

Questions and Answers

Proposed Revisions to Regulations for Designations of Critical Habitat

What action is taking place by the Services?

Today, the U.S. Fish and Wildlife Service (Service) and the National Oceanic Atmospheric Administration's (NOAA) Fisheries Service (the Services), the two federal agencies responsible for administering the Endangered Species Act (ESA), are proposing to shift the timing of the availability of the economic analysis for designations of critical habitat under the ESA. This proposed regulation change, if finalized, will require that draft economic analyses of proposed critical habitat designations are completed and made available for public review at the same time the proposed designation of critical habitat is published in the *Federal Register*. This change in the regulations aims to reduce the uncertainty on the part of the public by simultaneous presentation of the best scientific data available and the draft economic analysis of the proposed designation of critical habitat. Also, the proposed regulations state that the preferred way to evaluate impacts of critical habitat designations is to compare of the impacts with and without the designation of critical habitat.

Why are the Services proposing changes to the regulations?

These changes are being proposed as outlined by the February 28, 2012, Presidential memorandum, which directed us to take prompt steps to revise our regulations with regard to the timing of economic impact analyses for critical habitat designations. The proposed changes to the regulations that implement the ESA will make for a more efficient rule-making process, will not impose any additional burdens on the American people, nor will it impose additional costs to either agency.

What will change as a result of this proposed regulation?

The Services are seeking comments on the proposed regulation revisions over the next 60 days, until October 23, 2012. Nothing will change at this time as the publication of this proposed regulation change. When finalized, this regulation will require the draft economic analyses of proposed critical habitat designations to be made available for public comment at the same time the proposed designation of critical habitat is published in the *Federal Register*.

What will change as a result of the final regulation?

The benefit of this change in the regulations is to provide the public a complete view of the rulemaking process as it relates to designation of critical habitat. Current practice allows for a second public comment period on a proposed designation of critical habitat when the draft economic analysis is made available after the designation of critical habitat is published. When finalized, our process under the revised regulation would not provide for a second comment period as the draft economic analysis would be available when the proposed rule is published. This change would reduce the public comment period on the proposed rule from a current total of 90-days to 60-days. The Services will still be required under the ESA to finalize a designation of critical habitat within one year of the proposal. This change will ensure both agencies follow the same process.

Where can more information be found?

The *Federal Register* notice and additional background can be found online at:
http://www.fws.gov/endangered/improving_ESA/CH_Econ.html.