Office (see **FOR FURTHER INFORMATION CONTACT**, above).

Required Determinations

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), the President's memorandum of November 30, 2022 (Uniform Standards for Tribal Consultation; 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations on a government-to-government basis. In accordance with Secretary's Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* and upon request from the Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

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

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 in paragraph (h) by adding entries to the List of Endangered and Threatened Wildlife for ''Snake, Key ring-necked'' and ''Snake, rim rock crowned'' in alphabetical order under REPTILES to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
		Reptiles		
*	*	*	*	*
Snake, Key ring-necked	*Diadophis punctatus acricus.*	Wherever found	E	91 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS], July 21, 2026.
*	*	*	*	*
Snake, rim rock crowned	*Tantilla oolitica*	Wherever found	E	91 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS], July 21, 2026.
*	*	*	*	*

Brian R. Nesvik,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2026–14637 Filed 7–20–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2025–0029; FXES11130900000–267–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: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS or the Service), revise our regulations concerning protections of threatened species under the Endangered Species Act (Act). We are removing the ''blanket rule'' option for protecting newly listed threatened species pursuant to section 4(d) of the Act.

DATES: This rule is effective August 20, 2026.

ADDRESSES: Public comments and materials received, as well as supporting documentation used in the preparation of this final regulation, 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; 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.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (hereafter referred to as the 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 species and threatened species (listed species) depend, to provide 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 all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall use their authorities to further the purposes of the Act (16 U.S.C. 1531(c)(1)).

This 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(a) 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 of the Interior (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(a) 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 Service promulgated ''blanket rules,'' for threatened species of wildlife and plants at 50 CFR 17.31(a) and 17.71(a), respectively. Pursuant to these blanket rules, as soon as a species was listed as threatened, nearly all the section 9(a) prohibitions that apply to endangered species would automatically apply to threatened species, unless we issued an alternative rule for that species (*i.e.,* a species-specific rule, previously referred to as ''special rules''). 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 rule'') and removed the ''blanket rule'' option for applying section 9(a) 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 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.). A second case that was identified in the proposed rule, *American Farm Bureau Federation et al.* v. *U.S. Fish and Wildlife Serv. et al.;* 1:25–cv–00947 (D.D.C.), has since been voluntarily dismissed. Prior litigation over the 2019 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 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.

In our 2025 proposed rule (90 FR 52587, November 21, 2025) we referred to two Executive Orders (E.O.s) as the impetus for reviewing and revising the regulations that pertain to protections for threatened species under section 4(d). 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 subsequently issued Secretary's Order (S.O.) 3418 on February 3, 2025, 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) (hereafter, ''*Loper Bright*'')). While E.O.s 14154 and 14219 initiated our review, our goal in revising these regulations was to determine how best to craft protective regulations for threatened species under section 4(d) of the Act while also considering our experience administering the Act and policy preferences. Based on our evaluation, and for reasons discussed in more detail below, we are revising 50 CFR part 17.

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). FWS and NMFS (collectively, the Services) separately administer 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 FWS jurisdiction. This regulation similarly affects only species under FWS jurisdiction. Since this rulemaking is solely applicable to the FWS, when we refer to the Secretary, we mean the Secretary of the Interior.

Regulatory Revisions

We are revising 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 are removing the future use of the ''blanket rule'' option from 50 CFR 17.31 and 17.71 for threatened species. Removing the future use of the ''blanket rule'' option from 50 CFR 17.31 and 17.71 is a superior choice from a policy perspective. This approach ensures that the Service will thoughtfully consider the protections that are necessary and advisable for the conservation of each threatened species. As we noted in the 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 may reduce future permitting burdens on the Service and regulated entities alike and is intended to allow the Service to better protect threatened species. This approach also brings the Service in line with the NMFS's longstanding practice of developing species-specific 4(d) rules rather than using a ''blanket rule'' option which will provide entities regulated by both the Service and NMFS more certainty in process.

Removing the future use of the ''blanket rule'' option will 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 after this final rule takes effect, and those reclassified in the future, we will 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. As is current practice, when we are proposing to protect a threatened species with a species-specific rule, the public will be afforded an opportunity to provide public comment on the proposed regulation.

We are also finalizing 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 includes a necessary and advisable determination (including consideration of conservation and economic impacts) and we will seek public comment on that determination. We include this additional regulatory text, to provide transparency to the public about our decision-making process and to address *Kansas Natural Resources Coalition, et al.* v. *USFWS, et al.* 780 F.Supp.3d 650 (W.D. Tex. 2025) (hereafter, ''*Kansas Natural Resources Coalition*''), 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. In our proposed rule (90 FR 52587, November 21, 2025), we specifically requested comments on whether we should include any requirement in the regulatory text for concurrently finalizing species-specific rules for newly listed or reclassified threatened species and decline to include this requirement at this time. As is our current practice, we intend to finalize species-specific rules concurrent with the final listing or reclassification determination. Between the time that the 2019 rule went into effect in September 2019, and when the 2024 rule went into effect on May 6, 2024, we listed or reclassified 46 threatened species (35 wildlife and 11 plant species) and published interim or final species-specific 4(d) rules for each of those species. During that time, there were no newly listed threatened species for which time elapsed between listing and putting in place protective regulations because we published either interim or final species-specific rules concurrently with each final classification action.

These final regulations do not automatically require the reevaluation of any previous use of § 17.31(a) or § 17.71(a) for species without species-specific rules. However, we have always had the discretion to revise protective regulations (*e.g.,* revise existing species-specific rules or promulgate species-specific rules for species currently protected under a ''blanket rule'') at any time if it is necessary and advisable for the conservation of a threatened species. In addition, we intend to review the current protective regulations for each threatened species in conjunction with our required status review pursuant to section 4(c)(2) of the Act. We may find during a status review that revising protective regulations for the threatened species is necessary and advisable for the conservation of that species. Depending upon other listing, delisting, and reclassification priorities, we will determine when to pursue rulemaking, which would include public notice and comment, for any changes in protective regulations.

In this final rule, we summarize and discuss the comments received in response to the proposed rule (90 FR 52587, November 21, 2025) and provide additional explanation for our final regulation revisions. In the event any provision is invalidated or held to be impermissible as a result of a legal challenge, ''the remainder of the regulation could function sensibly without the stricken provision'' (*Belmont Mun. Light Dep't* v. *FERC,* 38 F.4th 173, 187 (D.C. Cir. 2022) (quoting *MD/DC/DE Broad. Ass'n* v. *FCC,* 236 F.3d 13, 22 (D.C. Cir. 2001))). Because each of the provisions stands on its own, the Service views each of the provisions as operating independently from the other provisions. Thus, should a reviewing court invalidate any particular provision(s) of this rulemaking, the remaining provisions would still allow the Service to promulgate species-specific 4(d) rules. Specifically, these distinct provisions include: (1) removing the future use of the ''blanket rule'' option for wildlife from 50 CFR 17.31(a); (2) adding the requirement to make a necessary and advisable determination for each wildlife species-specific 4(d) rule (50 CFR 17.31(d)); (3) removing the future use of the ''blanket rule'' option for plants from 50 CFR 17.71(a); and (4) adding the requirement to make a necessary and advisable determination for each plant species-specific 4(d) rule (50 CFR 17.71(d)). In the event that any portion of this final rule is held to be invalid or impermissible, the Service intends that the remaining aspects of the regulatory provisions be severable.

In finalizing the specific changes to the regulations in this document, the Service is establishing prospective standards only. These regulations will apply to species-specific 4(d) rules finalized after the effective date of this rule and will not alter the current protections for any threatened species whether protected by a ''blanket rule'' or species-specific 4(d) rule. For the effective date of this rule, see DATES, above. Nothing in these revisions to the regulations is intended to require that any prior 4(d) rule be revised.

This rule is one of two rules publishing in today's **Federal Register** that revise the regulations that administer the Act.

Summary of Comments and Responses

In our November 21, 2025, proposed rule (90 FR 52587), we requested public comments by December 22, 2025. We received a total of 14,620 submissions representing approximately 343,767 individuals on the proposed rule by the close of the comment period. Commenters included individual members of the public, representatives from States, Tribes, industry organizations, and environmental organizations, among others.

