

U.S. Fish & Wildlife Service

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Fish and Wildlife Service Designates Critical Habitat for Two Freshwater Mussels in 12 States

Shrinks designation by nearly 30 percent in Arkansas & nearly 220 river miles overall

The U.S. Fish and Wildlife Service has finalized critical habitat designations for the Neosho mucket and rabbitsfoot mussels in rivers of 12 states under the Endangered Species Act (ESA).

The final designations are smaller than those proposed nearly three years ago, and include a significant change to what the Service proposed in Arkansas for the rabbitsfoot, reducing the designation there by 27 percent. The final critical habitat designations in Arkansas affect less than two percent of the state's total perennial stream miles as defined by the Arkansas Department of Environmental Quality.

The Service altered the critical habitat designations after receiving new relevant information from a number of people and organizations including the Association of Arkansas Counties. The final designations result in a net reduction of about two river miles for Neosho mucket and 217 river miles for rabbitsfoot. Both species of freshwater mussels are found in river systems in the eastern half of the United States and are indicators of clean water and healthy rivers. Today's decision finalizes a proposal released in 2012 and includes the final economic analysis associated with the critical habitat designations.

"Neosho mucket and rabbitsfoot populations are declining because river habitats across their range have been lost or degraded over the years," said Cindy Dohner, the Service's Southeast Regional Director. "The presence of abundant, diverse and reproducing populations of mussels indicates clean water and a healthy aquatic system, which means good fishing and good water quality for migratory birds, other wildlife and people."

For the Neosho mucket, the Service is designating critical habitat in seven areas where the mussel is found, comprising approximately 483 river miles in Arkansas, Kansas, Missouri and Oklahoma. For the rabbitsfoot, the Service is designating critical habitat in 31 areas where the mussel is found, comprising approximately 1,437 river miles in Alabama, Arkansas, Indiana, Illinois, Kansas, Kentucky, Mississippi,

Missouri, Ohio, Oklahoma, Pennsylvania and Tennessee. The critical habitat is limited to the river itself, below the normal high water mark, and not the watersheds. All critical habitat units for both species are occupied by one or both mussels.

The designations of critical habitat for Neosho mucket and rabbitsfoot are part of the Service's efforts to implement a court-approved work plan under a Multi-District Listing Agreement aimed at addressing a series of lawsuits concerning the agency's ESA listing program. The intent of the agreement is to significantly reduce a litigation-driven workload. For more information about the work plan, see <http://www.fws.gov/southeast/candidateconservation/>.

This settlement and others led to a broader partner-driven effort in the Southeast to more fully use flexibilities within the ESA to put the right conservation in the right places and benefit these species. So far, work on this 'At Risk' species initiative with states, conservation groups, private landowners and industry has enabled the Service to preclude the need to list nearly 40 at-risk species. Regional Director Dohner highlighted the Service's work with the State of Arkansas and others to conserve at-risk species at a congressional field hearing in Batesville, Arkansas, on May 14, 2014 (testimony available at http://www.fws.gov/southeast/news/2014/FINAL_DOI_Oversight_Testimony_on_CH_Designation.pdf).

The Service's final economic analysis estimates the cost associated with designating critical habitat for these two mussels to be about \$4.3 million over the next 20 years, or about \$280,000 annually. The study area for the economic analysis is broader than the actual stream areas designated as critical habitat, which is limited to the stream itself (below the normal high water mark). The study area map depicts full watersheds to determine the potential for indirect impacts to the mussels and their critical habitat.

The Service is required under the ESA to evaluate and consider probable economic and national security impacts along with other relevant factors resulting from the designation of critical habitat. The ESA does not allow the Service to consider economic impacts when making listing determinations.

Since critical habitat applies only to actions involving federal funds or a federal permit, the economic analysis identifies costs primarily associated with interactions (consultations) between federal agencies. The Service, as well as the consulting federal, state and local government agencies and some projects, may incur costs for work involving federal funding or a federal permit.

The decision to designate critical habitat for the two mussels is based on the best scientific information available and relevant information provided by the public, government agencies, the scientific community, industry and other interested parties. The Service provided four opportunities over 210 days for the public to comment on the critical habitat proposals, during which 95 comments were received.

Designating critical habitat informs landowners and the public about specific areas that are important to a species' conservation and recovery. The Service determines critical habitat based on what an animal or plant needs to survive and reproduce by reviewing the best scientific information concerning a species' present and historical ranges, habitat, and biology.

Designations have no impact on landowner activities that do not require federal funding or federal permits. The designations do not affect land ownership, nor do they allow government or public access to private land.

Federal agencies are required to consult with the Service on actions that could impact critical habitat and to avoid or minimize impacts through conservation measures. In most cases these conservation measures would be carried out because the species is listed, regardless of whether or not critical habitat is designated. The Service has consulted with federal agencies for decades on actions within the mussels' range because of the presence of other listed mussels, such as the pink mucket and winged mapleleaf, in the same rivers that are designated as critical habitat for the Neosho mucket and rabbitsfoot. The vast majority of the consultations were handled efficiently and informally by the Service usually within 30 days.

The final rule for the critical habitat designations will be published in the *Federal Register* on April 30, 2015. The rule and maps can be found at <http://www.regulations.gov> by searching Docket No. FWS-R4-ES-2013-0007. The economic analysis and the environmental assessment also are available at Docket No. FWS-R4-ES-2013-0007.

For more information about the Neosho mucket and its critical habitat, please visit http://www.fws.gov/southeast/species/invertebrate/neosho_mucket.html. For more information about the rabbitsfoot and its critical habitat, please visit <http://www.fws.gov/southeast/species/invertebrate/rabbitsfoot.html>.

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