

mobile source emissions that can be considered for transportation conformity purposes is within the safety

margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins

will not be available for use by other sources.

TABLE 6—BUDGETS FOR THE OHIO AND INDIANA PORTIONS OF THE CINCINNATI OH-KY-IN AREA
[Tons/day (tpd)]

	Attainment year 2016 on-road emissions	2037 Estimated on-road emissions	2037 Mobile safety margin allocation	2037 Budgets
VOC	23.56	9.57	1.44	11.01
NO _x	51.63	8.10	1.22	9.32

EPA is proposing to find adequate and approve the Budgets for use to determine transportation conformity in the Cincinnati area because EPA has determined that the area can maintain attainment of the 2008 ozone NAAQS for the maintenance year period with mobile source emissions at the levels of the Budgets. Also, EPA has reviewed the submitted Budgets and proposes to find that they meet the adequacy criteria in the transportation conformity regulations (40 CFR 93.118(e)(4)). As required by the transportation conformity rule (40 CFR 93.118(f)(2)), EPA is using this proposal to notify the public that EPA is beginning a 30-day comment period on the adequacy of the submitted motor vehicle emissions budgets. Comments on the adequacy of the Budgets should be submitted to the docket for this proposal. EPA will make a final determination on the adequacy of the submitted Budgets either in a final action on this proposal or by notifying the State in writing, notifying the public by publishing a **Federal Register** notice, and announcing the determination on EPA's adequacy web page.⁵

IV. What action is EPA taking?

EPA is proposing to approve the second maintenance plan for the 2008 ozone NAAQS submitted by IDEM on April 1, 2025, and supplemented on October 8, 2025, under sections 110(k) and 175A of the CAA for the reasons set forth above, for the Indiana portion of the Cincinnati area as a revision to the Indiana SIP. This second maintenance plan is designed to keep the Cincinnati area in attainment of the 2008 ozone NAAQS through 2037. EPA is also proposing to find adequate and approve the newly established Budgets for the Indiana portion of the Cincinnati maintenance area.

⁵ EPA's adequacy web page can be found here: <https://www.epa.gov/state-and-local-transportation/conformity-adequacy-review-region-5>.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 19, 2025.

Anne Vogel,
Regional Administrator, Region 5.

[FR Doc. 2025-20672 Filed 11-20-25; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-HQ-ES-2025-0029; FXES11130900000-256-FF09E23000]

RIN 1018-BI74

Endangered and Threatened Wildlife and Plants; Regulations Pertaining to Endangered and Threatened Wildlife and Plants

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Proposed rule; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to revise our regulations concerning protections of threatened species under the Endangered Species Act (Act). We are proposing to remove the “blanket

rule" option for protecting newly listed threatened species pursuant to section 4(d) of the Act. The Service intends to create species-specific rules for all threatened species currently protected under the "blanket rule" option. Until such species-specific rules are promulgated, threatened species that receive protections under the "blanket rule" option will continue to receive those protections.

DATES: We will accept comments received or postmarked on or before December 22, 2025. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-HQ-ES-2025-0029, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment."

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-HQ-ES-2025-0029, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Availability of supporting materials: Supporting materials are available at <https://www.regulations.gov> at Docket No. FWS-HQ-ES-2025-0029.

FOR FURTHER INFORMATION CONTACT: John Tirpak, U.S. Fish and Wildlife Service, Division of Conservation and Classification; telephone 703-358-2163; john_tirpak@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Please see Docket No. FWS-HQ-ES-2025-0029 on <https://www.regulations.gov> for a

document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Background

The purposes of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.* (the Act)), are to provide a means to conserve the ecosystems upon which listed species depend, develop a program for the conservation of listed species, and achieve the purposes of certain treaties and conventions (16 U.S.C. 1531(b)). Moreover, it is the policy of Congress that the Federal Government will seek to conserve endangered and threatened species and use its authorities to further the purposes of the Act (16 U.S.C. 1531(c)(1)). This proposed rulemaking action pertains to section 4 of the Act. Section 4 of the Act (16 U.S.C. 1533) and the regulations in title 50 of the Code of Federal Regulations (CFR) set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species.

