cognitive functioning.[53 54 55] These tests provided partial or full assessments of IQ, problem solving, social and adaptive behavior, language functions, motor skills, attention, memory, and other functions. NAS found that all three studies are ''well-designed, prospective, longitudinal studies.'' [56]

EPA is considering using these three studies to conduct a benefits assessment. Specifically, EPA is considering focusing on IQ decrements associated with prenatal MeHg exposure as the initial endpoint for quantification and valuation of health benefits of reduced exposure to MeHg. This initial focus in IQ as the neurodevelopmental endpoint for quantification was supported by participants in a Hg neurotoxicity workshop held by EPA in November 2002.[57] Reasons for focusing on IQ include the availability of thoroughly-reviewed, epidemiological studies assessing IQ and/or related cognitive outcomes suitable for IQ estimation; and the availability of well-established methods and data for the economic valuation of avoided IQ deficits. EPA recognizes that, although IQ is a good metric of the cognitive impacts of prenatal MeHg exposure, IQ is not a comprehensive measure of the neurodevelopmental effects of MeHg exposure.

To potentially support a benefits estimation, EPA is working with researchers from Harvard University to analyze whether data from the Faroe Islands, New Zealand, and Seychelles Islands studies on the relationship between prenatal MeHg exposure and neurodevelopmental outcomes can be integrated. The study is intended to estimate the relationship between the exposure to MeHg and decrements in full-scale IQ, based on all three studies. The Harvard study will likely assume a linear dose-response relationship. The Faroe Islands and Seychelles Islands studies did not conduct the complete battery of tests used to estimate full-scale IQ. Therefore, the study is designed to use the results from the tests administered to predict full-scale IQ. This analysis will be peer-reviewed and placed in the docket as soon as it is available.

EPA is considering using a K-model to fit population-level dose-response relationships to the pooled data from the three studies. EPA is also considering, for the purposes of a national-level benefits assessment, to set K = 1, which assumes a linear relationship between exposure and effects.

The practicality of using a linear (K = 1) model is the primary reason that the Agency is considering use of such a model. A linear model would allow us to estimate the benefits of reductions in exposure due to power plants without a complete assessment of the other sources of exposure. Other models would require information on the joint distribution of exposure from power plants and other sources to estimate the benefits of reducing the exposure due to power plants, which would require much more precise information about consumption patterns than a K-model would require.

EPA is seeking comment on all aspects of the methodology for estimating the relationship between reductions in MeHg exposure and improvements in health. In particular, we are seeking comment on the following:

a. The focus on neurodevelopmental health of children.

b. The selection of IQ as an endpoint for quantification of neurodevelopmental effects and whether it is an appropriate endpoint for benefits analysis for reduced exposure to MeHg.

c. Whether other neurodevelopmental effects can be quantified and are amenable to economic valuation.

d. Whether, and if so how, data from the Faroe Islands, New Zealand, and Seychelles Islands studies can be integrated for the purposes of a benefits assessment.

e. The choice of the K = 1 model for the estimating the relationship between exposure and IQ and practical alternatives to that approach.

f. The appropriateness and consistency of using a linear dose-response model given the RfD established by EPA in 2001 (reflecting the NAS review in 2000), which assumes a threshold dose below which there is not likely to be an appreciable risk of deleterious effects during a lifetime.

[53] Myers, *et al.* 2003. ''Prenatal Methylmercury Exposure from Ocean Fish Consumption in the Seychelles Child Development Study.'' The Lancet. Vol. 361; May, 2003.

[54] Crump, *et al.* 1998. ''Influence of Prenatal Mercury Exposure Upon Scholastic and Psychological Test Performance: Benchmark Analysis of a New Zealand Cohort.'' Risk Analysis, 18(6): 701–713.

[55] Grandjean. 1997. Cognitive Deficit in 7-Year-Old Children with Prenatal Exposure to Methylmercury. Neurotoxicology, 19(6): 417–428.

[56] National Academy of Sciences. July 2000. op. cit. at 267.

[57] *See http://www.epa.gov/ttn/ecas/regdata/Benefits/mercuryworkshop.pdf.*

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control.

40 CFR Part 72 and 75

Environmental protection, Air pollution control, Electric utilities.

Dated: November 29, 2004.

