarities between specific RCP and SRES scenarios make it possible to compare the results from different modeling efforts over time (U.S. National Climate Change Assessment 2014, p. 821).

The risks to the golden conure from deforestation will likely be intensified by synergistic effects associated with climate change (Staal *et al.* 2015, p. 2) because a number of large-scale drivers of environmental change (*i.e.*, land-use change from deforestation and climate changes due to global warming) are operating simultaneously and interacting nonlinearly in the Amazon (Nobre *et al.* 2016, p. 10759). Increased temperatures and frequency or severity of droughts put the Amazon region at a higher risk of forest loss and more frequent wildfires (Magrin *et al.* 2007, p. 596; Marengo *et al.* 2011, p. 48). The Amazon's rainforest may have two "tipping points": (1) A temperature increase of 4.0 °C (7.2 °F); or (2) deforestation exceeding 40 percent (Nobre *et al.* 2016, p. 10759), that once exceeded could cause large-scale shifts in the vegetation to a savanna (*i.e.*, "savannization") mostly in the southern and eastern Amazon (Nobre *et al.* 2016, p. 10759) within the golden conure's range.

Similarly, a study that considered only the effects from global warming (*i.e.*, absent deforestation) predicted that by the end of this century, some areas of rainforest will be replaced by deciduous forest and grassland using scenario RCP 4.5 and by all grassland using scenario RCP 8.5 (Lyra *et al.* 2016, entire). Although the projected outcomes of models are not definitive, any terra firme (unflooded) forest habitat that shifts from rainforest to other habitat types (*e.g.*, savanna) would result in loss of habitat for the golden conure.

Other Potential Stressors

Other potential stressors to the golden conure include hunting and persecution (Factor B), and predation or disease

(Factor C). The species is likely still hunted at low levels as a food source and for feathers, and birds that raid crops may be shot by farmers (Oren and Novaes 1986, p. 335). However, we have no information about the rate that these activities may be occurring or the extent to which they may be affecting populations. Similarly, we have no information regarding diseases that may affect golden conures in the wild.

Golden conures, including eggs and nestlings, are prey to a variety of native predators, including toucans (Oren and Novaes 1986, p. 334; Forshaw 2017, p. 228); raptors (Laranjeiras 2008a, as cited in Laranjeiras 2011a, unpaginated; Silveira and Belmonte *in press*, unpaginated); monkeys; snakes; and the tayra (*Eira barbara*), an omnivorous weasel (Oren and Novaes 1986, p. 334). However, we have no information regarding the rates of predation on the golden conure from these predators and how that may be affecting the golden conure.

Conservation Measures and Regulatory Mechanisms

The conservation measures and regulatory mechanisms for the golden conure are described in the proposed rule (83 FR 45073; September 5, 2018) and are summarized below. The golden conure is considered "vulnerable" at the national level in Brazil (MMA 2014, p. 122). Golden conures and their nests, shelters, and breeding grounds are protected by Brazilian environmental laws (Clayton 2011, p. 4; Environmental Crimes law of Brazil (1999) as cited in MSU 2018, unpaginated; Official List of Brazilian Endangered Animal Species Order No. 1.522/1989 as cited in ECOLEX 2018; CFRB 2010, p. 150; Law No. 5.197/1967 as cited in LatinLawyer 2018, unpaginated). Various regulatory mechanisms (Law No. 11.516, Act No. 7.735, and Decree No. 78, as cited in ECOLEX 2018, unpaginated) and Law 6.938/1981 (LatinLawyer 2018, unpaginated) direct Brazil's federal and state agencies to promote the protection of lands and govern the formal establishment and management of protected areas to promote conservation of the country's natural resources. Additionally, several Brazilian laws are designed to protect forest reserves and to prohibit fire and other actions, such as logging, without authorization (Clayton 2011, p. 5; Law No. 9.605/1998 as cited in LatinLawyer 2018, unpaginated).

Protected Areas

Protected areas have traditionally formed the backbone of forest conservation in the Amazon Basin, and

they still remain a vital conservation strategy (GFA 2018f, unpaginated). Brazil has the largest protected area network in the world. The National Protected Areas System (Federal Act 9.985/2000, as cited in LatinLawyer 2018, unpaginated) was established in 2000, and covers nearly 2.2 million km² (0.8 million mi²) or 12.4 percent of the global total (WDPA 2012, as cited by Ferreira *et al.* 2014, p. 706). This extensive network of protected areas is intended to (1) preserve priority biodiversity conservation areas, (2) establish biodiversity corridors, and (3) protect portions of the 23 Amazonian ecoregions identified by the World Wildlife Fund (Rylands and Brandon 2005, pp. 612, 615; Silva 2005, entire). Brazil's Protected Areas may be categorized as "strictly protected" or "sustainable use" based on their overall management objectives. Strictly protected areas include national parks, biological reserves, ecological stations, natural monuments, and wildlife refuges protected for educational and recreational purposes and scientific research. Protected areas of sustainable use (national forests, environmental protection areas, areas of relevant ecological interest, extractive reserves, fauna reserves, sustainable development reserves, and private natural heritage reserves) allow for different types and levels of human use with conservation of biodiversity as a secondary objective.

