

adopt a regional HCP, numerous individual permit applications have been reviewed by the Service. The petition does not provide substantial information to support their claim that take is occurring as a result of local governments that are not requiring Federal permits. Further, the petition does not identify a clear link between the claim and the need to reclassify the species to endangered status.

The 2003 petition cites the Ocala National Forest as an example of the inadequacies of regulatory programs, citing a 31 percent drop in the number of scrub-jays from the early 1980s to the early 2000s. (Cox 1987; USFS 2002). We contend, however, that the survey methodologies cited in these two studies were different from one another and cannot be compared to demonstrate a drop in scrub-jay numbers. Further, no substantial information was presented by the petitioner that population declines on Federal lands in Florida are placing the scrub-jay in danger of extinction throughout all or a significant portion of its range.

Finally, both the 2002 and 2003 petitions contend that the scrub-jay recovery plan is in need of revision. Recovery plans are not regulatory documents; therefore, this claim is not relevant to this factor. Further, the petitions do not provide substantial information that as a result of the lack of revision to the scrub-jay recovery plan, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range. We note, however, that the recovery plan is being revised.

#### State Regulatory Process

The 2003 petition's contention that Florida law does not protect scrub-jays from habitat destruction is not different from that addressed in the 1987 final rule. In addition, while the information that a new process has been adopted by FWC for classifying species as endangered, threatened, or species of special concern is factual, according to the most recent list of imperiled species for the State of Florida (FWC 2004), the scrub-jay is still listed as threatened. The petition provides no substantial information that indicates as a result of the existing State laws, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range.

#### *E. Other Natural or Manmade Factors Affecting the Species Continued Existence*

##### Information Provided in the Petitions

Both the 2002 and 2003 petitions claim that the fire regime in scrub habitat has been altered, which has

negatively affected scrub-jays (TNC 2001). Scrub-jay habitat, if not continuously managed, can quickly become population sinks for scrub-jays, creating difficulties for land managers and negatively impacting scrub-jays (Breininger and Carter 2003; Breininger and Oddy 2004). Throughout the northern portion of the species' range, the petitioners attribute population declines of scrub-jays to scrub fragmentation and degradation, due primarily to widespread fire suppression (Cox et al. 1994). In addition, the 2003 petition claims that a previous model for the scrub-jay (Root 1998) may have been too optimistic, because the possibility that certain kinds of impacts of environmental noise (such as loud sounds) on scrub-jays was ignored (Heino and Sabadell 2003).

##### Evaluation of Information in the Petitions

We share opinions provided in both the 2002 and 2003 petitions regarding the negative effects to scrub-jays from fire suppression (Breininger and Carter 2003; Breininger and Oddy 2004). However, fire suppression was considered a threat to the scrub-jay when the species was first listed as threatened in 1987 (52 FR 20715). The petitions provided no substantial information that indicates as a result of fire suppression, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range.

The work presented by Heino and Sabadell (2003) indicates that ignoring the effects of environmental noise on scrub-jays in population viability analysis can result in serious biases to a model. However, the petitioner did not provide substantial information that by not considering environmental noise, the scrub-jay is now in danger of extinction throughout all or a significant portion of its range.

##### Finding

We have reviewed the petitions and literature cited in the petitions, and we have evaluated that information in relation to other pertinent literature. After this review and evaluation, we find the petitions do not present substantial scientific information to indicate that reclassification of the Florida scrub-jay from threatened to endangered may be warranted at this time. Although we will not be commencing a status review in response to these petitions, we will continue to monitor the species' population status and trends, potential threats, and ongoing management actions that might be important with regard to the

conservation of the scrub-jay across its range.

We encourage interested parties to continue to gather data that will assist with the conservation of the species. If you wish to provide information regarding scrub-jays, you may submit your information or materials to the Field Supervisor, Jacksonville Fish and Wildlife Office (see **ADDRESSES** section).

