

(f) The Contractor shall maintain in a current status throughout the life of the contract the project labor agreement entered into pursuant to this clause.

(g) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (g), in all subcontracts.

(End of Provision)

[FR Doc. E9-16619 Filed 7-10-09; 11:15 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS-R9-IA-2009-0016; 96100-1671-9FLS-B6]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List 14 Parrot Species as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list as threatened or endangered under the Endangered Species Act of 1973, as amended (Act), the following 14 parrot species: Blue-throated macaw (*Ara glaucogularis*), blue-headed macaw (*Primolius couloni*), crimson shining parrot (*Prosopeia splendens*), great green macaw (*Ara ambiguus*), grey-cheeked parakeet (*Brotogetis pyrrhoptera*), hyacinth macaw (*Anodorhynchus hyacinthinus*), military macaw (*Ara militaris*), Philippine cockatoo (*Cacatua haematuropygia*), red-crowned parrot (*Amazona viridigenalis*), scarlet macaw (*Ara macao*), thick-billed parrot (*Rhynchopsitta pachyrhyncha*), white cockatoo (*Cacatua alba*), yellow-billed parrot (*Amazona collaria*), and yellow-crested cockatoo (*Cacatua sulphurea*). The thick-billed parrot is listed as an endangered species under the Act throughout its range. As such, we will not be addressing it further as part of this petition. We have also previously determined that the blue-throated macaw warrants listing in response to a 1991 petition and has been a candidate species since. Because we have recently re-evaluated the status of this species as part of our 2008 Annual Notice of Review, we will not address it further as part of this petition. We find that the petition presents substantial scientific

or commercial information indicating that listing the remaining 12 species of parrots may be warranted. Therefore, with the publication of this notice, we are initiating a status review of these 12 species of parrots to determine if listing is warranted. To ensure that the status reviews are comprehensive, we are soliciting scientific and commercial data regarding these 12 species. Additionally, we are seeking any recent information concerning the blue-throated macaw so that it can be taken into consideration in our evaluation of its status when we do our re-evaluation as part of the 2009 Annual Notice of Review.

DATES: We made the finding announced in this document on July 14, 2009. To allow us adequate time to conduct the 12-month status review, we request that we receive information on or before September 14, 2009.

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

- Federal rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R9-IA-2009-0016; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more information).

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, Chief, Branch of Listing, Endangered Species, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, Virginia 22203; telephone 703-358-2105. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Information Solicited

When we make a finding that substantial information is presented to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on the following 12 parrot species: Blue-headed macaw (*Primolius couloni*), crimson shining parrot (*Prosopeia splendens*), great green macaw (*Ara ambiguus*), grey-cheeked

parakeet (*Brotogetis pyrrhoptera*), hyacinth macaw (*Anodorhynchus hyacinthinus*), military macaw (*Ara militaris*), Philippine cockatoo (*Cacatua haematuropygia*), red-crowned parrot (*Amazona viridigenalis*), scarlet macaw (*Ara macao*), white cockatoo (*Cacatua alba*), yellow-billed parrot (*Amazona collaria*), and yellow-crested cockatoo (*Cacatua sulphurea*). We request scientific and commercial information from the public, concerned governmental agencies, the scientific community, industry, or any other interested parties on the status of the 12 parrot species that will be addressed as part of this petition, as well as the blue-throated macaw (*Ara glaucogularis*), throughout their range, including but not limited to:

(1) Information on taxonomy, distribution, habitat selection and trends (especially breeding and foraging habitats), diet, and population abundance and trends (especially current recruitment data) of these species.

(2) Information on the effects of habitat loss and changing land uses on the distribution and abundance of these species and their principal prey species over the short and long term.

(3) Information on the effects of other potential threat factors, including live capture and hunting, domestic and international trade, predation by other animals, and diseases of these species or their principal prey over the short and long term.

(4) Information on management programs for parrot conservation, including mitigation measures related to conservation programs, and any other private, tribal, or governmental conservation programs that benefit these species.

