



Canada Lynx

Questions and Answers Regarding the Proposed Revision of the Critical Habitat Designation

1. What action is the Fish and Wildlife Service taking?

The Service is proposing to revise the Canada lynx critical habitat designation in northern Maine, northeastern Minnesota, the Northern Rocky Mountains (northwestern Montana and northeastern Idaho), the Northern Cascades (north-central Washington), and the Greater Yellowstone Area (southwestern Montana and northwestern Wyoming). The Canada lynx is a threatened species protected under the Endangered Species Act (ESA).

A final decision on the proposed revision of Canada lynx critical habitat is expected to be made by February 15, 2009, following the public comment period, any requested public hearings, and revision of the economic analysis.

2. Why is the Service proposing to revise the Canada lynx critical habitat designation?

The proposed revision of Canada lynx critical habitat is the result of the Service's review of certain Endangered Species Act decisions that may have been inappropriately influenced by a former Department of the Interior Deputy Assistant Secretary. These reviews underscore the Service's commitment to ensure ESA decisions are based on the best available science.

3. What is critical habitat?

Critical habitat is a term specifically defined in the ESA. Critical habitat encompasses geographic areas that contain features essential for the conservation of a threatened or endangered species and that may require special management or protection. 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. Federal agencies may not fund, authorize, or implement any action that destroys or adversely modifies critical habitat. Critical habitat could only affect the activities of private landowners if they involve Federal funding or permits.

See "What are the benefits of a critical habitat designation?" below.

However, regardless of whether critical habitat has been designated, the ESA prohibits anyone from harming or killing Canada lynx.

Critical habitat is determined after taking into consideration the economic impact it could cause, 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. Would the Canada lynx only be protected in critical habitat areas?

No. All other protections afforded by the ESA apply to all populations of lynx within the contiguous (lower 48) United States, regardless of whether they inhabit designated critical habitat. Listed species, both inside and outside critical habitat, are protected from 'take,' which includes harming, shooting, killing, capturing, and harassing individual animals.

5. What is being proposed as critical habitat for the Canada lynx?

All areas proposed as critical habitat were 1) occupied by Canada lynx when the species was first listed as threatened in 2000, 2) currently support the most abundant, reproducing lynx populations in the contiguous United States, and 3) contain the physical and biological features essential to the conservation of the species. The areas proposed for designation are:

Maine: Approximately 10,633 square miles in portions of Aroostook, Franklin, Penobscot, Piscataquis and Somerset Counties.

Minnesota: Approximately 8,226 square miles in portions of Cook, Koochiching, Lake, and St. Louis Counties, and Superior National Forest.

Northern Rocky Mountains: Approximately 11,304 square miles in portions of Boundary County in Idaho; and Flathead, Glacier, Granite, Lake, Lewis and Clark, Lincoln, Missoula, Pondera, Powell and Teton Counties in Montana. This area includes the Flathead Indian Reservation, National Forest lands and Bureau of Land Management (BLM) lands in the Garnet Resource Area.

North Cascades: Approximately 2,000 square miles in portions of Chelan and Okanogan Counties which includes BLM lands in the Spokane District.

Greater Yellowstone Area: Approximately 10,590 square miles in Gallatin, Park, Sweetgrass, Stillwater, and Carbon Counties in Montana; and Park, Teton, Fremont, Sublette, and Lincoln Counties in Wyoming.

6. What is the land ownership of the proposed critical habitat areas?

Critical habitat proposed for the Canada lynx by landownership:

	(mi ² /km ²)				
	Federal	State	Private	Tribal	Other
Idaho	50/131	1/3	0/0	0/0	0/0
Maine	13/34	758/1,962	9,741/25,230	86/223	35/90
Minnesota	4,279/11,082	1,099/2,848	1,548/4,008	72/187	1,228/3,180
Montana	11,182/28,960	372/964	1,985/5,140	347/898	72/188
Washington	1,831/4,742	164/424	5/13	0/0	0.1/0.2
Wyoming	7,695/19,930	14/36	133/343	0/0	43/110
Total	25,050/64,879	2,408/6,237	13,412/34,737	505/1,308	1,299/3,364

Approximately 58 percent of the proposed critical habitat occurs on Federal lands and approximately 30 percent on private lands with the remaining areas under state, tribal or other ownership.

7. How did the Service determine what lands should be proposed as critical habitat for lynx?

In developing this critical habitat proposal, the Service used the best scientific data available as well as information from State, Federal and Tribal agencies and from academic and private organizations. Based on this information, the Service first determined which lands were essential to the conservation of the Canada lynx by defining the physical and biological features essential to the conservation of the species and delineating the specific areas that contain those features as well as recent verified records of lynx presence and reproduction. Next, the Service limited the designation to lands that may require special management.

