

Questions & Answers on Proposed Critical Habitat for Yelloweye Rockfish, Canary Rockfish and Bocaccio of the Puget Sound/Georgia Basin

Q: What is critical habitat?

A: The Endangered Species Act (ESA) defines critical habitat as:

1. Specific areas within the geographical area occupied by the species at the time of listing that contain the physical or biological features essential to conservation, and that may require special management considerations or protection; and
2. Specific areas outside the geographical area occupied by the species that the Secretary of Commerce determines are essential for conservation of the species.

Q: How is critical habitat designated?

A: The ESA requires that NOAA Fisheries and the U.S. Fish and Wildlife Service designate critical habitat for ESA-listed species. In doing so, we must use the best scientific information available, engage in an open public process, and complete the designation within specific timeframes. Before designating critical habitat, we must consider the economic impacts, impacts to national security, and other relevant impacts that may ensue from specifying a particular area as critical habitat. We have the discretion to 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. This proposed rule solicits public comments on the areas that we propose to designate as critical habitat, and areas we propose to exclude from designation.

Q: Which species do these critical habitat proposals protect?

A: This proposed designation applies to three distinct population segments (DPS) of rockfish in the Puget Sound/Georgia Basin, listed under the ESA: (1) Yelloweye rockfish; (2) Canary rockfish; and (3) Bocaccio.

Q: What is the geographic extent of this proposed critical habitat designation?

A: The areas proposed for designation include:

1. 610.0 square miles of nearshore for canary rockfish and bocaccio, and
2. 574.75 square miles of deepwater habitat for yelloweye rockfish, canary rockfish and bocaccio. We propose to exclude a number of particular areas from designation because the benefits of exclusion outweigh the benefits of inclusion, exclusion will promote important interests of the United States, and exclusion will not result in the extinction of the species. We detailed the specific marine areas proposed as critical habitat in the *Federal Register Notice*.

Q: How can I determine which areas are designated?

A: The *Federal Register Notice* describes the areas proposed for designation and includes maps. Maps of the proposed designation can also be found on our web site: <http://www.nwr.noaa.gov/>

Q: Why is it necessary to designate critical habitat at this time?

A: The ESA requires us to designate critical habitat at the time of listing, or within one year if critical habitat is not determinable at that time. We listed each rockfish species in 2010. At the time of each listing, we concluded that critical habitat was not determinable. During the past several years we have compiled and reviewed the best available data to support these designations. We now propose critical

habitat designations for these three rockfish species, and invite public comment before making final designations.

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

A: The ESA protects listed 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'll continue to be concerned about the same activities that harm listed rockfish 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.

Q: What areas are proposed for exclusion and why?

A: The ESA gives us discretion to exclude areas from designation if we determine that the benefits of exclusion outweigh the benefits of designation. We've excluded areas that overlap with Native American tribal lands and certain marine areas controlled by the military. These areas are proposed for exclusion because of the unique trust relationship between tribes and the federal government and potential impacts to national security from designation.

Q: Are any unoccupied areas designated?

A: No.

Q: What are the estimated economic impacts of the designation?

A: Our estimates reflect the total cost associated with adding a critical habitat assessment to existing ESA Section 7 consultations. Once critical habitat is designated, federal agencies must ensure their actions are not likely to destroy or adversely modify critical habitat. Based on our prior consultation record, we estimated the annual net economic impact of Section 7 critical habitat requirements (that is, "adverse modification") to be approximately \$123,000. A draft economic report accompanying our decision gives details of the analysis (see below).

Q: How can I get information about this rule?

A: The proposed rule is published in the *Federal Register*. The analysis supporting the proposed rule is explained in detail in several accompanying documents. They include: A draft biological report describing how we determined which areas meet the definition of critical habitat. A draft economic report describing how we estimated the economic impact of this proposal on different areas. A draft ESA section 4(b)(2) report describing how we weighed the benefits of exclusion versus the benefits of designation, to recommend the exclusion of particular areas.

Q: How can I comment on this proposed rule?

A: We must receive comments on this proposed rule by 5 p.m. Pacific time on November 4, 2013. You may submit comments on the proposed rule by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal. Follow the instructions for submitting comments.
- Fax: 206-526-6426, Attn: Dan Tonnes.
- Mail: Rockfish Recovery Coordinator, Protected Resources Division, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115