

Déjà vu? FWS Solicits Feedback to Update Section 10(a) of the ESA

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On Monday, June 9, the U.S. Fish and Wildlife Service (FWS) opened a short, 30-day public comment period [soliciting information and comments](#) to, “improve the overall efficiency and effectiveness” of Section 10(a) take permitting under the Endangered Species Act (ESA). If it seems like Section 10(a) just underwent a comment period not too long ago, that’s because it did. In 2023, under the Biden Administration, FWS solicited comments on proposed revisions to the regulations implementing that section, which were finalized last April. Now, the Trump Administration is seeking suggestions on how to further revise its ESA permitting rules.

The April 2024 rule revisions created a new type of agreement, called a “conservation benefit agreement,” that combines both safe harbor agreements and candidate conservation agreements under Section 10(a)(1)(A) of the ESA to facilitate voluntary conservation of not-yet-listed species on non-federal lands. This change was made in an effort to reduce costs and time associated with the permit processes and to encourage further participation in these voluntary programs.

With this new request for information and feedback, the FWS is taking a different approach. Instead of drafting revisions and asking stakeholders to provide feedback on the expected efficacy of those revisions, FWS is asking for feedback from stakeholders first, before proposing any specific rule revisions. The scope of this request includes the newly created conservation benefit agreements as well as habitat conservation plans and associated incidental take permits for listed species under ESA Section 10(a)(1)(B). Specifically, the FWS notice solicits information and suggestions from stakeholders on the following topics:

1. barriers that prevent applicants from pursuing development of conservation benefit agreements and habitat conservation plans;
2. methods to streamline conservation benefit agreement and habitat conservation plan development and their associated permit issuance;
3. strategies to enhance FWS communications on conservation benefit agreements, habitat conservation plans, and their associated permits;
4. whether any clarification is needed on the roles and responsibilities of the FWS and applicants during conservation benefit agreement and habitat conservation plan development and permit issuance;
5. funding and resources necessary to develop and implement conservation benefit agreements and habitat

conservation plans;

6. strategies the FWS could pilot to improve the overall effectiveness of the Section 10(a) program.

This request for information follows on the heels of a [broader request](#) issued by the Department of the Interior (Interior) on May 16, seeking public input on potential regulatory revisions for Interior-issued regulations. That request encompasses the broader ESA implementation regulations. The comment period for that initial request for information closes on June 20, 2025.

With an Administration actively pursuing permitting reform and seeking ways to reduce regulatory burdens on industry, this solicitation is a prime opportunity to provide feedback and suggestions for meaningful reform of the often cumbersome and lengthy ESA permitting process.

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