

Proposal to Revise Regulations for Critical Habitat Textual Descriptions Questions and Answers

Q: What actions are the U.S. Fish and Wildlife Service and the National Oceanic Atmospheric Administration’s Fisheries Service (Services) taking?

A: The Services are proposing to revise the implementing regulations under the Endangered Species Act (ESA) that relate to publishing critical habitat textual descriptions for endangered and threatened species.

Q: Why are the Services taking this action at this time?

A: The proposed regulation change is designed to make designating critical habitat less complex for landowners and the general public, and will also help save taxpayer dollars and make the overall process of designating critical habitat for listed species more efficient.

Q: What does “textual descriptions” mean?

A: These are written descriptions in the rules that describe the boundaries of the critical habitat. The Services previously described the boundaries following a variety of methods including Public Land Survey System designations (which specify township, range, and section; sometimes referred to as the “rectangular survey system”) and metes-and-bounds (a system of describing a parcel of land using the physical features of local geography, along with directions and distances, to define the boundaries).

However, as GIS and specific geographic-based data have become more available, the Services have been using predominantly Universal Transverse Mercator (UTM) coordinate system (a grid-based system employing a series of 60 zones to specify locations on the surface of the Earth) and latitude–longitude. The Services adopted these practices because current regulations at 50 CFR 424.12 (c) state “Each critical habitat will be defined by specific limits using reference points and lines as found on standard topographic maps of the area.” These descriptions are often difficult to interpret and understand, and do not provide clarity regarding which areas are being designated as critical habitat for the general public.

An example of this type of textual description would be: Land bounded by the following UTM Zone 18, NAD 83 coordinates (E,N): 733143, 99288; 733053, 99268; 733055, 99291; 733065, 99309; 733055, 99320; 733048, 99344; 733053, 99364; 733090, 99377; 733140, 99370; 733143, 99288. Some of these descriptions can be multiple pages in length, depending on the size of the designation.

Q: What are the tools that will be made available online to access the precise geographic location of designated critical habitat?

A: In order to supplement maps and textual descriptions published in the *Federal Register*, over the last several years, the Services have provided the public with more detailed and user-friendly information, such as more detailed, interactive maps and additional descriptions, on the Services’

Internet sites, Regulations.gov, and at local field offices. The Services believe this method of providing maps and additional information on the Internet and directly from the local Services' offices is more efficient and helps interested members of the public more easily identify boundaries of areas considered for or being designated as critical habitat than by providing textual descriptions in the *Federal Register*.

Q: Why is this change to the Implementing Regulations necessary?

A: Due to the availability of the Internet and Geographic Information Systems, the requirements of current regulations may not be the best and most cost-effective way with which to provide the public with information about the extent and location of areas under consideration for a critical habitat designation. In addition, the current textual descriptions of critical habitat designation boundaries are often difficult for the public to interpret and understand. Eliminating the need to publish detailed textual descriptions in the *Federal Register* and annually in the CFR will also result in significant financial savings, thereby saving Federal resources.

Q: Will the public have an opportunity to comment on this proposal?

A: Yes. Written comments and information concerning this proposal must be submitted by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. [FWS-R9-ES-2010-0073]; or
- U.S. mail or hand delivery: Public Comments Processing, Attn: [FWS-R9-ES-2010-0073]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.

Comments must be received within 60 days, on or before July 18, 2011. The Services will post all comments on <http://www.regulations.gov>. This generally means any personal information provided through the process will be posted.

Q: What information are the Services asking for?

A: The Services are requesting comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. The Services particularly seek comments concerning:

- What is the best way to share information about critical habitat designation boundaries with the public?
- Could usefulness of the maps in the *Federal Register* and Code of Federal Regulations (CFR) be improved? If so how?
- Does publication of the textual descriptions of boundaries of critical habitat in the *Federal Register* and CFR provide any practical value?
- What is the usefulness of the critical-habitat-boundary descriptions in latitude-longitude, Public Land Survey descriptions, or Universal Transverse Mercator (UTM) coordinates?

- Besides the Internet, what other methods should be used to convey information regarding critical habitat boundaries?
- Will the proposed changes make critical habitat designations easier to understand? Are there other changes that are needed?

Q: Where can more information be found?

A: To learn more about NOAA's Fisheries Service, go to: <http://www.nmfs.noaa.gov/pr/>.

For more information about the U.S. Fish and Wildlife Service's Endangered Species program, please visit: <http://www.fws.gov/endangered/>.