

vehicle safety) and 49 U.S.C. 32308(b)(3) (consumer information). While the bumper standards penalty provision does not specifically require the agency to consider the size of the business, the agency would consider business size under its civil penalty policy when determining the appropriate civil penalty amount. See 62 FR 37115 (July 10, 1997) (NHTSA's civil penalty policy under the Small Business Regulatory Enforcement Fairness Act ("SBREFA")). The penalty adjustments that are being proposed would not affect our civil penalty policy under SBREFA. As a matter of policy, we intend to continue to consider the appropriateness of the penalty amount to the size of the business charged.

Since this regulation would not establish penalty amounts, this proposal will not have a significant economic impact on small businesses.

Further, small organizations and governmental jurisdictions would not be significantly affected as the price of motor vehicles and equipment ought not to change as the result of this proposed rule. As explained above, this action is limited to the proposed adoption of a statutory directive, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

#### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1980, Public Law 96-511, we state that there are no requirements for information collection associated with this rulemaking action.

#### *National Environmental Policy Act*

We have also analyzed this rulemaking action under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

#### *Executive Order 12612 (Federalism)*

We have analyzed this proposed rule in accordance with the principles and criteria contained in Executive Order 12612, and have determined that it has no significant federalism implications to warrant the preparation of a Federalism Assessment.

#### *Civil Justice Reform*

This proposed rule does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

#### *Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995, Public Law 104-4 requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Because this rule will not have a \$100 million effect, no Unfunded Mandates assessment will be prepared.

#### **List of Subjects in 49 CFR Part 578**

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires, Penalties.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 578 as follows:

#### **PART 578—CIVIL AND CRIMINAL PENALTIES**

1. The authority citation for 49 CFR part 578 would continue to read as follows:

**Authority:** Pub. L. 101-410, Pub. L. 104-134, 49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; delegation of authority at 49 CFR 1.50.

2. Section 578.6 would be amended by revising paragraphs (a)(1), (a)(2), (c)(2), and (d) to read as follows:

\* \* \* \* \*

#### **§ 578.6 Civil penalties for violations of specified provisions of title 49 of the United States Code.**

(a)(1) *Motor vehicle safety.* A person who violates any of sections 30112, 30115, 30117 through 30122, 30123(d), 30125(c), 30127, or 30141 through 30147 of title 49 of the United States Code or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum civil penalty under this paragraph for a related series of violations is \$16,050,000.

(2) *Section 30166.* A person who violates section 30166 of title 49 of the United States Code or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$5,000 per violation per day. The maximum penalty under this paragraph for a

related series of violations is \$16,050,000.

\* \* \* \* \*

(c) *Bumper standards.* (1) \* \* \*

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is \$1,025,000.

(d) *Consumer information regarding crashworthiness and damage susceptibility.* A person that violates 49 U.S.C. 32308(a) is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty under this paragraph for a related series of violations is \$500,000.

\* \* \* \* \*

Issued on: June 4, 2004.

**Jacqueline Glassman,**  
*Chief Counsel.*

[FR Doc. 04-13056 Filed 6-10-04; 8:45 am]

**BILLING CODE 4910-59-P**

#### **DEPARTMENT OF THE INTERIOR**

#### **Fish and Wildlife Service**

#### **50 CFR Part 17**

**RIN 1018-AJ16**

#### **Endangered and Threatened Wildlife and Plants; Extension of the Public Comment Period on the Proposed Designation of Critical Habitat for the California Red-legged Frog (*Rana aurora draytonii*)**

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

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the extension of the public comment period on the proposed designation of critical habitat for the California red-legged frog (*Rana aurora draytonii*). The comment period will provide the public, and Federal, State, and local agencies and Tribes with an opportunity to submit written comments on the proposal. Comments previously submitted for this proposal need not be resubmitted as they have already been incorporated into the public record and will be fully considered in any final decision.

**DATES:** The original comment period is scheduled to close on June 14, 2004 (69 FR 19620, April 13, 2004). The public comment period for this proposal is now extended for an additional 30 days. We will now accept comments and

information until 5 p.m. July 14, 2004. Any comments received after the closing date may not be considered in the final decisions on these actions.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may submit written comments and information to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W. 2605, Sacramento, California 95825.

2. You may hand-deliver written comments and information to our Sacramento Fish and Wildlife Office, at the above address, or fax your comments to 916/414-6712.

3. You may send your comments by electronic mail (e-mail) to [fw1crlf@r1.fws.gov](mailto:fw1crlf@r1.fws.gov). For directions on how to submit electronic filing of comments, see the "Public Comments Solicited" section below. In the event that our internet connection is not functional, please submit comments by the alternate methods mentioned above.

All comments and materials received, as well as supporting documentation used in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** For general information, and for information about Alameda, Butte, Contra Costa, El Dorado, Fresno, Kern, Marin, Mariposa, Merced, Napa, Plumas, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Stanislaus, Tehama, and Tuolumne Counties, contact Wayne White, Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W. 2605, Sacramento, California 95825 (telephone 916/414-6600; facsimile 916/414-6712).