By 2006, 1.8 million km² (0.7 million mi²), or approximately 45 percent of Brazil's Amazonian tropical forest, was under some level of protection as federal- or state-managed land, or designated as indigenous reserve (managed by indigenous communities) (Barber *et al.* 2014, p. 204). Of this, 19.2 percent was strictly protected areas, and 30.6 percent was comprised of federal and state sustainable use areas, with indigenous reserves making up the remainder (Barber *et al.* 2014, p. 204).

Indigenous lands are legally recognized areas where indigenous peoples have perpetual rights of access, use, withdrawal, management, and exclusion over the land and associated resources (GFW 2018, unpaginated). Indigenous communities sustainably use their forest land, practice shifting cultivation, trade non-timber forest products, and may allow selective logging (GFA 2018g, unpaginated; Schwartzman and Zimmerman 2005, p. 721). Large-scale deforestation is prohibited (Barber *et al.* 2014, p. 204).

Protected areas have been emphasized as a key component for the golden conure's survival (e.g., in the Tapajos River region and the Gurupi Biological Preserve) (Laranjeiras and Cohn-Haft

2009, pp. 1, 8; Silveira and Belmonte *in press*, unpaginated). The species' predicted range overlaps with numerous protected areas such as national parks and national forests, which have various levels of protection (Service 2018, pp. 68–70; Laranjeiras and Cohn-Haft 2009, p. 8). Additionally, the species occurs in nine areas recently designated as "Important Bird Areas" (IBAs) in Brazil (BLI 2018a–h, unpaginated; Lima *et al.* 2014, p. 318; Laranjeiras 2011a, unpaginated; Devenish *et al.* 2009, pp. 104–106). IBAs are places of international significance for the conservation of birds and other biodiversity (BLI 2018i, unpaginated). Levels of protection at IBAs vary from fully protected within Protected Areas to no protections and are outside the National Protected Area System (BLI 2018i, unpaginated).

Habitat modeling studies have estimated approximately 10,875 golden conures within 174,000 km² (67,182 mi²) of suitable habitat across a range of approximately 340,000 km² (131,275 mi²) (Laranjeiras 2011b, p. 311; Laranjeiras and Cohn-Haft 2009, pp. 1, 3). To date, the golden conure has been found in numerous protected areas or IBAs that have a total area of approximately 154,673 km² (51,719 mi²) (Service 2018, pp. 68–70). However, not all of the area represented contains suitable habitat for the species, and several of the IBAs (39 percent) presently have no protection (61,864 km² (23,866 mi²)). An additional 26 percent of IBAs presently have just partial protection (40,582 km² (15,669 mi²)) (Service 2018, pp. 68–70). Despite significant efforts to designate and establish protected areas, funding and resources are limited, and adequate enforcement of these areas is challenging.

Forest Code

Brazil's forest code was created in 1965, and was subsequently changed in the 1990s via a series of presidential decrees (Soares-Filho *et al.* 2014, p. 363). As of 2001, the forest code required landowners in the Amazon to conserve native vegetation on their rural properties by setting aside what is called a "legal reserve" of 80 percent of their property (*i.e.*, with 20 percent available to be harvested) (Soares-Filho *et al.* 2014, p. 363). The forest code severely restricted deforestation on private properties but proved challenging to enforce, and full compliance has not been achieved (GFA 2018b, unpaginated; Azevedo *et al.* 2017, entire; Soares-Filho *et al.* 2014, p. 363).

In late 2012, a new forest code was approved that reduces restoration requirements by providing amnesty for previous illegal deforestation by smaller property holders (Soares-Filho *et al.* 2014, p. 363). Under the older forest code, legal reserves that were illegally deforested were required to be restored at the landowner's expense. The new forest code forgives the legal reserve debt of small properties (up to 440 hectares (1,087 acres)) (Soares-Filho *et al.* 2014, p. 363). Although the 2012 forest code reduced the restoration requirements, it also introduced measures that strengthen conservation including addressing (1) fire management, (2) forest carbon emissions and storage, and (3) payments for ecosystem services that increase the economic activities compatible with conservation of natural resources (Soares-Filho *et al.* 2014, p. 364; GFA 2018h, unpaginated). Additionally, the new forest code created an "environmental reserve quota," where quota surplus on one property may be used to offset a legal reserve debt on another property within the same biome; this could create a market for forested lands, adding monetary value to native vegetation and potentially abating up to 56 percent of legal reserve debt (Soares-Filho *et al.* 2014, p. 363).

Legal Captive Rearing and Trade

IBAMA has licensed and regulated breeding of native bird species, including golden conure, in an effort to reduce poaching (Alves *et al.* 2013, p. 61). The captive population of golden conures in Brazil is believed to be about 600 birds (Prioste *et al.* 2013, p. 146). Additional captive populations of golden conures exist as CITES-registered captive-breeding operations in the United Kingdom and the Philippines. Although we have no further information on these programs, captive rearing in Brazil is believed to have reduced the incidence of poaching of young golden conures from the wild (Silveira *in litt.* 2012, Lees *in litt.* 2013, as cited in BLI 2016, p. 5).

