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Cc: [RIGGERS Bobbi](#)
Subject: PECE Info and Project Effectiveness
Date: Wednesday, January 21, 2015 1:24:55 PM
Attachments: [FWS PECE q a.pdf](#)
[PECE-final.pdf](#)
[CED User Manual Version 1.1.pdf](#)

Hello Renee,

Nice talking with you this morning. Attached is the PECE policy along with a FAQ doc I found and the CED User Manual which has a section (2.1 - page 8) talking about effectiveness. Boiled down to it's simplest for... was the effort effective as provided conservation benefit to the species? and support for why it has (or hasn't).

Take care,

LW

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PECE: Policy for Evaluation of Conservation Efforts when Making Listing Decisions

Questions And Answers

What is the PECE policy?

The policy provides guidance to Service personnel to use in determining whether a recently adopted or implemented conservation effort contributes to making listing a species unnecessary or contributes to forming a basis for listing a species as threatened rather than endangered. It also provides information to groups interested in developing agreements or plans that would contribute to making it unnecessary to list a species under the Act. On June 13, 2000, the Services published in the Federal Register (64 FR 37102) a draft policy for evaluating conservation efforts when making listing decisions under the Act.

What is the purpose of the PECE policy?

The purpose of the policy is to ensure consistent and adequate evaluation of future or recently implemented conservation efforts identified in conservation agreements, conservation plans, management plans, and similar documents when making listing decisions. The policy is expected to facilitate the development by States and other entities of conservation efforts that sufficiently improve a species' status so as to make listing the species as threatened or endangered unnecessary.

How does the Endangered Species Act give the Services authority to consider voluntary conservation efforts?

Section 4(a)(1) of the Endangered Species Act requires the Services to determine whether any species is an endangered or threatened species because of any of five factors: (1) the present or threatened destruction,



The construction of gates at the entrance of the Haile/Duds Cave in Jackson County, Tennessee, will protect habitat for rare cave species. Photo by Kristin Bobo

modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting its continued existence. Section 4(b)(1)(A) requires us to make this determination after taking into account State and local conservation efforts to protect the species.

The determination of whether a species is threatened or endangered

requires the Service to evaluate the likelihood of the future persistence of a species. Central to this concept is a prediction of future conditions, including consideration of future effects (both positive and negative) of on-going and anticipated human actions. Future conservation efforts identified in conservation agreements, conservation plans, management plans, or other similar documents prepared by States or other entities are actions intended to have positive effects on species and must be taken into account when making listing decisions. The

PECE policy is intended to guide the Services in the evaluation of such voluntary conservation efforts.

What does the policy require the Services to consider when evaluating future conservation efforts?

The policy explains that in order to determine that a conservation effort contributes to making listing a species as threatened or endangered unnecessary, or contributes to forming a basis for listing as threatened rather than endangered, the Services must find that the conservation effort is sufficiently certain to be implemented and effective. The policy lists several criteria that the Services will use to determine whether a conservation effort is sufficiently certain to be implemented and effective. For example, the criteria require that all laws and regulations necessary to implement the conservation effort be in place and that the parties that will implement the conservation effort provide a high level of certainty that they will obtain the necessary funding.

Does the policy specify what type of conservation efforts will make listing a particular species unnecessary?

Conservation efforts are expected to take many forms and address a large variety of issues that are specific to the focus species, landscape, and parties involved. Therefore, the policy does not provide guidance for determining the level of conservation or the types of conservation efforts needed to make listing unnecessary. Also, the policy does not provide guidance for determining when parties should enter into agreements or when a conservation effort should be included in an agreement or plan. The policy only identifies criteria that the Services will use in determining whether a conservation effort is sufficiently certain to be implemented and to be effective, and that it therefore contributes to making listing a species unnecessary or contributes to forming a basis for listing a species as threatened rather than endangered.

Are there any benefits to the states or other entities to engage in conservation efforts before a species is listed?

The Endangered Species Act makes it illegal for any person to “take” (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these),

import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species without a permit. Consequently, listing of a species may result in restrictions on land uses and other activities that cause take. States and other entities are often interested in finding alternative ways of protecting declining species that provide more land use flexibility and avoid the ESA’s permitting processes. Conservation agreements or plans can provide these benefits if they provide for sufficient protection and restoration of species and their habitats to make listing unnecessary.

In addition, when conservation efforts are initiated early, before a species is listed under the ESA, these efforts are most effective and efficient in conserving species and habitat. Initiating or expanding conservation efforts before a species and its habitat are critically imperiled increases the likelihood that simpler, more cost-effective conservation options will still be available to States and other entities, and that conservation will ultimately be successful.

How does a State ensure that a conservation agreement or plan will be successful in removing the need to list a species?

To successfully eliminate the need to list species, we encourage States to begin development of conservation agreements or plans before a species has declined to the point where the Services are considering it for candidate status. The Services are committed to working closely with a State or group of States in developing and supporting conservation agreements or plans that eliminate the threats that otherwise may lead to a species requiring protection under the Endangered Species Act.

Because the circumstances surrounding each declining species will vary, the Services cannot specify criteria for inclusion in each conservation agreement or plan that will necessarily remove the need to list a species. This policy does not set a standard for measures necessary to conserve particular species. However, the policy does identify criteria that the Services will use to evaluate whether a conservation effort is

sufficiently certain to be implemented and to be effective, and that it therefore contributes to making listing a species unnecessary. Such criteria include identification of explicit objectives and dates for achieving them, steps necessary to implement the conservation effort, parameters to be used to demonstrate achievement of objectives, and standards for the parameters by which progress will be measured, among others. Meeting the criteria ensures that conservation efforts are carefully planned and implemented.

**U. S. Fish and Wildlife Service
Endangered Species Program
4401 N. Fairfax Drive, Room 420
Arlington, VA 22203
703/358 2105
<http://endangered.fws.gov>**



**National Marine Fisheries Service
Office of Protected Resources
Room 13658
1315 East West Highway
Silver Spring, MD 20910
301/713 1401**



September 2002

preferred the rulemaking petition. The coordinates for Channel 287C3 at Alamo are 32–19–29 North Latitude and 82–43–23 West Longitude. This allotment has a site restriction of 20.4 kilometers (12.7 miles) north of Alamo.

DATES: Effective April 28, 2003.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–111, adopted March 12, 2003, and released March 14, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202 863–2893, facsimile 202 863–2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Alamo, Channel 287C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division Media Bureau.

[FR Doc. 03–7470 Filed 3–27–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–629; MB Docket No. 02–120; RM–10442]

Radio Broadcasting Services; Owen, Wisconsin

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Starboard Broadcasting, Inc.,

allots Channel 242C3 at Owen, Wisconsin, as the community's first local FM service. Channel 242C3 can be allotted to Owen, Wisconsin, in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.9 km (8.0 miles) northeast of Owen. The coordinates for Channel 242C3 at Owen, Wisconsin, are 45–03–08 North Latitude and 90–29–21 West Longitude. A filing window for Channel 242C3 at Owen, WI, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent Order.

DATES: Effective April 28, 2003.

FOR FURTHER INFORMATION CONTACT: Deborah Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–120, adopted March 12, 2003, and released March 14, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, (202) 863–2893, facsimile (202) 863–2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Owen, Channel 242C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–7472 Filed 3–27–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Chapter IV

[Docket No. 000214043–2227–02; I.D. 011603A]

RIN 1018–AF55, 0648–XA48

Policy for Evaluation of Conservation Efforts When Making Listing Decisions

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

ACTION: Announcement of final policy.

SUMMARY: We, the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (the Services), announce a final policy for the evaluation of conservation efforts when making listing decisions (PECE) under the Endangered Species Act of 1973, as amended (Act). While the Act requires us to take into account all conservation efforts being made to protect a species, the policy identifies criteria we will use in determining whether formalized conservation efforts that have yet to be implemented or to show effectiveness contribute to making listing a species as threatened or endangered unnecessary. The policy applies to conservation efforts identified in conservation agreements, conservation plans, management plans, or similar documents developed by Federal agencies, State and local governments, Tribal governments, businesses, organizations, and individuals.

DATES: This policy is effective April 28, 2003.

ADDRESSES: Chief, Division of Conservation and Classification, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203 (Telephone 703/358–2171, Facsimile 703/358–1735); or Chief, Endangered Species Division, National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910 (Telephone 301/713–1401, Facsimile 301/713–0376).

FOR FURTHER INFORMATION CONTACT: Chris Nolin, Chief, Division of Conservation and Classification, U.S. Fish and Wildlife Service at the above address, telephone 703/358–2171 or facsimile 703/358–1735, or Margaret Lorenz, Endangered Species Division, National Marine Fisheries Service at the

above address, telephone 301/713-1401 or facsimile 301/713-0376.

SUPPLEMENTARY INFORMATION:

Background

This policy provides direction to Service personnel in determining how to consider a conservation agreement when making a decision on whether a species warrants listing under the Act. It also provides information to the groups interested in developing agreements or plans that would contribute to making it unnecessary for the Services to list a species under the Act.

On June 13, 2000, we published in the **Federal Register** (65 FR 37102) a draft policy for evaluating conservation efforts that have not yet been implemented or have not yet demonstrated effectiveness when making listing decisions under the Act. The policy establishes two basic criteria: (1) The certainty that the conservation efforts will be implemented and (2) the certainty that the efforts will be effective. The policy provides specific factors under these two basic criteria that we will use to direct our analysis of the conservation effort. At the time of making listing determinations, we will evaluate formalized conservation efforts (i.e., conservation efforts identified in a conservation agreement, conservation plan, management plan, or similar document) to determine if the conservation effort provides certainty of implementation and effectiveness and, thereby, improves the status, as defined by the Act, of the species such that it does not meet the Act's definition of a threatened or endangered species.

When we evaluate the certainty of whether the formalized conservation effort will be implemented, we will consider the following: Do we have a high level of certainty that the resources necessary to carry out the conservation effort are available? Do the parties to the conservation effort have the authority to carry it out? Are the regulatory or procedural mechanisms in place to carry out the efforts? And is there a schedule for completing and evaluating the efforts? If the conservation effort relies on voluntary participation, we will evaluate whether the incentives that are included in the conservation effort will ensure the level of participation necessary to carry out the conservation effort. We will also evaluate the certainty that the conservation effort will be effective. In making this evaluation, we will consider the following: Does the effort describe the nature and extent of the threats to the species to be addressed and how these threats are reduced by

the conservation effort? Does the effort establish specific conservation objectives? Does the effort identify the appropriate steps to reduce threats to the species? And does the effort include quantifiable performance measures to monitor for both compliance and effectiveness? Overall, we need to be certain that the formalized conservation effort improves the status of the species at the time we make a listing determination.

This policy is important because it gives us a consistent set of criteria to evaluate formalized conservation efforts. For states and other entities that are developing agreements or plans, this policy informs them of the criteria we will use in evaluating formalized conservation efforts when making listing decisions, and thereby guides States and other entities that wish to develop formalized conservation efforts that may contribute to making listing unnecessary.

In the notice of the draft policy, we specifically requested comments on the criteria that we would use to evaluate the certainty that a formalized conservation effort will be implemented. Also, we requested comments on the timing of the development of conservation agreements or plans. We have learned that timing is the most critical element when developing a successful conservation agreement or plan. Encouraging and facilitating early development of conservation agreements or plans is an important objective of this policy. Last-minute agreements (i.e., those that are developed just before or after a species is proposed for listing) often have little chance of affecting the outcome of a listing decision. Once a species is proposed for listing under the Act, we may have insufficient time to include consideration of a newly developed conservation plan in the public notice and comment process and still meet our statutory deadlines. Last-minute efforts are also less likely to be able to demonstrate that they will be implemented and effective in reducing or removing threats to the species. In addition, there are circumstances in which the threats to a species are so imminent and/or complex that it will be almost impossible to develop an agreement or plan that includes conservation efforts that will result in making the listing unnecessary. Accordingly, we encourage the early development of formalized conservation efforts before the threats become too extreme and imminent and when there is greater flexibility in sufficiently improving a species' status to the point

where listing the species as threatened or endangered is unnecessary.

Summary of Comments and Recommendations

In response to our request for comments on the draft policy, we received letters from 44 entities. Thirty-five were in support of the policy and nine were against. We reviewed all comments received and have incorporated accepted suggestions or clarifications into the final policy text. Because most of these letters included similar comments (several were form letters) we grouped the comments according to issues. The following is a summary of the relevant comments and our responses. We also received comments that were not relevant to the policy and, therefore, outside the policy's scope. We responded to some of these comments where doing so would clarify the process for determining whether a species is endangered or threatened (the listing process) or clarify the nature of conservation plans, agreements, and efforts.

Policy Scope Issues

Issue 1: Many commenters felt that this policy should also apply to downlisting species from endangered to threatened status and delisting actions, or else parties to an agreement where the final decision is to list the species would not have any incentives to take action on a listed species until a recovery plan is developed. In addition, one commenter suggested that the policy scope should be expanded to include the process of designating critical habitat.

Response 1: We believe that the immediate need is to develop criteria that will guide consistent and predictable evaluation of conservation efforts at the time of a listing determination. We may consider such a policy for downlisting or delisting actions in the future. However, we note that a recovery plan is the appropriate vehicle to provide guidance on actions necessary to delist a species. Also, we may consider developing a similar policy for critical habitat designations.

Issue 2: Two commenters stated that our estimates of time needed to develop, implement, monitor, and report on conservation efforts are underestimated.

Response 2: We agree that our original estimates were too low. We have increased our estimate to an average of 2,500 person-hours to complete a conservation agreement (with a range of 1,000 to 4,000 person-hours). We also increased our estimate of the average number of person-hours to conduct monitoring and to prepare a report to

320 and 80 hours, respectively. We expect the amount of time will vary depending on several factors including, but not limited to, the number of species addressed, amount of biological information available on the species, and the complexity of the threats. Therefore, we have provided an average to assist interested parties in their planning efforts.

Issue 3: One commenter questioned whether we would evaluate proposed agreements or plans using the stated criteria automatically or only upon request. The commenter also questioned whether we will consider agreements or plans that we previously determined were not sufficient to prevent the need for listing in combination with "new" proposed agreements or plans when we evaluate whether to list a species.

Response 3: If a listing proposal is under review, we will consider any conservation effort. We will evaluate the status of the species in the context of all factors that affect the species' risk of extinction, including all known conservation efforts whether planned, under way, or fully implemented. However, for formalized conservation efforts not fully implemented, or where the results have not been demonstrated, we will consider the PECE criteria in our evaluation of whether, and to what extent, the formalized conservation efforts affect the species' status under the Act.

Issue 4: One commenter asked the length of time for which a plan is approved.

Response 4: The PECE is not a plan-approval process, nor does it establish an alternative to listing. PECE outlines the criteria we will consider when evaluating formalized conservation efforts that have not yet been fully implemented or do not yet have a record of effectiveness at the time we make a listing decision. Should the status of a species decline after we make a decision not to list this species, we would need to reassess our listing decision. For example, there may be situations where the parties to a plan or agreement meet their commitments, but unexpected and/or increased threats (e.g., disease) may occur that threaten the species' status and make it necessary to list the species.

Issue 5: One commenter asked if the "new information" reopener is operative at any time.

Response 5: Yes, because section 4(b)(1) of the Act requires us to use the best available scientific and commercial data whenever making decisions during the listing process. In making a decision whether to list a species, we will take into account all available information,

including new information regarding formalized conservation efforts. If we receive new information on a formalized conservation effort that has not yet been implemented or not yet demonstrated effectiveness prior to making a listing decision, we will evaluate the conservation effort in the context of the PECE criteria. If we receive new information on such an effort after we have decided to list a species, then we will consider this new information along with other measures that reduce threats to the species and may use this information in downlisting the species from endangered to threatened status or delisting. However, PECE will not control our analysis of the downlisting of the species.

