



Questions and Answers: Proposed Rule to List and Designate Critical Habitat for Four Central Texas Salamanders

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Q: What action is the U.S. Fish and Wildlife Service (Service) taking?

A: The Service is proposing to protect four salamander species occurring within the central Texas area as endangered under the Endangered Species Act (ESA). The four salamander species include the Austin blind salamander (*Eurycea waterlooensis*), Jollyville Plateau salamander (*Eurycea tonkawae*), Georgetown salamander (*Eurycea naufragia*), and Salado salamander (*Eurycea chisholmensis*).

The Service is also proposing to designate 5,983 acres (2,440 hectares) of critical habitat in 52 units in Bell, Travis, and Williamson, Counties. The Service is proposing that one unit (120 acres total) be designated as critical habitat for the Austin blind salamander in Travis County, Texas; 33 units (4,460 acres total) be designated as critical habitat for the Jollyville Plateau salamander in Travis and Williamson Counties, Texas; 14 units (1,031 acres total) be designated as critical habitat for the Georgetown salamander in Williamson County, Texas; and four units (372 acres total) be designated as critical habitat for the Salado salamander in Bell County, Texas.

Q: Why is the Service proposing to list the four salamander species as endangered?

A: The Service's proposed listing determination is that the Austin blind, Jollyville Plateau, Georgetown, and Salado salamanders are presently in danger of extinction throughout their entire ranges, based on the immediacy, severity and scope of the threats from habitat degradation. The four species are proposed as endangered because the threats are occurring now or are imminent and their potential impacts to the species would be catastrophic given the very limited range of the species, making the salamanders at risk of extinction at the present time. The proposal to list and designate critical habitat for the four salamander species is based on the best scientific and commercial data available.

Q: What are the primary threats to the four salamander species?

A: The most significant threat to the four salamander species appears to be the degradation of habitat in the form of reduced water quality and quantity and disturbance of spring sites. Increasing urbanization in areas where the salamanders are found is resulting in greater impervious cover (or a covered surface area) which is negatively impacting water quality. Recent drought conditions and

human population growth are also negatively impacting water resources, reducing the quality and quantity of available habitat for the salamanders.

Q: Where are the four salamander species found?

A: All four salamander species are entirely aquatic and depend on water from the Edwards Aquifer in sufficient quantity and quality to meet their life history requirements for survival, growth, and reproduction. The Austin blind salamander resides in the Barton Springs Segment of the Edwards Aquifer, while the other three species reside in habitat dependent on the Northern Segment of the Edwards Aquifer, including springs and spaces in the subsurface aquifer.

Q: What information is the Service requesting?

A: Any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. With respect to the listing and critical habitat proposal for the four salamander species the Service is seeking information regarding:

- 1) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to these species and regulations that may be addressing those threats;
- 2) Additional information concerning the historical and current status, range, distribution, and population size of these species, including the locations of any additional populations of these species;
- 3) Any information on the biological or ecological requirements of these species, and ongoing conservation measures for these species and their habitats;
- 4) Current or planned activities in the areas occupied by the species and possible impacts of these activities on these species;
- 5) The reasons why the Service should or should not designate habitat as “critical habitat” under section 4 of the ESA (16 U.S.C. 1531 et seq.) including whether there are threats to the species from human activity, the degree of which 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;
- 6) Specific information on:
 - a. The amount and distribution of the four central Texas salamanders’ habitats,
 - b. What areas, that were occupied at the time of listing (or are currently occupied) and that contain features essential to the conservation of the species, should be included in the designation and why,
 - c. Special management considerations or protection that may be needed in critical habitat areas the Service is 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 species and why;
 - e. How subterranean populations of these four salamander species are distributed underground;
 - f. The interconnectedness of salamander habitats in terms of hydrology, and if salamanders are able to move between sites through underground aquifer conduits.

- 7) Land use designations and current or planned activities in the subject areas and their possible impacts on the four central Texas salamanders and on proposed critical habitat;
- 8) Information on the projected and reasonably likely impacts of climate change on the four central Texas salamanders and proposed critical habitat;
- 9) Any probable economic, national security, or other relevant impacts of designating any 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 that exhibit these impacts;
- 10) Whether any specific areas the Service is proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the ESA, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the ESA, for example, areas that have a 10(a)(1)(B) permit and Habitat Conservation Plan that covers any of these salamanders may be considered for exclusion (potentially including the Four Points Habitat Conservation Plan that cover Jollyville Plateau salamanders); and
- 11) Whether the Service could improve or modify the agency's approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

Q: How can the public submit information on the proposal?

A: The Service is 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.

Written comments and information concerning this finding can 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-R2-ES-2012-0035]; or
- U.S. mail or hand-delivery: Public Comments Processing, Attn: [FWS-R2-ES-2012-0035]; 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 October 22, 2012. The Service will post all comments on <http://www.regulations.gov>. This generally means the agency will post any personal information provided through the process. The Service is not able to accept email or faxes.

The Service will hold two public meetings/public hearings to gather public comments on the listing proposal. Below is information related to each meeting/hearing:

September 5, 2012 – Williamson County

Informational meeting – 5:30 p.m. - 6:30 p.m.

Public hearing – 7:00 p.m. - 8:30 p.m.

