Column A	Column B	Column C
Dry Cured Pork Products	Members of the National Country Ham Association and the Association of Meat Processors, Nahunta Pork Center (North Carolina), and Gwaltney and Smithfield Inc.	Red legged ham beetle infestation. Cheese/ham skipper infestation. Dermested beetle infestation. Ham mite infestation.

[FR Doc. 2011–10345 Filed 4–27–11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2009–0062; 92210–1117–0000–B4]

RIN 1018–AW85

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Buena Vista Lake Shrew

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on the October 21, 2009, proposed designation of revised critical habitat for the Buena Vista Lake shrew (*Sorex ornatus relictus*) (shrew) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis (DEA) of the proposed designation of revised critical habitat for the shrew and an amended required determinations section of the proposed rule. We are reopening the comment period for an additional 60 days to allow all interested parties an opportunity to comment simultaneously on the proposed revised critical habitat designation, the associated DEA, and the amended required determinations section. We also announce a public hearing; the public is invited to review and comment on the proposed revised critical habitat designation at the public hearing or in writing. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: *Written Comments:* We will consider comments received on or before June 27, 2011. Comments must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decision on this action.

Public Hearing: We will hold the public hearing on June 8, 2011. The first hearing session will start at 1 p.m. Pacific Time with doors opening at 12:30, and the second session at 6 p.m. with doors opening at 5:30.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for Docket No. FWS–R8–ES–2009–0062, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2009–0062; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

Public Hearing: We will hold the public hearing at the Doubletree Hotel, 3100 Camino Del Rio Court, Bakersfield, California.

We will post all comments and the public hearing transcript on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Susan Moore, Field Supervisor, or Karen Leyse, Listing Coordinator, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825; by telephone (916) 414–6600; or by facsimile (916) 414–6713. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of revised critical habitat for the Buena Vista Lake shrew that we published in the **Federal Register** on October 21, 2009 (74 FR 53999), our DEA of the proposed revised designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Specific information on:

(a) The distribution of the Buena Vista Lake shrew, including the locations of any additional populations of this species that would help us further refine boundaries of critical habitat;

(b) The amount and distribution of Buena Vista Lake shrew habitat, including areas that provide habitat for the shrew that we did not discuss in the proposed revised critical habitat rule;

(c) What areas occupied by the species at the time of listing that contain features essential for the conservation of the species we should include in the designation, and why; and

(d) What areas not occupied at the time of listing are essential to the conservation of the species, and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed revised critical habitat.

(4) Any foreseeable economic, national security, or other relevant impacts that may result from designating any area that may be included in the final designation. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas from the proposed designation that are subject to these impacts.

(5) 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.

(6) Information on the extent to which the description of economic impacts in the DEA is complete and accurate.

(7) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the DEA, and how the consequences of such reactions, if likely to occur, would relate to the

conservation and regulatory benefits of the proposed revised critical habitat designation.

(8) Whether any specific areas being proposed as critical habitat should be excluded under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any particular area outweigh the benefits of including that area under section 4(b)(2) of the Act. See Areas Previously Considered for Exclusion Under Section 4(b)(2) of the Act section below for further discussion.

If you submitted comments or information on the proposed rule (74 FR 53999) during the initial comment period from October 21, 2009, to December 21, 2009, please do not resubmit them. We will incorporate them into the public record as part of this comment period, and we will fully consider them in the preparation of our final determination. Our final determination concerning revised critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, 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.

You may submit your comments and materials concerning the proposed rule or DEA by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment 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.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and the DEA, will be available for public inspection at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2009–0062, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule and the DEA on the Internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2009–0062, or by mail from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

We have scheduled a public hearing on the proposed rule. It will be held on the date listed in the **DATES** section at the address listed in the **ADDRESSES** section. We are holding a public hearing to provide interested parties an opportunity to provide verbal testimony (formal, oral comments) or written comments regarding the proposed revised critical habitat designation, the associated DEA, and the amended required determinations section. Anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a written copy of their statement to us at that hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Speakers can sign up only at the hearing. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us. If you have any questions concerning the public hearing or need reasonable accommodations to attend and participate in the public hearing, please contact one of the people listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible, but no later than one week before the hearing date, to allow sufficient time to process requests.