Issue 6: One commenter stated that it is unrealistic and unreasonable to expect agreements to be in place at the time the conservation effort is evaluated. In addition, the commenter stated that it is particularly unrealistic and unreasonable to expect that conservation agreements or plans be submitted within 60 days of publication of a proposed rule.

Response 6: We strongly encourage parties to initiate formalized conservation efforts prior to publication of a proposal to list a species under the Act. If a formalized conservation effort is submitted during the public comment period for a proposed rule, and may be significant to the listing decision, then we may extend or reopen the comment period to allow time for comment on the new conservation effort. However, we can extend the public comment period only if doing so does not prevent us from completing the final listing action within the statutory timeframe.

Issue 7: One commenter stated that most existing conservation agreements are ineffective, and furthermore that we are unable to determine their effectiveness for several years.

Response 7: We agree that it could take several years for some conservation efforts to demonstrate results. However, the PECE criteria provide the framework for us to evaluate the likely effectiveness of such formalized conservation efforts. Some existing conservation efforts have proven to be very effective and have justifiably influenced our listing decisions.

Issue 8: Several commenters stated that funds are better spent to list species, designate critical habitat, and implement recovery efforts rather than to develop conservation agreements.

Response 8: Conservation agreements can be seen as early recovery efforts. Early conservation efforts to improve the status of a species before listing is necessary may cost less than if the

species' status has already been reduced to the point where it needs to be listed. Early conservation of candidate species can reduce threats and stabilize or increase populations sufficiently to allow us to use our resources for species in greater need of the Act's protective measures.

Issue 9: Some commenters questioned the 14 conservation agreements that we cited which contributed to making listing the covered species as threatened or endangered unnecessary. Commenters requested information on each plan to better allow the public to evaluate the adequacy of the agreements.

Response 9: We referenced the 14 conservation agreements in the Paperwork Reduction Act section of the draft policy and used them solely to estimate the information collection and recordkeeping burden that would result from our draft policy if it were made final. Therefore, we do not recommend using these to comment on the new policy.

Biological Issues

Issue 10: One commenter questioned our method for evaluating a conservation plan that addresses only a portion of a species' range.

Response 10: Using the PECE criteria, we will evaluate all formalized conservation efforts that have yet to be implemented or have yet to demonstrate results at the time we make our listing decision. This is true for efforts that are applicable to all or only a portion of the species' range. The PECE does not set standards for how much conservation is needed to make listing unnecessary. The significance of plans that address only a portion of a species' range will be evaluated in the context of the species' overall status. While a formalized conservation effort may be effective in reducing or removing threats in a portion of the species' range, that may or may not be sufficient to remove the need to list the species as threatened or endangered. In some cases, the conservation effort may lead to a determination that a species warrants threatened status rather than endangered.

In addition, parties may have entered into agreements to obtain assurances that no additional commitments or restrictions will be required if the species is listed. A landowner or other non-Federal entity can enter into a Candidate Conservation Agreement with Assurances (CCAA) (64 FR 32726, June 17, 1999), which are formal agreements between us and one or more non-Federal parties that address the conservation needs of proposed or

candidate species, or species likely to become candidates. These agreements provide assurances to non-Federal property owners who voluntarily agree to manage their lands or waters to remove threats to candidate or proposed species, or to species likely to become candidates. The assurances are authorized under the CCAA regulations (50 CFR 17.22(d)(5) and 17.32(d)(5)) and provide non-Federal property owners assurances that their conservation efforts will not result in future regulatory obligations in excess of those they agree to at the time they enter into the Agreement. Should the species eventually be listed under the Act, landowners will not be subjected to increased property use restrictions as long as they conform to the terms of the agreement. While one of these agreements may not remove the need to list, several such agreements, covering a large portion of the species' range, may.

Issue 11: Several commenters suggested that the Services should consider conservation efforts developed for species other than the species for which a listing decision is being made when the species have similar biological requirements and the conservation effort addresses protection of habitat of the species for which a listing decision is being made.

Response 11: We agree. When a decision whether or not to list a species is being made, we will consider all conservation efforts that reduce or remove threats to the species under review, including conservation efforts developed for other species. However, for all formalized conservation efforts that have not yet been implemented or have yet to demonstrate results, we will use the PECE criteria to evaluate the conservation effort for certainty of implementation and effectiveness for the species subject to the listing decision.

Issue 12: One commenter stated the "biology/natural history" of the species should be adequately known and explained in order to evaluate the effectiveness of the effort.

Response 12: When we consider the elements under the effectiveness criterion, we will evaluate whether the formalized conservation effort incorporates the best available information on the species' biology and natural history. However, due to variation in the amount of information available about different species and the threats to their existence, the level of information necessary to provide a high level of certainty that the effort will be effective will vary.

We believe it is important, however, to start conservation efforts as early as

possible even if complete biological information is lacking. Regardless of the extent of biological information we have about a species, there will almost always be some uncertainty about threats and the most effective mechanisms for improving the status of a species. We will include the extent of gaps in the available information in our evaluation of the level of certainty that the formalized conservation effort will be effective. One method of addressing uncertainty and accommodating new information is the use of monitoring and the application of adaptive management principles. The PECE criteria note that describing the threats and how those threats will be removed, including the use of monitoring and adaptive management principles, as appropriate, is critical to determining that a conservation effort that has yet to demonstrate results has reduced or removed a particular threat to a species.

Issue 13: Several commenters suggested that affected party(ies) should work with the Services to identify species that will be proposed for listing in the near future to help concentrate and direct efforts to those species that most warrant the protection, and help make the party(ies) aware of when and what actions should be taken to help conserve species in need.

Response 13: We do identify species in need of protection. The FWS publishes a Candidate Notice of Review (CNOR) in which the FWS identifies those species of plants and animals for which they have sufficient information on the species' biological status and threats to propose them as endangered or threatened under the Act, but for which development of a proposed listing regulation is precluded by other higher priority listing activities. NMFS, which has jurisdiction over marine species and some anadromous species, defines candidate species more broadly to include species whose status is of concern but more information is needed before they can be proposed for listing. NMFS candidate species can be found on their web site at <http://www.nmfs.noaa.gov>. The FWS's CNOR is published in the **Federal Register** and can also be found on their web site at <http://endangered.fws.gov>.

We agree that it is important to start developing and implementing conservation efforts and coordinating those efforts with us as early as possible. Early conservation helps preserve management options, minimizes the cost of reducing threats to a species, and reduces the potential for land use restrictions in the future. Addressing the needs of species before the regulatory protections associated with listing

under the Act come into play often allows greater management flexibility in the actions necessary to stabilize or restore these species and their habitats. Early implementation of conservation efforts may reduce the risk of extinction for some species, thus eliminating the need for them to be listed as threatened or endangered.

Issue 14: One commenter stated that requiring an implementation schedule/timeline for conservation objectives is not feasible when baseline data on a species is poorly understood. The policy should recognize that variation in patterns of species distribution and land ownership will cause variation in the difficulty of developing conservation efforts. Thus, some conservation efforts should be allotted more time for their completion.

Response 14: Biological uncertainty is a common feature of any conservation effort. Nevertheless, some conservation actions can proceed even when information on the species is incomplete. Implementation schedules are an important element of all formalized conservation planning efforts (e.g., recovery plans). The implementation schedule identified in PECE criterion A.8. establishes a timeframe with incremental completion dates for specific tasks. In light of the information gaps that may exist for some species or actions, schedules for completing certain tasks may require revision in response to new information, changing circumstances, and the application of adaptive management principles. Including an implementation schedule in a formalized conservation effort is critical to determining that the effort will be implemented and effective and has improved the status of the species under the Act at the time we make our listing determination.

We acknowledge that the amount of time required to develop and implement formalized conservation efforts will vary. Therefore, we encourage early development and implementation of conservation efforts for species that have not yet become candidates for listing and for those species that are already candidates. This policy does not dictate timeframes for completing conservation efforts. However, the Act mandates specific timeframes for many listing decisions, and we cannot delay final listing actions to allow for the development and signing of a conservation agreement or plan. We and participants must also acknowledge that, for species that are poorly known, or whose threats are not well understood, it is unlikely that conservation efforts that have not been implemented or that have yet to yield

results will have improved the status of the species sufficiently to play a significant role in the listing decision.

Issue 15: One commenter stated that the Services, when evaluating the certainty of conservation efforts while making listing decisions, should factor into the analysis the Services' ability to open or reopen the listing process at any time, and to list the species on an emergency basis if necessary.

Response 15: We will initiate or revisit a listing decision if information indicates that doing so is warranted, and on an emergency basis if there is an imminent threat to the species' well-being. However, we do not make any listing determinations based on our ability to change our decisions. We base our listing decisions on the status of the species at that time, not on some time in the future.

Criteria Issues

Issue 16: Several commenters requested that we further explain the criteria for both implementation and effectiveness. The commenters claim that our criteria are too vague and are subject to interpretation by the Services. One commenter said that, by stating "this list should not be considered comprehensive evaluation criteria," the policy allows the Services to consider criteria not addressed in the agreement, and allows for too much leeway for the Services to reject conservation efforts of an agreement, even if all criteria listed in the draft policy are satisfied.

Response 16: PECE establishes a set of criteria for us to consider when evaluating formalized conservation efforts that have not yet been implemented or have not yet demonstrated effectiveness to determine if the efforts have improved the status of the species. At the time of the listing decision, we must find, with minimal uncertainty, that a particular formalized conservation effort will be implemented and will be effective, in order to find that the effort has positively affected the conservation status of a species. Meeting these criteria does not create an approval process. Some conservation efforts will address these criteria more thoroughly than others. Because, in part, circumstances vary greatly among species, we must evaluate all conservation efforts on a case-by-case basis at the time of listing, taking into account any and all factors relevant to whether the conservation effort will be implemented and effective.

Similarly, the list of criteria is not comprehensive because the conservation needs of species will vary greatly and depend on species-specific, habitat-specific, location-specific, and

action-specific factors. Because conservation needs vary, it is not possible to state all of the factors that might determine the ultimate effectiveness of formalized conservation efforts. The species-specific circumstances will also determine the amount of information necessary to satisfy these criteria. Evaluating the certainty of the effectiveness of a formalized conservation effort necessarily includes an evaluation of the technical adequacy of the effort. For example, the effectiveness of creating a wetland for species conservation will depend on soil texture, hydrology, water chemistry, and other factors. Listing all of the factors that we would appropriately consider in evaluations of technical adequacy is not possible.

Issue 17: One commenter suggested that we consider conservation plans in the development stage rather than waiting until finalized due to the possible benefits that may result from initial efforts.

Response 17: Plans that have not been finalized and, therefore, do not conform to the PECE criteria, may have some conservation value for the species. For example, in the process of developing a plan, participants and the public may become more informed about the species and its conservation needs. We will consider any benefits to a species that have accrued prior to the completion of an agreement or plan in our listing decision, under section 4(b)(1)(A) of the Act. However, the mere existence of a planning process does not provide sufficient certainty to actually improve the status of a species. The criteria of PECE set a rigorous standard for analysis and assure a high level of certainty associated with formalized conservation efforts that have not been implemented, or have yet to yield results, in order to determine that the status of the species has improved.

We encourage parties to involve the appropriate Service during the development stage of all conservation plans, whether or not they are finalized prior to a listing decision. Sharing of the best available information can lead to developing better agreements. In the event that the focus species is listed, these planning efforts can be utilized as the basis for development of Safe Harbor Agreements or Habitat Conservation Plans, through which we can permit incidental take under Section 10(a) of the Act, or provide a basis for a recovery plan.

Issue 18: Several commenters stated that the policy should provide more sufficient, clear criteria by which the implementation and effectiveness of conservation efforts is monitored and

assessed. One commenter also suggested that we require a specific reporting format to help show effectiveness of conservation efforts.

Response 18: When evaluating formalized conservation efforts under PECE, we will consider whether the effort contains provisions for monitoring and reporting implementation and effectiveness results (see criterion B.5).

Regarding a standard reporting format, the nature of the formalized conservation efforts we evaluate will probably vary a great deal. Efforts may range from complex to single-threat approaches. Therefore, for us to adopt a one-size-fits-all approach to report on monitoring efforts and results would be inappropriate.

Issue 19: One commenter stated that PECE is too demanding with respect to identification and commitment of resources "up-front," and that these strict requirements and commitments on conservation efforts harm the voluntary nature of agreements.

Response 19: Addressing the resources necessary to carry out a conservation effort is central to establishing certainty of plan implementation and effectiveness. Accordingly, we believe that PECE must establish a minimum standard to assure certainty of implementation and effectiveness. This certainty is necessary in determining whether the conservation effort has improved the status of species.

It is our intention and belief that the PECE criteria will actually increase the voluntary participation in conservation agreements by increasing the likelihood that parties' voluntary efforts and commitments that have yet to be implemented or have yet to demonstrate results will play a role in a listing decision.

Issues Related to Specific Changes

Several commenters recommended specific changes to the evaluation criteria. The recommended additions in language to the criteria are italicized and deletions are shown in strikeout to help the reader identify the proposed changes.

Issue 20: Commenters stated that there is potential confusion between evaluation criteria A.2. (authority) and A.3.(authorization) as they believed some Service staff may have difficulty distinguishing between an "authority," and an "authorization." To help eliminate this potential confusion, commenters requested that criterion A.2. be changed to read: "the legal authority of the party(ies) to the agreement or plan to implement the conservation effort and the legal

procedural requirements necessary to implement the effort are described.” They also requested that we change criterion A.3. to read: The legal requirements (e.g. permits, environmental review documents) necessary to implement the conservation effort are identified, and an explanation of how the party(ies) to the agreement or plan that will implement the effort will fulfill these requirements is provided.”

Response 20: We agree with adding the word “legal” and also have incorporated additional language and separated this criterion (former criterion A.2) into two criteria (A.2. and A.3.). Evaluation Criterion A.2. now reads, “The legal authority of the party(ies) to the agreement or plan to implement the formalized conservation effort, and the commitment to proceed with the conservation effort are described.” New evaluation Criterion A.3. reads, “The legal procedural requirements necessary to implement the effort are described, and information is provided indicating that fulfillment of these requirements does not preclude commitment to the effort.” In making these changes, we recognize that there may be overlap between new criterion A.3. and the criterion on authorizations (now A.4.), but our intent is to separate a criterion on procedural requirements from substantive authorizations (e.g. permits). We believe that we need to specifically determine that the parties to the agreement will obtain the necessary authorizations. We also recognize that parties may not be able to commit to some conservation efforts until they have fulfilled procedural requirements (e.g. under the National Environmental Policy Act) since some laws preclude commitment to a specific action until certain procedures are completed. Additionally, in creating a new criterion A.3., we find it unnecessary to incorporate the suggested changes to old A.3. (now A.4.).

Issue 21: Commenters requested the following change to Criterion A.4. (now Criterion A.5.): “The level of voluntary participation (e.g., permission to enter private land or other contributions by private landowners) necessary to implement the conservation effort is identified, and an explanation of how the party(ies) to the agreement or plan that will implement the conservation effort will obtain that level of voluntary participation is provided (e.g., an explanation of why incentives to be provided are expected to result in the necessary level of voluntary participation)”.

Response 21: We do not believe that including “an explanation of how the

party(ies) * * * will obtain that level of voluntary participation * * *” will provide us with enough information in order to determine that necessary voluntary participation will, in fact, be obtained. Evaluation Criterion A.5. (formerly A.4.) now reads: “The type and level of voluntary participation (e.g., number of landowners allowing entry to their land, or number of participants agreeing to change timber management practices and acreage involved) necessary to implement the conservation effort is identified, and a high level of certainty is provided that the party(ies) to the agreement or plan that will implement the conservation effort will obtain that level of voluntary participation (e.g., an explanation of how incentives to be provided will result in the necessary level of voluntary participation).”

