Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Coqui Llanero

AGENCY: Fish and Wildlife Service.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the public comment period on October 12, 2011, proposed designation of critical habitat for the coqui llanero (Eleutherodactylus juanartveroi) (a tree frog) under the Endangered Species Act of 1973, as amended (Act). We are reopening the comment period to allow all interested parties an opportunity to comment on the proposed rule, our evaluation of the potential economic impacts of the proposed designation, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: The comment period for the proposed rule that published on October 12, 2011, at 76 FR 63420, is reopened. We will consider comments received on or before July 19, 2012. Comments must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may be considered in preparation of the final rule.

ADDRESSES: You may submit written comments by one of the following methods:


FOR FURTHER INFORMATION CONTACT: Marelisa Rivera, Deputy Field Supervisor, Caribbean Ecological Services Field Office, P.O. Box 491, Road 301 Km 5.1, Boquerón, Puerto Rico 00622, by telephone 787–851–7297, extension 206, or by facsimile 787–851–7440. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for the coqui llanero (an endemic Puerto Rican tree frog) that was published in the Federal Register on October 12, 2011 (76 FR 63420), our evaluation of potential economic impacts of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(2) Any information on the biological or ecological requirements of the species and ongoing conservation measures for the species and its habitat.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and regulations that may be addressing those threats.

(4) Current or planned activities in the areas occupied by the species and possible impacts of these activities on this species.

(5) The reasons why areas should or should not be designated as critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 et seq.), including the possible risks or benefits of designating critical habitat, including risks associated with publication of information from public review.
However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and our evaluation of probable economic impacts of the proposed designation, will be available for public inspection on http://www.regulations.gov at Docket No. FWS–R4–ES–2009–0022, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Caribbean Ecological Services Field Office (see FOR FURTHER INFORMATION CONTACT).

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for the coquı´ llanero in this document. For more information on previous Federal actions concerning the coquı´ llanero, refer to the joint 12-month petition finding, proposed listing of the species as endangered, and the proposed designation of critical habitat published in the Federal Register on October 12, 2011 (76 FR 63420), which is available online at http://www.regulations.gov at Docket Number FWS–R4–ES–2009–0022) or from the Caribbean Ecological Services Field Office (see FOR FURTHER INFORMATION CONTACT).

Previous Federal Actions

On October 12, 2011, we published a proposed rule to list the coquı´ llanero as endangered and to designate critical habitat (76 FR 63420). We proposed to designate approximately 615 acres (ac) (249 hectares (ha)) in one unit located in Sabana Seca Ward, Toa Baja, Puerto Rico, as critical habitat. That proposal had a 60-day comment period, ending December 12, 2011. We will submit for publication in the Federal Register a final critical habitat designation for the coquı´ llanero on or before October 12, 2012. We received no requests for a public hearing, and, therefore, we will not hold any public hearings as part of this rulemaking.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species. When considering the benefits of exclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction of critical habitat as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of the coquı´ llanero, the benefits of critical habitat include public awareness of the presence of the coquı´ llanero and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the coquı´ llanero due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies. We have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the potential economic impact of designation. Accordingly, we have evaluated the potential economic impact of the proposed critical habitat designation. A discussion of the potential economic impacts follows.

Evaluation of Potential Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we evaluate the probable economic impacts that may result from a designation of critical habitat and to take into consideration these impacts when evaluating whether to exclude any particular area from a final critical habitat designation. To assess the potential economic impacts of a designation, we must first evaluate the impacts of restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the proposed critical habitat area. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat. The economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both “with critical habitat” and “without critical habitat.” The “without critical habitat” scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts to conserve the species and its habitat incurred regardless of whether critical habitat is designated. The “with critical habitat” scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs; these are the costs we may consider in the final designation of critical habitat when evaluating the benefits of excluding particular areas under section 4(b)(2) of the Act.

In our evaluation of the potential economic impacts that may result from the proposed designation of critical habitat for the coquı´ llanero, first we identified, in an Incremental Effects Memorandum dated October 12, 2011, potential incremental costs associated with the following categories of activity: (1) Species and habitat management; (2) residential, commercial, or industrial
development; (3) agriculture; (4) construction of new, or maintenance of, roads and highways; (5) maintenance (including vegetation removal or alteration) of drainage ditches; (6) construction or maintenance of recreational facilities; (7) construction and maintenance of telecommunication towers; (8) renewable wind power energy; (9) gas pipeline; (10) closure of landfill; and (11) transfer of Federal lands (Navy).

