the private sector do not exceed $100 million in any one year.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. This action will be implemented at the Federal level and affects transportation fuel refiners, blenders, marketers, distributors, importers, exporters, and renewable fuel producers and importers. Tribal governments would be affected only to the extent they produce, purchase, and use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the Agency has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it extends the 2025 RFS compliance reporting deadline and does not concern an environmental health risk or safety risk. Since this action does not concern human health, the EPA's Policy on Children's Health also does not apply.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action does not involve technical standards.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. Statutory Authority and Judicial Review

Statutory authority for this action comes from sections 114, 203–05, 208, 211, and 301 of the CAA, 42 U.S.C. 7414, 7522–24, 7542, 7545, and 7601.

Statutory authority for the rulemaking procedures followed in this action is provided by APA section 553(b)(B), 5 U.S.C. 53(b)(B) (good cause exception to notice-and-comment rulemaking), and statutory authority for making this action immediately effective is provided by 5 U.S.C. 553(d)(1). As explained in section II of this preamble, the EPA finds good cause to forgo prior notice and comment because such procedures are unnecessary and impracticable under the circumstances detailed in section II of this preamble.

CAA section 307(b)(1) governs judicial review of final actions by the EPA. This section generally provides that petitions for review of final actions that are nationally applicable must be filed in the U.S. Court of Appeals for the District of Columbia Circuit, and petitions for judicial review of actions that are locally or regionally applicable must be filed in the appropriate regional circuit. However, CAA section 307(b)(1) also provides that petitions for judicial review of a final action that is locally or regionally applicable must be filed in the D.C. Circuit when ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

This action is nationally applicable because it amends nationally applicable regulations promulgated by the Administrator and codified at 40 CFR part 80. Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 3, 2026. Under CAA section 307(b)(2), the requirements established by this final action may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Oil imports, Petroleum, Renewable fuel.

Lee Zeldin,
Administrator.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 80 as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

Subpart M—Renewable Fuel Standard

■ 2. Amend § 80.1451 by adding paragraph (f)(1)(i)(B)(*6*) to read as follows:

§ 80.1451 What are the reporting requirements under the RFS program?

* * * * *

(f) * * *

(1) * * *

(i) * * *

(B) * * *

(*6*) For the 2025 compliance year, annual compliance reports must be submitted by October 1, 2026.

* * * * *

[FR Doc. 2026–18132 Filed 9–3–26; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FXES1111090FEDR–267–FF09E21000]

Endangered and Threatened Wildlife and Plants; Nine Species Not Warranted for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of findings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce findings that nine species are not warranted for listing as endangered or threatened species under the Endangered Species Act of 1973, as amended (ESA or Act). After a thorough review of the best scientific and commercial data available, we find that it is not warranted at this time to list the Big Bar hesperian (*Vespericola pressleyi*), Chesapeake logperch (*Percina bimaculate*), Kirtland's snake (*Clonophis kirtlandii*), orangefin madtom (*Noturus gilberti*), Shasta

chaparral (*Trilobopsis roperi*), Shasta hesperian (*Vespericola shasta*), Shasta sideband (*Monadenia troglodytes troglodytes*), tall western penstemon (*Penstemon hesperius*), and Wintu sideband (*Monadenia troglodytes wintu*). However, we ask the public to submit to us at any time any new information relevant to the status of any of the species mentioned above or their habitats.

DATES: The findings in this document were made on September 4, 2026.

ADDRESSES: Detailed descriptions of the bases for these findings are available on the internet at *https://www.regulations.gov* under the following docket numbers:

Species	Docket No.
Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband	FWS–R8–ES–2026–2810.
Chesapeake logperch	FWS–R5–ES–2026–2806.
Kirtland's snake	FWS–R3–ES–2026–2811.
Orangefin madtom	FWS–R5–ES–2026–2807.
Tall western penstemon	FWS–R1–ES–2026–2808.

Those descriptions are also available by contacting the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning these findings to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT:

Species	Contact information
Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband.	Ryan Fogerty, Acting Field Supervisor, Yreka Field Office, 530–340–7900, *ryan_fogerty@fws.gov*.
Chesapeake logperch	Jodie Mamuscia, Field Supervisor, Pennsylvania Ecological Services Field Office, 814–298–4523, *jodie_mamuscia@fws.gov*.
Kirtland's snake	Erin Knoll, Field Supervisor, Ohio Ecological Services Field Office, 380–215–0987, *erin_knoll@fws.gov*.
Orangefin madtom	Troy Andersen, Field Supervisor, Virginia Ecological Services Field Office, 804–728–0695, *troy_andersen@fws.gov*.
Tall western penstemon	Kessina Lee, Oregon State Supervisor, Oregon Fish and Wildlife Office, 503–231–6179, *kessina_lee@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

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1533(b)(3)(B)), we are required to make a finding on whether or not a petitioned action is warranted within 12 months after receiving any petition that we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted ("12-month finding"). We must make a finding that the petitioned action is: (1) not warranted; (2) warranted; or (3) warranted but precluded by other listing activity. We must publish a notification of these 12-month findings in the **Federal Register**.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and our regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act defines "species" as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines an "endangered species" as a species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)) and a "threatened species" as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, the Secretary of the Interior (Secretary) may determine whether any species is an endangered species or a threatened species because of any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term "threat" to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term "threat" includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; ''M-Opinion,'' available online at *https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf*). The foreseeable future extends as far into the future as the Service can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best scientific and commercial data available and taking into account considerations such as the species' life-history characteristics, threat projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. ''Reliable'' does not mean ''certain;'' it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Both definitions of endangered species and threatened species include not only the phrase ''throughout all,'' but also the phrase ''or a significant portion of its range.'' Beginning in 2001, a number of judicial opinions addressed our interpretation of the phrase ''or a significant portion of its range'' (the SPR phrase) in the statutory definitions of ''endangered species'' and ''threatened species.'' In *Defenders of Wildlife* v. *Norton,* 258 F.3d 1136 (9th Cir. 2001) regarding the flat-tailed horned lizard, the court held that the interpretation of the SPR phrase that we had applied in analyzing the status of the flat-tailed horned lizard was unacceptable because it would allow for a species to warrant listing throughout a significant portion of a species' range only when the species ''is in danger of extinction everywhere'' (id. at 1141). The court held that the SPR phrase must be given independent meaning from the ''throughout all'' phrase to avoid making the SPR phrase in the statute superfluous.

In an attempt to address the judicial opinions calling into question our approach to evaluating whether a species was endangered or threatened throughout a significant portion of its range, the Services published a ''Final Policy on Interpretation of the Phrase 'Significant Portion of Its Range' in the Endangered Species Act's Definition of ''Endangered Species'' and ''Threatened Species'' (hereafter ''2014 SPR Policy;'' 79 FR 37578, July 1, 2014). The notice of the draft policy provides more detail about litigation before 2014 regarding the phrase (76 FR 76987, Dec. 9, 2011). The 2014 SPR Policy included four elements:

(1) Consequence—that the consequence of determining that a species warrants listing based on its status in a significant portion of its range is to list the species throughout all of its range;

(2) Significance—a definition of the term ''significant'';

(3) Range—that the species' ''range'' is the current range of the species; and

(4) Distinct population segment (DPS)—that, if a [vertebrate] species is endangered or threatened in an SPR, and the population in that SPR is a DPS, the Service will list just the DPS.

Subsequently, two district courts vacated the definition of ''significant'' contained in the 2014 SPR Policy (*Ctr. for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) (''*CBD* v. *Jewell*'') and *Desert Survivors* v. *U.S. Dep't of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) (''*Desert Survivors*'')). The courts found that the definition in the 2014 SPR Policy set too high a threshold and rendered the SPR language in the statute superfluous, failing to give it independent meaning from the ''throughout all'' phrase. In 2020, another court (*Ctr. for Biological Diversity* v. *Everson,* 435 F. Supp. 3d 69 (D.D.C. 2020) (''*Everson*'')) also vacated the specific aspect of the 2014 SPR Policy under which, ''if the Services determine that a species is threatened throughout all of its range, the Services will not analyze whether the species is endangered in a significant portion of its range'' (id. at 98). This was an extension of the definition of ''significant,'' which required a stepwise process in which we only considered whether a species may be endangered or threatened throughout a significant portion of its range when the species was not endangered or threatened throughout all of its range. In an extension of the earlier rulings from *CBD* v. *Jewell* and *Desert Survivors,* the court found that this aspect of the definition of the 2014 SPR Policy was not only inconsistent with the statute because it ''rendered the 'endangered in a significant portion of its range' basis for listing superfluous,'' but was also ''inconsistent with ESA principles'' and ''not a logical outgrowth from the draft policy.'' Under this ruling, if we find a species is not in danger of extinction throughout all of its range, we must evaluate whether the species is in danger of extinction throughout a significant portion of its range, even in cases where we have determined that the species is likely to become in danger of extinction within the foreseeable future (threatened) throughout all of its range. The remaining three elements of the 2014 SPR Policy remain intact.

