



U.S. Fish and Wildlife Service

Daphne Ecological Services Field Office

Questions and Answers:

Alabama Beach Mouse—Revision of Critical Habitat

January 2007

Background

- Critical habitat (CH) was originally designated for the Alabama beach mouse (ABM) (*Peromyscus polionotus ammobates*) when it was listed as endangered in June 1985. At that time, CH consisted of approximately 1000 acres of frontal dunes covering 10.6 miles of shoreline.
- On February 2, 1999, the Service was petitioned by the Sierra Club and Biodiversity Legal Foundation to revise critical habitat for the ABM to include additional areas, such as scrub habitat, that we now know are important to the conservation of the ABM.
- In a finding published in September 2000, the Service found that CH revision was warranted; however it was precluded due to higher priority listing and CH actions.
- In 2003, the Sierra Club and the Center for Biological Diversity filed a lawsuit alleging that the Service violated the Endangered Species Act by failing to revise CH for the ABM. In response to this lawsuit, the Service published a proposed rule revising critical habitat in the *Federal Register* on February 1, 2006. The proposal consisted of approximately 1,298 acres of frontal and scrub dune habitats.
- On August 8, 2006, the Service published in the *Federal Register* a notice of availability for a draft Economic Analysis which quantified economic impacts of conservation efforts to protect the endangered mouse. The notice also provided further clarification to proposed critical habitat and adjusted the total to approximately 1,326 acres.
- The Service reviewed all comments received on the proposed rule and prepared a final rule. The final rule for the revision of CH for the ABM was published in the *Federal Register* on January 30, 2007, designating 1,211 acres as critical habitat.

Q: What changes were made following the public comment process?

The total acreage designated as critical habitat is 1,211 acres. This reflects several adjustments to existing areas based on comments received from the public, as well as exclusions provided for under the Endangered Species Act.

Q: How many comments were received on the proposed revision or the economic analysis?

During the two comment periods, and at the public hearing held in Gulf Shores, Alabama, the Service received 58 comments. Comments were submitted by individuals, organizations, and government entities.



Alabama beach mouse (USFWS photo)

Q: What areas were excluded from critical habitat designation? Why?

The ESA allows for exclusions for economic or other relevant impacts, 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 have been granted for 51 properties with approved Habitat Conservation Plans that benefit the ABM. These properties include single family homes, duplexes, and multi-family developments.
- Large areas of the Bon Secour National Wildlife Refuge have been excluded because the refuge's Comprehensive Conservation Plan provides protections for the ABM.

Q: Where do we go from here?

The final rule has now been published in the *Federal Register*. The rule becomes effective 30 days after publication.

The Service continues to review data related to the ABM to determine the best possible protection for the species.

The Service will continue to work with local, state, and other federal government agencies, private organizations, and individuals to protect and preserve the Alabama beach mouse.



Alabama beach mouse habitat (USFWS Photo)

Q: What is critical habitat?

Critical habitat as defined in the Endangered Species Act (ESA) of 1973 refers to the specific areas within the geographical area occupied by the species at the time it was listed on which are found those physical and biological features essential to the conservation of the species, and which may require special management considerations or protection. Critical habitat may also include specific areas outside the geographical area occupied by the species upon a determination by the Secretary of the Interior that such areas are essential to the conservation of the species.

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.

Q: What methods does the Service use to determine which areas to designate as critical habitat?

Biologists identify areas with the physical and/or biological habitat features needed for life and successful reproduction of the species. These features are known as *primary constituent elements* and include, but are not limited to:

- 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 spawning 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, we are required to identify sufficient areas containing these characteristics to ensure the conservation of the species.

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

Under the ESA, we have 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. A critical habitat designation does not create a separate process and timelines do not change.

Q: Are the ABM located outside of the designated critical habitat areas still protected?

Yes. When a species is listed, it is protected under Section 9 of the ESA from “take” throughout its range. Federal agencies must consult with the Service under Section 7 of the ESA on activities they undertake, fund, or permit that may affect the species. “Take” is defined to include harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these. When critical habitat is designated, Federal agencies are also required to ensure that their activities will not destroy or adversely modify critical habitat.

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

If the land is currently identified ABM habitat, it has the potential for containing ABM, and the Service recommends that the landowner seek an incidental take permit. During the permit review, the Service determines whether or not the permitted action will adversely affect the ABM or jeopardize its continued existence. If critical habitat is designated, we also review the proposed action to determine whether or not the project would adversely modify or destroy CH (noticeably reduce its capacity to provide for the survival and recovery of the species). Development projects can be approved in designated CH (for example: single family residences in Cabana Beach, Gulf State Park improvements).

Q. If I already own a home, but CH is designated in natural areas on my property, how will I be affected?

CH does not affect private landowners who are undertaking activities that do not require federal permits or approval. Expansions to existing structures that would require an incidental take permit, or any federal action, would be reviewed to determine whether or not the project would destroy or adversely modify critical habitat.

Q: Who can I contact for more information regarding critical habitat for the Alabama beach mouse?

Contact Rob Tawes by telephone at (251) 441-5830, by email at robert.tawes@fws.gov, or by mail at U.S. Fish and Wildlife Service, Daphne Field Office, 1208-B Main Street, Daphne, Alabama 36526.