Wingate by Wyndham Round Rock

1209 N. IH 35 North, Exit 253 at Hwy 79

Round Rock, Texas 78664

September 6, 2012 – Travis County

Informational meeting - 6:30 p.m. - 7:30 p.m.

Public hearing - 8:00 p.m. - 9:30 p.m.

Thompson Conference Center

2405 Robert Dedman Drive, Room 2.102

Austin, Texas 78705

For further information contact Adam Zerrenner, Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758; by telephone (512) 490-0057; or by facsimile (512) 490-0974. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

Q: How would the four salamander species benefit from an ESA listing?

A: Species listed as endangered or threatened under the ESA benefit from conservation measures that include recognition of threats to the species, implementation of recovery actions, and federal protection from harmful practices.

Recognition under the ESA results in public awareness and conservation by federal, state, tribal, and local agencies; private organizations; and individuals. The ESA encourages cooperation with the States and other partners to conserve listed species.

The ESA also requires the Service to develop and implement recovery plans for the conservation of threatened and endangered species. Recovery plans outline actions that are needed to improve the species' status such that it no longer requires protection under the ESA. The Service develops and implements these plans in partnership with the species experts; other federal, state, and local agencies; Tribes; nongovernmental organizations; academia; and other stakeholders. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Examples of typical recovery actions include habitat protection, habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education.

Under the ESA, federal agencies must ensure that actions they approve, fund, or carry out do not jeopardize the continued existence of a listed species or destroy its critical habitat. In addition, under the ESA, endangered animal species cannot be killed, hunted, collected, injured, or otherwise subjected to "harm." Endangered species cannot be purchased or sold in interstate or foreign commerce without a federal permit.

Q: What is critical habitat?

A: Critical habitat is a term in the ESA that identifies geographic areas essential for the conservation of a threatened or endangered species. The ESA defines "conservation" as the actions leading towards the eventual recovery of a species to the point where it is no longer threatened or endangered.

Critical habitat provides protection from the prohibition against destruction or adverse modification from actions carried out, funded, or authorized by a federal agency and is carried out through required consultation under section 7 of the Endangered Species Act. Due to legal challenges, the Service no longer relies on the regulatory definition of “destruction or adverse modification” of critical habitat. Instead, the Service relies on the statutory provisions of the Endangered Species Act to complete adverse modification analysis.

Q. What is the purpose of designating critical habitat?

A. A critical habitat designation generally has no effect on situations that do not involve a federal agency — for example, a private landowner undertaking a project that involves no federal funding or permit. Federal agencies are required to consult with the Service on actions they carry out, fund, or authorize to ensure that their actions will not destroy or adversely modify critical habitat. In this way, a critical habitat designation protects areas that are necessary for the conservation of the species.

Q. Do listed species in critical habitat areas receive more protection?

A. Listed species and their habitat are protected by the ESA whether or not they are in an area designated as critical habitat. To understand the additional protection that critical habitat provides to an area, it is first necessary to understand the protection afforded to any endangered or threatened species, even if critical habitat is not designated for it.

The ESA forbids anyone to import, export, or engage in interstate or foreign sale of endangered and threatened animals and plants without a special permit. It also makes “take” illegal -- forbidding the killing, harming, harassing, pursuing, or removing the species from the wild. The ESA requires that federal agencies conduct their activities in such a way as to conserve species. The ESA also requires federal agencies to consult with the Service to conserve listed species on their lands and ensure that any activity they fund, authorize, or carry out will not jeopardize the survival of a threatened or endangered species. This is known as consultation.

In consultations for species with critical habitat, federal agencies are required to ensure that their activities do not destroy or adversely modify critical habitat to the point that it can no longer serve its conservation role in the species' recovery. The greatest benefit of critical habitat occurs in areas that are currently unoccupied by the species, but are needed for its recovery. With critical habitat designations, these unoccupied areas are protected by the prohibition against destruction and adverse modification of critical habitat.

Q: Does a ‘critical habitat’ designation mean an area is considered a wildlife refuge or sanctuary?

A: 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 identifies areas that are important to the conservation of federally listed threatened or endangered species. A critical habitat designation requires federal agencies to consult with the Service on any of their actions that may affect critical habitat in designated areas. The Service can then recommend ways to minimize any adverse

effects. It imposes no requirements on State or private actions on State or private lands where no federal funding, permits or approvals are required.

Q: How would a critical habitat designation affect my private land?

A: Requirements for consultation on critical habitat do not apply to entirely private actions on private lands. Critical habitat designations only apply to federal lands or federally funded or permitted activities on private 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.

Through this consultation, the Service would advise agencies whether the permitted actions would likely jeopardize the continued existence of the species or adversely modify critical habitat. Federal actions not affecting critical habitat or otherwise affecting species or their habitat (e.g., suitable habitat outside of critical habitat), and actions on non-federal lands that are not federally funded, permitted or carried out, will not require section 7 consultation.

Q: When an area is designated as critical habitat, are all human activities in the area prohibited?

A: No. The only activities prohibited in these areas are federal actions that are likely to result in destruction or adverse modification of the critical habitat for the four salamander species. The consultation process supports the recovery of species and their ecosystems. Consultations provide ways to implement recovery tasks by addressing threats to listed species that may result from Federal agency programs and activities through a collaborative process. For more information go to: <http://www.fws.gov/endangered/esa-library/pdf/consultations.pdf>.