Stephen D. Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 04–26579 Filed 11–30–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AJ10

Endangered and Threatened Wildlife and Plants; Notice of Availability of the Draft Economic Analysis on the Proposed Designation of Critical Habitat for *Allium munzii* (Munz's onion)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability of draft economic analysis and reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft economic analysis on the proposed designation of critical habitat for the federally endangered *Allium munzii* (Munz's onion), and the reopening of the public comment period on the proposed rule to designate critical habitat for Munz's onion. The comment period will provide the public, Federal, State, and local agencies, and Tribes with an opportunity to submit written comments on this proposal and its respective draft economic analysis. Comments previously submitted for this proposed rule need not be resubmitted as they have already been incorporated into the public record and will be fully considered in any final decision.

DATES: We will accept all comments and information until 5 p.m. on or before January 3, 2005. Any comments received after the closing date may not be considered in the final decisions on this action.

ADDRESSES: Written comments and materials may be submitted to us by one of the following methods:

1. You may submit written comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Carlsbad, CA 92009.

2. You may hand-deliver written comments and information to our Carlsbad Fish and Wildlife Office, at the above address, or fax your comments to (760) 731–9618.

3. You may send your comments by electronic mail (e-mail) to *fw1cfwoalmu@r1.fws.gov*. For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section.

Comments and materials received, as well as supporting documentation used in preparation of the proposed critical habitat rule for *Allium munzii* (69 FR 31569) will be available for public inspection, by appointment, during normal business hours at the above address. You may obtain copies of the draft economic analysis for *Allium munzii* by contacting the Carlsbad Fish and Wildlife Office at the above address. The draft economic analysis and the proposed rule for critical habitat designation also are available on the Internet at *http://carlsbad.fws.gov/*. In the event that our Internet connection is not functional, please obtain copies of documents directly from the Carlsbad Fish and Wildlife Office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, at the above address (telephone (760) 431–9440; facsimile (760) 431–9618).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We solicit comments or suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested parties concerning our proposed designation of critical habitat for *Allium munzii* (69 FR 31569) and our draft economic analysis for the proposed critical habitat designation. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefit of exclusion outweigh the benefits of specifying such area as part of the critical habitat;

(2) Specific information on the amount and distribution of *Allium munzii* and its habitat, and which habitat is essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities or families;

(5) Whether the economic analysis identifies and adequately addresses the likely effects and resulting costs arising from the California Environmental Quality Act and other State and local laws attributable to the proposed critical habitat designation. If not, what other cost are overlooked?;

(6) Whether the economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat for *Allium munzii*;

(8) Whether the economic analysis adequately addresses the indirect effects (*e.g.*, property tax losses due to reduced home construction, losses to local business due to reduced construction activity), and accurately defines and captures opportunity costs associated with the critical habitat designation;

(9) Whether the economic analysis correctly assesses the effect on regional costs associated with land and water use regulatory controls that could arise from the designation of critical habitat for this species;

(10) Whether the designation of critical habitat will result in disproportionate economic or other impacts to specific areas that should be evaluated for possible exclusion from the final designation;

(11) Whether the economic analysis is consistent with the Service's listing regulations because this analysis should identify all costs related to the designation of critical habitat for *Allium munzii* and this designation was intended to take place at the time this species was listed; and

(12) All but one known occurrence of *Allium munzii* have been proposed for exclusion from this proposed designation of critical habitat for because they are within approved HCPs or the Western Riverside MSHCP. These areas are proposed for exclusion from critical habitat because we believe the value of excluding these areas outweighs the value of including them. We specifically solicit comment on the inclusion or exclusion of such areas and: (a) Whether these areas are essential; (b) whether these areas warrant exclusion; and (c) the basis for excluding these areas as critical habitat (section 4(b)(2) of the Act); and

(13) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

Comments previously submitted for this proposed rule need not be resubmitted as they have already been incorporated into the public record and will be fully considered in any final decision. If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (*see* **ADDRESSES** section).

If you submit comments via e-mail, please submit them as an ASCII file and avoid the use of special characters or any form of encryption. Please also include ''Attn: RIN 1018–AJ10'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your internet message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number (760) 431–9440. Please note that the e-mail address, *fw1cfwoalmu@r1.fws.gov*, will be closed out at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Background

Allium munzii is a bulb-forming perennial herb in the Liliaceae (lily family). The plants are dormant except in the spring and early summer months, and 3 to 5 years are required after seeds germinate for the plant to reach maturity and produce flowers (Schmidt 1980). *Allium munzii* is endemic to mesic clay soils in western Riverside County,

California, throughout the foothills east of the Santa Ana Mountains extending south and east to the low hills south of Hemet (69 FR 31569; June 4, 2004). At present, there are 19 occurrences of *Allium munzii* according to the California Natural Diversity Database (CNDDB 2004). One historical population in the CNDDB was lost to development; however, the extent of the historical distribution of this plant is unknown. At the time of listing, the Service estimated the total population to be approximately 20,000 to 70,000 individuals. Please refer to the final listing rule for a more detailed discussion of the species' taxonomic history and description.

