

procedural requirements necessary to implement the effort are described.” They also requested that we change criterion A.3. to read: The legal requirements (e.g. permits, environmental review documents) necessary to implement the conservation effort are identified, and an explanation of how the party(ies) to the agreement or plan that will implement the effort will fulfill these requirements is provided.”

Response 20: We agree with adding the word “legal” and also have incorporated additional language and separated this criterion (former criterion A.2) into two criteria (A.2. and A.3.). Evaluation Criterion A.2. now reads, “The legal authority of the party(ies) to the agreement or plan to implement the formalized conservation effort, and the commitment to proceed with the conservation effort are described.” New evaluation Criterion A.3. reads, “The legal procedural requirements necessary to implement the effort are described, and information is provided indicating that fulfillment of these requirements does not preclude commitment to the effort.” In making these changes, we recognize that there may be overlap between new criterion A.3. and the criterion on authorizations (now A.4.), but our intent is to separate a criterion on procedural requirements from substantive authorizations (e.g. permits). We believe that we need to specifically determine that the parties to the agreement will obtain the necessary authorizations. We also recognize that parties may not be able to commit to some conservation efforts until they have fulfilled procedural requirements (e.g. under the National Environmental Policy Act) since some laws preclude commitment to a specific action until certain procedures are completed. Additionally, in creating a new criterion A.3., we find it unnecessary to incorporate the suggested changes to old A.3. (now A.4.).

Issue 21: Commenters requested the following change to Criterion A.4. (now Criterion A.5.): “The level of voluntary participation (e.g., permission to enter private land or other contributions by private landowners) necessary to implement the conservation effort is identified, and an explanation of how the party(ies) to the agreement or plan that will implement the conservation effort will obtain that level of voluntary participation is provided (e.g., an explanation of why incentives to be provided are expected to result in the necessary level of voluntary participation)”.

Response 21: We do not believe that including “an explanation of how the

party(ies) * * * will obtain that level of voluntary participation * * *” will provide us with enough information in order to determine that necessary voluntary participation will, in fact, be obtained. Evaluation Criterion A.5. (formerly A.4.) now reads: “The type and level of voluntary participation (e.g., number of landowners allowing entry to their land, or number of participants agreeing to change timber management practices and acreage involved) necessary to implement the conservation effort is identified, and a high level of certainty is provided that the party(ies) to the agreement or plan that will implement the conservation effort will obtain that level of voluntary participation (e.g., an explanation of how incentives to be provided will result in the necessary level of voluntary participation).”

Issue 22: Commenters suggested that Evaluation Criterion A.5. (now criterion A.6.) be changed to read as “Any statutory or regulatory deficiency or barrier to implementation of the conservation effort is identified and an explanation of how the party(ies) to the agreement or plan that will implement the effort will resolve the deficiency or barriers is provided.”

Response 22: We do not agree with the suggested language change. We believe that all regulatory mechanisms, including statutory authorities, must be in place to ensure a high level of certainty that the conservation effort will be implemented.

Issue 23: The suggested change to Evaluation Criterion A.6. (now A.7.) is “A fiscal schedule and plan is provided for the conservation effort, including a description of the obligations of party(ies) to the agreement or plan that will implement the conservation effort, and an explanation of how they will obtain the necessary funding is provided.”

Response 23: We do not agree with the suggested language change since we believe that there must be a high level of certainty that the party(ies) will obtain the necessary funding to implement the effort. While we agree that including a fiscal schedule, a description of the obligations of the party(ies), and an explanation of how they will obtain the funding is important, this information, by itself, does not provide enough certainty for us to consider a formalized conservation effort that has not yet been implemented as contributing to a listing decision. Also see our response to Issue 41.

Issue 24: One commenter suggested that the Services should consider an incremental approach to evaluating

implementation dates for the conservation effort.

Response 24: We agree with the commenter’s suggested change. Evaluation Criterion A.8. (formerly A.7.) now reads as: “An implementation schedule (including incremental completion dates) for the conservation effort is provided.”

Issue 25: Commenters suggested that Criterion A.8. (now A.9.) be revised to read: “The conservation agreement or plan that includes the conservation effort include a commitment by the party(ies) to apply their legal authorities and available resources as provided in the agreement or plan.”

Response 25: The participation of the parties through a written agreement or plan establishes each party’s commitment to apply their authorities and resources to implementation of each conservation effort. Therefore, it is unnecessary to include the suggested language; criterion A.9. (formerly A.8.) remains unchanged.

Issue 26: A commenter also suggested adding a criterion: “Evidence that other conservation efforts have been implemented for sympatric species within the same ecosystem that may provide benefits to the subject species is provided.”

Response 26: We do not think it is necessary to add such a criterion. At the time of listing, we will take into consideration all relevant information, including the effect of other conservation efforts for sympatric species on the status of the species we are considering for listing.

Issue 27: Several commenters recommended that we make specific changes to the Criterion B.1. language to read as: “The nature and extent of threats being addressed by the conservation effort are described, and how the conservation effort will reduce the threats are defined.” In addition, commenters suggested we change Criterion B.2. to read as: “Explicit incremental objectives for the conservation effort and dates for achieving them should be stated.”

Response 27: We agree that, in addition to identifying threats, the plan should explain how formalized conservation efforts reduce threats to the species. Therefore, Evaluation Criterion B.1. now reads as: “The nature and extent of threats being addressed by the conservation effort are described, and how the conservation effort reduces the threats is described.” We agree that conservation efforts should include incremental objectives. This allows the parties to evaluate progress toward the overall goal of a conservation effort, which is essential for adaptive