For each species below, we address why they are not in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of their ranges. For some species, we discuss throughout all of the range first (endangered then threatened classification) and then discuss significant portion of the range. For other species we explain why not in danger of extinction (throughout all or a significant portion of its range) and then why not likely to become endangered within the foreseeable future (throughout all or a significant portion of its range).

When assessing whether a species is endangered or threatened throughout a significant portion of its range, we address two questions because we must determine whether there is any portion of the species' range for which both (1) the portion is ''significant'' and (2) the species is in danger of extinction or likely to become in danger of extinction within the foreseeable future throughout that portion. We may address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the Big Bar hesperian, Chesapeake logperch, Kirtland's snake, orangefin madtom, Shasta chaparral, Shasta hesperian, Shasta sideband, tall western penstemon, and Wintu sideband meet the Act's definition of an ''endangered species'' or a ''threatened species,'' we considered and thoroughly evaluated the best scientific and commercial data available regarding the past, present, and future threats. We reviewed the petitions, information available in our files, and other available published and unpublished information for these species. Our evaluation may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

In accordance with the regulations at 50 CFR 424.14(h)(2)(i), this document announces the not-warranted findings on petitions to list the nine species. We have also elected to include brief summaries of the analyses on which these findings are based. We provide the full analyses, including the reasons and data on which the findings are based, in the decisional files for the Big Bar hesperian, Chesapeake logperch, Kirtland's snake, orangefin madtom, Shasta chaparral, Shasta hesperian, Shasta sideband, tall western penstemon, and Wintu sideband. Below, we describe the documents containing these analyses.

The species assessment forms for the Big Bar hesperian, Chesapeake logperch, Kirtland's snake, orangefin madtom, Shasta chaparral, Shasta hesperian, Shasta sideband, tall western penstemon, and Wintu sideband each contain more detailed biological information, a thorough analysis of the listing factors, a list of literature cited, and an explanation of why we determined that these species do not meet the Act's definition of an ''endangered species'' or a ''threatened species.'' To inform our status review, we completed a species status assessment (SSA) report for the Big Bar hesperian, Chesapeake logperch, Kirtland's snake, orangefin madtom, Shasta chaparral, Shasta hesperian, Shasta sideband, tall western penstemon, and Wintu sideband. The SSA reports contain a thorough review of the taxonomy, life history, ecology, current status, and projected future status for these species. This supporting information can be found on the internet at *https://www.regulations.gov* under the appropriate docket number (see **ADDRESSES**, above).

Big Bar Hesperian, Shasta Chaparral, Shasta Hesperian, Shasta Sideband, and Wintu Sideband

Previous Federal Actions

On March 13, 2008, we received a petition to list 29 species and subspecies of mollusks in the Pacific Northwest as threatened or endangered species under the Act. The petitioners included the Center for Biological Diversity (CBD), Conservation Northwest, the Environmental Protection Information Center, the Klamath-Siskiyou Wildlands Center, and Oregon Wild. We issued a 90-day finding on October 5, 2011, (76 FR 61826), stating that the petition presented substantial scientific or commercial information indicating that listing 26 of the mollusk species or subspecies may be warranted. This document constitutes our 12-month finding on the March 13, 2008, petition to list the Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband (five terrestrial mollusks).

Summary of Finding

The five terrestrial mollusks are small land-dwelling narrowly endemic snails typically much less than 1.1 inches (30 millimeters) in diameter and are found in Shasta, Siskiyou, Trinity, and Humboldt Counties, California. The landscape in which they occur is part of the Klamath Mountains/Southern Cascades ecoregion, which is ecologically, topographically, and geographically diverse. This diversity provides localized variability in vegetation (type and cover) and climate (temperature and moisture). The general habitat needs of the five terrestrial mollusks include use and selection of habitat that conserves moisture and avoids desiccation and provides for temperature regulation, availability of vegetation/fungi/detritus for foraging, calcium availability for shell development, and refuge or sheltering habitat to avoid hot, dry, or cold conditions. This includes humid habitats associated with limestone outcrops or caves, rocky outcrops, talus slopes, or boulder piles with interstitial spaces, areas that contain leaf litter and woody debris such as downed limbs or logs, or areas that have a shrub or forest overstory to provide shade. The Big Bar hesperian and Shasta hesperian are closely associated with riparian areas and are found within a short distance of the edge of streams, springs, and seeps in montane hardwood-conifer forests where soils are permanently moist. The Shasta chaparral is also associated with these wetted habitats but also occurs in the nonwetted habitats as described above.

Populations of terrestrial snails within the region are thought to be relicts of the late Pleistocene epoch when the local climate conditions were much cooler and more mesic than current conditions and the five terrestrial mollusks have gone through many cycles of isolation followed by connectivity over millennia or longer periods of time. Despite the warmer and dryer climatic conditions where they are now found, the five terrestrial mollusks have adopted behaviors to maintain moisture or to seek out cooler moist habitat to carry out their life history requirements. This includes being active during cooler more moist periods of the day and year such as at night or during the fall and spring and seeking shelter, hibernating, or estivating during the day, winter, or summer.

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing the threats facing the five terrestrial mollusks. In our analysis, we identified the following threats facing the five terrestrial mollusks: the effects of increasing temperatures and prolonged drought; the effects of fire; the impacts associated with small population size and limited gene flow; limestone and gold mining; grazing; timber harvest; road construction; urbanization; recreation activities and recreation facility development; off-road vehicle activity; nonnative species; pesticide use; chemical spills; unauthorized marijuana cultivation; fire retardant use; over collection; and the potential raising of Shasta Dam and resulting inundation of habitat. We identified the primary threats affecting the biological status of the five terrestrial mollusks as (1) the effects of prolonged drought conditions and increasing temperatures, and (2) the effects of severe wildfire events that are associated with habitat loss or destruction. Although the remaining threats (either individually or cumulatively) may impact individuals at the local level, the best scientific and commercial data available did not indicate that these threats are having or will have population level impacts due to their limited rangewide prevalence or level of impact on the five terrestrial mollusks.

To determine whether the Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband are in danger of extinction throughout all of their ranges, we reviewed the threats to each of the five terrestrial mollusks, their responses to those threats (including any cumulative effect of the threats), and any amelioration of the threats associated with regulatory or conservation measures. Several factors assist in limiting the impact of the two primary threats impacting the five terrestrial mollusks. This includes the ecological, topographical, and geological diversity of the landscape which provides a mosaic of environmental conditions and resulting burn patterns (severity and intensity) across the five terrestrial mollusks' ranges; and the life history and behavioral adaptations of the five terrestrial mollusks to avoid activity during periods most associated and influenced by the two primary threats.

Currently, each of the five terrestrial mollusks occupies areas roughly the size of their respective historical ranges and our analysis identified that all populations are in either high or moderate condition (based on habitat condition and occurrence distribution). In addition, the five terrestrial mollusks likely have a wide breadth of environmental diversity within and among their populations and so can be characterized as having representation across a breadth of subwatersheds. Based on topographical and geographical conditions of the landscape, habitat used, and behavioral adaptations and life history and behavioral strategies that assist them in maintaining moisture (aestivation, activity periods, habitat use), the five terrestrial mollusks are currently able to limit the negative impacts from the effects of drought and increasing temperatures and severe wildfire events. As a result, we found that in the near term, all five terrestrial mollusks can withstand stochastic disturbances, maintain their ability to adapt to changing environmental conditions, and have sufficient number and distributions of populations to withstand catastrophic events. Therefore, we conclude that the Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband are not in danger of extinction throughout all of their respective ranges.

