



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington DC, 20004



In Reply Refer To:
FWS/AES/DBTS/BBS/078162

May 23, 2023

Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville Maryland 20852-2738

Dear Chairman:

The Endangered Species Act (Act) requires the U.S. Fish and Wildlife Service (Service) to report annually to Congress “an accounting on a species-by-species basis of all reasonably identifiable Federal expenditures made primarily for the conservation of endangered or threatened species pursuant to the Act...” This provision applies to all Federal agencies and this letter serves as the request for your agency to provide data for the Fiscal Year (FY) 2022 Federal and State Endangered and Threatened Species Expenditures Report to Congress. Responses are required within 90 days of this letter.

The Service depends on the cooperation of other agencies to compile expenditures data subject to the Act’s reporting requirement. For FY 2022 data, please report using the customized FY 2022 species list spreadsheet, which has been formatted for data submission. Completed FY 2022 spreadsheets should be emailed to fwfq_es_bbs@fws.gov with a subject line of “FY 2022 Expenditures Report Data Submission.”

The list of species on which to report matches the Federal lists of threatened and endangered species (50 CFR 17.11 and 17.12) as of September 30, 2022. The list of species for FY 2022 reporting can be viewed and downloaded at <https://ecos.fws.gov/docs/expenditures/ExpendituresSpeciesList2022.xlsx>. A password is not required.

Please note that we must rely on the expenditures data submitted to us by each agency “as is.” Due to the time needed to compile the Report to Congress, we are not able to enter or verify each agency’s data. A formal reply to the Service is not required.

Enclosed is the Supplemental Guidance that explains the login process and the scope of activities on which to report. Activities eligible for inclusion in the report should be those carried out primarily to benefit the conservation of federally listed species, including those federally listed species under the jurisdiction of the National Oceanic and Atmospheric Administration’s Fisheries Program (National Marine Fisheries Service).

Litigation expenses are not made primarily for the conservation of listed species and thus are not properly within the scope of this expenditures report. Please do not include litigation expenses in your data submission.

Due to the time-sensitive nature of this request, we have sent this letter by e-mail to your agency's point of contact. Generally, this point of contact is the person who entered your agency's data for FY 2021. If your contact person has changed, please forward the updated information to Ms. Jennifer Neely at 703-358-1774 or Jennifer_Neely@fws.gov. We fully understand that the contact person must wait for direction from you before beginning the data collection tasks.

We greatly appreciate your assistance. For further clarification or technical assistance, please contact Ms. Dara Rodriguez, Chief, Branch of Budget and Support, Ecological Services, at 703-358-2171 or Dara_Rodriguez@fws.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Martha Williams", with a long horizontal flourish extending to the right.

Martha Williams
Director

Enclosure

Appendix A. Supplemental Guidance for Reporting Expenditures for the Conservation of Endangered and Threatened Species -- FY 2022

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Overview

This reporting guidance provides information on how to report expenditures attributable to individual species to the extent this information is reasonably available. The Congress requested information for this report on a primarily species-by-species basis. However, to provide the most accurate account of expenditures for the conservation of species listed under the Endangered Species Act, a “multi-species” reporting feature was added. This option allows the reporting of lump sum costs for multi-species conservation activities **when it is not possible to account accurately for individual species.**

The ESA Expenditures Report to Congress is an annual report and the current data call is requesting expenditures from Federal Fiscal Year 2022. The standard procedure for data submission would involve direct entry of expenditures into the ECOS Expenditures module. However, the system is not available for FY22 data entry. This guidance outlines the same method used for FY 2021 data, requesting data be submitted on the customized spreadsheet provided.

The FY 2022 spreadsheet is the year’s full Threatened & Endangered Species list that has been formatted with fields for General and Land Expenditures, and follows the format for the bulk upload. The bulk upload of all spreadsheets will be facilitated by FWS upon the close of the reporting window.

Data Reporting Instruction

FY 2022 Reporting Instruction

Each agency must report FY 2022 data using the customized spreadsheet (<https://ecos.fws.gov/docs/expenditures/ExpendituresSpeciesList2022.xlsx>). The customized spreadsheet may be locked to prevent changes to species information. Agencies will have access to enter expenditures for each species in the designated cells. Information on the scope of the activities to report is provided in the “Data Gathering Instruction” section below.

Completed FY 2022 spreadsheets should be emailed to fwhq_es_bbs@fws.gov with a subject line of “FY 2022 Expenditures Report Data Submission.”

Data Gathering Instruction

Background

- Section 18 of the Endangered Species Act of 1973 (16 U.S. 1531 *et seq.*) reads, in part, “...the Fish and Wildlife Service, shall submit to the Congress an annual report covering the preceding fiscal year which shall contain--
 - (1) an accounting on a species-by-species basis of all reasonably identifiable Federal expenditures made primarily for the conservation of endangered and threatened species pursuant to this Act; and
 - (2) an accounting on a species-by-species basis for all reasonably identifiable expenditures made primarily for the conservation of endangered and threatened species pursuant to this Act by States receiving grants under section 6.”