Section 9 of the Act provides a specific list of prohibitions for endangered species that are applicable automatically at the time of listing, but does not provide these same or comparable prohibitions automatically to threatened species. Instead, section 4(d) of the Act requires that whenever a species is listed as a threatened species the Secretary shall issue regulations that are necessary and advisable to provide for the conservation of the species and also may by regulation prohibit with respect to any threatened species any act prohibited under section 9 for an endangered species; these are referred to as "4(d) rules." Congress delegated to the Secretary the authority to determine what protections each threatened species should receive. Early in the administration of the Act, the U.S. Fish and Wildlife Service ("the Service") promulgated "blanket rules," at 50 CFR 17.31 and 17.71, respectively. Pursuant to these blanket rules, as soon as a species was listed as threatened, nearly all the section 9 prohibitions that apply to endangered species would automatically apply to threatened species, unless the Service issued an alternative rule for that species (*i.e.*, a species-specific rule). In those instances when we issued a species-specific rule for a species, that species-specific 4(d) rule contained the protective regulations for that species. On August 27, 2019, we issued a final rule that revised 50 CFR

17.31 and 17.71 (84 FR 44753; hereafter, "the 2019 4(d) rule") and removed the "blanket rule" option for applying section 9 prohibitions to species newly listed as threatened after the effective date of those regulatory revisions (September 26, 2019). The "blanket rule" protections continued to apply to threatened species without an associated species-specific rule that were listed prior to September 26, 2019. Under the 2019 4(d) rule, we applied protections to a species newly listed as threatened only through issuance of a species-specific rule setting out the protective regulations that are necessary and advisable for that species. On April 5, 2024, we reinstated the "blanket rule" option at 50 CFR 17.31 and 17.71 for newly listed threatened species and finalized several other revisions to 50 CFR part 17 (89 FR 23919; hereafter, "the 2024 rule"). Those 2024 revised regulations became effective on May 6, 2024.

The 2024 rule is subject to pending litigation in *Rocky Mountain Elk Foundation et al. v. U.S. Fish and Wildlife Serv. et al.*; 2:25-cv-00029-KLD (D. Mont.) and *American Farm Bureau Federation et al. v. U.S. Fish and Wildlife Serv. et al.*; 1:25-cv-00947 (D.D.C.). Prior litigation over the 2019 4(d) rule was not resolved on the merits; rather, on November 16, 2022, the United States District Court for the Northern District of California issued orders remanding the 2019 4(d) rule to the Service without vacating it, as the Service had voluntarily asked the Court to do. Soon after, the Service developed the 2024 rule.

Executive Order (E.O.) 14154, "Unleashing American Energy," issued January 20, 2025, directed all departments and agencies to review agency actions that impose an undue burden on the identification, development, or use of domestic energy resources, and, as appropriate and consistent with applicable law, consider suspending, revising, or rescinding agency actions that conflict with this national objective. To administer provisions of E.O. 14154, the Secretary of the Interior subsequently issued Secretary's Order (S.O.) 3418, which directed Assistant Secretaries to take steps, as appropriate, to suspend, revise, or rescind multiple actions that had been finalized under the prior Administration. The S.O. specifically referenced taking these steps with respect to the 2024 rule. E.O. 14219, "Ensuring Lawful Governance and Implementing the President's Department of Government Efficiency Deregulatory Initiative," issued February 19, 2025, also directs all

departments and agencies to review and rescind unlawful regulations that are “based on anything other than the best reading of the underlying statutory authority.” *See also Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

The Secretaries of the Interior and Commerce share responsibilities for administering most of the provisions of the Act. Generally, marine species and some anadromous (sea-run) species are under the jurisdiction of the Secretary of Commerce, and all other species are under the jurisdiction of the Secretary of the Interior. Authority to administer the Act has been delegated by the Secretary of the Interior to the Director of the Service and by the Secretary of Commerce to the Assistant Administrator for the National Marine Fisheries Service (NMFS). The Service and NMFS (jointly “the Services”) separately implement administration section 4(d) for species within their respective jurisdictions. When we amended our section 4(d) regulations in 2019, and again in 2024, those amendments affected only species under Service jurisdiction. This proposal, if finalized, would similarly affect only species under Service jurisdiction.