(5) Information relevant to whether any populations of these species may qualify as distinct population segments.

(6) Information on captive populations and captive breeding and domestic trade of these species in the United States.

We will base our 12-month finding on a review of the best scientific and commercial information available, including all information received during the public comment period. Please note that comments merely stating support or opposition to the actions under consideration without providing supporting information, although noted, will not be part of the basis of this determination, as section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) directs that determinations as to whether any species is a threatened or endangered species shall be made "solely on the basis of the best scientific

and commercial data available.” At the conclusion of the status review, we will issue the 12-month finding on the petition, as provided in section 4(b)(3)(B) of the Act.

You may submit your comments and materials concerning this status review by one of the methods listed in the **ADDRESSES** section.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. If you submit hardcopy information that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Information and materials we receive, as well as supporting documentation we used in preparing this 90-day finding, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Branch of Listing (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files at the time we make the determination. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of this finding promptly in the **Federal Register**.

The Service’s regulations implementing the 90-day petition finding provisions of the Act define “substantial scientific or commercial information” as “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species.

We base this finding on information provided by the petitioner that we determined to be reliable after reviewing sources referenced in the petition. We evaluated that information in accordance with 50 CFR 424.14(b). Our

process for making this 90-day finding under section 4(b)(3)(A) of the Act and 50 CFR 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the “substantial information” threshold.

On January 31, 2008, the Service received a petition dated January 29, 2008, from Friends of Animals, as represented by the Environmental Law Clinic, University of Denver Sturm College of Law, requesting we list 14 parrot species under the Act. The petition clearly identified itself as a petition and included the requisite identification information required at 50 CFR 424.14(a).

One of the 14 species included in the petition received from Friends of Animals, the thick-billed parrot (*Rhynchopsitta pachyrhyncha*), is already listed as “Endangered” in its entirety under the Act, despite the appearance from the Code of Federal Regulations (CFR) that only a distinct population segment (DPS) of the species outside of the United States is listed. In an April 30, 2009, memorandum addressed to the Service’s Director, entitled, “Status of the thick-billed parrot, wood bison, margay, and northern swift fox under the Endangered Species Act,” the U.S. Department of the Interior’s Assistant Solicitor for Fish and Wildlife provided an explanation for why this species is currently protected in its entirety and is not listed as a distinct population segment under the Act. A summary of this explanation is provided below.

The thick-billed parrot was initially provided protection under the Endangered Species Conservation Act (ESCA) – the statute that immediately preceded the current Endangered Species Act – by its inclusion on the list of Endangered Foreign Fish and Wildlife, June 2, 1970 (see 35 FR 8491). The list included a column labeled, “Where found,” which indicated, “Mexico, United States” for the thick-billed parrot. The introduction to the list explained that species were not included on the list unless they were endangered throughout all of their range and that “[t]he ‘Where Found’ column is a general guide to the native countries or regions where the named animals are found” (see 35 FR 8491, June 2, 1970; 50 CFR part 17, Appendix A (1971)). Consistent with the direction of the ESCA, the thick-billed parrot was a species that the Secretary found to be “threatened with worldwide extinction” (see 35 FR 8491, June 2, 1970). Therefore, this document indicates that the Service’s intent was to list the thick-billed parrot in its entirety, with all

individuals of the species covered under the applicable provisions of the ESCA.

In 1973, the current Endangered Species Act was passed, and in accordance with its section 4(c)(3), the species lists under the ESCA would be republished as the initial Endangered Species Act list of threatened and endangered wildlife, without public hearing, notice, or an opportunity for public comment. In 1974, the first lists of endangered and threatened species appeared in the CFR and included a “Where found” column like the 1970 list; the text explained that the geographic areas in this column were informational only and not a substantive part of the listing: “[t]he ‘where found’ column is provided for the convenience of the public, is not exhaustive, is not required to be given by law, and has no legal significance” (50 CFR section 17.11, 1974). Thus, the intent under the previous ESCA that the thick-billed parrot was listed in its entirety and that all individuals of the species were covered under the law was retained under the new Endangered Species Act list.

