RCC Comment Re: Proposed Rules to Revise Endangered Species Act Regulations
(Docket Nos.: FWS-HQ-ES-2025-0029, FWS-HQ-ES-2025-0044, FWS-HQ-ES-2025-0048, FWS-HQ-ES-2025-0039**)**
December 2025

The Rachel Carson Council (RCC) submits the following comments in strong opposition to the four proposed rulemakings described below. RCC is a national nonprofit environmental organization with longstanding expertise in wildlife conservation, forestry, climate policy, and environmental justice. We are deeply concerned that these proposals collectively weaken core functions of the Endangered Species Act (ESA)—a statute designed by Congress to be precautionary, science-based, and protective of both species and ecosystems. Across all four dockets, the proposed changes would reduce reliance on the best available science, increase political and economic pressure on listing and consultation decisions, and introduce procedural barriers that advantage extractive industries over species already in crisis. As a whole, these proposals are inconsistent with the ESA's conservation mandate, decades of ecological science, and the urgent realities of climate-driven extinction risk.

Below, we provide detailed docket-specific comments:

1. Docket FWS-HQ-ES-2025-0029: Elimination of the Blanket 4(d) Rule

The Rachel Carson Council strongly opposes the rescission of the longstanding blanket 4(d) rule. Removing automatic protections for newly listed threatened species would eliminate a critical safety net during the period when conservation intervention is most urgent. Without these immediate safeguards, species would face regulatory gaps just as they become formally recognized as being at risk. The proposed shift toward species-specific 4(d) rules would substantially increase opportunities for political and industry pressure, as developing individual rules requires extended timelines, significant staff resources, and considerable administrative discretion: factors that open the door to lobbying for exemptions or weakened protections.

These delays would translate directly into increased extinction risk for species that cannot afford to wait years for protection while habitat loss, climate disruptions, and other threats continue unabated. Moreover, eliminating the blanket rule in response to executive directives aimed at "reducing regulatory burdens" is fundamentally incompatible with the ESA's requirement that decisions be grounded in the best available science rather than economic or political considerations. For these reasons, RCC urges the Service to withdraw the proposal and retain the blanket 4(d) rule so that threatened species receive rapid, science-based protections.

2. Docket FWS-HQ-ES-2025-0044: Revisions to ESA §7 Interagency Consultation Regulations

RCC also opposes the proposed revisions to the §7 consultation regulations, which would reinstate the weakened 2019 standards while dismantling the stronger 2024 rules. The proposal would significantly narrow the range of impacts federal agencies must consider, particularly by raising the evidentiary

threshold for what counts as an effect "reasonably certain to occur." In practice, this would exclude many well-documented, scientifically credible impacts—such as climate-driven stressors, cumulative habitat fragmentation, indirect effects, and landscape-scale ecological changes—from review. The rule also seeks to constrain the definition of the "environmental baseline," which would cause consultations to overlook the full suite of existing stressors that species face.

Additionally, eliminating the use of offsets in Reasonable and Prudent Measures would limit the Services' ability to mitigate incidental take and would diminish tangible conservation outcomes on the ground. By weakening the fundamental analytical tools of Section 7, the rule would make it easier for harmful federal actions (including oil and gas leasing, mining approvals, livestock grazing permits, dams, pipelines, and timber sales) to move forward without fully accounting for impacts on imperiled species. Because the 2024 reforms corrected long-recognized scientific and legal deficiencies, reverting to the outdated 2019 framework would undermine both scientific rigor and statutory compliance. RCC therefore urges the Service to withdraw the proposal and maintain the stronger 2024 consultation standards.

3. Docket FWS-HQ-ES-2025-0048: Critical Habitat Exclusion Rule (§4(b)(2))

RCC opposes reinstating the 2020 critical habitat exclusion rule, which creates a framework overtly biased in favor of excluding habitat from protection. The proposed rule improperly elevates economic interests (those of industry, energy developers, ranching operations, and private landowners) over the biological needs of imperiled species—the reason the Act was written in the first place. By requiring the Service to assign weight to speculative economic impacts in a manner that discourages designation, the rule shifts decision-making away from science and toward political or financial considerations.

Reintroducing this framework would lead directly to smaller and less effective critical habitat designations at a time when habitat loss remains the primary driver of extinction. The 2020 rule also imposed rigid procedural structures that inhibited the Service's ability to rely on science-based judgments and limited its discretion in evaluating the biological benefits of habitat protection. Courts and scientists criticized these constraints as inconsistent with the purpose of the ESA, **which is to recover species and the ecosystems upon which they depend**. No matter the cost. Species are more priceless than any shallow value of reducing regulatory burdens for industry. For these reasons, RCC urges the Service to withdraw the proposal and retain or strengthen the more balanced, science-aligned 2016 policy.

4. Docket FWS-HQ-ES-2025-0039: Listing & Critical Habitat Rules (50 CFR Part 424)

RCC opposes reinstating the 2019 listing and habitat regulations and dismantling the 2024 improvements. Narrowing how the Services interpret the "foreseeable future" would significantly reduce their ability to list species threatened by climate change, drought, disease, and cumulative stressors. Because climate impacts unfold over time yet are well documented scientifically, limiting future-oriented analysis effectively prohibits the Services from acting before irreversible decline occurs. This approach is not scientifically defensible.

The proposal also makes it more difficult to designate unoccupied critical habitat, even though recovery for many species (including wolves, grizzlies, salmon, and sage grouse) requires expanding into habitat beyond the small portions of their historical range they currently occupy. Reinstating the 2019 language would additionally complicate listing and delisting decisions in ways that courts have found inconsistent with the ESA's conservation purpose. The 2024 reforms were designed to restore scientific integrity to ESA implementation, align regulations with contemporary ecological science, and ensure that decisions reflect the best available data. Reverting to the outdated 2019 standards would reverse that progress and jeopardize species already in decline. RCC therefore urges the agencies to withdraw the proposal and retain the 2024 reforms.

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Taken together, these four proposed rules would substantially weaken the Endangered Species Act, prioritizing short-term economic interests over ecological survival and reducing the role of science in decisions that determine whether species persist or vanish. At a time of rapid biodiversity loss and accelerating climate impacts, the ESA cannot be hollowed. Species are priceless, and if the survival of a biological species *were* assigned an economic value, it would significantly outweigh industry projects in each of the shoddy "cost benefit analyses" frameworks these proposed rules seek to promulgate. The repercussions of these rules will outlive the cash-grab careers of those who decide to implement them.

Additionally, we would strongly recommend extending the comment period deadline past December 22nd, to allow adequate public participation from the millions of Americans who care about this issue.

The Rachel Carson Council respectfully urges the U.S. Fish & Wildlife Service and the National Marine Fisheries Service to withdraw all four proposed rules (Dockets **0029, 0044, 0048, and 0039**) and maintain the stronger, science-based 2024 regulations that more faithfully carry out the ESA's mandate: to conserve endangered and threatened species and the ecosystems upon which they depend.

Respectfully submitted,

The Rachel Carson Council