Reintroduction

We know of only one attempt to reintroduce the golden conure to an area where it had been extirpated. The species was extirpated from the Belém region of Pará in 1848 (Moura *et al.* 2014, p. 5). In 2017, reintroductions of golden conure were attempted in this area (at Utinga State Park in Belém) (globo.com 2018, unpaginated; Silveira *in litt.* 2018; Organization of Professional Aviculturists *in litt.* 2018). Of the 24 birds involved in the release program, three died prior to release, and

one died after release due to predation by a boa (*Boa constrictor*). There have been no reports of released conures being taken as pets, although it is a possibility in the future. Currently, seven of the released birds are living in close proximity to the release station, while another 13 birds have flown away from the release point. These 13 birds are not currently under observation, but reports have indicated that they are living within the green areas of the city of Belém. One pair of golden conures has also successfully produced one offspring in an artificial nest box provided near the release station. This chick was successfully reared without human intervention and is living as a wild parrot along with its parents that have been seen feeding on native fruits. This is the first documented wild born golden conure in the Belém area in over 50 years. Even though this project is in the initial stages, its prospects are promising (Silveira *in litt.* 2018; Organization of Professional Aviculturists *in litt.* 2018).

Additional Conservation and Regulatory Mechanisms

“Reducing Emissions from Deforestation and Forest Degradation” (REDD) is a “payment for ecological services” initiative developed by the United Nations that creates a financial value for the carbon stored in forests (GFA 2018h, unpaginated). The program offers incentives to developing countries to reduce emissions from forested lands and invest in low-carbon paths to sustainable development (GFA 2018h, unpaginated). REDD plus (REDD+) goes one step further by including objectives for (1) biodiversity conservation, (2) sustainable management of forests, and (3) improvements to forest governance and local livelihoods (GFA 2018h, unpaginated). Brazil is one of the most advanced countries in the world in REDD+ planning and maintains an “Amazon Fund,” which receives compensation for reductions in deforestation. To date, the Norwegian government is the major donor; lesser donors include the government of Germany and the Brazilian oil company Petrobras (GFA 2018h, unpaginated). The successful funding and implementation of REDD+ is expected to reduce rates of deforestation in Brazil’s Amazon rainforest and would likely benefit the golden conure and its habitat. However, the initiative is in its early stages and is being hampered by numerous issues, particularly unresolved land-tenure problems (May *et al.* 2018, p. 44).

The golden conure is protected under CITES, an international agreement

between member governments to ensure that the international trade of CITES-listed plant and animal species is sustainable and does not threaten species’ survival. Under this treaty, CITES Parties (member countries or signatories) regulate the import, export, and re-export of specimens, parts, and products of CITES-listed plant and animal species. Brazil is a Party to CITES. Trade in CITES-listed plants and animals must be authorized through a licensing system of permits and certificates that are provided by the designated CITES Management Authority of each CITES Party. CITES includes three Appendices that list species meeting specific criteria. Depending on the Appendix in which they are listed, species are subject to various permitting requirements.

The golden conure is included in CITES Appendix I and receives the highest degree of protection. Species listed in this Appendix are those that are threatened with extinction and which are, or may be, affected by trade. Commercial trade in Appendix I wildlife species is strictly prohibited, except in limited circumstances provided by the treaty. However, commercial international trade may be allowed in certain circumstances where animals have been produced by CITES-registered captive-breeding operations. Trade in specimens from registered operations may be treated as if they were listed in CITES Appendix II, although they remain Appendix I listed specimens. Each shipment requires the issuance of both CITES export and import documents. There are two CITES-registered captive-breeding operations for the golden conure: one in the United Kingdom and the other in the Philippines. The United States may also allow noncommercial trade in this species on a case-by-case basis for approved purposes such as scientific, zoological, and educational activities.

Two other laws in the United States apart from the Act provide protection from the illegal import of wild-caught birds into the United States: the Wild Bird Conservation Act (WBCA; 16 U.S.C. 4901 *et seq.*) and the Lacey Act (18 U.S.C. 42; 16 U.S.C. 3371 *et seq.*). The WBCA was enacted in 1992, to ensure that exotic bird species are not harmed by international trade and to encourage wild bird conservation programs in countries of origin. Under the WBCA and our implementing regulations (50 CFR 15.11), it is unlawful to import into the United States any exotic bird species listed under CITES that is not included in the approved list of species, except under certain circumstances. We may issue

permits to allow import of listed birds for scientific research, zoological breeding or display, cooperative breeding, or personal pet purposes when the applicant meets certain criteria (50 CFR 15.22–15.25).

The Lacey Act was originally passed in 1900, and was the first Federal law protecting wildlife. Today, it provides civil and criminal penalties for the illegal trade of animals and plants. Under the Lacey Act, in part, it is unlawful to (1) import, export, transport, sell, receive, acquire, or purchase any fish, or wildlife taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law; or (2) import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law. Therefore, because the take of wild-caught golden conures would be in violation of Brazil’s wildlife law, the subsequent import of the species would be in violation of the Lacey Act. Similarly, under the Lacey Act, it is unlawful to import, export, transport, sell, receive, acquire, or purchase specimens of these species traded contrary to CITES.

