

resulting from consideration of comments received and refinements in our methodology for identifying and mapping areas that meet the Act's definition of critical habitat. For instance, for Unit 16 our proposal included 61 ha (152 ac), whereas our final designation for that unit is 16 ha (40 acres).

(33) *Comment:* The draft economic analysis states that all of the critical habitat is over the Edwards Aquifer and then states which units are over the recharge zone. It isn't clear that only the units over the recharge zone get the protection measures that are listed. If the analysis assumed that all of the units get the same level of Edwards Aquifer protection, reevaluation of the numbers may be warranted.

Our Response: The draft economic analysis credited the protections only to those units in the recharge zone. We hope this point is adequately clarified in the final economic analysis of the proposed rule.

(34) *Comment:* For Unit 9, the draft economic analysis estimates only one technical assistance effort is anticipated and that no project modifications are anticipated. One request for assistance has already occurred, and probably one or two more will be required. In addition, a considerable amount of modification to University of Texas—San Antonio's plans in Unit 9 will have to occur to be in compliance with the proposed designation of critical habitat.

Our Response: The Service agrees that the effort was underestimated and corrections in the final economic analysis of the proposed rule have been made to reflect this. The Service agrees that if the proposed activities involve a Federal action, then modification of the proposed action may be needed. However, since this designation only involves occupied habitat, then the section 7 consultation requirements would have to be met (for the "jeopardy standard") regardless of the designation of critical habitat, and based on our experience in other situations, the outcome of such consultation is likely to be unchanged when it includes critical habitat.

(35) *Comment:* The estimates in Exhibit 4–4, page 44 (of the draft economic analysis) for anticipated costs to the Service, third parties, and the action agency do not cover the costs to date or future costs for UTSA in Unit 9, which are expected to be substantial.

Our Response: The final economic analysis of the proposed rule has been modified to incorporate expected costs to UTSA that would result from section 7 consultation related to development.

(36) *Comment:* The draft economic analysis does not adequately address the tremendous economic benefits of designating critical habitat, for example, the benefits to water supply protection for area residents.

Our Response: The value of economic benefits are difficult to estimate. The potential benefits of designating critical habitat are described subjectively in section 5 of the final economic analysis of the proposed rule.

(37) *Comment:* Landowners for Unit 12 provided specific value data to show a higher economic impact of the designation than provided in the economic analysis.

Our Response: The economic analysis includes consideration of a potential HCP for private development within this unit. Thus the comment is not inconsistent with the assumptions of the analysis. We do not expect costs to be greater than those represented by the formulation and implementation of the expected HCP.

Issue 5: Other Issues and Comments

(38) *Comment:* One commenter requested additional time so that the taxonomic description of a new subspecies of *Rhadine infernalis* can be completed.

Our Response: The Service is required to designate critical habitat for the Bexar County invertebrates within the time frame specified in the court settlement agreement. We have used the best scientific data available in making this designation.

(39) *Comment:* The City of San Antonio should be provided more exact cave locations for planning and protection of habitat, and to avoid inadvertent damage by the City.

Our Response: The Service and the City of San Antonio regularly exchange information for conservation of listed species. We understand that legally, the City may not be able to keep the cave locations confidential if we provided them, and having the locations generally known would pose an unacceptable risk of vandalism to the caves. Anyone may contact the Service for technical assistance to ensure their activities are consistent with conservation of these species. Helping make the public aware of the sensitive areas inhabited by these species is one of the most significant benefits of this designation. In addition to these critical habitat units, there are likely other localities where these species occur, of which we are not aware, or have not yet been discovered. Although they are not included in this designation, they are likely to be important for conservation of the species and should be considered in

planning land management and development activities. We look forward to working with the City, and other partners, for management of their lands for the mutual benefit of the City's citizens and the conservation of the listed species.

(40) *Comment:* The Service should change the name of the Alamo Heights Karst Fauna Region so the public is not misled to believe the City of Alamo Heights is in critical habitat.

Our Response: The name of the Karst Fauna Region was taken from a report by George Veni and Associates (1994), which delineates separate geological regions in the San Antonio area. We recognize that the City of Alamo Heights is not within any of the units designated as critical habitat and regret any confusion the name of the faunal region might have caused. We have not used the Karst Faunal Region names in this final rule.

(41) *Comment:* Does critical habitat designation comply with Environmental Justice laws?

Our Response: Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. We do not believe that the designation of critical habitat for endangered and threatened species results in any changes to human health or environmental effects on surrounding human populations, regardless of their socioeconomic characterization. As such, we do not believe that Executive Order 12898 applies to critical habitat designations.

(42) *Comment:* The required public notice to interested parties was not satisfied because numerous mailings were returned because of invalid zip codes.

Our Response: We made the best effort to notify all individual landowners involved directly. We sent the letters announcing the proposed rule and requesting comments to over 1,500 interested parties. Of those, about 200 were returned because of out-of-date addresses. We attempted to update addresses and remove duplicate addresses. We followed this mailing with over 1,200 postcards announcing the availability of the draft economic analysis and extension of the comment period. We regret that some of the attempts to contact interested parties