During the public comment period, we received several requests for public hearings. Public hearings are not required for regulation revisions of this type, and we elected not to hold public hearings. We also received several requests for extensions of the public comment period. However, we elected not to extend the public comment period beyond the original 30-day public comment period because we found the 30-day comment period provided sufficient time for a thorough review of the proposed revisions. The Administrative Procedure Act (APA; 5 U.S.C. 551 *et seq.*) does not specify a minimum number of days for a comment period, but the comment period must be long enough to afford the public a meaningful opportunity to comment. In this case, with a 30-day public comment period, the public had a meaningful opportunity to comment on the proposed rule, as demonstrated by the thousands of comments received.

The primary revisions are to portions of the regulations that were previously revised in 2019 and 2024. The number of comments received indicate that members of the public were aware of the proposed rule and had adequate time to review it. In addition, we provided five informational sessions for a wide variety of audiences. Over 2,100 attendees participated in these sessions, and we addressed questions from the participants as part of the sessions. Finally, on our website, we provided additional information about the regulations, such as frequently asked questions and a prerecorded presentation on the proposed revisions.

Most of the submissions were nonsubstantive in nature, expressing either general opposition to or support for the proposed rule with no supporting information or analysis. We received several hundred letters with detailed substantive comments with specific rationales for support of or opposition to specific portions of the proposed rule. We also received comments that were outside the scope of the rulemaking (such as comments to amend language in 50 CFR 17.32 to align with language in 50 CFR 17.22 and require a 30-day notice and comment period for threatened species permits, comments to suspend rulemaking until ongoing litigation challenging provisions of the 2019 rule (*Ctr. for Biological Diversity* v. *Dep't of the Interior,* No. 4:24–cv–04651 (N.D. Cal.)) is concluded, or comments concerning issues that may arise during implementation for future species-specific 4(d) rules) that we are not responding to here. We note that, for each future proposed species-specific 4(d) rule, the Service will provide an opportunity for public comment. Below, we summarize and respond to the significant, substantive comments we received.

Removal of Blanket Rules

Comment 1: Multiple commenters supported rescinding ''blanket rules'' as proposed, arguing that eliminating the application of a standard set of protections to newly listed threatened species would improve conservation outcomes by fostering collaboration among stakeholders, increasing regulatory flexibility, and allowing for more precise, species-specific management.

Conversely, multiple commenters opposed rescinding the ''blanket rules,'' citing their precautionary value and efficiency. They detailed how ''blanket rules'' could be effective at conserving threatened species and argued that applying protections to threatened species immediately upon listing reduces extinction risk, addresses unknown threats, and aligns with the preventative intent of the Act. Commenters pointed out that we recently stated that there is nothing in the current regulations that prevents us from using species-specific 4(d) rules to tailor the regulations to the conservation needs of the species when needed (89 FR 23919, April 5, 2024). They also warned that removing ''blanket rules'' could leave threatened species with no or delayed protections, accelerating declines and undermining conservation efforts.

Response: Pursuant to section 4(d) of the Act, we are required to develop protective regulations that are necessary and advisable to provide for the conservation of threatened species. In addition, section 4(d) authorizes the Secretary to prohibit with respect to any threatened species any act prohibited under section 9(a) with respect to endangered species. Our protective regulations have consistently been, and will continue to be, based upon the best available scientific and commercial information.

Although the ''blanket rules'' at 50 CFR 17.31(a) and 17.71(a) have been applied in an effort to conserve many threatened species, we have found that implementing species-specific 4(d) rules is a more effective and efficient use of our personnel and fiscal resources as they focus protections on the identified stressors contributing to the threatened status of the species. As noted in our 2024 rule (89 FR 23919 at 23926), species-specific 4(d) rules can incentivize known beneficial actions for species by removing or reducing regulatory burden associated with those actions and can also remove or reduce regulatory burden associated with permitting of otherwise prohibited actions or forms or amounts of ''take'' considered inconsequential to the conservation of the species. In turn, this information may assist with streamlining future section 7 consultations, as we recognize that in most situations it would be unlikely that additional measures would be required to further minimize take that is excepted in a 4(d) rule. Additionally, if project activities could be tailored to avoid forms of take prohibited by the 4(d) rule, consultation should be more straightforward and predictable. Furthermore, we anticipate landowners will be incentivized to take actions that would improve the status of endangered species with the possibility of downlisting the species and potentially receiving regulatory relief in the resulting 4(d) rule.

For these reasons, we conclude that while blanket rules may offer administrative simplicity in some cases, species-specific rules better align with the Act's mandate to adopt regulations that are ''necessary and advisable'' for the conservation of threatened species and ultimately provide a more effective and efficient framework for achieving conservation outcomes. While promulgating species-specific 4(d) rules for every threatened species may require additional Service resources at the time of listing, we believe tailored species-specific protections ultimately provide regulatory time-savings for us and our conservation partners.

We reiterate our intention to finalize species-specific 4(d) rules concurrently with final listing or reclassification determinations. This approach adds efficiency, predictability, and transparency to the rulemaking process because it correlates the Service's analysis of threats impacting the species (as discussed in the final listing or reclassification rule) to our analysis of protective regulations for the species. As a result, we believe these measures to increase public awareness, transparency, and predictability will enhance and expedite conservation, defined in the Act to mean ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to [the Act] are no longer necessary'' (16 U.S.C. 1532(3)).

Comment 2: Several commenters stated that rescinding the ''blanket rules'' will allow for political interference and industry pressure on the Service to reduce protections for threatened species to the detriment of species conservation.

Response: As explained in the preamble to the November 21, 2025, proposed rule (90 FR 52587), the intent of this regulation is to focus protections on the stressors contributing to the threatened status of the species and to facilitate the implementation of beneficial conservation efforts with the ultimate goal of delisting the species. This practice of tailoring regulations to individual threatened species is guided by the Service's extensive history of administering the Act. Our determination of what protective regulation is necessary and advisable, as a whole, for the conservation of a given threatened species has consistently been, and will continue to be, based upon the best scientific and commercial data available to us at the time we promulgate the 4(d) rule.

Comment 3: Some commenters stated that there is a requirement to conduct National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analyses when issuing any species-specific 4(d) rules and this requirement will slow the administrative process and may delay listings and protection of threatened species.

Response: We disagree that NEPA compliance delays the listing of or promulgation of protective regulations for threatened species. The Service intends to promulgate 4(d) rules in conjunction with rules to list species to efficiently provide regulatory protection to species that are determined to meet the criteria for listing. As supported by case law, we are not required to conduct NEPA analysis for species-specific 4(d) rules that are promulgated concurrent with listing decisions (*Center for Biological Diversity* v. *U.S.F.W.S.,* 2005 WL 2000928, slip op. at 12 (N.D. Cal. Aug. 19, 2005)). As a matter of practice, we do conduct NEPA analyses when we promulgate a species-specific stand-alone 4(d) rule (*i.e.,* not concurrent with a classification determination), consistent with case law (*In re Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation,* 818 F. Supp. 2d 214, 237 (D.D.C. 2011)). Furthermore, when we revise protections for a threatened species, the existing protections remain in effect until the revised 4(d) rule is finalized avoiding any gap in regulatory protection for the species in question.

Comment 4: Commenters asserted that the proposed rule provides no evidence that the existing ''blanket rules'' create a regulatory burden, while their removal will likely increase administrative workload for the Service by requiring species-specific rules for each threatened species. Many pointed to the Service's substantial workload, recent staffing reductions, and limited funding, suggesting these constraints would make timely development of species-specific rules impractical and exacerbate delays. Others suggested that the proposed regulation revisions could reduce the administrative and economic burden for the Service since species-specific 4(d) rules allow the Service to focus regulatory attention on specific activities that contribute to the threatened status.