Issue 22: Commenters suggested that Evaluation Criterion A.5. (now criterion A.6.) be changed to read as “Any statutory or regulatory deficiency or barrier to implementation of the conservation effort is identified and an explanation of how the party(ies) to the agreement or plan that will implement the effort will resolve the deficiency or barriers is provided.”

Response 22: We do not agree with the suggested language change. We believe that all regulatory mechanisms, including statutory authorities, must be in place to ensure a high level of certainty that the conservation effort will be implemented.

Issue 23: The suggested change to Evaluation Criterion A.6. (now A.7.) is “A fiscal schedule and plan is provided for the conservation effort, including a description of the obligations of party(ies) to the agreement or plan that will implement the conservation effort, and an explanation of how they will obtain the necessary funding is provided.”

Response 23: We do not agree with the suggested language change since we believe that there must be a high level of certainty that the party(ies) will obtain the necessary funding to implement the effort. While we agree that including a fiscal schedule, a description of the obligations of the party(ies), and an explanation of how they will obtain the funding is important, this information, by itself, does not provide enough certainty for us to consider a formalized conservation effort that has not yet been implemented as contributing to a listing decision. Also see our response to Issue 41.

Issue 24: One commenter suggested that the Services should consider an incremental approach to evaluating

implementation dates for the conservation effort.

Response 24: We agree with the commenter’s suggested change. Evaluation Criterion A.8. (formerly A.7.) now reads as: “An implementation schedule (including incremental completion dates) for the conservation effort is provided.”

Issue 25: Commenters suggested that Criterion A.8. (now A.9.) be revised to read: “The conservation agreement or plan that includes the conservation effort include a commitment by the party(ies) to apply their legal authorities and available resources as provided in the agreement or plan.”

Response 25: The participation of the parties through a written agreement or plan establishes each party’s commitment to apply their authorities and resources to implementation of each conservation effort. Therefore, it is unnecessary to include the suggested language; criterion A.9. (formerly A.8.) remains unchanged.

Issue 26: A commenter also suggested adding a criterion: “Evidence that other conservation efforts have been implemented for sympatric species within the same ecosystem that may provide benefits to the subject species is provided.”

Response 26: We do not think it is necessary to add such a criterion. At the time of listing, we will take into consideration all relevant information, including the effect of other conservation efforts for sympatric species on the status of the species we are considering for listing.

Issue 27: Several commenters recommended that we make specific changes to the Criterion B.1. language to read as: “The nature and extent of threats being addressed by the conservation effort are described, and how the conservation effort will reduce the threats are defined.” In addition, commenters suggested we change Criterion B.2. to read as: “Explicit incremental objectives for the conservation effort and dates for achieving them should be stated.”

Response 27: We agree that, in addition to identifying threats, the plan should explain how formalized conservation efforts reduce threats to the species. Therefore, Evaluation Criterion B.1. now reads as: “The nature and extent of threats being addressed by the conservation effort are described, and how the conservation effort reduces the threats is described.” We agree that conservation efforts should include incremental objectives. This allows the parties to evaluate progress toward the overall goal of a conservation effort, which is essential for adaptive

management. In addition, setting and achieving interim objectives is helpful in maintaining support for the effort. Therefore, Evaluation Criterion B.2. now reads as: "Explicit incremental objectives for the conservation effort and dates for achieving them are stated."

Issue 28: Some commenters recommended that the party's (ies') prior record with respect to development and implementation of conservation efforts be recognized towards their credibility and reliability to implement future conservation efforts. A commenter also suggested adding a criterion to read as: "Demonstrated ability of the party(ies) to develop and implement effective conservation efforts for this or other species and habitats." Another comment suggested that the history and momentum of a program should be taken into account (e.g., watershed council programs) when considering the certainty of effectiveness and implementation. These considerations would help ensure a high level of certainty that regulatory mechanisms, funding authorizations, and voluntary participation will be adopted by a specified date adequate to provide certainty of implementation.

Response 28: Although it would be beneficial for the party(ies) to demonstrate their past abilities to implement effective formalized conservation efforts for the focus species or other species and habitats, we do not believe that this is necessary to demonstrate a high level of certainty that the conservation effort will be implemented. In addition, a criterion that emphasizes previous experience in implementing conservation efforts may limit formalized conservation efforts to only those party(ies) that have a track record and would unjustifiably constrain consideration of efforts by those who do not satisfy this criterion. Such parties can provide certainty in other ways. We agree that a party's (ies') prior record and history with respect to implementation of conservation efforts should be recognized towards their credibility and reliability. Information concerning a party's experience in implementing conservation efforts may be useful in evaluating how their conservation effort satisfies the PECE criteria. The momentum of a project is a good indication of the progress that is being made towards a party's (ies') conservation efforts, but momentum can decrease, and thus cannot be solely relied upon to determine the certainty that a formalized conservation effort will be implemented or effective.

Issue 29: One commenter stated that our use of "must" in meeting the criteria is inappropriate in the context of a policy, and the policy should rather be treated as guidance.

Response 29: The only mandatory statements in the policy refer to findings that we must make. In order for us to find that a particular formalized conservation effort has improved the status of the species, we must be certain that the formalized conservation effort will be implemented and will be effective. No party is required to take any action under this policy. Rather the policy provides us guidance on how we will evaluate formalized conservation efforts that have yet to be implemented or have yet to demonstrate effectiveness at the time of our listing decision.

Legal Issues

Issue 30: Many commenters mentioned past litigation (i.e., decisions on coho salmon and Barton Springs salamander) in which the courts have ruled against the Services in cases that have involved Candidate Conservation Agreements or other conservation efforts, and question how the PECE policy addresses this issue. Commenters question how this policy will keep the Services from relying on speculative conservation efforts.

Response 30: We referenced past adverse decisions when we published the draft policy. The purpose of PECE, in part, is to address situations similar to those in which some courts found past conservation efforts insufficient. We developed the PECE to establish a set of consistent standards for evaluating certain formalized conservation efforts at the time of a listing decision and to ensure with a high level of certainty that formalized conservation efforts will be implemented and effective. We agree that we may not rely on speculative promises of future action when making listing decisions.

Issue 31: Several commenters questioned the legality of considering private party's (ies') input when section 4(b)(1)(A) of the Act states " * * * and after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species * * * ". In addition, commenters stated that the PECE policy is inconsistent with the plain language and the congressional intent of the Act by allowing agencies to evaluate any private measures. They also stated that this was inconsistent with considering section 4(a)(1)(D), which only permits agencies to evaluate "existing regulatory mechanisms." They also stated that the

Services incorrectly conclude that section 4(a)(1)(E), "other natural or manmade factors affecting [the species'] continued existence," allows the Services to consider actions of "any other entity" in making listing determinations. One commenter stated that there are no provisions to authorize the Services to consider voluntary conservation agreements by other Federal agencies. In 1982, the Act omitted 1973 language for listing determinations made with "other interested Federal agencies." In addition, the commenters stated that the Act imposes conservation duties on all Federal agencies only after the Services have taken the initial step in listing the species.

Response 31: Please refer to the Policy Scope section for an explanation of our authority under section 4 of the Act to assess all threats affecting the species status as well as all efforts that reduce threats to the species.

Issue 32: One commenter suggested that we formalize this policy by codifying it in the Code of Federal Regulations. They suggest that by adopting this policy as agency regulation, we can make the policy more binding, provide a basis for judicial deference, and thus hopefully reduce the amount of litigation.

Response 32: We believe that codifying PECE in the Code of Federal Regulations is not necessary because it is intended as a policy to guide how we will evaluate formalized conservation efforts when making listing decisions.

Issue 33: Some commenters believe that all regulatory mechanisms must be in place prior to finalizing a conservation plan, while other commenters feel that this requirement may dissuade voluntary conservation efforts of private landowners. One commenter stated that, based on the amount of time usually needed to enact most regulatory mechanisms, it seems appropriate to set this minimum standard for evaluating formalized conservation efforts. This criterion should prompt more serious political consideration of adopting a regulatory mechanism sooner rather than later. Another commenter suggested that, instead of requiring regulations, we should require cooperators to identify and address any regulatory deficiencies affecting the species.

Response 33: In order for us to determine with a high level of certainty that a formalized conservation effort will be implemented, among other things, all regulatory mechanisms necessary to implement the effort must be in place at the time we make our listing decision. However, there may be

situations where regulatory mechanisms are not necessary for implementing the conservation effort due to the nature of the action that removes threats, or there may be situations where necessary regulatory mechanisms are already in place.

Issue 34: One commenter stated that only when an alternative regulatory mechanism provides the same or higher protections than listing can the threat factors be said to be alleviated. A high level of certainty over future funding or voluntary participation might be acceptable if alternative regulatory mechanisms to prevent take in the interim are in place.

Response 34: Determinations to list species under the Act are based solely on whether or not they meet the definitions of threatened or endangered as specified by the Act. Through PECE, we will evaluate, at the time of our listing decision, whether a formalized conservation effort adequately reduces threats and improves the status of the species to make listing unnecessary. Additional alternative regulatory mechanisms to prevent take are not necessary if the threats to the species are reduced to the point that the species does not meet the definitions of threatened or endangered.

Issue 35: One commenter stated concern that the Services would not be able to provide assurances to private landowners because no specific provisions in the Act authorize conservation agreements in lieu of listing, and that third party lawsuits also undermine the Services' assurances. One commenter asked what future protection of their ongoing actions participants would receive.

Response 35: Satisfying the PECE criteria does not provide assurances that we will not decide to list a species. Also, because of the individual nature of species and the circumstances of their status, PECE does not address how much conservation is required to make listing unnecessary. Because of the numerous factors that affect a species' status, we may list a species despite the fact that one or more formalized conservation efforts have satisfied PECE. However, assurances can be provided to non-Federal entities through an approved Candidate Conservation Agreement with Assurances (CCAA) and in an associated enhancement of survival permit issued under section 10(a)(1)(A) of the Act. Many property owners desire certainty with regard to future regulatory restrictions to guarantee continuation of existing land or water uses or to assure allowance for future changes in land use. By facilitating this kind of individual land

use planning, assurances provided under the CCAA policy can substantially benefit many property owners. These agreements can have significance in our listing decisions, and we may also evaluate them according to the criteria in the PECE if they are not yet implemented or have not demonstrated results. However, we will make the determination of whether these CCAs preclude or remove any need to list the covered species on a case-by-case basis in accordance with the listing criteria and procedures under section 4 of the Act.

Issue 36: Several commenters stated that the PECE does not always provide incentives to conserve species and is, therefore, not supported by the Congressional finding of section 2(a)(5) of the Act. The commenters stated that the parties lack incentives to develop conservation programs until after the species is listed (e.g., *Building Industry Association of Southern California v. Babbitt*, where listing the coastal California gnatcatcher encouraged enrollment in conservation programs.) In addition, they stated that PECE provides a means for the listing process to be avoided entirely, and, therefore, may often fail to provide incentives that Congress referred to in its findings in section 2(a)(5). They stated that the "system" of incentives to which that Congressional finding refers is already found in incidental take provisions in section 10 of the Act, which will better ensure development and implementation of successful conservation programs.

Response 36: PECE is not "a way to avoid listing" or an "in lieu of listing" policy. This policy outlines guidance on the criteria we will use to evaluate formalized conservation efforts in determining whether to list a species. Knowing how we will evaluate any unimplemented or unmeasured formalized conservation efforts may help parties draft more effective agreements. However, there is a conservation incentive because, if a species becomes listed, these efforts can contribute to recovery and eventual delisting or downlisting of the species. Also, see our response to Issue 35.

Issue 37: Several commenters stated that relying on unimplemented future conservation measures is inconsistent with the definitions of "threatened species" and "endangered species" as provided in section 3 of the Act, and that PECE's evaluation of future, unimplemented conservation efforts in listing determinations is inconsistent with both the plain language of the Act and Congressional intent. Also, the commenters stated that the PECE

erroneously claims that the definitions of "threatened species" and "endangered species" connote future status, not present status.

Response 37: We agree that, when we make a listing decision, we must determine the species' present status which includes, in part, an evaluation of current threats. However, deciding or determining whether a species meets the definition of threatened or endangered also requires us to make a prediction about the future persistence of a species. Central to this concept is a prediction of future conditions, including consideration of future negative effects of anticipated human actions. The language of the Act supports this approach. The definitions for both "endangered species" and "threatened species" connote future condition, which indicates that consideration of whether a species should be listed depends in part on identification and evaluation of future actions that will reduce or remove, as well as create or exacerbate, threats to the species. We cannot protect species without taking into account future threats to a species. The Act does not require that, and species conservation would be compromised if, we wait until a threat is actually impacting populations before we list the species as threatened or endangered. Similarly, the magnitude and/or imminence of a threat may be reduced as a result of future positive human actions. Common to the consideration of both the negative and positive effects of future human actions is a determination of the likelihood that the actions will occur and that their effects on the species will be realized. Therefore, we consider both future negative and future positive impacts when assessing the listing status of the species. The first factor in section 4(a)(1)—"the present or threatened destruction, modification, or curtailment of [the species'] habitat or range"—identifies how analysis of both current actions affecting a species' habitat or range and those actions that are sufficiently certain to occur in the future and affect a species' habitat or range are necessary to assess a species' status. However, future Federal, state, local, or private actions that affect a species are not limited to actions that will affect a species' habitat or range. Congress did not intend for us to consider future actions affecting a species' habitat or range, yet ignore future actions that will influence overutilization, disease, predation, regulatory mechanisms, or other natural or manmade factors. Therefore, we construe Congress' intent, as reflected

by the language of the Act, to require us to consider both current actions that affect a species' status and sufficiently certain future actions—either positive or negative—that affect a species' status.

Issue 38: Several commenters stated that PECE's "sufficient certainty" standard is inconsistent with the Act's "best available science" standard. They stated that courts have ruled that any standard other than "best available science" violates the plain language and the Congressional intent of the Act. The commenters also stated that the "sufficient certainty" standard violates Congressional intent because it weakens the standard required by the Act to list species and can result in unnecessary, and potentially harmful, postponement of affirmative listing.

Response 38: We agree that our listing decisions must be based on the best available science. PECE does not address or change the listing criteria and procedures established under section 4 of the Act. Listing analyses include the evaluation of conservation efforts for the species under consideration. PECE is designed to help ensure a consistent and rigorous review of formalized conservation efforts that have yet to be implemented or efforts that have been implemented but have not yet shown effectiveness by establishing a set of standards to evaluate the certainty of implementation and effectiveness of these efforts.

Issue 39: Several commenters stated that PECE reduces or eliminates public comment on proposed rules to list species and is in violation of the Administrative Procedure Act (APA). Further, they stated that PECE violates the APA by allowing submission of formalized conservation measures after the proposed rule is issued to list species as threatened or endangered. Receiving "conservation agreements or plans before the end of the comment period in order to be considered in final listing decision" encourages landowners to submit conservation agreements at the last minute to avoid public scrutiny, and the PECE process could be a potential delay tactic used by landowners to postpone the listing of species. They stated that the Courts agree that failure of the Services to make available to the public conservation agreements on which listing decisions are based violates the public comment provision of the APA.

Response 39: All listing decisions, including those involving formalized conservation agreements, will comply with the requirements of the APA and ESA. If we receive a formalized conservation agreement or plan during an open comment period and it presents

significant new information relevant to the listing decision, we would either extend or reopen the public comment period to solicit public comments specifically addressing that plan or agreement. We recognize, however, that there may be situations where APA requirements must be reconciled with the ESA's statutory deadlines.

Issue 40: Several commenters expressed their concern that conservation efforts do not have binding obligations.

