

critical habitat designations do not signal that habitat outside the proposed designation is unimportant or may not be required for recovery. Areas outside the proposed critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the prohibitions of section 9 of the Act. Critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Section 4(b)(8) of the Act requires us to evaluate briefly and describe, in any proposed or final regulation that designates critical habitat, those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat would be those that alter the primary constituent elements to the extent that the value of critical habitat for the conservation of the *Astragalus magdalenae* var. *peirsonii* is appreciably reduced. The actions listed previously are activities that may affect critical habitat and are not necessarily actions that would result in adverse modification. We also note that such activities may also jeopardize the continued existence of the species.

Moreover, we completed a section 7 consultation with BLM on the Imperial Sand Dunes Recreational Area Management Plan (RAMP) (FWS-IMP-3419.2) dated April 3, 2003. In that biological opinion, we concluded that the implementation of the RAMP is not likely to jeopardize the continued existence of *Astragalus magdalenae* var. *peirsonii*. BLM will modify the monitoring plan to include (1) dune-wide monitoring of *A. m.* var. *peirsonii*, (2) dune-wide monitoring and calibration of OHV use patterns, (3) two experimental studies on the effects of OHVs on *A. m.* var. *peirsonii*, (4) examination for correlation between OHV use patterns and *A. m.* var. *peirsonii* population levels, (5) modeling of *A. m.* var. *peirsonii* populations under various management scenarios, and (6) an implementation schedule. In addition, BLM proposes to establish triggers to activate alternative management actions when visitation exceeds target levels and to reinstate consultation (1) if *A. m.* var. *peirsonii*

population levels in individual Management Areas fall to 50 percent of baseline in a comparable rainfall year (at or above the long-term mean), and (2) after accumulation of 4 years of monitoring information. This information will be valuable in determining the effects of the RAMP on critical habitat. While BLM's proposed action has not been analyzed in the context of a final designation of critical habitat, we expect that a similar approach would be used to evaluate whether the implementation of the RAMP would result in destruction or adverse modification of critical habitat.

If you have questions regarding whether specific activities will constitute destruction or adverse modification of critical habitat, contact the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife and plants and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species, 911 N.E. 11th Ave, Portland, OR 97232 (telephone 503/231-2063; facsimile 503/231-6243).

All lands proposed as critical habitat are within the geographical area occupied by the species and are necessary for the conservation of *Astragalus magdalenae* var. *peirsonii*. Federal agencies already consult with us on actions that may affect *A. m.* var. *peirsonii* to ensure that their actions do not jeopardize the continued existence of the species. Thus, we do not anticipate substantial additional regulatory protection will result from critical habitat designation.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial data available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species.

An analysis of the economic impacts of proposing critical habitat for the *Astragalus magdalenae* var. *peirsonii* is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the

Internet at <http://carlsbad.fws.gov>, or by contacting the Carlsbad Fish and Wildlife Office directly (see **ADDRESSES** section).

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will solicit the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule as we prepare our final rulemaking. Accordingly, the final designation may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor (see **ADDRESSES** section). We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?