

Enrollment Timing for the Monarch CCAA/CCA

January 2021

Purpose and Need

The purpose of any CCAA/CCA is to encourage participants to take *voluntary* actions that will provide a net benefit to species that are candidates for listing under the Endangered Species Act (ESA), are proposed for listing, or may become candidates.¹

On December 15, 2020, the U.S. Fish and Wildlife Service (USFWS) announced their decision that the monarch butterfly “warrants” listing, but is precluded by higher priority listing decisions according to the National Listing Workplan. **This decision allows energy companies and transportation organizations interested in the Monarch CCAA additional time to enroll and contribute the conservation needed to reverse the monarch’s population losses.**

This guidance document helps potential CCAA applicants determine the best time to enroll in light of the recent announcement. The timing of an entity’s enrollment affects the benefits and risks associated with their particular agreement.

Key Takeaways

1. The USFWS issued its decision on the monarch butterfly on December 15, 2020 that the monarch warrants listing, but is precluded by higher priority listing decisions.
2. USFWS now expects to issue a proposed rule for listing the monarch by 2024. However, a listing could come sooner if monarchs are reprioritized or their populations further decline.
3. A number of factors may affect an applicant’s decision on whether to enroll in the Monarch CCAA given this decision.
4. Enrolling in the Monarch CCAA soon offers a number of benefits. Waiting until a later date may pose higher risks.

What are the important dates I need to know?

There are several key dates for organizations considering enrolling in the Monarch CCAA:

December 15, 2020	2021 through 2023	2024 and beyond
<ul style="list-style-type: none"> The USFWS determined that listing the monarch butterfly under the Endangered Species Act is warranted, but precluded. The monarch is at risk of extinction, but listing decisions on other species are higher priorities for the USFWS as this time. No protective measures (i.e. ‘take’ restrictions) are required until a listing becomes effective (anticipated in 2024/2025). 	<ul style="list-style-type: none"> The USFWS will conduct annual reviews of the species population status now through 2024. Annual reviews conducted by USFWS will assess population status based on overwintering counts in the East and West populations. If rapid declines continue, the USFWS may decide to re-prioritize listing, or invoke emergency listing procedures. 	<ul style="list-style-type: none"> USFWS plans their rulemaking deadline for listing the monarch butterfly in Federal Fiscal Year 2024. Following a proposed listing rule, the effective date would follow, potentially in late 2024 or early 2025. The effective date is when protective measures (i.e. ‘take’ restrictions) would take effect.

¹ From the USFWS’s and National Marine Fisheries Service’s [Candidate Conservation Agreements With Assurances Policy](#), December 2016.

What are the benefits and risks to consider when evaluating the enrollment timing into the Monarch CCAA?

The following table provides a summary of the benefits, risk level, and other considerations relative to enrollment timing.

Timing of Enrollment	Benefits	Risk Level	Considerations
Pre-listing decision (before December 15, 2020)	<ul style="list-style-type: none"> • Certainty that your operations have coverage, even if the listing timeline changes or there are legal challenges • Enrollment may help defer or delay listing by adding conservation • Recognition as early actor / industry leader • Experience from pre-listing applicants can be shared with interested applicants to address uncertainties in the application process and eventual implementation • Streamlined Section 7 consultation, which may benefit both CCAA and non-CCAA work planning. 	Low	<ul style="list-style-type: none"> • The CCAA and level of enrollment were cited in the USFWS Species Assessment as primary reasons that an emergency listing was not required at this time. • Although listing is targeted for 2024, legal challenges or continued population losses could cause re-evaluation of a listing sooner. • Given the voluntary nature, you can un-enroll at any time.
Prior to proposed ruling (before 2024, or sooner if re-prioritized)	<ul style="list-style-type: none"> • Certainty that your operations have coverage, if enrolled before listing • Enrollment may help defer or delay listing by adding conservation • Earlier enrollment allows time to adapt to CCAA implementation requirements prior to listing 	Low to Moderate	<ul style="list-style-type: none"> • Populations will be assessed annually now through 2024. Significant population declines could accelerate a listing decision. • Enrolling sooner than later reduces your organization’s risk and potential for costly delays from an emergency listing decision due to changed conditions or legal challenges. • Given the voluntary nature, you can un-enroll at any time.