Summary of Comments and Responses

SSA Report

In accordance with our joint policy on peer review 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 of listing actions under the Act, we sought the expert opinions of five appropriate specialists regarding the SSA report that informed our proposed rule, and we received responses from four of the five peer reviewers. We also invited any additional comments from the peer reviewers on the proposed rule during its public comment period. The purpose of peer review is to ensure that our reclassification determination is based on scientifically sound data, assumptions, and analyses. All substantive information from the peer review was fully considered and incorporated into this final rule, where appropriate. The peer reviewers’ comments and suggestions are available at https://www.fws.gov/endangered/improving_ESA/peer_review_process.html.

Proposed Rule

The public comment period for our September 5, 2018, proposed rule (83

FR 45073) lasted for 60 days, ending November 5, 2018. During that comment period, we received 31 comments on our proposed rule to downlist the golden conure. The majority of the comments support downlisting the golden conure from endangered to threatened with a 4(d) rule to allow import/export and interstate commerce of certain golden conures. Additionally, commenters provided updated information regarding the golden conure reintroduction program occurring in the Belém region of Pará at Utinga State Park. We have incorporated this information under Conservation Measures and Regulatory Mechanisms, above, and have updated the SSA report. Other comments are discussed below by topic.

Comment (1): Many commenters state that the 4(d) rule will help improve the breeding pool because allowing interstate commerce of golden conures will develop more diverse genes and blood lines. Thus, the continued breeding of the species in the United States can provide a safety reservoir of individuals for reintroduction if needed.

Our Response: While we agree with the commenters that interstate commerce of golden conures could allow the development of more diverse genes and blood lines, we do not believe that captive-bred golden conures in the United States as pets are good candidates for reintroduction into the wild. Golden conures bred as pets would likely be socialized with humans and in turn fail to act appropriately with wild individuals when released. In addition, golden conures held as pets may pose a disease risk to wild populations.

Comment (2): A few commenters disagreed with the proposed downlisting because they claim that we underestimate the effect of deforestation and increased human population growth within the range of the golden conure. Therefore, they state that the golden conure should not be downlisted to threatened because the species remains in danger of extinction due to deforestation.

Our Response: Our analysis of the stressors to the golden conure as discussed in the SSA report (Service 2018, pp. 25–35) and summarized here and in the proposed rule includes the contribution of an increasing human population and how it impacts the species through habitat degradation and fragmentation. While we agree the golden conure faces significant risk from loss and degradation of its habitat from deforestation in the foreseeable future, because the golden conure is more widespread than previously thought and

near-term threats to the species have been reduced, we do not find the species is presently in danger of extinction throughout all or a significant portion of its range. Thus, it does not meet the definition of an “endangered species” under the Act.

Drivers of habitat degradation and deforestation include roads; human settlement; logging; and agricultural expansion for soy cultivation, cattle ranching, and palm oil production (an emerging threat). Additionally, infrastructure projects such as hydroelectric dams and mining operations are growing sources of deforestation that also contribute to loss of forest habitat in the range of the conure. Based on the best available scientific studies and information assessing land-use trends (including deforestation, lack of enforcement of laws, predicted landscape changes under climate-change scenarios, and predictions about the impact of those threats), we conclude that the golden conure is likely to be in danger of extinction in the foreseeable future throughout its range and meets the definition of a “threatened species” under the Act.

Comment (3): One commenter stated that downlisting the golden conure to threatened will provide the species with less protection than if it was listed as endangered.

Our Response: We must make our determination on whether the species is endangered or threatened based solely on the best available scientific and commercial data available. If a species is determined to be an endangered species, the Act extends certain prohibitions to the species pursuant to section 9. If the species is listed as threatened, we may develop a rule pursuant to 4(d) to provide for its conservation.

The golden conure is more widespread than previously thought, and threats to the species have been reduced to the point that it is no longer in danger of extinction throughout all or a significant portion of its range. Our analysis also assessed the biological status of the golden conure in light of the broad protections provided to the species under CITES and the WBCA. We determined that the golden conure meets the definition of a “threatened species” under the Act. A threatened species is likely to become endangered throughout all or a significant portion of its range within the foreseeable future. Section 4(d) of the Act states that the “Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation” of species listed as threatened. Therefore, we

include the golden conure in the 4(d) rule for birds at 50 CFR 17.41(c) to address the golden conure’s specific threats and conservation needs, which will promote conservation of the golden conure. We find that this 4(d) rule contains all the prohibitions and authorizations necessary and advisable for the conservation of the species.

We acknowledge that we do not have authority to directly regulate activities in a foreign country that may cause the golden conure to be an endangered species or a threatened species. However, conservation measures or benefits provided to foreign species listed as endangered or threatened under the Act include recognition, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and may encourage and result in conservation actions by foreign governments, Federal and State governments, private agencies and interest groups, and individuals.

Comment (4): Some commenters stated that Bird Life International (BLI) has downlisted the species from “endangered” to “vulnerable” because the estimated population is 10,000 to 19,999 individuals. The commenters state that BLI is a recognized authority, and their recommendations should be taken as “best scientific evidence.”

