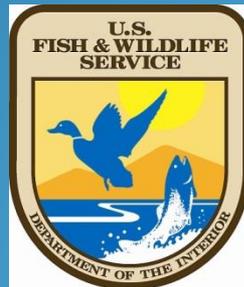


# Policy on “Significant Portion of its Range”

USFWS & NMFS

June 2014



# Background

## ESA Definitions

### *Threatened species:*

... any species which is likely to become an endangered species within the foreseeable future **throughout all or a significant portion of its range**.

### *Endangered species:*

... any species which is in danger of extinction **throughout all or a significant portion of its range**...

# Background – Policy

*SPR has a long history... Most recently,*

- FWS & NMFS began working on joint policy in 2009
- Draft policy published December 9, 2011
  - 76 FR 76987
- Final policy will publish soon
  - Most elements are similar to the draft policy
  - Some revisions based on public review

# The Policy

Draft and Final Policies address 4 components:

1. **CONSEQUENCE** of being T/E in an SPR
2. Definition of **"SIGNIFICANT"**
3. Interpretation of **"RANGE"**
4. Relationship of **DPS & SPR**

# Draft SPR Policy - Consequence

The SPR phrase provides an *independent basis for listing*:

A species qualifies for listing if:

- It is T/E throughout all of its range  
–OR–
- It is T/E in a significant portion of its range

*Consequences* of species being T/E in a SPR: The *entire species is listed* and protections of the Act apply *to all individuals wherever found*.

# Draft SPR Policy – “Significant”

*A portion of the range of a species is “significant” if its contribution to the viability of the species is so important that, without that portion, the species would be in danger of extinction.*

- Biologically based definition
- Defines a hypothetical test
- For purposes of determining whether a portion is “significant”
- If YES, then we determine its status in that portion

# Draft SPR Policy – “Range”

The range of a species is considered to be *the general geographical area within which that species can be found at the time FWS or NMFS makes any particular status determination.* This range includes those areas used throughout all or part of the species' life cycle, even if they are not used regularly (e.g., seasonal habitats). *Lost historical range is relevant to the analysis of the status of the species, but it cannot constitute a significant portion of a species' range.*

# Draft SPR Policy – “Range”

*Range = the general geographical area within which that species can be found at the time of a status determination*

- Defined for purposes of conducting status assessments
- “*is in danger*” - present-tense condition of current or future risk (*i.e.*, we evaluate the species **current** and **future** status)
- Does not limit protections of the Act or where recovery actions may occur:
  - 50 CFR 17.11(e) and 17.12(e) – “prohibitions apply to all individuals of the species, **wherever found**.”

# Draft SPR Policy – “Range”

*Lost historical range is relevant to analysis of the status of the species, but can't be an SPR*

- We consider whether the species is currently (in its current range) in danger of extinction or likely to become so,
- *But*, lost historical range is an important part of that analysis:
  - Consider *causes* and *consequences* of lost historical range
  - Provides context for determining species' needs against which we evaluate its current viability
  - A species can be “in danger of extinction” because of loss of historical range *IF* that loss affects its viability (e.g., it is now vulnerable to stochastic events)

# Draft SPR Policy – Relationship w/ DPS

*If the species is E or T in an SPR, and the population in that SPR is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.*

- If SPR = DPS, list the DPS, not the entire taxon
- SPR “significant” defined differently, higher bar than DPS “significance”
  - *Avoids all DPSs = SPRs*
  - *So, we think overlap will rarely occur*
- But, we want to maintain flexibility to apply different statuses
  - Most likely to occur for foreign species
  - Most likely for DPSs based on management differences across international boundaries
  - May need flexibility w/ regard to regulating trade under CITES

# Draft SPR Policy - Application

“throughout all OR a significant portion of its range”

- ***First step:*** Analyze species status “throughout all” its range:
  - In danger of extinction “throughout all”
  - Likely to become endangered “throughout all”
  - Not warranted (or recovered)
- ***Second step:*** Analyze any “significant portions”
  - Identify portions (if any)
  - Analyze whether significant and T/E

