



DEPARTMENT OF THE ARMY
ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT
600 ARMY PENTAGON
WASHINGTON DC 20310-0600



REPLY TO
ATTENTION OF

DAIM-ED-N (200-3)

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Policy and Guidance on Critical Habitat Designations

1. References:

a. Federal Register/Volume 66, Number 22, 1 Feb 01, subject: Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Mexican Spotted Owl.

b. AR 200-3, Natural Resources – Land, Forest, and Wildlife Management, 28 Feb 95, paragraph 11-8 (c).

c. Endangered Species Act, as amended.

2. Major Army Commands (MACOMs) are directed to ensure installations are prepared for upcoming US Fish and Wildlife Service (FWS) Critical Habitat (CH) actions. The FWS schedule of court ordered CH actions and settlement agreements ([enclosure 1](#)) is provided to alert installations to expected CH actions. During this period of increased CH designation activity, Army installations must respond to CH proposals that may affect Army missions. The following paragraphs discuss Army Federal agency requirements, procedures, and available assistance.

3. The Endangered Species Act provides protection for listed species and their habitats. Without active installation participation the designation of CH on training lands may result in restrictions on mission related activities and administrative requirements in addition to those provided by species listing only.

4. The FWS and the National Marine Fisheries Service (NMFS) ultimately determine CH; proposals for designations are published in the Federal Register. This provides the opportunity, usually 60 days, for all interested/affected parties to submit comments on the proposed actions. Providing comments on CH designation, before or after it is proposed, provides installations the opportunity to communicate to FWS/NMFS the potential economic and military mission impacts, and to demonstrate that the proposed designated lands may already have in place the required “special management or

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protection". The ability to demonstrate "special management or protection" is important because this may preclude designation of CH on Army lands.

5. CH, by definition, is the geographic area occupied by a listed species that contains biological and physical features that are essential to conservation of the species and which *may require special management considerations or protection*. Unoccupied habitat, i.e. habitat outside the current known range at the time of listing, may only be designated if it is essential to the conservation of the species. The FWS/NMFS may elect to exclude areas of CH designation if the benefits of exclusion outweigh the benefits of designation.

6. The FWS has released a draft policy ([enclosure 2](#)) for lands that meet the definition of "special management or protection". If the installation's Integrated Natural Resource Plan (INRMP) and/or Endangered Species Management Plan meet the standard of "special management or protection", the installation may avoid the designation of CH on site. In summary, this draft policy states that to meet this standard there must be a legally operative plan that addresses the maintenance and improvement of the species habitat. The plan must meet three additional criteria: (1) provides a conservation benefit to the species; (2) provides assurances that the management plan will be implemented; and (3) provides assurances that the conservation effort will be effective. More specific details are outlined in enclosure 2, and reference 1a demonstrates how this was applied successfully at Fort Carson, CO (see specifically Summary of Comments and Recommendations, Paragraph 18 (page 8536)).

7. Army policy (reference 1b) requires installations to coordinate formal comments on the proposed designation of CH with their MACOM and Headquarters, Department of the Army (HQDA) (DAIM-ED-N). It also directs installations to work closely with the FWS and NMFS during the designation process to ensure that FWS/NMFS understand mission requirements and help minimize mission impacts. In an effort to support installations and MACOMs in their awareness of and responses to proposed CH designations and listings, the US Army Environmental Center (USAEC) distributes a semimonthly review of all Federal Register Announcements pertaining to proposed CH designations and listings. In addition, HQDA and USAEC have a repository of responses to the FWS from installations, MACOMs, and HQDA from past reviews concerning the impacts to military mission and other conservation issues.

8. I want to impress upon you and upon your installation commanders the importance of giving installation staff the opportunity and requirement to participate with the regulators on proposed CH designations. The ability to maintain flexibility in use of our

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land is paramount to the Army's mission to organize, train, and support a land combat force. Please contact my staff with your suggestions and comments on ways we can more fully support our ability to include military concerns, knowledge, and initiatives in the regulator's actions.

FOR THE ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT:

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STACEY K. HIRATA
Colonel, GS
Director, Environmental Programs

USFWS Court Ordered Actions and Settlement Agreements

Species	Action	Date of Action	Potential Impacts
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Region 1