Response: Developing species-specific 4(d) rules is a prudent and efficient use of our resources because of the benefits gained from tailoring protections specific to the conservation needs of the species. From the period after the ''blanket rules'' were put into place in 2024 to current, we have finalized 5 species-specific rules and did not apply either of the ''blanket rules'' to any threatened species. Similar information regarding use of the ''blanket rules'' is available related to the previous rulemaking that rescinded the ''blanket rules'' (RIN 1018–BC97; 84 FR 44753, August 27, 2019; *https://www.regulations.gov/document/FWS-HQ-ES-2018-0007-69539*). In general, the provisions of a 4(d) rule should be closely tied to the species' needs and primary factors influencing the biological status identified in the species status assessment report or other analysis of the species' biological status. Determining which protective regulations are appropriate for a species requires us to address the stressors leading to threatened species status. This determination logically flows from our analyses at the time of listing. In sum, because the analysis of all factors influencing the species has already been completed to inform the listing determination, we anticipate the development of species-specific protective regulations addressing these same factors concurrently will be more efficient. As discussed in our 2019 rule, we intend to review existing species-specific 4(d) rules that could be used as a model or applied to the species in question. For example, the Service has existing species-specific 4(d) rules for certain threatened fish species, which are found at 50 CFR 17.44(a), (c) and (h), that include protective regulations for multiple species. Where appropriate, the Service adds additional listed species of fish to the appropriate rule. This approach would be beneficial when there are species with similar threats or that occur in a similar geographic area, or species with similar life histories or similar biological needs. Therefore, in these situations, developing species-specific regulations will not be as time consuming or burdensome as the commenters predict because the Service will be able to rely on existing regulatory language. Similar examples include the Service's existing species-specific 4(d) rules for Mazama pocket gophers (50 CFR 17.40(a)), crocodilians (50 CFR 17.42(c)), and stoneflies (50 CFR 17.47(c)). Regardless of whether we ultimately add a new species to an existing regulation in the CFR, we will always conduct individual analyses for each species and make species-specific necessary and advisable determinations.

As previously discussed, we also anticipate that while promulgating species-specific 4(d) rules for every threatened species may require additional Service resources at the time of listing, tailored species-specific protections ultimately provide regulatory time-savings for us, our conservation partners and the regulated community, and lead to better species conservation. Of the currently listed threatened species, approximately 48 percent of wildlife species and 6 percent of plant species are protected with species-specific 4(d) rules.

Comment 5: Several commenters suggested that when using the ''blanket rule'' protections, threatened species were treated the same as endangered species. Some indicated this resulted in overprotection and supported removal of ''blanket rules'' to reinstate meaning to the distinction between endangered species and threatened species, and others supported the similar treatment and supported maintaining ''blanket rules.'' Some commenters support removing automatic protections for endangered species as well.

Response: The ''blanket rules'' do not treat threatened species exactly the same as endangered species. The Act's section 9(a) prohibitions that apply to an endangered species also apply to a threatened species protected by a ''blanket rule,'' however, the ''blanket rules'' also include broader exceptions to prohibitions than those included in our regulations for endangered species. Our endangered species regulations include a suite of exceptions, which allow for various entities to conduct otherwise prohibited acts without a permit under the Act (*e.g.,* any person may take endangered wildlife in defense of their own life or the lives of others; Federal and State law enforcement officers may possess, deliver, carry, transport, or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties; certain individuals can take wildlife to aid, salvage, or dispose of endangered species). Protections for threatened species under the ''blanket rules'' also include these standard exceptions; however, because threatened species are not in danger of extinction but are likely to become so within the foreseeable future, we provided additional flexibility for managing threatened species. At 50 CFR 17.31(b) and 17.71(b), the exceptions are more numerous and broader than those for endangered species. These include additional exceptions for the FWS to conduct conservation actions such as habitat restoration that would cause ''take'' that would otherwise be prohibited under the Act without a permit. These provisions also include broader exceptions for agents or employees of State conservation agencies operating a conservation program in accordance with section 6(c) of the Act to conduct actions otherwise prohibited without a permit. Additionally, the general threatened species permitting provisions promulgated under the authority of section 4(d) at 50 CFR 17.32(a) provide broader issuance criteria and require less process than endangered species permitting provisions at 50 CFR 17.22(a) promulgated under the authority of section 10(a)(1)(A) of the Act, which also require compliance with section 10(c), section 10(d), and 50 CFR 17.22(d).

With regard to the comment about removing automatic protections for endangered species, section 9(a) of the Act prescribes the prohibitions for endangered species. We cannot alter these prohibitions through regulatory revisions.

Comment 6: We received a few comments on topics that were not specifically addressed in our proposed regulatory amendment but instead focus on issues that may arise during implementation of this rulemaking. These included recommendations for future guidance documents or for consideration when developing individual species-specific 4(d) rules.

Response: The Service appreciates these comments and suggestions on developing species-specific 4(d) rules. While that input may inform the development of future species-specific 4(d) rules, policies, or guidance, those comments are outside the scope of this rulemaking. To the extent commenters raised questions about the substance of future species-specific 4(d) rules that have not been proposed, we urge commenters to provide this feedback as applicable in the development of future species-specific 4(d) rules.

Comment 7: Multiple commenters stated that aligning our approach with NMFS is not a valid argument for rescinding the ''blanket rules.'' Some commenters pointed out that the FWS is responsible for many more species than NMFS and we may experience delays in crafting species-specific rules due to the higher administrative burden. Commenters also asserted that there is no good reason why alignment with NMFS is necessary or beneficial as the agencies have had different approaches for decades without issues and this is not mandated by the Act. Some commenters stated that the NMFS approach does not provide a model of efficacy to justify FWS alignment, because NMFS does not consistently promulgate species-specific 4(d) rules for threatened species. Commenters suggested that NMFS should instead adopt the ''blanket rule'' if consistency between the agencies is the goal. Other commenters supported aligning our approach with NMFS and suggested that NMFS has demonstrated success in implementing species-specific rules given their higher recovery rates of species than the Service despite not using the ''blanket rules.''

Response: As noted above, Executive Orders and S.O. 3418 provided the impetus for our rulemaking; because the ''blanket rule'' was exclusive to FWS, NMFS did not participate in this rulemaking. Comments asserting actions NMFS should take are beyond the scope of this rulemaking. We are removing the potential for default application of the ''blanket rules'' as our preferred policy approach and recognize this will align our practice with NMFS for future threatened species listings.

Comment 8: Some commenters raised concerns regarding the ability of the Service to implement U.S. treaty obligations for threatened species that are also listed on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendices. One of the commenters raised concerns about complicating permitting and confusing the regulated community by setting different standards for different threatened species listed at different times and about reducing the ability to prohibit and place permitting requirements on the import of foreign threatened species listed on the CITES Appendices. The commenter noted that CITES specifically allows countries to have such so-called ''stricter domestic measures'' beyond those required by CITES. They believe the conservation of the species necessitates the added scrutiny provided through administering ESA import permit requirements for threatened species by the United States, and they fear that eliminating the ''blanket rules'' for future threatened species listings will reduce the conservation benefit of the ESA to CITES implementation. Another commenter expressed concern that if ESA protections relating to prohibitions on import, export, and trade under section 9(a) are not applied to threatened species in the United States by default, the United States would be unable to prohibit trade contrary to the requirements of CITES.

