

**October 10, 2025**

Comments regarding:

**August 11, 2025 Notice regarding Agency Information Collection Activities; Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE)**

Submitted by:

**Energy and Wildlife Action Coalition**

Filed electronically to the attention of:

Service Information Collection Clearance Officer  
Attn: FWS-HQ-ES-2025-0008  
U.S. Fish and Wildlife Service  
MS: PRB (JOA/3W)  
5275 Leesburg Pike  
Falls Church, VA 22041-3803

Docket No. FWS-HQ-ES-2025-0008

The Energy and Wildlife Action Coalition (“EWAC”)<sup>1</sup> submits these comments in response to the United States Fish and Wildlife Service’s (“Service”) August 11, 2025 notice of information collection (“Notice”) regarding the Service’s proposal to renew, without change, the Policy for Evaluation of Conservation Efforts When Making Listing Decisions (“PECE Policy”).<sup>2</sup> EWAC provides these comments in response to the Notice based on the knowledge and experience of its membership. EWAC’s members develop, own, and operate energy generation facilities and transmission and distribution infrastructure throughout the United States and are industry leaders in environmental stewardship and voluntary conservation.

Based on member feedback, EWAC encourages the Service to continue incentivizing and collecting information on voluntary conservation efforts undertaken across the country. It is a national priority to promote and accelerate affordable domestic power generation and continue to invest in improvements to grid stability and reliability.<sup>3</sup> Similarly, it is a national priority to remove regulatory processes that may interfere with and impede the nation’s energy priorities.<sup>4</sup> Further, there is a current focus on ensuring federal decision-making is supported by credible, reliable, and impartial scientific evidence.<sup>5</sup>

With respect to the latter point, section 4 of the ESA (“Section 4”) requires the Service to base its listing decisions solely on “the best scientific and commercial data available” and to take into account conservation efforts being undertaken with respect to species begin considered for listing. To that end, the PECE Policy provides guidance on how the Service is to evaluate existing and pending conservation actions when making its determination under Section 4.<sup>6</sup>

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<sup>1</sup> EWAC is a national 501(c)(6) trade association formed in 2014 whose members consist of electric utilities, electric transmission providers, and independent power producers, operating throughout the United States, and related trade associations. The fundamental goals of EWAC are to evaluate, develop, and promote sound environmental policies for federally protected wildlife and closely related natural resources while ensuring the continued generation and transmission of reliable and affordable electricity. EWAC supports public policies, based on sound science, that protect wildlife and natural resources in a reasonable, consistent, and cost-effective manner. EWAC is a majority-rules organization and therefore specific decisions made by the EWAC Policy Committee may not always reflect the positions of every member.

<sup>2</sup> U.S. Fish & Wildlife Service, *Agency Information Collection Activities; Policy for Evaluation of Conservation Efforts When Making Listing Decisions*, 90 Fed. Reg. 38,658 (Aug. 11, 2025) (“Notice of Information Collection”), available at: [Federal Register :: Agency Information Collection Activities; Policy for Evaluation of Conservation Efforts When Making Listing Decisions \(PECE\)](https://www.federalregister.gov/documents/2025/08/11/2025-16147/agency-information-collection-activities-policy-for-evaluation-of-conservation-efforts-when-making-listing-decisions-pece).

<sup>3</sup> See, e.g., Executive Order, “Declaring a National Energy Emergency,” 90 Fed. Reg. 8,433 (Jan. 29, 2025); Executive Order, “Unleashing American Energy,” 90 Fed. Reg. 8,353 (Jan. 29, 2025); Executive Order, “Implementation of the Energy and Infrastructure Inflation Reduction Act of 2022,” 87 Fed. Reg. 56,861 (Sept. 16, 2022); Executive Order, “Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use,” 66 Fed. Reg. 28,355 (May 22, 2001).

<sup>4</sup> See, e.g., Executive Order, “Zero-Based Regulatory Budgeting to Unleash American Energy,” 90 Fed. Reg. 15,643 (Apr. 15, 2025); Executive Order, “Unleashing Prosperity Through Deregulation,” 90 Fed. Reg. 9,065 (Feb. 6, 2025); Executive Order, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” 90 Fed. Reg. 10,583 (Feb. 25, 2025). See also, Presidential Memoranda, “Directing the Repeal of Unlawful Regulations,” (Apr. 9, 20215), available at: <https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/>.