Response 40: While PECE does not require participants to have binding obligations, the policy does require a high level of certainty that a conservation effort will be implemented and effective at the time we make our listing decision. Furthermore, any subsequent failure to satisfy one or more PECE criteria would constitute new information and, depending on the significance of the formalized conservation effort to the species' status, may require a reevaluation of whether there is an increased risk of extinction, and whether that increased risk indicates that the species' status is threatened or endangered.

Funding Issues

Issue 41: Several commenters requested that we further specify our criteria stating that "a high level of certainty that the party(ies) to the agreement or plan that will implement the conservation effort will obtain the necessary funding is provided." In addition, one commenter questioned whether "a high level of certainty" for authorizations or funding was really an improvement over the status quo and suggested that we either list the required elements we will use to evaluate completeness of the conservation efforts or quantitatively define an evaluation standard.

Response 41: A high level of certainty of funding does not mean that funding must be in place now for implementation of the entire plan, but rather, it means that we must have convincing information that funding will be provided each year to implement relevant conservation efforts. We believe that at least 1 year of funding should be assured, and we should have documentation that demonstrates a commitment to obtain future funding, e.g., documentation showing funding for the first year is in place and a written commitment from the senior official of a state agency or organization to request or provide necessary funding in subsequent budget cycles, or documentation showing that funds are available through appropriations to existing programs and the

implementation of this plan is a priority for these programs. A fiscal schedule or plan showing clear links to the implementation schedule should be provided, as well as an explanation of how the party(ies) will obtain future necessary funding. It is also beneficial for entities to demonstrate that similar funding was requested and obtained in the past since this funding history can show the likelihood that future funding will be obtained.

Issue 42: One commenter suggested that the PECE policy holds qualifying conservation efforts to a higher standard than recovery plans. The commenter quoted several existing recovery plans that included disclaimers about budget commitments associated with specific tasks. Therefore, the commenter concluded that it is unrealistic and unreasonable to mandate that funding be in place when a conservation effort is evaluated.

Response 42: The Act does not require that certainty of implementation be provided for recovery management actions for listed species or conservation efforts for nonlisted species. Likewise, the PECE does not require that certainty of implementation be provided for during development of conservation efforts for nonlisted species. It is inappropriate to consider the PECE as holding conservation plans or agreements to a higher standard than the standard that exists for recovery plans because the PECE does not mandate a standard for conservation plans or agreements at the time of plan development. Rather, the PECE provides us guidance for the evaluation of conservation efforts when making a listing decision for a nonlisted species.

Recovery plans for listed species and conservation plans or agreements for nonlisted species identify needed conservation actions but may or may not provide certainty that the actions will be implemented or effective. However, when making a listing decision for nonlisted species, we must consider the certainty that a conservation effort will be implemented and effective. The PECE establishes criteria for us to use in evaluating conservation efforts when making listing decisions.

It is possible that we would evaluate a management action identified in a recovery plan for a listed species using the PECE. If, for example, a yet-to-be-implemented task identified in a recovery plan for a listed species would also benefit a nonlisted species, we, in making a listing decision for the nonlisted species, would apply the PECE criteria to that task to determine whether it could be considered as contributing to a decision not to list the

species or to list the species as threatened rather than endangered. In this situation, we would evaluate the management task identified in a recovery plan using the PECE criteria in the same way as other conservation efforts for the nonlisted species. That is, the recovery plan task would be held to the same evaluation standard in the listing decision as other conservation efforts.

Foreign Species Issues

Issue 43: One commenter asked why the proposed policy excluded conservation efforts by foreign governments, even though section 4(b)(1)(A) of the Act requires the Services to take such efforts into account. This commenter also stated that the proposed policy is contrary to "The Foreign Relations Law of the United States," which he argues requires the United States to defer to other nations when they have a "clearly greater interest" regarding policies or regulations being considered by the United States that could negatively affect their nations.

Response 43: As required by the Act, we have taken and will continue to take into account conservation efforts by foreign countries when considering listing of foreign species (sections 4(b) and 8 of the Act). Furthermore, whenever a species whose range occurs at least in part outside of the United States is proposed for a listing action (listing, change in status, or delisting), we communicate with and solicit the input of the countries within the range of the species. At that time, countries are provided the opportunity to share information on the status of the species, management of the species, and on conservation efforts within the foreign country. We will take those comments and information provided into consideration when evaluating the listing action, which by law must follow the analysis outlined in sections 4(a) and 4(b) of the Act. Thus, all listing decisions for foreign species will continue to comply with the provisions of the Act.

Issues Outside Scope of Policy

We received several comments that were outside of the scope of PECE. Below, we have briefly addressed these comments.

Issue 44: A comment was made that the Services should not list foreign species under the Act when such listing is in conflict with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Response 44: Considerations regarding CITES are outside the scope of the PECE. However, we do not believe there is a conflict with CITES and listing of a foreign species under the Act. When evaluating the status of foreign species under the Act, we take into consideration whether the species is listed under CITES (and if listed, at what level) and all available information regarding the listing. If you have questions regarding CITES, please contact the FWS Division of Scientific Authority at 4401 N. Fairfax Drive, Room 750, Arlington, VA 22203 or by telephone at 703-358-1708.

Issue 45: One commenter stated that all conservation agreements/plans should be subject to independent scientific peer review. This commenter also argued that any conservation agreement or plan for a candidate species should remove all known major threats for the species and convey a reasonably high certainty that the agreement or plan will result in full conservation of the species.

Response 45: We believe that scientific review can help ensure that formalized conservation efforts are comprehensive and effective, and we expect that most or all participants will seek scientific review, but we will not require a formal independent peer review of conservation plans at the time of development. If a formalized conservation plan is presented for a species that has been proposed for listing, all relevant information, including formalized conservation efforts, will be subject to independent scientific review consistent with our policy on peer review (59 FR 34270). We will also solicit public comments on our listing proposals.

The amount or level of conservation proposed in a conservation plan (e.g., removal of all versus some of the major threats) is outside the scope of PECE. Assuming that all of the PECE criteria have been satisfied for the efforts to which they apply, it stands to reason that plans that comprehensively address threats are likely to be more influential in listing decisions than plans that do not thoroughly address the conservation of the species. We believe that by establishing the PECE criteria for certainty of implementation and effectiveness, we are promoting the development of plans that improve the status of species. We expect that in some cases this improvement will reduce the risk of extinction sufficiently to make listing under the Act unnecessary, to result in listing a species as threatened rather than endangered, or to make classifying a

species as a candidate for listing unnecessary.

Issue 46: Several commenters questioned the extent of state involvement in the development of conservation efforts. One commenter said that the policy should mandate that States be involved with plan development, and that states approve all conservation efforts.

Response 46: It is outside the scope of PECE to establish standards to determine who participates in the development of conservation efforts and at what level. In many cases, states play a crucial role in the conservation of species. For formalized conservation efforts to be effective, it is logical for the states to play an integral role. To that end, we highly encourage state participation to help ensure the conservation of the species, but we do not believe that states should be mandated to participate in the development of all conservation plans. In some cases, states may not have the resources to participate in these plans, and in other situations, individuals or non-state entities may have the ability to develop an effective and well-implemented plan that does not require state participation, but that contributes to the conservation of a species. Through our listing process, we will work with state conservation agencies, and, if the listing decision involves a public comment period, states have a formal opportunity to comment on any conservation efforts being considered in the listing decision.

Issue 47: Several comments were made regarding the feedback mechanisms to correct a party's (ies') inadequate or ineffective implementation of a conservation effort. It was suggested that the Services specify clearly, and based on scientific information, those factors which the Services believe indicate that a conservation effort is either not being implemented or not being effective. Comments also suggested that party(ies) be given reasonable time (e.g., 90-120 days) to respond to the Service's findings by either implementing actions, achieving objectives, or providing information to respond to the Services.

Response 47: PECE is not a regulatory approval process, and establishing a formal feedback mechanism between the Services and participants is not within the scope of PECE. The final determination whether to list a species under the Act will rest solely upon whether or not the species under consideration meets the definition of threatened or endangered as specified by the Act, which will include consideration of whether formalized

conservation efforts that meet PECE criteria have enhanced the status of the species. We will provide guidance to improve conservation efforts when possible, but we cannot delay listing decisions in order to participate in a corrective review process when the best scientific and commercial data indicate that a species meets the definition of threatened or endangered.

Issue 48: One commenter requested that we clarify how significant the conservation agreement must be to the species, and describe the anticipated overall impact/importance to the species and the estimated extent of the species' overall range that the habitat conservation agreement might cover.

Response 48: PECE does not establish standards for how much or what kind of conservation is required to make listing a species under the Act unnecessary. We believe that high-quality formalized conservation efforts should explain in detail the impact and significance of the effort on the target species. However, at the time of our listing decision, we will evaluate formalized conservation efforts using PECE to determine whether the effort provides certainty of implementation and effectiveness and improves the status of the species. Through our listing process, we will determine whether or not a species meets the definition of threatened or endangered.

Issue 49: Several commenters wrote that states do not have additional resources to be pro-active on candidate conservation efforts, and suggested that funding for conservation plans or efforts should be provided by the Federal Government.

Response 49: This comment is outside the scope of the PECE. This policy establishes a set of standards for evaluating formalized conservation efforts in our listing decisions and does not address funding sources to develop and implement these efforts.

Summary of Changes From the Proposed Policy

We have slightly revised some of the evaluation criteria as written in the proposed policy. We made the following changes to reflect comments that we received during the public comment period. We added the word "legal" to criterion A.2., incorporated additional language ("the commitment to proceed with the conservation effort is described."), and separated this criterion into two criteria (A.2. and A.3.). We revised criterion A.3. (formerly part of A.2.) to recognize that parties cannot commit to completing some legal procedural requirements (e.g. National Environmental Policy Act)

since some procedural requirements preclude commitment to a proposed action before the procedures are actually completed. We changed criterion A.5. (formerly A.4.) by adding "type" and "(e.g., number of landowners allowing entry to their land, or number of participants agreeing to change timber management practices and acreage involved)" and by replacing "why" with "how" and "are expected to" with "will." We deleted the word "all" at the beginning of criterion A.6. as we felt it was redundant. We added "(including incremental completion dates)" to criterion A.8. (formerly A.7.). To criterion B.1. we added "and how the conservation effort reduces the threats is described."

Also in the proposed policy we stated that if we make a decision not to list a species, or to list the species as threatened rather than endangered, based in part on the contributions of a formalized conservation effort, we will monitor the status of the species. We have clarified this in the final policy to state that we will monitor the status of the effort, including the progress of implementation of the formalized conservation effort.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant policy and was reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below.

(a) This policy will not have an annual economic effect of \$100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. The policy for the evaluation of conservation efforts when making listing decisions does not pertain to commercial products or activities or anything traded in the marketplace.

(b) This policy is not expected to create inconsistencies with other agencies' actions. FWS and NMFS are responsible for carrying out the Act.

(c) This policy is not expected to significantly affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) OMB has determined that this policy may raise novel legal or policy issues and, as a result, this action has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the

Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions), unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our determination.

We have examined this policy's potential effects on small entities as required by the Regulatory Flexibility Act and have determined that this action will not have a significant economic impact on a substantial number of small entities since the policy will not result in any significant additional expenditures by entities that develop formalized conservation efforts. The criteria in this policy describe how we will evaluate elements that are already included in conservation efforts and do not establish any new implementation burdens. Therefore, we believe that no economic effects on States and other entities will result from compliance with the criteria in this policy.

Pursuant to the Regulatory Flexibility Act, at the proposed policy stage, we certified to the Small Business Administration that this policy would not have a significant economic impact on a substantial number of small entities, since we expect that this policy will not result in any significant additional expenditures by entities that develop formalized conservation efforts. We received no comments regarding the economic impacts of this policy on small entities. Thus, we certify that this final policy will not have a significant adverse impact on a substantial number of small entities and conclude that a regulatory flexibility analysis is not necessary.

We have determined that this policy will not cause (a) any effect on the economy of \$100 million or more, (b) any increases in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographical regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability

of U.S.-based enterprises to compete with foreign-based enterprises (see Economic Analysis below).

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this policy is a significant action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.):

(a) This policy will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. We expect that this policy will not result in any significant additional expenditures by entities that develop formalized conservation efforts.

(b) This policy will not produce a Federal mandate on state, local, or tribal governments or the private sector of \$100 million or greater in any year; that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. This policy imposes no obligations on state, local, or tribal governments (see Economic Analysis below).

Takings

In accordance with Executive Order 12630, this policy does not have significant takings implications. While state, local or Tribal governments, or private entities may choose to directly or indirectly implement actions that may have property implications, they would do so as a result of their own decisions, not as a result of this policy. This policy has no provision that would take private property.

Federalism

In accordance with Executive Order 13132, this policy does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Commerce policy, we requested information from and coordinated development of this policy with appropriate resource agencies throughout the United States.

Civil Justice Reform

In accordance with Executive Order 12988, this policy does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. With the guidance provided in the policy, requirements under section 4 of the Endangered Species Act will be clarified to entities that voluntarily develop formalized conservation efforts.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This policy contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by Office of Management and Budget (OMB). The FWS has OMB approval for the collection under OMB Control Number 1018-0119, which expires on December 31, 2005. The NMFS has OMB approval for the collection under OMB Control Number 0648-0466, which expires on December 31, 2005. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Public reporting burden for FWS collections of information is estimated to average 2,500 hours for developing one agreement with the intent to preclude a listing, 320 hours for annual monitoring under one agreement, and 80 hours for one annual report. The FWS expects that six agreements with the intent of making listing unnecessary will be developed in one year and that four of these will be successful in making listing unnecessary, and therefore, the entities who develop these four agreements will carry through with their monitoring and reporting commitments. Public reporting burden for NMFS collections of information is estimated to average 2,500 hours for developing one agreement with the intent to preclude a listing, 320 hours for annual monitoring under one agreement, and 80 hours for one annual report. The NMFS expects that two agreements with the intent of making listing unnecessary will be developed in one year and that one of these will be successful in making listing unnecessary, and therefore, the entities who develop this agreement will carry through with their monitoring and reporting commitments. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data

collection, including suggestions for reducing the burden, to the FWS and NMFS (see ADDRESSES section of this policy).

National Environmental Policy Act

We have analyzed this policy in accordance with the criteria of the National Environmental Policy Act (NEPA), the Department of the Interior Manual (318 DM 2.2(g) and 6.3(D)), and National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6. This policy does not constitute a major Federal action significantly affecting the quality of the human environment. The FWS has determined that the issuance of the policy is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1 (1.10) and 516 DM 6, Appendix 1. NOAA has determined that the issuance of this policy qualifies for a categorical exclusion as defined by NOAA Administrative Order 216-6, Environmental Review Procedure.

ESA Section 7 Consultation

We have determined that issuance of this policy will not affect species listed as threatened or endangered under the Endangered Species Act, and, therefore, a section 7 consultation on this policy is not required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951), E.O. 13175, and the Department of Interior's 512 DM 2, this policy does not directly affect Tribal resources. The policy may have an indirect effect on Native American Tribes as the policy may influence the type and content of conservation plans and efforts implemented by Tribes, or other entities. The extent of this indirect effect will be determined on a case-by-case basis during our evaluation of individual formalized conservation efforts when we make a listing decision. Under Secretarial Order 3206, we will, at a minimum, share with the entity that developed the formalized conservation effort any information provided by the Tribes, through the public comment period for the listing decision or formal submissions. During the development of conservation plans, we can encourage the incorporation of conservation efforts that will restore or enhance Tribal trust resources. After consultation with the Tribes and the entity that developed the formalized conservation effort and after

careful consideration of the Tribe's concerns, we must clearly state the rationale for the recommended final listing decision and explain how the decision relates to our trust responsibility. Accordingly:

(a) We have not yet consulted with the affected Tribe(s). We will address this requirement when we evaluate formalized conservation efforts that have yet to be implemented or have recently been implemented and have yet to show effectiveness at the time we make a listing decision.

