

Issue 3: An expert comment was made that our use of the terms “prehistoric”, “historic”, and “recent” be further clarified in the final rule.

Our Response: In general, use of the identified terms in the final rule is as follows: prehistoric refers to information relating to conditions greater than roughly 200 years BP (*i.e.*, prior to extensive European settlement of the western United States), and recorded largely after the fact (*e.g.*, paleontological records); historic refers to information relating from roughly 200 to 50 years BP, and recorded primarily in the written tradition and at the time of occurrence; and recent refers to recorded information from the previous several decades. We recognize that the use of these terms is not absolute and some overlap between them is inevitable. As possible, we have added clarity to the use of these terms in the final rule, including the use of “past” when referring to all of these time periods combined, and “current” when referring to the contemporary time frame (*i.e.*, roughly the previous decade).

Issue 4: It was emphasized that plague is exotic to North American ecosystems and that native species are likely to be poorly adapted to this potential threat factor. In addition, epizootics (an outbreak of disease) in wild animals are often very difficult to detect, and disease can not easily be ruled out as a significant possible risk factor. Finally, the potential occurrence of plague in badgers from Idaho was identified, and it was suggested that disease may be implicated in other mammal declines in the Columbia Basin (*e.g.*, jack rabbits).

Our Response: We concur with these clarifications and continue to consider disease a significant potential threat to the Columbia Basin pygmy rabbit.

Issue 5: It was emphasized that a successful captive propagation program should be considered extremely important for the conservation and management of the Columbia Basin pygmy rabbit's unique genetic profile.

Our Response: We concur with this clarification. We will continue to support the development of an effective captive propagation program for the Columbia Basin pygmy rabbit in order to release the species into suitable habitats within their historic range so that viable subpopulations can become established and self-sustained in the wild.

Issue 6: It was suggested that the reasoning behind identifying threat factors B, C, and D for the Columbia Basin pygmy rabbit (*see below*) was somewhat circular; that is, if the population was not endangered from

other, long-term causal factors (A and E), these other factors (B, C, D) would not represent current threats to the population. In addition, it was presumed that protection for the Columbia Basin pygmy rabbit under the Act could have been considered sooner to lessen the potential influences and complications of any such “secondary” threat factors.

Our Response: We are required to fully consider all five threat factors identified by the Act, regardless of whether they may be proximate or ultimate causal factors in the status of a given taxon. In addition, with regard to potential conservation and recovery efforts, identifying and controlling these more immediate threat factors is often critical to the long term security of a taxon, and consideration of longer-term conservation measures needed to ultimately achieve recovery of the taxon is often of a less urgent nature.

It is appropriate to propose a species for listing at the time when sufficient information is available. For the Columbia Basin pygmy rabbit, when we had sufficient information we took the appropriate action.

Issue 7: Concern was expressed regarding whether the emergency listing process was needed, whether it was as thorough as the Service's normal listing process, and whether there are significant differences between the two listing pathways.

Our Response: Emergency listing is appropriate when there are significant and imminent risks to the well-being of a taxon. We determined that such risks existed for the Columbia Basin pygmy rabbit primarily due to the population's extremely small size, ongoing loss and significant decline of its identified subpopulations, genetic indicators suggesting the likelihood of inbreeding depression within the population, and the unproven nature of the proposed captive breeding and subsequent reintroduction efforts for the species.

The principal differences between emergency and normal listing processes are that, under emergency listing, the Secretary may make the protective measures of the Act immediately available to the species, upon a finding of a significant risk posed to its well-being, but the listing is in force for only 240 days, and there are certain exemptions regarding the requirements of public notification and input. The 240-day expiration of an emergency listing is the primary reason we attempt to concurrently, or shortly thereafter, publish a proposed rule to list the species, as was done for the Columbia Basin pygmy rabbit, and finalize the listing as soon as possible.

Issue 8: The suggestion was made that the status of the pygmy rabbit as a monotypic genus could be a consideration regarding the potential significance of its discrete populations.

Our Response: Currently, we do not consider the status of taxa above the species level in our DPS analyses, nor is it specifically identified in the joint Service/NMFS policy addressing the recognition of DPS. However, we do consider taxonomic delineations above the species level in our priority ranking system to address the status of proposed and candidate species for potential listing actions under the Act.

Issue 9: It was emphasized that, during our DPS analyses, careful consideration should be given to the appropriateness of using the same database to address both the discreteness and significance of a population in comparison to the remainder of its taxon, especially with regard to the available genetic data.

Our Response: We concur with this clarification and recognize that, in various instances, it may be appropriate to consider the same database to address both DPS criteria. As suggested by the genetic information for the Columbia Basin pygmy rabbit presented above, we recognize that it is important to note whether the available data can be used primarily to address the isolation (*i.e.*, discreteness) of a taxon's populations, the potential differentiation of a taxon's discrete populations from one another (*i.e.*, significance), or as the data may relate to both criteria. In addition to the genetic information, we recognize that other sources of data, including behavioral, physiological, morphological, genetic, and ecological, may also apply to a taxon's discreteness and significance simultaneously. We will continue to address these conservation issues with regard to the pygmy rabbit throughout the species historic range as any additional information may become available.

Additional Information and Evaluations

Comments and additional data received during the comment periods, as well as further analysis on our part, raised several issues addressed in this final rule. We address these issues more specifically below.

Additional information became available as follows:

(1) The common raven is a significant potential predator of the Columbia Basin pygmy rabbit, and we also discuss WDFW's past and ongoing management efforts to address this threat factor.

(2) Vandalism has the potential to result in direct or indirect take of