Response: This rulemaking does not affect the ability of the Service to implement U.S. treaty obligations for species listed on the CITES Appendices that are also threatened species under the Act. The purpose of CITES is to regulate international trade in plants and animals to ensure such trade is legal and does not threaten the survival of species in the wild. The ESA, in part, implements CITES and its Appendices of CITES-listed species into U.S. law (see 16 U.S.C. 1532(4), 1537a, 1538(c), 1540; 50 CFR part 23). Separately, the ESA also provides Federal protection to species listed as endangered or threatened pursuant to section 4 of the ESA. As the commenter notes, Parties to the Convention may enact stricter domestic measures over the conditions of trade in CITES specimens, making CITES ''a floor, not a ceiling, for protection'' of CITES species (see *Safari Club Int'l* v. *Zinke,* 878 F.3d 316, 321–322 (D.C. Cir. 2017) (citing CITES Art. XIV(1), 27 U.S.T. at 1108)). The listing of endangered species and threatened species and protections afforded thereto by the ESA are an example of a stricter domestic measure. The listing of a species as endangered or threatened under the ESA does not depend on whether or how it is listed under CITES and vice versa (see 16 U.S.C. 1532(6), 1532(20), 1533(a)(1), 1533(d), 1538(a); 50 CFR part 17; 50 CFR part 424). The two legal regimes have separate lists of protected wildlife (compare 50 CFR 23.91, 23.7, CITES Appendices (available at *https://cites.org/eng/app/appendices.php*) with 50 CFR 17.11–17.12 (ESA lists), 16 U.S.C. 1533(c)). The two legal regimes have separate listing processes and species are listed pursuant to separate criteria (compare CITES Art. II, XV, XVI; CITES Resolution Conf. 9.24 (Rev. CoP17) on Criteria for amendment of Appendices I and II (available at *https://cites.org/eng/res/index.php*); 50 CFR 23.89, 23.87 with 16 U.S.C. 1533(a)–(b); 50 CFR part 424). The prohibitions that attach to CITES species and ESA species under the ESA are also separate (compare CITES Arts. II(4), VIII; 16 U.S.C. 1538(c); 50 CFR 23.13 (CITES species prohibitions) with 16 U.S.C. 1538(a), 1533(d); 50 CFR 17.21, 17.31, 17.61, 17.71 (ESA species prohibitions)). The permitting processes for CITES species and ESA species under the ESA are also separate (compare CITES Arts. III–VII; 16 U.S.C. 1537a; 50 CFR part 23 (CITES species permitting provisions) with 16 U.S.C. 1539(a)–(d), 1533(d); 50 CFR 17.22, 17.32, 17.62, 17.72 (ESA species permitting provisions)). In short, a species may be listed under either, both, or neither the CITES Appendices and the ESA lists of endangered and threatened wildlife and plants.

The commenter is also incorrect that removal of the future use of the ''blanket rule'' option and use of species-specific 4(d) rules for future threatened listings would preclude prohibiting the import of threatened species. If a species-specific 4(d) rule prohibits import, then an import permit is required unless the species-specific 4(d) rule provides a separate exception. See *Safari Club Int'l* v. *Zinke,* 878 F.3d 316, 328–29 (D.C. Cir. 2017) (''[s]ection 9(c)(2) in no way constrains... section 4(d) authority to condition the importation of threatened Appendix-II species. . .''); see also 71 FR 20168 at 20170–20171, April 19, 2006; 72 FR 48402 at 48404–48405, August 23, 2007. To the extent that the commenter is referring to section 9(c)(2) of the Act and our implementing regulations at 50 CFR 17.8, which provides an import exemption for qualifying imports of threatened species that are CITES Appendix-II wildlife, nothing in this rulemaking affects the operation of 50 CFR 17.8. As a result, these provisions continue to provide the limited exception to the § 17.31(a) prohibition against the importation of threatened wildlife for species that are currently subject to the provisions of the ''blanket rule'' and that are also included in CITES Appendix II (provided that the other requirements of 50 CFR 17.8(b) are also met).

Comment 9: One commenter suggested that nearly all zoos are impacted by ESA regulations including the current ''blanket rules.'' They suggest that under the current rule, zoos holding threatened species are required to go through burdensome, costly and unreasonably lengthy permitting processes. They suggest the ''blanket rules'' are overly burdensome and inefficient and not consistent with the congressional intent of the ESA to impose the enhancement and other permitting requirements applicable to species that are listed as threatened because they do not have a species-specific 4(d) rule.

Response: The commenter suggests that ''blanket rules'' and species-specific rules include different permit processes or standards to obtain a permit for an otherwise prohibited act. For both threatened species protected by ''blanket rules'' and threatened species protected by species-specific rules, we issue permits pursuant to our general threatened species permitting regulations at 50 CFR 17.32 (wildlife) or 17.72 (plants) unless we specifically state otherwise in the species-specific rule (see 50 CFR 17.31(c) and 50 CFR 17.71(c)). The revisions in this final rule do not change the permitting regulations at 50 CFR 17.32 or 17.72.

State Protections

Comment 10: A commenter requested that we clarify that section 4(d) rules are not intended to serve as a general compensatory mitigation authority and that any mitigation requirements under section 4(d) must be directly tied to conserving the species, not broader landscape policy goals. The commenter also requested that we indicate that where States have existing mitigation frameworks already in place, such as Wyoming, the Service should defer to the State management scheme that provides a structured mechanism for addressing certain impacts. The commenter suggested that any future section 4(d) rules should complement, not duplicate or conflict with, those frameworks.

Response: Species-specific 4(d) rules are one of the tools that contribute to the conservation of threatened species. Species-specific 4(d) rules do not serve as a general compensatory mitigation authority. As part of the promulgation of these rules, we must determine that the rule is necessary and advisable to provide for the conservation of the species which is informed by the consideration of conservation and economic impacts as described in 50 CFR 17.31(d) and 50 CFR 17.71(d). In promulgating species-specific 4(d) rules, we consider existing conservation efforts and regulatory protections and may incorporate these actions in our species-specific 4(d) rules as appropriate.

Further, we recognize the authorities given to States in section 6 of the Act to conserve listed species and the partnership with the Service and States in conserving federally listed species. As stated in our ''Revised Interagency Cooperative Policy Regarding the Role of State Agencies in Endangered Species Act Activities'' (81 FR 8663, February 22, 2016), it is our practice to coordinate and collaborate with State agencies in developing the scientific foundation upon which the Service bases determinations for listing actions, including 4(d) rules that specify the prohibitions necessary and advisable for the conservation of species listed as threatened. We note that the preemptive effect of the Act and implementing regulations in part 17 with regard to State laws for endangered species or threatened species is pursuant to section 6(f) of the Act (see 16 U.S.C. 1535(f); the Supremacy Clause of the U.S. Constitution; *H.J. Justin & Sons, Inc.* v. *Deukmejian,* 702 F.2d 758, 759–60 (9th Cir. 1983); *Man Hing Ivory & Imports, Inc.* v. *Deukmejian,* 702 F.2d 760 (9th Cir. 1983); *Cresenzi Bird Importers, Inc.* v. *New York,* 658 F. Supp. 1441, 1444–46 (S.D.N.Y. 1987), summarily aff'd, 831 F.2d 410 (2d Cir. 1987)).

Comment 11: One commenter expressed concern that adopting the practice of promulgating species-specific rules for each new listing would supersede the existing rule that provides States the authority to manage threatened species consistent with section 6 of the Act. They noted that each rule would go through a public process, opening it up for challenges on a case-by-case basis and suggested that over time, this practice may erode States' ability to conserve and recover imperiled species while significantly increasing workload and costs of implementation. They suggested additional regulation revisions to ensure that, at a minimum, States' level of management effectiveness that exists now (*e.g.,* under 50 CFR 17.31) be maintained.

Response: As previously mentioned, we recognize the authorities given to States in section 6 of the Act to conserve listed species and the partnership among the Service and the States in conserving federally listed species. We made revisions to our regulations (50 CFR 17.31(c) and 17.71(c)) in 2024 that clarified that our exceptions at 50 CFR 17.31(b) and 17.71(b) providing State conservation agencies the authority to ''take'' threatened species when carrying out conservation programs always apply unless a species-specific 4(d) rule specifically prohibits that exception (89 FR 23919, April 5, 2024). Therefore, for all threatened species currently protected by species-specific rules and any threatened species protected by a species-specific rule in the future, State agencies with a section 6 cooperative agreement do not require permits under the Act for take of those threatened species while operating a conservation program pursuant to the terms of an approved cooperative agreement unless we specifically state otherwise in the associated rule.

With regard to the comment about a public process, we are required to follow APA notice and comment procedures for all 4(d) rules. There is no change regarding this requirement as a result of this final rulemaking.

Comment 12: Commenters oppose the removal of the ''blanket rules'' because they suggest it could lead to inconsistent protections of threatened species across States, increasing extinction risk of species.