(b) We have not yet worked with Tribes on a government-to-government basis. We will address this requirement when we evaluate formalized conservation efforts that have yet to be implemented or have recently been implemented but have yet to show effectiveness at the time we make a listing decision.

(c) We will consider Tribal views in individual evaluations of formalized conservation efforts.

(d) We have not yet consulted with the appropriate bureaus and offices of the Department about the identified effects of this policy on Tribes. This requirement will be addressed with individual evaluations of formalized conservation efforts.

Information Quality

In Accordance with section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554), OMB directed Federal agencies to issue and implement guidelines to ensure and maximize the quality, objectivity, utility, and integrity of Government information disseminated to the public (67 FR 8452). Under our Information Quality guidelines, if we use a conservation plan or agreement as part of our decision to either list or not list a species under the Act, the plan or agreement is considered to be disseminated by us and these guidelines apply to the plan or agreement. The criteria outlined in this policy are consistent with OMB, Department of Commerce, NOAA, and Department of the Interior. FWS information quality guidelines. The Department of the Interior's guidelines can be found at <http://www.doi.gov/ocio/guidelines/515Guides.pdf>, and the FWS's guidelines can be found at <http://irm.fws.gov/infoguidelines/>. The Department of Commerce's guidelines can be found at <http://www.osc.doc.gov/cio/oipr/iqg.html>, and the NOAA/NMFS's guidelines can be found at <http://www.noaa.gov/noaa/stories/iq.htm>. Under these guidelines, any affected

person or organization may request from FWS or NMFS, a correction of information they believe to be incorrect in the plan or agreement. "Affected persons or organizations" are those who may use, be benefitted by, or be harmed by the disseminated information (i.e., the conservation plan or agreement). The process for submitting a request for correction of information is found in the respective FWS and NOAA guidelines.

Economic Analysis

This policy identifies criteria that a formalized conservation effort must satisfy to ensure certainty of implementation and effectiveness and for us to determine that the conservation effort contributes to making listing a species unnecessary or contributes to forming a basis for listing a species as threatened rather than endangered. We developed this policy to ensure consistent and adequate evaluation of agreements and plans when making listing decisions. The policy will also provide guidance to States and other entities on how we will evaluate certain formalized conservation efforts during the listing process.

The criteria in this policy primarily describe elements that are already included in conservation efforts and that constitute sound conservation planning. For example, the criteria requiring identification of responsible parties, obtaining required authorizations, establishment of objectives, and inclusion of an implementation schedule and monitoring provisions are essential for directing the implementation and affirming the effectiveness of conservation efforts. These kinds of "planning" requirements are generally already included in conservation efforts and do not establish any new implementation burdens. Rather, these requirements will help to ensure that conservation efforts are well planned and, therefore, increase the likelihood that conservation efforts will ultimately be successful in making listing species unnecessary.

The development of an agreement or plan by a state or other entity is completely voluntary. However, when a state or other entity voluntarily decides to develop an agreement or plan with the specific intent of making listing a species unnecessary, the criteria identified in this policy can be construed as requirements placed on the development of such agreements or plans. The state or other entity must satisfy these criteria in order to obtain and retain the benefit they are seeking, which is making listing of a species as threatened or endangered unnecessary.

The criteria in the policy require demonstrating certainty of implementation and effectiveness of formalized conservation efforts. We have always considered the certainty of implementation and effectiveness of conservation efforts when making listing decisions. Therefore, we believe that no economic effects on states and other entities will result from using the criteria in this policy as guidance.

Furthermore, publication of this policy will have positive effects by informing States and other entities of the criteria we will use in evaluating formalized conservation efforts when making listing decisions, and thereby guide states and other entities in developing voluntary formalized conservation efforts that will be successful in making listing unnecessary. Therefore, we believe that informational benefits will result from issuing this policy. We believe these benefits, although important, will be insignificant economically.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Policy for Evaluation of Conservation Efforts When Making Listing Decisions

Policy Purpose

The Fish and Wildlife Service and National Marine Fisheries Service developed this policy to ensure consistent and adequate evaluation of formalized conservation efforts (conservation efforts identified in conservation agreements, conservation plans, management plans, and similar documents) when making listing decisions under the Act. This policy may also guide the development of conservation efforts that sufficiently improve a species' status so as to make listing the species as threatened or endangered unnecessary.

Definitions

"Adaptive management" is a method for examining alternative strategies for meeting measurable biological goals and objectives, and then, if necessary, adjusting future conservation management actions according to what is learned.

"Agreements and plans" include conservation agreements, conservation plans, management plans, or similar documents approved by Federal agencies, State and local governments, Tribal governments, businesses, organizations, or individuals.

"Candidate species," as defined by regulations at 50 CFR 424.02(b), means

any species being considered for listing as an endangered or a threatened species, but not yet the subject of a proposed rule. However, the FWS includes as candidate species those species for which the FWS has sufficient information on file relative to status and threats to support issuance of proposed listing rules. The NMFS includes as candidate species those species for which it has information indicating that listing may be warranted, but for which sufficient information to support actual proposed listing rules may be lacking. The term "candidate species" used in this policy refers to those species designated as candidates by either of the Services.

"Conservation efforts," for the purpose of this policy, are specific actions, activities, or programs designed to eliminate or reduce threats or otherwise improve the status of a species. Conservation efforts may involve restoration, enhancement, maintenance, or protection of habitat; reduction of mortality or injury; or other beneficial actions.

"Formalized conservation efforts" are conservation efforts identified in a conservation agreement, conservation plan, management plan, or similar document. An agreement or plan may contain numerous conservation efforts.

Policy Scope

When making listing decisions, the Services will evaluate whether formalized conservation efforts contribute to making it unnecessary to list a species, or to list a species as threatened rather than endangered. This policy applies to those formalized conservation efforts that have not yet been implemented or have been implemented, but have not yet demonstrated whether they are effective at the time of a listing decision. We will make this evaluation based on the certainty of implementing the conservation effort and the certainty that the effort will be effective. This policy identifies the criteria we will use to help determine the certainty of implementation and effectiveness. Listing decisions covered by the policy include findings on petitions to list species, and decisions on whether to assign candidate status, remove candidate status, issue proposed listing rules, and finalize or withdraw proposed listing rules. This policy applies to formalized conservation efforts developed with or without a specific intent to influence a listing decision and with or without the involvement of the Services.

Section 4(a)(1) of the Endangered Species Act of 1973, as amended (16

U.S.C. 1533(a)(1)), states that we must determine whether a species is threatened or endangered because of any of the following 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.

Although this language focuses on impacts negatively affecting a species, section 4(b)(1)(A) requires us also to "tak[e] into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas." Read together, sections 4(a)(1) and 4(b)(1)(A), as reflected in our regulations at 50 CFR 424.11(f), require us to take into account any State or local laws, regulations, ordinances, programs, or other specific conservation measures that either positively or negatively affect a species' status (i.e., measures that create, exacerbate, reduce, or remove threats identified through the section 4(a)(1) analysis). The manner in which the section 4(a)(1) factors are framed supports this conclusion. Factor (D) for example—"the inadequacy of existing regulatory mechanisms"—indicates that overall we might find existing regulatory mechanisms adequate to justify a determination not to list a species.

Factor (E) in section 4(a)(1) (any "manmade factors affecting [the species'] continued existence") requires us to consider the pertinent laws, regulations, programs, and other specific actions of any entity that either positively or negatively affect the species. Thus, the analysis outlined in section 4 of the Act requires us to consider the conservation efforts of not only State and foreign governments but also of Federal agencies, Tribal governments, businesses, organizations, or individuals that positively affect the species' status.

While conservation efforts are often informal, such as when a property owner implements conservation measures for a species simply because of concern for the species or interest in protecting its habitat, and without any specific intent to affect a listing decision, conservation efforts are often formalized in conservation agreements, conservation plans, management plans, or similar documents. The development

and implementation of such agreements and plans has been an effective mechanism for conserving declining species and has, in some instances, made listing unnecessary. These efforts are consistent with the Act's finding that "encouraging the States and other interested parties * * * to develop and maintain conservation programs * * * is a key * * * to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish, wildlife, and plants" (16 U.S.C. 1531 (a)(5)).

In some situations, a listing decision must be made before all formalized conservation efforts have been implemented or before an effort has demonstrated effectiveness. We may determine that a formalized conservation effort that has not yet been implemented has reduced or removed a threat to a species when we have sufficient certainty that the effort will be implemented and will be effective.

Determining whether a species meets the definition of threatened or endangered requires us to analyze a species' risk of extinction. Central to this risk analysis is an assessment of the status of the species (i.e., is it in decline or at risk of decline and at what rate is the decline or risk of decline) and consideration of the likelihood that current or future conditions or actions will promote (see section 4(b)(1)(A)) or threaten a species' persistence. This determination requires us to make a prediction about the future persistence of a species, including consideration of both future negative and positive effects of anticipated human actions. The language of the Act supports this approach. The definitions for both "endangered species" and "threatened species" connote future condition, which indicates that consideration of whether a species should be listed depends in part on identification and evaluation of future actions that will reduce or remove, as well as create or exacerbate, threats to the species. The first factor in section 4(a)(1)—"the present or *threatened* destruction, modification, or curtailment of [the species'] habitat or range"—identifies how analysis of both current actions affecting a species' habitat or range and those actions that are sufficiently certain to occur in the future and affect a species' habitat or range are necessary to assess a species' status. However, future Federal, State, local, or private actions that affect a species are not limited to actions that will affect a species' habitat or range. Congress did not intend for us to consider future actions affecting a species' habitat or range, yet ignore future actions that will influence overutilization, disease, predation,

regulatory mechanisms, or other natural or manmade factors. Therefore, we construe Congress' intent, as reflected by the language of the Act, to require us to consider both current actions that affect a species' status and sufficiently certain future actions—either positive or negative—that affect a species' status. As part of our assessment of future conditions, we will determine whether a formalized conservation effort that has yet to be implemented or has recently been implemented but has yet to show effectiveness provides a high level of certainty that the effort will be implemented and/or effective and results in the elimination or adequate reduction of the threats.

For example, if a state recently designed and approved a program to eliminate collection of a reptile being considered for listing, we must assess how this program affects the status of the species. Since the program was just designed, an implementation and effectiveness record may not yet exist. Therefore, we must evaluate the likelihood, or certainty, that it will be implemented and effective, using evidence such as the State's ability to enforce new regulations, educate the public, monitor compliance, and monitor the effects of the program on the species. Consequently, we would determine that the program reduces the threat of overutilization of the species through collecting if we found sufficient certainty that the program would be implemented and effective.

In another example, a state could have a voluntary incentive program for protection and restoration of riparian habitat that includes providing technical and financial assistance for fencing to exclude livestock. Since the state has already implemented the program, the state does not need to provide certainty that it will be implemented. If the program was only recently implemented and no record of the effects of the program on the species' status existed, we would evaluate the effectiveness of this voluntary program at the time of our listing decision. To assess the effectiveness, we would evaluate the level of participation (e.g., number of participating landowners or number of stream-miles fenced), the length of time of the commitment by landowners, and whether the program reduces the threats on the species. We would determine that the program reduces the threat of habitat loss and degradation if we find sufficient certainty that the program is effective.

In addition, we will consider the estimated length of time that it will take for a formalized conservation effort to

produce a positive effect on the species. In some cases, the nature, severity, and/or imminence of threats to a species may be such that a formalized conservation effort cannot be expected to produce results quickly enough to make listing unnecessary since we must determine at the time of the listing decision that the conservation effort has improved the status of the species.

Federal agencies, Tribal governments, state and local governments, businesses, organizations, or individuals contemplating development of an agreement or plan should be aware that, because the Act mandates specific timeframes for making listing decisions, we cannot delay the listing process to allow additional time to complete the development of an agreement or plan. Nevertheless, we encourage the development of agreements and plans even if they will not be completed prior to a final listing decision. Such an agreement or plan could serve as the foundation for a special rule under section 4(d) of the Act, which would establish only those prohibitions necessary and advisable for the conservation of a threatened species, or for a recovery plan, and could lead to earlier recovery and delisting.

This policy provides us guidance for evaluating the certainty of implementation and effectiveness of formalized conservation efforts. This policy is not intended to provide guidance for determining the specific level of conservation (e.g., number of populations or individuals) or the types of conservation efforts (e.g., habitat restoration, local regulatory mechanisms) specifically needed to make listing particular species unnecessary and does not provide guidance for determining when parties should enter into agreements. We do encourage early coordination in conservation measures to prevent the species from meeting the definition of endangered or threatened.

If we make a decision not to list a species or to list the species as threatened rather than endangered based in part on the contributions of a formalized conservation effort, we will track the status of the effort including the progress of implementation and effectiveness of the conservation effort. If any of the following occurs: (1) a failure to implement the conservation effort in accordance with the implementation schedule; (2) a failure to achieve objectives; (3) a failure to modify the conservation effort to adequately address an increase in the severity of a threat or to address other new information on threats; or (4) we receive any other new information

indicating a possible change in the status of the species, then we will reevaluate the status of the species and consider whether initiating the listing process is necessary. Initiating the listing process may consist of designating the species as a candidate species and assigning a listing priority, issuing a proposed rule to list, issuing a proposed rule to reclassify, or issuing an emergency listing rule. In some cases, even if the parties fully implement all of the conservation efforts outlined in a particular agreement or plan, we may still need to list the species. For example, this may occur if conservation efforts only cover a portion of a species' range where the species needed to be conserved, or a particular threat to a species was not anticipated or addressed at all, or not adequately addressed, in the agreement or plan.

Evaluation Criteria

Conservation agreements, conservation plans, management plans, and similar documents generally identify numerous conservation efforts (i.e., actions, activities, or programs) to benefit the species. In determining whether a formalized conservation effort contributes to forming a basis for not listing a species, or for listing a species as threatened rather than endangered, we must evaluate whether the conservation effort improves the status of the species under the Act. Two factors are key in that evaluation: (1) for those efforts yet to be implemented, the certainty that the conservation effort will be implemented and (2) for those efforts that have not yet demonstrated effectiveness, the certainty that the conservation effort will be effective. Because the certainty of implementation and effectiveness of formalized conservation efforts may vary, we will evaluate each effort individually and use the following criteria to direct our analysis.

A. The certainty that the conservation effort will be implemented:

1. The conservation effort, the party(ies) to the agreement or plan that will implement the effort, and the staffing, funding level, funding source, and other resources necessary to implement the effort are identified.
2. The legal authority of the party(ies) to the agreement or plan to implement the formalized conservation effort, and the commitment to proceed with the conservation effort are described.
3. The legal procedural requirements (e.g. environmental review) necessary to implement the effort are described, and information is provided indicating that fulfillment of these requirements does

not preclude commitment to the effort. 4. Authorizations (e.g., permits, landowner permission) necessary to implement the conservation effort are identified, and a high level of certainty is provided that the party(ies) to the agreement or plan that will implement the effort will obtain these authorizations. 5. The type and level of voluntary participation (e.g., number of landowners allowing entry to their land, or number of participants agreeing to change timber management practices and acreage involved) necessary to implement the conservation effort is identified, and a high level of certainty is provided that the party(ies) to the agreement or plan that will implement the conservation effort will obtain that level of voluntary participation (e.g., an explanation of how incentives to be provided will result in the necessary level of voluntary participation). 6. Regulatory mechanisms (e.g., laws, regulations, ordinances) necessary to implement the conservation effort are in place. 7. A high level of certainty is provided that the party(ies) to the agreement or plan that will implement the conservation effort will obtain the necessary funding. 8. An implementation schedule (including incremental completion dates) for the conservation effort is provided. 9. The conservation agreement or plan that includes the conservation effort is approved by all parties to the agreement or plan.

