

§ 424.15

50 CFR Ch. IV (10–1–23 Edition)

the Services have already made a 90-day finding that there is substantial information indicating that the requested action may be warranted.

[81 FR 66484, Sept. 27, 2016]

§ 424.15 Notices of review.

(a) If the Secretary finds that one of the actions described in § 424.10 may be warranted, but that the available evidence is not sufficiently definitive to justify proposing the action at that time, a notice of review may be published in the *FEDERAL REGISTER*. The notice will describe the measure under consideration, briefly explain the reasons for considering the action, and solicit comments and additional information on the action under consideration.

(b) The Secretary from time to time also may publish notices of review containing the names of species that are considered to be candidates for listing under the Act and indicating whether sufficient scientific or commercial information is then available to warrant proposing to list such species, the names of species no longer being considered for listing, or the names of listed species being considered for delisting or reclassification. However, none of the substantive or procedural provisions of the Act apply to a species that is designated as a candidate for listing.

(c) Such notices of review will invite comment from all interested parties regarding the status of the species named. At the time of publication of such a notice, notification in writing will be sent to State agencies in any affected States, known affected Federal agencies, and, to the greatest extent practicable, through the Secretary of State, to the governments of any foreign countries in which the subject species normally occur.

§ 424.16 Proposed rules.

(a) *General.* Based on the information received through §§ 424.13, 424.14, 424.15, and 424.21, or through other available avenues, the Secretary may propose revising the lists as described in § 424.10.

(b) *Contents.* A notice of a proposed rule to carry out one of the actions described in § 424.10 will contain a detailed description of the proposed action and a summary of the data on

which the proposal is based (including, as appropriate, citation of pertinent information sources) and will show the relationship of such data to the rule proposed. If such a rule proposes to designate or revise critical habitat, such summary will, to the maximum extent practicable, include a brief description and evaluation of those activities (whether public or private) that, in the opinion of the Secretary, if undertaken, may adversely modify such habitat or may be affected by such designation. For any proposed rule to designate or revise critical habitat, the detailed description of the action will include a map of the critical habitat area, and may also include rule text that clarifies or modifies the map. Any such notice proposing the listing, delisting, or reclassification of a species or the designation or revision of critical habitat will also include a summary of factors affecting the species and/or its designated critical habitat.

(c) *Procedures—(1) Notifications.* In the case of any proposed rule to list, delist, or reclassify a species, or to designate or revise critical habitat, the Secretary shall—

(i) Publish notice of the proposal in the *FEDERAL REGISTER*;

(ii) Give actual notice of the proposed regulation to the State agency in each State in which the species is believed to occur and to each county or equivalent jurisdiction therein in which the species is believed to occur, and invite the comment of each such agency and jurisdiction;

(iii) Give notice of the proposed regulation to any Federal agencies, local authorities, or private individuals or organizations known to be affected by the rule;

(iv) Insofar as practical, and in cooperation with the Secretary of State, give notice of the proposed regulation to list, delist, or reclassify a species to each foreign nation in which the species is believed to occur or whose citizens harvest the species on the high seas, and invite the comment of such nation;

(v) Give notice of the proposed regulation to such professional scientific organizations as the Secretary deems appropriate; and

(vi) Publish a summary of the proposed regulation in a newspaper of general circulation in each area of the United States in which the species is believed to occur.

(2) *Period of public comments.* At least 60 days shall be allowed for public comment following publication in the FEDERAL REGISTER of a rule proposing the listing, delisting, or reclassification of a species, or the designation or revision of critical habitat. All other proposed rules shall be subject to a comment period of at least 30 days following publication in the FEDERAL REGISTER. The Secretary may extend or reopen the period for public comment on a proposed rule upon a finding that there is good cause to do so. A notice of any such extension or reopening shall be published in the FEDERAL REGISTER, and shall specify the basis for so doing.

(3) *Public hearings.* The Secretary shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list, delist, or reclassify a species, or to designate or revise critical habitat. Notice of the location and time of any such hearing shall be published in the FEDERAL REGISTER not less than 15 days before the hearing is held.

[49 FR 38908, Oct. 1, 1984, as amended at 77 FR 25622, May 1, 2012]

§ 424.17 Time limits and required actions.

(a) *General.* (1) Within 1 year of the publication of a rule proposing to determine whether a species is an endangered or threatened species, or to designate or revise critical habitat, the Secretary shall publish one of the following in the FEDERAL REGISTER:

(i) A final rule to implement such determination or revision,

(ii) A finding that such revision should not be made,

(iii) A notice withdrawing the proposed rule upon a finding that available evidence does not justify the action proposed by the rule, or

(iv) A notice extending such 1-year period by an additional period of not more than 6 months because there is substantial disagreement among scientists knowledgeable about the species concerned regarding the suffi-

ciency or accuracy of the available data relevant to the determination or revision concerned.

(2) If an extension is made under paragraph (a)(1)(iv) of this section, the Secretary shall, within the extended period, take one of the actions described in paragraphs (a)(1) (i), (ii), or (iii) of this section.

(3) If a proposed rule is withdrawn under paragraph (a)(1)(iii) of this section, the notice of withdrawal shall set forth the basis upon which the proposed rule has been found not to be supported by available evidence. The Secretary shall not again propose a rule withdrawn under such provision except on the basis of sufficient new information that warrants a reproposal.

(b) *Critical habitat designations.* A final rule designating critical habitat of an endangered or a threatened species shall to the extent permissible under § 424.12 be published concurrently with the final rule listing such species, unless the Secretary deems that—

(1) It is essential to the conservation of such species that it be listed promptly; or

(2) Critical habitat of such species is not then determinable,

in which case, the Secretary, with respect to the proposed regulation to designate such habitat, may extend the 1-year period specified in paragraph (a) of this section by not more than one additional year. Not later than the close of such additional year the Secretary must publish a final regulation, based on such data as may be available at that time, designating, to the maximum extent prudent, such habitat.

§ 424.18 Final rules—general.

(a) *Contents.* A final rule promulgated to carry out the purposes of the Act will be published in the FEDERAL REGISTER. This publication will contain a detailed description of the action being finalized, a summary of the comments and recommendations received in response to the proposal (including applicable public hearings), summaries of the data on which the rule is based and the relationship of such data to the final rule, and a description of any conservation measures available under the rule. Publication of a final rule to list,