Draft SPR Policy – status combinations and outcomes		Status “throughout all”		
		Neither T nor E “throughout all”	Threatened “throughout all”	Endangered “throughout all”
Status in SPR	Neither T nor E in an SPR	Not T/E “throughout all” AND Not T/E in an SPR  <b>DO NOT LIST</b>	N/A (combination not possible)	N/A (combination not possible)
	Threatened in an SPR	Not T/E “throughout all” BUT Threatened in an SPR  <b>LIST – Threatened</b>	Threatened “throughout all” AND Threatened in an SPR  <b>LIST – Threatened</b>	N/A (combination not possible)
	Endangered in an SPR	Not T/E “throughout all” BUT Endangered in an SPR  <b>LIST – Endangered</b>	Threatened “throughout all” AND Endangered in an SPR  <b>LIST – Endangered</b>	Endangered “throughout all” AND Endangered in an SPR  <b>LIST – Endangered</b>

# Final SPR Policy – mostly the same:

1. **CONSEQUENCE** of being T/E in an SPR:
  - the entire species is listed and protected
2. **Definition of “SIGNIFICANT”:**
  - **2 changes to the definition**
3. Interpretation of “**RANGE**”:
  - Geographical area w/in which the species is found at time of the determination
4. Relationship of **DPS & SPR**:
  - If DPS = SPR, list the DPS, not the entire taxon

# Final SPR Policy – “Significant”

Significant: A portion of the range of a species is ‘significant’ if **the species is not currently endangered or threatened throughout its range, but** the portion’s contribution to the viability of the species is so important that, *without the members in that portion*, the species would be in danger of extinction **or likely to become so in the foreseeable future, throughout all of its range.**

# Final SPR Policy – “Significant”

## Changes from the draft policy’s definition:

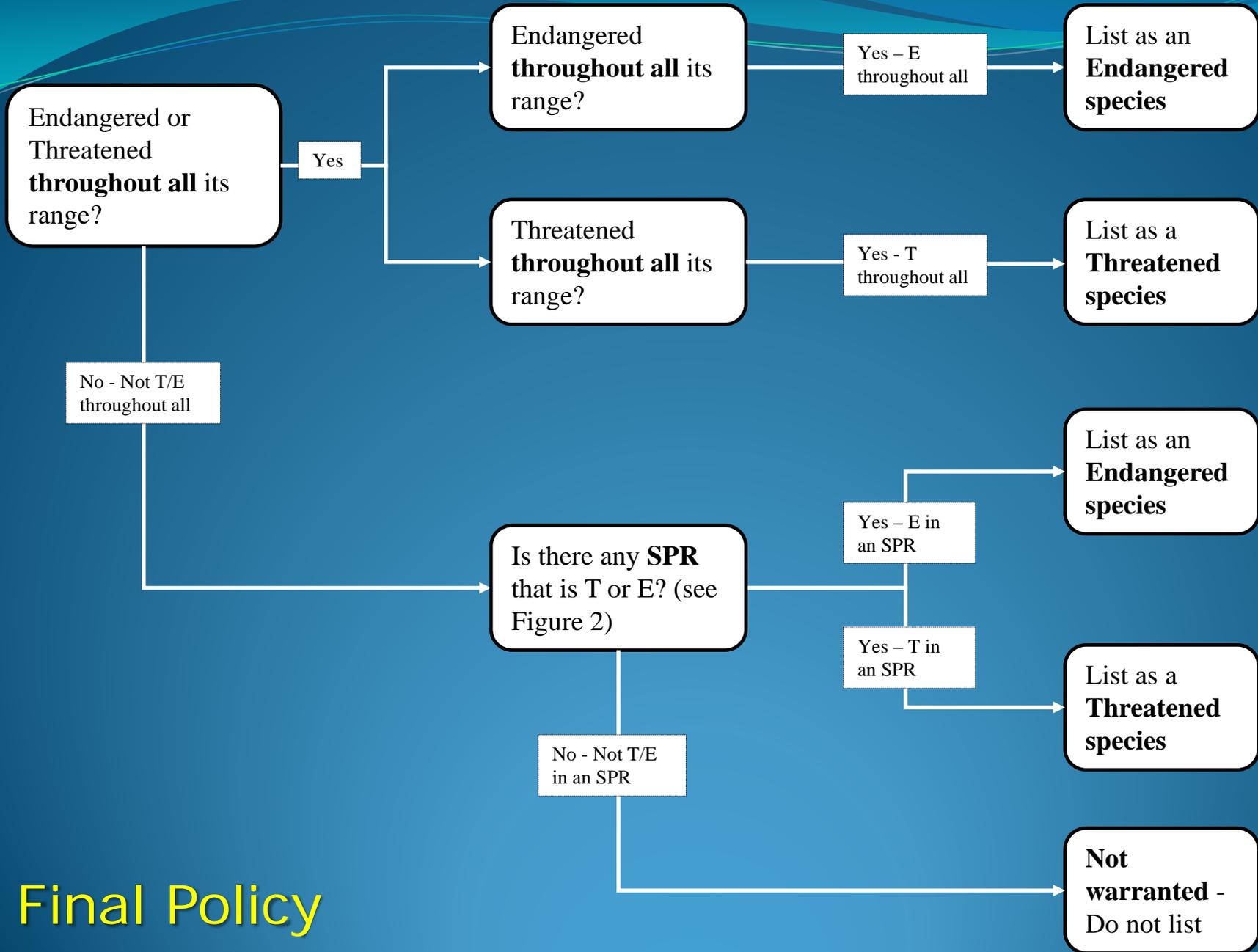
- Limits the circumstances under which a portion can be “significant”:
  - A portion can only be significant if the species is “not warranted”
- Lowers the threshold for “significant”:
  - Incorporates **both** the “endangered” and “threatened” standards

