

meets three criteria: (1) The plan is complete and provides a conservation benefit to the species (*i.e.*, the plan must maintain or provide for an increase in the species' population, or the enhancement or restoration of its habitat within the area covered by the plan); (2) the plan provides assurances that the conservation management strategies and actions will be implemented (*i.e.*, those responsible for implementing the plan are capable of accomplishing the objectives, and have an implementation schedule or adequate funding for implementing the management plan); and (3) the plan provides assurances the conservation strategies and measures will be effective (*i.e.*, it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan's goals and objectives).

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 that the benefits of such exclusion outweigh the benefits of specifying a particular area as critical habitat, unless the failure to designate such an area as critical habitat will result in the extinction of the species. Consequently, we may exclude an area from critical habitat based on economic impacts, or other relevant impacts such as preservation of conservation partnerships or military readiness considerations, if we determine that the benefits of excluding an area from critical habitat outweigh the benefits of including the area in critical habitat, provided that exclusion will not result in the extinction of the species.

In summary, we use both the definition in section 3(5)(A) and the provisions of section 4(b)(2) of the Act to evaluate those specific areas that are proposed for designation as critical habitat as well as for those areas that are subsequently finalized (*i.e.*, designated as critical habitat). On that basis, 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 HCP that covers the subject species; (3) covered by a complete and approved Integrated Natural Resources Plan (INRMP) for specific Department of Defense installations; or (4) covered by

an adequate management plan or agreement that protects the primary constituent elements of the habitat.

As discussed below, for designation of critical habitat for the Preble's, we have considered, but have not designated as critical habitat, land covered by: The Denver Water HCP; the Lefever Property HCP in Black Forest, Colorado (Lefever Property HCP); the Dahle Property HCP in Colorado Springs, Colorado (Dahle Property HCP); the Academy's Integrated Natural Resources Management Plan (INRMP); and the F.E. Warren INRMP.

Relationship to Habitat Conservation Plans

Individual HCPs

In general, the lands essential to the conservation of the Preble's that are managed by an approved individual HCP 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, the 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 Preble's are not being designated as critical habitat.

Section 10(a) of the Act authorizes the Service to issue permits for private actions which result in the taking of listed species that are otherwise lawful activities. Incidental take permit applications must be supported by an HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. Service-approved HCPs and their associated Incidental Take Permits contain management measures and protections for identified areas that protect, restore, and enhance the value of these lands as habitat for the Preble's. These measures, which include explicit standards to minimize any impacts to the covered species and its habitat, are designed to ensure that the biological value of covered habitat for the Preble's is maintained, expanded, or improved.

In approving these HCPs, the Service has provided assurances to permit holders that once the protection and management required under the plans are in place and for as long as the permit holders are fulfilling their obligations

under the plans, no additional mitigation in the form of land or financial compensation will be required of the permit holders. Similar assurances will be extended to future permit holders in accordance with the Service's HCP Assurance ("No Surprises") rule codified at 50 CFR 17.22(b)(5) and (6) and 17.32(b)(5) and (6).

In light of the intensive investigation and analysis, public comment, and internal section 7 consultations undertaken prior to approval of HCPs, we are confident that individual HCPs identify, protect, and, as appropriate and practicable, provide beneficial adaptive management for essential habitat within the boundary of HCPs. Therefore, we have considered, but not designated as critical habitat lands within approved HCPs that include the Preble's as a covered species. Our analysis of the special management considerations and protections provided by approved HCPs follows below as well as a comparison of benefits of including lands within approved HCPs versus excluding such lands from critical habitat designations.

Regional HCPs

Large regional HCPs expand upon the basic requirements set forth in section 10(a)(1)(B) of the Act reflecting a voluntary, cooperative approach to large-scale habitat and species conservation planning. The primary goal of such HCPs is to provide for the protection and management of habitat essential for the conservation of the species while directing development to other areas. HCPs provide a package of management considerations that: meet or enhance the conservation of the species and provide an opportunity for data collection and analysis regarding the use of particular habitat areas. HCPs and the accompanying implementation agreements contain management measures and protections for identified areas that protect, restore, and enhance the value of these lands as habitat for the Preble's. These measures, which include explicit standards to minimize any impacts to the covered species and its habitat, are designed to ensure that the value of the conservation lands as suitable habitat for the Preble's is maintained, expanded, and improved.

Approved HCPs provide assurances to permit holders that once the protection and management required under the plans are in place and for as long as the permit is valid and the holders are fulfilling their obligations under the plan, no additional mitigation in the form of land or financial compensation will be required of the permit holders