

Sonoma and Marin counties, of which only 0.3 percent are likely to be affected by this rule. Therefore, we are certifying that the designation of critical habitat for *Delphinium bakeri* and *D. luteum* will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

*Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))*

OMB's Office of Information and Regulatory Affairs has determined that this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. In the economic analysis, we determined whether designation of critical habitat would cause (a) any effect on the economy of \$100 million or more, (b) any increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination. We anticipate that this final rule will not place significant additional burdens on any entity.

*Executive Order 13211*

On May 18, 2001, the President issued an Executive Order on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The primary land uses within this designated critical habitat are agricultural. This rule is not expected to significantly affect energy supplies, distribution, or use. In our economic analysis, we did not identify energy production or distribution as being significantly affected by this designation, and we received no comments indicating that the proposed designation could significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.):

(a) This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. Small governments will be

affected only to the extent that Federal agencies must ensure that any small government action they (the Federal agencies) authorize (permit) or fund is not likely to result in the adverse modification or destruction of designated critical habitat.

(b) This rule will not produce a Federal mandate on State, local, or Tribal governments of \$100 million or greater in any year. The designation of critical habitat imposes no obligations on State or local governments. Therefore, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act

*Takings*

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally protected Private Property Rights"), we have analyzed the potential takings implications of designating approximately 1,762 ha (4,353 ac) of lands as critical habitat for the two *Delphinium* species in Marin and Sonoma counties, California in a takings implication assessment. This assessment concludes that this final rule does not pose significant takings implications.

*Federalism*

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with the Department of the Interior policy, we requested information from, and coordinated development of this critical habitat designation with, the appropriate State resource agencies in California. We will continue to coordinate any future changes in the designation of critical habitat for *Delphinium bakeri* and *D. luteum* with the appropriate State agencies. Where these species are present, the designation of critical habitat imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation of critical habitat in unoccupied areas may require consultation under section 7 of the Act on non-Federal lands (where a Federal nexus occurs) that might otherwise not have occurred. The designation may have some benefit to these governments in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are identified. While this definition and identification does not alter where and what federally sponsored activities may

occur, it may assist these local governments in long-range planning, rather than waiting for case-by-case section 7 consultations to occur.

*Civil Justice Reform*

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Endangered Species Act, as amended. The rule uses standard property descriptions and identifies the principal constituent elements within the designated areas to assist the public in understanding the habitat needs of *Delphinium bakeri* and *D. luteum*.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain any new collections of information that require OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). This rule will not impose new recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act*

We have determined we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement, as defined by the National Environmental Policy Act of 1969, with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reason for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a Government-to-Government basis. The designated critical habitat for *Delphinium bakeri* and *D. luteum* does not contain any lands that we have