

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, would, 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.

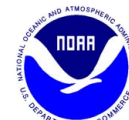
Because the circumstances surrounding each declining species will vary, the Services cannot specify criteria for inclusion in each conservation agreement or plan that will necessarily remove the need to list a species. This policy does not set a standard for measures necessary to conserve particular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

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