

for *Abutilon sandwicense*, *Adenophorus periens*, *Alectryon macrococcus*, *Alsinidendron obovatum*, *Alsinidendron trinerve*, *Bonamia menziesii*, *Cenchrus agrimonoides*, *Centaurium sebaeoides*, *Chamaesyce celastroides* var. *kaenana*, *Chamaesyce deppeana*, *Chamaesyce herbstii*, *Chamaesyce kuwaleana*, *Chamaesyce rockii*, *Colubrina oppositifolia*, *Ctenitis squamigera*, *Cyanea acuminata*, *Cyanea crispa*, *Cyanea grimesiana* ssp. *grimesiana*, *Cyanea grimesiana* ssp. *obatae*, *Cyanea humboltiana*, *Cyanea koolauensis*, *Cyanea longiflora*, *Cyanea pinnatifida*, *Cyanea st.-johnii*, *Cyanea superba*, *Cyanea truncata*, *Cyperus trachysanthos*, *Cyrtandra dentata*, *Cyrtandra polyantha*, *Cyrtandra subumbellata*, *Cyrtandra viridiflora*, *Delissea subcordata*, *Diellia erecta*, *Diellia falcata*, *Diellia unisora*, *Diplazium molokaiense*, *Dubautia herbstobatae*, *Eragrostis fosbergii*, *Eugenia koolauensis*, *Euphorbia haeleeleana*, *Flueggea neowawraea*, *Gardenia mannii*, *Gouania meyenii*, *Gouania vitifolia*, *Hedyotis coriacea*, *Hedyotis degeneri*, *Hedyotis parvula*, *Hesperomannia arborescens*, *Hesperomannia arbuscula*, *Hibiscus brackenridgei*, *Isodendron laurifolium*, *Isodendron longifolium*, *Isodendron pyriforme*, *Labordia cyrtandrae*, *Lepidium arbuscula*, *Lipochaeta lobata* var. *leptophylla*, *Lipochaeta tenuifolia*, *Lobelia gaudichaudii* ssp. *koolauensis*, *Lobelia monostachya*, *Lobelia niihauensis*, *Lobelia oahuensis*, *Lysimachia filifolia*, *Mariscus pennatifolius*, *Marsilea villosa*, *Melicope lydgatei*, *Melicope pallida*, *Melicope saint-johnii*, *Myrsine juddii*, *Neraudia angulata*, *Nototrichium humile*, *Peucedanum sandwicense*, *Phlegmariurus nutans*, *Phyllostegia hirsuta*, *Phyllostegia kaalaensis*, *Phyllostegia mollis*, *Phyllostegia parviflora*, *Plantago princeps*, *Platanthera holochila*, *Pteris lidgatei*, *Sanicula mariversa*, *Sanicula purpurea*, *Schiedea hookeri*, *Schiedea kaalae*, *Schiedea kealiae*, *Schiedea nuttallii*, *Sesbania tomentosa*, *Silene lanceolata*, *Silene perlmanii*, *Solanum sandwicense*, *Spermolepis hawaiiensis*, *Stenogyne kanehoana*, *Tetramolopium filiforme*, *Tetramolopium lepidotum* ssp. *lepidotum*, *Tetraplasandra gymnocarpa*, *Trematolobelia singularis*, *Urera kaalae*, *Vigna o-wahuensis*, *Viola chamissoniana* ssp. *chamissoniana*, and *Viola oahuensis* will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

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

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. Our detailed assessment of the economic effects of this designation are described in the draft economic analysis and the final addendum to the economic analysis. Based on the effects identified in these documents, we believe that this rule 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. Refer to the final addendum to the economic analysis for a discussion of the effects of this determination.

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. This rule is not a significant regulatory action under Executive Order 12866, and it is not expected to significantly affect energy production supply and distribution facilities because no significant energy production, supply, and distribution facilities are included within designated critical habitat. Further, for the reasons described in the economic analysis, we do not believe that designation of critical habitat for the 99 plant species will affect future energy production. 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) For the reasons described in our economic analysis, this rule will not produce a Federal mandate on State or local governments or the private sector that may result in the expenditure of \$100 million or greater in any year. Therefore, a statement pursuant to 2 U.S.C. 1532 is not required.

(b) This rule will not “significantly or uniquely” affect small governments, so a Small Government Agency Plan is not required. Small governments will not be directly affected unless they propose an action requiring Federal funds, permits, or other authorizations. Any such

activities will require that the Federal agency ensure that the action will not adversely modify or destroy designated critical habitat.

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 critical habitat for the 99 species from Oahu in a takings implications assessment. The takings implications assessment concludes that this final rule does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, this final rule does not have significant Federalism effect and does not impose substantial direct compliance costs on State and local governments. In addition, this regulation is required by statute. See 16 U.S.C. 1533(a)(3). Therefore, a Federalism assessment is not required.

This rule imposes no regulatory requirements unless an agency is seeking Federal funding or authorization. In addition, for the reasons contained in the economic analysis, this rule will not have substantial direct compliance costs on State and local governments.

In fact, 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 specifically identified. While this definition and identification do not alter where and what federally sponsored activities may occur, they may assist these local governments in long range planning, rather than waiting for case-by-case section 7 consultation to occur. Nevertheless, keeping with Department of the Interior policy, we requested information from appropriate State and local officials in Hawaii.

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 does meet the requirements of sections 3(a) and 3(b)(2) of the Order. We have designated critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in