Response: The Act requires that the Service issue protective regulations under section 4(d) that are necessary and advisable to provide for the conservation of threatened species. While we may develop species-specific 4(d) rules with protections that vary across a species' range, this would be due to varying degrees of threats for the species and in line with the conservation needs of the species. We therefore do not foresee a risk of inconsistencies in threatened species protections across States, unless the best scientific and commercial data available indicates that certain protections should be tailored to a specific geographic area, with rationale provided within the species-specific 4(d) rulemaking.

Blanket Rule Option

Comment 13: Multiple commenters remarked on whether ''blanket rules'' are legal under the Act, whether they are the best interpretation of the Act, and whether they are consistent with congressional intent. Some commenters suggested that the ''blanket rules'' are unlawful because the statutory language and legislative history indicate that Congress intended for the protections for threatened species to differ from, and be more flexible than, the protections for endangered species, as well as for the Service to develop a separate and individualized set of protective regulations for each threatened species. Commenters also suggested that use of a ''blanket rule'' option is inconsistent with the best reading of the Act as required by *Loper Bright* and that the Service may only issue protective regulations for threatened species—including those prohibiting take—on a species-by-species basis, and only after determining that such regulation is ''necessary and advisable for the conservation'' of that species. Commenters noted that prior to *Loper Bright,* and analyzed under the *Chevron* framework (*Chevron, U.S.A., Inc.* v. *NRDC, Inc.,* 467 U.S. 837 (1984)) in which Federal courts defer to administrative agencies' reasonable interpretations of ambiguous statutes), at least one court upheld a ''reasonable and permissible'' reading of the ESA to allow for ''blanket rules'' (*Sweet Home Chapter of Communities for a Greater 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) (hereafter, ''*Sweet Home*'')). However, they suggest this is not necessarily what a court would determine under *Loper Bright.*

On the other hand, other commenters viewed the ''blanket rules'' as lawful (citing to *Sweet Home*) and consistent with congressional intent. These commenters pointed out that we previously explained how ''blanket rules'' further the purposes of the Act by allowing the Service to protect species quickly without having to develop a new set of regulations for each species, and that courts have upheld the ''blanket rules'' (89 FR 23919 at 23924, April 5, 2024).

Further commenters stated that we misconstrued the Supreme Court's ruling in *Loper Bright* because there was nothing in the Court's decision that compels or even supports the decision to revise the implementing regulations. Further, these commenters stated that referring to the Court's decision does not sufficiently justify the Service's change in position or provide a rational basis to rely on for the revisions to the regulations because it does not change how agencies interpret statutes or promulgate regulations. These commenters stated *Loper Bright* requires courts, when reviewing an agency action, to determine the ''best reading'' of a statute rather than defer to an agency's interpretation of ambiguous statutory language (603 U.S. at 400).

Response: As we stated in the preamble to our 2019 rule and 2024 rule, the application of the ''blanket rules'' is legal, consistent with congressional intent, and consistent with a permissible reading of section 4(d) of the Act as found by the court in *Sweet Home* (1 F.3d at 8*;* (''[W]e find it far from clear that 16 U.S.C. 1533(d) requires the FWS to extend protections to threatened species on a species-by-species basis . . . In light of the statute's ambiguity, [50 CFR 17.31(a)] is a reasonable and permissible construction of the ESA.'').

We recognize that we have reversed our position on the best approach in administering section 4(d) of the Act several times in these previous rulemakings. Most recently in our 2025 proposed rule preamble we referred to *Loper Bright* to support revision of the regulations to remove the ''blanket rules.'' We note that 4(d) blanket rules come in multiple forms. As the subject of this rulemaking, the revisions to the regulations to remove the ''blanket rules'' in 17.31(a) and 17.71(a) relate to rescinding the blanket application of section 9(a) prohibitions as a potential default for newly listed threatened species absent a species-specific 4(d) rule. Other 4(d) ''blanket rules'' relate to the promulgation of exceptions to prohibitions for threatened species (such as 17.31(b), 17.71(b)) and permitting provisions (such as 17.32(a), 17.72(a)) that are generally applicable to threatened species absent a species-specific 4(d) rule.

We consider removing the *automatic application* of the ''blanket rule'' option from 50 CFR 17.31(a) and 17.71(a) to be a preferred choice from a policy perspective. As discussed above, through our experience promulgating species-specific 4(d) rules, we have seen many benefits, including incentivizing known beneficial actions for the species by removing or reducing regulatory burden associated with those actions and removing or reducing regulatory burden—both on the Service and regulated entities—associated with permitting of otherwise prohibited actions or forms or amounts of ''take'' considered inconsequential to the conservation of the species. Therefore, considering these past decisions and our experience administering the Act, we find that revising the regulations to remove the automatic ''blanket rule'' option for future listings is the most appropriate way for the Service to administer section 4(d) of the Act.

Comment 14: We received multiple comments in opposition to or in support of including the new provision in 50 CFR 17.31(d) and 17.71(d) requiring the Service to make a necessary and advisable determination for all species-specific 4(d) rules going forward. Some commenters stated that this requirement is unnecessary if the section 4(d) rule includes only extension of section 9(a) prohibitions and exceptions to those prohibitions (see *In re: Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation,* 818 F. Supp. 2d 214, 228 (D.D.C. 2011) (citing *Sweet Home*) and *State of Louisiana ex rel. Guste* v. *Verity,* 853 F.2d 322, 332–33 & n.22 (5th Cir. 1988)). Other commenters stated a necessary and advisable determination is required for all section 4(d) rules as a matter of statutory construction; that is, a regulation prohibiting take is merely an example of the types of regulations that could be promulgated and the necessary and advisable finding must apply to those regulations (see *Home Depot U.S.A., Inc.* v. *Jackson,* 587 U.S. 435, 441 (2019)). Some commenters noted *Sweet Home* deferred to the Service under the now-overruled *Chevron* doctrine and suggest this is not necessarily what a court would determine under *Loper Bright.* Further, commenters stated that recent case law supports the requirement to include a necessary and advisable determination for all section 4(d) rules (see *Kansas Natural Resources Coalition*).

Response: Regardless of whether or not we are required to make such a determination, we have chosen to be as transparent as possible and explain why, as a whole, each species-specific 4(d) rule is necessary and advisable to provide for the conservation of threatened species. This is in line with our past practice and with what we stated was our intention in our 2024 rule (89 FR 23919 at 23922, April 5, 2024). For species-specific 4(d) rules, we will continue to include the rationale for why the rule as a whole is necessary and advisable to provide for the conservation of the species that is the subject of the rule.

Comment 15: We received multiple comments on the new provision in 50 CFR 17.31(d) and 17.71(d) regarding the additional requirement to consider conservation and economic impacts as part of the required necessary and advisable determination for all species-specific 4(d) rules. Some commenters stated that the Service is required to consider economic costs and benefits of a section 4(d) rule to ensure that it is in fact necessary and advisable. For example, commenters cited to *Michigan* v. *Environmental Protection Agency,* 576 U.S. 743 (2015) (hereafter, ''*Michigan* v. *EPA*''), which discusses the phrase ''appropriate and necessary,'' where the Supreme Court held that similar statutory standards require the consideration of all relevant factors, including economic impacts. They also pointed out that earlier this year, a district court determined expressly that *Michigan* v. *EPA* applies to section 4(d) of the Act (*Kansas Natural Resources Coalition*) and that, both prior to and since *Michigan* v. *EPA* was issued, courts have found that similar types of broad grants of authority to agencies must include some consideration of economic impacts (*e.g., Mexican Gulf Fishing Co.* v. *U.S. Dep't of Commerce,* 60 F.4th 956, 965 (5th Cir. 2023), hereafter, ''*Mexican Gulf Fishing Co.*''). Several commenters suggested the proposed revision means that the Service will have new discretion regarding whether any protective regulations under section 4(d) are necessary for species proposed for listing and supported the Service exercising this discretion.