- The conference report for the 1988 amendments made some of the following points concerning section 18 of the Act:
 - Provision should not become unduly burdensome or result in diversion of funds from the operation of the program.
 - The Secretary of the Interior is to make a good faith effort to develop and obtain data but is not to undertake extensive or extraordinary measures.
 - Generalized dollar estimates will suffice.
 - Amendment does not apply to expenditures for delisted, proposed, and candidate species.
 - Amendment is not to require new species-specific time sheets for the Service or other reporting agency.
 - Listing, consultation, and law enforcement are to be included to the extent they are "reasonably identifiable."
 - Only salary costs that can be reasonably identified as applicable to listed species need be reported.
 - For other Federal and State agencies, a good faith effort to collect information is expected.
 - Submission of data from any agency is not to be a precondition to receiving any contracts or grants or establishing other arrangements with the Fish and Wildlife Service.
 - Only one data set per agency should be submitted for any given fiscal year.

Data Format

- Species should be identified by the same scientific name as found in the most current list of endangered and threatened species.
- Amounts should be reported in whole dollars. Amounts above \$2,000 may be rounded to the nearest \$500 or \$1,000; smaller amounts may be rounded to the nearest \$100. **Do not report amounts lower than \$100.**

Scope of Expenditures to Report

- Only species on the Federal list of Endangered and Threatened Wildlife and Plants (50 CFR Part 17) at the end of Federal fiscal year 2022 (October 1, 2021 to September 30, 2022) are to be reported. Expenditures made prior to the actual listing date of a species, but still within the same year, may be reported (e.g., costs of public meetings, notices, surveys, initial recovery efforts). Funds expended for delisted, separate populations of

listed vertebrates cannot be included in the report (e.g., Atlantic coast least terns, Alaska gray wolves). Expenditures for State-listed species are not reportable unless they are also federally listed. Amounts for foreign species on the list (e.g., grants or contracts carried out in another country) are reportable in the same manner as domestic species, but again, to the extent they are reasonably identifiable.

- Only reasonably identifiable expenditures for listed species will be compiled for this report. Extraordinary accounting to track funds expended on listed species is not expected. **Funds reported should be those actually expended, not obligated.**
- Examples of reportable expenditures include status surveys, habitat management, habitat acquisition, research, propagation (including surrogate species), recovery plan development or implementation, and mitigation. **Projects must primarily benefit listed species** and not other conservation goals, although if a readily identifiable portion of the expenditure is for the benefit of listed species (either individually or collectively), that portion of the expenditure may be reported.
- All habitat (land or water) acquisition costs are to be reported separately from all other identifiable expenditures. Such acquisitions must be primarily for the purpose of conserving federally listed species. As with other projects, those portions of habitat acquisition costs that are specifically for a listed species may be prorated out of the total acquisition costs when the other habitat is being acquired for other purposes (e.g., 25 acres of a 250-acre purchase will be set aside).
- Expenditures in a single project devoted to a number of listed species should be prorated by species, if possible. **When it is not possible to determine individual listed species costs in a multi-species project by prorating, those costs should be entered, according to the following instruction:**
 - **FY 2022:** Enter the cost in total, in the multi-species tab of the spreadsheet. The comment box, which is part of this feature, should be used to identify the species covered by this expenditure amount.
- General surveys or projects that cover a large number of species, some of which may not be listed, are reportable only to extent that the agency can reasonably identify the portion of costs that benefit listed species.
- Expenditures associated with consultations pursuant to Section 7 of the Act should be reported as for the benefit of a specific species to the extent they are readily identifiable to that particular species. Thus, a formal consultation dealing with a single species, or up to several species where the relative costs are easily divisible, should be reported under that or those species. **Consultation costs not readily attributable to individual species can be reported in the multi-species category.**
- Monitoring and survey costs should be reported when: (1) the cost of the monitoring or survey was incurred during the period the species was under a proposed listing and the species was actually listed in the same fiscal year that the monitoring and surveys were conducted; (2) the monitoring or survey covered both candidates and listed species, and

the costs can be prorated to include only the listed species; or (3) the cost was readily identifiable to individual species. **Costs meeting the criteria in (1) and (2), but not readily identifiable to individual species can be reported in the multi-species category.**

- Salary and benefits of an employee working full-time on a single species or whose time is devoted to particular species that can be readily identified should be reported for those species. Travel costs should be treated similarly. **Staff costs for work on multi-species activities that cannot be identified to particular species can be reported in the multi-species category.**
- Any State or Federal project that incurs increased costs related directly to mitigation or other conservation efforts on behalf of federally listed species should report that added cost, by species, if readily identifiable, or **may report such costs in the multi-species category.**
- All State agencies (e.g., fish and wildlife, parks, heritage programs, forests, highways) should report their expenditures, but only a single, collective report from each State should be submitted. **Expenditures should include conservation costs for fish, wildlife, and plants.** For ESA section 6 grants or other Federal grants, States should report **only the State cost-share portion** of each grant. States should not include other sources of non-Federal cost share, e.g., third-party contributions, unless those contributions are donated to the State as a general donation.
- For reimbursable funds, the paying or disbursing agency should report the expenditure.
- **Litigation costs should not be reported.**

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