Areas proposed as critical habitat for the Canada lynx include boreal forest landscapes that provide one or more of the following beneficial habitat elements for the lynx: abundant snowshoe hares for prey; abundant large, woody debris piles that are used as dens; and winter snow conditions that are generally deep and fluffy for extended periods of time.

8. What areas of suitable lynx habitat were not included in this proposal?

Suitable habitats that do not have evidence of long-term occupation by lynx or documented lynx reproduction were not included in the proposal. The Kettle Range in north-central Washington and the Southern Rockies

in Colorado and Utah constitute two of these areas. Although habitat within the Kettle Range appears to be high quality for lynx, there is no evidence that the Kettle Range has been occupied by a reproducing lynx population in the last 20 years.

The Southern Rockies are not included in this proposal because of the current uncertainty that the Colorado Division of Wildlife's reintroduction effort will result in a self-sustaining lynx population.

The Service is seeking public comment on whether these lands are essential for the conservation of the species and the basis for why they may or may not be essential.

9. Will the public have an opportunity to comment on this proposal?

Public comments will be accepted until April 28, 2008. Comments and information may be sent electronically to the Federal eRulemaking Portal at <http://www.regulations.gov> or hand delivered or mailed to: Public Comments Processing, Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203.

The Service will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the Federal Register and local newspapers at least 15 days before the first hearing.

10. What are the benefits of a critical habitat designation?

Areas designated as critical habitat receive protection under section 7 of the Endangered Species Act (ESA), which governs cooperation between the Service and other federal agencies. Section 7 prohibits any federally funded or authorized activity from destroying or adversely modifying critical habitat. Aside from the added protection that may be provided under section 7, the ESA does not provide other forms of protection to designated critical habitat. Section 7 of the ESA does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus such as funding or permits from a Federal agency.

Critical habitat does provide non-regulatory benefits by identifying areas that are important for species recovery and where conservation actions would be most effective. Thus, designation of critical habitat can help focus conservation activities on essential areas and alert public and land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection.

11. Who could be affected by this proposed critical habitat designation?

Federal agencies are required to consult with the Service on actions they carry out, fund, or authorize that may affect critical habitat. In all or most cases, Federal agencies are already consulting with the Service on projects in the areas proposed as critical habitat. These are areas known to be occupied by lynx and any action likely to affect lynx habitat is likely to affect lynx, thus requiring consultation.

Non-Federal entities, including private landowners, that may be indirectly affected include those seeking a U.S. Army Corps of Engineers 404 permit under the Clean Water Act or those seeking Federal funding for private property improvements, where such actions may affect critical habitat. But, again, in most or all cases this is already occurring under the ESA section 7 requirements.

12. How does a critical habitat designation affect private lands?

Requirements for consultation on critical habitat do not apply to non-Federal actions on private lands. Critical habitat designations only affect Federal lands or Federally funded or permitted activities on other lands. Activities on private or State lands that are funded, permitted or carried out by a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, or a section 402 permit under the Clean Water Act from the Environmental Protection Agency, will be subject to the section 7 consultation process with the Service if those actions may affect critical habitat or a listed species. It is the responsibility of the Federal agency to initiate that consultation with the Service.

Through this consultation, the Service would advise agencies whether the proposed actions would likely jeopardize the continued existence of the species or adversely modify critical habitat. Federal actions not

affecting critical habitat or Canada lynx and actions on non-Federal lands that are not funded, permitted or carried out by Federal agencies, will not require section 7 consultation.

13. How would timber harvest and forestry management practices be affected by a critical habitat designation?

Timber harvest and associated forestry management can be beneficial or detrimental to lynx depending on harvest methods and specifications.

Forestry practices can be beneficial to lynx when the resulting understory densities and composition meet the forage and cover needs of snowshoe hares. Although areas that are cut may not be initially used by snowshoe hares and lynx, after regeneration those areas can provide high quality hare habitat and sustain lynx populations.

Thinning activities (e.g. mechanized pre-commercial thinning or herbicide treatments) to promote vigorous growth of fewer trees removes the understory cover preferred by snowshoe hares. As a result, thinned stands tend to have lower snowshoe hare densities needed to support lynx populations.

For actions that are entirely private or with no Federal involvement, section 7 consultation is not necessary. However, a landowner within the range of Canada lynx may want to consult with the Service to ensure that their actions do not result in the “take” of any lynx.

14. Will a critical habitat designation have economic impacts?

The Service conducted an analysis of the potential economic impacts of proposing Canada lynx critical habitat when we previously designated critical habitat in 2006. That economic analysis will be updated to include lands that are proposed in this revision, but were not previously proposed. The updated economic analysis will be available for public comment when completed.

After taking into consideration the economic impact, the Secretary of the Interior may exclude an 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.

15. How long does a critical habitat designation remain in effect?

A critical habitat designation remains in effect until the species is considered to be recovered, and is delisted or the critical habitat is revised.