Our Response: We determined that the best available information indicates the current wild population of the golden conure is about 10,875 individuals (Laranjeiras 2011b, p. 311). Birdlife International’s population estimate is 6,600–13,400 individuals (BLI 2019, unpaginated). We note that this estimate is within the range of the range of individuals cited by BLI.

The decision to list a species under the Act is based on whether the species meets the definition of an endangered species or a threatened species as defined under section 3 of the Act, considering the factors set forth in section 4(a)(1) of the Act, and is made solely on the basis of the best scientific and commercial data available. BLI uses different standards and criteria to assign its status designations; therefore, a determination of status under the Act is not interchangeable with a BLI designation. Using the best scientific and commercial data available, as summarized in this rule, we find that the golden conure meets the definition of a “threatened species” under the Act.

Determination of Golden Conure Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets

the definition of “endangered species” or “threatened 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 a species meets the definition of “endangered species” or “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.

Status Throughout All of Its Range

After evaluating threats to the golden conure and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we reviewed the status of the golden conure and assessed the five factors to evaluate whether the species is endangered or threatened throughout all of its range. We examined the best scientific and commercial information available regarding the past, present, and future threats faced by the golden conure. We reviewed information presented in the August 21, 2014, petition we received from the American Federation of Aviculture, Inc.; information available in our files; information gathered through our 90-day finding in response to the petition; information gathered in the SSA report; information from public comments on our September 5, 2018, proposed rule (83 FR 45073); and other available published and unpublished information.

When we listed the golden conure as endangered (41 FR 24062; June 14, 1976), the species was perceived to be declining in numbers due to either Factor A, Factor B, or Factor D, or a combination of all three factors. At present, while we consider deforestation and habitat degradation to be a significant risk to the golden conure in the future, the best scientific and commercial information available on the range and abundance of the species indicates that the species is more widespread and abundant than previously believed and that the threat from overutilization for the pet trade (Factor B) has diminished (Silveira *in litt.* 2012, Lees *in litt.* 2013, in BLI 2016, p. 5; Snyder *et al.* 2000, p. 99).

Approximately 10,875 golden conures occur within 174,000 km² (67,182 mi²) of suitable habitat across a range of approximately 340,000 km² (131,275 mi²) (Laranjeiras 2011b, p. 311; Laranjeiras and Cohn-Haft 2009, pp. 1, 3). Tighter enforcement of CITES, stricter European Union legislation, adoption of the WBCA in the United States, and adoption of national legislation in other countries have all helped to significantly curtail illegal international trade (Snyder *et al.* 2000, p. 99). Government-authorized captive breeding programs in Brazil are thought to have curtailed the illegal domestic trade (Silveira *in litt.* 2012, Lees *in litt.* 2013, in BLI 2016, p. 5). Thus, after assessing the best available information, we conclude the golden conure is not currently in danger of extinction throughout its range.

We next considered whether the golden conure is likely to become in danger of extinction throughout its range within the foreseeable future. Our proposed rule described “foreseeable future” as the extent to which we can reasonably rely on predictions about the future in making determinations about the future conservation status of the species. The Service since codified its understanding of foreseeable future in 50 CFR 424.11(d) (84 FR 45020; August 27, 2019).

In those regulations, we explain the term “foreseeable future” extends only so far into the future as the Service can reasonably determine that both the future threats and the species’ responses to those threats are likely. The Service will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species’ life-history characteristics, threat-projection timeframes, and environmental variability. The Service need not identify the foreseeable future in terms of a specific period of time. These regulations did not significantly modify the Service’s interpretation; rather they codified a framework that sets forth how the Service will determine what constitutes the foreseeable future based on our long-standing practice. Accordingly, though these regulations do not apply to the final rule for the golden conure since it was proposed prior to their effective date, they do not change the Service’s assessment of foreseeable future for the golden conure as contained in our proposed rule.

The golden conure has already lost 30 to 35 percent of its historical range (Laranjeiras 2011a, unpaginated; Laranjeiras and Cohn-Haft 2009, p. 8). We expect both the species’ global population and its habitat to decline an

additional 23 to 30 percent in 22 years (Service 2018, pp. 42–46; Bird *et al.* 2011, appendix S1).

Additionally, habitat loss and degradation is likely to be intensified by synergistic effects associated with the consequences of climate change (Service 2018, pp. 42–46; Staal *et al.* 2015, p. 2). There is a strong likelihood of warming by at least 1.5 to 2.0 °C (2.7 to 3.6 °F) in Latin America by the end of the century (Carabine and Lemma 2014, p. 8), and downscaled estimates for the Amazon over the same time period (*i.e.*, by the end of the century) indicate temperature increases of 2.2 °C (4 °F) under a low greenhouse gas emission scenario, SRES B1 that equates to RCP 4.5, and 4.5 °C (8 °F) under a high-emission scenario, SRES A2 that equates to RCP 8.5 (Marengo *et al.* 2011, p. 27). Increased temperatures of these amounts put the Amazon region at a high risk of forest loss and more frequent wildfires (Magrin *et al.* 2007, p. 596). Downscaled models, based in part, on the earlier (2007) IPCC data, predict severe changes (increased warming and drying) over the Amazon rainforest, particularly after 2040 (Marengo *et al.* 2011, pp. 8, 15, 27, 39, 48; Féres *et al.* 2009, p. 2). Additionally, extreme weather events, such as droughts, will increase in frequency, with drought becoming a 9-in-10-year event, by 2060 (Marengo *et al.* 2011, p. 28), further contributing to deforestation due to more risk from fires (Marengo *et al.* 2011, p. 16).

