



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R1–ES–2026–0463; ES11140100000–267–FF01E0000]

Receipt of Enhancement of Survival Permit Application and Proposed Conservation Benefit Agreement for the benefit of the Columbia Basin pygmy rabbit in Washington; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Washington Department of Fish and Wildlife (WDFW) for an enhancement of survival permit for take of the Columbia Basin pygmy rabbit (CBPR) pursuant to Section 10 of the Endangered Species Act. This application includes a proposed conservation benefit agreement (CBA) outlining conservation measures and ongoing land management activities that non-federal participants will implement on their enrolled properties for CBPR. The purpose of this CBA is to foster collaboration among the Service, WDFW, and participants; promote voluntary conservation measures that reduce or remove threats to the covered species; provide regulatory assurances to participating landowners; and improve habitat connectivity and support geographic expansion of the CBPR in the Columbia Basin in Washington. We have prepared a draft environmental action statement documenting our preliminary determination that the permit decision may be eligible for categorical exclusion under the National Environmental Policy Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these documents.

DATES: Comments will be accepted on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Comments

submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

To ensure your comment is received and considered, you must submit it using one of the methods identified in the **ADDRESSES** section of this document. Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered.

ADDRESSES: *Obtaining documents:* The application, application supporting materials, and any comments and other materials that we receive will be available for public inspection at <https://www.regulations.gov> in Docket No. FWS–R1–ES–2026–0463.

Comment submission: All submissions must include the docket number [FWS–R1–ES–2026–0463] for this document. You must submit comments using one of the following methods:

- Electronic submission: Federal eRulemaking Portal at:
<https://www.regulations.gov>. In the Search box, enter FWS–R1–ES–2026–0463, which is the docket number for this action. Then click the Search button. On the resulting page, you may submit a comment by clicking on “Comment.” Please ensure that you have found the correct document before submitting your comments.
- U.S. mail: Public Comments Processing, Attn: Docket No. FWS–R1–ES–2026–0463, Policy and Regulations Branch, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other

inappropriate content will not be considered.

We will post all comments at <https://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See **Request for Public Comments** for more information.

FOR FURTHER INFORMATION CONTACT: Tara Callaway, Washington Fish and Wildlife Office, via telephone at 509-201-2414, or via email at Tara_Callaway@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an enhancement of survival permit (permit) application pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.) from Washington Department of Fish and Wildlife (WDFW). If issued, the permit would authorize take of the Columbia Basin pygmy rabbit (CBPR; *Brachylagus idahoensis*), which is federally and state listed as endangered. The take is likely to result from otherwise lawful land-use activities including general farm and rangeland stewardship and recreation within suitable CBPR habitat, as well as ranching, farming, residential/commercial maintenance, and recreation within non-habitat for CBPR. Overall, the conservation measures described in

the conservation benefit agreement (CBA) are intended to provide a net conservation benefit for the species. We have also prepared a draft environmental action statement (EAS) for our preliminary determination that the permit decision is eligible for categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.). We provide this notice to open a public comment period and invite comments from all interested parties regarding the documents referenced above.

Background

On April 12, 2024, the Service published final revisions to the regulations for ESA sections 10(a)(1)(A) and (B) (89 FR 26070), which went into effect on May 13, 2024. Among other changes and clarifications, the revised regulations simplify the requirements for enhancement of survival permits by defining a new agreement type, known as a CBA. Under a CBA, participating property owners undertake management activities on their property to enhance, restore, or maintain habitat conditions to an extent that is likely to result in a net conservation benefit for the covered species. A CBA and the associated enhancement of survival permit encourage private and other non-Federal property owners to implement conservation actions for federally listed species. Participating property owners are assured that they will not be subject to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. The authorization to take listed species is contingent on the property owner complying with obligations in the CBA and the terms and conditions of the permit. The CBA must provide a net conservation benefit, which is defined at Code of Federal Regulations (CFR) at 50 CFR 17.3.

This proposed CBA would renew, amend, and replace the expiring Safe Harbor Agreement (SHA, or Agreement) for the CBPR which expires in October 2026. The proposed CBA differs from the original SHA in that WDFW is proposed as a primary

permit holder, able to enroll private landowners as participants through certificates of inclusion under WDFW's enhancement of survival permit. Participants agreeing to conduct conservation measures and enroll in the CBA will be provided regulatory assurances allowing incidental take above the baseline condition for activities covered by this Agreement, and may return the enrolled property back to the baseline conditions at the end of the Agreement.