Timing of Enrollment	Benefits	Risk Level	Considerations
<p>After proposed ruling (after 2024, or sooner if re-prioritized)</p>	<ul style="list-style-type: none"> • Certainty that your operations have coverage, if enrolled before the effective listing date • Although less impactful than prior to the proposed ruling, additional enrollment could help inform the final ruling 	<p>Moderate to High</p>	<ul style="list-style-type: none"> • <u>Enrollment in the CCAA is only allowed up until the effective listing date (not after).</u> • Populations will be assessed annually now through 2024. Significant population declines could accelerate a listing decision. • If there is a successful legal challenge or emergency listing, then potential applicants will likely have little or no time to prepare for, or enroll, in the CCAA. • If your application is still under review at the time of the effective listing date, you may experience gaps in coverage and need to identify avoidance measures or pursue other incidental take permitting. • A company or agency has increased risk exposure the longer they wait to enroll.

Why would we enroll in the Monarch CCAA now, since the USFWS decided to delay listing the monarch under the Endangered Species Act?

The Monarch CCAA is more important now than ever. USFWS determined that monarchs “warrant listing”. That means, with no changes to reverse their decline, monarchs will be proposed for listing under the ESA by 2024, if not sooner.

The Monarch CCAA can leverage the conservation commitments of industry partners to make meaningful improvements in the monarch’s population.

- By enrolling now, CCAA Partners implement actions that could help save monarchs, potentially contribute to a future “not warranted” determination, and provide certainty to their business operations.
- By waiting, less conservation happens, which makes a monarch listing almost inevitable. Unless the species status improves considerably in the next few years, a future listing is nearly assured with the “warranted” finding.

There are both **conservation** and **business operations** benefits to enrolling in the CCAA/CCA:

Risk-resilience



Enrolling in the Monarch CCAA when the monarch is not protected under the ESA provides certainty and assurances against an ever-changing regulatory landscape. In the event the USFWS’ decision is challenged and reversed, then a listing of the monarch may come swiftly, allowing minimal time for enrollment and preparation. Similarly, if there are additional population declines or unexpected catastrophic events that endanger monarch populations, an urgent or emergency listing becomes likely. In both scenarios, enrollment in the Monarch CCAA provides you certainty and regulatory assurances that protect your business operations.

Conservation commitment



In the years between the “warranted but precluded” finding and a proposed listing (targeted for 2024), the USFWS will conduct annual population assessments, as well as new science and new conservation efforts to determine if the species is recovering or the priority for listing needs to change. Thus, commitments made to the Monarch CCAA through enrollment may be considered as additional conservation during those assessments and may help keep the species from a continuing decline, thus keeping the species from requiring protection under the ESA.

How much land should I enroll in the Monarch CCAA?

When determining which lands and how much land to enroll, Applicants will want to evaluate how to best capitalize on the regulatory certainty and operational flexibility that the CCAA offers while providing the most benefits to monarchs through conservation. The following table provides a summary of the pros and cons of considering how much land to enroll.

Question	Pros	Cons
<p>Do I enroll most or all lands managed in our system?</p>	<ul style="list-style-type: none"> • More enrolled lands, and a greater amount of adopted acres, may help defer or delay listing; the more lands enrolled, the greater the potential benefit and greater consistency in how the CCAA is applied across your operations. • Enrolled lands have the greatest regulatory certainty for covered activities; more enrolled lands, more certainty. • Enrolling 'extra' land to account for temporary access or easements increases certainty of covered activities and increases conservation benefit. • Once enrolled, little or no changes are needed. 	<ul style="list-style-type: none"> • Requires increased coordination among work teams to ensure individuals understand the CCAA, including its implementation, tracking, monitoring, and compliance requirements. • Increased acreage may (or may not) result in a higher annual administrative fee depending on the amount of lands enrolled and the fee cost per acre.
<p>Do I enroll a subset or small portion of lands managed in our system?</p>	<ul style="list-style-type: none"> • Allows an organization to “pilot test” enrollment in a smaller context, which can increase the understanding and comfort level of individuals implementing the CCAA. • Allows an organization to have a “foot in the door” and increase their enrollment in the event of continued declines in the monarch population. 	<ul style="list-style-type: none"> • Lands not enrolled are subject to changes in regulations, including some restrictions that are likely following listing. • Conservation benefits of low acreages of enrolled lands are less likely to contribute to a change in the listing decision. • Increased risk during an emergency listing scenario.

For more information on enrolling lands under the CCAA, please see [Guidance for Determining Enrolled Lands and Covered Activities](#).

Still not sure?

Your organization can be a valuable Partner to the Monarch CCAA in helping turn the tide for conservation of the monarch butterfly. If you remain uncertain about the best path forward from here, use this decision tree to help decide when the timing is best for your organization to enroll.

