

the agencies carry out, fund, or authorize activities.

In order to amend an NEP, we must issue a proposed rule and consider public comments on it prior to publishing a final rule. In addition, we must comply with NEPA (42 U.S.C. 4321 *et seq.*). Also, our regulations require that, to the maximum extent practicable, a regulation issued under section 10(j) of the Act represents an agreement between the Service, the affected State and Federal agencies, and persons holding any interest in land that may be affected by the establishment of the experimental population (see 50 CFR 17.81(d)).

We have not yet identified possible alternatives for accomplishing our goals of amending the 1998 NEP final rule to better enable progress toward reintroduction and recovery goals, and we do not know what the preferred alternative (the proposed action) or other alternatives might entail. Once identified, the alternatives will be carried forward into detailed analyses pursuant to NEPA.

We will take the following steps prior to making a decision regarding any proposed amendment to the 1998 Mexican gray wolf NEP final rule:

- (1) Compile and analyze all new biological information on the species;
- (2) Review and update the administrative record covering previous Federal actions for the species;
- (3) Review the overall approach to conservation and recovery of the gray wolf in the United States in general, and the Mexican gray wolf in the southwestern United States in particular;
- (4) Review available information that pertains to the management and habitat requirements of this species, including material received during the public comment period for this advance notice of proposed rulemaking, during the scoping meetings, and from previous rulemakings;
- (5) Review actions identified in the Recovery Plan (U.S. Fish and Wildlife Service 1982, pp. 28–40);
- (6) Coordinate with State, county, local, and Federal partners;
- (7) Coordinate with Tribal partners;
- (8) Coordinate with Mexican authorities;
- (9) Conduct a socioeconomic analysis of the consequences of amending the existing 1998 NEP final rule;
- (10) Write a draft EIS and present alternatives to the public for review and comment;
- (11) Incorporate public input and use current knowledge of Mexican gray wolf habitat use, needs, and availability to

precisely map any potential changes to the existing MWEPA and BRWRA;

(12) Publish in the **Federal Register** a proposed rule to revise the 1998 NEP final rule and solicit comments from the public;

(13) Finalize the draft EIS and issue a Record of Decision; and

(14) If we determine that it is prudent to proceed with an amendment to the 1998 NEP Final Rule, publish a new final rule, potentially identifying an amended NEP area as one component for continuing the reintroduction project for the conservation and eventual recovery of the Mexican gray wolf in the southwestern United States.

We are the lead Federal agency for compliance with NEPA for this action. Thus far, the Arizona Game and Fish Department, New Mexico Department of Game and Fish, U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service—Wildlife Services, and USDA Forest Service have agreed to be cooperating agencies in the NEPA process. The draft EIS will incorporate public concerns in the analysis of impacts associated with the proposed action and associated project alternatives. The draft EIS will be sent out for a minimum 90-day public review period, during which time additional public meetings may be held and comments will be solicited on the adequacy of the document. The final EIS will address the comments we receive during public review and will be furnished to all who commented on the draft EIS and made available to anyone who requests a copy. This notice is provided pursuant to regulations for implementing NEPA (40 CFR 1506.6).

## References

A complete list of all references cited in this notice is available, upon request, from the U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see **ADDRESSES** section).

## Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: July 19, 2007.

**Todd Willens,**

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

[FR Doc. E7–14626 Filed 8–6–07; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018–AU34

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Piperia yadonii* (Yadon's *Piperia*)

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

**ACTION:** Proposed rule; reopening of comment period, notice of availability of draft economic analysis, and amended Required Determinations.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period on the proposed designation of critical habitat for *Piperia yadonii* (Yadon's *piperia*). We also announce the availability of the draft economic analysis of the proposed critical habitat designation and an amended Required Determinations section of the proposal. The draft economic analysis for *Piperia yadonii* identifies estimated costs associated with conservation efforts for *Piperia yadonii* to range from \$9.6 to \$12.9 million (undiscounted) over a 20-year period as a result of the proposed designation of critical habitat, including those costs coextensive with listing and recovery. Discounted future costs are estimated to be \$7.1 to \$9.6 million (\$0.47 to \$0.63 million annualized) at a 3 percent discount rate or \$5.1 to \$6.8 million (\$0.45 to \$0.60 million annualized) at a 7 percent discount rate. The amended Required Determinations section provides our determination concerning compliance with applicable statutes and Executive Orders that we have deferred until the information from the draft economic analysis of this proposal was available. We are reopening the comment period for the proposed rule to allow all interested parties an opportunity to comment simultaneously on the proposed rule, the associated draft economic analysis, and the amended Required Determinations section. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this comment period, and will be fully considered in preparation of the final designation.