Background

It is our intent to discuss only those topics directly relevant to the designation of revised critical habitat for the Buena Vista Lake shrew in this document. For more information on previous Federal actions concerning the Buena Vista Lake shrew, refer to the proposed designation of critical habitat published in the **Federal Register** on October 21, 2009 (74 FR 53999). Additional relevant information may be found in the final rule to designate critical habitat for the Buena Vista Lake shrew published on January 24, 2005 (70 FR 3437). For more information on the Buena Vista Lake shrew or its habitat, refer to the final listing rule published in the **Federal Register** on March 6, 2002 (67 FR 10101), which is available online at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2009–0062, or by mail from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

On August 19, 2004, we proposed critical habitat for the shrew on approximately 4,649 acres (ac) (1,881 hectares (ha)) in Kern County, California (69 FR 51417). On January 24, 2005, we published a final rule (70 FR 3437) designating 84 ac (34 ha) of critical habitat for the shrew in Kern County, California. The decrease in acreage between the proposed rule and final rule resulted from exclusions under section 4(b)(2) of the Act and, to a small degree, refinements in our mapping of critical habitat boundaries.

On October 2, 2008, the Center for Biological Diversity filed a complaint in the U.S. District Court for the Eastern District of California challenging the Service's designation of critical habitat for the shrew (*Center for Biological Diversity* v. *United States Fish and Wildlife, et al.,* Case No. 08–CV–01490–AWI–GSA). On July 9, 2009, the Court approved a stipulated settlement agreement in which the Service agreed to submit a revised proposed rule to the **Federal Register** within 90 days of the signed agreement. The revised proposed rule was to encompass the same geographic area as the August 19, 2004 (69 FR 51417), proposed critical habitat designation.

On October 21, 2009, we published a proposed rule to revise critical habitat for the Buena Vista Lake shrew (74 FR 53999). We proposed to designate approximately 4,649 ac (1,881 ha) in five units located in Kern County, California, as critical habitat. That proposal had a 60-day comment period, ending December 21, 2009. Additionally, the Service agreed to submit to the **Federal Register** for publication, on or before March 22, 2012, a final determination on revised critical habitat for the shrew. The proposed rule (74 FR 53999) that published in the **Federal Register** on October 21, 2009, complies with the July 9, 2009, stipulated agreement.

The current designation of critical habitat for the Buena Vista Lake shrew (70 FR 3437, January 24, 2005) remains in full force and effect until we publish a new final rule revising critical habitat for the shrew.

Critical Habitat

Section 3 of the Act defines critical habitat 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 October 21, 2009, 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 critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific 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. The Secretary may exclude an area from critical habitat if he determines that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of the Buena Vista Lake shrew, the benefits of critical habitat include public awareness of the presence of the shrew and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the shrew due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

Areas Previously Considered for Exclusion Under Section 4(b)(2) of the Act

In the January 24, 2005, final rule (70 FR 3437), we determined what lands had essential features under the definition of critical habitat in section 3(5)(A) of the Act, and evaluated those lands in order to ascertain if any specific areas were appropriate for exemption or exclusion from critical habitat under sections 4(a)(3) or 4(b)(2) of the Act. We did not include the proposed Kern National Wildlife Refuge (Refuge) Unit in the final designation as critical habitat because we determined that the unit had management plans already in place to provide for the conservation of the shrew, and no further special management or protection was required. For inclusion in a critical habitat designation, the habitat within the geographical area occupied by the species at the time it was listed must contain physical and biological features which are essential to the conservation of the species and which may require special management considerations or protection. The presence of a management plan does not mean that special management considerations or protection are not required, and as a result, we have included the Refuge in this proposed revised designation. In addition, we excluded three proposed critical habitat units (the Goose Lake Unit, the Kern Fan Recharge Area Unit, and the Coles Levee Unit) in the January 24, 2005, final rule because we determined that the benefits of excluding lands under appropriate management for the Buena Vista Lake shrew outweighed the benefits of their inclusion within critical habitat. We determined that ongoing management of these areas would provide conservation benefits that would negate the need for critical habitat designation. We also determined that critical habitat designation might hinder conservation of habitat for the shrew by discouraging the involvement of local jurisdictions and private landowners without providing any counterbalancing, proactive conservation benefit.

In the current rulemaking process, we do not intend to use the approach that we used in the 2005 final rule to evaluate the Kern National Wildlife Refuge Unit. For our upcoming final determination, we will re-evaluate management planning and implementation for this unit as well as for the rest of the proposed revised critical habitat units and will weigh the benefits of excluding these areas against the benefits of including them in critical habitat under section 4(b)(2) of the Act.

In the October 21, 2009, proposed rule (74 FR 53999), we have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis concerning the proposed revised critical habitat designation, which is available for review and comment (see **ADDRESSES**).