In contrast, many commenters disagreed and stated that the consideration of economic impacts is unlawful because the Act clearly articulates where economic impacts should be considered, for example, in section 4(b)(2) which pertains to critical habitat designations (''shall designate critical habitat . . . after taking into consideration the economic impact, the impact on national security, and any other relevant impact'') and section 4(f)(1) which pertains to recovery plans (''incorporate in each plan . . . estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal''). These commenters also stated that the Service's own guidance (U.S. Fish and Wildlife Service, ''Guidance for Development of Species-Specific 4(d) Rules Under the Endangered Species Act'' (*https://www.fws.gov/sites/default/files/documents/guidance-for-4d-rules-under-the-endangered-species-act_0.pdf*)) does not include any reference to economic impacts playing a role in determining what protective regulations to promulgate. Commenters also state the Service's reliance on *Kansas Natural Resources Coalition* (which cited *Michigan* v. *EPA* and *Mexican Gulf Fishing Co.*) was flawed. These commenters suggested that those courts ignored the distinction in the purposes of the statutes relevant in those cited cases from the purpose of the ESA which is to conserve species, citing *TVA* v. *Hill* 437 U.S. 153, at 184 (1978) and its holding that ''[t]he plain intent of Congress in enacting [the ESA] was to halt and reverse the trend toward species extinction, whatever the cost.''

Response: We recognize that section 4(d) of the Act does not refer to an analysis of economic impacts or estimate of costs in the same way as sections 4(b)(2) and 4(f). We also acknowledge that we came to a different conclusion in our 2024 final rule (89 FR 23919 at 23933–23934, April 5, 2024); however, we are including this requirement in regulations in response to *Kansas Natural Resources Coalition* and to increase transparency in our rulemaking process. In determining what protective regulation, as a whole, is necessary and advisable to provide for the conservation of a threatened species, we will consider both the conservation needs of the species and then consider the conservation and economic impacts of the 4(d) rule.

Current Threatened Species

Comment 16: Some commenters agreed with, and several commenters expressed concern about, our intention stated in the proposed rule to reevaluate current protections for all threatened species currently protected under ''blanket rules.'' Commenters suggested this was not an efficient use of Service resources given existing workload and classification backlog.

Response: As discussed in Regulatory Revisions, above, we intend to review protective regulations for each threatened species in conjunction with our required status reviews pursuant to section 4(c)(2) of the Act. We may find that revising protective regulations is necessary and advisable for the conservation of a given species. Depending upon other listing, delisting, and reclassification priorities, we will determine when to pursue rulemaking, which would include public notice and comment, for any changes in protective regulations.

Required Timeframes for Species-Specific Rules

Comment 17: Several commenters recommended that we finalize regulations to require final species-specific 4(d) rules to be published concurrently with final listing determinations. Commenters suggested a variety of alternative timelines (*e.g.,* 30–180 days after listing or reclassification). They argued that this approach would provide clarity and certainty for stakeholders, ensure timely protections for threatened species, and prevent gaps in protection that could occur between listing or reclassification and the development of species-specific regulations. Others suggested this practice would ease the Service's administrative burden by ensuring the Service only has to receive and respond to one round of public comments and finalize one rulemaking as opposed to two.

Other commenters argued against including any timeframes in regulations. They stated that the Act does not require it and it would only create new opportunities for missed-deadline litigation. Alternatively, multiple commenters stated that the Act does in fact require concurrent section 4(d) rules regardless of what is in regulation. For instance, one commenter reasoned that section 4(d) directs the agency to issue species-specific 4(d) rules concurrently with listing because it '' '. . . provides that '[w]henever any species is listed as a threatened species[,] the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species' (16 U.S.C. 1533(d)). 'Whenever' means 'at whatever time,' and the term 'shall' creates a mandatory duty.'' They suggest the wording ''. . . as he deems necessary and advisable'' in section 4(d) of the Act makes it unclear whether the Secretary has discretion about whether or not to issue regulations, or whether these are required under the law. Others argued that without a mandatory timeframe, the Service could promulgate species-specific rules at any time, which departs from the Act's directive to use all available resources and authority to conserve threatened species (see 16 U.S.C. 1531(b), (c)(1), 1533(d), 1536(a)(1)). At least one commenter noted that the requirement to issue a species-specific 4(d) rule concurrently with the listing of a threatened species is also bolstered by the legislative history. They specifically reference S. Rep. No. 93–307, 93d Cong., 1st Sess. 8 (1973) which states that section 4(d) ''requires the Secretary, once he has listed a species of fish or wildlife as a threatened species, to issue regulations to protect that species.''

Response: We decline to include any timeframes in these regulations. We intend to continue to finalize species-specific 4(d) rules concurrently with final listing rules. We agree this approach is the most efficient. As we point out above, during the period from 2019 to 2024 when ''blanket rules'' at 50 CFR 17.31(a) and 17.71(a) were not available for new threatened species listings and during the time period after we reinstated the ''blanket rules,'' we consistently published either interim or final species-specific 4(d) rules concurrently with final listing rules.

Required Determinations and Other Legal Requirements

Comment 18: Several commenters stated that we did not provide enough justification or logical rationale for the rescission of the ''blanket rules'' and suggested that we did not comply with the APA. For example, commenters suggested that we did not provide a transparent, reasoned explanation for the proposed changes or a complete and transparent analysis. Some commenters stated that, at a minimum, the Service has not shown that there are good reasons for the new policy (see *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009); hereafter, *FCC* v. *Fox*). One commenter expressed concern about the Service's reliance on the APA's ''good cause'' exception (suggesting that we promulgated the rule without notice and comment and instead provided an immediate effective date for the rule).

Response: We do not agree with the assertion that we did not provide enough justification or logical rationale for the rule in compliance with the APA. We published our proposal, broadly explained our proposed revisions, explained our rationale for changes, and explicitly asked for public comment. We have now reviewed the public comments and in this final rule have provided responses to relevant, significant comments. We have provided the public with our rationale and a meaningful opportunity to comment on all aspects of the proposed rule. Thus, the process that we used to promulgate this rule complied with the applicable requirements of the APA. The process for revising regulations is governed by the APA as interpreted by relevant case law, with which the Service has complied fully.

Contrary to a commenter's assertion, we did not rely upon the APA's ''good cause'' exception and did not publish a rule with an immediate effective date. We published notice of the proposed rulemaking in the **Federal Register** (90 FR 52587, November 21, 2025), we provided an opportunity for public comment, we considered the relevant matter presented in those comments, and we have provided a rational explanation for our action.

In our 2019 4(d) rule (84 FR 44753, August 27, 2019), we explained that we were ending the ''blanket rule'' option for species newly listed as threatened species after the effective date of those regulatory revisions because: It would make our regulatory approach for threatened species similar to NMFS's approach; either using ''blanket rules'' or promulgating species-specific rules is a reasonable approach to implementing the Secretary's discretion afforded under section 4(d) of the Act; and promulgating species-specific 4(d) rules that are tailored to the specific species can provide conservation benefits for threatened species. In our 2024 rule (89 FR 23919, April 5, 2024), we reinstated the ''blanket rules'' because we found, that ''blanket rules'' allowed for a more efficient method to protect threatened species for which we find their protections are appropriate, it is more straightforward and transparent to have species-specific 4(d) rules in one place in the CFR and ''blanket rule'' protections described in another, and the reinstatement of the ''blanket rules'' ensures there is never a lapse in threatened species protections. We now find—as explained in our preambles to the November 21, 2025, proposed rule (90 FR 52587) and this final rule—that revising the regulations to remove the future automatic application of the ''blanket rule'' option is the preferable choice. This tailored approach ensures that the Service will thoughtfully consider the protections that are necessary and advisable for the conservation of each threatened species, which may reduce future permitting burdens on the Service and regulated entities, facilitate implementation of beneficial conservation actions, incentivize conservation efforts from partners, and align our practices with the NMFS. We have found that implementing species-specific 4(d) rules make better use of our limited personnel and fiscal resources than the ''blanket rules'' by focusing protections on the specific stressors contributing to the threatened status of the species.

This is sufficient explanation under the Supreme Court's decision in *FCC* v. *Fox* (556 U.S. at 515), which concludes ''it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, which the conscious change of course adequately indicates.''