**DATES:** We will accept public comments until September 6, 2007.

**ADDRESSES:** You may submit written comments and materials to us by any one of the following methods:

(1) You may mail or hand-deliver written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

(2) You may fax your comments to 805/644-3958.

(3) You may send comments by electronic mail (e-mail) to: [fw8piya@fws.gov](mailto:fw8piya@fws.gov), or to the Federal eRulemaking Portal at <http://www.regulations.gov>. For directions on how to file comments electronically, see the "Public Comments Solicited" section below. In the event that our Internet connection is not functional, please submit your comments by one of the alternate methods mentioned above.

Copies of the draft economic analysis and the proposed rule for critical habitat designation are available on the Internet at <http://www.fws.gov/ventura> or from the Ventura Fish and Wildlife Office at the address and contact numbers above.

**FOR FURTHER INFORMATION CONTACT:**

Diane Steeck, Ecologist, or Connie Rutherford, Listing and Recovery Coordinator, Ventura Fish and Wildlife Office, at the address listed in **ADDRESSES** (telephone 805/644-1766; facsimile 805/644-3958).

**SUPPLEMENTARY INFORMATION:**

**Public Comments Solicited**

During this reopened comment period we solicit comments on the proposed critical habitat designation (71 FR 61546; October 18, 2006), this document, and our draft economic analysis of the proposed designation. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why habitat should or should not be designated as critical habitat under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation would outweigh threats to the species caused by designation such that the designation of critical habitat is prudent;

(2) Specific information on the amount and distribution of *Piperia yadonii* habitat, what areas within the geographical area occupied by *Piperia yadonii* at the time of listing and that contain the features that are essential to the conservation of the species should be included in the designation and why, and what areas outside of the geographical area occupied at the time of listing are essential to the conservation of the species and why;

(3) Our mapping methodology and criteria used for determining critical habitat as well as any additional information on features essential for the conservation of the species;

(4) The possible impacts of the proposed designation of critical habitat on land use designation and current or planned activities.

(5) Information on whether, and, if so, how many of, the State and local environmental protection measures referenced in the draft economic analysis were adopted largely as a result of the listing of *Piperia yadonii*, and how many were either already in place at the time of listing or enacted for other reasons;

(6) Information on whether the draft economic analysis identifies all State and local costs and benefits attributable to the proposed critical habitat designation, and information on any costs or benefits that have been inadvertently overlooked;

(7) Information on whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes that would be imposed as a result of the designation of critical habitat;

(8) Information on whether the draft economic analysis correctly assesses the effect on regional costs associated with any land use controls that may derive from the designation of critical habitat;

(9) Information related to the expectation that the Pebble Beach Company Del Monte Forest Preservation and Development Plan, for which a permit has recently been denied by the California Coastal Commission, will go forward;

(10) Information on areas that could potentially be disproportionately impacted by *Piperia yadonii* critical habitat designation. The draft economic analysis indicates the potential economic effects of undertaking conservation efforts for this species in particular areas within Monterey County. Based on this information, we may consider excluding portions of these areas from the final designation per our discretion under section 4(b)(2) of the Act;

(11) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities, and the benefits of including or excluding areas that exhibit these impacts; the reasons why our conclusion that the proposed designation of critical habitat would not result in a disproportionate effect on small businesses should or should not warrant further consideration; and other information that would indicate that the designation of critical habitat would or would not have any impacts on small entities;

(12) Information on whether the draft economic analysis appropriately

identifies all costs that could result from the designation;

(13) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments;

(14) Whether the benefit of excluding any particular area from the critical habitat designation under section 4(b)(2) of the Act outweighs the benefit of including the area in the designation; and

(15) Economic data on the incremental effects that would result from designating any particular area as critical habitat.

The Secretary shall designate critical habitat on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. An area may be excluded from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of including a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species.

Comments and information submitted during the initial comment period on the October 18, 2006, proposed rule (71 FR 61546) need not be resubmitted. If you wish to comment, you may submit your comments and materials concerning the draft economic analysis and the proposed rule by any one of several methods (see **ADDRESSES** section). Our final designation of critical habitat will take into consideration all comments and any additional information we receive during both comment periods. On the basis of public comment on the draft economic analysis, the critical habitat proposal, and the final economic analysis, we may, during the development of our final determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: RIN 1018-AU34" in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact the persons listed under **FOR FURTHER INFORMATION CONTACT**.

