



Western Governors' Association Policy Resolution 2017-08

State Wildlife Science, Data and Analysis

A. **BACKGROUND**

1. Large intact and functioning ecosystems, healthy fish and wildlife populations, and ample public access to natural landscapes are significant contributing factors to the West's economy and quality of life.
2. Wildlife-associated recreation — including hunting, fishing, and wildlife watching — generates over \$65 billion annually in 19 western states.
3. Through broad trustee and police powers, states have primary management authority over fish and wildlife within their borders. States also exercise sovereign authority over the allocation, planning, protection, and development of water resources within their borders. States work cooperatively with federal agencies on species and habitat issues throughout the West.
4. Federal and state agencies need data-driven science, mapping and analysis to manage species and habitat. State agencies often have the best available science, expertise and other scientific and institutional resources such as mapping capabilities, biological inventories, state wildlife action plans and other important data. The federal government should recognize and utilize valuable state resources, including scientific information about species population numbers, conservation status, and habitat availability. Such information is needed to address potential species listings under ESA, the spread of invasive species and the impacts of drought, water transfers and energy development.
5. The value of state wildlife data and expertise has been recognized by Congress. For the past four years, House and Senate appropriators have adopted report language directing federal agencies to use state fish and wildlife data and analyses as a primary source to inform federal land use, land planning, and related natural resource decisions¹.

¹ [H. Rept. No. 114-632, at 6 \(2016\)](#); [H. Rept. No. 114-170, at 6 \(2015\)](#); [H. Rept. No. 113-551, at 7 \(2014\)](#)

6. Early and ongoing substantive consultation between federal agencies and states regarding state generation and analyses of data will result in durable and implementable solutions, better conservation outcomes, and effective allocation of limited federal budgets and resources.
7. Members of Congress have advocated for greater transparency of the data used in federal management and decision-making – under the Freedom of Information Act (FOIA) generally and the Endangered Species Act (ESA) specifically.
8. Western Governors understand Congress’ need to exercise meaningful oversight over the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) (collectively, “Services”), and their implementation of ESA and other federal actions impacting species management. Nevertheless, blanket requirements to make publicly available all data considered by federal agencies² – particularly if this data consists of raw data provided by states – may infringe upon states’ statutory imperatives to protect personally identifiable and otherwise sensitive information. Even where there is no state legal barrier to disclosure of raw data, state agencies may maintain significant reservations about the public release of raw data. Such a circumstance may occur, for example, when disclosed data reveals specific locations of rare or sensitive species, or sites that possess significant historical or cultural significance.
9. Congress and federal agencies have previously recognized the need to protect private landowner data. Under Section 1619 of the 2008 Farm Bill, the Natural Resources Conservation Service (NRCS), an agency of the U.S. Department of Agriculture (USDA), is prohibited from disclosing certain categories of personally identifiable information provided by landowners participating in USDA programs. The Services have no such data protections built into voluntary conservation programs like Candidate Conservation Agreements with Assurances (CCAAs).

B. GOVERNORS’ POLICY STATEMENT

1. The Services should utilize state wildlife data, analysis and expertise as principal sources in development and analysis of science serving as the legal basis for federal regulatory action.
2. State wildlife science, data and analyses are invaluable tools for informing federal project planning and research efforts related to wildlife management. Western

² 21st Century Endangered Species Transparency Act, S. 376, 115th Cong. (2017)

Governors encourage federal-state coordination on wildlife data collection to avoid spending scarce resources on duplicative data collection efforts.

3. State data – particularly non-aggregated raw data – is subject to differing levels of statutory protection under various state laws. Western Governors encourage Congress and federal agencies to recognize the limitations on complete transparency of state data in federal decision-making.
4. Governors support transparency around data and information supporting ESA decisions or other federal wildlife management actions that would impact state interests. State and federal agencies should engage in early and substantive consultation to establish data sharing protocols and assess whether sensitive state data, if shared, may be liable to publication under FOIA.
5. Governors support efforts to provide statutory exceptions to FOIA disclosure for state wildlife data and analysis in instances where publication of state data provided to federal agencies would be violation of existing state statutes.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct the WGA staff, where appropriate, to work with Congressional committees of jurisdiction and the Executive Branch to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to develop, as appropriate and timely, detailed annual work plans to advance the policy positions and goals contained in this resolution. Those work plans shall be presented to, and approved by, Western Governors prior to implementation. WGA staff shall keep the Governors informed, on a regular basis, of their progress in implementing approved annual work plans.

Western Governors enact new policy resolutions and amend existing resolutions on a bi-annual basis. Please consult www.westgov.org/resolutions for the most current copy of a resolution and a list of all current WGA policy resolutions.