



Critical Habitat - Questions & Answers February 2016

1. What action is NOAA Fisheries taking?

We are announcing final critical habitat designations under the U.S. Endangered Species Act (ESA) for lower Columbia River coho salmon and Puget Sound steelhead, both listed as threatened distinct population segments (DPSs) under the ESA. This is the final step in rulemaking that began with proposed critical habitat designations for these DPSs in January 2013.

2. What is critical habitat?

The ESA defines critical habitat as:

- (1) specific areas within the geographical area occupied by the species at the time of listing, if they contain physical or biological features essential to conservation, and those features may require special management considerations or protection; and
- (2) specific areas outside the geographical area occupied by the species if the agency determines that the area itself is essential for conservation.

3. How does critical habitat get designated?

The ESA requires that NOAA and the U.S. Fish and Wildlife Service designate critical habitat for species that have been listed as threatened or endangered. In so doing, the agencies must use the best scientific information available, in an open public process, within specific timeframes. Before designating critical habitat, careful consideration must be given of the economic impacts, impacts on national security, and other relevant impacts of specifying any particular area as critical habitat. The Secretary of Commerce may exclude an area from critical habitat if the benefits of exclusion outweigh the benefits of designation, unless excluding the area will result in the extinction of the species concerned.

4. What happens once critical habitat is designated and how does it change what federal agencies must do to satisfy the ESA?

The ESA protects threatened and endangered species in several ways. Under Section 7, all federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species, or destroy or adversely modify its designated critical habitat. These complementary requirements apply only to federal agency actions, and the latter only to habitat that has been designated. A critical habitat designation does not set up a preserve or refuge, and applies only when federal funding, permits, or projects are involved. Critical habitat requirements do not apply to citizens engaged in activities on private land that do not involve a federal agency.

Many actions that adversely modify a species' critical habitat will also jeopardize its continued existence. In practice, we will continue to be concerned about the same activities that harm salmon and their habitat, regardless of whether that habitat is designated. We expect that where critical habitat is

designated, it will more precisely focus our analysis on how the action will alter the habitat and how that will affect the ability of the habitat to support species' conservation.

5. How much habitat did you designate, how much did you exclude, and how is this different from what was proposed?

These final designations rely on the best available information, including information provided during the public comment period, to identify areas that meet the definition of critical habitat (see Question 2).

The specific areas designated for lower Columbia River coho include approximately 2,300 miles of freshwater and estuarine habitat in Oregon and Washington. As a result of the ESA balancing process, we are excluding from the designation approximately 27 stream miles because the economic benefits of exclusion outweigh the benefits of designation. We are also excluding approximately 1,018 stream miles covered by 4 habitat conservation plans because the benefits of exclusion outweigh the benefits of designation.

The specific areas designated for Puget Sound steelhead include approximately 2,031 miles of freshwater and estuarine habitat in Puget Sound, Washington. As a result of the ESA balancing process, we are excluding from the designation approximately 138 stream miles because the economic benefits of exclusion outweigh the benefits of designation. We are also excluding approximately 1,361 stream miles covered by four habitat conservation plans and approximately 70 stream miles on tribal lands because the benefits of exclusion outweigh the benefits of designation.

The total number of miles designated for these DPSs in the final rule differ slightly from those identified in the proposed rule. We made numerous minor edits to our maps and distribution data—both the addition and removal of stream reaches—to better reflect the areas occupied by each DPS. We also designated as critical habitat approximately 90 stream miles on the Kitsap Peninsula that were originally proposed for exclusion but, after considering public comments, we determined that the benefits of exclusion did not outweigh the benefits of designation.

6. What areas did you exclude and why?

The ESA gives the Secretary of Commerce discretion to exclude areas from designation if he determines that the benefits of exclusion outweigh the benefits of designation. In these final designations we've excluded areas in the following categories:

Tribal lands - Native American lands are excluded because of the unique trust relationship between tribes and the federal government, the federal emphasis on respect for tribal sovereignty and self-governance, and the importance of tribal participation in numerous activities aimed at conserving salmon. In the range of Puget Sound steelhead these exclusions total 70 stream miles.