The CBA would allow enrollment from private lands within the Columbia Plateau ecoregion of Washington, which consists of approximately 16 million acres of land within Adams, Douglas, Grant, Lincoln, and Benton Counties. Because of the momentum of the recovery program and the great need for additional habitat to continue to establish pygmy rabbits across the broader shrub-steppe landscape, it is likely that at least 120,000 new acres would be enrolled in this CBA within the agreement time frame. The term of the of the CBA and proposed enhancement of survival permit is 30 years.

If participants' voluntary conservation measures are likely to result in the covered species occupying adjacent properties that are not enrolled under this Agreement, WDFW will contact the neighbors and make every reasonable effort to include them as voluntary signatories to the CBA using the procedures set forth in this Agreement. If the neighboring property owner chooses not to enroll, WDFW will seek permission to capture any pygmy rabbits present to be relocated to other suitable habitat.

WDFW will complete compliance, biological, and incidental take monitoring needed to ensure success of the Agreement. Compliance monitoring will consist of regular assessments to ensure suitable habitat acres have been retained and that agreed upon conservation measures have been implemented. Biological monitoring may include efficacy monitoring of habitat improvement or restoration projects implemented by WDFW or the Service. If any take occurs, the amount of take will be quantified by

WDFW and reported to the Service. If habitat becomes unsuitable, WDFW and the Service will work with participants to implement adaptive management to address habitat issues.

Required Conservation Measures for participants in suitable habitat areas are described fully in the CBA, and include:

- Work with WDFW to delineate properties into areas of suitable habitat for CBPR and non-habitat.
- Retain vegetation cover in designated suitable habitat areas for the duration of the CBA (30 years);
- Provide WDFW access to the property's suitable habitat areas to assess occupancy status, monitor trends in distribution and abundance and monitor habitat function and availability;
- Notify WDFW at least 60 days prior to undertaking any habitat-altering activity that could result in take of CBPR or in a diminishment of suitable habitat so that WDFW can determine occupancy and if present, move CBPR to alternate site(s); and
- Immediately notify the WDFW upon finding any dead or injured CBPR on enrolled property.

Voluntary Conservation Measures for participants in suitable habitat are described fully in the CBA, and include:

- Allow WDFW to release captive-bred and/or translocated CBPR;
- Allow WDFW to install recovery-related infrastructure on enrolled properties in support of the CBPR recovery;
- Work with WDFW to implement fuel treatments/green fuel breaks and/or buffers to protect suitable habitat areas from fire risk;

- Provide WDFW access to the property's suitable habitat areas for the term of the agreement for research purposes not covered in the Required Conservation Measures listed above;
- Improve road access through mowing or light tilling to facilitate access for recovery actions or to reduce fire risk;
- Implement native seeding or planting or other Natural Resource Conservation Service (NRCS) conservation practices to improve or enhance habitat suitability;
- Work with WDFW or the Service to identify potential habitat restoration or improvement projects to further increase suitable habitat area or quality; and
- Implement durable habitat conservation to maintain undeveloped areas where possible through options such as NRCS Working Land Easements, Conservation Easements, or acquisitions.

Request for Public Comments

We invite public review and comment on the permit application package, including the CBA and draft EAS (see **ADDRESSES**). 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, including on the adequacy of the CBA, pursuant to the requirements for permits at 50 CFR parts 13 and 17. We especially encourage comments from landowners within the proposed CBA boundary.

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.

Next Steps

After the public comment period ends (see **DATES**), we will evaluate the permit application, associated documents, and any comments received to determine whether the permit application meets the requirements of section 10(a)(1)(A) of the ESA. We will also evaluate whether issuance of the requested permit would comply with section 7(a)(2) of the ESA by conducting an intra-Service consultation on the proposed action. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all comments received during the comment period. If we determine that all requirements are met, we will issue an Enhancement of Survival Permit under section 10(a)(1)(A) of the ESA and associated implementing regulations found at 50 CFR 17.22(c).

Authority

We provide this notice in accordance with the requirements of section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and implementing regulations (46 CFR part 43) and procedures (516 DM 1).

Bridget Fahey,
Acting Regional Director,
Pacific Region,
U.S. Fish and Wildlife Service.

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