PUBLIC COMMENT OPPOSING PROPOSED REVISIONS TO ENDANGERED SPECIES ACT

Submitted by: The Xerces Society for Invertebrate Conservation and Undersigned Individuals

Regarding Docket Numbers: FWS-HQ-ES-2025-0048 ; FWS-HQ-ES-2025-0029 ; FWS-HQ-ES-2025-0039 ; FWS-HQ-ES-2025-0044

For more than five decades, the Endangered Species Act has stood as one of America's most effective tools for preventing extinctions. Its strength lies in a commitment to clear, science-based decision-making and an understanding that safeguarding at-risk species is a matter of national importance. The proposed revisions would erode the Act's foundational principles. By introducing uncertainty, weakening long-standing protections, and narrowing the pathways through which vulnerable species receive attention and support, these changes would make it harder for species to persist and recover.

The **Xerces Society for Invertebrate Conservation** and the **undersigned individuals** submit these comments opposing proposed revisions to the Endangered Species Act (ESA), published on November 21, 2025. We are deeply concerned about the cumulative impacts the proposed changes would have on the conservation of imperiled species—particularly insects and other invertebrates.

Insects - like butterflies and bees - and other invertebrates, make up more than 80% of animal species on Earth, and they are central to the health and functioning of all ecosystems. Invertebrates pollinate most flowering plants, including many crops essential to human diets. Birds, bats, and freshwater fish depend heavily on insects as food. Invertebrates filter pollutants from water, break down waste, and control pests. Through these services, it is conservatively estimated that native insects provide more than $57 billion in annual economic value to the United States.[1]

Yet many invertebrates are in steep decline. Western monarch butterflies have fallen by more than 95 percent and eastern monarchs by over 80 percent since the 1990s. Nearly a third of U.S. bumble bee species are at risk of extinction, and overall butterfly abundance has dropped by >20% in just two decades. Over 70% of all North American fresh water mussel species are imperiled or extinct. Already vastly underrepresented on the ESA list of protected species, the proposed revisions would make it even harder for rapidly declining invertebrate species to receive the swift protections they need to survive.

The proposed revisions mirror changes introduced in 2019 that were ultimately withdrawn because they undermined the ESA's purpose. Then, and now, the proposed measures run afoul of scientific expertise and legal precedent – and go against strong public, bipartisan support for a robust, science-driven ESA that preserves our shared natural heritage.[2]

1. Economic considerations should not Influence listing decisions.

The proposed changes to ESA regulations would permit economic assessments to be considered alongside scientific analysis for listing decisions, weakening a core principle of the law. The ESA is clear that

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[1] The Economic Value of Ecological Services Provided by Insects, by John Losey and Mace Vaughan. April 2006. Bioscience. Vol. 56, No. 4, pages 311-323.

[2] https://news.osu.edu/most-americans-support-endangered-species-act-despite-increasing-efforts-to-curtail-it/

listing determinations must rely "solely on the basis of the best scientific and commercial data available." [3] The proposed changes risk politically-influenced decision-making and may discourage listings even when extinction risk is high and declines are well-documented. Timely listings are critical for any species rapidly declining toward extinction. For insects and other invertebrates, this could be especially detrimental, as they are underrepresented on the ESA list in spite of dramatic declines that were apparent a decade or more ago. For example, **Suckley's cuckoo bumble bee** was listed as critically endangered on the IUCN red list in 2014[4], but was not proposed for listing by U.S.F.W.S. until 2024 (with the final rule still pending).

2. The proposed interpretation of "foreseeable future" would undermine protections for species affected by long-term threats.

Previous efforts to narrow the definition of "foreseeable future" were broadly criticized by scientists and conservation practitioners. Doing so would limit the ability of agencies to consider long-term threats such as climate change and habitat fragmentation, placing species—particularly invertebrates with small ranges or climate-sensitive life cycles—at heightened risk. For example, the endangered **Poweshiek skipperling** (*Oarisma poweshiek*) occupies less than 5% of its former range. Conservation of this species requires a long-term view that accounts for how processes like climate change might reduce the viability of its small, geographically isolated populations into the future.

