DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17
[Docket No. FWS–R2–ES–2016–0028; 4500030113]
RIN 1018–BB67
Endangered and Threatened Wildlife and Plants; Lesser Prairie-Chicken Removed From the List of Endangered and Threatened Wildlife
AGENCY: Fish and Wildlife Service, Interior.
ACTION: Final rule.
SUMMARY: We, the U.S. Fish and Wildlife Service, are issuing a final rule to comply with a court order that vacated the final rule listing the lesser prairie-chicken (Tympanuchus pallidicinctus) as a threatened species under the Endangered Species Act of 1973, as amended (Act). This final rule amends our regulations by removing the lesser prairie-chicken from the Federal List of Endangered and Threatened Wildlife and by removing the rule issued under section 4(d) of the Act for the lesser prairie-chicken.
DATES: This rule is effective July 20, 2016.
SUPPLEMENTARY INFORMATION:
Background
On April 10, 2014, we published in the Federal Register a final rule (79 FR 19974) listing the lesser prairie-chicken (Tympanuchus pallidicinctus) as a threatened species under the Act (16 U.S.C. 1531 et seq.) in part 17 of title 50 of the Code of Federal Regulations (50 CFR 17.11(h)). On the same day, we published a final rule under section 4(d) of the Act (“4(d) rule”) for the lesser prairie-chicken (79 FR 20074) at 50 CFR 17.41(d). Please see the April 10, 2014, final listing rule for a complete discussion of previous Federal actions.
On June 9, 2014, the Permian Basin Petroleum Association; Chaves County, New Mexico; Roosevelt County, New Mexico; Lea County, New Mexico; and Andrews County, Texas filed a lawsuit challenging the Service’s final rule to list the lesser prairie-chicken as a threatened species under the Act. On September 1, 2015, the U.S. District Court for the District of West Texas issued an order vacating the final listing rule for the lesser prairie-chicken. By invalidating the rule listing the species, the court decision also had the effect of invalidating the 4(d) rule.
Effects of the Rule
This rulemaking is necessary to comply with the September 1, 2015, court order. Therefore, under these circumstances, the Director has determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment are unnecessary. Because the court order had legal effect immediately upon being filed on September 1, 2015, the Director has further determined, pursuant to 5 U.S.C. 553(d)(3), that the agency has good cause to make this rule effective immediately upon publication.
List of Subjects in 50 CFR Part 17
Endangered and threatened species, Exports, Imports, Reporting and Recordkeeping requirements, Transportation.
Regulation Promulgation
Accordingly, for the reasons given in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below.
PART 17—ENDEARED AND THREATENED WILDLIFE AND PLANTS
1. The authority citation for part 17 continues to read as follows:
Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.
§ 17.11 [Amended]
2. Amend § 17.11(b) by removing the entry for “Prairie-chicken, lesser” from the List of Endangered and Threatened Wildlife.
§ 17.41 [Amended]

3. Amend § 17.41 by removing and reserving paragraph (d).

Dated: July 7, 2016.

Daniel M. Ashe,
Director, U.S. Fish and Wildlife Service.

[FR Doc. 2016–17149 Filed 7–19–16; 8:45 am]

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