

The Wildlife Crossing

A FWS newsletter to facilitate collaboration between the Michigan Ecological Services Field Office and Michigan's transportation agencies

County Road Association of Michigan and the Monarch CCA



In 2020, U.S. Fish and Wildlife Service (FWS) found the status of monarch butterfly to be warranted but precluded for listing under the Endangered Species Act (ESA). If the species is still warranted for listing, FWS will publish a proposed rule determining the listing status of monarch by 9/30/24. A nationwide Candidate Conservation Agreement with Assurances (CCA) is available for transportation agencies to join. CCAs are voluntary agreements where FWS provides regulatory assurance to agencies that agree to conduct conservation actions for at-risk species before they are listed under the ESA. Any transportation agency can join the monarch CCA, or multiple agencies can join as a consortium. The County Road Association of Michigan is working with the University of Illinois Chicago on an application for the monarch CCA on behalf of Michigan's county road agencies. If monarch is listed, this agreement would provide Michigan's county road agencies with regulatory assurance that covered activities can continue on enrolled transportation lands without additional regulatory review. You can find out more about this application at CRA's 2024 Highway Conference. You can learn more about the monarch CCA through the presentations available in FWS's Michigan Transportation Library or at the monarch CCA website.

What is Critical Habitat?

Critical habitat is a legally designated area that contains physical or biological features that are essential to conserve a listed species. Critical habitat designations do not impact activities by private landowners if there is no Federal nexus – actions that are funded, authorized, or carried out by a Federal agency. Under the ESA, Federal agencies are required to avoid destruction or adverse modification of designated critical habitat. It is important to note that **not all habitat is critical habitat, and critical habitat is not designated for every species**. Species and their habitat can occur outside of the legally designated critical habitat areas, and you should always consider potential impacts of your projects to all species on your Official Species List obtained from IPaC. Critical habitat is relatively limited in Michigan, and has been designated for piping plover, Hine's emerald dragonfly, Poweshiek skipperling butterfly, and has been proposed for salamander mussel.

Staffing Change at Michigan FWS Field Office

There have been recent changes in the Transportation Liaison staff here at FWS. Shaughn Galloway has accepted a new position within FWS as the Northeast Regional Eagle Coordinator and will be moving to Massachusetts in 2024. Shaughn says, "It has been a great pleasure working with all of you in the development of this highly successful program that has achieved so much over this short time. I know that the program will continue to grow and do great things for the people and wildlife of Michigan. I know you'll be in great hands moving forward." Shaughn will be transitioning into his new role starting this spring, and we plan to backfill his position. Michelle Kane is the primary FWS contact for transportation projects in Michigan, and you can reach her at michelle_kane@fws.gov or 517-351-3460.

How does a species get listed under the Endangered Species Act?

Many road projects consider species protected by the ESA during project planning, but are you familiar with how species receive protection under the ESA? It can be beneficial to understand timelines for future listings when planning transportation projects. Before a plant or animal species can receive the protection provided by the ESA, it must first be added to the Federal lists of threatened and endangered wildlife and plants. There is a systematic legal process that is followed to determine if species should be listed under the ESA. If FWS believes a species may meet the definition of threatened or endangered, then FWS begins the candidate assessment process. This kicks off by gathering and analyzing information to assess the status of the species, often in the form of a Species Status Assessment. Based on this assessment, FWS will determine if listing is warranted. If listing is warranted, FWS will write a proposed rule and publish it in the Federal Register, which starts a 60 day public comment period. If requested, FWS may also hold a hearing about the potential listing. After FWS reviews public comments, FWS will either publish a final rule that brings the listing into effect or withdraw the rule, generally about a year after publication of the proposed rule. The species does not receive protections under the ESA until the effective date of a final rule.

FWS can also be petitioned to list a species under the ESA, and in 2023 FWS received 23 listing petitions. When FWS receives a listing petition, they have 90-days to consider if the petition has substantial information and accept it. If this finding is positive, FWS then reviews the status of the species. Within one year of receiving the petition, FWS makes a finding of whether listing is warranted. This is called a 12-month finding and concludes that a species 1) is not warranted for listing, 2) is warranted but precluded by higher priority listing actions (i.e., candidate), or 3) is warranted to be proposed for listing as threatened or endangered. If a species is found to be warranted but precluded, FWS must complete a 12-month finding each year until they release a proposed rule or make a not warranted finding. Monarch is an example of a candidate species that is currently considered “warranted but precluded”. If listing a species is found to be warranted, FWS follows the same rule making procedure described above.

The listing process is currently guided by a national listing workplan to help FWS prioritize this workload and provide transparency and predictability to our stakeholders and partners.

