



# THE WILDLIFE SOCIETY

*Leaders in Wildlife Science, Management and Conservation*

21 August 2023

Attn: FWS-HQ-ES-2021-0107  
U.S. Fish & Wildlife Service, MS: PRB/3W  
5275 Leesburg Pike, Falls Church, VA 22041-3803

Re: Docket No. FWS-HQ-ES-2021-0107; Endangered and Threatened Wildlife and Plants: Listing Species and Designating Critical Habitat

Thank you for the opportunity to submit comments on the proposed rule “Endangered and Threatened Wildlife and Plants: Listing Species and Designating Critical Habitat.”

Founded in 1937, The Wildlife Society and our network of affiliated chapters and sections represent over 15,000 wildlife professionals, dedicated to excellence in wildlife stewardship through science and education. Our mission is to inspire, empower, and enable wildlife professionals to sustain wildlife populations and habitat through science-based management and conservation.

## **Economic Impacts**

The Wildlife Society commends the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) for the steps taken in this rulemaking to revise changes made to the regulations implementing the Endangered Species Act (ESA) in 2019. TWS previously submitted [recommendations](#) to USFWS and NMFW regarding the removal of the language “without reference to possible economic or other impacts of such determinations” in regards to how listing decisions are made under the ESA. Our organization advocates for listing decisions made “solely on the basis of the best scientific and commercial data available” as mandated by the ESA, and we are pleased to support the restoration of this language to § 424.11.

## **“Foreseeable Future”**

Per our prior recommendations, we would like to emphasize that the use of an intentionally vague term like “foreseeable future” comes with uncertainty around how this language may be interpreted with changes in Administration. Any analysis of future threats to a species relating to the term “foreseeable future” should include the best available science on impacts of climate change and other significant shifts in available habitat and the broader environment on a species.

## **Designating Unoccupied Areas**

We are supportive of the proposed revisions to § 424.12(b)(2) that enable the Services to identify and designate areas of unoccupied critical habitat. Unoccupied habitat warrants appropriate inclusion and consideration within the critical habitat designation process. Realistically, suitable but unoccupied habitat is the “currency” upon which conservation investments can be made in threatened and endangered species recovery. Additionally, occupied habitat may not always be in the most appropriate context to designate as critical. Certain unoccupied habitat adjacent to currently occupied may provide more resources to the species and result in natural recolonization without additional management intervention. Unoccupied but disjunct habitat may provide opportunities for direct management actions such as translocations or improved connectivity intended to aid recovery. In both situations currently unoccupied habitat may provide enhanced opportunities for species recovery and eventual delisting.

The Wildlife Society thanks you for the opportunity to submit comment on this proposed rule. Please contact [policy@wildlife.org](mailto:policy@wildlife.org) with any follow up questions regarding these comments.

Please see The Wildlife Society’s [technical review](#) for additional information on improving effectiveness of the Endangered Species Act for wildlife conservation.

Sincerely,



Don Yasuda  
Certified Wildlife Biologist ®  
President | The Wildlife Society



# THE WILDLIFE SOCIETY

*Leaders in Wildlife Science, Management and Conservation*

21 August 2023

Attn: FWS-HQ-ES-2023-0018  
U.S. Fish & Wildlife Service, MS: PRB/3W  
5275 Leesburg Pike, Falls Church, VA 22041-3803

Re: Docket No. FWS-HQ-ES-2023-0018; Endangered and Threatened Wildlife and Plants:  
Regulations Pertaining to Endangered and Threatened Wildlife and Plants

Thank you for the opportunity to submit comments on the proposed rule “Endangered and Threatened Wildlife and Plants: Regulations Pertaining to Endangered and Threatened Wildlife and Plants.”

Founded in 1937, The Wildlife Society and our network of affiliated chapters and sections represent over 15,000 wildlife professionals, dedicated to excellence in wildlife stewardship through science and education. Our mission is to inspire, empower, and enable wildlife professionals to sustain wildlife populations and habitat through science-based management and conservation.

The Wildlife Society [voiced concerns](#) in 2018 regarding the decision to remove the “blanket 4(d) rule” from the Endangered Species Act (ESA). Our organization noted that the removal of the blanket 4(d) rule could 1) prevent newly listed threatened species from receiving any protection from take under the ESA, or 2) mandate the U.S. Fish and Wildlife Service (USFWS) to more than double its output of species-specific rules. We commend the USFWS for their proposal to reinstate the blanket 4(d) rule. While species-specific rules for newly-listed threatened species can be effective mechanisms for incentivizing proactive, voluntary conservation work with both traditional and non-traditional USFWS partners that ultimately contribute to species recovery, we are supportive of granting USFWS flexibility in determining when the development of new species-specific rules is appropriate as opposed to making them required at the time of final listing decision. We are also supportive of the inclusion of federally recognized Tribes in the proposed revisions to 50 CFR 17.31 and 17.71, and the recognition of the role of Tribes in managing natural resources and listed species.

The Wildlife Society thanks you for the opportunity to submit comment on this proposed rule. Please contact [policy@wildlife.org](mailto:policy@wildlife.org) with any follow up questions regarding these comments.

Please see The Wildlife Society's [technical review](#) for additional information on improving effectiveness of the Endangered Species Act for wildlife conservation.

Sincerely,

A handwritten signature in black ink that reads "Donald Yasuda". The signature is written in a cursive style with a large initial "D".

Don Yasuda  
Certified Wildlife Biologist ®  
President | The Wildlife Society