For information about Los Angeles, Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, and Ventura Counties, contact Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2394 Portola Road, Suite B, Ventura, California 93003 (telephone 805/644-1766; facsimile 805/644-3958).

For information about areas in the San Gabriel Mountains of Los Angeles County or Riverside and San Diego Counties, contact Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008 (telephone 760/431-9440; facsimile 760/431-9624).

**SUPPLEMENTARY INFORMATION:**

**Public Comments Solicited**

It is our intent that any final action resulting from the April 13, 2004, proposed designation of critical habitat for the California red-legged frog (*Rana aurora draytonii*) (69 FR 19620) will be as accurate as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. On the basis of public comment, during the development of the final rule we may find that areas proposed are not essential, appropriate for exclusion under section 4(b)(2), or not appropriate for exclusion, in which case they would be removed from or made part of the final designation. We particularly seek comments concerning:

(1) The reasons why any areas should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the species resulting from the designation;

(2) Specific information on the amount and distribution of California red-legged frog and its habitat, and which habitat or habitat components are essential to the conservation of this species and why;

(3) Whether the primary constituent elements for the California red-legged frog as defined in this proposal are biologically and scientifically accurate, specifically,

(a) Whether aquatic habitat used for breeding must have a minimum deep water depth of 0.5 meters (m) (20 inches (in));

(b) Whether aquatic components must consist of two or more breeding sites located within 2 kilometers (km) (1.25 miles (mi)) of each other;

(c) Should the primary constituent elements be more descriptive of the variations in habitat preference throughout the range of the subspecies;

(4) Whether the two recently discovered populations of California red-legged frogs in Youngs Creek, in Calaveras County, and in artificial ponds in Nevada County are essential to the conservation of the subspecies and should be included in designated critical habitat;

(5) Land use designations and current or planned activities in or adjacent to the areas proposed and their possible impacts on proposed critical habitat;

(6) Any foreseeable economic or other potential impacts resulting from the proposed designation, in particular, any impacts on small entities;

(7) Some of the lands we have identified as essential for the

conservation of the California red-legged frog are not being proposed as critical habitat. We specifically solicit comment on the inclusion or exclusion of such areas and:

(a) Whether these areas are essential;

(b) Whether these areas warrant exclusion; and

(c) The basis for not designating these areas as critical habitat (section 3(5)(A) or section 4(b)(2) of the Act);

(8) With specific reference to the recent amendments to sections 4(a)(3) and 4(b)(2) of the Act, we request information from the Department of Defense to assist the Secretary of the Interior in excluding critical habitat on lands administered by or under the control of the Department of Defense based on the benefit of an Integrated Natural Resources Management Plan (INRMP) to the conservation of the species; and information regarding impacts to national security associated with proposed designation of critical habitat; and

(9) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit electronic comments in ASCII file format and avoid the use of special characters or any form of encryption. Please also include "Attn: RIN 1018-AJ16" in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Sacramento Fish and Wildlife Office at phone number 916/414-6600. Please note that the e-mail address [fw1crlf@r1.fws.gov](mailto:fw1crlf@r1.fws.gov) will be closed out at the termination of the public comment period. In the event that our internet connection is not functional, please submit comments by the alternate methods mentioned above.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your

name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

#### Background

A final rule designating critical habitat for the California red-legged frog (*Rana aurora draytonii*) was signed on March 1, 2001, and published in the **Federal Register** on March 13, 2001 (66 FR 14626).

On June 8, 2001, the Home Builders Association of Northern California, California Chamber of Commerce, California Building Industry

Association, California Alliance for Jobs, and the Building Industry Legal Defense Fund filed a lawsuit in the U.S. District Court for the District of Columbia challenging the Service's designation of critical habitat for the California red-legged frog. *Home Builders Ass'n of Northern California, et al. v. Norton, et al.*, Civ. No. 01-1291 (RJL) (D. D.C.). On November 6, 2002, the court entered a consent decree remanding the designation to the Service to conduct an economic analysis in accordance with the Tenth Circuit's decision in *New Mexico Cattle Growers Ass'n v. U.S. Fish and Wildlife Service*, 248 F.3d 1277 (10th Cir. 2001). The consent decree vacated the critical habitat designation for the California red-legged frog with the exception of Units 5 and 31, units not known to be occupied by the frog, and ordered the Service to promulgate a proposed revised designation by March 2004, and a final revised rule by November 2005. A proposed rule

designating critical habitat for the California red-legged frog was published on April 13, 2004 (69 FR 19620). A public comment period on the proposal was open for 60 days following its publication. By this notice, we are hereby extending the public comment period on the proposal for an additional 30 days.

#### Author

The primary author of this notice is Douglas Krofta, Division of Conservation and Classification, U.S. Fish and Wildlife Service, Arlington, Virginia.

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

Dated: June 8, 2004.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 04-13400 Filed 6-9-04; 12:37 pm]

**BILLING CODE 4310-55-P**