

Supplemental Report and Recommendations on Agricultural Burning, adopted on June 17, 2021.

(2) San Joaquin Valley Unified Air Pollution Control District Governing Board Resolution 21–06–12 “Approve Supplemental Report and Recommendations on Agricultural Burning,” adopted June 17, 2021.

(B) California Air Resources Board.

(1) Resolution 21–4 “San Joaquin Valley Agricultural Burning Assessment,” adopted on February 25, 2021.

(2) Letter dated June 18, 2021, from Richard W. Corey, Executive Officer, CARB, to Samir Sheikh, Executive Director, SJVUAPCD, concurring on the SJVUAPCD Supplemental Report and Recommendations on Agricultural Burning, approved June 17, 2021.

(ii) [Reserved]

[FR Doc. 2022–12387 Filed 6–15–22; 8:45 am]

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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

#### 45 CFR Part 1170

#### Nondiscrimination on the Basis of Disability in Federally Assisted Programs or Activities

**AGENCY:** National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Notification of interpretation.

**SUMMARY:** The National Endowment for the Humanities (NEH) provides notice of its interpretation of Section 504 of the Rehabilitation Act of 1973 and NEH’s implementing regulations, which prohibit discrimination on the basis of disability in federally assisted programs and activities. (In order to reflect currently accepted terminology, this notice uses the term “disability” rather than “handicap,” which appears in NEH’s Section 504 regulations. There is no substantive legal difference between the two terms for purposes of this notice.) This document clarifies that NEH interprets its Section 504 rule to permit recipients of Federal financial assistance from NEH who engage in the design, construction, or alteration of facilities to use the 2010 ADA Standards for Accessible Design (2010 Standards) in lieu of the Uniform Federal Accessibility Standards (UFAS). This notice does not require recipients to use the 2010 Standards.

**DATES:** This interpretation is effective June 16, 2022.

#### FOR FURTHER INFORMATION CONTACT:

Elizabeth Voyatzis, Deputy General Counsel, Office of the General Counsel, National Endowment for the Humanities, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; [gencounsel@neh.gov](mailto:gencounsel@neh.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 504 of the Rehabilitation Act of 1973 (Section 504)<sup>1</sup> prohibits, among other things, discrimination on the basis of disability in federally assisted programs or activities. NEH adopted a rule, codified at 45 CFR part 1170, to implement this prohibition for each recipient of Federal financial assistance from NEH and each program or activity that receives such assistance (the Section 504 rule).

Section 1170.33(a) of the Section 504 rule imposes a requirement with respect to the design and construction of facilities. New facilities must be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities must, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

Section 1170.33(b)(1) of the Section 504 rule provides further that, effective as of January 18, 1991, NEH shall deem the design, construction, or alteration of buildings in conformance with sections 3–8 of the Uniform Federal Accessibility Standards (UFAS)<sup>2</sup> to comply with § 1170.33(a).<sup>3</sup>

On September 15, 2010, the Department of Justice adopted new accessibility standards under the Americans with Disabilities Act of 1990 (ADA) for the design, construction, and alteration of state and local government facilities, places of public accommodation, and commercial facilities, called the 2010 ADA Standards for Accessible Design (the 2010 Standards).<sup>4</sup> Covered entities under the ADA must comply with the 2010 Standards for new construction or alterations that commence on or after March 15, 2012.<sup>5</sup>

NEH routinely provides Federal financial assistance to state and local

governments and entities that operate places of public accommodation and/or commercial facilities, within the meaning of the Americans with Disabilities Act of 1990, to support the design, construction, or alteration of facilities. In those cases, the recipient of Federal financial assistance must comply with the 2010 Standards pursuant to the ADA, but must also comply with UFAS to gain the benefit of the provisions of § 1170.33(b)(1) of the Section 504 rule. These duplicative requirements impose an unnecessary administrative burden on recipients without providing any benefit to individuals with disabilities.

In March 2011, pursuant to its authority to coordinate the implementation and enforcement of Section 504,<sup>6</sup> the Department of Justice advised Federal agencies that, until such time as they update their regulations implementing the Federally assisted provisions of Section 504, they may issue guidance to covered entities that permits them to use the 2010 Standards as an acceptable alternative to UFAS for new construction and alterations.<sup>7</sup>

##### II. Notice of Interpretation

Consistent with the foregoing guidance, this notification clarifies that NEH deems compliance with the 2010 Standards to be an acceptable means of complying with the accessibility requirements for new construction and alterations set forth in the Section 504 rule. Specifically, NEH interprets the requirement of § 1170.33(a) of the Section 504 rule, that covered facilities shall be “designed and constructed to be readily accessible to and usable by handicapped persons,” to permit the design, construction, or alteration of buildings in conformance with the 2010 Standards. Once a covered entity selects an applicable accessibility standard for new construction or alterations under Section 504, that standard must be applied to the entire facility.