Draft Economic Analysis

The purpose of the DEA is to identify and analyze the potential economic impacts associated with the proposed revised critical habitat designation for the Buena Vista Lake shrew that we published in the **Federal Register** on October 21, 2009 (74 FR 53999). The DEA separates conservation measures into two distinct categories according to "without critical habitat" and "with critical habitat" scenarios. The "without critical habitat" scenario represents the baseline for the analysis, considering protections otherwise afforded to the Buena Vista Lake shrew (*e.g.,* under the Federal listing and other Federal, State, and local regulations). The "with critical habitat" scenario describes the incremental impacts specifically due to designation of critical habitat for the species. In other words, these incremental conservation measures and associated economic impacts would not occur but for the designation. Conservation measures implemented under the baseline (without critical habitat) scenario are described qualitatively within the DEA, but economic impacts associated with these measures are not quantified. Economic impacts are only quantified for conservation measures implemented specifically due to the designation of critical habitat (*i.e.,* incremental impacts).

The 2011 DEA provides estimated costs of the foreseeable potential economic impacts of the proposed revised critical habitat designation for the Buena Vista Lake shrew over the next 20 years, which was determined to be the appropriate period for analysis because limited planning information is available for most activities to forecast activity levels for projects beyond a 20-year timeframe. It identifies potential incremental costs as a result of the proposed revised critical habitat designation; these are those costs attributed to critical habitat over and

above those baseline costs attributed to listing. The DEA quantifies economic impacts of the Buena Vista Lake shrew conservation efforts associated with the following categories of activities: (1) Water availability and delivery, (2) agricultural production, and (3) energy development. In addition, the DEA identifies potential economic impacts due to additional administrative costs as part of future section 7 consultations on pipeline removal or construction, habitat restoration and water channel maintenance work, and invasive species management (IEC 2011, p. 4–2). To provide an understanding of the potential economic impacts, the DEA determines the scope and scale of economic activities within the proposed revised critical habitat; identifies threats to Buena Vista Lake shrew habitat associated with these economic activities; identifies conservation measures that may be implemented to avoid or minimize these threats; and to the extent feasible, quantifies the economic costs of these measures. The DEA considers and estimates the impacts of the rule as currently proposed and as if the existing 2005 critical habitat designation does not exist (IEC 2011, p. 2–2). As a result, costs incurred as a result of the 2005 designation are not separately documented in the DEA.

The DEA considers both economic efficiency and distributional effects that may result from efforts to protect the shrew and its habitat. Economic efficiency effects generally reflect the "opportunity costs" associated with the commitment of resources required to accomplish species and habitat conservation. The DEA 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. Decision-makers can use this information to assess whether the effects of the critical habitat designation might unduly burden a particular group or economic sector.

The DEA concludes that incremental impacts resulting from the critical habitat designation are limited to additional administrative costs of section 7 consultation. There are two primary sources of uncertainty associated with the incremental effects analysis: (1) The actual rate of future consultation is unknown, and (2) future land use on private lands is uncertain. The analysis does not identify any future projects on private lands beyond those covered by existing baseline projections. Section 7 consultation on the shrew has not occurred on private lands that are not covered by conservation plans (Units 2 and 5). As a result, the analysis does not forecast incremental impacts due to such measures. However, if zoning of these lands changes in the future and new projects are identified, shrew conservation may change.

The DEA estimates total potential incremental economic impacts in areas proposed as revised critical habitat over the next 20 years (2011 to 2030) to be approximately $133,000 ($11,700 annualized) in present value terms applying a 7 percent discount rate (IEC 2011, p. 4–2). Administrative costs associated with section 7 consultations on a variety of activities (including pipeline construction and removal, delivery of water supplies under the Central Valley Project, pesticide applications for invasive species, and restoration activities) in proposed critical habitat Units 2, 3, and 4 are expected to total approximately $53,900 over the next 20 years and make up the largest portion of post-designation incremental impacts, accounting for approximately 39 percent of the forecast incremental impacts (IEC 2011, pp. 4–11–4–12). Pacific Gas and Electric (PG&E) has facilities in three of the proposed critical habitat units. Impacts associated with section 7 consultations on PG&E operations and maintenance activities represent approximately 31 percent of the total incremental costs and are expected to total $40,700 over the next 20 years. Incremental impacts due to costs of internal consultations at the Kern National Wildlife Refuge are expected to total $16,000 over the next 20 years, which represents approximately 12 percent of total incremental impacts. Incremental costs of section 7 consultations with the U.S. Army Corps of Engineers due to Clean Water Act (33 U.S.C. 1251 *et seq.*) permitting are estimated to total $12,600, and represent approximately 10 percent of total incremental costs. Finally, the present value incremental impact of reviewing an update to the City of Bakersfield's management plan and an estimated two formal section 7 consultations over the next 20 years for the shrew at Unit 3 is estimated at $9,660, and represents approximately 7.2 percent of the overall incremental impacts. No incremental impacts are estimated to be incurred by Aera Energy LLC for their activities at the Coles Levee Ecosystem Preserve (IEC 2011, pp. 4–5–4–13).

