

## **Frequently Asked Questions**

### **Proposed Listing for the Sickie Darter and Proposed 4(d) Rule**

#### **What is the sickie darter?**

The [sickie darter](#) is a small, bottom-dwelling fish native to the upper Tennessee River drainage in North Carolina, Tennessee and Virginia. Sickie darters are typically found in slow flowing pools of larger, upland creeks and small to medium rivers.

#### **Where does the sickie darter occur?**

Historically (prior to 2005), the sickie darter was known to be found in nine tributary systems of the upper Tennessee River drainage in the following rivers in North Carolina, Tennessee and Virginia: Emory, Clinch, Powell, Little, French Broad, North Fork Holston, Middle Fork Holston, South Fork Holston and Watauga. Currently, it is represented by six populations occupying portions of the Emory River system (Tennessee), the Upper Clinch River system (Virginia), the Little River system (Tennessee), the North Fork Holston River system (Virginia), the Middle Fork Holston River system (Virginia), and the Sequatchie River system (Tennessee – discovered in 2014). Populations within the French Broad River (North Carolina), South Fork Holston River (Tennessee), Powell River (Tennessee), and Watauga River systems (Tennessee) have been lost.

#### **What action is the U.S. Fish and Wildlife Service taking?**

Based on a review of the best available peer-reviewed science, the Service is proposing to list the sickie darter as threatened species under the Endangered Species Act (ESA). The Service is also proposing a 4(d) rule to provide for the species' conservation.

#### **What are the threats to the sickie darter?**

Habitat loss and degradation from a variety of sources (dams and other barriers, resource extraction) and degraded water quality (chemical contamination and siltation from development, agriculture, mining, and timber operations) have been detrimental to the sickie darter. These threats, combined with the negative effects of the species' reduced range and the effects of climate change, have caused the disappearance of sickie darter populations in the French Broad River, South Fork Holston River, Powell River and Watauga River systems. The species' only population within the Blue Ridge ecoregion of North Carolina (French Broad River system) has been eliminated.

#### **Will the Service be proposing critical habitat for the species?**

To the maximum extent prudent and determinable, the Service must designate critical habitat for any species determined to be endangered or threatened under the ESA. At this time, the Service is only proposing listing for the species and a 4(d) rule. Critical habitat for the sickie darter will be proposed at a later date.

## **What is a 4(d) rule?**

For a threatened species, the Service may use the flexibility provided under the ESA's Section 4(d) to tailor take prohibitions to those that provide conservation benefits for the species – referred to as a 4(d) rule. The ESA allows for 4(d) rules that are “necessary and advisable” for the conservation of the species. This targeted approach can reduce ESA conflicts by allowing some activities to continue that may benefit and not significantly harm the darter, while focusing efforts on the threats that slow the species' recovery. These customized protections of the ESA minimize the regulatory burden while maximizing the likelihood of recovery for threatened species.

## **How does the 4(d) rule affect activities occurring in the sickle darter's habitat?**

The proposed 4(d) rule for the sickle darter would provide exceptions to incidental take resulting from the following: restoration efforts by state wildlife agencies, channel restoration projects, and streambank stabilization projects; silviculture and forest management activities that implement the highest standard of best management practices; and transportation projects that provide for fish passage in waters occupied by the sickle darter. The provisions in this proposed rule for channel restoration and habitat protection can only occur between April 1 and January 31, to avoid the sickle darter's spawning period.

## **How do I submit comments on this proposal?**

The Service will accept comments received or postmarked on or before January 11, 2021. Comments submitted electronically using the Federal eRulemaking Portal (see ADDRESSES, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in FOR FURTHER INFORMATION CONTACT by December 28, 2020.

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

(1) Electronically: Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS–R4–ES–2020–0094, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment Now!”

(2) By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2020–0094, U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

The Service requests that you send comments only by the methods described above. All comments will be posted on <http://www.regulations.gov>. This generally means that the Service will post any personal information you provide.

FOR FURTHER INFORMATION CONTACT: Lee Andrews, Field Supervisor, U.S. Fish and Wildlife Service, Kentucky Ecological Services Field Office, 330 West Broadway, Suite 265, Frankfort, KY, 40601; telephone 502-695-0468. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

**What information is the Service requesting?**

The Service intends that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we are requesting comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties.

The Service is particularly seeking comments concerning:

- (1) The species' biology, range, and population trends;
- (2) Factors that may affect the continued existence of the species;
- (3) Biological, commercial trade, or other relevant data concerning any threats;
- (4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species; and
- (5) Information on regulations that are necessary and advisable to provide for the conservation of the sickle darter and that the Service can consider in developing a 4(d) rule for the species.

Submissions merely stating support for or opposition to the proposed rule, while noted, will not be considered in making a determination.