Nothing in this document requires the design, construction, or alteration of buildings to conform with the 2010 Standards or alters NEH’s interpretation of § 1170.33(b).

<sup>1</sup> 29 U.S.C. 794.

<sup>2</sup> 41 CFR Appendix A to Subpart 101–19.6 (2001), available at <https://www.govinfo.gov/app/details/CFR-2001-title41-vol2/CFR-2001-title41-vol2-part101-id389-subpart101-id424-appA>.

<sup>3</sup> 45 CFR 1170.33(a).

<sup>4</sup> 75 FR 56236; 75 FR 56163.

<sup>5</sup> 28 CFR 35.151(c)(3), 36.406(a)(3).

<sup>6</sup> Executive Order 12250.

<sup>7</sup> Memorandum from Thomas E. Perez, Assistant Attorney General, Division of Civil Rights, Department of Justice, to Federal Agency Civil Rights Directors and General Counsels (March 29, 2011), available at <https://www.justice.gov/file/1464186/download> (the 2011 Memorandum).

Dated: June 9, 2022.

**Samuel Roth,**

*Attorney-Advisor, National Endowment for the Humanities.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R4-ES-2019-0050;  
FF09E21000 FXES1111090FEDR 223]

RIN 1018-BE15

#### Endangered and Threatened Wildlife and Plants; Endangered Species Status for Marron Bacora and Designation of Critical Habitat

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are listing marron bacora (*Solanum conocarpum*), a plant species from the U.S. and British Virgin Islands, as an endangered species and are designating critical habitat for the species under the Endangered Species Act of 1973, as amended (Act). In total, approximately 2,548 acres (1,031 hectares) on St. John, U.S. Virgin Islands, fall within the boundaries of the critical habitat designation. This rule adds this species to the Federal List of Endangered and Threatened Plants and extends the Act's protections to the species and its designated critical habitat.

**DATES:** This rule is effective July 18, 2022.

**ADDRESSES:** This final rule is available on the internet at <https://www.regulations.gov> in Docket No. FWS-R4-ES-2019-0050. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection in the docket on <https://www.regulations.gov>. For the critical habitat designation, the coordinates or plot points or both from which the maps are generated are included in the decision file for the critical habitat designation and are available at the Caribbean Ecological Services Field Office's website (<https://www.fws.gov/office/caribbean-ecological-services/library>) and at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2019-0050.

**FOR FURTHER INFORMATION CONTACT:** Edwin Muñiz, Field Supervisor, U.S.

Fish and Wildlife Service, Caribbean Ecological Services Field Office, P.O. Box 491, Road 301 Km 5.1, Boquerón, PR 00622; telephone 787-244-0081; email [caribbean\\_es@fws.gov](mailto:caribbean_es@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:

##### Executive Summary

*Why we need to publish a rule.* Under the Act, a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become endangered in the foreseeable future throughout all or a significant portion of its range). We have determined that the marron bacora meets the definition of an endangered species; therefore, we are listing it as such. To the maximum extent prudent and determinable, we must designate critical habitat for any species that we determine to be an endangered or threatened species under the Act. Listing a species as an endangered or threatened species and designation of critical habitat can be completed only by issuing a rule.

*What this rule does.* This rule lists marron bacora (*Solanum conocarpum*) as an endangered species under the Act and designates approximately 2,548 acres (ac) (1,031 hectares (ha)) on St. John, U.S. Virgin Islands (USVI), as critical habitat for the species.

*The basis for our action.* Under the Act, we may determine that a species is an endangered or threatened species because of any of 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. We have determined that the primary threats acting on marron bacora are habitat destruction or modification by exotic mammal species (e.g., white-tailed deer, goats, pigs, and donkeys) and invasive plants and exotic plants (e.g., guinea grass) (Factor A); herbivory by nonnative, feral ungulates and insect pests (Factor C); and the lack of natural recruitment, absence of dispersers,

fragmented distribution and small population size, lack of genetic diversity, and climate change (Factor E).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat. We are designating 2,548 ac (1,031 ha), consisting of two units on St. John, USVI, as critical habitat for marron bacora in this rule. We have excluded 1.33 ac (0.54 ha) from the South Unit.

#### Previous Federal Actions

Please refer to the proposed rule to list and designate critical habitat for the marron bacora (85 FR 52516; August 26, 2020) for a detailed description of previous Federal actions concerning this species.

#### Summary of Changes From the Proposed Rule

This final rule incorporates changes to our proposal (85 FR 52516; August 26, 2020) based on the comments we received, as discussed below under Summary of Comments and Recommendations. Based on these comments, we also incorporated, as appropriate, new information into our SSA report. Minor, nonsubstantive changes and editorial corrections were made throughout both documents in response to comments. However, the information we received during the public comment period on the proposed rule did not change our determination that the marron bacora meets the definition of an endangered species. The information provided a better understanding of a finer scale of the proposed critical habitat units, and we applied changes accordingly.

Specifically, based on new information received from a private