In 1979, the Service published a notice in the **Federal Register** that announced a change in the listing status for the thick-billed parrot and 6 other species. The notice stated that these species contained populations within the United States and described ESCA’s provision for consultation with the States prior to listing a species (see 44 FR 43705, July 25, 1979). The notice stated that the Service had failed to consult with the governors of the States of the U.S. populations for these species, and therefore, the Service concluded that the U.S. populations were not covered under the Act. The following year, the list of endangered and threatened wildlife in the CFR was amended to indicate that only populations of the seven species outside the United States were listed under the ESA, and for the first time the CFR indicated that the listed entity for each species or subspecies was a DPS. Although the 1979 notice claimed to change the listing status of the thick-billed parrot and the other 6 species, the notice was without legal effect, because the Service did not go through the rule-making procedures required under section 553 of the Administrative Procedure Act (APA) and section 4(b)(4) of the Act. In addition, failure to consult with a State under the ESCA did not invalidate the species’ legal status under the Act. In 1973 Congress validated the lists from the prior statutes through its explicit incorporation of them into the Act. The thick-billed parrot, listed in its entirety under the ESCA in 1969, has,

therefore, maintained legal protection under the current Act. Thus, in spite of the 1979 **Federal Register** notice and the current appearance of the CFR, the thick-billed parrot has been listed as "Endangered" in its entirety since its first appearance on the endangered-species lists. Since the thick-billed parrot is already listed as an endangered species throughout its range, including the United States population, we believe the action requested in the petition with regards to the thick-billed parrot has previously been taken. Therefore, our statutory obligation to further address this issue is moot.

Further, a second species of the 14 species included in the petition received from Friends of Animals, the blue-throated macaw (*Ara glaucogularis*), was previously petitioned by the International Council for Bird Preservation (ICBP). On May 6, 1991, we received a petition (hereafter referred to as the 1991 petition) from ICBP, to add 53 species of foreign birds to the List of Endangered and Threatened Wildlife, including the blue-throated macaw. In response to the 1991 petition, we published a positive 90-day finding on December 16, 1991 (56 FR 65207), for all 53 species, and announced the initiation of a status review. On March 28, 1994 (59 FR 14496), we published a 12-month finding on the 1991 petition, along with a proposed rule to list 30 African birds under the Act. In that document, we proposed listing 15 of the 53 bird species included in the 1991 petition, and announced our finding that listing the remaining 38 species from the 1991 petition, including the blue-throated macaw, was warranted but precluded by higher priority listing actions. We made subsequent warranted-but-precluded findings for all outstanding foreign species from the 1991 petition, including the blue-throated macaw, as published in our Annual Notice of Review on May 21, 2004 (69 FR 29354), and April 23, 2007 (72 FR 20184).

We have reviewed the listing status of the blue-throated macaw (*Ara glaucogularis*), most recently in our 2008 Annual Notice of Findings on Resubmitted Petitions for Foreign Species (73 FR 44062; July 29, 2008), as required under section 4(b)(3)(C)(i) of the Act. That notice describes our resubmitted petition findings for 50 foreign species for which we had previously found listing to be warranted but precluded. In that notice, we determined that warranted but precluded status remained appropriate for the blue-throated macaw and assigned the species a listing priority number of 8. The results of our next

evaluation of the status of this species will be published in the 2009 Annual Notice of Findings on Resubmitted Petitions for Foreign Species. As such, we are seeking any recent information concerning this species that can be used in that evaluation. However, since we have already made a finding that listing is warranted for the blue-throated macaw in response to the 1991 petition and subsequent re-evaluations as part of the Annual Notice of Review, we have determined that we have previously addressed the action requested in the current petition with regards to this species. As such, our statutory obligation to further address this issue is moot.