Proposed Regulatory Revisions

We propose revisions to the regulations in 50 CFR part 17, subparts D and G. Section 4(d) of the Act gives the Secretary the authority and discretion to develop and revise regulations for protecting threatened species. We propose removing the “blanket rule” option from 50 CFR 17.31 and 17.71 for threatened species for two reasons. First, the Service has considered that our existing regulations do not match the “single, best meaning” of the statute. *Loper Bright*, 603 U.S. at 400. The statutory text, structure, and context make clear that Congress intended for the Service to determine what protections are needed for threatened species on a species-by-species basis. While the Service in the past has stated that either approach (using “blanket rules” or requiring promulgation of species-specific rules for every species listed as threatened species) is consistent with a permissible reading of Section 4(d) of the Act, and at least one court¹ has upheld as “reasonable” the “blanket rule” approach under the *Chevron* doctrine of statutory interpretation, the *Loper Bright*

decision has since overturned the *Chevron* decision and insisted on only the single “best” reading of an agency’s statutory authority.

Second, and separately, we have considered that removing the “blanket rule” option from 50 CFR 17.31 and 17.71 is a superior choice from a policy perspective. As the Service noted in its 2019 Rule, “[w]here we have developed species-specific 4(d) rules, we have seen many benefits, including removing redundant permitting requirements, facilitating implementation of beneficial conservation actions, and making better use of our limited personnel and fiscal resources by focusing prohibitions on the stressors contributing to the threatened status of the species.” 84 FR 44753 at 44754, August 27, 2019. This tailored approach reduces burdens on the Service and regulated entities alike and allows for the Service to better protect threatened species. This approach also brings the Service in line with the Department of Commerce’s longstanding practice of developing species-specific 4(d) rules.

Removing the “blanket rule” option would result in no immediate changes to protections for currently listed threatened species that receive “blanket rule” protections. For every species newly listed as a threatened species, and those reclassified in the future, we would comply with section 4(d) of the Act and issue the protective regulations that are necessary and advisable to provide for the conservation of that species. When proposing to protect a threatened species with a species-specific rule, the public would be afforded an opportunity to provide public comment on the proposed regulation.

We also propose new regulatory text at 50 CFR 17.31(d) and 17.71(d) to explain that, going forward, whenever we propose a species-specific 4(d) rule, we will ensure that each rule include a necessary and advisable determination (including consideration of conservation and economic impacts) and will seek public comment on that determination. As contemplated by the statute and reasonably interpreted from existing language, we include this additional regulatory text to help clarify the existing statutory authority and to address *Kansas Natural Resources Coalition, et al. v. USFWS, et al.* No. 23-CV-00159-DC-RCG, 2025 WL 1367834 (W.D. Tex. Mar. 29, 2025), in which the court interpreted section 4(d) and found that the Service failed to conduct the proper “necessary and advisable” considerations in issuing its 4(d) rule by not evaluating both conservation and economic impacts. We intend to finalize

species-specific rules concurrent with the final listing or reclassification determination. Notwithstanding our intention, we have discretion to revise or promulgate species-specific rules at any time after the final listing or reclassification determination. However, we specifically request comments on our stated intention of finalizing species-specific rules concurrent with final listing rules, including whether we should include any requirement in the regulatory text to do so, such as setting a timeframe for concurrently finalizing species-specific rules for newly listed or reclassified threatened species.

If this proposal is finalized, the final regulations would not automatically require the reevaluation of any previous use of § 17.31(a) or § 17.71(a) for species without species-specific rules. But we have discretion to revise or promulgate species-specific rules (including for species currently protected under a “blanket rule”) at any time if it is necessary and advisable for a threatened species.

This proposed rule is one of four proposed rules publishing in today’s **Federal Register** that propose changes to the regulations that implement the Act. Two of these proposed rules are joint between the Services, while two (including this document) are specific to the U.S. Fish and Wildlife Service.