Final SPR Policy – Status Combinations & Outcomes		Status “throughout all” (by definition, some combinations not possible)		
		Neither T nor E “throughout all”	Threatened “throughout all” – List T	Endangered “throughout all” – List E
Status in SPR	Neither T nor E in an SPR	Not T/E “throughout all” AND Not T/E in an SPR  <b>DO NOT LIST</b>	<del>               N/A                (combination not possible)             </del>	<del>               N/A                (combination not possible)             </del>
	<i>Threatened in an SPR</i>	Not T/E “throughout all” BUT Threatened in an SPR  <b>LIST – Threatened</b>	<del>               Threatened “throughout all”                AND                Threatened in an SPR   <b>LIST – Threatened</b> </del>	<del>               N/A                (combination not possible)             </del>
	<i>Endangered in an SPR</i>	Not T/E “throughout all” BUT Endangered in an SPR  <b>LIST – Endangered</b>	<del>               Threatened “throughout all”                AND                Endangered in an SPR   <b>LIST – Endangered</b> </del>	<del>               Endangered “throughout all”                AND                Endangered in an SPR   <b>LIST – Endangered</b> </del>

# Final SPR Policy - Application

“throughout all *OR* a significant portion of its range”

- *First step*: Analyze species status “throughout all” its range:
  - In danger of extinction “throughout all”
  - Likely to become endangered “throughout all”
  - Not warranted (or recovered)
- *Second step*: Analyze any “significant portions”
  - Identify portions (if any)
  - Analyze whether significant and T/E



Final Policy

# Final SPR Policy - Application

SPR Analysis: when status “throughout all” is neither T nor E:

To list a species based on its status in an SPR, a portion must be **BOTH** significant **AND** T or E

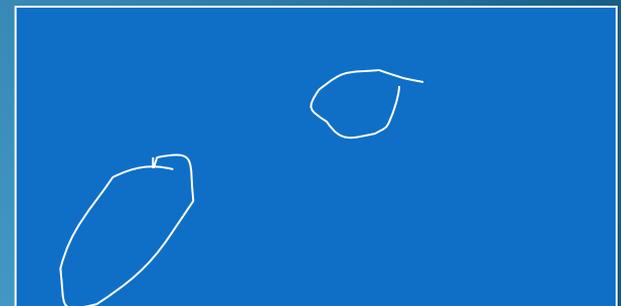
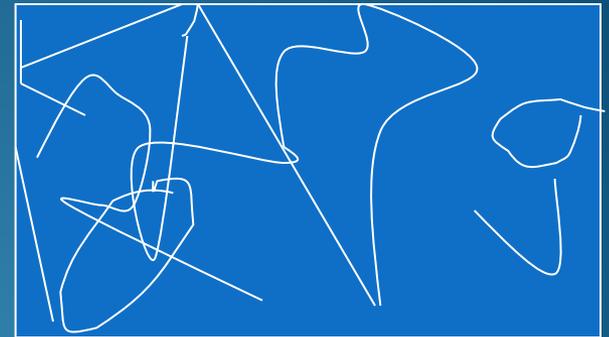
Consequently...