Before including your address, phone number, e-mail address, or other

personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public view your personal identifying information, we cannot guarantee that we will be able to do so. Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for public inspection, by appointment during normal business hours, at the Ventura Fish and Wildlife Office at the address listed under **ADDRESSES**.

Copies of the proposed rule and draft economic analysis are available on the Internet at: <http://www.fws.gov/ventura/>. You may also obtain copies of the proposed rule and draft economic analysis by contacting the Ventura Fish and Wildlife Office at the address listed in **ADDRESSES**, or by calling 805/644-1766 extension 301.

### Background

Pursuant to the terms of a December 21, 2004, settlement agreement, we agreed to submit for publication in the **Federal Register** a proposed critical habitat designation for *Piperia yadonii* on or before October 5, 2006. We published a proposed rule to designate critical habitat for *Piperia yadonii* on October 18, 2006 (71 FR 61546). The proposed critical habitat totals approximately 2,306 acres (ac) (930 hectares (ha)) for *Piperia yadonii* in Monterey County, California.

Critical habitat is defined in section 3 of the Act as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, in accordance with section 7(a)(2) of the Act.

### Draft Economic Analysis

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. Based on the October 18, 2006, proposed rule to designate critical habitat for *Piperia yadonii* (71 FR 61546), we have prepared a draft economic analysis of the proposed critical habitat designation for *Piperia yadonii*.

The draft economic analysis is intended to quantify the economic impacts of all potential conservation efforts for *Piperia yadonii*; some of these costs will likely be incurred regardless of whether critical habitat is designated. The draft economic analysis provides estimated costs of conservation-related measures that are likely to be associated with future economic activities that may adversely affect the habitat within the proposed boundaries over a twenty year period. It also considers past costs associated with conservation of the species from the time it was listed (August 12, 1998; 63 FR 43100). For a further description of the methodology of the analysis, see section 4 (methodology) of the draft economic analysis.

Based on our draft economic analysis of the proposed designation of critical habitat for *Piperia yadonii* costs associated with conservation efforts for *Piperia yadonii* are estimated to be approximately \$9.6 to \$12.9 million (undiscounted) over a 20-year period as a result of the proposed designation of critical habitat, including those costs coextensive with listing and recovery. Discounted future costs are estimated to be \$7.1 to \$9.6 million (\$0.47 to \$0.63 million annualized) at a 3 percent discount rate or \$5.1 to \$6.8 million (\$0.45 to \$0.60 million annualized) at a 7 percent discount rate.

The draft economic analysis considers the potential economic effects of actions relating to the conservation of *Piperia yadonii*, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for *Piperia yadonii* in areas containing features essential to the conservation of the species. The draft analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects

generally reflect the “opportunity costs” associated with the commitment of resources to comply with habitat protection measures (e.g., lost economic opportunities associated with restrictions on land use).

The draft analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, the draft analysis looks retrospectively at costs that have been incurred since the date *Piperia yadonii* was listed as endangered (August 12, 1998; 63 FR 43100) and considers those costs that may occur in the 20 years following a designation of critical habitat. Forecasts of economic conditions and other factors beyond this point would be speculative.

As stated earlier, we solicit data and comments from the public on the draft economic analysis, as well as on all aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion would not result in the extinction of the species.

### Required Determinations—Amended

In our October 18, 2006, proposed rule (71 FR 61546), we indicated that we would be deferring our determination of compliance with several statutes and Executive Orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders was available in the draft economic analysis. Those data are now available for our use in making these determinations. In this notice we are affirming the information contained in the proposed rule concerning Executive Order (E.O.) 13132; E.O. 12988, the Paperwork Reduction Act; and the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951). Based on the information made available to us in the draft economic analysis, we are amending our Required Determinations, as provided below, concerning E.O. 12866 and the Regulatory Flexibility

Act, E.O. 13211, E.O. 12630, and the Unfunded Mandates Reform Act.

#### *Regulatory Planning and Review*

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. Based on our draft economic analysis of the proposed designation of critical habitat for *Piperia yadonii* costs associated with conservation efforts for *Piperia yadonii* are estimated to be approximately \$9.6 to \$12.9 million (undiscounted) over a 20-year period as a result of the proposed designation of critical habitat, including those costs coextensive with listing and recovery. Discounted future costs are estimated to be \$7.1 to \$9.6 million (\$0.47 to \$0.63 million annualized) at a 3 percent discount rate or \$5.1 to \$6.8 million (\$0.45 to \$0.60 million annualized) at a 7 percent discount rate. As described in the draft economic analysis, two entities are anticipated to experience the highest estimated costs. These include Pebble Beach Company, with potential economic impacts estimated at \$6.9 million (undiscounted) over 20 years; and a single developer, with potential economic impacts ranging from \$0.47 to \$3.5 million (undiscounted) over 20 years. Therefore, based on our draft economic analysis, we have determined that the proposed designation of critical habitat for *Piperia yadonii* will not result in an annual effect on the economy of \$100 million or more or affect the economy in a material way. Due to the timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) did not formally review the proposed rule.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A-4, September 17, 2003). Pursuant to Circular A-4, once it has been determined that the Federal regulatory action is appropriate, the agency will then need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we must evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any

particular area from the designation of critical habitat provided the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