B. The certainty that the conservation effort will be effective:

1. The nature and extent of threats being addressed by the conservation effort are described, and how the conservation effort reduces the threats is described. 2. Explicit incremental objectives for the conservation effort and dates for achieving them are stated. 3. The steps necessary to implement the conservation effort are identified in detail. 4. Quantifiable, scientifically valid parameters that will demonstrate achievement of objectives, and standards for these parameters by which progress will be measured, are identified. 5. Provisions for monitoring and reporting progress on implementation (based on compliance with the implementation schedule) and effectiveness (based on evaluation of quantifiable parameters) of the conservation effort are provided. 6. Principles of adaptive management are incorporated.

These criteria should not be considered comprehensive evaluation criteria. The certainty of implementation and effectiveness of a formalized conservation effort may also

depend on species-specific, habitat-specific, location-specific, and effort-specific factors. We will consider all appropriate factors in evaluating formalized conservation efforts. The specific circumstances will also determine the amount of information necessary to satisfy these criteria.

To consider that a formalized conservation effort(s) contributes to forming a basis for not listing a species or listing a species as threatened rather than endangered, we must find that the conservation effort is sufficiently certain to be implemented and effective so as to have contributed to the elimination or adequate reduction of one or more threats to the species identified through the section 4(a)(1) analysis. The elimination or adequate reduction of section 4(a)(1) threats may lead to a determination that the species does not meet the definition of threatened or endangered, or is threatened rather than endangered. An agreement or plan may contain numerous conservation efforts, not all of which are sufficiently certain to be implemented and effective. Those conservation efforts that are not sufficiently certain to be implemented and effective cannot contribute to a determination that listing is unnecessary or a determination to list as threatened rather than endangered. Regardless of the adoption of a conservation agreement or plan, however, if the best available scientific and commercial data indicate that the species meets the definition of "endangered species" or "threatened species" on the day of the listing decision, then we must proceed with appropriate rule-making activity under section 4 of the Act.

Dated: September 16, 2002.

Steve Williams,

Director, Fish and Wildlife Service.

December 23, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 03-7364 Filed 3-27-03; 8:45 am]

BILLING CODES 4310-55-S and 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212306-2306-01; I.D. 032403A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is reopening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA) for 24 hours. This action is necessary to fully use the B season allowance of the total allowable catch (TAC) of pollock specified for Statistical Area 610.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 26, 2003, through 1200 hrs, A.l.t., March 27, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the B season directed fishery for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on March 19, 2003 (68 FR 13857, March 21, 2003).

NMFS has determined that, approximately 986 mt of pollock remain in the B season directed fishing allowance. Therefore, in accordance with 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the B season allowance of pollock TAC specified for Statistical Area 610, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 24 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA effective 1200 hrs, A.l.t., March 27, 2003.

Greater Sage-grouse Conservation Efforts Database User Guide Version 1.1

A Living Document That Will Be Refined With Use

U.S. Fish and Wildlife Service

September 30, 2014

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CONSERVATION EFFORTS DATABASE EXECUTIVE SUMMARY

The US Fish and Wildlife Service (hereafter, Service) is reviewing the range-wide status of the greater sage-grouse (*Centrocercus urophasianus*; hereafter, sage-grouse) to determine by September 2015 if this species warrants listing as threatened or endangered under the Endangered Species Act (ESA). The combination of voluntary, incentive-based efforts, habitat restoration projects, and management through regulatory mechanisms could have a significant influence on the Service's upcoming status review. To efficiently capture the unprecedented level of sage-grouse conservation throughout the 11-state range of the species, the Service and the United States Geological Survey (USGS) have developed the Conservation Efforts Database (CED). The CED will be the repository of information describing the plans and projects designed to prevent and ameliorate habitat fragmentation and loss, the primary threat factor identified in the Service's 2010 "warranted but precluded" finding (75 FR 13910).

The CED is easy to use. This is a web-based database with a geospatial component that is used to collect information on the plans and projects currently being implemented, or with a high likelihood of being implemented in the near future, to conserve sage-grouse. Developed to provide a secure and transparent way to gather information on sage-grouse conservation efforts, the CED allows multiple users to enter information about their conservation efforts and link them to one or more threats to the species. Conservation plans, individual project descriptions and reports, tabular data from large data sets, spatial data, and documentation of data sources can all be entered in the CED, which is housed on the data sharing platform, LC Map. LC Map (Landscape Conservation Management and Analysis Portal) is managed by the Great Northern Landscape Conservation Cooperative. The CED is user-friendly for all technical levels and was designed with efficiency in mind. No GIS skills are required for entering data on individual plans or projects, and USGS programmers are available to help with batch uploads of large data sets or GIS files.

The CED is secure. Agencies and organizations will work with the Service/USGS CED Team to establish approving officials to determine who can enter and edit data in the CED for their organization. These agency-designated approving officials will also allow for important oversight of data entry.

The CED is transparent. The information on the CED will become part of the public record and may be publicly disclosed as part of the Service's administrative record or in response to a request under the Freedom of Information Act (FOIA).

The CED is simple. Each project or plan entry consists of six main components:

1. Basic project information
2. Location information (easy-to-use onscreen digitizer, or upload shape files)
3. Activity and metrics
4. Threats addressed
5. Upload supporting documents (optional)
6. Implementation and effectiveness information

How will the information be used? Each plan or project entered in the CED will be linked to one or more populations of sage-grouse and to one or more of the following thirteen threats (in alphabetical order) identified in the Conservation Objectives Team final report (hereafter, COT report; USFWS 2013).

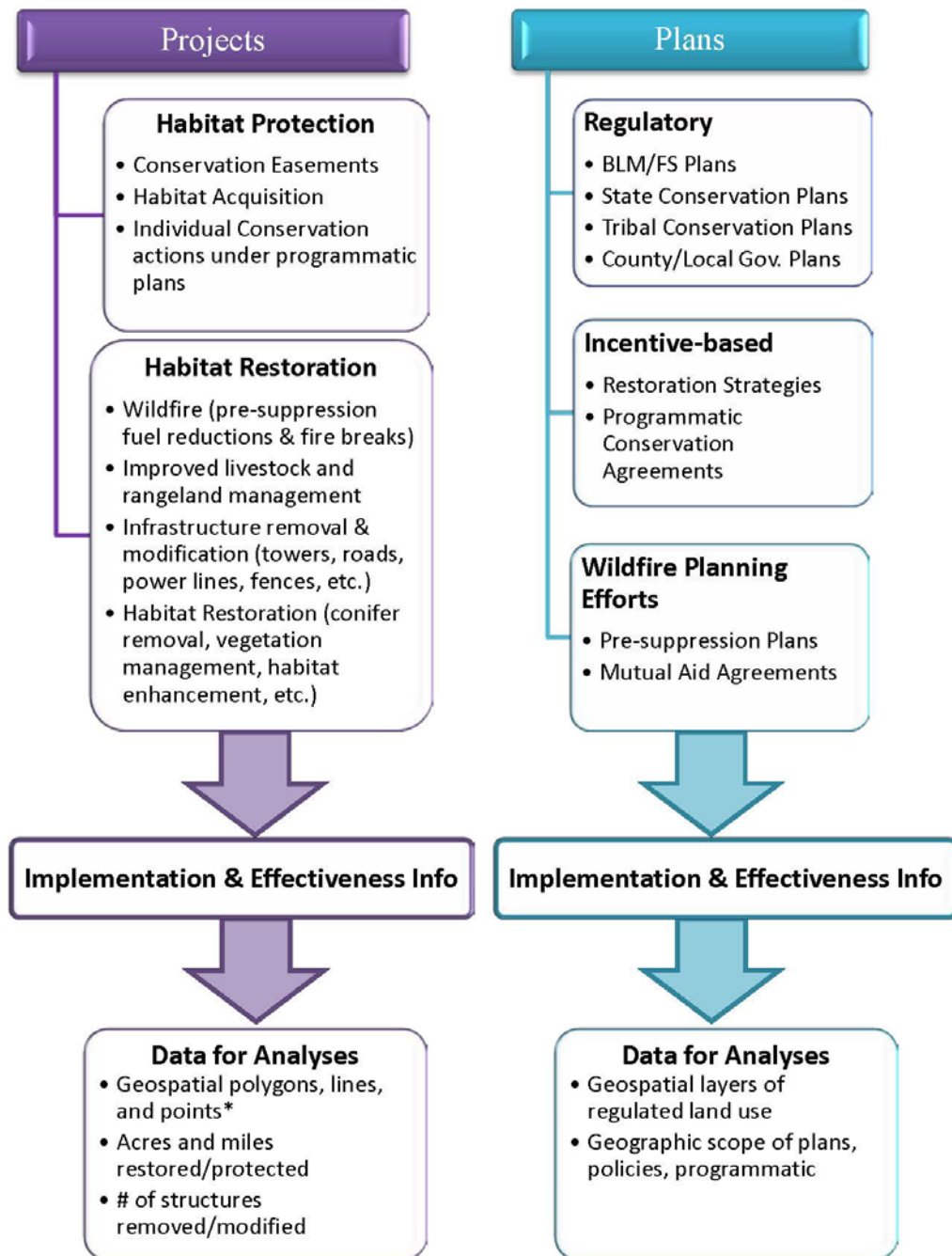
- Agricultural Conversion

- Conifer Encroachment
- Energy Development
- Fire
- Free Roaming Equids
- Grazing/Range Management
- Infrastructure
- Isolated/Small Population Size
- Mining
- Noxious Weeds/Annual Grasses
- Recreation
- Sagebrush Elimination
- Urbanization

We will review the information about individual projects and plans entered into the CED to evaluate the extent to which these efforts will ameliorate the threats to the sage-grouse population(s) identified (and in the associated Priority Areas for Conservation (PACs) defined in the Conservation Objectives Team Report [COT report]), with the goal of compiling these results to generate a range-wide assessment of sage-grouse conservation efforts. The CED does not include information about the distribution or severity of threats; that information will be compiled separately by the Service.

An overview of some of the basic components of the CED is provided in Fig. 1. This schematic is not all-inclusive, but provides general information on the structure of the database. For more information, please visit <https://conservationefforts.org>

Conservation Efforts



* geospatial data will be buffered to protect personally identifiable information

Figure 1. Simplified portrayal of the CED structure and information flow.

1.0 CED Data Providers

Conservation partners throughout the species' range, spanning 11 states, are undertaking unprecedented actions to conserve sage-grouse and sage-steppe habitats. These conservation actions include landscape-scale Federal and State management plans that provide regulatory mechanisms, incentives, and/or strategic approaches to conserve important sage-grouse habitat as well as on-the-ground habitat restoration projects such as addressing piñon-juniper encroachment, improving wet meadow habitats, and installing fire breaks. An important element of our status review will be a compilation of the conservation efforts currently being implemented, or planned for implementation in the near future, to conserve sage-grouse. The status review will also contain an analysis of the effectiveness of the conservation efforts in ameliorating the threats to the species (described in detail in the Service's 2010 petition findings; 75 FR 13910). The Conservation Efforts Database (hereafter, CED) was developed to collect this information from partners in a standardized way so that we can assess the distribution of conservation activities of different kinds and evaluate their effectiveness in ameliorating threats range-wide.

1.1 CED Data Providers

Federal agencies, State agencies, Tribal governments, local governments, non-governmental organizations (NGOs) members of industry, universities, and others will all be able to enter information describing their conservation efforts in the CED.

Data providers are asked to enter information describing the conservation plans and projects they have implemented or developed that will conserve sage-grouse, and also provide information on the implementation and effectiveness of those conservation efforts. Section 2.2 and 2.3 provide more detailed information on the elements of those three components.

1.2 CED Privacy and Transparency

All data in the CED will become part of the public record and may be publicly disclosed as part of the Service's administrative record or in response to a request under the Freedom of Information Act (FOIA).

All interested persons (general public) will be able to view a scalable map of all conservation efforts entered in the CED. An example is provided in Figure 2. The finest viewable scale will be set at 1 inch = 1 mile. . This synoptic map will provide an overview of the database contents and potentially generate further interest in local restoration and conservation efforts. A point on the map (centered for polygons and lines entered by registered users) will represent a conservation effort, or database record, for that location. The following information will be visible to any database user for each conservation effort on the map:

- Effort Identifier Number
- Effort Name
- Subactivity
- Total acres/miles/number of structures

- Implementing Party and contact information

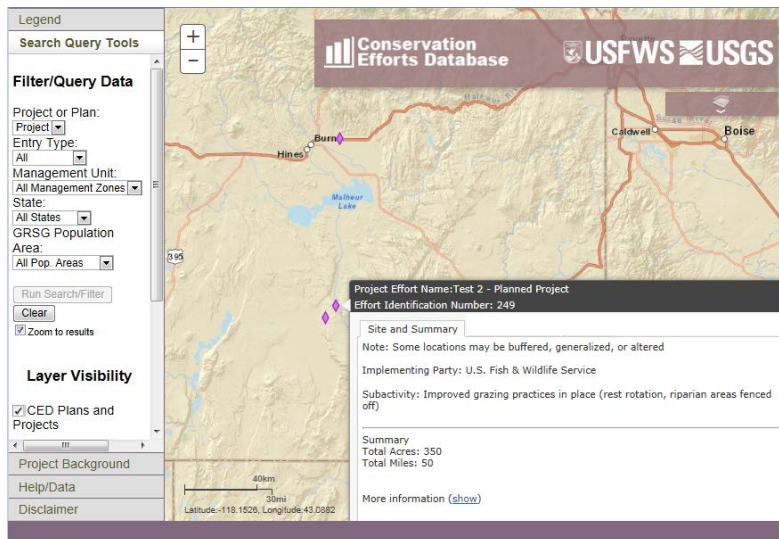


Figure 2. Sample Map Viewable by Public

Registered CED users that provide data in the CED will be able to generate reports and maps for the data that they have provided. No users of the CED other than the Service may generate comprehensive reports from multiple database records. However, all interested individuals or parties will be able to contact any implementing party to request additional information about a plan or project. If a CED data provider wants information in the CED that was provided by a different CED data provider, they need to obtain that information directly from the data owner. This will provide security for CED data providers and allow for them to communicate directly with those requesting additional information and provide responses to those requests.

2.0 CED Contents and Structure

The Service is seeking information on conservation efforts that have been implemented during the timeframe of 2009-2014 and those conservation efforts that have a high likelihood of being implemented in the near future. If conservation partners have data on significant conservation efforts that were not provided or were not yet effective prior for the 2010 finding, the Service will also accept data prior to 2009.

The CED is designed to capture conservation efforts that will help reduce or remove threats or otherwise improve the status of sage-grouse. As defined in the Policy for Evaluation Conservation Efforts (PECE Policy; 68 FR 15100, March 28, 2003), conservation efforts include plans such as conservation agreements, conservation plans, management plans, and specific actions to implement those plans (such as juniper removal projects, wet meadow restoration, and

installation of fire breaks). Activities such as conducting population surveys, mapping habitat, monitoring plans, public outreach, and holding meetings of local working groups to design projects, while important, are not intended for entry in the CED.

Each CED record identifies an effort type, activity, subactivity, and one or more threat to provide a structure for organizing information about sage-grouse conservation efforts. Project efforts also identify quantifiable metrics such as acres or miles of habitat restored. Individual subactivities or metrics listed, whether related to an on-the-ground effort or related regulatory mechanism/plan, are not necessarily applicable everywhere as the threats impacting sage-grouse vary across the landscape in presence and intensity. There are no implications for not reporting data that does not apply to, or is not available for, each conservation partner.

