U.S. Fish & Wildlife Service

Critical Habitat

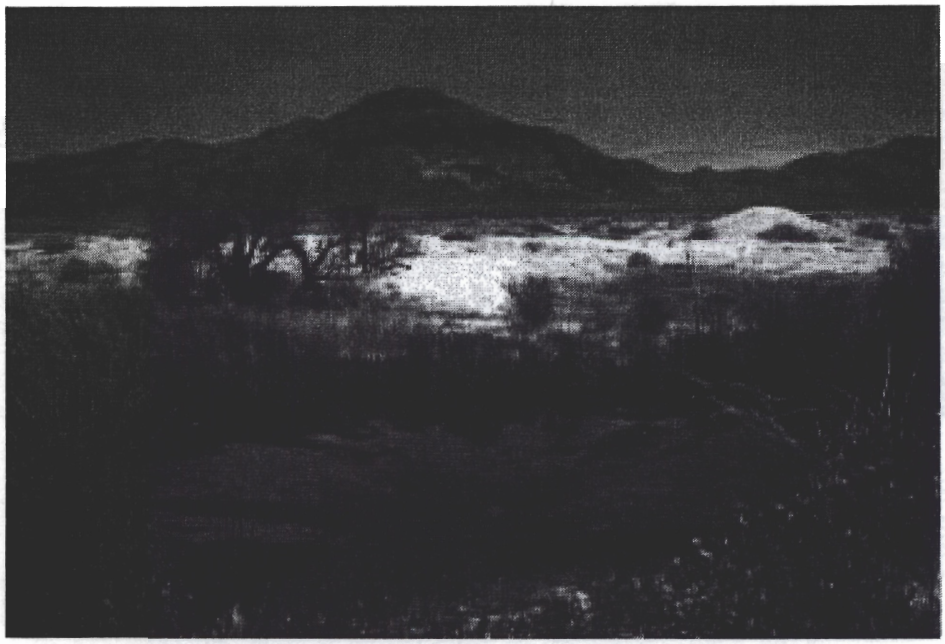
What is it?

When a species is proposed for listing as endangered or threatened under the Endangered Species Act (Act), we must consider whether there are areas of habitat we believe are essential to the species' conservation. Those areas may be proposed for designation as "critical habitat." The determination and designation of critical habitat is one of the most controversial and confusing aspects of the Act. Here are answers to some of the most frequently asked questions about critical habitat.

What is critical habitat?
Critical habitat is a term defined and used in the Act. It is a specific geographic area(s) that contains features essential for the conservation of a threatened or endangered species and that may require special management and protection. Critical habitat may include an area that is not currently occupied by the species but that will be needed for its recovery. An area is designated as "critical habitat" after we publish a proposed Federal regulation in the *Federal Register* and then we receive and consider public comments on the proposal. The final boundaries of the critical habitat area are also published in the *Federal Register*.

What is the purpose of designating critical habitat?
Federal agencies are required to consult with us on actions they carry out, fund, or authorize to ensure that their actions will not destroy or adversely modify critical habitat. In this way, a critical habitat designation protects areas that are necessary for the conservation of the species.

A critical habitat designation has no effect on situations where a Federal agency is not involved—for example, a landowner undertaking a project on private land that involves no Federal funding or permit.



Ash Meadows National Wildlife Refuge in Nevada provides critical habitat for eight threatened or endangered species. Photo by Mike Bender, FWS.

Do listed species in critical habitat areas receive more protection?
An area designated as critical habitat is not a refuge or sanctuary for the species. Listed species and their habitat are protected by the Act whether or not they are in an area designated as critical habitat. To understand the additional protection that critical habitat provides to an area, it is first necessary to understand the protection afforded to any endangered or threatened species, even if critical habitat is not designated for it.

■ The Act forbids the import, export, or interstate or foreign sale of endangered and threatened animals and plants without a special permit. It also makes "take" illegal -- forbidding the killing, harming, harassing, pursuing, or removing the species from the wild.

■ The Act requires that Federal agencies conduct their activities in such a way as to conserve species.