Public Comments

We are seeking comments from all interested parties on the specific revisions we are proposing, as well as on any of our analyses or preliminary conclusions in the “Required Determinations” section of this document. We will consider all relevant information prior to issuing a final rule. Depending on the comments received, we may change the proposed regulations based upon those comments.

You may submit your comments concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. Comments sent by any other method, or to any other address or individual, may not be considered. Comments must be submitted to <https://www.regulations.gov> before 11:59 p.m. (eastern time) on the date specified in **DATES**. We will not consider hand-delivered comments that we do not receive by, or mailed comments that are not postmarked by, the date specified in **DATES**.

Comments and materials we receive will be posted and available for public inspection on <https://www.regulations.gov>. This generally means that we will post any personal

¹ See *Sweet Home Chapter of Communities for a Great Oregon v. Babbitt*, 1 F.3d. 1, 8 (D.C. Cir. 1993), modified on other grounds on reh’g, 17 F.3d 1463 (D.C. Cir. 1994), rev’d on other grounds, 515 U.S. 687 (1995).

information you provide us. If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Required Determinations

Regulatory Planning and Review—E.O. 12866 and 13563

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this proposed rule is significant and has reviewed it.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; title II of Pub. L. 104–121, March 29, 1996), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency, or that person's designee, certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that a

rule will not have a significant economic impact on a substantial number of small entities. We certify that, if adopted as proposed, this proposed rule would not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

This rulemaking proposes to revise the Service's regulations protecting endangered and threatened species under the Act.

The Service is the only entity that is directly affected by this proposed regulation change at 50 CFR part 17 because we are the only entity that is affected by changes to this section of the Code of Federal Regulations. Since the only potential entities directly affected by this proposed regulation change are not small entities, including any small businesses, small organizations, or small governments, we certify that, if adopted as proposed, this rule would not have a significant economic effect on a substantial number of small entities.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following finding:

(a) On the basis of information contained above in the Regulatory Flexibility Act section, this proposed rule would not “significantly or uniquely” affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502, that this proposed rule would not impose a cost of \$100 million or more in any given year on local or State governments or private entities. A small government agency plan is not required. As explained above, small governments would not be affected because the proposed rule would not place additional requirements on any city, county, or other local municipalities.

(b) This proposed rule would not produce a Federal mandate on State, local, or Tribal governments or the private sector of \$100 million or greater in any year; that is, this proposed rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act. This proposed rule would impose no obligations on State, local, or Tribal governments.

Takings (E.O. 12630)

In accordance with E.O. 12630, this proposed rule would not have significant takings implications. This proposed rule would not directly affect private property, nor would it cause a physical or regulatory taking. It would

not result in a physical taking because it would not effectively compel a property owner to suffer a physical invasion of property. Further, the proposed rule would not result in a regulatory taking because it would not deny all economically beneficial or productive use of the land or aquatic resources, it would substantially advance a legitimate government interest (conservation and recovery of endangered species and threatened species), and it would not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with E.O. 13132 (Federalism), we have considered whether this proposed rule would have significant federalism effects and have determined that a federalism summary impact statement is not required. This proposed rule pertains only to the Service's protective regulations for endangered and threatened species promulgated under the Act and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (E.O. 12988)

This proposed rule does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of E.O. 12988 (Civil Justice Reform). This proposed rule would revise the Service's regulations for protecting species pursuant to the Act.

Government-to-Government Relationship With Tribes

In accordance with E.O. 13175 (Consultation and Coordination with Indian Tribal Governments) and the Department of the Interior's manual at 512 DM 2, we are considering possible effects of this proposed rule on federally recognized Indian Tribes. The Service has reached a preliminary conclusion that the proposed changes to these regulations do not directly affect specific species or Tribal lands. This proposed rule would revise regulations for protecting threatened species pursuant to the Act. These proposed regulations would not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

We are considering the possible effects of this proposed rule on federally

recognized Indian Tribes. We will continue to collaborate with Tribes on issues related to federally listed species and their habitats and work with them as we administer the provisions of the Act. See Secretary's Order 3206, "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act" (June 5, 1997).

