

management can provide for a mosaic of habitat within individual drainages and allow for conservation of these and many other species.

Comment 12: The Draft Economic Analysis causes confusion by not specifying the costs generated from the designation of critical habitat as opposed to those generated by the listing. It is difficult to estimate the true economic impact of critical habitat designation (Governor Freudenthal, State of Wyoming).

Our Response: The court, as in *New Mexico Cattle Growers Ass'n v. U.S. Fish and Wildlife Service*, 248 F.3d 1277, requires us to look at co-extensive costs (consideration of the impact of all economic effects that could be a result of the designation, even if they are the same as those that arise from the listing). This is the approach the Draft Economic Analysis and Addendum to the Economic Analysis take. The Service recognizes that if an area is excluded from the final designation, not all of the economic impacts described in the Economic Analysis may be avoided.

Comment 13: Critical habitat boundaries should align with county-wide HCP boundaries for consistency (Colorado Department of Natural Resources).

Our Response: We agree with the comment that critical habitat boundaries should match HCP boundaries wherever possible. We have included modifications in SP4 where there is agreement on a proposed protection zone associated with a rural agricultural conservation plan. Additionally, we have excluded units SP8, SP9, SP12, and A1, and private lands in Douglas County in unit SP13, which are included presently in the following proposed HCPs: Boulder, Douglas County, and El Paso County. The reasons for excluding these pending HCPs are discussed below.

Public Comments

We reviewed all comments received for substantive issues and new data regarding critical habitat and the Preble's meadow jumping mouse, the Draft Economic Analysis, and the draft EA. In the following summary of issues we address comments received on all three documents during the comment periods and public hearing testimony.

Comments of a similar nature are grouped into issues.

Issue 1: Biological Concerns and Methodology

Comment 1: Critical habitat for the Preble's is not determinable. Too little is known about the Preble's, its habitat

needs, population sizes, and its distribution to designate critical habitat.

Our Response: Several commenters cited our statement that " * * * much of the biology and ecology of the Preble's is still not well understood." A similar statement could probably be made for a majority of species upon listing under the Act. See our statement above. We have used the best scientific and commercial data available, and exercised our professional judgment to propose critical habitat. In addition, peer review comments, all public comments, and any additional information received were considered in final designation of critical habitat.

Comment 2: The extent of critical habitat proposed by the Service is inadequate (e.g., critical habitat should be designated for all occupied habitat; all high-quality habitat should be designated regardless if the Preble's has been documented in the area). A number of comments were received suggesting that specific reaches be added in the final designation of critical habitat. One commenter roughly mapped approximately 500 km (300 mi) of additional rivers and streams over approximately 50 additional reaches in Colorado as suggested additions to final critical habitat.

Our Response: We believe that the suggestions that critical habitat designation be extended to all habitat occupied by the Preble's or to all potentially occupied areas of high-quality habitat are not supported by the definition of critical habitat under 3(5)(A) of the Act. Within the geographic area occupied by the species we designate only areas currently known to be essential to conserve the species. In accordance with sections 3(5)(C) of the Act, not all areas that can be occupied by a species will be designated critical habitat. We designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species. Based on the best scientific data available there appears no basis for designation of critical habitat outside of the geographic area occupied by the species. Translocation of the Preble's from existing populations to unoccupied habitat is not part of our conservation strategy for the Preble's. Given the extent and distribution of known Preble's populations, we believe that protection within the area currently occupied will be sufficient to conserve the Preble's. Where suggestions for additions to proposed critical habitat were accompanied by specific justification, our responses are detailed

in Issue 3, Comments on Specific Units, below. If in the future, we determine from information or analysis that those areas designated in this final rule need further refinement, or if we identify or determine additional areas to be essential to the conservation of the Preble's and requiring special management or protection, we will evaluate whether a revision of critical habitat is warranted.

Comment 3: The Draft Discussion Document is not a final document and has not received public review; therefore, it should not be used as a basis for designation of critical habitat.

Our Response: Although a draft recovery plan has not been published for public review, the Draft Discussion Document, as now modified in the subsequent Working Draft, provides the latest available scientific information on the Preble's. This information is being used in development of a recovery plan and has been used to develop a conservation strategy that supports the critical habitat designation. For example, information on range, occupancy, populations, and habitat characteristics are being used in both efforts. The critical habitat proposal has been refined through comments and additional information received, as has the Draft Discussion Document. Whenever and wherever the best scientific and commercial information presents itself to the Service, we will incorporate it into species conservation efforts, as illustrated here and in the recovery planning process for the Preble's.

Comment 4: Critical habitat should correspond more closely to proposed recovery populations described in the Draft Discussion Document. In several drainages, proposed critical habitat falls short of the recovery populations proposed. In some instances proposed critical habitat greatly exceeds minimum stream lengths of large or medium recovery populations described in the Draft Discussion Document. Also, proposed critical habitat has added units beyond those discussed as recovery populations in the Draft Discussion Document.

Our Response: The conservation strategy underlying this critical habitat designation was informed by the ongoing recovery planning process and the associated Draft Discussion Document and Working Draft, but the outcomes are not identical. The Draft Discussion Document and the subsequent Working Draft provide recovery criteria for achieving recovery of the species. Recovery populations are proposed for specific hydrological units within the range of the Preble's,