Based on the best available data, we assessed foreseeable future to be 22 to 42 years (or approximately three to six generations of the golden conure). We based the lower end of this range (22 years) on the peer-reviewed work by Bird *et al.* 2011, relating to deforestation and declines in the population. We based the upper end of this range (42 years) on peer-reviewed studies predicting effects from climate change (such as drought) on deforestation after about 2040 to 2060 (Marengo *et al.* 2011, pp. 8, 15, 27, 28, 39, 48; Féres *et al.* 2009, p. 2). We conclude that it is reasonable to rely on the predictions made in these peer-reviewed studies to determine both the future threats and the species’ response to these threats in making determinations about the foreseeable future of the golden conure.

Although the golden conure is now known to be more widespread and abundant than previously thought, the species occurs only within the southern basin of Brazil’s Amazon. Much of this area is in the “arc of deforestation” and is threatened by loss and degradation of its rainforest habitat from deforestation. Effects from deforestation are

exacerbated by the projected effects from climate change. Additionally, even though government-authorized captive breeding programs in Brazil are thought to have curtailed the illegal domestic trade, some unknown level of illegal collection and trade is ongoing, particularly within Brazil (Silveira and Belmonte *in press*, unpaginated).

Existing regulatory mechanisms and conservation efforts do not currently adequately ameliorate threats to the golden conure (Factor D). Although the species is no longer in danger of extinction now, the factors identified above continue to affect the golden conure such that it is likely to become in danger of extinction within the foreseeable future throughout all of its range. Based on the best available scientific studies and information assessing land-use trends, adequacy of enforcement of laws, predicted landscape changes under climate-change scenarios, and predictions about how those threats may impact the golden conure, we conclude that the species is likely to be in danger of extinction within the foreseeable future throughout all of its range.

Thus, after assessing the best available information, we conclude the golden conure is not currently in danger of extinction, but is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Having determined that the golden conure is likely to become an endangered species within the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction in a significant portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways, so we first screen the potential portions of the species' range to determine if there are any portions that warrant further consideration. To do the "screening" analysis, we ask whether there are portions of the species' range for which there is substantial information indicating that: (1) The portion may be significant; and (2) the species may be, in that portion, in danger of extinction. For a particular portion, if we cannot answer both questions in the affirmative, then that portion does not warrant further consideration and the species does not warrant listing as endangered because of its status in that portion of its range. We emphasize that answering these questions in the affirmative is not a determination that the species is in

danger of extinction throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required.

If we answer these questions in the affirmative, we then conduct a more thorough analysis to determine whether the portion does indeed meet both of the "significant portion of its range" prongs: (1) The portion is significant and (2) the species is, in that portion, in danger of extinction. Confirmation that a portion does indeed meet one of these prongs does not create a presumption, prejudgment, or other determination as to whether the species is an endangered species. Rather, we must then undertake a more detailed analysis of the other prong to make that determination. Only if the portion does indeed meet both prongs would the species warrant listing as endangered because of its status in a significant portion of its range.

At both stages in this process—the stage of screening potential portions to identify any portions that warrant further consideration and the stage of undertaking the more detailed analysis of any portions that do warrant further consideration—it might be more efficient for us to address the "significance" question or the "status" question first. Our selection of which question to address first for a particular portion depends on the biology of the species, its range, and the threats it faces. 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 second question for that portion of the species' range.

For golden conure, we chose to evaluate the status question (*i.e.*, identifying portions where the golden conure may be in danger of extinction) first. To conduct this screening, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following threats: Habitat loss; illegal collection and trade; climate change; and other stressors of hunting, persecution, and predation; and including cumulative effects. We found no concentration of threats in any portion of the golden conures' range at a biologically meaningful scale. For the golden conure, we found both: The species is not in danger of extinction throughout all of its range, and there is no geographical concentration of threats so the threats to the species are essentially uniform throughout its range. The "arc of deforestation" is a hotspot of deforestation in the Amazon and the golden conure's range partially

overlaps this area. However, deforestation caused by fires, ranching, and agriculture occurs in many parts of the Amazon and in the conure's range outside of the "arc of deforestation."

If both (1) a species is not in danger of extinction throughout all of its range and (2) the threats to the species are essentially uniform throughout its range, then the species could not be in danger of extinction in any biologically meaningful portion of its range. Therefore, we conclude, based on this screening analysis, that no portions warrant further consideration through a more detailed analysis, and the species is not in danger of extinction in any significant portion of its range. Our approach to analyzing significant portions of the species' range in this determination is consistent with the courts' holdings in *Desert Survivors v. Department of the Interior*, No. 16-cv-01165-JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018); *Center for Biological Diversity v. Jewell*, 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017); and *Center for Biological Diversity v. Everson*, 2020 WL 437289 (D.D.C. Jan. 28, 2020).