3. The proposed changes to section 4(d) make it harder to implement early protections that would keep threatened species from becoming endangered.

The process of developing a 4(d) rule can be slow and resource-intensive. Removing the long-standing "blanket 4(d) rule" would strip newly listed threatened species of automatic protections from harm and habitat destruction, leaving many effectively unprotected for years after listing. There is no "pause" button for rapid declines while a species awaits a tailored 4(d) rule, and such delays pose a serious risk to long-term recovery efforts. For invertebrates and other understudied taxa—groups that already face chronic delays in protection—this change is especially dangerous. The **monarch butterfly**, for example, has been proposed for listing as a "threatened" species with a complex 4(d) rule. More time may be required to incorporate pesticide usage criteria into a species-specific 4(d) rule. Meanwhile, we know that overwintering counts have plummeted. A "blanket 4(d)" rule would allow for immediate, meaningful protections when the species is listed (scheduled for December 2025) while the 4(d) details are determined. **Eliminating the blanket 4(d) rule is a risky and short-sighted proposition.** Early, automatic protections for threatened species can stabilize populations and prevent the need for an endangered listing later.

4. Revised interagency consultation provisions under Section 7 would reduce the rigor and transparency of federal decision-making.

Several proposed revisions narrow what qualifies as an "adverse modification" of habitat or restrict when federal agencies must consult with the Services. These changes are likely to result in fewer consultations, weaker analyses, and diminished habitat protections. Given that habitat loss is a leading driver of insect decline, it is essential that Section 7 processes remain robust. For instance, the **Karner Blue Butterfly** relies on large, connected lupine patches maintained by disturbance regimes. Weakening consultation

[3] 16 U.S.C. § 1533(b)(1)(A)

[4] Hatfield, R., Jepsen, S., Thorp, R., Richardson, L. & Colla, S. 2015. Bombus suckleyi. The IUCN Red List of Threatened Species 2015: e.T44937699A46440241.

requirements may lead to federal actions that fragment these critical habitats, undermining successful recovery efforts. Any regulatory change that reduces federal responsibility for ensuring agency actions do not jeopardize listed species or adversely modify their critical habitats runs counter to the ESA's purpose.

5. The cumulative effect of the proposed rules would disproportionately harm invertebrates and other data-limited species.

Insects and other invertebrates face numerous threats—habitat loss, invasive species, climate change, and widespread pesticide use. Despite their ecological importance and incredible species diversity, invertebrates remain underrepresented on the ESA list due to data challenges, limited survey capacity, and low public visibility.

The proposed rules would create additional barriers for listing and recovery, making it even harder to protect invertebrate species before declines become irreversible. For example, the changes would make it more difficult to designate critical habitat, particularly in areas not currently occupied by a species—including former range and future climatic refugia. For a species like the endangered **rusty patched bumble bee**—once widespread in the eastern U.S. but now reduced to small, scattered populations—connecting formerly occupied habitat to maintain genetic diversity is essential.

Counter to the ESA's purpose, the proposal also broadens when agencies may decline to designate critical habitat, prioritizing short-term development interests over long-term conservation needs. Economic considerations are already permitted during the critical habitat designation process. The proposed changes are unnecessary and undermine agencies' ability to safeguard habitats essential for recovery.

6. The ESA's current framework already allows for efficiency, flexibility, and science-based decision-making.

The agencies have the necessary tools to tailor protections, evaluate the significance of threats, and promote cooperative conservation without weakening standards. Many of the proposed changes seem unnecessary and would likely create confusion, invite more legal challenges, and weaken public confidence in how species are protected.

The ESA is an essential safeguard at a time when biodiversity loss is accelerating. Weakening the Act's regulatory foundation would have long-lasting consequences for wildlife, ecosystems, and the human communities that depend on them. For the reasons summarized in this letter, **we respectfully request that the relevant U.S. agencies (FWS, DOI, NOAA, DOC) withdraw all proposed revisions**. We urge the agencies to maintain the core principles that have guided ESA implementation for decades and to uphold the Act's high standards, which have a proven track record of preventing extinctions.

Thank you for your consideration.

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