

*Executive Order 13211—Energy Supply, Distribution, and Use*

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB's guidance for implementing this Executive Order outlines nine outcomes that may constitute "a significant adverse effect" when compared to no regulatory action. The DEA finds none of these criteria relevant to this analysis (Chapter 4 of the DEA). Thus, based on information in the DEA, we do not expect conservation activities within proposed critical habitat for the 12 Hawaiian picture-wing fly species to lead to energy-related impacts. As such, we do not expect the proposed designation of critical habitat to significantly affect energy supplies, distribution, or use, and a Statement of Energy Effects is not 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), we make the following findings:

(a) The rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments," with two exceptions. It excludes "a condition of Federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding" and the State, local, or tribal governments "lack authority" to adjust accordingly. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except as (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. Non-Federal entities that receive Federal funding, assistance, permits, or otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat. However, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that the proposed designation will significantly or uniquely affect small governments because it will not produce a Federal mandate of \$100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The proposed designation of critical habitat imposes no obligations on State or local governments. The SBA does not consider the Federal Government to be a small governmental jurisdiction or entity. Consequently, we do not believe that the revised critical habitat designation would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

*Executive Order 12630—Takings*

In accordance with E.O. 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of proposing critical habitat for the 12 Hawaiian picture-wing fly species in a takings implications assessment. The takings implications assessment concludes that the proposed designation of critical habitat for the 12 Hawaiian picture-wing fly species does not pose significant takings implications for lands within or affected by the proposed designation.

**Authors**

The primary authors of this notice are the staff of the Endangered Species Program, Pacific Region, U.S. Fish and Wildlife Service.

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 4, 2008.

**David M. Verhey,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. E8–18519 Filed 8–11–08; 8:45 am]

BILLING CODE 4310–55–P

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

[FWS–R1–ES–2008–0073; 14420–1113–0000–C5]

**Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Remove the Bliss Rapids Snail (*Taylorconcha serpenticola*) From the List of Endangered and Threatened Wildlife; Notice of Document Availability.**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of document availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the availability of new information that may impact our status review for the Bliss Rapids snail (*Taylorconcha serpenticola*). This information has become available since the close of the comment period on our 90-day finding (72 FR 31250) on a petition to remove the Bliss Rapids snail from the Federal List of Endangered and Threatened Wildlife, pursuant to the Endangered Species Act of 1973, as amended (Act). Interested members of the public are invited to submit comments on this new information as it applies to the listing status of the Bliss Rapids snail.

**DATES:** To ensure consideration in the 12-month finding on this petition, comments and information should be submitted to us by August 27, 2008.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket FWS–R1–ES–2008–0073; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on: <http://www.regulations.gov>. This generally

means that we will post any personal information you provide us (see below for more information).

**FOR FURTHER INFORMATION CONTACT:**

Jeffery L. Foss, Field Supervisor, U.S. Fish and Wildlife, Service Snake River Fish and Wildlife Office, by mail at 1387 S. Vinnell Way, Room 368, Boise, ID 83709; by telephone at 208/378-5243; by facsimile at 208/378-5262; or by electronic mail at: [fw1srbocomment@fws.gov](mailto:fw1srbocomment@fws.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 26, 2006, we received a petition filed by the State of Idaho and the Idaho Power Company to remove the Bliss Rapids snail from the Federal List of Endangered and Threatened Wildlife in accordance with the provisions of section 4 of the Act.

On June 6, 2007, we published a substantial 90-day finding on the petition to remove the Bliss Rapids snail from the List of Endangered and Threatened Wildlife (72 FR 31250), initiated a status review, and opened a 60-day public comment period. Subsequent to the public comment period, new information has become available that is relevant to our status review. To ensure that the status review is complete and based on the best available scientific information, we are soliciting information on this new information as it relates to the listing status of the Bliss Rapids snail. The new

information includes a draft status review for the Bliss Rapid Snail (Draft Status Review), prepared in February 2008; peer reviews of the Draft Status Review; a manuscript examining the genetic structure of Bliss Rapids snail populations; and documentation from a recent expert panel convened to assess the status of the Bliss Rapids snail.

Comments particularly are sought concerning:

(1) Information and data in the Draft Status Review;

(2) Peer review comments on the Draft Status Review;

(3) The relevance of the new genetic information to the listing status of the Bliss Rapids snail;

(4) Information and data used by the expert panel; and,

(5) The expert panel's discussion of threats to the Bliss Rapids snail and ongoing conservation actions or regulatory actions that address these threats.

These materials are available for review at the following Web sites:

<http://www.regulations.gov>.

<http://www.fws.gov/idaho/Index.cfm>.

If you wish to comment, you may submit your comments and materials concerning this new information related to the petition finding by one of the methods listed in the **ADDRESSES** section.

If you submit information via <http://www.regulations.gov>, your entire submission—including your personal

identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this petition finding, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours at the U.S. Fish and Wildlife Service Snake River Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709; by telephone at 208/378-5243.

**Author**

The primary authors of this notice are staff of the Snake River Fish and Wildlife Office, U.S. Fish and Wildlife Service.

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 24, 2008.

**Kenneth Stansell,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. E8-18310 Filed 8-11-08; 8:45 am]

**BILLING CODE 4310-55-P**