We published the final rule listing *Allium munzii* as endangered under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), in the **Federal Register** on October 13, 1998 (63 FR 54975). The listing was based on a variety of factors including habitat destruction and fragmentation from agricultural and urban development, clay mining, off-road vehicle activity, cattle and sheep grazing, weed abatement, fire suppression practices, and competition from alien plant species. A recovery plan for this species has not yet been completed.

At the time of listing, we concluded that designation of critical habitat for *Allium munzii* was not prudent because such designation would not benefit the species. On November 15, 2001, a lawsuit was filed against the Department of the Interior (DOI) and the Service by the Center for Biological Diversity and California Native Plant Society, challenging our ''not prudent'' determinations for eight plants including *A. munzii* (No. CV–01–2101) (*CBD et al.* v. *USDOI*). A second lawsuit asserting the same challenge was filed against DOI and the Service by the Building Industry Legal Defense Foundation (BILD) on November 21, 2001 (No. CV–01–2145) (*BILD* v. *USDOI*). Both cases were consolidated on March 19, 2002, and all parties agreed to remand the critical habitat determinations to the Service for additional consideration. In an order dated July 1, 2002, the U.S. District Court for the Southern District of California directed us to reconsider our not prudent finding and publish a proposed critical habitat rule for *Allium munzii*, if prudent, on or before May 30, 2004.

On June 4, 2004, we published a proposed rule to designate critical habitat for *Allium munzii* (69 FR 31569). We proposed to designate 227 acres (ac) (92 hectares (ha)) of critical habitat on Federal (U.S. Forest Service) lands in western Riverside County, California. We excluded 1,068 ac (433 ha) of State, local, and private lands from proposed critical habitat within approved Habitat Conservation Plans (HCPs) and the Western Riverside Multiple Species HCP (MSHCP), Riverside County, California. The first public comment period on the proposed designation closed on August 3, 2004.

Critical habitat identifies specific areas, both occupied and unoccupied, that are essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed rule is made final, section 7 of the Act prohibits the destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act. We note, however, that a recent 9th Circuit judicial opinion, *Gifford Pinchot Task Force* v. *United State Fish and Wildlife Service*, has invalidated the Service's regulation defining destruction or adverse modification of critical habitat. We are currently reviewing the decision to determine what effect it may have on the outcome of consultations pursuant to section 7 of the Act.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat on the basis of the best scientific and commercial data available, after taking into consideration the economic impact, impact to national security, and any other relevant impacts of specifying any particular area as critical habitat. We have prepared a draft Economic Analysis of the April 27, 2004 (69 FR 31569), proposed designation of critical habitat for *Allium munzii*.

The draft Economic Analysis considers the potential economic effects of actions relating to the conservation of *Allium munzii*, including costs associated with sections 4, 7, and 10 of the Act, and those cost attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for *Allium munzii* in essential habitat areas. The analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the ''opportunity costs'' associated with the commitment of resources to comply with habitat protection measures (*e.g.*, lost economic opportunities associated with restrictions on land use). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this analysis looks retrospectively at costs that have been incurred to date since the date the species was listed as endangered species, and projects those costs that may occur in the 20 years following the designation of critical habitat.

Total economic impacts resulting from past *Allium munzii*-related conservation activities (*i.e.*, activities since the species was listed in 1998) on all essential habitat are estimated to be $4.2 million. For the actual component of essential habitat being designated as critical habitat, the total estimated economic impact would be $9,866. In terms of future economic impacts, total economic efficiency costs resulting from *Allium munzii*-related conservation activities are estimated at $6.4 million from 2005 through 2025 for all essential habitat. For the actual component of essential habitat being designated as critical habitat, the total estimated economic efficiency costs would be $23,964 from 2005 through 2025. All of those costs are attributable to project modification and administrative costs that would be borne by the U.S. Forest Service.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this proposed designation of critical habitat is a significant rule only in that it may raise novel legal and policy issues. However, the Economic Analysis indicates that the proposed designation will not have an annual effect on the economy of $100 million or more or affect the economy in a material way. The Office of Management and Budget (OMB) has not formally reviewed this rule.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment

a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. However, the SBREFA does not explicitly define ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. The SBREFA also amended the RFA to require a certification statement. We are hereby certifying that this proposed rule will not have a significant effect on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies; non-Federal activities are not affected by the designation if they lack a Federal nexus. In areas where the species is present, Federal agencies funding, permitting, or implementing activities are already required to avoid jeopardizing the continued existence of *Allium munzii* through consultation with us under section 7 of the Act. If this critical habitat designation is finalized, Federal agencies must also consult with us to ensure that their activities do not destroy or adversely modify designated critical habitat through consultation with us.