Therefore, this finding addresses the following 12 species of parrots named in the petition: Blue-headed macaw, crimson shining parrot, great green macaw, grey-cheeked parakeet, hyacinth macaw, military macaw, Philippine cockatoo, red-crowned parrot, scarlet macaw, white cockatoo, yellow-billed parrot, and yellow-crested cockatoo.

Information Presented in the Petition

The blue-headed macaw is found in eastern Peru, extreme western Brazil, and northwestern Bolivia, at the edge of humid lowland evergreen forests, along rivers, and in openings in the forest canopy (International Union for Conservation of Nature and Natural Resources (IUCN) 2008k). The petition notes that the greatest threat to the species is the pet trade as the species is commonly found as caged pets in Brazilian markets. In addition, the petition asserts that the rarity of the species in combination with its low reproductive rate has made the species even more popular with collectors.

The crimson shining parrot is endemic to the islands of Fiji where it is found in forests, on agricultural lands, and around human habitation (IUCN 2008l). The petition claims that the primary threats to the species are the pet trade and habitat destruction. The petition asserts that a decline in the mangrove forest area in the near future will place habitat pressure on the species.

The great green macaw is found in parts of Colombia, Costa Rica, Ecuador, Honduras, Nicaragua, and Panama, and inhabits humid lowlands and foothills mainly below 600 meters (m) (1,969 feet (ft)) (IUCN 2008d). The petition notes that the largest factor affecting the species is the loss of habitat throughout its range as a result of banana plantations, cattle ranching, and logging. Furthermore, the petition states that another major factor impacting the

species is the pet trade particularly in the country of Nicaragua.

The grey-cheeked parakeet is found in southwest Ecuador and extreme northwest Peru, and primarily inhabits deciduous forests dominated by *Ceiba trichistandra* (IUCN 2008g). The petition claims that the greatest threat to the survival of the species is trapping for the pet trade. In addition, the petition notes habitat destruction, through logging, agricultural conversion, and grazing, as another threat to the continued existence of the species.

The hyacinth macaw is found primarily in Brazil, with small occurrences in east Bolivia and Paraguay (IUCN 2008c). The species inhabits floodplains and savanna adjacent to tropical forests, shrubland, palm-stands, and palm-savannas (IUCN 2008c). The petition asserts that illegal trapping for the pet trade is the greatest threat to the species, and notes this threat, according to species experts, as the primary reason for the rapid population decline of the species. The petition also states that the species is facing pressure from habitat loss due to cattle ranching and hydroelectric development, as well as local hunting for food and feathers.

The military macaw occupies a highly fragmented range from Mexico to Argentina, inhabiting humid lowland forest and adjacent clearings, wooded foothills, and canyons (IUCN 2008f). The petition claims that habitat loss and the pet trade are the most significant threats to the species.

The Philippine cockatoo is endemic to the Philippines and may be restricted to lowland primary or secondary forests, within or adjacent to riparian or coastal areas with mangroves (IUCN 2008i). The petition states that habitat loss and the pet trade are the greatest threats to the continued survival of the species. The petition asserts that trapping on the islands is very common due to the high price paid for each bird on the international market. The petition also claims that widespread deforestation and destruction of native mangroves have contributed to the population decline of the species.

The red-crowned parrot is native to Mexico and is currently found in northeastern Mexico, inhabiting lush areas in arid lowlands and foothills, particularly gallery forests, deciduous woodlands, and dry, open, pine-oak woodlands on ridges up to 3,281 ft (1,000 m) (IUCN 2008b). The petition claims that the pet trade and habitat destruction are the greatest threats to the continued existence of the species. The petition states that trappers often destroy nests, sometimes even cutting

down the entire tree, in order to collect nestlings, leading to the loss of nest sites and site abandonment. Furthermore, the petition asserts that the remaining habitat of the species has been reduced due to the clearing of many gallery forests for agriculture and pasture land use.

