

advise the agency whether the action would likely jeopardize the continued existence of the species or adversely modify its critical habitat.

When we issue a biological opinion that concludes that an action is likely to result in the destruction or adverse modification of critical habitat, we must provide reasonable and prudent alternatives to the action, if any are identifiable. Reasonable and prudent alternatives are actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the proposed action, are consistent with the scope of the action agency's authority and jurisdiction, are economically and technologically feasible, and would likely avoid the destruction or adverse modification of critical habitat (50 CFR 402.02).

Reinitiation of Prior Consultations

Following designation of critical habitat, regulations at 50 CFR 402.16 require a Federal agency to reinitiate consultation for previously reviewed actions that may affect critical habitat and over which the agency has retained discretionary involvement or control.

Federal Actions That May Destroy or Adversely Modify Preble's Meadow Jumping Mouse Critical Habitat

Section 4(b)(8) of the Act requires us, in any proposed or final rule designating critical habitat, to briefly describe and evaluate those activities that may adversely modify such habitat, or that may be affected by such designation.

Federal actions that, when carried out, funded or authorized by a Federal agency, may destroy or adversely modify critical habitat for the Preble's include, but are not limited to:

(1) Any activity that results in development or alteration of the landscape within a unit, including land clearing; activities associated with construction for urban and industrial development, roads, bridges, pipelines, or bank stabilization; agricultural activities such as plowing, discing, haying, or intensive grazing; off-road vehicle activity; and mining or drilling of wells;

(2) Any activity that results in changes in the hydrology of the unit, including construction, operation, and maintenance of levees, dams, berms, and channels; activities associated with flow control (e.g., releases, diversions, and related operations); irrigation; sediment, sand, or gravel removal; and other activities resulting in the draining or inundation of a unit;

(3) Any sale, exchange, or lease of Federal land that is likely to result in

the habitat in a unit being destroyed or appreciably degraded;

(4) Any activity that detrimentally alters natural processes in a unit including the changes to inputs of water, sediment and nutrients, or that significantly and detrimentally alters water quantity in the unit; and

(5) Any activity that could lead to the introduction, expansion, or increased density of exotic plant or animal species that are detrimental to the Preble's and to its habitat.

Federal actions not affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

Previous Section 7 Consultations

Many section 7 consultations for Federal actions affecting the Preble's and its habitat have preceded this critical habitat designation, including, but not limited to:

(1) Activities on Federal lands including those of the Department of Defense, Forest Service, Department of Energy, and Bureau of Land Management;

(2) Activities affecting waters of the United States by the Army Corps of Engineers under section 404 of the Clean Water Act;

(3) Licensing or relicensing of dams by the Federal Energy Regulatory Commission;

(4) Development, operation, and maintenance of dams, canals, and other means of directing flows by the Army Corps of Engineers and the Bureau of Reclamation;

(5) Funding and regulation of highway and bridge construction, and improvements by the Federal Highway Administration;

(6) Licensing or construction of communication sites by the Federal Communications Commission;

(7) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency; and

(8) Issuance of Endangered Species Act section 10(a)(1)(B) permits by the Fish and Wildlife Service.

If you have any questions regarding whether specific activities will likely constitute destruction or adverse modification of critical habitat, contact Field Supervisor, Colorado Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Requests for copies of regulations on listed wildlife and inquiries about prohibitions and permits may be addressed to U.S. Fish and Wildlife Service, Ecological Services, P.O. Box 25486, DFC, Denver, CO 80225-0486 (telephone 303-236-7400; facsimile 303-236-0027).

Economic Analysis

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific and commercial information available and that we consider the economic and other relevant impacts of designating a particular area as critical habitat. We based this final rule on the best scientific and commercial data available. In order to make a final critical habitat designation, we further utilized the Draft Economic Analysis, the Addendum to the Economic Analysis, and our analysis of other relevant impacts, and considered all comments and information submitted during the public hearings and comment periods. No areas proposed as critical habitat were excluded or modified because of economic impacts. However, we have excluded areas from the final designation on the basis of a final determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat (see Relationship to sections 3(5)(A) and 4(b)(2) of the Act). In accordance with section 4(b)(2) of the Act, we cannot exclude areas from critical habitat when their exclusion will result in the extinction of the species. We prepared a Draft Economic Analysis that was available for public review and comment during the comment period for the proposed rule. You can request copies of the Draft Economic Analysis, the Addendum to the Economic Analysis, and EA from the Colorado Ecological Services Field Office (see **ADDRESSES**).

Section 4(b)(2) of the Act and 50 CFR 424.19 require us to consider the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. Executive Order 12866 defines "significant regulatory action," in part, as a regulatory action that is likely to result in a rule that may have an annual effect on the economy of \$100 million or more. The Addendum to the Economic Analysis for this rule estimates that the potential economic effects could range from \$7.9 to \$17.8 million annually. This includes potential economic effects related to consultations, project modifications, and including those effects that may be attributed co-extensively with the listing of the species. Thus, we do not believe that the adverse modification prohibition (from critical habitat designation) will have significant economic effects such that it will have an annual economic effect of \$100 million or more. We recognize, however, that while the impacts may