Comment 19: Multiple commenters argue that E.O.s 14219 and 14154, and the related S.O. 3418, do not require or support the proposed rule. Comments assert that the ''blanket rules'' do not place undue burden on the U.S. energy sector. At least one commenter stated that the Service needs to explain how the ''blanket rules'' are inconsistent with, or otherwise presented obstacles to, the policies articulated by E.O.s 14219 and 14154 and the related S.O. 3418.

Response: As explained above, while E.O.s 14154 and 14219 initiated our review, our goal in revising these regulations was to determine how best to craft protective regulations for threatened species under section 4(d) of the Act while also considering our experience administering the Act. E.O. 14154 (''Unleashing American Energy'') directed agencies to immediately review agency actions to identify those actions that potentially 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 identified as unduly burdensome that conflict with this national objective. The subsequently issued S.O. 3418 specifically identified the 2024 regulations as needing such a review. In addition, E.O. 14219 (''Ensuring Lawful Governance and Implementing the President's ''Department of Government Efficiency Deregulatory Initiative''), issued on February 19, 2025, directed agencies to review and rescind unlawful regulations that are ''based on anything other than the best reading of the underlying statutory authority.'' As a consequence of these actions and orders, we initiated a review of the regulations that had been finalized in 2024.

Comment 20: Commenters stated that the Service failed to comply with NEPA because we merely solicited public comment on potential impacts of the regulatory revisions rather than drafting an environmental impact statement for public input. According to the commenters, this shifts the burden to the commenters to gather and review technical environmental and economic information during the 30-day comment period, prejudicing their ability to comment and protect their rights and interests. Multiple commenters asserted that a NEPA analysis was required because the proposed regulatory revisions constitute a ''major Federal action'' with significant environmental impacts. Some commenters asserted that the Service needs to prepare an environmental assessment or environmental impact statement pursuant to NEPA for these revisions to the regulations prior to adoption of the proposed changes, and that this rulemaking action should not be categorically excluded. Specifically, they suggest that we need to take a hard look at the foreseeable impacts of the regulatory changes, along with a reasonable range of alternatives. Some commenters stated that they do not believe that the proposed regulation changes are merely administrative or procedural actions, nor would result in environmental effects that are ''too broad or speculative'' for analysis. Some commenters noted ''extraordinary circumstances'' that preclude a categorical exclusion such as ''[having] significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or [having] significant impacts on designated Critical Habitat for these species'' described at 43 CFR 46.215(g).

Commenters stated that NEPA did not permit the Services to consider each of the ESA rule changes proposed on November 21, 2025, independently and the Services were instead required to consider these four regulatory actions, along with the proposed ''harm'' rule (90 FR 16102, April 17, 2025), collectively to avoid improperly segmenting their actions and obscuring the full environmental consequences of deregulation.

Response: NEPA establishes procedures for agencies to follow to determine the level of NEPA review (42 U.S.C. 4336). The Service elected to invite the public to provide comments on whether the proposed regulations may have a significant impact on the human environment, consistent with our past practice in promulgating both the 2019 and 2024 regulations. This approach did not place a burden on commenters to develop technical analyses, as one commenter suggested, nor deprive or limit their ability to participate in the comment period effectively. There is no requirement under NEPA to make any draft environmental document or categorical exclusion documentation available to the public for comment. Exceeding the statutory minimum requirements here and allowing public input on our NEPA compliance does not violate NEPA.

The Service also voluntarily solicited input from the public on the extent to which the proposed rule fell within a categorical exclusion. Per NEPA, agencies must prepare EAs for actions that do not have a reasonably foreseeable significant effect on the quality of the human environment (or if the significance of the effect is unknown) unless, *inter alia,* the action is excluded under one of the agency's categorical exclusions (42 U.S.C. 4336(b)(2)). We have complied with NEPA by determining that the rule is covered by a categorical exclusion found at 43 CFR 46.210(i). We explain this determination in an environmental action statement (EAS) that is posted in the docket for this rule. As explained in the EAS, this rulemaking primarily provides the framework for protections to threatened species but does not apply this framework to any species; it is not until we list a species as threatened and issue a species-specific 4(d) rule that this framework applies to that species. Because the revisions are intended to clarify, interpret, and implement portions of the Act concerning procedures for determining protective regulations for threatened species, we consider the action to be fundamentally administrative, technical, or procedural in nature. We determined that none of the extraordinary circumstances apply to this situation. We appreciate that commenters may have preferred an environmental document that analyzed a range of alternatives, but because we have a categorical exclusion that can be applied to this action, we did not prepare an EA nor was an EIS required, as set forth above.

As explained more fully in our categorical exclusion document, this rulemaking clarifies the procedures for protecting threatened species under section 4(d) of the Act but does not apply these procedures to any species. As a result, the revisions to our regulations are of an administrative, technical, legal or procedural nature and none of the extraordinary circumstances apply (see Required Determinations, below, and our supporting NEPA documentation at available at *https://www.regulations.gov* at Docket No. FWS–HQ–ES–2025–0029). To the extent that some commenters assert that the rules are ineligible for this categorical exclusion because they are substantive and non-ministerial, such characteristics are not the focus of the agency's categorical exclusion.

Lastly, we disagree with comments stating that the Service was required to consider all four ESA regulatory provisions proposed on November 21, 2025, as well as the rule to rescind the Services' definition of ''harm'' under the ESA, in one environmental document to avoid improperly segmenting their actions. Each of these rules are separate actions and are not dependent on one another, *i.e.,* any one of the individual rulemaking actions could proceed without any of the others and are not an interdependent part of a larger Federal action. Even within each of the separate, individual rulemaking actions, the regulatory provisions that are subject to revision can be severable from other regulatory provisions addressed in the same rulemaking action. Although each of the four regulations proposed on November 21, 2025, followed a review initiated by E.O.s 14154 and 14219 and S.O. 3418, none of these Executive or Cabinet-level orders are exclusively directed at the ESA and none of the regulations being finalized rely directly on these orders for the specific revisions we are now finalizing in this rule. We also note that two of the rules that the commenters identified (including this rule) are only applicable to FWS could not appropriately be evaluated by NMFS in any NEPA document, as NOAA and the Department of Commerce do not have decision-making authority over rules that apply only to other agencies. See NOAA Companion Manual at 34 that defines ''connected action'' in relevant part as ''a separate Federal action within the authority of NOAA . . .''.

Comment 21: One commenter stated the proposed rule fails to fulfill the Alaska Native Claims Settlement Act (43 U.S.C. 1601–1629h).

Response: Our obligation to have a government-to-government relationship with federally recognized Tribes is paramount and is covered by S.O. 3206 and 3225. While S.O. 3225 discusses Alaska Natives and other Native organizations, its purpose is to protect subsistence rights and ways of life, and states that the Departments of Commerce and the Interior will seek to enter into cooperative agreements for the conservation of specific species, such as marine mammals and migratory birds, and the co-management of subsistence uses with these organizations.

In the Consolidated Appropriations Act of 2004 (Pub. L. 108–199, Div. H, sec. 161), Congress required that the Director of the Office of Management and Budget (and, subsequently, all Federal agencies) consult with Alaska Native Corporations (ANCs) on the same basis as Indian Tribes under E.O. 13175. Consistent with this obligation, the Service will consult on Federal decisions that have a substantial, direct effect on an ANC. This obligation to consult does not extend beyond the E.O. 13175 context and does not apply here. We will continue to collaborate with federally recognized Tribes and ANCs on a government-to-government basis on issues related to federally listed species and their habitats and will work with them as we administer the provisions of the ESA.

Comment 22: Some commenters suggested additional analyses are required for our required determinations (for example, Regulatory Flexibility Act, Federalism, Unfunded Mandates Reform Act, Paperwork Reduction Act, E.O. 12866, and Statement of Energy Effects). Several commenters stated that we need to complete intra-Service section 7 consultation on the rulemaking.

Response: Regarding all required determinations for the rulemaking, the primary change that this final rule makes is to put a regulatory framework in place for future application. In the future, for each threatened species, we will apply regulatory protections for that threatened species that are necessary and advisable by promulgating a species-specific 4(d) rule for that species. These changes provide transparency and clarity, and there are no identifiable, quantifiable effects from this rule. We further explain our rationale and compliance for each of the identified Required Determinations, below, in the respective sections below.

