

Polar Bear Critical Habitat Questions & Answers

1. What was recent announcement regarding the designation of critical habitat for polar bear?

In 2010, the Service designated critical habitat for the polar bear through a formal rulemaking process. The designation was set aside in 2013 as a result of legal challenges brought forward by several groups. That action was recently reversed by the courts and the original designation has been reinstated.

2. What is critical habitat?

Critical habitat under the Endangered Species Act (ESA) is the geographic area that contains habitat features essential for the conservation of a threatened or endangered species and which may require special management considerations or protections. Section 7 of the ESA requires federal agencies to ensure that the activities they authorize, fund or carry out are not likely to jeopardize the continued existence of a species or to destroy or adversely modify its critical habitat.

Critical habitat does not create a preserve or refuge; it has no specific regulatory impact beyond a determination of whether an action involving federal agency funds, authorization or permits may destroy or adversely modify the area.

3. How do we decide what is and what isn't critical habitat?

Habitat is critical if it contains features essential for the conservation of a protected species and which may require special management considerations. Such features include:

- 1) Space for individual population growth and for normal behavior;
- 2) Food, water, air, light, minerals, and other nutritional or physiological requirements;
- 3) Cover or shelter;
- 4) Sites for breeding, reproduction, or rearing (or development) of offspring; and
- 5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

Before designating habitat as critical we consider the economic impact, impact on national security, as well as any other relevant impacts. The Secretary of the Interior may exclude any area from critical habitat if the benefits of exclusion outweigh the benefits of inclusion, as long as the exclusion would not result in the extinction of the species.

4. What areas are designated as polar bear critical habitat?

Designated critical habitat includes three units: barrier islands, sea ice and terrestrial denning habitat. The total area designated covers 484,734 sq km (187,157 sq mi), with approximately 96 percent of the proposed critical habitat area being sea ice.

Characteristics of the three units include:

- 1) The barrier island habitat includes coastal barrier islands and spits along Alaska's northern and western coasts beginning at the United States-Canada border and ending at Hooper Bay, Alaska.

2) Terrestrial denning habitat includes lands within 32 km (20 miles) of the northern coast of Alaska between the Canadian border and the Kavik River and within 8 km (5 miles) between the Kavik River and Barrow. 95 percent of dens were found to occur in this area.

3) Sea ice habitat is located over the continental shelf, and includes ice over water up to 300 m (984 ft) in depth extending to the outer limits of the U.S. Exclusive Economic Zone, 321 km (200 miles) from shore.

This designation only applies to the lands and waters of the United States. There are two polar bear populations that occur on U.S. territory: the Chukchi Sea population and the Southern Beaufort Sea population. The current population estimate for the Southern Beaufort Sea population is approximately 907 animals. The Chukchi Sea polar bear population is currently unknown.

5. Why were these three units selected?

Barrier island habitat is used by polar bears for denning, refuge from human disturbances, access to maternal dens and feeding habitat, and travel along the coast. Special management considerations may be needed in these habitats to minimize the risk of human disturbances, as well as potential negative impacts from shipping and oil spills associated with oil and gas development and production, oil and gas tankers, and other marine vessels.

Terrestrial denning habitat includes likely den locations and sufficient space for pregnant females to balance their nutritional demands before and after denning. Polar bears select den locations that will provide an environment safe from predatory adult males, human disturbance and adverse weather conditions – threats to which cubs are particularly vulnerable. Because of these factors, suitable terrestrial denning habitat located near the coast along with the coastal barrier islands are considered essential for the conservation of the species.

Sea ice habitat is essential to most polar bear activities. Polar bears evolved over thousands of years to life in a sea ice environment. They depend on the sea ice-dominated ecosystem to support essential life functions. Ice provides a platform for hunting and feeding, for seeking mates and breeding, for movement to terrestrial maternity denning areas, for resting and for long-distance movements. With regard to hunting and feeding, polar bears require a stable ice platform from which to hunt ringed seals, their primary prey, and other marine mammals. This sea ice must provide accessibility to seals either at breathing holes, the ice edge, or near leads, called polynyas. Thus the sea ice has to be in close proximity to these potential feeding areas. The highest densities of ringed and bearded seals occur in the shallower more productive marine waters over the continental shelf. Consequently, sea ice habitat adjacent to open water areas over the shallower waters is preferred polar bear habitat.

6. Who is affected by the recent ruling regarding polar bear critical habitat?

Federal agencies are required to consult with the Service on actions they carry out, fund or authorize that might affect critical habitat. Non-federal entities, including private landowners, will only be affected where a federal nexus exists that involves federal funding, permitting or authorization. Thus, activities conducted by a landowner or operator of a business not involving federal funding, permitting or authorization would not be affected.

7. What about undeveloped land owned by Native and Village Corporations?

Existing manmade physical structures are not included in critical habitat. However, undeveloped land owned by the Native and Village corporations is subject to ESA section 7 if it is part of critical habitat and a Federal nexus exists. In that situation, the Service must consider whether a proposed activity would destroy or adversely modify that habitat.

8. **Will the critical habitat designation alter subsistence harvest regulations or impose additional restrictions?**

No. Designation of critical habitat will not affect the provisions under the ESA that allow for the continued subsistence harvest of polar bears.

9. **Does the critical habitat designation include areas where oil and gas development activities occur? If so, how will designating critical habitat affect these activities?**

Yes. Critical habitat does include areas where oil and gas exploration activities are known to occur. These activities are already conducted subject to incidental take regulations issued under the Marine Mammal Protection Act, which provides significant protection for the polar bear.

Section 7 of the ESA requires federal agencies to ensure that the activities they authorize, fund or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a federal action may affect polar bears or their critical habitat, the federal agency that is proposing to permit or fund that action must consult with the Service. This applies to oil and gas development activities, as well as any other activity with a federal nexus that may have an adverse effect on the species. Because the ESA and MMPA already provide protection to the polar bear and extensive consultation and mitigation activities already take place under these laws, additional impacts to oil and gas development resulting from the critical habitat designation are expected to be small.

10. **Where can I get more information about the final rule for critical habitat for the polar bear?**

For more information about this critical habitat designation and other issues related to polar bear conservation, please visit:

<http://alaska.fws.gov/fisheries/mmm/polarbear/criticalhabitat.htm>.