SPR Analysis has two parts:

1. Analyze whether the portion is significant
  2. Analyze the status of that portion
- (Sequence of these two steps is not important)

# SPR – Identifying Portions

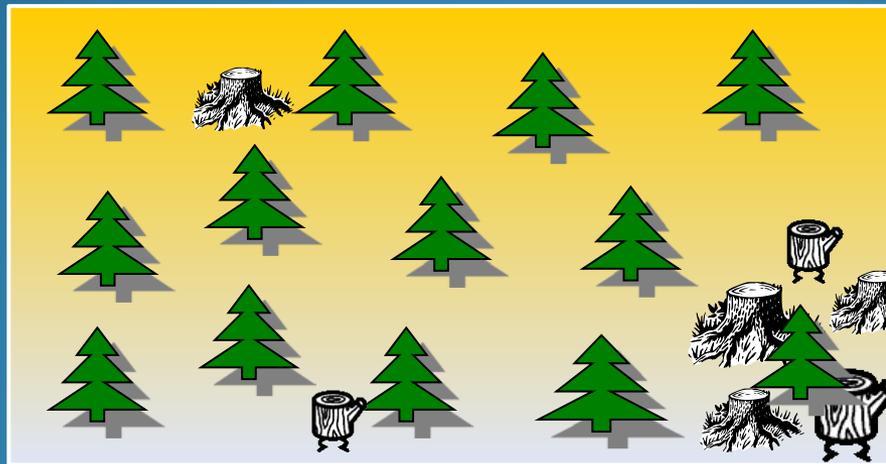
- Could divide range an infinite number of ways
- *But*, we only need to consider portions likely to be BOTH significant AND threatened or endangered
- Two options (either could be first):
  - Are threats geographically concentrated?
  - Are any geographic or biological divisions already identified?



# Final SPR Policy - Application

## SPR Analysis

Identify any portions that may be both significant **AND** T/E

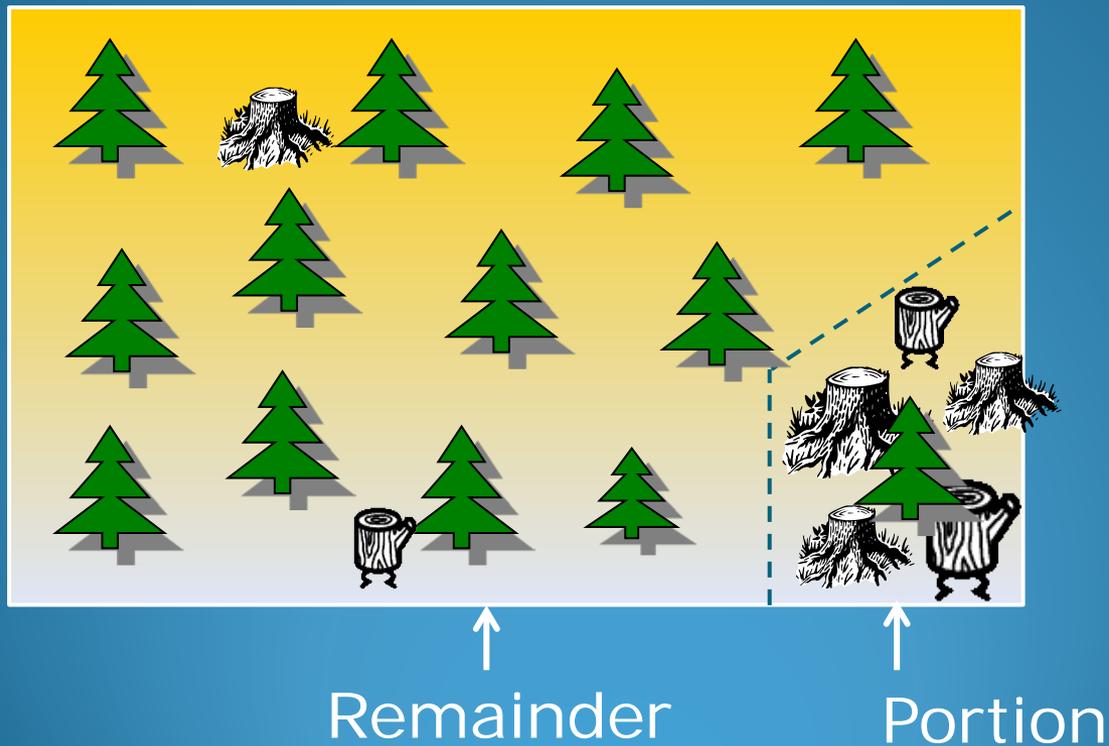


SPR??