<sup>5</sup> See Executive Order, “Restoring Gold Standard Science,” 90 Fed. Reg. 22,601 (May 29, 2025).

<sup>6</sup> See Policy for Evaluation of Conservation Efforts When Making Listing Decisions, 68 Fed. Reg. 15,100 (Mar. 28, 2003), available at <https://www.federalregister.gov/documents/2003/03/28/03-7364/policy-for-evaluation-of-conservation-efforts-when-making-listing-decisions>.

Further, the PECE Policy analyzes obligations the ESA imposes on the Service to consider conservation actions in the context of listing species and concludes that the ESA requires the Service to consider all formalized conservation efforts<sup>7</sup> that positively affect the species' status regardless of whether they are carried out by private, local, state, tribal, or federal entities. These efforts may then be relied upon by the Service to support a determination that listing a species is not warranted. In the past, courts have found fault with listing decisions that did not appropriately consider voluntary conservation efforts.<sup>8</sup> Given new species listings create substantial burdens and uncertainty for the regulated community – and in particular, for energy and electric transmission and distribution projects and facilities that overlap with that species' range – ensuring adequate consideration of voluntary conservation efforts in the context of listing is critical.

Because voluntary conservation can, as highlighted above, be instrumental in supporting the Service's decision not to list species under the ESA, incentivizing and collecting information on voluntary conservation efforts pursuant to the PECE Policy will help further the nation's energy goals, and ensure listing decisions under Section 4 are based on the best available scientific and commercial information. Giving sufficient weight to voluntary conservation efforts, devoting appropriate resources to collect and track such efforts, and ensuring such efforts are fully considered when making ESA listing decisions will incentivize energy and electric transmission and distribution companies to continue undertaking such voluntary efforts. Where these efforts support Service decisions not to list species, additional burdens on the regulated community are avoided and agency resources are conserved. Conversely, should the Service fail to give adequate weight to the value these voluntary efforts bring to species' conservation, and particularly in avoiding ESA listings, EWAC is concerned there will be a reduced incentive for the private sector to invest in voluntary conservation.

The potential for avoiding regulatory burdens and uncertainty created by new listings provides a substantial incentive for the regulated community to undertake voluntary conservation and preclude the need to list species. EWAC members are exemplary here as they have contributed tens of millions of dollars, working in partnership with local communities and organizations, to conserve millions of acres of land directly benefiting listed and at-risk species, all the while ensuring the nation's electric grid is operated safely, reliably, and affordably. Consistent with its obligations under the ESA, the Service should ensure it is properly valuing and giving credit to conservation, whether undertaken at the local level or through Service-approved programs. For all of these reasons, EWAC encourages the Service's continued efforts to incentivize and collect information on voluntary conservation being implemented by the regulated community. Resources expended to collect information on voluntary conservation will help further national energy and grid reliability goals.

EWAC welcomes the opportunity to discuss its comments in greater detail with the Service.

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<sup>7</sup> The PECE Policy defines "formalized conservation actions" as "conservation efforts identified in a conservation agreement, conservation plan, management plan, or similar document."

<sup>8</sup> See e.g. *Permian Basin Petroleum Association v. Department of the Interior, U.S. Fish and Wildlife Service* 127 F. Supp. 3d 700 (W.D. Tex, Sept. 1, 2015).

Please feel free to contact the following EWAC representatives:

Jennifer A. McIvor, EWAC Policy Chair, [jennifer.mcivor@brkenergy.com](mailto:jennifer.mcivor@brkenergy.com), 712-352-5434

John M. Anderson, EWAC Executive Director, [janderson@energyandwildlife.org](mailto:janderson@energyandwildlife.org), 202-674-8569

Brooke Marcus, Nossaman LLP, [bmarcus@nossaman.com](mailto:bmarcus@nossaman.com), 512-813-7941