Should a federally funded, permitted, or implemented project be proposed that may affect designated critical habitat, we will work with the Federal action agency and any applicant, through section 7 consultation, to identify ways to implement the proposed project while minimizing or avoiding any adverse effect to the species or critical habitat. In our experience, the vast majority of such projects can be successfully implemented with at most minor changes that avoid significant economic impacts to project proponents.

Based on our experience with section 7 consultations for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. The kinds of actions that may be included in future reasonable and prudent alternatives include avoidance, conservation set-asides, management of competing non-native species, restoration of degraded habitat, construction of protective fencing, and regular monitoring. These measures are not likely to result in a significant economic impact to project proponents.

In the case of *Allium munzii*, our review of the consultation history for this plant suggests that the proposed designation of critical habitat is not likely to have a significant impact on any small entities or classes of small entities. We considered the potential relative cost of compliance to these small entities and evaluated only small entities that are expected to be directly affected by the proposed designation of critical habitat. Based on the consultation history for *Allium munzii*, we do not anticipate that the proposed designation of critical habitat will result in increased compliance costs for small entities. The business activities of these small entities and their effects on *Allium munzii* or its proposed critical habitat have not directly triggered a section 7 consultation with the Service under the jeopardy standard and likely would not trigger a section 7 consultation under the adverse modification standard after designation of critical habitat. The proposed designation of critical habitat does not, therefore, create a new cost for the small entities to comply with the proposed designation. Instead, proposed designation only impacts Federal agencies that conduct, fund, or permit activities that may affect critical habitat for *Allium munzii*. Moreover, none of the small entities have been applicants with a Federal agency for a section 7 consultation with the Service.

As discussed in the Economic Analysis, activities in the proposed critical habitat unit are expected to result in small additional costs borne by the U.S. Forest Service and, possibly, the current special permit holders at the electric tower site. The U.S. Forest Service is a Federal agency and therefore not considered a small entity under SBREFA. In addition, only one of the four special permit holders is a small entity, and the projected impact to that small business is $250 to $1,000 in one year (representing 0.2 to 0.4 of the company's revenue). Utility companies are not expected to incur additional project-related costs in the critical habitat unit, but may incur additional costs in essential habitat areas. However, the utility companies involved do not qualify as small entities. Of the local government jurisdictions in close proximity to the critical habitat unit or essential habitat, only one qualifies as a small government. This government is not expected to be impacted by future conservation efforts for *Allium munzii*, according to the Economic Analysis.

In summary, we have considered whether this proposed designation would result in a significant economic impact on a substantial number of small entities, and we have concluded that it would not. Future consultations are not likely to affect a substantial number of small entities. We have no indication that the types of activities we review under section 7 of the Act will change significantly in the future. Thus, we conclude that the proposed designation of critical habitat for *Allium munzii* is not likely to result in a significant impact to this group of small entities. Therefore, we are certifying that the proposed designation of critical habitat for *Allium munzii* will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 et seq.)

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. As previously discussed, we have excluded critical habitat from lands within the Western Riverside MSHCP and other HCPs under section 4(b)(2) of the Act. The exclusion of these lands and the activities associated with the Western Riverside MSHCP and HCPs eliminates the potential for critical habitat in these excluded areas to have any effect on the increase in costs or prices for consumers or any significant adverse effects on competition, employment, investment, productivity, innovation or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Moreover, 100 percent of the designated critical habitat is on Forest Service lands that are not intensively used for commercial or business purposes, and we anticipate that the designation will have little to no effect on costs or prices for consumers or any other significant commercial or business related activities. In addition, the Economic Analysis indicates that the proposed designation will not have an annual effect on the economy of $100 million or more. Therefore, we believe that this critical habitat designation will not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Author

The primary authors of this notice are the staff of the Carlsbad Fish and Wildlife Office (*see* **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: November 23, 2004.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–26473 Filed 11–30–04; 8:45 am]

BILLING CODE 4310–55–P