

March 2009



## Frequently Asked Questions

### Designation of Critical Habitat for the Louisiana Black Bear

**Q: What is the Fish and Wildlife Service doing?**

**A:** The Fish and Wildlife Service is designating critical habitat for the threatened Louisiana black bear (*Ursus americanus luteolus*).

**Q: What is the Louisiana black bear?**

**A:** The Louisiana black bear, a subspecies of the American black bear, is a large mammal. It is black in color and typically weighs 150 to 300 pounds as an adult. Louisiana black bears are omnivorous and typically feed on a variety of food resources including herbaceous vegetation such as grasses and forbs, nuts such as acorns, soft fruits such as blackberries and persimmon, and animal matter such as ants and grubs and occasionally carrion or small animals.

**Q: What are the habitat requirements of the Louisiana black bear?**

**A:** Unlike many listed species, the black bear is capable of surviving under a range of habitat types and conditions and is often called a habitat generalist. This adaptable species needs neither wilderness nor managed forests for survival. Both bottomland and upland hardwood forests with species and age class diversity contain the escape cover, denning sites, and food supplies necessary to support black bear populations. Louisiana black bears require relatively large areas of contiguous forested habitat to meet their survival needs.

**Q: Do Louisiana black bears live near me?**

**A:** Historically, this bear occurred in Louisiana, the eastern portions of Texas and southern portions of Mississippi. Currently, most Louisiana black bears live within three areas of Louisiana, including St. Mary and Iberia Parishes in south Louisiana, Point Coupee Parish in central Louisiana and Tensas, Madison, and West Carroll Parishes in north Louisiana. In addition, small numbers of bears are also known to be living in Avoyelles and Concordia Parishes where they have been recently reintroduced. Bears may be occasionally encountered in other areas within their range, as male bears sometimes wander long distances from the area of their birth. Bears have been sighted in recent years within many parishes in Louisiana, as well as in western and southern Mississippi.

**Q: When was the Louisiana black bear listed under the Endangered Species Act?**



A: The Louisiana black bear was listed as threatened under the Endangered Species Act's (Act) on January 17, 1992, mainly due to extensive habitat modification and destruction. At that time the Service included a special rule that exempted normal forest management activities from the Act's Section 9 take prohibitions. This was in recognition of the fact that this species, being a habitat generalist, does not necessarily require old growth forests and its habitat needs are compatible with normal silviculture as practiced within this bear's range.

**Q: Why was the Louisiana black bear listed as threatened?**

A: The range and abundance of Louisiana black bears seriously declined due to the clearing and modification of forested habitats of their historic range. The late 1800s was a period of rapid human expansion within the historic range of the Louisiana black bear, with the introduction of the railroads throughout the area allowing large scale harvest of timber and introduction of agriculture. The early 1900s brought improved flood control, drainage, and technology allowing increased acreage suitable for agriculture. Land clearing and related loss of bear habitat peaked in the 1980s with bear habitat reduced by more than 80 percent. The remaining habitat was reduced in quality by fragmentation. Human-related mortality was also a factor in the bear's decline.

**Q: How many Louisiana black bears are there?**

A: Based on earlier research, the number of Louisiana black bears had been estimated to be about 200 to 400 individuals. Recent data and observations, however, lead many biologists to believe Louisiana black bears numbers may actually range from 400 to 700.

**Q: What are the recovery goals for the Louisiana black bear?**

A: The recovery goals for the Louisiana black bear are to have: (1) at least two viable subpopulations, one each in the Tensas and Atchafalaya River basins; (2) establishment of immigration and emigration corridors between the two subpopulations; and (3) protection of the habitat and interconnecting corridors that support each of the two viable subpopulations. Furthermore, the species should be self-sustaining in the wild and ultimately removed from the List of Endangered and Threatened Wildlife and Plants.

**Q: How much Louisiana black bear habitat has been protected or restored since the bear's listing?**

A: The Service estimates that approximately 600,000 acres of habitat have been restored or protected within the Louisiana black bear's range since the bear was listed. This includes lands that have been purchased by state or federal agencies and public or private lands that are protected from development.



**Q: What is critical habitat?**

**A:** Critical habitat is a term defined and used in the Endangered Species Act. It refers to specific designated geographic areas containing features essential to the conservation of a threatened or endangered species and that may require special management consideration or protection. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. It does not allow government or public access to private lands. The term critical habitat in this legal context should not be confused with an informal usage of the phrase to describe a type of habitat that is ‘critical’ to individuals of the species.

**Q: Why is the Service now designating critical habitat for the Louisiana black bear?**

**A:** The Service is complying with a court approved settlement agreement to designate critical habitat. This designation reflects the Service’s interpretation of judicial opinions on critical habitat designation and the standards placed on the Service for making a prudency determination.

**Q: What geographic areas are being designated as critical habitat for the Louisiana black bear?**

**A:** The Service is proposing to designate forested habitat within three units in Louisiana. Unit 1 consists of 628,505 acres, located in the Tensas River Basin of north Louisiana; Unit 2 consists of 433,680 acres in the Upper Atchafalaya River Basin of central Louisiana; and Unit 3 consists of 133,636 acres, in the Lower Atchafalaya River basin in coastal Louisiana.

**Q: How has the Service determined which areas to designate as critical habitat?**

**A:** Service biologists have identified the physical and biological habitat features needed for life and successful reproduction of the species, such as:

- 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 bearing and rearing offspring; and
- habitats that are protected from disturbances or are representative of the historic geographical and ecological distributions of a species.

By law, the Service is required to identify sufficient areas containing these characteristics to ensure the conservation of the species. Important habitats for the Louisiana black bear are bottomland and upland hardwood forests and adjacent vegetated areas supporting reproducing populations or providing corridors for movement between known populations.