Other

Comment 23: One commenter requests that the Service add an additional subsection to 50 CFR 17.31 and 17.71 that would require review of take prohibitions of listed threatened species every five years.

Response: While we decline to add this requirement in regulation, we intend to review protective regulations for each threatened species in conjunction with status reviews conducted in accordance with section 4(c)(2) of the Act.

Comment 24: A commenter pointed out that in the preamble in the proposed rule, the Service clarified that the change in approach will apply to ''every species newly listed as a threatened species, and those reclassified in the future,'' but in the proposed amendment to 50 CFR 17.31(a) the Service states that the new text shall 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 August 20, 2026,'' and does not include the term ''reclassification.'' The commenter noted an identical change to 50 CFR 17.71(a) for threatened plants. They recommend that we include the term ''reclassified'' in the additions to § 17.31(a) and § 17.71(a).

Response: We decline to revise the regulatory text because it includes the case of reclassified species, as written. For plant and animal species listed as threatened species prior to the effective date of this final rule, protections from the ''blanket rules'' apply unless the species has a species-specific 4(d) rule. When either an unlisted species is listed as a threatened species or a species is reclassified from an endangered species to a threatened species after the effective date of this final rule, it is considered newly listed as a threatened species for purposes of this rulemaking because it is added as a threatened species to one of the lists at § 17.11(h) and § 17.12(h) after the effective date, and this final rule will apply.

Comment 25: One commenter requested that the Service limit protecting threatened species to only regulations that are consistent with the U.S. Constitution and requested we make specific commitments concerning the content of future rulemakings.

Response: We only promulgate regulations that are consistent with the U.S. Constitution. The specific content of future individual rulemakings is beyond the scope of this rulemaking.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is significant and has reviewed it. This rule is considered an E.O. 14192 deregulatory action and we anticipate cost-savings from the future implementation of the rule; however, cost-savings cannot be projected or quantified.

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 final rule in a manner consistent with these requirements.

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

Under the Regulatory Flexibility Act (RFA), 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 certified at the proposed rule stage that the proposed rule would not have a significant economic impact on a substantial number of small entities (90 FR 52587, November 21, 2025). Nothing in this final rule changes the basis for that conclusion, and we received no information that changes the factual basis of this certification. The following discussion explains our rationale.

This rulemaking revises the Service's regulations protecting threatened species under the ESA. This final rule is fundamentally a procedural change for the Service that affects only the form of the Service's decisions with respect to regulations that provide for the conservation of threatened species. The Service is therefore the only entity that is directly affected by this regulation change at 50 CFR part 17. The statute states, ''[w]henever any species is listed as a threatened species . . ., the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species.'' This requires the Secretary to make a decision about what protections to apply to threatened species. Even with the ''blanket rules'' in place, it fell to the Secretary to decide what protections to put in place for the species. That decision was in the form of whether to allow the relevant ''blanket rule'' to apply or to promulgate a species-specific rule. The need for that decision is even ensconced in the ''blanket rules'' themselves—they expressly contemplate that the Secretary could choose to promulgate a species-specific rule that would replace the use of the ''blanket rule.'' With promulgation of this rule, when species get listed in the future, the ''blanket rules'' will no longer be in place, but the

Secretary will still be required to make a decision about what regulations to put in place for that species. The only thing that this rulemaking will change is that the decision about what regulations to put in place will now necessarily be in the form of promulgating a species-specific rule. To the extent any regulations that provide for the conservation of threatened species affect external entities, those effects result from the substance of the subsequent rulemaking where the Service will decide what regulations would provide for the species' conservation, not from this rulemaking, which affects only the form of that decision. External entities, including any small businesses, small organizations, or small governments, are not directly regulated by this rule and thus will not experience any direct economic impacts from this rule. Therefore, we certify that this rule will 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 rule will 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 rule will 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 will not be affected because the rule will not place additional requirements on any city, county, or other local municipalities.

(b) This rule will 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 rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. This rule will impose no obligations on State, local, or Tribal governments.

Takings—E.O. 12630

In accordance with E.O. 12630, this rule will not have significant takings implications. This rule will not directly affect private property, nor will it cause a physical or regulatory taking. It will not result in a physical taking because it will not effectively compel a property owner to suffer a physical invasion of property. Further, the rule will not result in a regulatory taking because it will not deny all economically beneficial or productive use of the land or aquatic resources, it will substantially advance a legitimate government interest (conservation and recovery of threatened species), and it will 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), this rule does not have significant federalism effects. A federalism summary impact statement is not required. This rule pertains only to the Service's protective regulations for threatened species promulgated under the ESA and will 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 rule will not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of E.O. 12988. This rule will revise the Service's regulations for protecting threatened species pursuant to the ESA.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of (''Government-to-Government Relations with Native American Tribal Governments''; 59 FR 22951, May 4, 1994), E.O. 13175 (''Consultation and Coordination with Indian Tribal Governments''), the President's memorandum of November 30, 2022 (''Uniform Standards for Tribal Consultation; 87 FR 74479, December 5, 2022''), and the Department of the Interior's manual at 512 DM 2, we considered possible effects of this rule on federally recognized Indian Tribes and Alaska Native Corporations (ANCs). An informational webinar was held for federally recognized Tribes on December 3, 2025, and in response to Tribal interest, the Services held a question-and-answer session for federally recognized Tribes on December 10, 2025, to provide additional time for Tribal input and questions. After the opening of the public comment period, we received comments, requests for coordination, or requests for government-to-government consultation from multiple Tribes.

The Service has reached a conclusion that the changes to these regulations do not directly affect specific species or Tribal lands. This rule revises regulations for protecting threatened species pursuant to the Act. This rule is general in nature and does not directly affect any specific Tribal lands, treaty rights, or Tribal trust resources. Therefore, we conclude that this rule does not have Tribal implications under section 1(a) of E.O. 13175. Thus, formal government-to-government consultation is not required by E.O. 13175 and related policies of the Department of the Interior. These regulations will 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 will continue to collaborate with Tribes and ANCs on issues related to federally listed species and their habitats and work with them as we administer the provisions of the Act (see S.O. 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 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 (44 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 analyzed this rule pursuant to the National Environmental Policy Act (NEPA), 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 Handbook of National Environmental Policy Act Implementing Procedures (516 DM 1). Federal agencies must prepare an environmental impact statement for a proposed major Federal action that would have a reasonably foreseeable significant effect on the quality of the human environment. (42 U.S.C. 4332(c)). We have determined that a detailed statement under NEPA is not required because the rule is covered by a categorical exclusion, and we prepared an EAS accordingly. Please see our supporting NEPA documentation, available at *https://www.regulations.gov* at Docket No. FWS–HQ–ES–2025–0029, for additional details.

We find that the categorical exclusion found at 43 CFR 46.210(i) applies to these regulation changes. At 43 CFR 46.210(i), the Department of the Interior has found that the following category of actions do not individually or cumulatively have a significant effect on the human environment and are, therefore, categorically excluded from the requirement for completion of an environmental assessment or environmental impact statement: Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case. We have also considered whether any of the extraordinary circumstances described in 43 CFR 46.215 apply, and we did not identify any extraordinary circumstances that apply to this rulemaking.

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 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.

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

In developing this rule, FWS is acting in our unique statutory role as administrator of the ESA and is engaged in a legal exercise of interpreting the standards of the ESA. The FWS's administration of the ESA is not in itself subject to the ESA'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(a) 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 ESA or other statutes. Here, by contrast, the FWS is acting solely in our role as administrators of the ESA; we are also not administering the ESA 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 ESA cannot reasonably be construed as requiring the FWS to ''consult'' with ourselves under section 7(a)(2) in such cases.

Authority

We issue this 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.

Regulation Promulgation

For the reasons discussed in the preamble, we hereby 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 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 August 20, 2026, unless the Secretary has promulgated species-specific provisions (see paragraph (c) of this section).

* * * * *

(d) Each species-specific rule proposed after August 20, 2026 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 August 20, 2026, 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 August 20, 2026 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. 2026–14633 Filed 7–20–26; 8:45 am]

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