

Council on Environmental Quality (1997).

*Comment 94:* In the draft EA's Analysis of Significance, the statement that effects are expected to be small may be true on a national, regional or local scale, but on a family ranching operation scale they are significant.

*Our Response:* Significance is not addressed on an individual scale, but rather as it pertains to several different scales, including society as a whole, the affected region, the affected locality, and affected interests. The ranching community in the four affected counties in Wyoming was identified as an affected interest. Potential economic impacts to agricultural activities in Wyoming were evaluated in the Draft Economic Analysis and the Addendum to the Economic Analysis and discussed in the Regulatory Flexibility Act section in the Final Rule. Through those analyses, it was determined that only approximately 3 percent of the small agricultural operations in the counties in which critical habitat units are located may experience a significant effect from section 7 implementation in critical habitat annually.

#### Summary of Changes From the Proposed Rule

In development of this final designation of critical habitat for the Preble's meadow jumping mouse we made several changes to the proposed critical habitat designation based on review of public comments received on the proposed designation, the Draft Economic Analysis, the draft EA, and further evaluation of lands proposed as critical habitat.

In several cases, changes have been made based upon our reevaluation of available data regarding the method of identification of the Preble's (identification in the field versus through genetic or morphological means). Without morphological or genetic verification of the identity of the mice, it is not possible to know whether an area is essential to the conservation of the species. Therefore, we have decided to include in the critical habitat determination only those units occurring in drainages within which there is a specimen verified as Preble's through morphological or genetic means. Accordingly, we removed from final designation those units occurring in drainages where mice were identified as Preble's only through field identification. If, in the future, one or more of these areas is determined to support mice verified as Preble's through morphological or genetic examination, we would consider

whether rulemaking to amend critical habitat is warranted.

In the North Platte River drainage, we have removed the Horseshoe Creek unit (NP2), the Friend Creek and Murphy Canyon unit (NP4), and the Horse Creek unit (NP5). Each of these units occurred in a drainage within which no mice had been verified to be Preble's through morphological or genetic means, but rather only through field identification.

Also in the North Platte River drainage, some adjustments were made to the tributaries included in Unit NP3, the Chugwater Creek unit in Albany, Laramie, and Platte Counties, Wyoming. Upon review of additional information obtained through public comment and during site visits to the area, four tributaries were removed from the final designation. These four tributaries include two named Spring Creek, Threemile Creek, and Sand Creek. Reasons why these tributaries were determined not to be critical habitat included limited riparian vegetation, lack of open water through the Preble's active season, arid uplands with limited grasses and forbs, and regular haying across one creek.

In the South Platte River drainage Unit SP2, the Warren Air Force Base unit, in Laramie County, Wyoming, was excluded in its entirety (see Relationship with Department of Defense Lands below).

Also in the South Platte River drainage, the Lone Tree Creek unit (SP3), the Cedar Creek Unit (SP7), and the Cherry Creek unit (SP11) have been removed in their entirety because they support no records of mice verified to be the Preble's through morphological or genetic means, but rather only through field identification.

In the North Fork Cache La Poudre River (SP4) we have amended the outward extent of the critical habitat boundary for two landowners to be consistent with a specific negotiated rural and agricultural conservation zone for the Preble's. Within existing properties belonging to The Nature Conservancy along the North Fork Cache La Poudre River and to Al Johnson along Rabbit Creek, Lone Pine Creek, and the North Fork Cache La Poudre River, designated critical habitat extends from the center line of the stream outward 325 ft (99 m) on both sides.

In the South Platte River drainage, areas of proposed critical habitat addressed in the Denver Water HCP were excluded from the final designation in units the South Boulder Creek unit (SP8), Boulder County, Colorado; the Ralston Creek unit (SP10), Jefferson County, Colorado; the West

Plum Creek unit (SP12) in Douglas County, Colorado; and the Upper Platte River (SP13) unit in Douglas and Jefferson Counties, Colorado (see Relationship to Habitat Conservation Plans below).

Also in the South Platte River drainage some adjustments were made to tributaries included in the West Plum Creek unit (SP12), in Douglas County, Colorado. Upon review of additional information obtained through public comment and review of aerial photographs of the area, portions of two tributaries were removed from the final designation. These include portions of one unnamed tributary to West Plum Creek, and the upper portion of Metz Canyon. Reasons why the tributaries were determined not to be critical habitat included limited riparian vegetation, lack of dense vegetation, lack of open water through the Preble's active season, and alterations from human land uses.

In the Upper South Platte River unit (SP13), the proposed Wigwam Creek subunit in Jefferson County, Colorado, was removed from the final designation. This area was intensively burned during the Hayman Fire in the summer of 2002. Upon review of additional information obtained through public comment and a site visit to the area, it was determined that habitat capable of supporting the Preble's was no longer present and not likely to be re-established in the near future.

In the Arkansas River drainage, within the Monument Creek unit (A1), areas of proposed critical habitat addressed in the Lefever Property HCP and the Dahle Property HCP were excluded from the final designation. In the same unit an error occurred in the written description of Kettle Creek. The text accompanying the map of the unit erroneously included a reach of Kettle Creek on the Academy as critical habitat, while the map excluded it. The text has been changed to accurately reflect the intended reach of critical habitat.

#### 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 conserve 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 determination that such areas are essential to conserve the species.