

following counties are excluded from this rule under section 4(b)(2) of the Act: Butte, Madera, Merced, Solano, and Sacramento. The exclusion of these counties substantially reduces the economic effect of this rule. Based on the effects identified in the economic analysis and the exclusions we have made, 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. Refer to the final economic analysis for a discussion of the potential effects of the proposed 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 regulatory action under Executive Order 12866, it is not expected to significantly affect energy production supply and distribution facilities because no 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 the designation of critical habitat for the 15 vernal pool species in California and Oregon 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.)

The Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.) requires each agency, unless otherwise prohibited by law, to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector. Under section 202 of UMRA, we must prepare a written statement, including a cost-benefit analysis, for significant regulatory actions that include a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. Even though the economic analysis that was prepared in support of this rulemaking fully assesses the effects of this designation on Federal, State, local, and tribal governments, and to the private sector,

the designation of critical habitat will not result in a Federal mandate imposing an enforceable duty upon those entities and a written statement is not required.

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 these 15 vernal pool species in a takings implications assessment. The takings implications assessment concludes that this final designation of critical habitat for the 15 vernal pool species does not pose significant takings implications.

Federalism

In accordance with Executive Order 13132, this final rule does not have significant Federalism effects or impose substantial direct compliance costs on State and local governments. This designation requires Federal agencies to ensure that their actions do not adversely modify critical habitat; it does not impose direct obligations on State or local governments. A Federalism assessment is not required. In keeping with Department of Interior policy, we requested information from appropriate State agencies in California and Oregon. The economic analysis does address possible impacts to State programs that may receive Federal funding. However, it does not conclude that there will be substantial costs to those programs due to the designation of critical habitat.

The designations may have some benefit to these governments, in that the areas essential to the conservation of the 15 vernal pool species are more clearly defined, and the primary constituent elements of the habitat necessary to their survival 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 causing them to wait for case-by-case section 7 consultation 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 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 understanding the habitat needs of the vernal pool crustaceans and vernal pool plants.

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

This rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act is required. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

National Environmental Policy Act

We have determined that 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 in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reason for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

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 (November 9, 2000; 65 FR 67249) and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have excluded Tribal trust lands of the Mechoopda Indian Tribe of Chico Rancheria, California, from this final critical habitat designation pursuant to section 4(b)(2) of the Act. Please refer to Relationship of Critical Habitat to Tribal Lands for further discussion of our exclusion of these Tribal trust lands.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Authors

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

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and