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (45 U.S.C. 3501 et seq.). OMB has previously approved the information collection requirements associated with permitting and reporting requirements and assigned OMB Control Number 1018-0094 (expires 04/30/2027). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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

We are analyzing this proposed rule in accordance with the criteria of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), the Department of the Interior regulations on Implementation of the National Environmental Policy Act (43 CFR part 46), and the Department of the Interior Manual (516 DM 1).

We invite the public to comment on the extent to which this proposed rule may have a significant impact on the human environment or fall within one of the categorical exclusions for actions that have no reasonably foreseeable effects on the quality of the human environment that would require further analysis under NEPA. We will complete our analysis, in compliance with NEPA, before finalizing these proposed regulations.

Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

In developing this proposed rule, the FWS is acting in our unique statutory role as administrator of the Act and is engaged in a legal exercise of interpreting the standards of the Act. The FWS's administration of the Act is not in itself subject to the Act's provisions, including section 7(a)(2). The FWS has a historical practice of issuing its general regulations under the ESA without undertaking section 7 consultation. This practice accords with the plain language, structure, and

purposes of the ESA, which does not place a consultation obligation on the FWS's administration of the Act. Although the FWS consults on actions through intra-agency consultations where appropriate (e.g., issuance of section 10 permits and actions under statutory authorities other than the ESA), in those instances the FWS is acting principally as an "action agency" implementing provisions of the Act or other statutes. Here, by contrast, the FWS is acting solely in our role as administrator of the ESA in interpreting the Act's provisions; we are also not implementing the Act to propose or take a specific action. The FWS is carrying out the most fundamental exercise of our role as administrator of the ESA, and the Act cannot reasonably be construed as requiring the FWS to "consult" with ourselves under Section 7(a)(2) in such cases.

Energy Supply, Distribution or Use (E.O. 13211)

E.O. 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare statements of energy effects "to the extent permitted by law" when undertaking actions identified as significant energy actions (66 FR 28355; May 22, 2001). E.O. 13211 defines a "significant energy action" as an action that (i) is a significant regulatory action under E.O. 12866 (or any successor order); and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy. The proposed revised regulations are not expected to affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and there is no requirement to prepare a statement of energy effects for this action.

Clarity of the Proposed Rule

We are required by E.O.s 12866 and 12988 and by the Presidential memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you believe that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you

should tell us the numbers of the sections or paragraphs that you believe are unclearly written, identify any sections or sentences that you believe are too long, and identify the sections where you believe lists or tables would be useful.

Authority

We issue this proposed rule under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 et seq.).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

Subpart D—Threatened Wildlife

- 2. Amend § 17.31 by revising paragraph (a) and adding a new paragraph (d) to read as follows:

§ 17.31 Prohibitions.

(a) Except as provided in §§ 17.4 through 17.8, or in a permit issued pursuant to § 17.32, the provisions of paragraph (b) of this section and all of the provisions of § 17.21 (for endangered species of wildlife), except § 17.21(c)(3) and (5), apply to threatened species of wildlife that were added to the List of Endangered and Threatened Wildlife at § 17.11(h) on or prior to [EFFECTIVE DATE OF THE FINAL RULE], unless the Secretary has promulgated species-specific provisions (see paragraph (c) of this section).

* * * * *

(d) Each species-specific rule proposed after [EFFECTIVE DATE OF THE FINAL RULE] will include a necessary and advisable determination (including consideration of conservation and economic impacts consistent with the findings and declaration of purposes and policy of the Endangered Species Act, 16 U.S.C. 1531, based on the best scientific and commercial data available) and will seek public comment on that determination.

Subpart G—Threatened Plants

■ 3. Amend § 17.71 by revising paragraph (a) and adding paragraph (d) to read as follows:

§ 17.71 Prohibitions.

(a) Except as provided in a permit issued pursuant to § 17.72, the provisions of paragraph (b) of this section and all of the provisions of § 17.61, except § 17.61(c)(2) through (4), apply to threatened species of plants that were added to the List of Endangered and Threatened Plants at § 17.12(h) on or prior to [EFFECTIVE DATE OF THE FINAL RULE], unless the Secretary has promulgated species-specific provisions (see paragraph (c) of this section), with the following exception: Seeds of cultivated specimens of species treated as threatened are exempt from all the provisions of § 17.61, provided that a statement that the seeds are of “cultivated origin” accompanies the seeds or their container during the course of any activity otherwise subject to the regulations in this subpart.