##### References Cited

A complete list of all references cited herein is available, upon request, from the Jacksonville Fish and Wildlife Office (see **ADDRESSES** section).

##### Author

The primary author of this notice is Dawn Zattau, U.S. Fish and Wildlife Service, Jacksonville Field Office (see **ADDRESSES** section).

##### Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 13, 2006.

**Matt Hogan,**

*Acting Director, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

**RIN 1018-AT38**

#### **Endangered and Threatened Wildlife and Plants; Designating the Greater Yellowstone Ecosystem Population of Grizzly Bears as a Distinct Population Segment; Removing the Yellowstone Distinct Population Segment of Grizzly Bears From the Federal List of Endangered and Threatened Wildlife**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; Notice of public hearing.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the location and time of a public hearing to receive public comments on the proposal to establish a distinct population segment (DPS) of the grizzly bear (*Ursus arctos horribilis*) for the greater Yellowstone Ecosystem and surrounding area and to remove the Yellowstone DPS from the List of Threatened and Endangered Wildlife.

**DATES:** We will consider comments on this proposed rule received until the close of business on February 15, 2006. A public hearing will be held February 9, 2006.

**ADDRESSES:** If you wish to comment on the proposal, you may submit your comments and materials concerning this proposal by any one of several methods—

1. You may submit written comments to the Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, University Hall 309, University of Montana, Missoula, Montana 59812.

2. You may hand deliver written comments to our office at the address given above.

3. You may send comments by electronic mail (e-mail) to [FW6\\_grizzly\\_yellowstone@fws.gov](mailto:FW6_grizzly_yellowstone@fws.gov). See the “Public Comments Solicited” section below for file format and other information about electronic filing.

Comments and materials received, as well as supporting documentation used in preparation of this proposed action, will be available for inspection after the close of the public comment period, by appointment, during normal business hours, at the above address.

We will hold an additional public hearing from 7 p.m. to 9 p.m. on February 9, 2006, at Hilton Garden Inn, 2023 Commerce Way, Bozeman, Montana 59715.

**FOR FURTHER INFORMATION CONTACT:** Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service (see **ADDRESSES**), telephone (406) 243-4903.

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 17, 2005, the Service published a proposal to establish a DPS of the grizzly bear (*Ursus arctos horribilis*) for the greater Yellowstone

Ecosystem and surrounding area and to remove the Yellowstone DPS from the List of Threatened and Endangered Wildlife (70 FR 69854). This proposal announced four open houses and one public hearing in early-to mid-January. We are scheduling an additional public hearing in Bozeman, Montana, before the close of the public comment period (see **ADDRESSES**).

The purpose of the public hearing is to provide additional opportunity for the public to comment on this complex proposal. Public hearings are the only method for comments and data to be presented verbally for entry into the public record of this rulemaking and for our consideration during our final decision. Comments and data also can be submitted in writing or electronically, as described in our November 17, 2005, proposal (70 FR 69854, November 17, 2005) and in the **ADDRESSES** section above.

**Public Comments Solicited**

We intend that any final action resulting from this proposed rule will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Generally, we seek information, data, and comments concerning the status of grizzly bears in the Yellowstone Ecosystem. Specifically, we seek documented, biological data on the status of the Yellowstone Ecosystem grizzly bears and their habitat, and the management of these bears and their habitat.

Submit comments as indicated under **ADDRESSES**. If you wish to submit comments by e-mail, please avoid the use of special characters and any form of encryption. Please also include your

name and return address in your e-mail message.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and other information received, as well as supporting information used to write this rule, will be available for public inspection, by appointment, during normal business hours at the above address. In making a final decision on this proposed rule, we will take into consideration the comments and any additional information we receive. Such communications may lead to a final rule that differs from this proposal.

**Authority**

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: January 19, 2006.

**Thomas O. Melius,**

*Acting Director, Fish and Wildlife Service.*  
[FR Doc. 06-741 Filed 1-23-06; 12:26 pm]

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