

QUESTIONS AND ANSWERS

MEXICAN SPOTTED OWL CRITICAL HABITAT DESIGNATION

The following are some of the most frequently asked questions about critical habitat and the Mexican spotted owl.

What actions lead to the current final critical habitat rule?

The U.S. Fish and Wildlife Service (Service) listed the Mexican spotted owl as threatened in 1993, and critical habitat was designated in 1995. The designation was removed by court order following a suit for failure to complete a National Environmental Policy Act (NEPA) analysis. The Service was subsequently sued by the Southwest Center for Biological Diversity (now the Center for Biological Diversity) for failure to redesignate critical habitat. The Court ruled that the Service could complete all necessary actions (an economic analysis and NEPA analysis) in the 6-month period between July and January. The Service's published final rule complies with that order.

What is critical habitat?

Critical habitat is defined as areas of land and water with physical and biological features essential to the conservation of a threatened or endangered species, and which may require special management considerations or protection. The Endangered Species Act goes on to define "conservation" as **recovering** a species to the point it is no longer threatened or endangered.

Does a "critical habitat" designation mean that an area has been designated a sanctuary and the owl "comes before anything else"?

No. A critical habitat designation identifies areas that are important to the species and essential for its survival and recovery and requires special management protection. A critical habitat designation requires Federal agencies to consult with the Fish and Wildlife Service on any of their actions that may affect critical habitat. The Service can then recommend ways to minimize any adverse effects.

How does a critical habitat designation affect private, state or tribal lands?

Critical habitat applies only to activities of Federal agencies. Projects proposed on private, state-owned or tribal lands are evaluated only if they involve a Federal agency through either permits, funding, or some other mechanism. In the case of the Mexican spotted owl, no state, tribal or private lands are being designated, so there will be no impact except on Federal lands.

What will be the impact of the designation on public use of Federal lands?

The only activities prohibited in these areas are Federal actions that are likely to destroy or adversely modify that habitat. To “destroy or adversely modify” means to conduct an activity that appreciably diminishes the value of critical habitat for the survival and recovery of a listed species. However, if we make a determination that a project is likely to adversely modify critical habitat, we recommend reasonable and prudent alternatives that would allow the project to proceed with modification only.

The Service does not expect the designation of critical habitat to affect activities such as thinning trees less than 9 inches in diameter or harvesting fuel wood, Christmas trees or trees for latilla or vigas. For livestock grazing activities in upland habitats or commercial logging, consultation is required only if they may adversely affect the Mexican spotted owl or its critical habitat. Most recreational activities, such as hiking, camping, fishing, hunting, cross-country skiing, off-road vehicle use, and various wildlife-observation activities, will not be affected.

Overall, we do not expect the critical habitat designation to result in any restrictions that would not already be required as a result of listing the Mexican spotted owl as a threatened species.

Does the Fish and Wildlife Service evaluate all projects in critical habitat areas?

No. Projects are evaluated only when a Federal agency believes its action may affect the designated critical habitat. The Federal agency must first analyze the project and determine if critical habitat will be affected, and, if appropriate, request consultation with the Fish and Wildlife Service.

How did the Fish and Wildlife Service decide what areas to include in the final critical habitat for the Mexican spotted owl?

Whenever the Fish and Wildlife Service considers critical habitat, it reviews the basic needs of the species; these include

- Space for individual and population growth, and for normal behavior
- Cover, food, water, and other basic requirements
- Sites for breeding and rearing young

Once these areas are identified, the Service selects those that are essential to the conservation of the species and need special management and protection. Here, the Service based its designation on the recovery plan for the Mexican spotted owl. Roosting and nesting habitat was included in the designation while wintering habitat was not.

Why is the Fish and Wildlife Service finalizing critical habitat now, and why can't we have more time to provide comments?

