

[4310-55]

## DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE  
AND PLANTSProposed Critical Habitat for the Whooping  
CraneAGENCY: Fish and Wildlife Service,  
Interior.

ACTION: Proposed rule.

**SUMMARY:** The Service proposes eight additional areas as critical habitat in Kansas, Montana, Nebraska, North Dakota, and South Dakota for the endangered whooping crane (*Grus americana*) to those areas already determined to be critical habitat as published in the FEDERAL REGISTER of May 15, 1978 (43 FR 20938). If finalized, this rule would provide Federal protection of these areas under section 7 of the Endangered Species Act of 1973 and will further assure the conservation of the whooping crane.

**DATES:** Comments from the public must be received by October 16, 1978. Comments from the Governors of five States must be received by November 15, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

## SUPPLEMENTARY INFORMATION:

## Background

In the FEDERAL REGISTER of May 15, 1978 (43 FR 20938-20942), the Service determined critical habitat in nine areas in six States for the whooping crane. The eight areas proposed in the present rule are separate and in addition to those nine areas already determined. The Service was petitioned on November 22, 1976, by the Sierra Club and the National Audubon Society to add six of these areas to those previously proposed in December 1976.

The service has thoroughly reviewed this petition, and a supplement dated September 29, 1977, and agrees that sufficient data was presented to warrant this proposed rulemaking. Additional data which covers the fall migration records of 1977 for the whooping crane as well as older confirmed migration records which have only recently come to the Service's attention are also included in the data base for this proposal.

Whooping cranes in the natural (Aransas—Wood Buffalo) flock numbered 70 individuals (10 subadults

from 1977 and 60 adult-plumaged birds from previous years) on April 1, 1978. This flock annually migrates from September to early December to the wintering grounds on or near Aransas National Wildlife Refuge, Tex. During April and May the flock migrates along the same narrow route toward the only nesting area left in the wild: Wood Buffalo National Park, Northwest Territories, Canada. The areas herein proposed are important as roosting and feeding area during this magnificent bird's migration.

## CRITICAL HABITAT

Section 7 of the act, entitled "Inter-agency Cooperation," states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "critical habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) to be codified in 50 CFR Part 402 and is reprinted below:

Critical habitat means any air, land, or water area (exclusive of those existing man-made structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas of reasonable population expansion.

As specified in these same regulations for interagency cooperation, the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

Of the five factors, three directly pertain to the eight areas in this proposal. The three factors are summarized below:

(1) All areas proposed in this rule would provide food, water, and other nutritional or physiological needs of the whooping crane during spring or fall migration. Insects, crayfish, frogs, small fish, and other small animals as well as some aquatic vegetation and some cereal crops in adjacent croplands appear to be major items taken during the migration period.

(2) Generally, whooping cranes (as do most other cranes in the world) require an open expanse for nightly roosting. This habit of using sand and gravel bars or very shallow water in rivers and lakes for nightly roosting appears to be one of the major factors in whooping crane habitat selection. Cranes observed during migration are most often found within short flight distances (frequently 15 miles or less) of wetlands that offer open sand or gravel bars for nightly roosting. Such roosting areas can be found when some of the large reservoirs in the area are at or below normal pool level and large bars of sediments are exposed, particularly at the mouths of major contributing streams and rivers.

(3) Whooping cranes do not readily tolerate disturbances to themselves or their habitat. A human on foot can quickly put a crane to flight at distances over one-quarter of a mile. Loss of large expanses of wetlands and shooting were the major factors in causing the massive declines of whooping cranes in the late 1800's. The one common feature uniting the vast majority of confirmed sightings of this crane in migration is their proximity to wetlands that provide undisturbed roosting sites.

## EFFECTS OF THE RULEMAKING

The eight areas delineated in this proposal or in the May 15, 1978, determination (43 FR 20938-20942) do not include the entire habitat of the whooping crane, and modifications of the critical habitat designations may be proposed as a result of further studies. In accordance with section 7 of the act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them would not result in the destruction or modification of the critical habitat of the en-

dangered whooping crane. Also, in accordance with section 7 of the act, Federal agencies would have to consult with the Secretary of the Interior with respect to any action which may affect any of these critical habitats, if finalized. Consultation pursuant to section 7 would be carried out using the procedures contained in the "interagency cooperation regulations" which were published in the FEDERAL REGISTER on January 4, 1978 (FR 870-876) and will be codified under 50 CFR part 402.