Therefore, we proceeded with determining whether the five terrestrial mollusks are likely to become in danger of extinction within the foreseeable future throughout all of their ranges. For our analysis of future conditions, we chose to examine the future conditions out to approximately mid-century (2040–2069) as well as end-of-century (2070–2099) because those timeframes encompass the best scientific and commercial data available for future projections of the two primary threats acting on the species and for drawing reliable conclusions about the response of the five terrestrial mollusks to these threats. Despite a potential future decrease in resiliency due to drought and severe wildfire, we expect these future impacts will likely be limited to the loss of individuals or some smaller populations, and the overall viability of these species is not likely to be affected. As previously discussed, the behavioral flexibility and biological adaptations of these five species will likely continue to protect them from the effects of future threats, as their life history strategies support their ability to adapt to varying environmental conditions. In addition, the mollusks' use of sheltered habitats (deep within caves and interstitial spaces within rocky areas) and the fragmented topography of the Klamath Mountains and Southern Cascades ecoregions will likely continue to protect the species from widespread loss from catastrophic wildfire. Therefore, we have concluded that the future condition of the five terrestrial mollusks is not likely to change significantly.

Having determined that the five terrestrial mollusks are not in danger of extinction or likely to become so within the foreseeable future throughout all of their ranges, we now consider whether they may be in danger of extinction or likely to become so within the foreseeable future throughout a significant portion of their ranges.

We evaluated the range of the five terrestrial mollusks to determine if any of the species are in danger of extinction or likely to become so within the foreseeable future in any portion of their range. We divided the range of each of the five terrestrial mollusks in two ways: (1) analysis units (AUs) and (2) representation units (Hydrologic Unit Code (HUC)–12 watersheds). AUs were based on NatureServe's 1-kilometer buffers for general animal and plant dispersal to assess resiliency of each species and HUC–12 watersheds were used to assess representation of each species. We also looked for any other possible clustering of AUs to ensure we were not missing a geographical area where the species may have a different regulatory status that warrants further investigation.

Therefore, for the five terrestrial mollusks, we considered whether any of the threats or their effects on the species are greater in any biologically meaningful portion of the five terrestrial mollusks' ranges than in other portions such that any of the five species is in danger of extinction or likely to become so within the foreseeable future in any identified portion. We evaluated the same threats as discussed above. As discussed in our rangewide analysis above, threats are not disproportionately affecting any of the five terrestrial mollusks in any portion of their respective ranges. While there may be impacts to individual snails associated with the threats, the impact of the threats are distributed equally across each of the terrestrial mollusks respective ranges and are not disproportionately affecting the five terrestrial mollusks in any AU. For all five terrestrial mollusks, all AUs have moderate to high resiliency in the near term and similar risk of catastrophic events such as wildfire. In our review of the current condition of the five terrestrial mollusks, we identified that the primary threats are lessened by the five terrestrial mollusks' habitat use (rock outcroppings, talus slopes, boulder piles, caves, wetted areas), the ecological setting of the Klamath Mountains and Southern Cascade ecoregions provide areas that are variably impacted by the effects of drought or severe wildfire, and the five terrestrial mollusks' behavioral responses to the threats (*i.e.,* avoiding activity during dry hot conditions, seeking shelter in areas that maintain cooler temperatures and moisture, and aestivating during such periods). Therefore, we found no portion of the five terrestrial mollusks' ranges where the biological condition of the species or subspecies differs from its condition elsewhere in its range such that the status of the species or subspecies in that portion differs from its status in any other portion of the species' or subspecies' range within the near term or within the foreseeable future.

As a result, we concluded that the Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband are not in danger of extinction or likely to become so within the foreseeable future throughout a significant portion of its range. This does not conflict with the decision in *Everson* because we have determined that there is no portion of the range where the species may be in danger of extinction (*i.e.,* the species cannot be in danger of extinction throughout a significant portion of its range). Based on the best scientific and commercial data available, we determine that the Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband do not meet the definition of endangered species or threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we find that listing the Big Bar hesperian, Shasta chaparral, Shasta hesperian, Shasta sideband, and Wintu sideband is not warranted at this time. A detailed discussion of the basis for this finding can be found in the five terrestrial mollusks species assessment form and other supporting documents on *https://www.regulations.gov* under Docket No. FWS–R8–ES–2026–2810 (see **ADDRESSES**, above).

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing actions under the Act, we solicited independent scientific reviews of the information contained in the five terrestrial mollusks SSA report. We sent the SSA report to five independent peer reviewers and received three responses. Results of this structured peer review process can be found at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2026–2810. We incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this finding.

Chesapeake Logperch

Previous Federal Actions

On April 20, 2010, the Service received a petition from CBD, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including Chesapeake logperch, as endangered or threatened species under the Act. On September 27, 2011, the Service published a 90-day finding in the **Federal Register** (76 FR 59836) announcing that the petition presented substantial scientific or commercial information indicating that listing may be warranted. This document constitutes our 12-month finding on the April 20, 2010, petition to list the Chesapeake logperch under the Act.

Summary of Finding

The Chesapeake logperch is a small, benthic freshwater fish endemic to the lower Susquehanna River basin watersheds and its tributaries in Pennsylvania and Maryland. They primarily occur in large river habitat and connected tributaries where the river width is over 14 meters (45.9 feet). Chesapeake logperch require cobble, large rocks, and boulder substrate with low levels of silt, fine sediment, and substrate embeddedness. The substrate provides cover and protection for juveniles and adults, spawning habitat for egg development, and habitat for Chesapeake logperch forage species. Similar to other darter species, the Chesapeake logperch requires clean flowing water with a variety of substrate types and feeds primarily on macroinvertebrates. To forage, Chesapeake logperch adults move substrate materials and flip rocks to find their prey. Spawning is believed to occur in April through June. Sufficient population size and connectivity are needed for maintaining genetic diversity and to support reproduction and recruitment within populations.

At the population and species level, the Chesapeake logperch requires the same key elements (adequate water quantity and quality, and adequate habitat for shelter, spawning, and feeding) as individuals, at a scale sufficient to support population health and reproduction as well as sustainable population size and connectivity between populations. In general, larger and more closely connected populations are expected to have increased opportunities for reproduction to maintain genetic diversity. Ultimately, Chesapeake logperch viability depends on the number of healthy populations, distribution of healthy populations, and connectivity between populations to allow the species to withstand catastrophic events (*i.e.,* redundancy and resiliency) and suitable genetic and environmental diversity to allow the species to adapt to changing environmental conditions (*i.e.,* representation).

To determine whether the Chesapeake logperch is in danger of extinction throughout all of it range, we have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the Chesapeake logperch, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. The primary threats affecting the Chesapeake logperch's biological status include poor water quality (nutrient loading, sedimentation and siltation, other pollutants) and barriers to dispersal. We also examined other potential threats to Chesapeake logperch including impacts of invasive fish species due to competition and predation and the effects of increased temperatures and changes in precipitation patterns which have the potential to alter the habitat of the Chesapeake logperch. Also, conservation actions such as water quality improvement, barrier removal, and invasive species control projects are likely beneficial to the species. Efforts to improve water quality in the Chesapeake Bay watershed through stream restoration and riparian buffer plantings likely have indirect benefits for the species. A number of completed stream restoration projects likely benefit the Chesapeake logperch specifically and reduce water quality threats.

The Chesapeake logperch occurs in a variety of habitats within the lower Susquehanna River basin watersheds and its tributaries in Pennsylvania and Maryland. To assess resiliency of the Chesapeake logperch, the range was divided into 18 currently occupied analytical units (17 HUC–12s plus the Susquehanna Flats—Chesapeake Bay AU) and these units were treated as separate populations based on occurrence records, expert input, and the species' known distribution within the Susquehanna River basin. The Susquehanna Flats—Chesapeake Bay AU, located at the mouth of the Susquehanna River, in Chesapeake Bay, is not attributed to a HUC–12, so three HUC–12s that surround the area where these fish are found were used as a proxy to assess land use including Swan Creek—Frontal Chesapeake Bay, Rock Run—Susquehanna River, and Mill Creek—Furnace Bay.

We conducted qualitative assessments of the current condition (resiliency analysis) of each population through evaluations of variables encompassing the species' demographics. We also assessed the level of habitat impairment in each AU (impairment analysis). The level of impairment provides an understanding of the quality of Chesapeake logperch habitat in each AU. The level of impairment did not affect resiliency scores for the AUs but provided contextual information and assisted in the analysis of future conditions.

We determined the resiliency scores for 15 of the 18 AUs, as these AUs could be assessed using the demographic data available. We conducted the impairment analysis on all AUs except for the Elk Neck—Frontal Chesapeake Bay (17 of 18 AUs), as water impairment data were unavailable for this AU. The resiliency scores of three AUs were considered ''unknown,'' as we did not have sufficient demographic information available to inform the resiliency assessment; However, habitat variables for the impairment analysis were evaluated for two of these three ''unknown'' units (North East River—Frontal Chesapeake Bay, and Susquehanna Flats—Chesapeake Bay).