Kneeland Prairie Pennycress	Proposed Critical Habitat	01-Sep-01	None Anticipated
Quino Checkerspot Butterfly	Proposed CH	01-Feb-01	None Anticipated
Otay Tarplant	Proposed CH	30-May-01	None Anticipated
58 Hawaii Island Plants	Proposed CH	01-May-01	USARPAC, ARNG
Oahu Elepaio	Proposed CH	30-May-01	Kahuku TA, Makua, Schofield Barracks
Blackburn Sphinx Moth	Proposed CH	01-Jun-01	USARPAC, ARNG
Newcomb's Snail	Proposed CH	01-Jun-01	USARPAC, ARNG
Kauai Cave Wolf Spider	Proposed CH	01-Jun-01	USARPAC, ARNG
Kauai Cave Amphipod	Proposed CH	01-Jun-01	USARPAC, ARNG
Sacramento Splittail	Reanalysis and Notice	01-Mar-01	CA Installations
Yellow Larkspur	Proposed CH	01-Jul-01	CA Installations
Baker's Larkspur	Proposed CH	01-Jul-01	CA Installations
Yellow-billed Cuckoo	12 month/proposal to list	19-Jul-01	All Installations (Except USARPAC and extreme west coast)
Keck's Checkermallow	Proposed CH	01-Sep-01	CA Installations
Kootenai River White Sturgeon	Proposed CH	01-Dec-00	Installations in ID and MT
Western Sage Grouse (WA Pop.)	12-month Finding	01-May-01	All WA Installations
Monterey Spineflower	Proposed CH	15-Jan-01	TRADOC POM Annex
Robust Spineflower	Proposed CH	15-Jan-01	CA Installations
La Graciosa Thistle	Proposed CH	01-Aug-01	CA Installations
Gaviota tarplant	Proposed CH	01-Aug-01	CA Installations
Lompoc yerba santa	Proposed CH	01-Aug-01	CA Installations
Purple Amole	Proposed CH	01-Sep-01	USARC Ft. Hunter Liggett
Santa Cruz Tarplant	Proposed CH	30-Sep-01	Monterey County north to Marin County, CA

Region 2

Yellow-billed Cuckoo	12 month/proposal to list	19-Jul-01	All installations (Except USARPAC and extreme west coast)
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USFWS Court Ordered Actions and Settlement Agreements

Species	Action	Date of Action	Potential Impacts
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Region 3

Yellow-billed Cuckoo	12 month/proposal to list	19-Jul-01	All Installations (Except USARPAC and extreme west coast)
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Region 4

Appalachian elktoe	Prudency Determination/Proposed CH	01-Feb-01	None Anticipated
Rock Gnome Lichen	Prudency Determination/Proposed CH	01-Apr-01	Installations in NC, TN
Carolina Heelsplitter	Prudency Determination/Proposed CH	01-Jul-01	Installations in NC, SC
Yellow-billed Cuckoo	12 month/proposal to list	19-Jul-01	All Installations (Except USARPAC and extreme west coast)

Region 5

Atlantic Salmon	Proposed CH		None Anticipated
Yellow-billed Cuckoo	12 month/proposal to list	19-Jul-01	All Installations (Except USARPAC and extreme west coast)

Region 6

Yellowstone Cutthroat Trout	90-day finding	16-Feb-01	None Anticipated
Sicklefin Chub	12-month Finding	12-Apr-01	None Anticipated
Sturgeon Chub	12-month Finding	12-Apr-01	None Anticipated
Piping Glover (GP)	Proposed CH	31-May-01	Installations in the Great Plains
Virgin River Chub (Muddy River pop.)	Proposed CH	01-Nov-01	Installations in NV
Yellow-billed Cuckoo	12 month/proposal to list	19-Jul-01	All Installations (Except USARPAC and extreme west coast)

Region 7

NONE

Special Management or Protection

Special management or protection is a term that originates in the definition of *occupied* critical habitat in section 3 of the Act. For occupied habitat one first determines whether the area contains the physical and biological features essential to the conservation of the species and their area has or needs additional special management or protection. Additional special management is not required if adequate management or protection is already in place. If *unoccupied* areas are determined to be essential to the conservation of the species, we would include such unoccupied areas only where special management or protection is required.

The question then becomes, what is adequate special management or protection?

Adequate special management or protection is provided by a legally operative plan that addresses the maintenance and improvement of the primary constituent elements important to the species and manages for the long term conservation of the species. We use the following three criteria to determine if a plan provides adequate special management or protection:

- 1. The plan provides a conservation benefit to the species.** The cumulative benefits of the management activities identified in a management plan, for the length of the plan, must maintain or provide for an increase in a species' population, or the enhancement or restoration of its habitat within the area covered by the plan [i.e., those areas deemed essential to the conservation of the species]. A conservation benefit may result from reducing fragmentation of habitat, maintaining or increasing populations, insuring against catastrophic events, enhancing and restoring habitats, buffering protected areas, or testing and implementing new conservation strategies.
- 2. The plan provides assurances that the management plan will be implemented.** Persons charged with plan implementation are capable of accomplishing the objectives of the management plan and have adequate funding for the management plan. They have the authority to implement the plan and have obtained all the necessary authorizations or approvals. An implementation schedule (including completion dates) for the conservation effort is provided in the plan.
- 3. The plan provides assurances that the conservation effort will be effective.** The following criteria will be considered when determining the effectiveness of the conservation effort. The plan includes (1) biological goals (broad guiding principles for the program) and objectives (measurable targets for achieving the goals); (2) quantifiable, scientifically valid parameters that will demonstrate achievement of objectives, and standards for these parameters by which progress will be measured, are identified; (3) provisions for monitoring and, where appropriate, adaptive management; (4) provisions for reporting progress on implementation (based on compliance with the implementation schedule) and effectiveness (based on evaluation of quantifiable parameters) of the conservation effort are provided; and (5) a duration sufficient to implement the plan and achieve the benefits of its goals and objectives.