



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2016–N042; FXES1112010000–167–FF01E00000]

**Proposed Template Candidate Conservation Agreement with Assurances for the
Fisher in Oregon and a Draft Environmental Action Statement**

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of availability; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has developed a proposed template Candidate Conservation Agreement with Assurances (CCAA) for the West Coast Distinct Population Segment (DPS) of the fisher in Oregon, and proposes to issue enhancement of survival (EOS) permits under the CCAA, pursuant to the Endangered Species Act of 1973, as amended (ESA). The permits would authorize incidental take with assurances to eligible landowners who are willing to enroll in the template CCAA and carry out conservation measures that would benefit the West Coast DPS of the fisher. We request comments from the public on the proposed template CCAA, the issuance of EOS permits, and on the Service’s draft Environmental Action Statement (EAS) for our preliminary determination that the CCAA and issuance of EOS permits qualify for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA).

DATES: To ensure consideration, written comments must be received from interested

parties no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the “Template Fisher CCAA.”

- *Internet:* Documents may be viewed on the Internet at <http://www.fws.gov/oregonfwo/>
- *Email:* ORfisherCCAAcomments@fws.gov. Include “Template Fisher CCAA” in the subject line of the message or comments.
- *U.S. Mail:* State Supervisor, Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service; 2600 SE 98th Avenue, Suite 100; Portland, OR 97266.
- *Fax:* 503–231–6195, Attn: Template Fisher CCAA
- *In-Person Drop-off, Viewing or Pickup:* Comments and materials received will be available for public inspection, by appointment (necessary for viewing or picking up documents only), during normal business hours at the Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service; 2600 SE 98th Avenue, Suite 100; Portland, OR 97266; telephone 503–231–6179. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Jody Caicco, U.S. Fish and Wildlife Service (see **ADDRESSES**); telephone: 503–231–6179; facsimile: 503–231– 6195. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

A CCAA is a voluntary agreement whereby landowners agree to manage their lands to remove or reduce threats to species that may become listed under the ESA (64 FR 32726; June 17, 1999). CCAAs are intended to facilitate the conservation of proposed and candidate species, and species likely to become candidates in the near future by giving non-Federal property owners incentives to implement conservation measures for declining species by providing certainty with regard to land, water, or resource use restrictions that might be imposed should the species later become listed as threatened or endangered under the ESA. In return for managing their lands to the benefit of the covered species, enrolled landowners receive assurances that additional regulatory requirements pertaining to the covered species will not be required if the covered species becomes listed as threatened or endangered under the ESA so long as the CCAA remains in place and is being fully implemented.

A CCAA serves as the basis for the Service to issue EOS permits to non-Federal participants pursuant section 10(a)(1)(A) of the ESA. EOS permits are issued to applicants in association with an approved CCAA to authorize incidental take of the covered species from covered activities, should the species become listed. Through a CCAA and its associated EOS permit, the Service provides assurances to property owners that they will not be subjected to increased land use restrictions if the covered species become listed under the ESA in the future, provided certain conditions are met. Because enrollment in a CCAA is voluntary, participating landowners may subsequently choose to discontinue their participation and their ESA section 10(a)1(A) permit

coverage would then lapse.

Application requirements and issuance criteria for EOS permits for CCAAs are found in the Code of Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d), respectively. See also our joint policy on CCAAs that was published in the **Federal Register** by the Service and the Department of Commerce's National Oceanic and Atmospheric Administration, National Marine Fisheries Service (64 FR 32726; June 17, 1999). Each prospective CCAA participant will need to complete and submit to the Service an ESA section 10(a)1(A) EOS permit application form.

On April 8, 2004, the Service published a 12-month status review (69 FR 18769) finding that listing the West Coast Distinct Population Segment (DPS) of the fisher (*Pekania pennanti*) as threatened or endangered under the ESA (16 U.S.C. 1538) was warranted, but precluded by higher priority actions. On October 7, 2014, the Service published a proposed rule (79 FR 60419) to list the West Coast DPS of the fisher as threatened under the ESA. In that proposed rule, the Service identified habitat loss from wildfire and vegetation management, toxicants (rodenticides), and the cumulative impact of these and other stressors in small populations as threats to the continued existence of the West Coast DPS of the fisher. On April 14, 2015, the Service issued a 6-month extension to the final determination based on substantial disagreement regarding available information (80 FR 19953). The Service will issue a final regulation implementing the proposed rule or a notice that the proposed regulation is being withdrawn by April 7, 2016. The Service's Oregon Fish and Wildlife Office developed the proposed template CCAA on behalf of non-Federal landowners in western Oregon to address some of the threats to the fisher that were identified in the 2014 proposed listing

rule.