Habitat conservation plans - Some lands covered by habitat conservation plans are excluded because we had evidence that exclusion would benefit our relationship with the landowner, the protections secured through these plans outweigh the protections that are likely through critical habitat designation, and exclusion of these lands may provide an incentive for other landowners to seek similar voluntary conservation plans. In the ranges of lower Columbia River coho and Puget Sound steelhead, these exclusions total 1,018 and 1,361 stream miles, respectively.

Economic Impacts - We excluded areas where the conservation benefit to the species is relatively low compared to the economic impacts. In seeking a cost-effective designation for lower Columbia River coho, we determined that excluding all habitat areas (~27 stream miles) in one watershed (Abernethy Creek) would result in economic benefits (approximately \$13,500) that outweigh the benefits of

designation. For Puget Sound steelhead, we determined that excluding all habitat areas (~138 stream miles) in three adjacent watersheds (Lake Washington, Lake Sammamish, and Sammamish River) would result in economic benefits (approximately \$134,000) that outweigh the benefits of designation.

In addition to these exclusions, we also identified approximately 28 stream miles that are occupied by Puget steelhead but deemed ineligible for designation because they are in areas controlled by the U.S. military and have qualifying integrated natural resource management plans.

7. Are any areas unoccupied at the time of listing designated?

The final designation includes areas in the upper Elwha River where the recent removal of two dams now provides access to areas that were unoccupied by Puget Sound steelhead at the time of listing but are essential for the conservation of the DPS. No unoccupied areas were designated for the lower Columbia River coho DPS.

8. What are the estimated economic impacts of the designation?

See Question 6.

9. How did you determine the areas where the economic benefits of exclusion outweigh the benefits of designation?

We employed a cost-effectiveness approach giving priority to excluding habitat areas with a relatively lower benefit of designation and a relatively higher economic impact. As described in our biological report supporting this decision (see Question 11), teams of federal biologists provided information about the benefit of designating any particular habitat area as critical habitat by describing the relative conservation value (high, medium, low) of watersheds. These were compared against economic impacts, described in the economics report (see Question 11), compiled for each watershed based on our Section 7 consultation history in the range of the two DPSs.

10. How can I determine which areas are designated?

The *Federal Register* notice contains information describing specific streams and estuarine areas (including latitude and longitude identifiers) and maps of the areas designated. We've also posted on the Internet a variety of related maps, documents, and data supporting the proposal – see Question 11 below.

11. How can I get information about this rule?

The final critical habitat designations will be published in a forthcoming Federal Register notice and made available on our website:

http://www.westcoast.fisheries.noaa.gov/habitat/critical_habitat/critical_habitat_on_the_wc.html

The Federal Register notice contains information describing specific streams reaches (including latitude and longitude identifiers) and maps of the areas designated. We've also posted on the Internet a variety of related maps, documents, and data supporting the final designations, including:

A biological report describing how we mapped fish distribution, determined which areas meet the definition of critical habitat, and rated the conservation value of different areas: *Designation of Critical Habitat for Lower Columbia River Coho Salmon and Puget Sound Steelhead: Final Biological Report. NMFS Northwest Region. Report dated December 2015. (Available from NMFS, 1201 NE Lloyd Blvd., Suite 500, Portland, OR 97232)*

An economics report describing how we estimated the economic impact of the

designations: *Designation of Critical Habitat for Lower Columbia River Coho Salmon and Puget Sound Steelhead: Final Economic Report. NMFS Northwest Region. Report dated December 2015. (Available from NMFS, 1201 NE Lloyd Blvd., Suite 500, Portland, OR 97232)*

A report describing how we considered the biological ratings and the economic impact to recommend the exclusion of particular areas based on economic and other impacts:
Designation of Critical Habitat for Lower Columbia River Coho Salmon and Puget Sound Steelhead: Final 4(b)(2) Report. NMFS West Coast Region Report. December 2015. (Available from NMFS, 1201 NE Lloyd Blvd., Suite 500, Portland)