**PUBLIC COMMENTS SOLICITED**

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of the endangered whooping crane. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) The location of and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided for by section 7 of the act;

(2) Additional information concerning the range, distribution, or habitat or food preferences of this species.

Pursuant to section 4(b) of the act, the Director will notify the Governors of Kansas, Montana, Nebraska, North Dakota, and South Dakota with respect to this proposal and request their comments and recommendations before making final determination.

Final promulgation of the regulations on the critical habitat will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this proposal.

A draft environmental impact assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours or obtained by mail (U.S. Fish and Wildlife Service—OES, Washington, D.C. 20240). A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969.

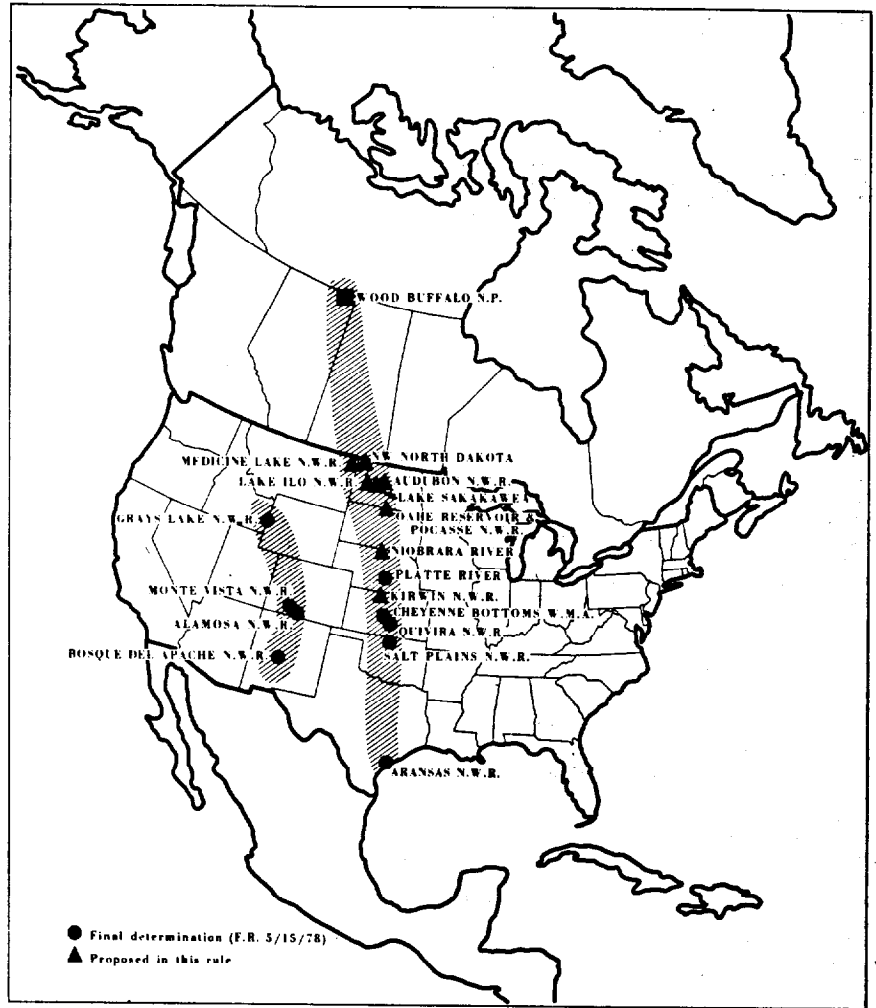
The primary author of this proposed rulemaking is Jay M. Sheppard, Office of Endangered Species, 202-343-7814.