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lands (Navy).

In this memorandum, the Service attempted to clarify the difference between the jeopardy and adverse
business entities. Therefore, an initial regulatory flexibility analysis is not required.

Authors
The primary authors of this notice are the staff members of the Caribbean Ecological Services Field Office, Southeast Region, U.S. Fish and Wildlife Service.

Authority
The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: June 6, 2012.
Eileen Sobeck, Acting Assistant Secretary for Fish and Wildlife and Parks.

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17
RIN 1018–AX59

Endangered and Threatened Wildlife and Plants; Removing the Magazine Mountain Shagreen From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of draft post-delisting monitoring plan.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), propose to remove the terrestrial snail Magazine Mountain shagreen (Inflectarius magazinensis; formerly Mesodon magazinensis) from the Federal List of Endangered and Threatened Wildlife. This proposed action is based on a thorough review of the best available scientific and commercial data, which indicate that this species has recovered and no longer meets the definition of threatened under the Endangered Species Act of 1973, as amended (Act). Our review of the status of this species shows that all of the threats to the species have been eliminated or reduced, adequate regulatory mechanisms exist, and populations are stable so that the species is not currently, and is not likely to again become, a threatened species within the foreseeable future in all or a significant portion of its range. We seek information, data, and comments from the public regarding this proposal to delist Magazine Mountain shagreen and on the draft post-delisting monitoring plan.

DATES: We will accept comments received or postmarked on or before August 20, 2012. Please note that if you are using the Federal eRulemaking Portal (see ADDRESSES), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Time on this date. We must receive requests for public hearings, in writing, at the address shown in the FOR FURTHER INFORMATION CONTACT section by August 3, 2012.

ADDRESSES: You may submit comments by one of the following methods:

Electronically: Go to the Federal eRulemaking Portal: http://www.regulations.gov. Search for Docket No. FWS–R4–ES–2012–0002, which is the docket number for this rulemaking. After you have located the correct docket, you may submit a comment by clicking on “Submit a Comment.”

By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2012–0002; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

Copies of Documents: The proposed rule and draft post-delisting monitoring plan are available on http://www.regulations.gov. In addition, the supporting file for this proposed rule will be available for public inspection, by appointment, during normal business hours, at the Arkansas Ecological Services Field Office, 110 South Amity Road, Suite 300, Conway, AR 72032; telephone 501–513–4470. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Jim Boggs, Field Supervisor, U.S. Fish and Wildlife Service, Arkansas Ecological Services Field Office, 110 South Amity Road, Suite 300, Conway, AR 72032; telephone 501–513–4470. Individuals who are hearing-impaired or speech-impaired may call the Federal Information Relay Service (FIRS) at 800–877–8339 for TTY assistance 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Public Comments
We intend that any final action resulting from this proposal will be based on the best available scientific and commercial data and will be as accurate and as effective as possible. Therefore, we request data, comments, and new information from other concerned governmental agencies, the scientific community, Tribes, industry, or other interested parties concerning this proposed rule. The comments that will be most useful and likely to influence our decisions are those that are supported by data or peer-reviewed studies and those that include citations to, and analyses of, applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you reference or provide. In particular we seek comments concerning the following:

(1) Biological data regarding Magazine Mountain shagreen.
(2) Relevant data concerning any threats (or lack thereof) to Magazine Mountain shagreen, including but not limited to:
   a. Whether or not climate change is a threat to the species;
   b. What regional climate change models are available, and whether they are reliable and credible to use as step-down models for assessing the effect of climate change on the species and its habitat; and
   c. The extent of Federal and State protection and management that would be provided to Magazine Mountain shagreen as a delisted species.
(3) Additional information concerning the range, distribution, population size, and trends of Magazine Mountain shagreen, including the locations of any additional populations of this species.
(4) Current or planned activities within the geographic range of Magazine Mountain shagreen that may affect or benefit the species.
(5) The draft post-delisting monitoring plan.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act (16 U.S.C. 1531 et seq.) directs that a determination as to whether any species is an endangered or threatened species must be made “solely on the basis of the best scientific and commercial data available.”

Prior to issuing a final rule on this proposed action, we will take into consideration all comments and any additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments and recommendations, including names and addresses, will become part of the administrative record.