2.1 Implementation and Effectiveness Information

The Service will need some basic information about the plan or project entered into the CED to determine if the plan or project has been fully implemented and if it has been demonstrated to be effective in ameliorating one or more threats to sage-grouse. Information on the conservation effort objectives and effectiveness are required for all conservation efforts.

Effort Objectives: In addition to the general project or plan objective, the Service is seeking a narrative explanation of how the effort intends to address one or more threat and/or achieve one or more conservation objective identified in the the Conservation Objectives Team (COT) Report.COT Report

For example, a shrub-steppe habitat restoration project may have one or more of the following general objectives:

- Restore key components to enhance high-quality habitat for sage-grouse.
- Restore native bunchgrasses and forbs to an abundance and diversity matching the natural range of variability of reference sites.
- Restore productive rangelands that also support a diversity of wildlife.

While the above bulleted statements are valid objectives for restoring habitat, the Service requests that our conservation partners also specify how the achievement of those objectives will help reduce or ameliorate one of the threats identified in the COT report for the site specific conditions of the restoration effort and in the context of the COT Report threats. For example, would achievement of the above restoration objectives at the site being reported help reduce threats from Noxious Weeds/Annual Grasses , and/or allow for grazing management that also conserves the essential habitat components for sage-grouse (e.g. shrub cover, nesting cover), and/or minimize fire risk by reducing invasive annual grasses. It will also be helpful if the narrative information in the Objectives text box explained how the effort would accomplish one of the Conservation Objectives outlined on pages 31-52 of the COT Report.

Effort Effectiveness: The Service is also seeking information on whether the efforts were successful in fulfilling the stated objective, and effective in ameliorating or reducing one or more threats to sage grouse.

In the CED, three options are available for answering the question: Was the effort effective?

- Yes, project plan or project is already effective.
- Highly Likely, project or plan is reasonably certain to be effective given adequate time.
- Uncertain or Unlikely, project or plan is uncertain or unlikely to be effective based on current information.

In cases where the effort has been deemed effective, or is highly likely to be effective given enough time, we are seeking narrative information explaining how and why that is the case. If monitoring reports or other supporting documents are available, we encourage those be uploaded in Step 3.

Restoration of shrub-steppe habitat is a process that takes repeated interventions to control weeds and restore diverse species assemblages, allow natives to disperse in from adjacent areas, and achieve compositional and structural objectives. Many variables influence the effectiveness of shrub-steppe habitat restoration projects, and it takes many years to achieve functional habitat for sage grouse. Recognizing that that few, if any, restoration efforts implemented since 2009 will have achieved functional habitat, we encourage partners to report effectiveness based on established incremental objectives and conducted timely monitoring to demonstrate effectiveness for that point in time.

Example incremental objectives and effectiveness include:

- Year 1 Objective: Greater than 80% of all seeded species will be established on site. Cover of seeded bunchgrasses will be greater than 15%. Annual weeds will be less than 5% of total cover. Monitoring indicates these objectives were met.
- Year 3: All seeded species will be established. Bunchgrass cover will be greater than 35%. Annual weeds will be less than 2%. Monitoring was conducted, corrective actions were implemented to treat annual weed coverage, and all Year 3 objectives were met.
- Year 10: Greater than 80% of all species on the reference site species list will be present within the restoration area. Too early to tell, but based on previous years monitoring and corrective actions, Year 10 Objectives are highly likely to be met.

If specific, measurable, time-bound, incremental objectives are not available, other information, such as the bullets listed below, could help explain why the restoration effort is on the correct trajectory to provide functional habitat given adequate time:

- Was the effort part of a broader strategic process that addresses the sagebrush ecosystem as a whole, and that provides explicit rationale for spatial prioritization of best management practices to meet the stated objectives?
- Were established and proved techniques used for soil prep and seeding rates?
- Was periodic weed control provided?
- Was herbivore protection in place?
- Was there adequate precipitation to establish roots and survive the following summer, or was supplemental water provided?
- Was a follow-up monitoring and a corrective action strategy in place, particularly for sites with low precipitation, shallow soils, and/or areas with steep, southwest-facing slopes?
- Were locally-sourced seeds and/or seedlings used in the restoration effort?

The questions used in the CED to elicit implementation and effectiveness information CED are displayed in Fig. 3.

Conservation Efforts Database Implementation and Effectiveness Information

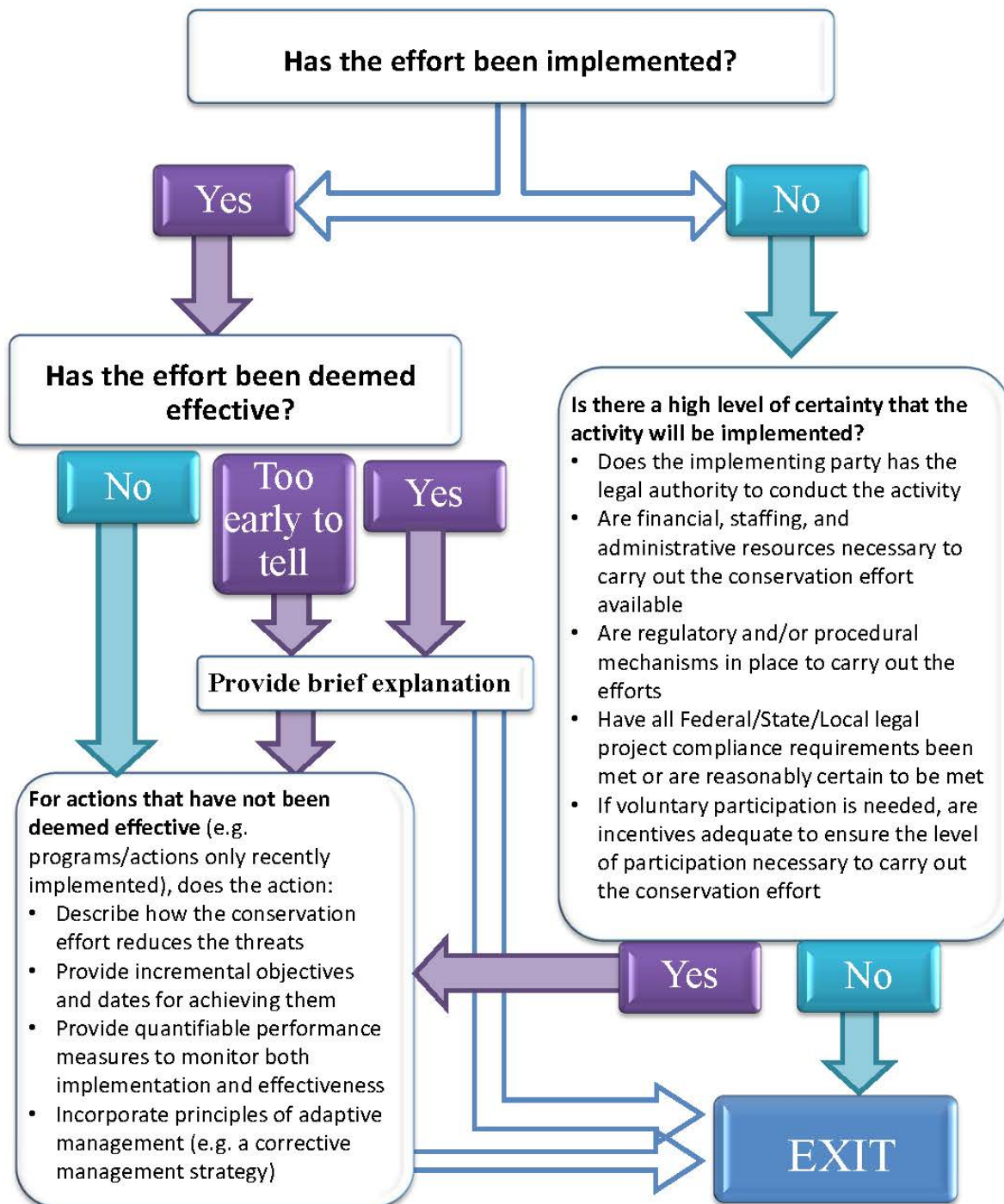


Figure 3. Implementation and Effectiveness Information

2.2 Plan Information

As stated in the COT Report, the goal for long-term conservation of sage-grouse and healthy sagebrush habitats (including native perennial grass and forb communities) is achieved by maintaining viable, connected, and well-distributed populations and habitats across the species' range, through threat amelioration, conservation of key habitats, and restoration activities. One of the objectives to achieve this goal is to “develop and implement state and federal sage-grouse conservation strategies and associated incentive-based conservation actions and regulatory mechanisms.”

Recognizing that threats can be ameliorated using a variety of tools within the purview of states and federal agencies, including incentive-based conservation actions or regulatory mechanisms, the CED organizes information about planning efforts into three broad categories (Fig. 4)

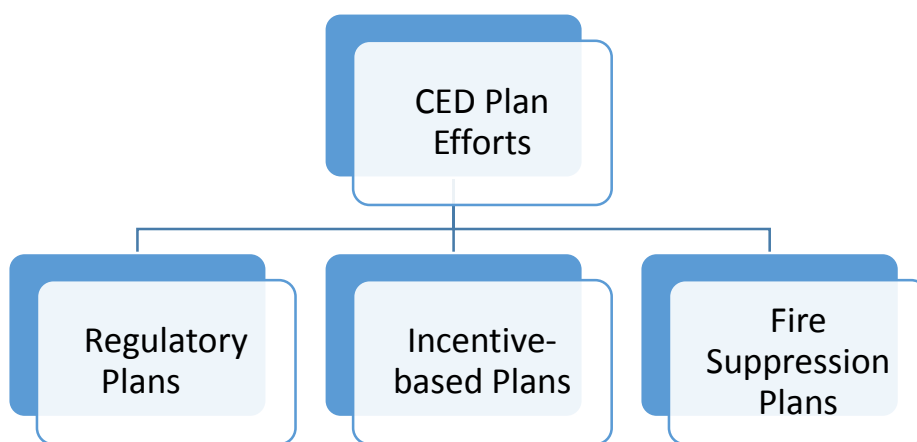


Figure 4. Types of Planning Efforts captured in the CED.

We offer the following guidelines for identifying plans for entry in the CED:

Regulatory Plans: Plans with regulatory authority (e.g., laws, regulations, ordinances) that define land use designations/allocations or control activities that occur in sage-grouse habitat. Examples include but are not limited to: Federal Land Use Plans, State Management Plans, and County Zoning Ordinances.

Incentive-based Plans: Proactive, voluntary conservation plans that provide a geospatial prioritization, and/or schedule of implementation for practices and activities needed for the long-term conservation of sage-grouse and healthy sagebrush shrub and native perennial grass and forb communities. Examples include, but are not limited to: Programmatic Candidate Conservation Agreements with Assurances (CCAAs), Candidate Conservation Agreements (CCAs), Programmatic Restoration Plans, and Natural Resources Conservation Service Strategic Plans. Incentive-based programs can provide a strategic approach for prioritizing opportunities with landowners.

Fire Suppression Plans: A mix of land use planning efforts and preparation efforts that could be considered “projects” but for the lack of an on-the-ground component, this planning category is designed to capture the important fire suppression actions such as geospatial plans to prioritize fuels management and habitat recovery/restoration designed to improve desirable habitat with greater

resistance to invasive annual grasses and/or resilience after disturbances such as wildfires. This category also includes planning efforts such as agreements to share fire response resources, or pre-positioning those resources in advance of wildfires.

When entering planning information in the CED, the following three elements are required:

1. The geospatial footprint of the planning effort.
2. A narrative explanation of what the plan entails (suggested topics presented below).
3. Information on implementation and effectiveness.

2.2.1 Regulatory Mechanisms, Plans, and Policies

2.2.1.0 BLM and USFS Federal Land Use Plans

The Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) have developed 15 Environmental Impact Statements that will inform the promulgation of almost 100 Land Use Plans. The National Operations Center (NOC) is working with the Service and USGS CED Team to upload the geospatial data layers of the land use allocations/designations that are intended to reduce or ameliorate threats to sage-grouse.

2.2.1.1 Other Federal, State, Tribal, County, and Local Government Conservation Plans

Because Federal, State, Tribal, county, and local governments manage actions to address multiple threats, we encourage these partners to enter a separate record for each threat addressed in their regulatory plans. This will allow for threat-specific map layers and threat-specific implementation and effectiveness information to be entered into the CED. For example, a State fish and wildlife management agency is encouraged to upload a shape file or digitize a polygon in the CED for the elements of their conservation plan that address conifer encroachment, and complete the rest of the CED record with information and supporting documents specific to their efforts to manage conifer encroachment. Following the same process, they would then complete a CED record for efforts related to impacts of mining, another for fire, and so forth for each threat addressed in the plan.

We offer the following suggested approach for the threat-specific narratives entered in the CED.

**Suggested Naming Convention
for Plans addressing multiple
threats:**

Plan Name:Fire

Plan Name:Mining

Plan Name:Urbanization

In Step 1 – Provide information as requested

In Step 2 - Activity Information Objectives and Effects narrative text boxes:

- Summarize how the plan addresses the suggested Conservation Objective listed in the COT Report
- Summarize policies/regulations/ordinances to prevent/minimize/ameliorate the threat

In Step 3 - Documentation

- Upload relevant documents supporting the summary information provided in Steps 2 and Steps 5

In Step 4 – Check land ownership boxes as appropriate

In Step 5 – Implementation Information narrative box on effectiveness

- Summarize funding source(s) and funding plan
- Describe any obstacles to full implementation of the plan
- Describe any successes in implementing the plan (for example, a new transmission line was installed outside of sage-grouse habitat after initially being planned for installation in high quality sage-grouse habitat, a project with a 100-acre footprint was redesigned to only have a 10-acre footprint, etc.)
- Describe implementation plan for the next five years
- Describe plans for monitoring effectiveness
- Include any additional information needed to describe the plan

2.2.2 Wildfire Pre-Suppression Planning Efforts

As briefly described in Section 2.2, Wildfire Pre-Suppression Planning efforts can range from conservation strategies that strategically identify priority areas for fuels management, fuel treatments, fuel breaks, anchors for suppression, and/or coordinated fuels management approaches cross-jurisdictional boundaries to share resources, pre-position resources, or increase water availability through installation of helicopter refill wells or water storage tanks.

This component of the CED is designed to capture the single- or multi-agency plans and/or programmatic management approaches to strategically implement wildfire pre-suppression actions. Implementation of on-the-ground efforts implemented under these plans will be captured in the Project section of the CED.

2.2.3 Incentive-based (Non-regulatory) Conservation Strategies

Incentive-based conservation strategies play an important role in the conservation of sage-grouse, especially on private lands. Because of their conservation potential, programmatic and/or large scale non-regulatory conservation strategies will be important entries in the CED. Examples include Voluntary Federal, State, NGO, Local and Tribal habitat restoration programs, Programmatic Candidate Conservation Agreements, Programmatic Candidate Conservation Agreements with Assurances, Programmatic Restoration Plans for Invasive Plants, and Programmatic Reclamation Plans.

2.3 Project Information

2.3.1 Mitigation

Mitigation strategies or programs are designed to avoid, minimize, rectify, reduce over time, and compensate impacts to sage-grouse (i.e. the mitigation hierarchy). Mitigation strategies or programs are typically part of a larger conservation plan or program, and as such, will be captured in the CED as a regulatory mechanism, plan, or policy. Individual project-specific minimization or avoidance measures should not be reported as conservation projects in the CED. However, application of effective minimization and avoidance measures will be important information to demonstrate the effectiveness of conservation plans. Examples of minimization and avoidance measures that are part of a broader conservation plan should be described in Step 5 – Implementation Information for the overall conservation plan.