**REGULATIONS PROMULGATION**

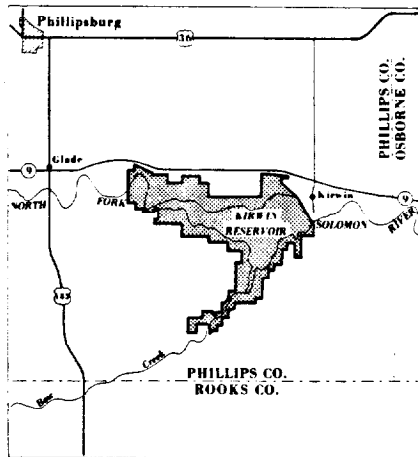
Accordingly, the Service proposes to amend § 17.95(b), part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, by adding the below critical habitat of the whooping

crane to the critical habitat published on May 15, 1978 (43 FR 20938):

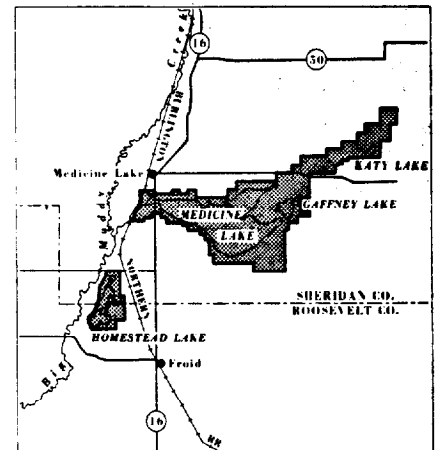
- (b) Birds. . . . .
- WHOOPING CRANE
- (*Grus Americana*)



Kansas. Phillips County. Kirwin National Wildlife Refuge.

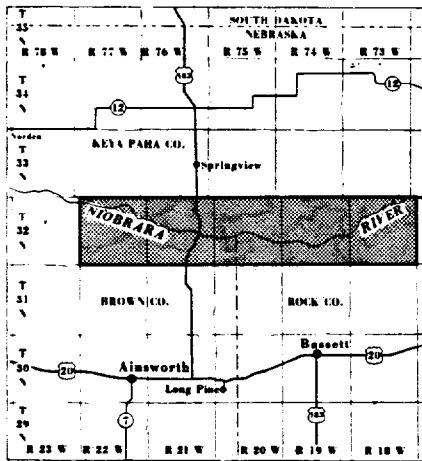


Montana. Roosevelt and Sheridan Counties. Medicine Lake National Wildlife Refuge.



PROPOSED RULES

Nebraska. Brown, Keya Paha, and Rock Counties. T. 32 N., R. 18 W.; T. 32 N., R. 19 W.; T. 32 N., R. 20 W.; T. 32 N., R. 21 W.; and T. 32 N., R. 22 W.