The scarlet macaw is found throughout Central and South America, with an estimated range of approximately 2,586,885 square miles (m²) (6,700,000 square kilometers (km²)) (IUCN 2008e). The species prefers humid lowland evergreen forests and gallery woodland savannas, primarily near exposed river banks and clearings with large trees (del Hoyo *et al.* 1997, p. 421). The petition asserts that habitat destruction and captures for the pet trade are the greatest threats to the species. The petition claims that habitat destruction, as a result of forest clearing, settlement, and agriculture, is common throughout the species' range. The petition also states that anti-poaching enforcement is not keeping up with the demand for this species in the pet trade, where one bird can sell for over \$1,000 (U.S.).

The white cockatoo is endemic to several islands in North Maluku, Indonesia, and inhabits primary, logged, and secondary forests up to 2,953 ft (900 m) (IUCN 2008h). The species also occurs in mangroves, on plantations, and on agricultural land (IUCN 2008h). The petition claims that the greatest threats to the species are habitat destruction and the pet trade. The petition states that an increase in logging activity has decreased the availability of large trees suitable for nest sites throughout the species' range. In addition, the petition asserts that trapping of this species for the pet trade far exceeds the catch quota issued by the Indonesian government.

The yellow-billed parrot is primarily found in the wet areas of Jamaica, inhabiting wet limestone forests at elevations up to 3,937 ft (1,200 m) (IUCN 2008a). The petition lists two primary threats to the species: habitat destruction and the pet trade. The petition claims that the species' habitat, as well as nest sites, has been reduced due to logging and mining activities, and that trapping of this species for the pet trade is common.

The yellow-crested cockatoo is native to Timor-Leste and Indonesia, and inhabits forest, forest edge, scrub, and agricultural land (IUCN 2008j). The petition asserts that the significant decline in the population of the species is directly attributable to trapping for the pet trade. The petition cites evidence that suggests that the

international pet trade has placed the highest pressure on the wild population of the species. In addition, the petition claims that habitat loss, due to logging and agricultural conversion of forested lands, and the persecution of the species as a crop pest, has placed additional pressure on the remaining wild population.

Finding

On the basis of our review, which focused on the threats facing these parrot species, we find that the petition presents substantial scientific or commercial information indicating that listing may be warranted for the following 12 species of parrots: Blue-headed macaw, crimson shining parrot, great green macaw, grey-cheeked parakeet, hyacinth macaw, military macaw, Philippine cockatoo, red-crowned parrot, scarlet macaw, white cockatoo, yellow-billed parrot, and yellow-crested cockatoo. Therefore, we are initiating a status review to determine if listing any of these 12 species under the Act is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding these 12 species. Under section 4(b)(3)(B) of the Act, within 12 months after receiving a petition that is found to present substantial information indicating that the petitioned action may be warranted, we are required to make a finding as to whether listing the species is warranted, not warranted, or warranted but precluded by other pending listing proposals.

References Cited

A complete list of all references cited herein is available upon request from the U.S. Fish and Wildlife Service, Branch of Listing (see **FOR FURTHER INFORMATION CONTACT** section).

Author

The primary authors of this notice are staff members of the Division of Scientific Authority, U.S. Fish and Wildlife Service.

Authority

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

Dated: June 16, 2009.

Marvin E. Moriarty,

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

[FR Doc. E9-16354 Filed 7-13-09; 8:45 am]

BILLING CODE 4310-55-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

RIN 0648-AX86

Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Training Operations Conducted Within the Gulf of Mexico Range Complex

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS has received requests from the U.S. Navy (Navy) for authorizations for the take of marine mammals incidental to training and operational activities conducted by the Navy's Atlantic Fleet within the Gulf of Mexico (GOMEX) Range Complex for the period beginning December 3, 2009 and ending December 2, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take and requesting information, suggestions, and comments on these proposed regulations.

DATES: Comments and information must be received no later than August 13, 2009.

ADDRESSES: You may submit comments, identified by 0648-AX86, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Hand delivery or mailing of paper, disk, or CD-ROM comments should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225.

Instructions: All comments received are part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter NA in the required