



## THE WILDLIFE SOCIETY

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Public Comments Processing

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Division of Policy and Directives Management

U.S. Fish and Wildlife Service

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The membership of The Wildlife Society (TWS) appreciates the opportunity to provide comments on the *Draft Policy on Interpretation of the Phrase “Significant Portion of Its Range” in the Endangered Species Act’s Definitions of “Endangered Species” and “Threatened Species.”*

TWS was founded in 1937 and is a non-profit scientific and educational association of over 11,000 professional wildlife biologists and managers, dedicated to excellence in wildlife stewardship through science and education. Our mission is to represent and serve the professional community of scientists, managers, educators, technicians, planners, and others who work actively to study, manage, and conserve wildlife and its habitats worldwide.

TWS appreciates the effort of the U.S. Fish and Wildlife Service and National Marine Fisheries Service (the Services) to develop the *Draft Policy on Interpretation of the Phrase “Significant Portion of Its Range” in the Endangered Species Act’s Definitions of “Endangered Species” and “Threatened Species”* in an attempt to provide an important standardization in the form of a consistent, formal agency position on the interpretation of the phrase “significant portion of its range” in the Endangered Species Act’s (ESA) definitions of “endangered species” and “threatened species” (the phrase).

Overall, the draft reflects a reasonable interpretation of the phrase as an independent basis for listing the species in its entire range, as opposed to the M-opinion which protected species only in the “significant portion of its range.” The draft interpretation promotes analysis and recovery on the appropriate biological unit. If ESA protection is limited to a subunit of a species range, that determination should be made based on the definition of species (species, subspecies, or distinct population segment), not on the phrase. However, we do have several suggestions on how to strengthen the draft policy. As requested by the notice in the Federal Register, TWS offers input on the following points:

### ***The definition of “significant”***

We agree that the interpretation of “significant” should be based on the biological/conservation importance. However, we are concerned about the emphasis placed on the term “viability” in their definition of “significant.” This term is not defined in the draft policy. Furthermore, the definition of significant should not be limited to questions of species viability; broader issues of ecological important and function are also relevant here.

In addition, we worry if the correct balance has been struck between too low a threshold for significance and too high a threshold. A threshold that is too high may ultimately be much more costly to society and the government because it is easier and less costly to conserve a species before it reaches the point of being in danger of extinction.

***Would it be appropriate to use another measure, such as percentage of range or population, as a rebuttable presumption as to whether a portion meets the definition of “significant,” or whether a portion does not meet the definition of “significant”? Doing so could potentially streamline analyses and allow us to use our resources more effectively, as well as provide some general guidance to the public on how the standard for “significant” would be applied. Would development of such a measure provide a useful tool? What measure would be an appropriate for a rebuttable presumption, and how would it be rebutted?***

While some may argue the size measure (% range or population) as a rebuttable presumption as to whether a portion meets the definition of “significant” is more transparent and streamlined, TWS disagrees. It is unlikely that this analysis would be streamlined because the agency would face perpetual challenges to this arbitrary measure. No simple measure will simplify analyses when it is applied to complex systems such as population dynamics of species in stochastic ecological systems. The experts in the agencies are fully capable of applying the complicated analyses warranted on a case-by-case basis using principles of conservation biology.

***Range and historical range: What role should lost historical range play in determining whether a species is endangered or threatened?***

TWS is concerned that the Services’ interpretation of “range” is arbitrarily narrow. Strict adherence to “current range” at the time of listing may exclude important consideration of “significant portion of the range.” Such an interpretation ignores the dynamic nature of the distribution of any given species. Instead, the Services should institute a definition of range that provides the flexibility to fully consider historical range in evaluating the biological status of a species.

***Reconciling “significant portion of its range” with “distinct population segment” authority: What is the proper relationship between “significant portion of its range” and “distinct population segment”?***

The Services have proposed a draft policy that attempts to minimize any potential overlap between the “significant portion of its range” and “distinct population segment (DPS)” policies by setting a high threshold for “significant.” Under the Services reasoning, a DPS unit is rarely

so important that, without it, the taxonomic species is at risk of extinction. Therefore, it would be virtually impossible for DPS to qualify as a significant portion of its range (SPR), meaning the possibility of an SPR within a DPS disappears. We argue that changes to the DPS policy may be needed to incorporate the best available science and ensure that the DPS policy and SPR definition work well together. Therefore, TWS recommends that the Services revisit their “distinct population segment” policy.

We appreciate the opportunity to offer our input on this draft policy. Thank you for considering the views of wildlife professionals.

Sincerely,

A handwritten signature in cursive script that reads "Paul R. Krausman". The signature is written in black ink and is positioned below the word "Sincerely,".

Paul R. Krausman, CWB  
President