* * * * *

(d) Each species-specific rule proposed after [EFFECTIVE DATE OF THE FINAL RULE] will include a necessary and advisable determination (including consideration of conservation and economic impacts consistent with the findings and declaration of purposes and policy of the Endangered Species Act, 16 U.S.C. 1531, based on the best scientific and commercial data available) and will seek public comment on that determination.

Kevin Lilly,
Principal Deputy for Fish and Wildlife and Parks, Exercising the delegated authority of the Assistant Secretary for Fish and Wildlife and Parks. Department of the Interior.

[FR Doc. 2025-20552 Filed 11-19-25; 11:15 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-HQ-ES-2025-0048; FXES11110900000-256-FF09E23000]

RIN 1018-BI76

Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS or the Service), propose to amend portions of our regulations for section 4 of the Endangered Species Act of 1973, as amended (Act or ESA). Specifically, we propose to revise regulations related to section 4(b)(2) of the Act. Section 4(b)(2) requires consideration of the economic impact, the impact on national security, and any other relevant impact of designating any particular area as critical habitat; and authorizes the exclusion of areas from critical habitat if the benefits of excluding the area outweigh the benefits of designating it as critical habitat. These proposed revisions articulate when and how we determine whether the benefits of excluding an area outweigh the benefits of designating the area as critical habitat (exclusion analysis). This proposed rule reflects the Service's experience and existing case law. The intended effect of this proposed rule is to provide greater transparency and certainty for the public and stakeholders.

DATES: Comments must be received by December 22, 2025.

ADDRESSES: You may submit comments and information on this document by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-HQ-ES-2025-0048, which is the docket number for this rulemaking action. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.” Comments must be submitted to <https://www.regulations.gov> before 11:59 p.m. (Eastern Time) on the date specified in **DATES**.

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-HQ-ES-2025-0048; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Request for Comments, below, for more information).

Availability of reference materials: References and a document summarizing this proposed rule are available at <https://www.regulations.gov> at Docket No. FWS-HQ-ES-2025-0048.

FOR FURTHER INFORMATION CONTACT: John Tirpak, U.S. Fish and Wildlife Service, Division of Conservation and Classification, john_tirpak@fws.gov, 703-358-2163. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:**Background**

The Endangered Species Act of 1973, as amended (hereafter referred to as Act or ESA; 16 U.S.C. 1531 *et seq.*), states that the purposes of the Act are to provide a means to conserve the ecosystems upon which endangered and threatened species (listed species) depend, to develop a program for the conservation of listed species, and to achieve the purposes of certain treaties and conventions (16 U.S.C. 1531(b)). Moreover, the Act states that it is the policy of Congress that the Federal Government shall seek to conserve endangered species and threatened species and shall use its authorities to further the purposes of the Act (16 U.S.C. 1531(c)(1)).

The Secretaries of the Interior and Commerce (the “Secretaries”) share responsibilities for implementing most of the provisions of the Act. Generally, marine and anadromous species are under the jurisdiction of the Secretary of Commerce, and all other species are under the jurisdiction of the Secretary of the Interior. Authority to administer the Act has been delegated by the Secretary of the Interior to the Director of the FWS and by the Secretary of Commerce to the Assistant Administrator for the National Marine Fisheries Service (NMFS) (collectively, the Services). Together, the Services administer the Act via joint regulations in chapter IV of title 50 of the Code of Federal Regulations (CFR). In addition, each of the Services also has regulations specific to its own administration of the Act (located at 50 CFR part 17 for FWS and at 50 CFR parts 222 through 226 for NMFS). Because this rulemaking, if finalized, would only apply to the FWS, the regulations proposed in this rulemaking would not require NMFS to change its processes for consideration of exclusions under section 4(b)(2) of the Act. Since this rulemaking is solely applicable to the FWS, when we refer to