



## Proposed Critical Habitat for the Western Distinct Population Segment of the Yellow-Billed Cuckoo

### *Questions and Answers*

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#### **Description**

The yellow-billed cuckoo (*Coccyzus americanus*) is a neotropical migrant bird that winters in South America and breeds in North America.

It is a medium-sized bird, weighing about 2 ounces with short, bluish-gray legs, a slender, long-tailed profile, and a fairly stout and slightly down-curved bill, which is blue-black with yellow on the basal half of the lower mandible. The plumage is grayish-brown above and white below, with reddish primary flight feathers. The tail feathers are boldly patterned with black and white below.



Yellow Billed Cuckoo

Yellow-billed cuckoos have a zygodactyl foot, in which two toes point forwards and two toes point backwards, unlike most birds which have three toes forward and one back. Juveniles resemble adults, except the tail patterning is less distinct and the lower bill has little or no yellow for the first month. Males and females differ slightly; the males have a slightly smaller body size and smaller bill.

A typically secretive and hard-to-detect bird, yellow-billed cuckoos have a distinctive “kowlp” call which is a loud, nonmusical series of notes that slows down and slurs toward the end. Unmated cuckoos advertise for a mate using a song consisting of a series of “cooing” notes, which they give both in the daytime and at night. Both members of a pair use a soft “knocker” call, a series of soft notes given as a warning call near the nest.

While the yellow-billed cuckoo is common east of the Continental Divide, biologists estimate that more than 90 percent of the bird's riparian habitat in the west has been lost or degraded as a result of conversion to agriculture, dams and river flow management, bank protection, overgrazing and competition from exotic plants.

#### **Questions and Answers**

##### **Q. What is being proposed?**

**A.** The Service is proposing to designate 546,335 acres of critical habitat for the western distinct population (DPS) segment of the yellow-billed cuckoo in 80 units across 9 western states: Arizona, California, Colorado, Idaho, Nevada, New Mexico, Texas, Utah and Wyoming.

**Q. What is a distinct population segment?**

A. A DPS is a segment of a species' population that is markedly "discrete" or, in other words, separated from other populations due to physical, physiological, ecological or behavioral factors. A DPS must also be "significant" or, in other words, important to the species. Significance can be satisfied by the persistence of the DPS in a unique or unusual ecological setting, evidence that the loss of the DPS would result in a significant gap in the range of the species, evidence that the DPS represents the only surviving natural occurrence of the species and evidence that the DPS differs markedly from the other populations of the species in its genetic characteristics.

**Q. What is critical habitat and how does the Service determine what areas to propose?**

A. Critical habitat is a term in the Endangered Species Act (ESA) of 1973, as amended. It is the geographic area that contains features essential for the conservation of a threatened or endangered species. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve or other conservation area. Critical habitat designation does not affect the actions of private landowners that are not subject to federal funding or permitting, and does not restrict access to public lands.

Biologists consider physical or biological habitat features needed for life and successful reproduction of the species. These include, but are not limited to:

- Space for individual and population growth and for normal behavior;
- Food, water, air, light, minerals or other nutritional or physiological requirements;
- Cover or shelter;
- Sites for breeding and rearing offspring; and
- Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

For more information about critical habitat, visit: <http://www.fws.gov/endangered/what-we-do/critical-habitats.html>.

**Q. Who owns the lands where the critical habitat designations are being proposed? Are there any exclusions being considered?**

A. The majority of the 546,335 acres being proposed for critical habitat designation is either private, local government or other non-government lands (approximately 250,000 + acres). Federal lands make up the largest single land owner (180,000 + acres), followed by tribal lands (71,000 + acres) and state lands (46,000 + acres).

The Service is considering excluding 193,347 acres based on existing conservation agreements and ongoing management. For tribal lands, conservation agreements are in place for 11 of 16 units that total 51,000 acres. The Service is working with tribes to develop conservation agreements on the remaining five units.

**Q. How can I find out specifically where the Service is proposing critical habitat?**

A: Maps and links to the GIS Shape Files of the proposed critical habitat units can be found on the Service's Sacramento Fish and Wildlife Office website [www.fws.gov/sacramento](http://www.fws.gov/sacramento).

