

position in Unit 1; additional specifics on fish location in Unit 2; and exclusion of areas in Units 2, 8 and 9 under section 4(b)(2) of the Act.

For the proposed rule, river kilometers (and river miles) were measured with USACE mileage tables (USACE, 1985a and b), when available for a particular river reach. When not reported in the USACE mileage tables, several Geographic Information System (GIS) data layers were used to map all units and to calculate mileages, including data from NOAA, Environmental Systems Research Institute, Inc., and USGS. For the final rule, we still relied on the USACE mileage tables (USACE, 1985a and b) to calculate mileages when available for a particular river reach, but the remaining reaches were measured and mapped using the National Hydrography Dataset from the USGS at a scale of 1:100,000 (2001–2002 data set). This data layer, not available to us during the proposed rule, is available for the entire range of the mapped Gulf sturgeon critical habitat and has a higher resolution than the GIS data layers used for the proposed rule maps. Greater resolution results in the ability of the mapper to see and measure more of the rivers natural bends, thereby resulting in higher and more accurate river lengths. This change from using different data layers resulted in an additional river mileage of 259 rkm (161 rmi), which is a more accurate reflection, in reported total river kilometers and miles for all States, with no inclusion of additional areas.

In the proposed rule, we inadvertently provided different amendments to be included in 50 CFR part 17 (FWS) and part 226 (NMFS). For the final rule we are making identical amendments to both Parts. The amendment includes: (1) Maps and textual unit descriptions of all 14 critical habitat units, (2) the primary constituent elements essential for the conservation of Gulf sturgeon, and (3) a description of regulatory jurisdiction.

Below are descriptions of unit-specific changes. The changes stated below do not include those attributed to our more fine-scale mapping from the proposed rule.

#### Unit 1

On the Bogue Chitto River, Pike County, Mississippi, we reduced critical habitat in this river reach by approximately 3.2 km (2 mi) due to an error in what we believed to be the location of Quinn Bridge. We have documentation of a Gulf sturgeon sighting 1.6 km (1 mi) north of Quinn Bridge. In the proposed rule, we were given information that stated that Quinn

Bridge was located on Mississippi (MS) Highway 570. Since the sighting was 1.6 km (1 mi) upstream of Quinn Bridge (MS Highway 570), in the proposed rule we ended the designation upstream of Quinn Bridge at Lazy Creek to encompass the fish location and to boundary at an area easily identifiable. We now know that Quinn Bridge is located along MS Highway 44 (Estes *et al.* 1991), so in order to include the fish location and to boundary the designation at an area easily identifiable, we have included up to MS Highway 570 in the unit, which is the first crossing north of MS Highway 44. See “Map 1.1” to clarify locations of MS Highway 570 and MS Highway 44.

#### Unit 2

On the Bouie River, Forrest County, Mississippi, we received more specific information during the comment period on the location of a Gulf sturgeon captured above the gravel pits above Glendale Road in 1977. This fish was located approximately 0.80 rkm (0.50 rmi) above Glendale Road, not further upstream as originally believed. For ease of identification, we have included up to the southern-most road crossing of Interstate 59 in the unit. We have, therefore, reduced this river reach by 14.5 rkm (9.0 rmi).

In the proposed rule, we inadvertently provided different amendments to be included in 50 CFR part 17 (FWS) and part 226 (NMFS). For the final rule we are making identical amendments to both Parts. The amendment includes: (1) Maps and textual unit descriptions of all 14 critical habitat units, (2) the primary constituent elements essential for the conservation of Gulf sturgeon, and (3) a description of regulatory jurisdiction.

The Services are also excluding major shipping channels in this unit, as identified on standard navigation charts and marked by buoys, under Section 4(b)(2).

#### Unit 8

The Services are excluding major shipping channels, as identified on standard navigation charts and marked by buoys, under Section 4(b)(2).

#### Unit 9

The Services are excluding major shipping channels, as identified on standard navigation charts and marked by buoys, under Section 4(b)(2).

#### Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as (I) the specific areas within the geographic 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 (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic 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. “Conservation” is defined in section 3(3) of the Act as the use of all methods and procedures that are necessary to bring any endangered or threatened species to the point at which listing under the Act is no longer necessary.

In order for habitat to be included in a critical habitat designation, the habitat features must be “essential to the conservation of the species.”

When we designate critical habitat, we may not have the information necessary to identify all areas which are essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Within the geographic area of the species, we have designated only currently known essential areas. We will not speculate about what areas might be found to be essential if better information becomes available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area will not be included in the critical habitat designation. Our regulations state that “the Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species” (50 CFR 424.12(e)). Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species require designation of critical habitat outside of occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.