

of U.S.-based enterprises to compete with foreign-based enterprises (see Economic Analysis below).

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) 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. Although this policy is a significant action under Executive Order 12866, it is not expected to 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 policy will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. We expect that this policy will not result in any significant additional expenditures by entities that develop formalized conservation efforts.

(b) This policy will not produce a Federal mandate on state, local, or tribal governments or the private sector of \$100 million or greater in any year; that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. This policy imposes no obligations on state, local, or tribal governments (see Economic Analysis below).

Takings

In accordance with Executive Order 12630, this policy does not have significant takings implications. While state, local or Tribal governments, or private entities may choose to directly or indirectly implement actions that may have property implications, they would do so as a result of their own decisions, not as a result of this policy. This policy has no provision that would take private property.

Federalism

In accordance with Executive Order 13132, this policy does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Commerce policy, we requested information from and coordinated development of this policy with appropriate resource agencies throughout the United States.

Civil Justice Reform

In accordance with Executive Order 12988, this policy does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. With the guidance provided in the policy, requirements under section 4 of the Endangered Species Act will be clarified to entities that voluntarily develop formalized conservation efforts.

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

This policy contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by Office of Management and Budget (OMB). The FWS has OMB approval for the collection under OMB Control Number 1018-0119, which expires on December 31, 2005. The NMFS has OMB approval for the collection under OMB Control Number 0648-0466, which expires on December 31, 2005. We 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. Public reporting burden for FWS collections of information is estimated to average 2,500 hours for developing one agreement with the intent to preclude a listing, 320 hours for annual monitoring under one agreement, and 80 hours for one annual report. The FWS expects that six agreements with the intent of making listing unnecessary will be developed in one year and that four of these will be successful in making listing unnecessary, and therefore, the entities who develop these four agreements will carry through with their monitoring and reporting commitments. Public reporting burden for NMFS collections of information is estimated to average 2,500 hours for developing one agreement with the intent to preclude a listing, 320 hours for annual monitoring under one agreement, and 80 hours for one annual report. The NMFS expects that two agreements with the intent of making listing unnecessary will be developed in one year and that one of these will be successful in making listing unnecessary, and therefore, the entities who develop this agreement will carry through with their monitoring and reporting commitments. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data

collection, including suggestions for reducing the burden, to the FWS and NMFS (see ADDRESSES section of this policy).

National Environmental Policy Act

We have analyzed this policy in accordance with the criteria of the National Environmental Policy Act (NEPA), the Department of the Interior Manual (318 DM 2.2(g) and 6.3(D)), and National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6. This policy does not constitute a major Federal action significantly affecting the quality of the human environment. The FWS has determined that the issuance of the policy is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1 (1.10) and 516 DM 6, Appendix 1. NOAA has determined that the issuance of this policy qualifies for a categorical exclusion as defined by NOAA Administrative Order 216-6, Environmental Review Procedure.

ESA Section 7 Consultation

We have determined that issuance of this policy will not affect species listed as threatened or endangered under the Endangered Species Act, and, therefore, a section 7 consultation on this policy is not required.

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), E.O. 13175, and the Department of Interior's 512 DM 2, this policy does not directly affect Tribal resources. The policy may have an indirect effect on Native American Tribes as the policy may influence the type and content of conservation plans and efforts implemented by Tribes, or other entities. The extent of this indirect effect will be determined on a case-by-case basis during our evaluation of individual formalized conservation efforts when we make a listing decision. Under Secretarial Order 3206, we will, at a minimum, share with the entity that developed the formalized conservation effort any information provided by the Tribes, through the public comment period for the listing decision or formal submissions. During the development of conservation plans, we can encourage the incorporation of conservation efforts that will restore or enhance Tribal trust resources. After consultation with the Tribes and the entity that developed the formalized conservation effort and after