# Final SPR Policy - Application

## SPR Analysis

1. Analyze significance of portion  
(Significant if, without portion, the remainder is T or E)

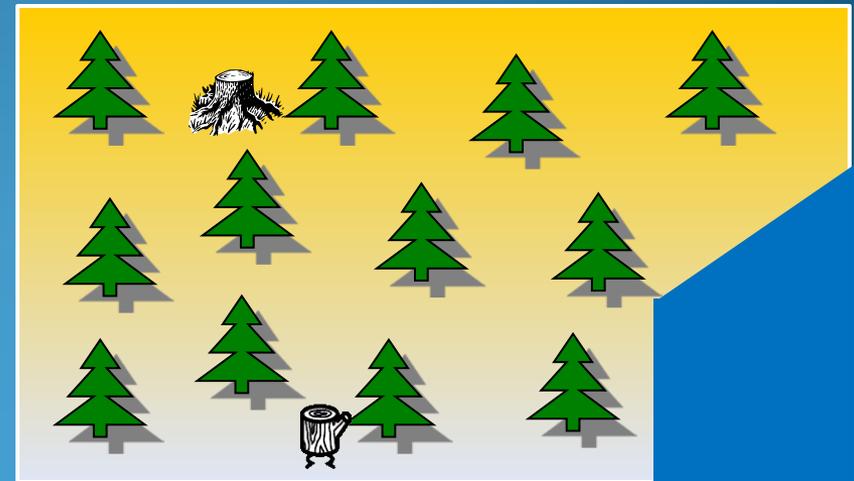


# Final SPR Policy – Application

## SPR Analysis

Significant if, without portion, the remainder is T or E

- If remainder NW:
  - Portion is not significant
  - No need to proceed further
  - Species not warranted for listing
- IF remainder T or E:
  - Portion is significant
  - Need to do second analysis



Remainder

# Final SPR Policy - Analysis

2. Analyze status of portion – Determine if E, T, or NW:

- If portion is E, list entire species as E
- If portion is T, list entire species as T
- If portion is NW, species is NW