Currently, 73 percent of the species' range (11 of 15 AUs) is categorized as highly or moderately resilient, based on demographic information (abundance, distribution, population trend). Additionally, most of the species' range had some to no impairment (76 percent or 13 of 17 AUs) based on habitat factors (land cover, water impairment, dams). This level of high to moderate resiliency across most of the Chesapeake logperch's range contributes to its ability to withstand stochastic events. Despite threats acting on Chesapeake logperch, there are many moderately to highly resilient units spread throughout the species' range, thus contributing to the species' ability to withstand catastrophic events such as strong storms and extensive droughts (high redundancy). While a potential catastrophic event could impact several AUs at once, a catastrophic event is unlikely to impact the species throughout its entire range.

The representation (adaptive capacity) analysis of Chesapeake logperch indicates that the species' capacity to adapt to change is moderately high based on gene flow throughout most of its range and several life history characteristics (*e.g.,* high fecundity, flexible feeding habits, habitat generalist). Despite some loss of genetic diversity over time from a few extirpated sites across its range, and other life history characteristics that suggest lower adaptive capacity (*e.g.,* low recruitment, small occurrence extent), and reduced ability to disperse or move out of harm's way when conditions in current locations become temporarily or permanently unsuitable (shift in space) due to dams in some locations, the Chesapeake logperch life history characteristics and gene flow throughout its range indicate that its current representation is moderately high, and thus, sufficient to support species viability. Thus, after assessing the best scientific and commercial data available, we conclude that the Chesapeake logperch is not in danger of extinction throughout all of its range.

Therefore, we proceeded with determining whether the Chesapeake logperch is likely to become in danger of extinction within the foreseeable future throughout all of its range. For the Chesapeake logperch, we considered future condition at three timesteps to capture both a nearer-term assessment of future condition and longer-term assessment of the future. These timesteps include: (1) 2040, 2075, and 2100 to simulate future condition at three timesteps, (2) 2040 and 2075, roughly 15 and 50 years into the future, and (3) 2100, the end of this century. These years also align with the available datasets for land cover and climate scenarios. For each timestep we considered changes in resiliency under two future climate scenarios, a lower impacts scenario representing a lower trajectory for climate effects, and a higher impacts scenario, representing a higher trajectory for climate effects (a total of six scenarios). We used the FOREcasting SCEnarios of Land-Use Change (FORE–SCE) B2 (lower impacts) and A2 (higher impacts) land use scenarios to calculate the percent change in current non-developed and non-agricultural lands to be lost in each AU under each scenario at each timestep.

The best scientific and commercial data available indicate that the Chesapeake logperch will maintain similar levels of resiliency, redundancy, and representation into the future. Almost all AUs (93.3 percent or 14 out of 15) are expected to maintain the same level of resiliency in the future that they have currently in the lower impacts scenario throughout all timesteps. For the higher impacts scenario, 13 out of 15 AUs (86.7 percent) are expected to maintain the same level of resiliency in the future. Thus, redundancy and representation may slightly decline. There is no anticipated change in the risk of catastrophic events in the future. Similar to the impacts in current condition, future catastrophic events may impact one or more AUs but are not likely to impact the species throughout its range. Overall, we do not expect any extreme changes in resiliency across all AUs, therefore redundancy is likely to remain similar to current levels.

Although some redundancy and representation for the Chesapeake logperch is expected to decrease under the higher impact scenario at the later timesteps, the species would continue to occur in multiple moderately to highly resilient AUs across its range within the foreseeable future. Thus, based on the best scientific and commercial data available, we determine that the Chesapeake logperch is not likely to become in danger of extinction within the foreseeable future throughout all of its range.

Having determined that the Chesapeake logperch is not in danger of extinction or likely to become so within the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so within the foreseeable future throughout a significant portion of its range. In undertaking this analysis for the Chesapeake logperch we began by identifying portions of the range where the biological status of the species may be different from its biological status elsewhere in its range. For this purpose, we considered information pertaining to the geographic distribution of (a) individuals of the species, (b) the threats that the species faces, and (c) the resiliency condition of populations.

For many species, we can divide its range in an infinite number of ways. To assess current resiliency of the Chesapeake logperch, we divided the range into 18 AUs primarily based on HUC–12s, along with one AU for the open water population (the Susquehanna Flats—Chesapeake Bay AU). Individuals of the species are likely to interact with each other more frequently within river systems than across river systems. In summary, HUC–12s are the units that provide the appropriate scale to assess extinction risk and potential differences in regulatory status across the Chesapeake logperch's range.

We examined the primary threats facing the Chesapeake logperch as discussed above including any cumulative effects from these threats. We first considered whether the Chesapeake logperch may be in danger of extinction throughout a significant portion of its range. We identified and evaluated a portion of the range consisting of four AUs in the southern part of the species range where the Chesapeake logperch has a higher extinction risk than the rest of the range and may be in danger of extinction. They include Basin Run-Octoraro Creek, North East Creek, Mill Creek-Furnace Bay, and Swan Creek-Frontal Chesapeake Bay. These four AUs currently have low resiliency due to high water impairment, instream barriers, low population abundance and distribution, or low availability of stream habitat. In summary, we find that the Chesapeake logperch is not in danger of extinction in the remaining AUs, but it may be in danger of extinction throughout a portion of the range—the southern portion.

For this portion of the range where the Chesapeake logperch may be in danger of extinction, we first addressed whether it is ''significant.'' For the purposes of this analysis when considering whether a portion is ''significant,'' we considered its conservation value for the species. The southern portion represents only a small geographical proportion of the range, containing a small percentage of populations (4 of 18 AUs) of the species. In addition, habitat is similar across the range of the Chesapeake logperch and the southern portion does not provide any unique ecological settings or habitat types for the species. Therefore, this is not a significant portion of the range of the Chesapeake logperch.

As a result of our finding that this portion of the range is not ''significant,'' we do not need to determine whether the Chesapeake logperch is in danger of extinction throughout this portion of the range. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction throughout a significant portion of its range. This does not conflict with the courts' holdings in *Desert Survivors* and *CBD* v. *Jewell,* because, in reaching this conclusion, we did not apply the aspects of the 2014 SPR Policy, including the definition of ''significant,'' that those court decisions held to be invalid. Thus, after assessing the best scientific and commercial data available, we conclude that the Chesapeake logperch is not in danger of extinction throughout a significant portion of its range. Therefore, we proceed with determining whether the Chesapeake logperch is likely to become in danger of extinction within the foreseeable future throughout a significant portion of its range.

For the threatened species determination, we examined the same threats as discussed above: degraded water quality (*i.e.,* nutrification, sedimentation/siltation, pollutants), barriers to dispersal (dams), changes in temperature and precipitation, and invasive species predation and competition, including cumulative effects. We identified and evaluated a portion of the range where the Chesapeake logperch has a higher extinction risk than the rest of the range and may be threatened that includes five AUs in the southern part of the species range. They include Basin Run—Octoraro Creek, North East Creek, Mill Creek—Furnace Bay, Swan Creek—Frontal Chesapeake Bay, and Lower Deer Creek.

In each AU within this portion of the range, the projected resiliency is low due to water quality impairment, instream barriers, low population abundance and distribution, or low availability of stream habitat. The resiliency of four of the AUs remains low (similar to current condition) and one additional AU (Lower Deer Creek) is expected to decrease from moderate to low for all timesteps. This is due to a projected increase in land use change and potential impacts from warming and changing rainfall patterns, such as water temperatures that may exceed Chesapeake logperch tolerance.

For this portion of the range where the species may become in danger of extinction within the foreseeable future, we first addressed whether it is ''significant.'' The southern portion represents only a small geographical proportion of the range, containing a small percentage of populations (5 of 18 AUs) of the species. In addition, habitat is similar across the range of the Chesapeake logperch and this portion of the range does not provide any unique ecological settings or habitat types for the species.

As a result of our finding that this portion of the range is not ''significant,'' we do not need to determine whether the Chesapeake logperch is likely to become in danger of extinction within the foreseeable future throughout this portion of the range. Therefore, no portion of the species' range provides a basis for determining that the species is likely to become in danger of extinction within the foreseeable future throughout a significant portion of its range. This does not conflict with the courts' holdings in *Desert Survivors* and *CBD* v. *Jewell,* because, in reaching this conclusion, we did not apply the aspects of the 2014 SPR Policy, including the definition of ''significant,'' that those court decisions held to be invalid. Thus, after assessing the best scientific and commercial data available, we conclude that the Chesapeake logperch is not likely to become in danger of extinction within the foreseeable future throughout a significant portion of its range.