**Q. How does critical habitat affect land management activities?**

A. A critical habitat designation only has bearing on activities that are authorized, funded or carried out by a federal agency. If any activities have federal agency involvement, those federal agencies will be required to consult with the Service if the activities may affect the designated critical habitat.

The purpose of the consultation with the Service is to assist the federal agency in ensuring that the proposed action will not destroy or adversely modify the species' critical habitat, i.e., affect it to such an extent that it appreciably diminishes the conservation of the species. In those rare cases where it is determined that a proposed action would be likely to destroy or adversely modify critical habitat, the Service will work with the federal agency to modify the project to avoid this outcome.

It is not possible to know beforehand whether any proposed activity would cause the destruction or adverse modification of critical habitat; each activity is thoroughly evaluated on a case-by-case basis at the time the federal agency consults with the Service.

**Q. What are the economic impacts of this proposed designation?**

A. The total incremental effect of the administrative costs of this proposed critical habitat designation for all activities (including technical assistance, informal consultations and programmatic consultations) is estimated to be a maximum of \$3.2 million annually. This is the economic cost of the critical habitat designation above those costs already occurring as a result of listing the species.

**Q. What is the difference between the western yellow-billed cuckoo and yellow-billed cuckoos in the remainder of their range?**

A. The western yellow-billed cuckoo is considered a DPS because it is markedly separated from other yellow-billed cuckoo populations by:

- Physical Separation: The majority of the western yellow-billed cuckoo population is geographically separated by 50 to 500 miles of unsuitable breeding habitat from other yellow-billed cuckoos. Some limited mixing of the birds occurs in New Mexico and Texas.
- Ecology: The western yellow-billed cuckoo nests in more of a woodland riparian niche surrounded by extensive arid uplands.
- Migration timing: Western birds arrive at their breeding grounds four to eight weeks later than eastern cuckoos.
- Morphology: Western yellow-billed cuckoos have significantly larger body sizes and lay larger eggs that have thicker egg shells than their eastern counterparts.

The western DPS of the yellow-billed cuckoo is significant because a loss of the DPS would result in a significant gap (almost 33 percent) across the entire range of the species, both eastern and western birds.

**Q. What factors does the Service evaluate in determining whether a species is endangered or threatened?**

A. Under the ESA, the Service can determine that a species is endangered or threatened as a result of one or more five factors:

1. The present or threatened destruction, modification or curtailment of its habitat or range;
2. Overutilization for commercial, recreational, scientific or educational purposes;

3. Disease or predation;
4. Inadequacy of existing regulatory mechanisms; or
5. Other natural or manmade factors affecting its continued existence.

**Q. What are the specific threats to the western yellow-billed cuckoo?**

**A.** The Service has determined that the main threats facing the western yellow-billed cuckoo fall under two of the categories:

The present or threatened destruction, modification or curtailment of its habitat or range: Threats to the western yellow-billed cuckoo result from habitat destruction, modification and degradation from dam construction and operations; water diversions; river flow management; stream channelization and stabilization; conversion to agricultural uses, such as crops and livestock grazing; urban and transportation infrastructure; and increased incidence of wildfire. These factors also contribute to fragmentation and promote conversion to nonnative plant species, particularly tamarisk. The threats affecting western yellow-billed cuckoo habitat are ongoing and serious. Such a loss of riparian habitat leads not only to a direct reduction in cuckoo numbers, but also leaves a highly fragmented landscape, which can reduce breeding success through increased predation rates and barriers to dispersal by juvenile and adult cuckoos.

Other natural or manmade factors affecting its continued existence: Habitat rarity and small, isolated populations of the western yellow-billed cuckoo cause the remaining cuckoo populations to be increasingly susceptible to further declines through lack of immigration, chance weather events, fluctuating availability of prey populations, pesticides, collisions with tall structures during migration and climate change. The serious and ongoing threats of small overall population size lead to an increased chance of local extinctions through random events.

**Q. Why is the western yellow-billed cuckoo proposed to be listed as threatened rather than endangered?**

**A.** Under the ESA, an endangered species is defined as any species that is “in danger of extinction throughout all or a significant portion of its range,” and a threatened species is defined as any species “that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.”

