DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

[50 CFR 17]

Endangered and Threatened Wildlife and Plants, Reproposal of Critical Habitat for the Virginia Big-eared Bat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposition of Critical Habitat

for the Virginia Big-eared Bat.

SUMMARY: The Service reproposes

the Critical Habitat for the Virginia big-eared bat (Plecotus townsendii virginianus). Endangered status and

Critical Habitat originally were

proposed for this bat on December 2,

1977 (42 FR 61290-61292). The Critical

Habitat portion of this proposal was

withdrawn by the Service on March 6,

1979, because of the procedural and

substantive changes made by the

Endangered Species Act Amendments of

1978. This proposed rule conforms to

those requirements.

DATE: Comments on this proposed rule

must be submitted by Nov. 1, 1979. A

public meeting will be held on the date

set out in the table below.

ADDRESSES: Interested persons or

organizations are requested to submit

comments to Director (OES), U.S. Fish

and Wildlife Service, Department of the


Comments and materials relating to this

rulemaking are available for public

inspection during normal business hours

at the Service’s Office of Endangered

Species, Suite 500, 1000 North Glebe

Road, Arlington, Virginia 22201. A public

meeting will be held at the location set

out in the table below.

FOR FURTHER INFORMATION CONTACT:
Mr. John L. Spinks, Jr., Chief, Office of

Endangered Species, U.S. Fish and

Wildlife Service, Washington, D.C.

20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Virginia big-eared bat was

proposed as Endangered on December 2,

1977. That proposal included Critical

Habitat for this species. Before final

action could be taken on the proposal,

however, Congress passed the

Endangered Species Act Amendments of

1978, which substantially modified the

procedures the Service must follow

when designating Critical Habitat. The

present rulemaking will bring the

Critical Habitat proposal into

conformity with the Amendments.

Summary of Factors Affecting the Species

The Virginia big-eared bat long has

been restricted to a relatively small area, and is dependent on a few specific kinds of caves for hibernation and

reproductive activity. It is highly

intolerant of human presence, and will

readily abandon its roosts when

disturbed. Even well-meaning biologists

and spelunkers, observing the bats for

scientific or educational purposes, have
cause disturbances and subsequent

population reductions.

This bat still is found in three separate

populations, centered in eastern

Kentucky, southwestern Virginia, and

eastern West Virginia, but many caves

within this region have been abandoned.

In the last 15 years, at least five

wintering colonies have disappeared in

West Virginia. Only three nursery

colony caves are known to remain in

this State, and numbers therein have
diminished considerably because of

repeated disturbance by spelunkers and

vandals. There are still about 2,500 to

3,000 bats in West Virginia, but their

dependence on the few remaining

nursery caves makes the entire

population subject to rapid

extermination under the wrong

conditions. A serious decline also has

occurred in the single known nursery

colony in Kentucky, which now contains

fewer than 500 bats. In the Virginia

population not more than a few hundred

individuals survive.

Critical Habitat

The Act defines “critical habitat” as

(i) the specific areas within the

geographical area occupied by the

species, at the time it is listed in

accordance with the provisions of

section 4 of this Act, on which are found

those physical or biological features (i)

essential to the conservation of the

species and (ii) which may require

special management considerations or

protection; and (ii) specific areas outside

the geographic area occupied by the

species at the time it is listed in

accordance with the provisions of

section 4 of this Act, upon a

determination by the Secretary that such

areas are essential for the conservation

of the species.

The Service believes that certain

caves within the geographical area

occupied by the species under

consideration should be designated as

Critical Habitat. Because of precise

conditions of physical structure,
temperature, and humidity, these

caves are suitable for use by the species as

sites for hibernation and reproduction.

The species has a limited range and is

highly susceptible to changes in its

habitat. Even minor disturbance or

physical changes in the caves occupied

may result in extinction. Therefore,

these caves are essential for its

conservation. The physical and

biological features of its habitat are such

as to require special management

considerations and protection.

Section 4(b)(4) of the Act requires the

Service to consider economic and other

impacts of specifying a particular area

as Critical Habitat. The Service has

prepared a draft impact analysis and

believes at this time that economic and

other impacts of this action are

insignificant in the foreseeable future.

The Service is notifying agencies that

may have jurisdiction over the areas

under consideration of this proposed

action. These agencies and other

interested persons or organizations are

requested to submit information on

economic or other impacts of this

proposed action (see below).

The Service will prepare a final

impact analysis prior to the time of final

rulemaking, and will use this document

as the basis for its decision as to

whether or not to exclude any area from

Critical Habitat for the species.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act provides:

The Secretary shall review other

programs administered by him and

utilize such programs in furtherance of

the purposes of this Act. All other

Federal 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. Each Federal

agency shall, in consultation with and

with the assistance of the Secretary,

insure that any action authorized,

funded or carried out by such agency

(furtherin after in this section referred to as

“agency action”) does not jeopardize the

continued existence of any endangered

species or threatened species or result in

the destruction or adverse modification

of habitat of such species which is

determined by the Secretary, after

consultation as appropriate with the

affected States, to be critical, unless

such agency has been granted an

exemption for such action by the

Committee pursuant to subsection (h) of

section 7 of the endangered Species Act

Amendments of 1978.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this

proposal would require Federal agencies
not only to insure that activities they authorize, fund, or carry out, do not jeopardize the continued existence of the species. but also to insure that their actions do not result in the destruction or adverse modification of this Critical Habitat which has been determined by the Secretary to be critical.

Section 4(f)(c) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below. for the Virginia big-eared bat.

1. Any action which would substantially alter the physical structure, temperature, humidity, or air flow of the designated caves could adversely modify Critical Habitat, since the Virginia big-eared bat depends on the maintenance of precise conditions in these caves which it must use for hibernating sites in the winter and for nurseries in the summer.

2. Any action which would result in disturbance of the bats in their hibernating or nursery caves would adversely affect Critical Habitat, since the species is highly intolerant of human disturbance. Such activity might include blasting or construction in or near the designated caves, or increasing human access to the caves.

The Service announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information on the meeting is as follows:

Time—Wednesday, September 26, 1979, starting at 7:00 P.M.

Place—Elkins Operations Center, West Virginia Department of Natural Resources, Ward Road, Elkins, West Virginia (located south of Elkins off of Route 219).

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the Virginia big-eared bat. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are solicited. The Service particularly requests comments on the following:

(1) Biological and other relevant data concerning any threat (or lack thereof) to this species;

(2) Additional information concerning the range and distribution of the species; (3) Current or planned activities in the subject areas;

(4) The probable impacts of such activities if the areas are designated as Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment will be the basis for a decision as to whether this determination is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this reproposal is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Note—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed that § 17.95(a) be amended by adding Critical Habitat of the Virginia big-eared bat after that of the Indiana bat, as follows:

§ 17.95 Mammals.

+ Virginia Big-eared Bat

(Plecotus townsendii virginianus)

West Virginia. Cave Mountain Cave, Hellhole Cave, Hoffman School Cave, and Sinnit Cave, each in Pendleton County; Cave Hollow Cave, Tucker County.


Robert S. Cook,
Acting Director, Fish and Wildlife Service.