

# Nationwide Candidate Conservation Agreement for Monarch Butterfly on Energy and Transportation Lands

June 2024

## Clarification on Federal Agency Enrollment in the CCA

### Purpose

The Nationwide Candidate Conservation Agreement for Monarch Butterfly on Energy and Transportation Lands (Monarch CCAA; Agreement) was approved as an integrated Candidate Conservation Agreement with Assurances (CCAA) and a Candidate Conservation Agreement (CCA). This memorandum clarifies the ability of federal agencies to enroll in the CCA-portion of the Agreement and the corresponding expectations of those agencies choosing to do so.

### Background

The differences between CCAAs and CCAs are described in a [fact sheet](#) previously published by the U.S. Fish and Wildlife Service (USFWS) (USFWS 2017). As described in the Agreement, a CCA represents, “*an agreement signed by the Service, and other federal or state agencies, local governments, tribes, businesses, organizations, or a citizen that identifies specific conservation measures that the participants will voluntarily undertake to conserve the covered species. There are no specific requirements for entering into a CCA and no standard has to be met; no incidental take permit or assurances are provided under these Agreements.*”

The original Agreement was developed with utility companies and state highway agencies as a primary focus, but allowed the ability of other, “*Non-federal entities or organizations that manage lands associated with energy and transportation uses.*” In its first four years, 50 Partners have enrolled in the Agreement, including investor-owned electric utilities, rural electric cooperatives, gas companies, renewable energy companies, state highway agencies, and local road authorities. During this time, representatives from several federal agencies have expressed interest in enrolling their monarch butterfly and other pollinator conservation efforts in the Agreement. Federal interests in enrollment are motivated by interests in fulfilling federal pollinator and conservation initiatives such as the America the Beautiful (White House 2015, DOI 2021), proactively fulfilling their Section 7(a)(1) of the ESA charges federal agencies to aid in the conservation of listed species, and potential to streamline Section 7(a)(2) consultation obligations in the event of a listing.

### Energy and Transportation Infrastructure on Federal Lands

Federal lands include a large network of energy and transportation infrastructure for their operations and maintenance. According to the Federal Highways Administration, there are more than 500,000 miles of public and administrative roads on federal land across the U.S. (FHWA 2021). Federal utilities, like Tennessee Valley Authority and the Bonneville Power Administration together manage over 32,000 miles of powerline rights-of-way easements (TVA 2017, BPA 2023). Land managing agencies like the Bureau of Land Management also maintain thousands of miles of transmission lines (BML 2017). The Department of the Interior is also proposing updates to its renewable energy regulations to promote development of renewable energy on public lands (DOI 2023).

Recognizing the mutual interests and objectives addressed by appropriate use of vegetation management on these rights-of-way, multiple federal agencies, the Utility Arborist Association, and the Edison Electric Institute entered into a memorandum of understanding (MOU) encouraging collaboration in vegetation management on electric lines across federal lands (EEI 2016).

## Expanding the Applicant Definition

To address the interest of federal agencies, the University of Illinois Chicago (Program Administrator) and USFWS are modifying the original definition included in the Agreement to be inclusive of federal agencies.

The Monarch CCAA approved in April 2020 defined eligible Applicants in the Agreement as,

*“Non-federal entities or organizations that manage lands associated with energy and transportation uses that are interested in participation within the Agreement and undertake the application steps detailed within the Agreement. Eligible Applicants include non-federal organizations and private or publicly owned companies managing lands associated with energy and transportation infrastructure within the Covered Area (UIC 2020).”*

Via this memorandum, the Program Administrator and USFWS will modify this definition (changes in **bold**) to,

*“Non-federal **and federal** entities or organizations that manage lands associated with energy and transportation uses that are interested in participation within the Agreement and undertake the application steps detailed within the Agreement. Eligible Applicants include non-federal organizations, **federal agencies**, and private or publicly owned companies managing lands associated with energy and transportation infrastructure within the Covered Area.”*

Applicants become Partners within the Agreement once enrolled. The existing definition of Partner is inclusive of federal agencies, “Companies, agencies, and other organizations working in the energy or transportation sectors that are landowners or manage vegetation through an easement, permit, or other access and management type agreement, who voluntarily agree to the terms and conditions of approval described in the Certificate of Inclusion under the Agreement that must be adhered to for the permitted activity on enrolled lands, as described in Section 3.3.”

