

Questions and Answers about the Listing and Critical Habitat Designation for the Kentucky Glade cress

1. What is the current status of the Kentucky glade cress?

On May 6, 2014, a final rule listing the Kentucky glade cress as threatened was published in the *Federal Register*. The listing goes into effect 30 days following its publication in the *Federal Register*.

A threatened species is one that is likely to become endangered in the foreseeable future throughout all or a significant portion of its range. The glade cress was determined to be threatened because of the present or threatened destruction, modification, or curtailment of its habitat or range.

The plant only exists in Bullitt and Jefferson Counties, Kentucky. Its natural cedar glade habitat is being degraded or destroyed by residential and commercial development and its related activities, such as grading, paving, and sod farms. The majority of known occurrences exist in moderately to severely degraded sites, like roadside rock outcrops, lawns, and heavily grazed pastures. The few remaining natural glade populations are privately owned, unprotected, and severely threatened by the same development pressures that degraded or destroyed other habitats for Kentucky glade cress.

Listing under the Endangered Species Act (ESA) protects the Kentucky glade cress from the adverse effects of federal activities through consultations under Section 7. It also places restrictions on taking, transporting, or selling the listed species and allows the Service to implement recovery plans. The Service also can provide aid and funding to commonwealth or state wildlife agencies that have cooperative agreements with us to conserve the glade cress. When a species is listed, the Service also has authority to purchase habitat important to the species.

2. What areas are proposed as critical habitat for the glade cress

The Service is designating about 2,053 acres as critical habitat for the Kentucky glade cress. This includes six units containing occupied habitat: 18 acres within the McNeely Lake critical habitat unit; 1,014 acres within the three subunits that comprise the Old Mans Run critical habitat unit; 42 acres within the four subunits that comprise the Mount Washington critical habitat unit; 547 acres within eight subunits that comprise the Cedar Creek critical habitat unit; 58 acres within the two subunits that comprise the Cox Creek critical habitat unit and 374 acres within the Rocky Run critical habitat unit.

3. What is critical habitat?

The U.S. Fish and Wildlife Service identifies critical habitat when it proposes to list an animal or plant for listing as endangered or threatened. Critical habitat, a term defined in the Endangered Species Act, is identified 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.

The designation of critical habitat helps ensure that federal agencies and the public are aware of the habitat needs of the Kentucky glade cress and proper consultation is conducted by federal agencies when required by law.

4. What does a critical habitat designation do?

When an area is designated as critical habitat for a listed species, federal agencies are required by law to ensure that any action they fund, authorize or carry out is not likely to result in the destruction or adverse modification of the habitat. This is carried out through consultation with the Service.

The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve or other conservation area. A critical habitat designation also does not allow the government or public to access private lands, nor does it require implementation of restoration, recovery or enhancement measures by non-federal landowners.

Although some of the areas within the proposed rockcress critical habitat designation are located on private land, activities on those lands would only be impacted if they are authorized, funded or carried out by a federal agency. Activities in designated critical habitat that require federal involvement (for example, a U.S. Army Corps of Engineers permit to build a dam) would need to be reviewed by the Service. The federal agency would work with the Service to help landowners avoid, reduce or offset potential negative impacts to the critical habitat and the listed species.

There should be no or minimal impact on agricultural or timber companies, private landowners, or residential development. The Service relies on a number of voluntary, non-regulatory conservation programs to provide willing landowners with assurances to protect them for the work they do on their lands.

5. What is the economic analysis based on?

The economic analysis, which is required under the ESA, estimates the cost of conserving critical habitat for a listed plant or animal. Most of the estimated costs are administrative in nature and are only applicable when projects may diminish the conservation value of the habitat. The costs are borne largely by federal agencies, which are required to consult with the Service when a project they are funding, permitting or working on is likely to negatively affect the critical habitat.

According to the draft economic analysis for the Kentucky glade cress, the estimated costs of the designation are not likely

The economic analysis does not consider the cost of the listing itself.

6. What happens with the information the Service receives during the public comment period?

The Service must base its reasoning and conclusions on the rulemaking record, consisting of the comments, scientific data, expert opinions, and facts accumulated during the pre-rule and proposed rule stages. To move forward with a final rule, the agency must conclude that its proposed solution will help accomplish the goals or solve the problems identified. It must also consider whether alternate solutions would be more effective or cost less.

If the rulemaking record contains persuasive new data or policy arguments, or poses difficult questions or criticisms, the Service may decide to terminate the rulemaking, or the Service may decide to continue the rulemaking but change aspects of the rule to reflect these new issues. If the changes are major, the Service could publish a supplemental proposed rule. If the changes are minor, or a logical outgrowth of the issues and solutions discussed in the proposed rules, the Service may proceed with a final rule.

7. How long does it take for the Service to reach a decision after the public comment period is closed?

There is generally no time limit for agencies to analyze the comments they receive. It is more or less dependent upon the number of comments received. However, when an agency publishes a final rule, generally the rule is effective no less than 30 days after the date of publication in the *Federal Register*.