The Fish and Wildlife Service is responding to a Court Order by the District Court of New Mexico. The Court ordered the Fish and Wildlife Service to finalize a critical habitat designation by January 15, 2001. We used the intervening six months (between the proposed rule and the final rule) to consider all public comments, hold public hearings and/or meetings, and complete an economic analysis (including public review and comment) and an environmental review under the National Environmental Policy Act (NEPA) (including public review and comment). The Service completed these tasks and complied with the Court's January 15, 2001, deadline.

How much acreage is in the final designation?

The mapped boundaries contain the following area:

Arizona	830,000 acres	Utah	3.2 million acres
New Mexico	54,000 acres	Colorado	525,000 acres

However, units within the mapped boundaries may contain some acreage not suitable for the owl.

What counties within these states contain proposed critical habitat designations?

Critical habitat units are designated in portions of McKinley, Rio Arriba, Sandoval, Socorro, and Taos, Counties in New Mexico; Apache, Cochise, Coconino, Graham, Mohave, and Pima Counties in Arizona; Carbon, Emery, Garfield, Grand, Iron, Kane, Washington, and Wayne Counties in Utah; and Custer, Douglas, El Paso, Fremont, Huerfano, Jefferson, Pueblo, and Teller Counties in Colorado.

What changes have been made from the July 2000 proposed rule to the final?

In the draft (July 21, 2000) proposal we based critical habitat units on recovery units identified in the 1995 Mexican Spotted Owl Recovery Plan. Lands already meeting the definition of critical habitat, because they are being managed compatibly with the owl, did not require designation. This reduced the area being designated as critical habitat. In the final rule, we did not include tribal lands; Forest Service lands within Arizona and New Mexico; and low-density areas.

The Southwest Region of the Forest Service (AZ and NM) incorporated the Recovery Plan into their Forest Plans, through amendments completed in 1996 which precludes individual consultations. On Forest Service lands in other regions (CO and UT), the agencies will continue to protect the owl and its habitat through the consultation process provided in the Endangered Species Act.

Why are we including acreage within mapped boundaries that is not suitable owl habitat?

The mapped boundaries include acreage that is not suitable owl habitat; however, actual critical habitat is limited to areas within the boundaries that contain the physical and biological features necessary for the species survival.

Were there significant losses of habitat due to recent wildfires?

Yes. Fires during the spring and summer, 2000, have impacted large amounts of owl habitat and several protected activity centers (PACs) in the southwest. (PACs are nest or roost sites and include a 600 acre area around the sites as well as very steep slopes of 45 degrees or more.) The assessment of impacts has not been completed yet and we do not have current estimates of acreage or numbers of PACs impacted.

How does fire affect critical habitat ?

Fire impacts habitat whether it is designated as critical habitat or not. Fire can be either devastating or beneficial to owl habitat. Wildfires can quickly consume forests across vast tracts. After a large crown fire, habitat components for nesting, roosting, and foraging are reduced or eliminated. Small-scale natural fires and prescribed burns, however, can benefit owl habitat by reducing fuel loads, creating small openings and thinning stands that increase habitat diversity while reducing the risk of catastrophic wildfire. Small-scale fires and lightning also create snags, canopy gaps, large logs, and perpetuate understory shrubs, grasses, and forbs which are important habitat components for the owl, its prey, and other wildlife.

Because the resulting damage to owl habitat would be irreparable in the foreseeable future, efforts to limit large-scale catastrophic fires are of utmost importance in owl conservation. Unmanaged and unplanned wildfires that remove large areas of forests or woodlands disrupts management goals for maintaining or improving future spotted owl habitat.

We encourages proactive fire management programs that assume active roles in fuels management and understanding the ecological role of fire. We are also currently working together with the Forest Service to develop and consult on a regional fire program that minimizes the risks of catastrophic wildfire, while maintaining important threatened and endangered species habitat.

What measures are being taken to provide future replacement habitat?

The Service recommends that all land management agencies implement the management guidelines provided in the Recovery Plan for the Mexican Spotted Owl. The plan outlines the steps necessary to remove the owl from the endangered species list.