■ The Act also requires that Federal agencies must consult with us to conserve listed species on their lands and to ensure that any activity they fund, authorize, or carry out will not jeopardize the survival of a threatened or endangered species. This is known as consultation.

In consultation for those species with critical habitat, Federal agencies must also ensure that their activities do not adversely modify critical habitat to the point that it will no longer aid in the species' recovery. In many cases, this level of protection is similar to that already provided to species by the "jeopardy standard." However, areas that are currently unoccupied by the

Myths & Realities

If critical habitat is designated, does that mean no further development can occur?
No. A critical habitat designation does not necessarily restrict further development. It is a reminder to Federal agencies that they must make special efforts to protect the important characteristics of these areas.

Does a critical habitat designation affect all activities that occur within the designated area?
No. Only activities that involve a Federal permit, license, or funding, *and* are likely to destroy or adversely modify the area of critical habitat will be affected. If this is the case, we will work with the Federal agency and, where appropriate, private or other landowners to amend their project to allow it to proceed without adversely affecting the critical habitat. Thus, most Federal projects are likely to go forward, but some will be modified to minimize harm to critical habitat.

species, but which are needed for the species' recovery, are protected by the prohibition against adverse modification of critical habitat.

Must Federal agencies consult with us outside critical habitat areas?
Yes, even when there is no critical habitat designation, Federal agencies must consult with us to ensure any action they carry out, fund, or authorize is not likely to jeopardize the continued existence of a listed species.

What is the impact of a critical habitat designation on economic development?
Most activities that require a Federal agency to consult with us can proceed. If modification of the project is necessary, it is likely that those changes would have been needed anyway, in order to avoid jeopardy. However, in areas where the species is not currently present, there may be some project modifications that would not have occurred without the critical habitat designation.

How do we determine what areas to designate as critical habitat?
Biologists consider physical and biological features needed for life processes and successful reproduction of the species. These include:

- space for individual and population growth and for normal behavior;
- cover or shelter;
- food, water, air, light, minerals, or other nutritional or physiological requirements;
- sites for breeding and rearing offspring; and
- habitats that are protected from disturbances or are representative of the historic geographical and ecological distributions of a species.

The areas shown on critical habitat maps are often large. Are all the areas within the mapped boundaries considered critical habitat?
No. Our rules normally exclude by text developed areas such as buildings, roads, airports, parking lots, piers, and other such facilities. Additionally, projects will only require consultation if they affect areas that contain the primary constituent elements required by the species. Primary constituent elements are those physical and biological features of a landscape that a species needs to survive and reproduce.

Why are large areas shown on critical habitat maps if the entire area is not actually considered critical habitat?
In such cases, precisely mapping critical habitat boundaries is impractical or impossible, because the legal descriptions for these precise boundaries would be too unwieldy.

Does the Act require an economic analysis as part of designating critical habitat?
Yes. We must take into account the economic impact, as well as any other benefits or impacts, of specifying any particular area as critical habitat. We may exclude any area from critical habitat if we determine that the benefits of excluding it outweigh the benefits of specifying the area as part of critical habitat, unless we determine that the failure to designate the area as critical habitat will result in the extinction of the species.

Does an economic analysis have any effect on the decision to list a species as threatened or endangered?
No, under the Act, a decision to list a species is made solely on the basis of scientific data and analysis.

How many species have critical habitat designations?
As of December 1, 2005, critical habitat has been designated for 471 of the 1,272 U.S. species listed as threatened or endangered.

Why haven't we designated critical habitat for more species?
After a Congressional moratorium on listing new species ended in 1996, we faced a huge backlog of species needing to be proposed for listing as threatened or endangered. For this reason, we have assigned a relatively low priority to designating critical habitat because we believe that a more effective use of our limited staff and funding has been to place imperiled species on the List of Endangered and Threatened Species.

Additionally, the critical habitat designation usually affords little extra protection to most species, and in some cases it can result in harm to the species. This harm may be due to negative public sentiment to the designation, to inaccuracies in the initial area designated, and to the fact that there is often a misconception among other Federal agencies that if an area is outside of the designated critical habitat area, then it is of no value to the species.

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