Based on the best scientific and commercial data available, we determine that the Chesapeake logperch does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we find that listing the Chesapeake logperch is not warranted at this time. A detailed discussion of the basis for this finding can be found in the Chesapeake logperch species assessment form and other supporting documents on *https://www.regulations.gov* under Docket No. FWS–R5–ES–2026–2806 (see **ADDRESSES**, above).

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing actions under the Act, we solicited independent scientific reviews of the information contained in the Chesapeake logperch SSA report. We sent the SSA report to seven independent peer reviewers and received six responses. Results of this structured peer review process can be found at *https://www.regulations.gov* under Docket No. FWS–R5–ES–2026–2806. We incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this finding.

Kirtland's Snake

Previous Federal Actions

On April 20, 2010, we received a petition from CBD, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including Kirtland's snake as an endangered or a threatened species under Act. On September 27, 2011, we found that the petition presented substantial scientific or commercial information indicating that the listing of 374 species, including the Kirtland's snake, may be warranted (76 FR 59836). We completed a SSA report in 2017 to compile the best scientific and commercial data available regarding the species' biology and factors that influence the species' viability. On October 5, 2017, we published a 12-month finding determining that listing the Kirtland's snake was not warranted (82 FR 46618).

On June 8, 2022, CBD and the Hoosier Environmental Council submitted a complaint challenging this decision. The complaint focused on our analysis of the five listing factors, climate change impacts, and significant portion of the range. On July 1, 2024, we signed a settlement agreement with the plaintiffs wherein we agreed to re-evaluate the status of the Kirtland's snake under the Act and send a new 12-month finding to the **Federal Register** on or before June 30, 2026, which was later extended to September 28, 2026. We then developed the 2026 SSA report, which serves as the biological underpinning of our decision on whether the Kirtland's snake warrants protection under the Act. This document constitutes our new 12-month finding fulfilling the July 1, 2024, settlement agreement to re-evaluate Kirtland's snake under the Act.

Summary of Finding

The Kirtland's snake is a small, slender, non-venomous, and secretive snake historically found sporadically distributed across areas of Illinois, Missouri, Indiana, Michigan, Kentucky, Tennessee, Ohio, Pennsylvania, and Wisconsin. Extant sites occur in every State except Pennsylvania and Wisconsin. The Kirtland's snake is fossorial (*i.e.,* living primarily underground) and is always found in close proximity to a permanent or seasonal water source, including wetlands, streams, reservoirs, lakes, or ponds. Across its range, the Kirtland's snake uses diverse and varied moist habitats primarily prairie habitats or wet grasslands, but it also occurs in urban and suburban areas with temporary or permanent water sources.

Five elements are essential for Kirtland's snake survival: moist soils, burrows, cover, hibernation areas, and prey. The Kirtland's snake spends most of its time underground in moist soil and is often found in or near crayfish burrows. When the Kirtland's snake is above ground, it is almost always found under natural or artificial cover objects instead of basking or moving through open areas. The Kirtland's snake preys primarily on worms, slugs, and crayfish. Individuals exhibit within- and between-year site fidelity (*i.e.,* returning to the same location) and have relatively small home ranges (approximately 650 square meters) (0.16 acres). Generally, population viability requires healthy demography and sufficient habitat. Kirtland's snake viability depends on there being a sufficient number and distribution of healthy populations to ensure that the species can withstand annual variation in its environment (*i.e.,* resiliency), catastrophes (*i.e.,* redundancy), and novel biological and physical changes in its environment (*i.e.,* representation).

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the Kirtland's snake, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. The primary threats affecting the Kirtland's snake's biological status include habitat loss and modification, and temperature, precipitation, and soil moisture alterations.

Habitat loss and modification have occurred across the range of the Kirtland's snake and remain an ongoing threat in parts of the range as grasslands, forests, and wetlands are converted to agriculture, residential, or other uses. Ground disturbance may cause injury or mortality of individuals and snakes can be permanently displaced when suitable habitat is no longer available. In addition, habitat fragmentation has been suggested as a potential threat leading to population isolation. However, the Kirtland's snake can occur in high numbers in fragmented, small patches of habitat, so long as certain key features (*e.g.,* moist soils) are present. While Kirtland's snakes have been documented in some smaller urban and suburban sites for decades, these sites are more vulnerable to future development and other threats compared to protected sites because habitat quality is poorer and protected sites are generally not at risk of development. Across the species' range, 30 percent of extant Kirtland's snake sites are owned or managed by conservation organizations or agencies which provide some protection from these threats.

Temperature, precipitation and soil moisture alterations are stressors for the Kirtland's snake. Average temperatures are expected to increase in the Midwest into the future. Moist soil (a key habitat requirement) is expected to significantly decline in the August to October time period (the warmest and driest portion of the Kirtland's snake active period, and also the period when females give birth to young, and when young could be vulnerable to desiccation) into the future. This drying trend is expected to be accompanied by increased variability in precipitation, more frequent wet-dry transitions, and more extreme flooding and drought events. The best scientific and commercial data indicate Kirtland's snakes can likely survive underground in crayfish burrows during typical seasonal flood events and during occasional more severe floods, but with potential negative impacts to body condition and reproductive capacity that year. Floods that are long-term or very severe may cause mortality of individuals and could impact whole populations. In the Midwest, droughts that result in vegetation losses and water shortages are typically rare and usually cover only a small portion of the region, although records of the Kirtland's snake have been confirmed throughout many counties that experienced periods of drought since 2000. The Kirtland's snake's ability to aestivate (enter a state of dormancy with reduced activity and metabolic rate) and the fact that they spend most of their time underground in moist soil using crayfish and other animal burrows suggests an ability to withstand dry periods. The Kirtland's snake is capable of colonizing restored wetland habitat when adjacent to existing populations of Kirtland's snakes, demonstrating their ability to move short distances into suitable habitat. Additionally, the fossorial behavior of the Kirtland's snake may allow it to withstand some changes in temperature and precipitation by remaining in underground burrows that retain moisture and modulate temperature.

We used the presence of suitable habitat (habitat which meets the species' needs) with vegetative cover and water resources as a way to measure resiliency. Kirtland's snake redundancy was assessed using the number and distribution of extant and possibly extant sites across the range. We assessed representation of the species in the form of ecological diversity as well as the ability of the Kirtland's snake to disperse or move out of harm's way when conditions in current locations become temporarily or permanently unsuitable from a ''shift in space.''

To determine whether the Kirtland's snake is in danger of extinction throughout all or a significant portion of its range, we reviewed the threats, the responses to those threats (including any cumulative effect of the threats), and any amelioration of the threats associated with regulatory or conservation measures. We began by determining the scale that is biologically appropriate for a classification determination for the snake.

For assessing viability of the Kirtland's snake, we divided the range into sites and counties. The best scientific and commercial data available does not indicate how to combine sites into biologically-based units (populations). It is possible that snakes can move within and among sites and across county lines; therefore, we considered whether county-level units could be combined into a biologically based unit. Ultimately, we found that there are three counties across northern Tennessee and southern Kentucky (TN/KY) that are separated enough that snakes are unlikely to interact with the rest of the range. Therefore, we conducted our analysis considering two units of Kirtland's snake: the TN/KY unit and the unit including counties within the rest of the range.

The best scientific and commercial data available indicate that the Kirtland's snake is not in danger of extinction in either unit (the TN/KY unit and the unit including counties within the rest of the range). There are highly resilient sites spread across the range in both units. Specifically, in the TN/KY unit, 100 percent of sites have high condition of suitable vegetative cover and water resources and thus have high resiliency. In the unit including counties within the rest of the range, 49 percent of counties had more than half of evaluated sites in high condition of suitable vegetative cover and water resources and thus high resiliency. The species' range is relatively large, covering seven States across the Midwest with varying temperature and precipitation conditions, and the overall current range still encompasses the majority of the historical range. There has been a slight reduction from the known historical range to the current range in the unit including the counties within the rest of the range in some of the easternmost areas. The TN/KY unit has expanded from previously known historical levels into a new county since 2017 but is adjacent to the counties that already had known records in that area. Therefore, the ecological diversity that occurs across the species range remains comparable to historical conditions in each of the two units. The species also has the adaptive capacity to withstand unsuitable climate conditions by seeking refuge in underground burrows that retain moisture and modulate temperature. The best scientific and commercial data indicate that this capacity has not changed from the snakes' historical capabilities.