Determination of Status

Our review of the best available scientific and commercial information indicates that the golden conure meets the definition of a threatened species. Therefore, we are listing the golden conure as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

4(d) Rule

When a species is listed as endangered, certain actions are prohibited under section 9 of the Act and our regulations at 50 CFR 17.21. These include, among others, prohibitions on take within the United States, within the territorial seas of the United States, or upon the high seas; import; export; and shipment in interstate or foreign commerce in the course of a commercial activity. Exceptions to the prohibitions for endangered species may be granted in accordance with section 10 of the Act and our regulations at 50 CFR 17.22.

The Act does not specify particular prohibitions and exceptions to those prohibitions for threatened species. Instead, under section 4(d) of the Act, the Secretary of the Interior, as well as the Secretary of Commerce depending on the species, was given the discretion to issue such regulations as deemed necessary and advisable to provide for the conservation of such species. The Secretary also has the discretion to prohibit by regulation with respect to any threatened species any act

prohibited under section 9(a)(1) of the Act. For the golden conure, the Service is exercising our discretion to issue a rule under section 4(d) of the Act by extending the regulations at 50 CFR 17.41(c) that provide for the conservation of certain species in the parrot family to the golden conure. These provisions generally extend the prohibitions included in 50 CFR 17.21, except 50 CFR 17.21(c)(5) and as provided in subpart A of part 17, or in a permit. Further, the import and export of certain golden conures into and from the United States and certain acts in interstate commerce will be allowed without a permit under the Act, as explained below.

Import and Export

The 4(d) rule imposes a prohibition on imports and exports, but creates exceptions for certain golden conures. Shipments of captive specimens (*i.e.*, not taken from the wild) may include live and dead golden conures and parts and products, including the import and export of personal pets and research samples. The 4(d) rule adopts the existing conservation regulatory requirements of CITES and the WBCA as the appropriate regulatory provisions for the import and export of these golden conure specimens.

This 4(d) rule allows a person to import or export, into and from the United States, captive specimens, without a permit issued under the Act, provided that the export is authorized under CITES and the import is authorized under CITES and the WBCA. The import would require a CITES document issued by the foreign Management Authority indicating a source code of “C”, “D”, or “F.” Exporters of captive birds would need to provide a signed and dated statement from the breeder of the bird, along with documentation that identifies the source of their breeding stock in order to obtain a CITES export permit from the U.S. Fish and Wildlife Service’s Division of Management Authority. Exporters of captive-bred birds must provide a signed and dated statement from the breeder of the bird confirming its captive-bred status, and documentation on the source of the breeder’s breeding stock. The source codes of C, D, and F for CITES permits and certificates are as follows:

- *Source Code C:* Animals bred in captivity in accordance with Resolution Conf. 10.16 (Rev.), as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 5 of the Convention.
- *Source Code D:* Appendix I animals bred in captivity for commercial

purposes in operations included in the Secretariat’s Register, in accordance with Resolution Conf. 12.10 (Rev. CoP15), and Appendix I plants artificially propagated for commercial purposes, as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 4, of the Convention.

- *Source Code F:* Animals born in captivity (F1 or subsequent generations) that do not fulfill the definition of “bred in captivity” in Resolution Conf. 10.16 (Rev.), as well as parts and derivatives thereof.

The 4(d) rule does not allow any U.S. import or export of golden conures that are taken from the wild; such birds would continue to need a permit under the Act, with the following exception: A person may import or export a wild golden conure specimen if the specimen was held in captivity prior to the date the species was listed in CITES Appendix I (*i.e.*, prior to the date that CITES entered into force on July 1, 1975, with “golden parakeet” (*i.e.*, the golden conure) listed in Appendix I) and provided that the specimen meets all the requirements of CITES and WBCA. If a specimen was taken from the wild and held in captivity prior to that date (July 1, 1975), the exporter will need to provide documentation as part of the application for a U.S. CITES preconvention certificate. Examples of documentation may include: (1) A copy of the original CITES permit indicating when the bird was removed from the wild, (2) veterinary records, or (3) museum specimen reports. Additionally, consistent with the 4(d) rule for other species in the parrot family at 50 CFR 17.41(c), the prohibitions on take will apply and the 4(d) rule will require a permit under the Act for any activity that could take a golden conure. Our regulations at 50 CFR 17.3 establish that take, when applied to captive wildlife, does not include generally accepted animal husbandry practices, breeding procedures, or provisions of veterinary care for confining, tranquilizing, or anesthetizing, when such practices are not likely to result in injury to the wildlife.

We assessed the conservation needs of the golden conure in light of the broad protections provided to the species under CITES and the WBCA. As noted above in Summary of Factors Affecting the Species, some level of poaching for illegal trade of golden conures is occurring within Brazil (Silveira and Belmonte *in press*, unpaginated), but there is little evidence that this practice occurs at the international level (Laranjeiras 2011a, unpaginated;

Silveira and Belmonte *in press*, unpaginated). The best available commercial data indicate that tighter enforcement of CITES, stricter European Union legislation, adoption of the WBCA in the United States, and adoption of national legislation in other countries have all helped to significantly curtail illegal international trade (Snyder *et al.* 2000, p. 99). Therefore, illegal international trade is not likely to be occurring at levels that negatively affect the golden conure population. Additionally, legal international trade of the species is not currently occurring at levels that affect the golden conure population. Therefore, we find that the import and export requirements of the 4(d) rule provide the necessary and advisable conservation measures that are needed for this species. This 4(d) rule will streamline the permitting process for these types of activities by deferring to existing laws that are protective of golden conures in the course of import and export.

