

## Endangered species listing for the monarch butterfly

### *What private landowners need to know*

#### **What is a threatened or endangered species?**

The Endangered Species Act (ESA) of 1973 was passed by Congress to prevent extinctions of fish, wildlife, insects, and plants. The purpose of the ESA is to identify and recover endangered and threatened species and the habitat on which they depend.

Under the ESA, the US Fish and Wildlife Service (FWS), after an in-depth review including public input, may determine a species is "endangered" if it is in danger of extinction throughout all or a significant portion of its range. A "threatened" species is one that is likely to become endangered in the foreseeable future.

A species is determined to be endangered or threatened due to any of the following factors:

- The present or threatened destruction, modification, or curtailment of its habitat or range
- Overutilization for commercial, recreational, scientific, or educational purposes
- Disease or predation
- The inadequacy of existing regulatory mechanisms
- Other natural or manmade factors affecting its survival

#### **Monarch butterfly petition**

The FWS received a petition in August 2014 to list the monarch butterfly population that migrates from Mexico through the U.S. Southern and Midwestern states, and into Canada, annually. Within 90 days of receiving a petition FWS is required by regulation to determine if it is worthy of consideration. In December 2014, FWS made the decision that the petition contained enough scientific information to justify a status review. This determination triggered a 12-month finding deadline for the agency to determine whether the monarch should be listed. The FWS did not meet this deadline. In March 2016, the

Center for Biological Diversity (CBD) and the Center for Food Safety (CFS) filed a complaint against FWS. On July 5, 2016, the Court approved a settlement that provided FWS three years to finish its evaluation. In May 2019, the court granted the FWS an extension to December 15, 2020.

#### **Species status assessment**

To meet the December 2020 deadline, the FWS has been gathering foundational scientific information to inform the decision on whether the monarch needs protection under the ESA. This process is governed by the Species Status Assessment (SSA) Framework, a step-wise approach that delivers the science necessary to inform all ESA decisions. Early identification of what most influences a species' condition gives opportunities for partners to work with FWS to plan and implement conservation efforts in advance of ESA decisions.

#### **Can voluntary conservation efforts prior to the December 2020 deadline make a difference?**

In 2018, the FWS began collecting information on ongoing conservation efforts for use in its listing analysis, consistent with its Policy for the Evaluation of Conservation Efforts (PECE). Under the PECE, if voluntary on-going or planned conservation efforts are determined to be viable and likely to be implemented, FWS can use this information to determine the monarch should not be listed. Voluntary efforts are assessed for their likelihood to positively influence the future increase of the monarch populations.

The FWS launched the [Monarch Conservation Database](#) to collect and quantify new (since 2014), ongoing, and planned efforts that are improving the monarch population by creating habitat with milkweed and other blooming nectar plants.

#### **Which voluntary programs are available?**

Several USDA conservation programs provide landowners with financial and technical assistance to

implement practices that promote monarch butterfly habitat. The largest of these programs include the Conservation Reserve Program (CRP), Environmental Quality Incentives Program (EQIP), Conservation Stewardship Program, and Agricultural Conservation Easement Program. Contact your local [USDA Field Office](#) for more information on these programs. The FWS also provides landowners with financial and technical assistance to restore and enhance monarch habitat through the Partners for Fish and Wildlife Program and Coastal Program.

In addition to federal programs, the Midwest Association of Fish and Wildlife Agencies has developed the [Mid-America Monarch Conservation Strategy](#), which identifies goals and next steps for states within the monarch migration corridor. Many states have responded to this strategy with programs of their own to enhance monarch habitat. There are also other voluntary conservation programs through various conservation organizations like the Environmental Defense Fund or the Butterfly and Bee Habitat Fund available throughout the U.S.

#### **Looking forward: Listing determination**

In December 2020, the FWS will issue a determination based on the results of its review, which may be one of the following:

1. Listing is warranted. This decision would include a recommendation for listing as either endangered or threatened. A warranted determination triggers a 12-month process that includes the drafting of, and public comment on, a rule for managing the species. If this were to be the determination the monarch would be formally listed no sooner than December 2021.
2. Listing is not warranted. The ESA process for the monarch ends.
3. Listing is warranted but precluded by species of higher priority (i.e., the monarch is designated as a candidate species). This decision would propose listing at a later date, with annual review of the latest information until a definite “warranted” or “not warranted” decision is reached.

#### **What if FWS proposes a draft rule to list the monarch in December 2020?**

If the FWS proposes the monarch is warranted for listing or warranted but precluded and designated as a candidate species, non-Federal landowners can pursue Candidate Conservation Agreements with Assurances (CCAAs), and Federal landowners can pursue Candidate Conservation Agreements (CCAs). If these voluntary plans developed by landowners are approved by FWS prior to a final listing decision, landowners implementing conservation actions consistent with an approved CCA or CCAA can have regulatory certainty that no additional conservation measures will be required. The FWS review and approval of a CCA or CCAA ensures the plan identifies threats to the species, plans the measures needed to address the threats, identifies willing landowners, develops agreements, and provides designs for implementing conservation measures and monitoring the effects of implementation.

The Natural Resources Conservation Service (NRCS) has established a formal ‘CCA equivalent’ agreement with FWS that ensures private landowners implementing monarch conservation actions through EQIP and other NRCS administered conservation programs have regulatory certainty. At present, the Farm Service Agency does NOT have ESA regulatory assurances for private landowners implementing monarch conservation practices implemented under the CRP.

#### **What if FWS finalizes a listing decision and I am not undertaking conservation actions under an approved CCA or CCAA?**

IF FWS lists the monarch, landowners whose activities are not covered under an approved CCA or CCAA and whose actions can harm the monarch or its habitat will need an incidental take permit from the FWS to proceed with any activity that would otherwise result in the unlawful take (i.e., harm) to the butterfly or its habitat. If FWS determines a take could occur the landowner needs to prepare for FWS review a habitat conservation plan as a prerequisite to receiving an incidental take permit. Approved plans can require implementation of conservation measures to address those activities that could result in harm to the monarch or its habitat.