

analysis, that an area determined to be biologically essential has an adequate conservation management plan that covers the species and provides for adaptive management sufficient to conserve the species, then special management and protection are already being provided, and then those areas do not meet the second provision of the definition and are also not proposed as critical habitat.

Further, section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data available after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. An area may be excluded from critical habitat if it is determined, following an analysis, that the benefits of such exclusion outweigh the benefits of specifying a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. Consequently, we may exclude an area from designated critical habitat based on economic impacts, or other relevant impacts such as preservation of conservation partnerships and national security, if, we determine, the benefits of excluding an area from critical habitat outweigh the benefits from including the area in critical habitat, providing the action of excluding the area will not result in the extinction of the species.

In our critical habitat designations we have used both the provisions outlined in sections 3(5)(A) and 4(b)(2) of the Act to evaluate those specific areas that are proposed for designation as critical habitat and those areas which are subsequently finalized (*i.e.*, designated). On the basis of these provisions, it has been our policy to not include in proposed critical habitat, or exclude from designated critical habitat, those areas: (1) Not biologically essential to the conservation of a species, (2) covered by a legally operative individual (project-specific) or regional habitat conservation plans (HCPs) that cover the subject species, (3) covered by a completed and approved Integrated Natural Resource Management Plans (INRMPs) for specific Department of Defense (DoD) installations, or (4) covered by an adequate conservation management plan or agreement.

Relationship to Habitat Conservation Plans

Individual Habitat Conservation Plans

In general, we believe that lands essential to the conservation of San Diego fairy shrimp that are protected in

reserves established in individual HCPs and for which adaptive management and protections are in place do not require special management and protections because their value for conservation has been addressed by the existing protective measures and actions from the provisions of the HCP. Consequently, reserve areas defined in these individual HCPs do not meet the definition of critical habitat. Further, to the extent that these areas do meet the definition of critical habitat as defined in 3(5)(A)(i)(II), it is additionally appropriate to exclude these areas from critical habitat pursuant to the "other relevant impacts" provisions of section 4(b)(2). Therefore, individual HCPs that cover the San Diego fairy shrimp are not being proposed as critical habitat for the species.

Regional Habitat Conservation Plans

We have considered, but have not proposed as critical habitat those preserve, reserve, or other conservation lands within the boundaries of approved and legally operative regional HCPs that provide coverage for the San Diego fairy shrimp. On the basis of the Secretary of the Interior's authority under section 4(b)(2) of the Act we believe the benefits of excluding these lands outweigh the benefits of including them. Unlike individual HCPs significant portions of the lands to be conserved and managed under these regional plans when they are fully implemented, are not currently receiving special management or protections. Therefore, these lands meet the definition of critical habitat as outlined in section 3(5)(A) of the Act in that they are "essential to the conservation of the species" and "may require special management considerations or protection." This is because, in contrast to fully implemented individual HCPs, the assembly of reserve lands and establishment of protection and special management for reserve lands in these regional HCPs occurs over decades as the conservation program is put into place. Thus lands that are designated for inclusion in a reserve once the plan is fully implemented still may require special management or protection until such inclusion occurs. In addition, in many cases, vernal pools and their surrounding habitats are not within the boundaries of designated or targeted reserve lands in these regional plans, which typically have focused reserve lands and boundaries around the species that occupy the coastal sage scrub habitat community rather than the vernal pool ecosystem.

Development of an HCP is a prerequisite for the issuance of an incidental take permit pursuant to section 10(a)(1)(B) of the Act and represents a large investment in a conservation partnership. HCPs vary in size and complexity. They may provide incidental take coverage and conservation management for one, several, or many federally listed species. Additionally, there may be one or more than one applicant participating in the development and implementation of an HCP.

Large, regional HCPs expand upon the basic requirements set forth in section 10(a)(1)(B) of the Act because they reflect a voluntary, cooperative approach to large-scale habitat and species conservation planning. Many large, regional HCPs in southern California have been, or are being, developed to provide for the conservation of numerous federally listed and unlisted sensitive species and the habitats that provide for their respective biological needs. These HCPs are designed to proactively implement conservation actions to address projects that are proposed to occur within the planning area of the HCP; however, given the broad scope of these regional HCPs, not all projects envisioned to potentially occur within the planning area of a regional HCP may actually take place.

In the case of approved regional HCPs (*i.e.*, those sponsored by cities, counties or other local jurisdictions) that provide coverage for the San Diego fairy shrimp, a primary goal is to provide for the protection and management of habitat areas essential to the conservation of the species while accommodating economic development. The regional HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the San Diego fairy shrimp. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species in the context of constructing a system of interlinked habitat blocks that provide for the biological needs of the species.

Approved HCPs and their accompanying implementation agreements outline appropriate management measures and protections for covered species for the purpose of protecting, restoring, and enhancing the value of habitat for the conservation of the San Diego fairy shrimp. These measures, which include explicit standards to avoid to the maximum extent practicable and minimize impacts to the species and its habitat