**Q: Will Louisiana black bears occurring outside of the designated critical habitat areas still be protected?**



**A:** Yes. Because the Louisiana black bear is a listed species, it is protected whether bears are inside or outside of an area designated as critical habitat. When a species is listed, it is protected from “take” throughout its range. “Take” is defined to include harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these. Federal agencies must consult with the Service on activities they undertake, fund, or permit that may result in “take.” When critical habitat is designated, federal agencies are also required to ensure that their activities will not destroy or adversely modify critical habitat.

**Q: Are all locations within the designated critical habitat boundaries for Louisiana black bear considered critical habitat?**

**A:** No. Only those areas that contain the physical and biological elements essential to support the life cycle needs of the Louisianan black bear. The Service has determined those elements to be bottomland and upland hardwood forests and adjacent vegetated areas.

When determining critical habitat boundaries, the Service makes every effort to avoid designating developed areas such as buildings, paved areas, ponds, lawns, and other areas that lack the essential elements for Louisiana black bears. Any such areas inadvertently left inside designated critical habitat boundaries, and the land (footprint) upon which they are sited, are not considered part of the critical habitat unit.

**Q: Are specific areas excluded from the critical habitat designation?**

**A:** Yes. The Act allows for some exclusions, provided that the benefits of the exclusion outweigh the benefits of inclusion, and that the exclusion will not result in the extinction of the species. Exclusions are possible for public and private lands having secure, long term conservation plans in place benefiting Louisiana black bears, and for economic and other relevant impacts. The Service specifically requested public comments concerning the benefits of excluding private lands under permanent easements through the USDA Natural Resource Conservation Service's Wetland Reserve Program (WRP). The Service concluded that 50,298 acres of WRP permanent easements be excluded from the designation.

**Q: What is considered destruction or adverse modification of critical habitat?**

**A:** “Destruction or adverse modification of designated critical habitat” is defined in the Service’s regulations as a “direct or indirect alteration that appreciably diminishes the value of the critical habitat for both the survival and recovery of a listed species” (50 CFR 402.02). Such alterations include, but are not limited to, adverse changes to the physical or biological features that were the basis for determining the habitat to be critical.

Two federal courts in two separate critical habitat cases have ruled that this definition is invalid. In response to these rulings, the Service is currently reviewing the definition, but has not yet proposed any revision to the regulations. Until new regulations are adopted, the Service must rely upon the Endangered Species Act statute itself and the court decisions to determine if an action would alter or affect the designated critical habitat in the action area to the extent that it would appreciably diminish the habitat's capability to provide the intended conservation role for the species in the wild.

**Q: What activities might be subject to modifications due to the designation of critical habitat?**

A: The most common federally regulated activities within the designated critical habitat areas are oil and gas development and residential or commercial development in wetlands requiring Section 404 permits. The U.S. Army Corps of Engineers and Natural Resource Conservation Service conduct most of the federally funded activities within those areas.

**Q: Will the critical habitat designation delay federal decisions on permits or funding?**

A: Under the Act, the Service has specific time frames in which to complete the consultation process with action agencies. These time frames remain the same whether or not there is critical habitat within the project area. Designation of critical habitat for the Louisiana black bear notifies the federal action agencies and the public that federally authorized and funded activities within these designated critical habitat areas must comply with section 7 consultation requirements. For each section 7 consultation, the Service reviews the direct and indirect effects of the proposed projects on the black bear, and will continue to do so for designated critical habitat. A critical habitat designation does not create a separate process, and timelines do not change.

**Q: If critical habitat is designated on my property, how will I be affected?**

A: Critical habitat does not affect private landowners who are undertaking activities that do not require federal permits, funding, or approval. For example, existing agricultural activities will not be affected by the designation because agricultural lands are not considered critical habitat. The hunting of small game, upland birds, deer, and raccoons will not be affected by the critical habitat designation, nor will trapping, camping, timber harvest or any other activities not federally funded or regulated. Private landowner activities that will require an incidental take permit, or any federal action, will be reviewed to determine whether the project would appreciably diminish the value of the critical habitat (i.e., noticeably reduce its capacity to provide for the conservation of the species).

Additionally, this critical habitat designation will not affect the exemption provided to normal timber management activities and the practice of those activities within critical habitat. At the time we listed the Louisiana black bear, we determined that normal forest management activities are compatible with the habitat needs of this species and therefore,

we promulgated a special rule that exempted those activities from ESA Section 9 take prohibitions and provided protection for den and candidate den trees.

**Q: How will my future development options be affected if my undeveloped land is included in the critical habitat designation?**



**A:** If a proposed project would adversely affect the Louisiana black bear or its critical habitat, the Service will recommend that the landowner seek an incidental take permit under Section 10 of the Endangered Species Act.

During the permit review, the Service will determine whether or not the proposed action would jeopardize the Louisiana black bear's continued existence. If the proposed action is within designated critical habitat and contains the habitat preferred by the bear, the Service also will review the proposed action to determine whether or not the project would appreciably diminish the value of that critical habitat by noticeably reducing its capacity to provide for the conservation of the species. If the Service determines that a proposed project will neither jeopardize the Louisiana black bear's continued existence, or destroy/adversely modify critical habitat, a permit will be issued allowing the project to proceed and protecting the landowner from the take prohibitions of the Endangered Species Act.

**Q: Who can I contact for more information regarding this critical habitat designation?**

**A:** For further information, please contact Deborah Fuller, Louisiana Field Office, 646 Cajundome Boulevard, Lafayette, Louisiana 70506, telephone 337/291-3100.