Proposed Action

The Service proposes to issue EOS permits pursuant to section 10(a)(1)(A) of the ESA under a proposed template CCAA for the West Coast DPS of the fisher within Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Deschutes, Douglas, Hood, Jackson, Jefferson, Josephine, Klamath, Lane, Linn, Lincoln, Polk, Tillamook, Yamhill, Wasco, and Washington counties, Oregon. The geographic area covered by the proposed CCAA and EOS permits includes the known and potential range of the fisher in those portions of the above listed Oregon counties that contain suitable forested habitat. The term of the proposed CCAA and EOS permits is 30 years.

The proposed template CCAA is between the Service and prospective non-Federal landowners and managers (participants) who would voluntarily commit to conservation measures, that when taken together with a sufficient number of other properties, may preclude or remove the need to list the West Coast DPS of the fisher as threatened or endangered. The CCAA is a template in that it establishes general guidelines and identifies minimum conservation measures for participants in the CCAA. Interested participants would enroll their property under the CCAA through individual “site plans.” Once the CCAA is signed, the documentation needs and approval process to enroll participants with their individual site plans will be significantly streamlined as they will be able to reference and rely upon the information and completed administrative procedures associated with finalizing the template CCAA and finalizing the EAS for purposes of compliance with the requirements of the National Environmental Policy Act

of 1969, as amended (42 U.S.C. 4321 *et seq.*) (NEPA).

To qualify for take coverage, all enrollees must agree to implement the following conservation measures on enrolled lands:

- Allow the Service or its agents to access enrolled lands to evaluate fisher presence for the 30-year term of the CCAA and to determine if one or more female fisher are occupying dens and raising kits;
- Protect confirmed denning female fisher and their young by limiting or preventing access and disturbance near occupied sites, including preventing the destruction of the denning structure itself;
- Prohibit trapping and nuisance animal control activities on enrolled lands within 2.5 miles of known fisher occupied dens;
- Report to the Service within 48 hours upon finding any potentially fisher occupied den sites or any dead, sick, or incidentally trapped and released fishers on enrolled lands; cover all man-made structures on enrolled lands that pose an entrapment risk to fishers; and,
- Where suitable habitat exists and where agreed upon by the participant and the Service, allow for the reintroduction of fishers.

Details regarding the actual reintroduction of fishers, including when the reintroduction might occur, the sources and numbers of fishers, the duration of the reintroduction effort, and the parties responsible for the capture and movement of fisher are unknown at this time. We anticipate that any required environmental or regulatory analysis for fisher reintroduction will be done by the Service or other responsible parties when a reintroduction plan is developed under the laws and policies in effect at that time.

Covered activities include those activities that may be carried out by participating landowners or their authorized representatives on enrolled lands that may result in the incidental take of the fisher consistent with the provisions of the CCAA and their EOS permit. Covered activities under the proposed CCAA include the following land-management related activities commonly practiced on forest lands: timber harvest and reforestation, road maintenance and construction, transport of timber and rock, collection of minor forest products, and recreational activities.

National Environmental Policy Act Compliance

The proposed issuance of an ESA section 10(a)(1)(A) permit with its associated CCAA is a Federal action that triggers the need for compliance with NEPA. We have made a preliminary determination that the proposed CCAA and the proposed issuance of EOS permits under the CCAA are eligible for categorical exclusion under NEPA. The basis for our preliminary determination is contained in an EAS, which is available for public review (see **ADDRESSES**).

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on our proposed Federal action.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation, will be available for public inspection by appointment, during normal business hours, at our Oregon Fish and Wildlife Office (see **ADDRESSES**).

Next Steps

After considering public comments, the Service will make a decision regarding the proposed CCAA, the draft EAS, and our preliminary determination that the proposed permit action is eligible for categorical exclusion under NEPA, provided they meet the requirements of section 10(a)(1)(A) of the ESA and the requirements of NEPA. We will not make a final decision on NEPA and the template CCAA until after the end of the 30-day public comment period on this notice, and we will fully consider all comments we receive during the public comment period. If we determine that all the requirements are met, we will sign the CCAA and be able to accept EOS permit applications submitted under the requirements of the CCAA and section 10(a)(1)(A) of the ESA. The Service

will then be able to issue EOS permits to interested, eligible landowners for the potential take of the West Coast DPS of the fisher incidental to otherwise lawful activities in accordance with the terms of the CCAA, the site plans, and appropriate EOS permit conditions.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*), and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22 and 17.32, and 40 CFR 1506.6, respectively).

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U.S. Fish and Wildlife Service,

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