

fact that the remaining portion of this proposed rule only clarifies current regulation, we certify that this rule will not have a significant economic impact on a substantial number of small entities.

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 proposed rule is a significant regulatory 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 proposed rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. We expect that this proposed rule will not result in any significant additional expenditures by entities that develop Agreements.

(b) This proposed rule 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 proposed rule imposes no obligations on State or local governments.

Takings

In accordance with Executive Order 12630, this proposed rule does not have significant takings implications. This proposed rule has no provision that would take private property rights. Participation in this permitting program is strictly voluntary.

Federalism

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

Civil Justice Reform

In accordance with Executive Order 12988, this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

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 512 DM 2, this proposed rule does not directly affect Tribal resources. The effect of this proposed rule on Native American Tribes would be determined on a case-by-case basis with individual evaluations of permit applications. Under Secretarial Order 3206, we will, at a minimum, share with the entity that developed the permit application any information provided by the Tribes, through the public comment period or formal submissions, and advocate the incorporation of conservation measures that will restore or enhance Tribal trust resources. After consultation with the Tribes and the entity that developed the permit application and after careful consideration of the Tribe's concerns, we must clearly state the rationale for the recommended final decision and explain how the decision relates to our trust responsibility. Accordingly:

(a) We have not yet consulted with affected Tribes. This requirement will be addressed during individual evaluations of permit applications.

(b) We have not yet treated Tribes on a government-to-government basis. This requirement will be addressed during individual evaluations of permit applications.

(c) We will consider Tribal views in individual evaluations of permit applications.

(d) We have not yet consulted with the appropriate bureaus and offices of the Department about the identified effects of this proposed rule on Tribes. This requirement will be addressed during individual evaluations of permit applications.

Paperwork Reduction Act

This rule does not contain any new collections of information under permit application forms other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned OMB clearance number 1018-0094. This rule clarifies the range of activities that may be permitted under 50 CFR 17.22(a) and 17.32(a). Our current application approval number

1018-0094, already accommodates this clarification and the changes proposed herein. Therefore, no change in the approved application forms is needed. 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 control number. This proposed rule is being submitted to OMB for review.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA) and the Department of the Interior Manual (318 DM 2.2(g) and 6.3(D)). This rule does not constitute a major Federal action significantly affecting the quality of the human environment. The Fish and Wildlife Service has determined that this rule is categorically excluded under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1 and 516 DM 6, Appendix 1.

Section 7 Consultation

Though these revisions to the regulations will clarify the range of actions that may be permitted under enhancement of survival permits, it will not change the issuance standards for these enhancement of survival permits, or the manner in which the Service makes its issuance determinations. In addition, the Service will continue to consult on the issuance of each individual permit. During consultation, the potential risks to listed and proposed species and designated and proposed critical habitat areas will be evaluated. Therefore, at this time the Service has determined that the present action of revising these regulations for section 10(a)(1)(A) permits will not affect listed species or designated critical habitat.

Public Comments Solicited

We request public comments on this proposed rule to revise the regulations applicable to permits for scientific purposes or enhancement of propagation or survival. We will take into consideration all comments and any additional information received by the close of comment period (listed above in **DATES**) in making a final determination on this proposal. Comments on the proposed rule and policy changes should go to the Division of Conservation and Classification (listed above in **ADDRESSES**). Comments on the required determinations should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget via facsimile (202/395-6566), or e-mailed to