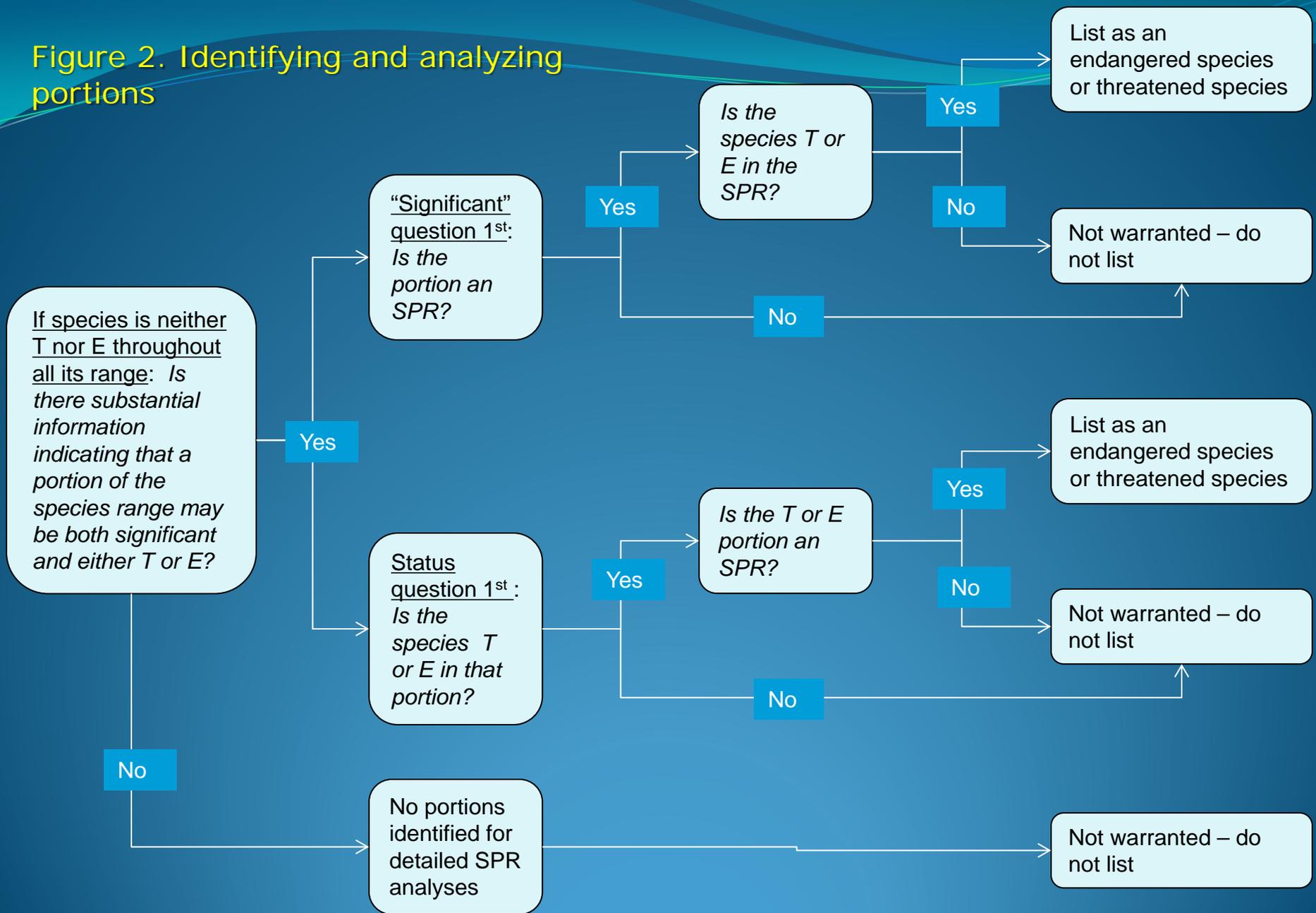


# Final SPR Policy - Application

## Application: Summary

- Determine whether T/E throughout range. If no...
- Look for portions that may be **BOTH** significant **AND** T/E. If yes...
- Do SPR Analysis on the portion(s):
  1. Check for significance of portion
  2. Check status (T/E) of portion  
(Sequence of the two not important)

Figure 2. Identifying and analyzing portions



# Effects of the Policy

## Listing:

- May result in some additional listings

## Applying Regulations:

- If T/E in an SPR - we'll list the whole species, so Act's protections apply to the entire species

## Implementing other parts of the Act:

- Once listed, we treat all species the same for purposes of implementing other parts of the Act
- The basis for listing may change over time as circumstances change (5-year review, down/delist petition)
- However, SPRs may be informative because they may identify concentrations of threats or important areas

# What's next?

*What's the status of the final policy?*

- Being sent to the Federal Register this week
- Should publish in the next few weeks
- It will become effective 30 days after publication

*What do we do in the interim?*

- Use draft policy on a case by case basis
- Few determinations likely to have a different outcome

# What determinations may be affected by change?

Change in definition from draft policy (applied case by case since 2011) will affect some determinations:

- Limiting circumstances (affects “threatened” determinations):
  - Won’t do SPR analyses for species that are T “throughout all” their ranges
  - Will continue to do SPR analyses for species “not warranted” throughout all their ranges
- Lower threshold (affects species for which we’ve identified portions requiring further analysis):
  - SPR analysis process is the same
  - But, if we identify portions for further analysis (a small subset), we would apply a somewhat lower threshold

QUESTIONS?

# Four Alternative SPR Interpretations

Does SPR provide an independent basis for listing?

No

Yes

Read SPR together with DPS language?

If SPR provides an independent basis for listing, do we list entire species or SPR only?