## CCA Eligibility for Federal Lands

The updated definition implies that federal agencies participating as Partners in the Agreement must “manage lands associated with energy and transportation uses”. For federal utilities, such as the Tennessee Valley Authority and the Bonneville Power Administration, there is a clear and direct link to energy uses. However, as noted, many federal agencies manage and operate vast networks of roads, canals, developed trails, powerlines, renewable energy facilities, and other energy and transportation uses. Under this updated definition, federal agencies may enroll the fee-owned, leased, or easement lands that directly support such infrastructure. Extension of the effects analyzed and applicability to Service consultations indirectly supporting energy and transportation uses on federal lands may be applied at the discretion of the Service at the time of consultation.

## CCA Requirements on Federal Lands

Federal agencies interested in enrolling in the Agreement will adhere to the same program requirements outlined for Partners. These requirements include enrollment of energy and transportation lands (Section 4), committing to conservation measures (Section 6), adhering to the obligations of Partners (Section 7), expectations for adaptation (Section 10), monitoring and tracking (Section 14), handling of disputes and resolutions (Section 16), and payment of administrative fees (Section 17).

Sections of the Agreement that do not apply to federal agencies include confidentiality (Section 8) and areas pertaining to the ESA Section 10(a)(1)1(A) Enhancement of Survival Permit and assurances (Sections 9 and 13). Nor does the Enhancement of Survival Permit itself apply to federal agencies.

## Section 7 Interpretation

In the event of a monarch butterfly listing, federal agencies may wish to use their enrollment in the Agreement to streamline their own Section 7(a)(2) obligations related to monarch butterfly. The Program Administrator and Service have already created [Guidelines for Implementing Section 7 Consultation](#) and an accompanying [informational memo regarding Section 7 applicability](#) on federal lands.

At the time of its approval, the Service completed a programmatic Conference Opinion and Biological Opinion for the Agreement. In the Conference Opinion and Biological Opinion, the Service assessed the effects that implementation of the Agreement would have on the monarch; on other species listed or proposed for listing as endangered or threatened; and, on proposed and designated critical habitat. Federal agencies may choose to use the Section 7 reviews that the Service has already completed to streamline reviews of CCA-related covered activities that Partners propose to carry out on lands under their jurisdiction. The Service’s Section 7 work relevant to the Agreement and the associated ESA permit includes the programmatic Conference Opinion and Biological Opinion, as well as Partner-specific reviews that include Service-reviewed species lists and accompanying avoidance and minimization measures for plants and critical habitat. Table 1 highlights key Agreement resources and their applicability to streamline Section 7 consultations.

Enrollment in the Agreement does not fulfil the consultation obligations of the enrolling agency. However, participation in the program may help expedite the consultation process if it is relying on the consultation already conducted for those same activities. Federal agencies should contact their local Service field office to discuss consultation needs according to their planned activities, their agency policies, and consultation obligations.

**Table 1. Alignment of Monarch CCAA/CCA Resources with Section 7 Consultation Requirements**

Monarch CCAA/CCA Resources	Consultation Requirements Supported
<p><b>Monarch CCAA/CCA Conference and Biological Opinions</b></p>	<p>Documents Service evaluation of covered activities and the conservation measures’ ability to result in a net conservation benefit for monarch butterflies.</p> <p>Informs the likelihood of adverse effects on a listed species or critical habitats resulting from covered activities.</p>
<p><b>Monarch CCAA/CCA and Toolkit</b></p>	<p>Identifies conservation measures intended to avoid and minimize adverse effects monarch butterflies and their habitat to address 7(a)(2) consultation obligations, plus conservation measures that enhance habitat in accordance with Section 7(a)(1) obligations.</p>
<p><b>Monarch CCAA/CCA Application Section 7 Review</b></p>	<p>Identifies Partner-specific avoidance and minimization measures related to listed plant species and designated critical habitats that have undergone Service review and approval, or consistency with other consultations previously conducted for listed species.</p>

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