In summary, we find that the Kirtland's snake is not in danger of extinction in any areas across its range (*i.e.,* in neither unit). Thus, there is no portion of the range where the Kirtland's snake may be in danger of extinction. Because there is no portion of the range in which the Kirtland's snake is endangered, it also logically cannot be in danger of extinction throughout all of its range. Thus, after assessing the best scientific and commercial data available, we conclude that the Kirtland's snake is not in danger of extinction throughout all or a significant portion of its range. This does not conflict with the decision in *Everson* because we have determined that there is no portion of the range where the species may be in danger of extinction (*i.e.,* the species cannot be in danger of extinction throughout a significant portion of its range). Therefore, we proceed with determining whether Kirtland's snake is likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range.

We evaluated whether the Kirtland's snake has a similar risk of extinction within the foreseeable future in all areas across its range by assessing its extinction risk within the same biologically-based units as we did for the endangered species classification (the TN/KY unit and the unit including counties within the rest of the range). For the future condition of the species, we evaluated changes in land cover (as a proxy to measure changes in suitable habitat) and soil storage, which quantifies water stored in the soil column, into the future under two plausible scenarios. We considered future condition at two timesteps, mid-century (2041–2070) and late-century (2071–2100), to capture both a nearer-term and longer-term assessment of the future condition. These years also align with the available datasets for land cover and climate scenarios. For each time step we considered changes in resiliency under two future climate scenarios using a combination of Shared Socioeconomic Pathways (SSPs) Representative Concentration Pathways (RCPs) scenarios. We selected SSP2–RCP4.5 for the lower bounds scenario and SSP5–RCP8.5 as the upper bounds scenario (Intergovernmental Panel on Climate Change (IPCC) 2021, p. 54). To evaluate changes in soil water storage over time, we used data from the Climate Model Intercomparison Program Phase 6 Localized Constructed Analogs, version 2 monthly water balance model (Alder 2023, entire).

All sites in the TN/KY unit are projected to be in high resiliency regarding the land cover analysis. Although there is a projected minimal decline in the number of high resiliency sites into the future in the unit including counties within the rest of the range, counties with a higher proportion of high resiliency sites are projected to remain widely distributed across the unit. Therefore, future resiliency of the snake is projected to remain comparable to current levels in both units. While the areas in the TN/KY unit are projected to have a change in soil storage into the future, the surrounding states in the unit including counties within the rest of the range are also projected to experience some level of change in soil storage. However, counties with a higher proportion of high resiliency sites are projected to remain distributed across all seven states in both units, and thus the species' ability to withstand catastrophic events, such as prolonged drought, is expected to remain approximately the same as current condition. Additionally, the ecological diversity that occurs across the species range and the species' ability to withstand unsuitable climate conditions by seeking refuge in underground burrows that retain moisture and modulate temperature remains comparable to historical conditions in each of the two units.

In summary, we find that the Kirtland's snake is not likely to become in danger of extinction within the foreseeable future in any areas across its range (*i.e.,* in either unit). Thus, there is no portion of the range where the Kirtland's snake is likely to become in danger of extinction within the foreseeable future. Because there is no portion of the range in which the Kirtland's snake is threatened, it is necessarily not likely to become in danger of extinction within the foreseeable future throughout all of its range. Thus, based on the best scientific and commercial data available, we determine that the Kirtland's snake is not likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range.

Based on the best scientific and commercial data available, we determine that the Kirtland's snake does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we find that listing the Kirtland's snake is not warranted at this time. A detailed discussion of the basis for this finding can be found in the Kirtland's snake species assessment form and other supporting documents on *https://www.regulations.gov* under Docket No. FWS–R3–ES–2026–2811 (see **ADDRESSES**, above).

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing actions under the Act, we solicited independent scientific reviews of the information contained in the Kirtland's snake 2026 SSA report. We sent the 2026 SSA report to three independent peer reviewers and received three responses. Results of this structured peer review process can be found at *https://www.regulations.gov* under Docket No. FWS–R3–ES–2026–2811. We incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this finding.

Orangefin Madtom

Previous Federal Actions

On April 20, 2010, we received a petition from CBD, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, West Virginia Highlands Conservancy, Tierra Curry, and Noah Greenwald to list 404 aquatic, riparian, and wetland species, including orangefin madtom, as an endangered or threatened species and to designate critical habitat concurrent with listing under the Act. On September 27, 2011, we published a 90-day finding (76 FR 59836) that the petition contained substantial information indicating listing may be warranted for the species. This document constitutes our 12-month finding on the April 20, 2010, petition to list orangefin madtom under the Act.

Summary of Finding

The orangefin madtom is a small, slender-bodied fish in the catfish family, Ictaluridae. Originally observed in the upper Roanoke River, Virginia (generally considered the geographic core for the species), the orangefin madtom has since been documented in the Dan River, Pigg River, Mayo River, Smith River and James River systems in Virginia and North Carolina. The upper Roanoke, Pigg, Dan, Mayo, and Smith River systems represent the species' historical range. Orangefin madtoms were discovered in 1951 in the upper James River system and are likely the result of an introduction (likely from a bait bucket) from individuals collected from the upper Roanoke River, which is supported by population genetic analyses.

Orangefin madtoms are primarily found in fast-flowing sections of small to large creeks, streams, and rivers with cobble substrate that are free of sand and silt. Orangefin madtoms utilize the interstitial spaces between cobble substrate for shelter and spawning. They feed on small aquatic insects, including flies, mayflies, hydropsychid caddisflies, and midges. Orangefin madtom viability depends on there being a sufficient number and distribution of healthy populations to ensure that the species can withstand annual variation in its environment (*i.e.,* resiliency), catastrophes (*i.e.,* redundancy), and novel biological and physical changes in its environment (*i.e.,* representation).

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the orangefin madtom, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. The primary threats affecting the orangefin madtom's biological status include water pollution, sedimentation, dams, and extreme flooding and drought events.

To determine whether the orangefin madtom is in danger of extinction throughout all or a significant portion of its range, we reviewed the threats, the responses to those threats (including any cumulative effect of the threats), and any amelioration of the threats associated with regulatory or conservation measures. We began by determining the scale that is biologically appropriate for a classification determination for the orangefin madtom. For assessing resiliency of the orangefin madtom, we divided the range into 6 river systems which were further divided into smaller HUC–10 AUs, resulting in 17 AUs within the 6 broader river systems. We determined the scale that is biologically appropriate for a classification determination is the six river systems because these basins are areas with similar ecological settings, and differing genetics. Individuals of the species are likely to interact with each other more frequently within river systems than across river systems. In addition, at this largest unit scale (*i.e.,* river system), we can assess whether there are multiple resilient populations in a geographic distribution that can help guard against losses from catastrophic events or provide sources of adaptive capacity. In summary, river systems are the units that provide the appropriate scale to assess extinction risk and potential differences in regulatory status across the orangefin madtom's range.

We then evaluated whether the orangefin madtom has a similar near-term risk of extinction in all areas across its range by assessing its extinction risk within each river system. We determined that the orangefin madtom's near-term extinction risk varies across its range such that its regulatory status may be different in a portion of the range.

We found the orangefin madtom is not in danger of extinction in the Upper Roanoke, James, Pigg, and Dan River systems. All but one AU are highly to moderately resilient with stable population trends. Orangefin madtoms in AUs with high or moderate resiliency are characterized by being abundant to somewhat abundant with increasing or stable population trends. Moderate to high resiliency indicates that the species has the ability to withstand stochastic events and the threats we identified. In assessing redundancy within each of these systems, while there is a risk for catastrophic events (*e.g.,* chemical spills and extreme flooding or drought events), we found it unlikely an entire river system would be affected at one time. Further, redundancy has increased with the expansion in the James River system.

Lastly, representation is likely similar to historical levels given the similar range. Orangefin madtoms exhibit traits that contribute both positively and negatively to adaptive capacity. Positive traits include the species' ability to move and spread out within suitable habitat and to disperse away from altered habitats. Therefore, the threats acting in the near-term on the species in the Upper Roanoke, James, Pigg, and Dan River systems are not of a magnitude to increase the risk of extinction to the point where the species is in danger of extinction in any of those river systems and these AUs are not included in the portion being evaluated for the endangered classification. The Smith and Mayo River systems, however, contain smaller populations with isolated distributions and decreasing population trends which are more vulnerable to the threats we identified. Therefore, we found orangefin madtom may be in danger of extinction in a portion of the range—the Smith and Mayo River systems.

