

Texas DOT, and UTSA are not considered "small entities."

Of the projects potentially impacted by section 7, some do not involve any project modifications. Specifically, Partners for Fish and Wildlife conservation projects on private lands are not expected to involve any project modifications. The greatest share of the costs associated with the section 7 consultation process stem from project modifications, as compared to the consultation itself. Indeed, costs associated with the consultation itself are relatively minor, with third-party costs estimated to range from \$1,200 to \$6,900 per consultation. Therefore, Partners for Fish and Wildlife conservation projects are unlikely to be significantly affected by consultations because these do not involve costly project modifications.

Several developers were identified as having activities with a Federal nexus and therefore are potentially affected by section 7 implementation for the nine invertebrates for which we proposed critical habitat designation. Six landowners are expected to complete HCPs for single- or multi-family homes or commercial development on their lands. These developers would each bear costs associated with the consultation and any related project modification for the HCP.

The SBA defines small development businesses as having less than \$28.5 million in average annual receipts (also referred to as sales or revenues). The following steps were taken as part of the economic analysis to estimate number of small businesses affected: Estimate the number of businesses within the study area affected by section 7 implementation annually (assumed to be equal to the number of annual consultations); calculate the percent of businesses in the affected industry that are likely to be small; calculate the number of affected small businesses in the affected industry; calculate the percent of small businesses likely to be affected by critical habitat. Using these steps, the economic assessment done for the Bexar County Invertebrate Species Critical Habitat designation indicates that a total annual percentage of about 1 percent of small businesses would bear a significant cost in industry.

In summary, of the projects potentially impacted by section 7 implementation, some are excluded from consideration because they are on Federal or State lands, and some do not involve any project modifications. Specifically, Partners for Fish and Wildlife conservation projects on private lands are not expected to involve any project modifications. The

greatest share of the costs associated with the consultation process stem from project modifications (as opposed to the consultation itself). Indeed, costs associated with the consultation itself are relatively minor, with third-party costs estimated to range from \$1,200 to \$6,900 per consultation. Therefore, small entities are unlikely to be significantly affected by consultations as these consultations do not involve costly project modifications. Additionally, because the costs associated with designating critical habitat for the seven invertebrates are likely to be significant for an total percentage of about one small business per year in the affected industries in the study area, this analysis concludes that a significant economic impact on a significant number of small entities will not result from the designation of critical habitat for the nine invertebrates. This would be true even if all of the effects of section 7 consultation on these activities were attributed solely to the critical habitat designation.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 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 rule is a significant action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use since the majority of the lands being designated as critical habitat occur on privately owned lands that are primarily developed for agricultural and residential uses, and not for energy production or distribution. 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.):

1. On the basis of information contained in the economic analysis, we determine that 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 any of their actions involving Federal funding or authorization must not destroy or adversely modify the critical habitat or take the species under section 9 of the Act.

2. This rule will not produce a Federal mandate of \$100 million or greater in any year (i.e., 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," March 18, 1988; 53 FR 8859), we have analyzed the potential takings implications of the designation of critical habitat for the seven karst invertebrates. The takings implications assessment concludes that this final rule does not pose significant takings implications. A copy of this assessment can be obtained by contacting the Austin Ecological Services Field Office (see ADDRESSES section).

On the basis of the above assessment, we find that this final rule designating critical habitat for the seven karst invertebrates 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. As discussed above, the designation of critical habitat in areas currently occupied by the seven endangered karst invertebrates would have little incremental impact on State and local governments and their activities. The designations 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 designation does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning.

Civil Justice Reform

In accordance with Executive Order 12988 (February 7, 1996; 61 FR 4729), the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would meet the requirements of sections 3(a) and 3(b)(2) of the Order. We designate critical habitat in accordance with the provisions of the Act. The rule uses standard coordinates that are geographic longitude and latitude, decimal degree coordinate pairs, referenced to North American Horizontal Datum 1983 (NAD 83), and identifies the primary constituent elements within the designated areas to assist the public in understanding the