Threats to the western yellow-billed cuckoo and the decline of its population do not currently reach the level typical of an endangered species. The western yellow-billed cuckoo remains rather widespread through much of its historic range. Although there is a general decline in the overall population trend and its breeding range has been reduced, the rate of the population decline and contraction of its breeding range is not so severe to indicate that extinction is imminent.

The western yellow-billed cuckoo does not meet the definition of “endangered” as determined by the ESA because it does not face any known sudden and calamitous threats, it is not a narrowly endemic species vulnerable to extinction from elevated or cumulative threats and it is not yet restricted to a critically small range or critically low numbers.

More appropriately, we find that the western yellow-billed cuckoo is likely to become endangered throughout all or a significant portion of its range within the foreseeable future based on the timing, severity and scope of the threats it faces.

**Q. What impact may climate change have on the western yellow-billed cuckoo?**

A. While we do not have evidence to suggest that the habitat of the western yellow-billed cuckoo is being substantially affected by climate change at this time, we expect long-term climate trends to have an overall negative effect on the available habitat throughout the breeding range of the western yellow-billed cuckoo. Precipitation events under most climate change scenarios will decrease in frequency but increase in severity. A dramatic increase in flooding could scour remaining western yellow-billed cuckoo habitat and result in the loss of habitat. Long drought cycles could also hamper recruitment of riparian vegetation following scouring floods and lead to reduced cover and nest sites for the species. Under drought conditions, fire frequency is expected to increase which will hamper riparian and thorn forests' ability to recover.

**Q. What happens next?**

A. Before any final decisions are made regarding the designation of critical habitat for the species, the Service will compile and assess all comments received during the public comment period. The Service will also seek the expert opinions of at least three appropriate and independent specialists with scientific expertise to review our determinations.

**Q. Specifically, what kind of information is the Service looking for?**

A. The Service intends that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and will be as accurate and as effective as possible. Therefore, we request comments or information from the public, other concerned governmental agencies, Native American tribes, the scientific community, industry or any other interested parties.

For the proposed critical habitat rule, we particularly seek comments concerning:

1. The western yellow-billed cuckoo's biology, range, and habitat requirements for feeding, breeding and sheltering and the locations of any additional populations;
2. The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the ESA, including whether there are threats to the DPS from human activity that can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent;
3. Specific information on:
  - a. The amount and distribution of western yellow-billed cuckoo habitat;
  - b. What areas occupied at the time of listing (or are currently occupied) that contain features essential to the conservation of the DPS should be included in the critical habitat designation and why;
  - c. Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and
  - d. What areas not occupied at the time of listing are essential for the conservation of the DPS and why;

4. Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the ESA, and for those specific areas, whether the benefits of potentially excluding them outweigh the benefits of including them, pursuant to section 4(b)(2) of the ESA. For specific lands that we should consider for exclusion under section 4(b)(2) of the ESA, please provide management plans, conservation easements, agreements, Habitat Conservation Plans (HCP), or other appropriate information that describes the commitment and assurances of protection of the physical or biological features of western yellow-billed cuckoo critical habitat; property boundaries; western yellow-billed cuckoo status, distribution and abundance; and management actions to protect the physical or biological features of the western yellow-billed cuckoo.
5. Land use designations and current or planned activities in the subject areas, and their possible impacts on the proposed critical habitat;
6. Information on the projected and reasonably likely impacts of climate change on the western yellow-billed cuckoo and proposed critical habitat;
7. Any probable economic, national security or other relevant impacts of designating as critical habitat any particular area that may be included in the final designation; in particular, any impacts on small entities or families, and the benefits of including or excluding areas where these impacts occur;
8. Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments; and
9. The likelihood of adverse social reactions to the designation of critical habitat and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

**Q. What is the deadline for comments, and where do I submit my comments?**

**A.** Comments on the proposed critical habitat rule will be accepted through October 14, 2014. Comments may be submitted online at the Federal eRulemaking Portal at <http://www.regulations.gov>. The docket number for the proposed rule is FWS–R8–ES–2013–0011. Comments can also be sent by U.S. Mail or Hand Delivery: Public Comments Processing, Attn: FWS–ES–R8–2013–0011; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; U.S. Fish & Wildlife Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

**MORE QUESTIONS?**

Please write or call:

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If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at (800) 877–8339.

[www.fws.gov/sacramento](http://www.fws.gov/sacramento)

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