For this portion of the range where the orangefin madtom may be in danger of extinction, we first addressed whether it is ''significant.'' For the purposes of this analysis when considering whether a portion is ''significant,'' we considered its conservation value for the species. To quantify the amount of occupied stream habitat within each river system, we measured the linear distance between the farthest upstream and downstream orangefin madtom records (using all known records). The Smith and Mayo River system portion represents only a small proportion of occupied stream habitat (12 percent) for the orangefin madtom. Also, while the Smith and Mayo River system portion contains two of the six river systems, the portion does not possess any high value or unique habitat because the habitat features are similar to the features found in the other river systems in the range.

As a result of our finding that this portion of the range is not ''significant,'' we do not need to determine whether the orangefin madtom is in danger of extinction throughout this portion of the range. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction throughout a significant portion of its range. This does not conflict with the courts' holdings in *Desert Survivors* and *CBD* v. *Jewell,* because, in reaching this conclusion, we did not apply the aspects of the 2014 SPR Policy, including the definition of ''significant,'' that those court decisions held to be invalid. Because the orangefin madtom is not in danger of extinction in part of the range (Upper Roanoke, James, Pigg, and Dan River systems), the species also logically cannot be in danger of extinction throughout all of its range.

Thus, after assessing the best scientific and commercial data available, we conclude that the orangefin madtom is not in danger of extinction throughout all or a significant portion of its range. Therefore, we proceed with determining whether the orangefin madtom is likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range.

We predicted future resiliency based on the projected percent forest and wetland loss under two climate scenarios (*i.e.,* ''lower impact'' and ''higher impact'' scenarios) at two timesteps: years 2040 and 2075. We used the FORE–SCE B2 (lower impacts) and A2 (higher impacts) land use scenarios to calculate the percent change in forest and wetland cover within each AU as a proxy for changes in water quality. While the FORE–SCE model projects land use changes under two future climate scenarios, it does not account for other potential impacts (*e.g.,* changes in timing and intensity of precipitation, warming temperatures, etc.). Therefore, we relied on RCPs to qualitatively analyze and discuss potential impacts not accounted for in the FORE–SCE model. RCP4.5 is a lower impacts scenario that would relate most closely with our B2 scenario in FORE–SCE, and RCP8.5 is a higher impacts scenario that would relate most closely with our A2 scenario in FORE–SCE.

Similar to current condition, in assessing redundancy in the future, we considered the potential effects of chemical spills and extreme flooding or drought events. We evaluated whether the orangefin madtom has a similar risk of extinction within the foreseeable future in all areas across its range by assessing its extinction risk within each river system. Similar to our evaluation of current condition, we determined the river system is the biologically appropriate scale to evaluate future condition. Our review indicated that the orangefin madtom's extinction risk varies across its range such that its regulatory status may be different in a portion of the range.

We found the orangefin madtom is not likely to become in danger of extinction within the foreseeable future in the Upper Roanoke and James River systems. All but one AU within these river systems is projected to have high or moderate resiliency under all future scenarios. The moderate to high resiliency of AUs within each river system indicates that the species has the ability to withstand stochastic events and the threats we identified. While there is a risk for catastrophic drought, flooding, or large pollution events to occur, it is unlikely that these events would impact the entire species' range (or river system) at the same time. Overall, while water pollution, sedimentation, dams, and flooding/drought are predicted to affect the orangefin madtom, given the projected number of highly to moderately resilient populations with stable population trends within the Upper Roanoke and James River systems, the threats are not of a magnitude to increase the risk of extinction to the point where the species is likely to become in danger of extinction within the foreseeable future; therefore, they are not included in the portion being evaluated for the threatened classification. Because there is a part of the range in which the orangefin madtom is not threatened, it is necessarily not likely to become in danger of extinction within the foreseeable future throughout all of its range.

The Pigg, Smith, Mayo, and Dan River systems, however, are projected to have smaller populations with isolated distributions and decreasing population trends under the 2070 higher impact scenario. Therefore, we found orangefin madtom may be likely to become in danger of extinction within the foreseeable future throughout a portion of the range (*i.e.,* the Pigg, Smith, Mayo, and Dan River systems).

For the Pigg, Smith, Mayo, and Dan River portion of the range, we first addressed whether it is ''significant.'' For the purposes of this analysis when considering whether a portion is ''significant,'' we considered its conservation value for the species. The Pigg, Smith, Mayo, and Dan River systems portion represents only a small proportion of occupied stream habitat (35 percent) for the orangefin madtom. Also, the portion does not possess high value or unique habitat because the habitat features are similar to the features found in the other river systems in the range.

As a result of our finding that this portion of the range is not ''significant,'' we do not need to determine whether the orangefin madtom is likely to become in danger of extinction within the foreseeable future throughout this portion of the range. Therefore, no portion of the species' range provides a basis for determining that the species is likely to become in danger of extinction within the foreseeable future throughout a significant portion of its range. This does not conflict with the courts' holdings in *Desert Survivors* and *CBD* v. *Jewell,* because, in reaching this conclusion, we did not apply the aspects of the 2014 SPR Policy, including the definition of ''significant,'' that those court decisions held to be invalid. Because the orangefin madtom is not likely to become in danger of extinction within the foreseeable future in part of the range (Upper Roanoke and James River systems), the species also logically cannot be likely to become in danger of extinction within the foreseeable future throughout all of its range. Thus, after assessing the best scientific and commercial data available, we conclude that the orangefin madtom is not likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range.

Based on the best scientific and commercial data available, we determine that the orangefin madtom does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we find that listing the orangefin madtom is not warranted at this time. A detailed discussion of the basis for this finding can be found in the orangefin madtom species assessment form and other supporting documents on *https://www.regulations.gov* under Docket No. FWS–R5–ES–2026–2807 (see **ADDRESSES**, above).

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing actions under the Act, we solicited independent scientific reviews of the information contained in the orangefin madtom SSA report. We sent the SSA report to four independent peer reviewers and received four responses. Results of this structured peer review process can be found at *https://www.regulations.gov* under Docket No. FWS–R5–ES–2026–2807. We incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this finding.

Tall Western Penstemon

Previous Federal Actions

On December 4, 2020, we were petitioned to list the tall western penstemon as an endangered species under the Act by CBD and Native Plant Society of Oregon. On October 19, 2022, we published a 90-day finding in the **Federal Register** that the petition presented substantial scientific or commercial information indicating that multiple species, including the tall western penstemon, may be warranted for listing under the Act (87 FR 63468). This document constitutes our 12-month finding on the December 4, 2020, petition to list tall western penstemon under the Act.

Summary of Finding

Tall western penstemon is a long-lived tall herbaceous perennial forb in the Plataginaceae (formerly Scrophulariaceae) family with purplish-blue tubular flowers. It is endemic to the northern Willamette Valley and southern Puget Trough region of Oregon and Washington. It is a narrow endemic species that occurs in small, isolated populations ranging in size from roughly 100 to 6,000 flowering stems. The species is found primarily in wet prairie but also in other seasonally wet habitats, including openings in forested Oregon white oak (*Quercus garryana*) and Oregon ash (*Fraxinus latifolia*) wetlands, and open riparian forests. Tall western penstemon was presumed extinct but rediscovered in 2008 on the Tualatin River National Wildlife Refuge (NWR) in Oregon (Christy and Maffitt 2018, p. 8). The plants are seasonally dormant in the winter when their habitat is typically flooded. The basal leaves emerge in the spring as early as March or April, with stem elongation from April to May. In late May, flowering begins and continues through August, along with capsule (seed pod) development. In August to September, capsules mature and split to allow seed dispersal, with some capsules remaining intact with seeds on stems until the following growing season. Individual plants can have from 1 to 100 or more flowering stems, each with 10 to 80 flowers per stem. Individual plants appear to be relatively long-lived and have the capacity to flower and produce seeds every year. Demographic data for this species are not available; however, individual plants have been observed for multiple years in a row, and other penstemon species are known to survive for greater than 13 years with an average of 9–10 years. Tall western penstemon reproduces both sexually and asexually. Asexual, vegetative reproduction occurs via layering, where lateral stems root at the nodes forming dense mats of genetically identical plants. Sexual reproduction occurs when flowers are successfully pollinated, forming capsule fruits and seeds that then disperse and germinate.

There are currently 21 populations of tall western penstemon, including 5 extant populations (historical populations that continue to exist today) and 16 reintroduced populations. Nine of the reintroduced populations are newly established sites planted in 2025, some of which are already documented to be flowering. In addition, three plant nurseries maintain tall western penstemon plants and store native seed in storage for future population restoration and reintroduction efforts, one of which (Metro Native Plant Center) also established a seed amplification bed in 2025. Two additional introduced sites in southern Benton County, Oregon, each support only 3–4 individual plants. Due to their small size and isolation from all other tall western penstemon populations, these sites are not considered viable populations. All recognized populations of tall western penstemon occur on protected lands or areas managed for wet prairie habitat, conditions that support the tall western penstemon.

