

320 and 80 hours, respectively. We expect the amount of time will vary depending on several factors including, but not limited to, the number of species addressed, amount of biological information available on the species, and the complexity of the threats. Therefore, we have provided an average to assist interested parties in their planning efforts.

Issue 3: One commenter questioned whether we would evaluate proposed agreements or plans using the stated criteria automatically or only upon request. The commenter also questioned whether we will consider agreements or plans that we previously determined were not sufficient to prevent the need for listing in combination with "new" proposed agreements or plans when we evaluate whether to list a species.

Response 3: If a listing proposal is under review, we will consider any conservation effort. We will evaluate the status of the species in the context of all factors that affect the species' risk of extinction, including all known conservation efforts whether planned, under way, or fully implemented. However, for formalized conservation efforts not fully implemented, or where the results have not been demonstrated, we will consider the PECE criteria in our evaluation of whether, and to what extent, the formalized conservation efforts affect the species' status under the Act.

Issue 4: One commenter asked the length of time for which a plan is approved.

Response 4: The PECE is not a plan-approval process, nor does it establish an alternative to listing. PECE outlines the criteria we will consider when evaluating formalized conservation efforts that have not yet been fully implemented or do not yet have a record of effectiveness at the time we make a listing decision. Should the status of a species decline after we make a decision not to list this species, we would need to reassess our listing decision. For example, there may be situations where the parties to a plan or agreement meet their commitments, but unexpected and/or increased threats (e.g., disease) may occur that threaten the species' status and make it necessary to list the species.

Issue 5: One commenter asked if the "new information" reopener is operative at any time.

Response 5: Yes, because section 4(b)(1) of the Act requires us to use the best available scientific and commercial data whenever making decisions during the listing process. In making a decision whether to list a species, we will take into account all available information,

including new information regarding formalized conservation efforts. If we receive new information on a formalized conservation effort that has not yet been implemented or not yet demonstrated effectiveness prior to making a listing decision, we will evaluate the conservation effort in the context of the PECE criteria. If we receive new information on such an effort after we have decided to list a species, then we will consider this new information along with other measures that reduce threats to the species and may use this information in downlisting the species from endangered to threatened status or delisting. However, PECE will not control our analysis of the downlisting of the species.

Issue 6: One commenter stated that it is unrealistic and unreasonable to expect agreements to be in place at the time the conservation effort is evaluated. In addition, the commenter stated that it is particularly unrealistic and unreasonable to expect that conservation agreements or plans be submitted within 60 days of publication of a proposed rule.

Response 6: We strongly encourage parties to initiate formalized conservation efforts prior to publication of a proposal to list a species under the Act. If a formalized conservation effort is submitted during the public comment period for a proposed rule, and may be significant to the listing decision, then we may extend or reopen the comment period to allow time for comment on the new conservation effort. However, we can extend the public comment period only if doing so does not prevent us from completing the final listing action within the statutory timeframe.

Issue 7: One commenter stated that most existing conservation agreements are ineffective, and furthermore that we are unable to determine their effectiveness for several years.

Response 7: We agree that it could take several years for some conservation efforts to demonstrate results. However, the PECE criteria provide the framework for us to evaluate the likely effectiveness of such formalized conservation efforts. Some existing conservation efforts have proven to be very effective and have justifiably influenced our listing decisions.

Issue 8: Several commenters stated that funds are better spent to list species, designate critical habitat, and implement recovery efforts rather than to develop conservation agreements.

Response 8: Conservation agreements can be seen as early recovery efforts. Early conservation efforts to improve the status of a species before listing is necessary may cost less than if the

species' status has already been reduced to the point where it needs to be listed. Early conservation of candidate species can reduce threats and stabilize or increase populations sufficiently to allow us to use our resources for species in greater need of the Act's protective measures.

Issue 9: Some commenters questioned the 14 conservation agreements that we cited which contributed to making listing the covered species as threatened or endangered unnecessary. Commenters requested information on each plan to better allow the public to evaluate the adequacy of the agreements.

Response 9: We referenced the 14 conservation agreements in the Paperwork Reduction Act section of the draft policy and used them solely to estimate the information collection and recordkeeping burden that would result from our draft policy if it were made final. Therefore, we do not recommend using these to comment on the new policy.

Biological Issues

Issue 10: One commenter questioned our method for evaluating a conservation plan that addresses only a portion of a species' range.

Response 10: Using the PECE criteria, we will evaluate all formalized conservation efforts that have yet to be implemented or have yet to demonstrate results at the time we make our listing decision. This is true for efforts that are applicable to all or only a portion of the species' range. The PECE does not set standards for how much conservation is needed to make listing unnecessary. The significance of plans that address only a portion of a species' range will be evaluated in the context of the species' overall status. While a formalized conservation effort may be effective in reducing or removing threats in a portion of the species' range, that may or may not be sufficient to remove the need to list the species as threatened or endangered. In some cases, the conservation effort may lead to a determination that a species warrants threatened status rather than endangered.

In addition, parties may have entered into agreements to obtain assurances that no additional commitments or restrictions will be required if the species is listed. A landowner or other non-Federal entity can enter into a Candidate Conservation Agreement with Assurances (CCAA) (64 FR 32726, June 17, 1999), which are formal agreements between us and one or more non-Federal parties that address the conservation needs of proposed or