Interstate Commerce

Under the 4(d) rule, except where use after import is restricted under 50 CFR 23.55, a person may deliver, receive, carry, transport, or ship a golden conure in interstate commerce in the course of a commercial activity, or sell or offer to sell in interstate commerce a golden conure without a permit under the Act. At the same time, the prohibitions on take under 50 CFR 17.21 apply under this 4(d) rule, and any interstate commerce activities that could incidentally take golden conure or otherwise constitute prohibited acts in foreign commerce require a permit under 50 CFR 17.32.

Between 1981 and 2016, persons within the United States imported 54 golden conures and exported 26; all were reported as live captive-bred birds except two exported birds that originated from an unknown source and one imported bird seized upon import (UNEP–WCMC 2018, unpaginated; Service 2018, p. 33). These imports and exports were made for commercial, captive-breeding, zoological, and personal purposes (UNEP–WCMC 2018, unpaginated; Service 2018, p. 33). We have no information to indicate that interstate commerce activities in the United States are associated with threats to the golden conure or would negatively affect any efforts aimed at the recovery of wild populations of the species. Therefore, because (1) acts in interstate commerce within the United States have not been found to threaten the golden conure, (2) the species is otherwise protected in the course of

interstate and foreign commercial activities under the take provisions as extended through 50 CFR 17.41(c), and (3) international trade of this species appears to be effectively regulated under CITES, we find the 4(d) rule contains all the prohibitions and authorizations necessary and advisable for the conservation of the golden conure.

Technical Correction

50 CFR 17.11(c) and 17.12(b) direct us to use the most recently accepted scientific name of any wildlife or plant species, respectively, that we have determined to be an endangered or threatened species. The golden conure currently appears on the List as the “golden parakeet” (*Aratinga guarouba*). Both “golden conure” and “golden parakeet” are common names associated with *Guaruba guarouba*. However, we find that the best available scientific information available supports the designation of the golden conure to its own genus (*Guaruba*). Therefore, we are updating the List to reflect this change in the scientific name for golden conure.

The basis for this taxonomic change is supported by published studies in peer-reviewed journals (e.g., Urantówka and Mackiewicz 2017, entire; Tavares *et al.* 2004, pp. 230, 236–237, 239; Sick 1990, p. 112). Accordingly, we are correcting the scientific name of the species under section 4 of the Act (16 U.S.C. 1531 *et*

seq.) by changing the name as currently listed (*i.e.*, golden parakeet (*Aratinga guarouba*)) to the corrected species name (*i.e.*, golden conure or golden parakeet (*Guaruba guarouba*)).

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that we do not need to prepare an environmental assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted under section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this rulemaking is available on the internet at <http://www.regulations.gov> under Docket No. FWS–HQ–ES–2015–0019 or upon request (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Branch of Delisting and Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h), in the List of Endangered and Threatened Wildlife under BIRDS, by:

■ a. Adding an entry for “Conure, golden (=golden parakeet)” in alphabetical order; and

■ b. Removing the entry for “Parakeet, golden”.

The addition reads as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

| Common name | Scientific name | Where listed | Status | Listing citations and applicable rules |
|--|-------------------------------|----------------------|--------|--|
| * BIRDS | * | * | * | * |
| * Conure, golden, (=golden parakeet). | <i>Guaruba guarouba</i> | Wherever found | T | 41 FR 24062, 6/14/1976; 85 FR [Insert Federal Register page where the document begins], 4/23/2020; 50 CFR 17.41(c). ^{4d} |
| * | * | * | * | * |

■ 3. Amend § 17.41 by revising paragraphs (c) introductory text and (c)(2)(ii) introductory text and adding paragraph (c)(2)(ii)(F) to read as follows:

§ 17.41 Special rules—birds.

(c) The following species in the parrot family: Salmon-crested cockatoo (*Cacatua moluccensis*), yellow-billed parrot (*Amazona collaria*), white cockatoo (*Cacatua alba*), hyacinth macaw (*Anodorhynchus hyacinthinus*), scarlet macaw (*Ara macao macao* and scarlet macaw subspecies crosses (*Ara*

macao macao and *Ara macao cyanoptera*)), and golden conure (*Guaruba guarouba*).

* * * * *

(2) * * *

(ii) *Specimens held in captivity prior to certain dates:* You must provide documentation to demonstrate that the specimen was held in captivity prior to the applicable date specified in paragraph (c)(2)(ii)(A), (B), (C), (D), (E), or (F) of this section. Such documentation may include copies of receipts, accession or veterinary records, CITES documents, or wildlife

declaration forms, which must be dated prior to the specified dates.

* * * * *

(F) For *golden conures*: July 1, 1975 (the date CITES entered into force with the “golden parakeet” (*i.e.*, the golden conure) listed in Appendix I of the Convention).

* * * * *

Aurelia Skipwith,

Director, U.S. Fish and Wildlife Service.

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