#### *Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 802(2)) (SBREFA), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Based upon our draft economic analysis of the proposed designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments received, this determination is subject to revision as part of the final rulemaking.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic

impact is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for *Piperia yadonii* would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (*e.g.*, residential and commercial development). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation.

If this proposed critical habitat designation is made final, Federal agencies must consult with us under section 7 of the Act if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our draft economic analysis of the proposed critical habitat designation, we evaluate the potential economic effects on small business entities resulting from conservation actions related to the listing of *Piperia yadonii* and proposed designation of critical habitat. We determined from our draft analysis that the small business entities that may be affected include two nonprofit organizations (Elkhorn Slough Foundation and Del Monte Forest Foundation), one city government (City of Pacific Grove), and one private developer. Estimated costs over 20 years to the two nonprofit organizations range from \$2,037 to \$48,554 per year at a 3 percent discount rate; estimated costs to the City of Pacific Grove are \$1,331 per year at a 3 percent discount rate; and estimated costs to the private developer are \$168,359 per year at a 3 percent discount rate.

Potential impacts described in Section VI of the draft economic analysis for the Elkhorn Slough Foundation, Del Monte Forest Foundation, and the City of Pacific Grove are predominantly due to carrying out management activities (including trail maintenance, sign installation, invasive species management, and erosion control) that any entity engaged in the conservation of park lands and natural lands would

normally undertake. The number of potentially affected park lands and natural lands are few compared to the total amount of lands in Monterey County that are within park lands, natural lands, preserves, and conservation easements. As a result, entities that are engaged in natural lands management in the Monterey County area as a whole are not expected to be measurably affected by *Piperia yadonii* conservation.

Potential impacts described in Section VI of the draft economic analysis for one single developer are based on the cost of possible mitigation measures and range from a negligible cost of \$0 to \$3.0 million if a permit to develop the developer's property were denied. The number of potentially affected developers is small compared to the total number of housing developers in the Monterey County area. As a result, entities that are engaged in housing construction in the Monterey County areas as a whole are not expected to be measurably affected by *Piperia yadonii* conservation. From this analysis, we have determined that this proposed designation will not have a significant economic impact on a substantial number of small business entities.

#### *Executive Order 13211*

On May 18, 2001, the President issued Executive Order (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. One critical habitat unit (Vierra Canyon) comprises private lands overlain by a utility easement held by Pacific Gas and Electric Company. Pacific Gas and Electric Company maintains power lines that cross this unit; however, because the company does not plan to develop this land any further, the designation of critical habitat is not expected to have an adverse effect on energy production. Although the proposed designation of critical habitat for *Piperia yadonii* is considered a significant regulatory action under E.O. 12866 because it raises novel legal and policy issues, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant 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.), the Service makes the following findings:

(a) This 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. (At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (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) As discussed in the draft economic analysis of the proposed designation of critical habitat for *Piperia yadonii*, the impacts on nonprofits and small governments is expected to be small. There is no record of consultations between the Service and any of these governments since *Piperia yadonii* was listed as endangered on August 12, 1998 (63 FR 43100). It is likely that small governments involved with developments and infrastructure projects will be interested parties or involved with projects involving section 7 consultations for *Piperia yadonii* within their jurisdictional areas. Any costs associated with this activity are likely to represent a small portion of a local government's budget. Consequently, we do not believe that the designation of critical habitat for the *Piperia yadonii* would significantly or uniquely affect these small governmental entities. As such, a Small Government Agency Plan 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 proposing critical habitat for *Piperia yadonii*. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. In conclusion, the proposed designation of critical habitat for *Piperia yadonii* does not pose significant takings implications.

#### **Author**

The primary author of this notice is the staff of the Ventura Fish and Wildlife Office.

#### **Authority**

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

Dated: July 26, 2007.

**David M. Verhey,**

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

[FR Doc. E7–15193 Filed 8–6–07; 8:45 am]

**BILLING CODE 4310–55–P**