Individual compensatory mitigation projects can be reported in the CED as project-specific conservation efforts. Consider the following example: a conservation easement is placed on a ranch with high quality sage-grouse habitat, protecting that ranch from fragmentation and development threats in perpetuity as compensatory mitigation for the siting of a new communication tower in general habitat. The conservation easement would be entered in the CED, whereas any applicable minimization measures such as construction timing restrictions, or footprint reduction stipulations for the new communication tower would not be entered in the CED as a specific conservation effort.

2.3.2 Activities, Subactivities, and Metrics

Table 1 provides a list of the quantitative project metrics used in the CED, organized by ‘Activity’ and ‘Subactivity’. Users will have the option to provide information related to seasonal habitat (breeding/nesting, brood-rearing, winter) where known. If seasonal habitat designations are unknown, users will provide metrics based on available information.

A project can only be associated with one activity and one subactivity. In cases where a conservation effort includes several activities and subactivities (e.g., a comprehensive restoration action on a land parcel to decommission an old telecommunication road, revegetate that road, and place a perpetual conservation easement specifically for sage-grouse on that parcel), the data provider is encouraged to either enter multiple CED effort records (one for each sub-activity or action), or to enter the project for the highest conservation value for the area. Please let the CED Team know if you have multiple projects that include multiple subactivities so we can revisit this if needed.

Not all relevant information will be captured by the metrics associated with each subactivity, such as miles of fence marked or acres of juniper removed. Therefore, in addition to standardized data fields and metrics, qualitative information will be gathered from text box entries and from supplemental documents that can be uploaded by registered CED users. Narrative reports, plans, monitoring results, and other documents will provide essential context for information provided in standardized format and other valuable information about each conservation effort entered into the CED.

Table 1. List of quantitative project activities, subactivities, and metrics.

Project Activity	Project SubActivity	Project Metrics	Examples and Information to include in narrative boxes
Habitat Protection: Conservation Easement	Habitat Protected by Easement for Long-Term Conservation	Total Acres (if known:Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres),	Long-term or permanent easements such as those provided through the Grassland Reserve Program, Farm and Ranchlands Protection Program, Wetland Reserve Program, and the 2014 Farm Bill Agricultural Conservation Easement Program, or provided through other Federal, State, or NGO programs.
		Length of agreement, Early termination penalty (yes/no) Percent (based on acres) of easement that protects against Sagebrush Elimination, Agricultural Conversion, Energy Development, Mining, Infrastructure, Improper Grazing/Range, Management, Recreation, Urbanization/Subdivision, Development	
Habitat Protection: Habitat Acquisition	Habitat Protected by Acquisition for Long-Term Conservation	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres Percent (based on acres) of acquisition that protects against: Sagebrush Elimination, Agricultural Conversion, Energy Development, Mining, Infrastructure, Improper Grazing/Range,	Land enrolled in rental-payment programs such as the Conservation Reserve Program and State Acres For Wildlife Enhancement (SAFE) could also be entered as a conservation effort, provided that the lands were planted to native grasses, forbs, and native arid-land shrubs and/or native shrubs (particularly big sagebrush) have seeded-in from adjacent shrubsteppe. Permanent protections such as acquisitions of lands for governmental or NGO programs where the purpose is for sage-steppe habitat wildlife dependent species.

Management, Recreation, Urbanization/Subdivision, Development			
Restoration: Conifer Removal	Conifer Removal: Phase 1	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Projects to remove piñon pine and/or juniper in areas with <10% canopy cover and intact sage brush and understory vegetation present, shrubs and herbs are the dominant vegetation that influences ecological processes on the site.
	Conifer Removal: Phase 2	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Projects to remove piñon pine and/or juniper in areas where trees are co-dominant with shrubs and herbs and all three vegetation layers influence ecological processes on the site.
	Conifer Removal: Mixed Phase 1 and 2	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Projects that remove a mix of Phase I and II together
	Conifer Removal: Phase 3	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Projects to remove piñon pine and/or juniper in areas where trees are the dominant vegetation and the primary plant layer influencing ecological processes on the site. Selectively conducted to improve connectivity.
Restoration: Wildfire Pre- suppression	Fuel Reduction Treatments	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	includes projects that are designed to change vegetation composition and/or structure to modify fire behavior characteristics for the purpose of aiding in fire suppression and reducing fire extent.

Efforts			Fuel breaks involve removing flammable vegetation in a swath wide enough to prevent a fire from spreading. Roads and natural fuel breaks can sometimes be incorporated into the design. If the project or plan has reduced the threat of wildfire by creating fuel breaks as a habitat protection measure, please provide a summary in which you respond to the following questions: what type of fire break(s) was/were created? What was the reason for the siting/placement of the firebreak? How will the firebreak be maintained?
Restoration: Infrastructure Removal, and Modification	Fuel Breaks	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	
	Structure Removed: Communication Tower	Number Removed Total	Number of cell towers removed/moved out of sage grouse habitats.
	Structure Removed: Wind Turbines	Total Acres	Acres of habitat restored after wind turbines removed
		Number Removed Total	Number of wind turbines removed/moved out of sage grouse habitats,
	Structure Removed: Road	Total Miles	Miles of road removed or de-commissioned not associated with rangeland management
	Structure Removed: Power line	Total Miles	Miles of power line removed
	Structure Removed: Other	Total Acres	Acres, miles, or total number of other structures that have not been previously defined. Do not enter rangeland management structures here.
		Total Miles	
		Number Removed Total	
	Power line Burial: Transmission Line	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	Miles of large transmission line buried.
	Power line Burial: Distribution Line	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	Miles of distribution line buried.

	Power line Retrofitting / Modification: Transmission Line	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	Miles of transmission power lines modified to promote sage-grouse conservation.
	Power line Retrofitting / Modification: Distribution Line	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	Miles of distribution power lines modified to promote sage-grouse conservation.
	Fence Modification	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	Miles of fence modified to promote sage-grouse conservation. Do not include fences modified as part of an improved grazing/range management strategy.
	Fence Marking	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	report miles of fence marked in areas with high potential for sage- grouse strikes/collisions documented. Consider entering as a "batch" polygon rather than multiple separate "line" geospatial projects.
	Fence Removal	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	report miles of fence removed in areas with high potential for sage- grouse strikes/collisions documented. Consider entering as a "batch" polygon rather than multiple separate "line" geospatial projects.
Restoration: Livestock & Rangeland	Allotment Closure	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Acres of habitat permanently closed from livestock grazing

Management	Improved grazing practices in place (e.g. rest rotation, riparian areas fenced off)	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Enter total acres of rangeland/ranchland being managed according to NRCS Sage-Grouse Initiative grazing practices and range management recommendations or other State or Federal agency recommendations including: 1. Rotating livestock to different pastures, while resting others to establish a diversity of habitat types. 2. Changing seasons of use within pastures to ensure all plants have the ability to reproduce. 3. Leaving residual cover (grass from the past season) to increase hiding and nesting cover for sage-grouse. 4. Managing the frequency and intensity of grazing to sustain native grasses, wildflowers, and shrubs. 5. Managing livestock access to water to ensure healthy livestock and healthy
	Road closure	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	Enter miles of roads closed or de-commissioned to improve rangeland health/sage-grouse habitat
Restoration: Recreation Management	Road and Trail closure	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	
	Reroute Trail	Total Miles/Breeding and Nesting Miles/Brood-Rearing Miles/Winter Miles	
Restoration: Population Augmentation	Translocation	Number Birds Total	
Restoration: Wild Equid Management	Wild Equid Population Control	Number Wild Equids Total	Number of free-roaming equids treated with population control methods in order to achieve properly functioning condition (PFC) for riparian areas and rangeland health standards (RHC) for uplands
	Wild Equid Gather	Number Wild Equids Total	Number of free-roaming equids gathered for relocation in order to achieve properly functioning condition (PFC) for riparian areas and rangeland health standards (RHC) for uplands

Restoration: Habitat Restoration	Habitat Restoration following wildfire disturbance	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Acres restored to functional sage-grouse habitat. Enter acres that have been treated post-fire to restore functional sage-grouse habitat. Recognizing that multiple treatments and multiple steps are often needed to restore shrub-steppe habitat, please describe in objectives box, which step the restoration treatment is currently undergoing (e.g. chemical treatment of annual grasses, seeding, planting sage brush seedlings, etc.), and report the project as implemented when the habitat is of conservation value for sage-grouse.
	Habitat Restoration	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Acres restored to functional sage-grouse habitat. Enter acres that have been treated to restore functional sage-grouse habitat. Recognizing that multiple treatments and multiple steps are often needed to restore shrub-steppe habitat, please describe in objectives box, which step the restoration treatment is currently undergoing (e.g. chemical treatment of annual grasses, seeding, planting sage brush seedlings, etc.), and report the project as implemented when the habitat is of conservation value for sage-grouse.
Restoration: Habitat Reclamation Efforts	Mine reclamation with goal of sage brush restoration	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Provide acres of functional sage-grouse habitat that was restored to remove or reverse the effects of mining operations on the landscape.
	Oil and gas reclamation with goal of sage brush restoration	Total Acres/Breeding and Nesting Acres/Brood-Rearing Acres/Winter Acres	Provide acres of functional sage-grouse habitat that was restored to remove or reverse the effects of oil and gas operations on the landscape.

3.0 Entering Data in the CED

Data terms are defined as follows in the CED:

- Metadata = the who, what, when, where, and how behind the data. Metadata for individual efforts is captured as the plans are being entered. For example, who=project contact, when=effort start and finish dates, etc. Metadata will need to be provided during batch uploads of tabular or geospatial data in order to comply with Federal Geographic Data Committee guidelines.
- Attribute data = the information requested in the CED for a conservation plan or project (e.g. activity, sub-activity, threat the effort is intended to help ameliorate, effectiveness information, etc.). For individual efforts, the attribute data is required information to enter the plan or project. When batch uploading tabular or geospatial data, some attribute data may be missing and will need to be provided.

3.1 Individual Plan and Projects

Detailed instructions for entering individual plans and projects are provided in a separate document: Greater Sage-grouse Conservation Efforts Database Help Document Version 1.0. The Help Document is also available under the Help tab of the CED.

Recognizing the limited resources and working relationships our conservation partners have, we encourage the following prioritization approaches for entering conservation efforts in the CED:

- Large and/or significant efforts that are most relevant to addressing threats to sage-grouse within the partners' realm of influence are the highest priority efforts to enter in the CED.
- If partners worked together to develop or implement an on-the-ground project, we suggest that the partner that provided the majority of the funds serve as the lead and enter the project information into the CED, if practical. Partners are encouraged to work together to determine the most efficient approach for entering projects that were implemented through partnership efforts.
- Consider the merits of consolidating multiple small projects involving similar activities into one larger project for data entry purposes. For example, if multiple fence marking projects have occurred in one targeted area and have the same implementation and effectiveness information, the registered CED user could combine those individual fence marking actions into one project entry for the CED. This would save time and effort by creating one project polygon that describes the total of the fence marking projects, rather than creating multiple individual lines with repetitive project information for each fence that was marked.

3.2 Batch Uploads

Many conservation partners will find it more efficient to batch upload information from their existing databases rather than entering data for individual projects. The Service/USGS CED Team will be available to assist with the batch uploading process. The first step will be to contact the Service CED Team Lead, identified in the contact section of the CED. A crosswalk between the two will be necessary because field names and values between the fields in the partner's database and the fields in the CED

will be different. An Excel spreadsheet providing additional information can be developed as this intermediary step or crosswalk; this spreadsheet can then be used to populate the appropriate fields in the CED. A simplified schematic is illustrated in Figure 4.



Figure 4. Simplified batch upload schematic

3.3 Geospatial Data

CED documentation and spatial data are housed on the Landscape Conservation Management and Analysis Portal (LC Map), which is built upon ScienceBase, a collaborative scientific data and information management platform. LC Map is managed by the Great Northern Landscape Conservation Cooperative.

Geospatial data can be uploaded directly into ScienceBase as indicated in Appendix A of the Help document (located under the Help tab of the CED). The organizational information provided by agencies and organizations for the CED user registration process will also be used to organize ScienceBase folders for agencies and organizations to post their geospatial data in ScienceBase.

4.0 How will data in the CED be used?

Under the ESA, the Service must base its decision on whether to list the greater sage-grouse on the best available data. In addition, we must evaluate the threats to greater sage-grouse in the context of actions and plans that are in place, or which are reasonably certain to be in place, to ameliorate those threats. The CED was designed to collect information on conservation efforts in an organized and spatially explicit fashion so that we could better understand the full extent to which conservation actions are ameliorating threats to sage-grouse populations. The specifics of how we will quantitatively or qualitatively assess the extent to which threats are ameliorated are currently in development. We are working closely with modeling experts and structured decision making experts to develop a process that fully accounts for the actions in the CED in a transparent and objective manner, and in a way that appropriately accounts for uncertainty. Beyond the context of the Service's listing decision, we envision that the CED could also help identify geographic gaps in conservation efforts to help prioritize future conservation actions.

Appendix A – Glossary

Candidate Conservation Agreement (CCA): Voluntary conservation agreements between the US Fish & Wildlife Service and one or more public or private parties to address the conservation needs of proposed or candidate species, or species likely to become candidates, before they become listed as endangered or threatened. The Service works with its partners to identify threats to the species, plan the measures needed to address the threats and conserve these species, identify willing landowners, develop agreements, and design and implement conservation measures and monitor their effectiveness.

Candidate Conservation Agreement with Assurances (CCAA): Voluntary conservation agreements that provide non-federal landowners with additional incentives beyond a CCA for engaging in voluntary proactive conservation through assurances that limit future conservation obligations. One of the primary reasons for developing the CCAA program is to address landowner concerns about the potential regulatory implications of having a listed species on their land. The CCAA program specifically targets non-federal landowners and provides them with the assurance that if they implement various conservation activities, they will not be subject to additional restrictions if the species becomes listed under the ESA.

Conservation Easement: A legal agreement voluntarily entered into by a property owner and a qualified conservation organization such as a land trust or government agency. The easement contains permanent restrictions on the use or development of land in order to protect its conservation values. Easement restrictions vary greatly for each agency or organization.

Endangered Species Act (ESA): Law which serves to protect and recover imperiled species and the ecosystems upon which they depend. Under the ESA, species may be listed as either endangered or threatened.

Hydrologic Unit Code (HUC): A system of dividing and sub-dividing the United States into successively smaller hydrologic units or drainage areas.

Lek: An aggregation of males that gather to engage in competitive displays to attract attending females for mating.

Range Improvement: Any activity, structure, or program on or relating to rangelands which are designed to improve production of forage, change vegetative compositions, control patterns of use, provide water, stabilize soil and water conditions, and provide habitat for livestock and wildlife. The term includes, but is not limited to, structures, treatment projects, and use of mechanical means.

Reclamation: Rehabilitation of a disturbed area to make it acceptable for designated uses. This normally involves re-contouring, replacement of topsoil, re-vegetation, and other work necessary to ensure eventual restoration of the site.

Restoration: Implementation of a set of actions that promotes plant community diversity and structure that allows plant communities to be more resilient to disturbance and invasive species over the long-term. The long-term goal is to create functional, high-quality habitat that is occupied by sage-grouse.

The short-term goal may be to restore the landform, soils, and hydrology, and increase the percentage of preferred vegetation, seeding of desired species, or treatment of undesired species.

Western Association of Fish and Wildlife Agencies (WAFWA): Association which advocates for the rights of 23 states and Canadian provinces to manage fish and wildlife within their borders. The WAFWA sage-grouse technical committee developed objectives in 1999 to maintain and increase where possible the present distribution and abundance of sage-grouse.

Wild Equids: Free-roaming horses (*Equus caballus*) and burros (*E. asinus*).

Wildland Fire: Any non-structure fire that occurs in the vegetation and/or natural fuels. Includes both prescribed fire and wildfire.