No

Yes

entire

SPR

1. Clarification

2. SPR and DPS comprise single authority

3. SPR is an independent basis for listing, protect whole species

4. SPR is an independent basis for listing, protect only SPR

Pre-M-Opinion

Draft Policy

M-Opinion

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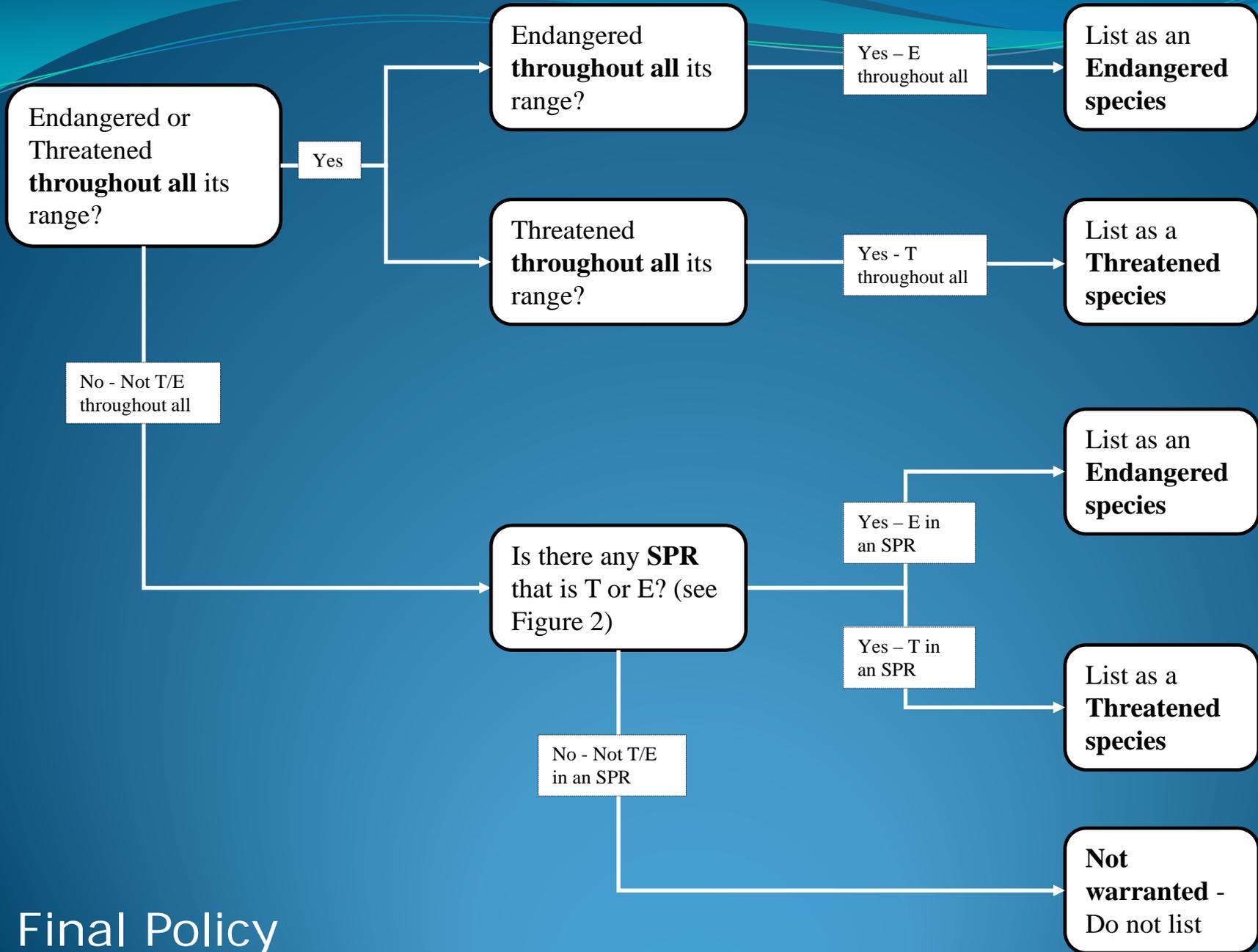
4. SPR is an independent basis for listing, protect only SPR

Pre-M-Opinion (pre-2007)

Draft Policy

M-Opinion (2007)





Final Policy

Final SPR Policy – status combinations and outcomes ( <i>by definition, some combinations no longer possible</i> )		Status “throughout all” <i>(A portion of the range of a species is ‘significant’ if the species is not currently endangered or threatened throughout its range)</i>		
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# Comments

90-day Comment period

- 60 days + 30 day extension

Received 42,000 comments

- ~ 41,500 form letters
- ~ 80 substantive

Received substantive comments on all components of draft policy

Received from wide range of entities

- State & local govt; tribes; commercial & trade orgs; conservation orgs; private citizens; others