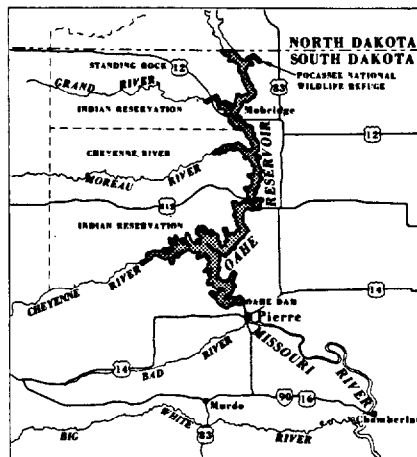
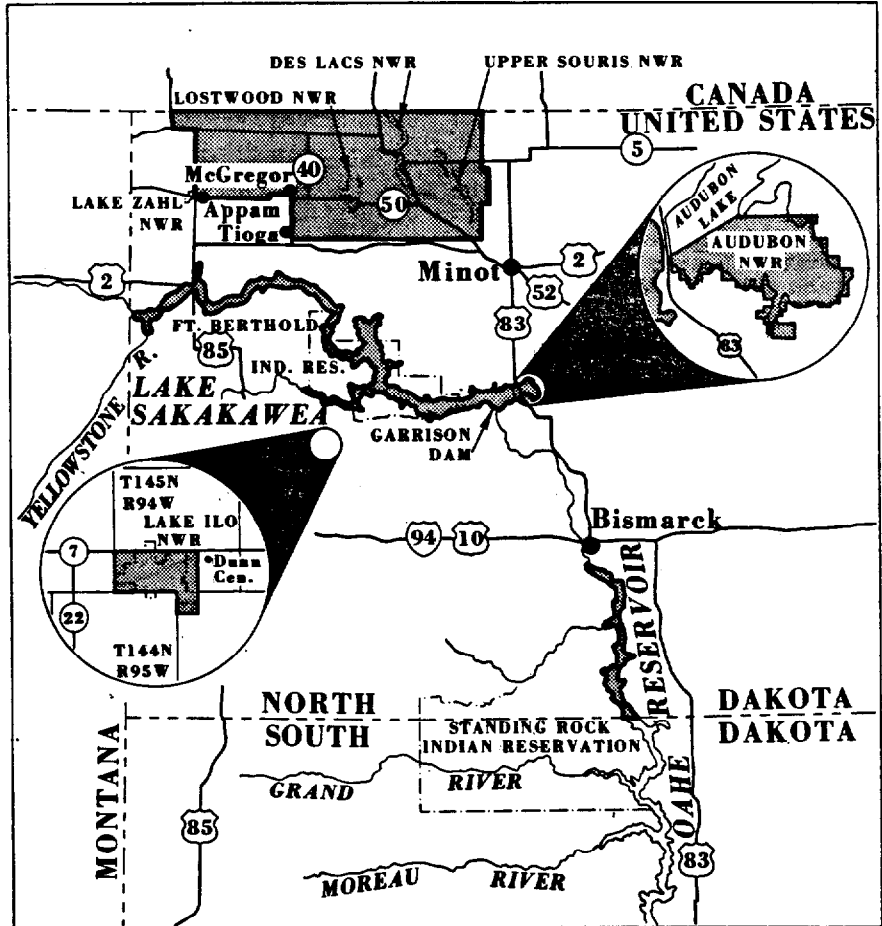


North Dakota. (1) Northwest North Dakota Zone. Burke, Divide, Mountrail, Renville, Ward, and Williams Counties. Starting on the international border at the northern terminus of U.S. 85 proceeding due east to the northeast corner of Renville County; thence southward along the Renville-Bottineau County line to the southwestern corner of Bottineau County; thence continued southward from the northeast corner of T. 158 N., R. 84 W. to the southeast corner of T. 157 N., R. 84 W.; thence westward along the 14th standard parallel to North Dakota Route 40 about 2 miles south of Tioga; thence north along Route 40 to its intersection with North Dakota Route 50 about 2 miles south of McGregor; thence generally westward along Route 50 to its intersection with U.S. 85 near Appam; and thence generally northward along U.S. 85 to the starting point at the international border.

(2) Lake Sakakawea Zone. Dunn, McKenzie, McLean, Mountrail, Ward, and Williams Counties. All areas that would be inundated or surrounded by the maximum pool level of Lake Sakakawea by Garrison Dam, including all lands and waters of Audubon National Wildlife Refuge and Garrison Dam, a manmade structure.

(3) Lake Ilo Zone. Dunn County. Secs. 27-34, T. 145 N., R. 94 W.; and sec. 6, T. 144 N., R. 94 W.

(4) Oahe Reservoir Zone. Burleigh, Emmons, Morton, and Sioux Counties. All areas in North Dakota that would be inundated or surrounded by the maximum pool level of Oahe Reservoir by Oahe Dam, South Dakota.



South Dakota. Campbell, Corson, Dewey, Haakon, Hughes, Potter, Stanley, Sully, Walworth, and Ziebach Counties. All areas in South Dakota that would be inundated or surrounded by the maximum pool level of Oahe Reservoir by Oahe Dam, including all adjacent lands and waters of Pocasse National Wildlife Refuge and Oahe Dam, a manmade structure.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: July 17, 1978.

KEITH M. SCHREINER,  
Acting Director,  
Fish and Wildlife Service.

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