We have carefully assessed the best scientific and commercial data available regarding the past, present, and future threats to the tall western penstemon, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. The primary threats affecting the tall western penstemon's biological status include invasive plant species, woody vegetation encroachment, habitat destruction and fragmentation, small population sizes, and the alteration of seasonal wetland dynamics. We also examined other potential threats including disease and herbivory, but there are no documented instances of herbivory, disease, seed predation, or pathogens affecting this species.

Currently, there are several conservation measures that are ameliorating the threats to the tall western penstemon. All populations of tall western penstemon occur on lands protected and/or managed by the Washington Department of Natural Resources (WDNR), the Tualatin River National Wildlife Refuge (NWR), or properties owned and managed by the regional government for the Oregon portion of the Portland metropolitan area (Metro). WDNR, Tualatin River NWR, and Metro each implement a range of habitat management actions via established resource management plans that support tall western penstemon habitat and target threats to the species such as herbicide treatments for invasive species and mowing to curb woody vegetation encroachment. Tall western penstemon population augmentations and reintroductions have occurred in the past and are planned for the future, enhancing the species' redundancy across its range. In 2025, nine new sites and a seed amplification bed were planted within the species' historical range, with approximately half confirmed to be flowering in the same year. Since the species' rediscovery in 2008, focused efforts in propagation and seed collection have supported these restoration initiatives. Two aforementioned nurseries, Metro Native Plant Center and Corvallis Plant Material Center, both maintain plant material and seed stock, and Metro Native Plant Center is also engaged in ongoing population augmentation and reintroductions.

At this time, the best scientific and commercial data available indicate that the threats influencing the tall western penstemon have not significantly affected its viability. We evaluated the resiliency, redundancy, and representation of the tall western penstemon using three demographic, three habitat, and one conservation metric. Results of our current condition analysis showed one population in high condition, five populations in moderate condition, three populations in low condition, and three populations in unknown condition due to limited data. The broad distribution of populations with high or moderate resiliency across the range provides redundancy and protection against catastrophic events that may impact the species' viability, as well as help the species cope with stochastic changes in its environment. While the tall western penstemon has a lower adaptive capacity due to its limited ability to disperse and its low genetic diversity, the species' clonal growth form and long-lived perennial life history confer moderate adaptive capacity allowing the species to adjust to ecological challenges.

In assessing whether the tall western penstemon is in danger of extinction now or likely to become in danger of extinction in the foreseeable future in any significant portion of the species' range, we identified two portions of the range for further assessment: One that contained all of the Oregon populations (the Oregon unit) and one that contained the Washington population (the Washington unit).

We first assessed the Oregon unit. All populations in the Oregon unit exist on protected and managed land; therefore, there is little to no threat of development or land conversion. There are three known seed banks that maintain a genetic bank of seeds and bareroot plants, one of which currently contributes to population augmentation and reintroductions. Past and ongoing successful establishment of new populations of tall western penstemon in Oregon boosts the species' redundancy in the Oregon unit and lowers the risk of a single catastrophic event would impact all Oregon populations of tall western penstemon. The likelihood for additional future reintroductions and population augmentations would further boost redundancy and also help offset low gene flow resulting from isolation among populations by increasing connectivity across the landscape. The species is not at risk of overutilization and is not negatively impacted by any diseases. Although the threat of woody vegetation encroachment and invasive plant species remains, activities including (but not limited to) targeted herbicide use and mowing occur per the ongoing management plans in place at sites containing tall western penstemon. In addition, population augmentations and reintroductions alleviate these risks, which increases population resiliency and thus improves overall viability of the species. Overall, we found the tall western penstemon is not in danger of extinction in the near term in the Oregon unit; therefore, it is not included in the portion being evaluated for the endangered classification.

However, we found that the Washington unit may be in danger of extinction as it contains only one small, genetically isolated population with low resiliency that occupies a small habitat area. For the Washington unit, we first addressed whether it is ''significant.'' The Washington unit comprises only six percent of the species range and does not occur in a unique habitat type. It contains one population encompassing a small, occupied habitat area. For these reasons, we do not consider the Washington unit to be significant, and thus, we do not need to determine whether the species is in danger of extinction throughout this portion of the range.

Thus, we proceed with determining whether the species is likely to become endangered within the foreseeable future throughout a significant portion of its range (*i.e.,* threatened). Our analysis of four future scenarios, two through 2040 and two from 2040–2069, encompass the best scientific and commercial data available for probable future projections of the impact of threats to the tall western penstemon and the species' resiliency. Scenario 1 considers tall western penstemon viability through 2040 as threats are reduced with the continuation of ongoing conservation efforts by land managers in existing resource management plans, and scenario 2 considers species viability if current primary threats (competition with invasive plants and woody vegetation encroachment) increase through 2040 without any species-specific conservation efforts. In both scenarios, all populations had sufficient resiliency with populations of moderate resiliency distributed across the range, though some may have lower resiliency in scenario 2. While the alteration of seasonal wetland dynamics was introduced in scenarios 3 and 4, only one population was projected to be extirpated, which reduces the species' redundancy and genetic diversity conferred by that population. However, populations of moderate resiliency are still projected to occur across the landscape in these scenarios, suggesting the species will maintain representation throughout its range despite the influence of threats.

While altered wetland dynamics, invasive species, and woody vegetation encroachment are affecting the tall western penstemon, all populations are on protected lands managed for conservation of habitat. Targeted actions currently being implemented to improve species' habitat and mitigate threats to the species include invasive plant control by herbicides and manual methods, removal of woody vegetation, prescribed fire, mowing and population augmentations and reintroductions using nursery-grown and seed-amplified native plant material. In the Oregon unit, sufficiently resilient populations are present on the landscape to provide for redundancy. In addition, ongoing conservation actions continue to help increase connectivity and resiliency among populations in the Oregon unit. Populations in the Oregon unit are not in danger of overutilization or disease, and the threats that impact populations are being mitigated by conservation measures such that they do not rise to the magnitude necessary to put the species at risk of extinction within the foreseeable future. However, the Washington unit contains a much smaller single population that is genetically and geographically isolated, and therefore more vulnerable to future catastrophic events. In summary, we find that the tall western penstemon is not likely to become in danger of extinction within the foreseeable future in the Oregon unit, but it may be in danger of extinction within the foreseeable future throughout a portion of the range—the Washington unit.

As discussed above, the Washington unit portion of the range is not a significant portion of the range, as the Washington unit comprises only 6 percent of the species range, contains a single population encompassing a small occupied habitat area and does not occur in a unique habitat type. As a result of our finding that this portion of the range is not ''significant,'' we do not need to determine whether the tall western penstemon is likely to become in danger of extinction within the foreseeable future throughout this portion of the range.

In summary, we evaluated whether the tall western penstemon is endangered or threatened throughout a significant portion of its range. We did not find any portion of the tall western penstemon's range for which both (1) the portion is ''significant''; and (2) the species is in danger of extinction in that portion, either now or likely to become so within the foreseeable future. Thus, after assessing the best available scientific and commercial data available, we conclude that the tall western penstemon is not in danger of extinction throughout a significant portion of its range, or likely to become so within the foreseeable future.

Based on the best scientific and commercial data available, we determine that the tall western penstemon does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we find that listing the tall western penstemon is not warranted at this time. A detailed discussion of the basis for this finding can be found in the tall western penstemon species assessment form and other supporting documents on *https://www.regulations.gov* under Docket No. FWS–R1–ES–2026–2808 (see **ADDRESSES**, above).

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing actions under the Act, we solicited independent scientific reviews of the information contained in the tall western penstemon SSA report. We sent the SSA report to six independent peer reviewers and received two responses. Results of this structured peer review process can be found at *https://www.regulations.gov* under Docket No. FWS–R1–ES–2026–2808. We incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this finding.

New Information

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the Big Bar hesperian, Chesapeake logperch, Kirtland's snake, orangefin madtom, Shasta chaparral, Shasta hesperian, Shasta sideband, tall western penstemon, or Wintu sideband to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor these species and make appropriate decisions about their conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

References

A complete list of the references used in these petition findings is available in the relevant species assessment form, which is available on the internet at *https://www.regulations.gov* in the appropriate docket (see **ADDRESSES**, above) and upon request from the appropriate person (see **FOR FURTHER INFORMATION CONTACT**, above).

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.*).

Brian Nesvik,

Director, U.S. Fish and Wildlife Service.

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