The incremental costs described above are further broken down by location of expected incremental costs within the five proposed critical habitat units. The greatest incremental impacts are due to cost of section 7 consultations forecast to occur for activities within the Kern Fan Recharge area (proposed Unit 3) ($84,000), and make up 66 percent of the overall incremental impacts. The second largest incremental impacts are predicted to occur within the Kern National Wildlife Refuge (proposed Unit 1) with present value impacts at $20,800, comprising just over 16 percent of the overall incremental impacts. Incremental impacts associated with section 7 consultations for activities occurring on the Goose Lake Unit (proposed Unit 2), are forecast at $16,500 of present value impacts, and makes up 13 percent of the overall incremental impacts. Incremental impacts due to section 7 consultations occurring on the Coles Levee Unit (proposed Unit 4) are estimated to be $6,340 in present value impacts, comprising 5 percent of total incremental impacts. No projected incremental impacts are forecast to occur on the Kern Lake Unit (proposed Unit 5). The consultations forecast for proposed critical habitat Units 2 and 5 are limited to those associated with occasional permitted pipeline, restoration, or water projects.

As we stated earlier, we are soliciting data and comments from the public on the DEA, as well as all aspects of the proposed rule and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public 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, provided the exclusion will not result in the extinction of this species.

Required Determinations—Amended

In our proposed rule published in the **Federal Register** on October 21, 2009 (74 FR 53999), we indicated that we would defer 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 became available in the DEA. We have now made use of the DEA data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 12630 (Takings), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951). However, based on the DEA's data, we are amending our required determinations concerning the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and E.O. 13211 (Energy Supply, Distribution, and Use).

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 802(2)), 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 on our DEA of the proposed revised 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 we receive, we may revise this determination as part of our 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 revised critical habitat for the Buena Vista Lake shrew would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities, such as water availability and delivery, agricultural production, and energy development. In order to determine whether it is appropriate for our agency to certify that this proposed rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. In areas where the shrew is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed revised critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In the DEA, we evaluated the potential economic effects on small entities resulting from implementation of conservation actions related to the proposed designation of revised critical habitat for the shrew. Incremental impacts of the proposed revised critical habitat for the Buena Vista Lake shrew are expected to consist largely of incremental administrative costs. Small entities may participate in section 7 consultation as a third party (the primary consulting parties being the Service and the Federal action agency). This analysis, therefore, considered that small entities may spend additional time considering critical habitat during section 7 consultation for the shrew. The incremental impacts to third parties are also included in this analysis. In order to determine whether it is appropriate for our agency to certify that this proposed rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually.

The DEA states that incremental effects are expected to consist entirely of administrative costs and that such costs are likely to be borne by city and county jurisdictions, as well as by several energy utilities. The specific entities expected to bear incremental impacts are the City of Bakersfield, Kern County, PG&E, and Southern California Gas Company, none of which are considered to be small under the RFA (IEC 2011, p. A–3). Potentially, some incremental impacts borne by the energy utilities may be passed on to individual customers in the form of increased energy prices; however, the small size of the impacts is expected to make such an outcome unlikely (IEC 2011, p. A–2). Please refer to the DEA for a more detailed discussion of potential economic impacts.

In summary, we have considered whether the proposed revised designation would result in a significant economic impact on a substantial number of small entities. Information for this analysis was gathered from the SBA, stakeholders, and the Service. None of the third-party entities identified in the DEA meet SBA's definition of a small government or business. As a result, no small businesses or governments will be affected. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed revised critical habitat designation for the Buena Vista Lake shrew would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

Executive Order 13211—Energy Supply, Distribution, or Use

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The Office of Management and Budget's guidance for implementing this Executive Order outlines nine outcomes that may constitute "a significant adverse effect" when compared to not taking the regulatory action under consideration. As discussed in Appendix A.2, the DEA finds that although PG&E and Southern California Gas Company operate facilities within the proposed revised critical habitat designation, no incremental changes in facility operation are forecast. Therefore, no changes in energy use, production, or distribution are anticipated (IEC 2011, p. A–6). Furthermore, incremental costs are $1,020 on an annualized basis, representing less than 0.01 percent of the annual revenues of these corporations. Thus, designation of revised critical habitat is not expected to

lead to any adverse outcomes (such as a reduction in electricity production or an increase in the cost of energy production or distribution), and energy-related impacts associated with Buena Vista Lake shrew conservation activities within revised critical habitat are not expected. As such, the designation of revised critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and a Statement of Energy Effects is not required.

References Cited

A complete list of all references we cited in the proposed rule and in this document is available on the Internet at *http://www.regulations.gov* or by contacting the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this notice are the staff members of the Sacramento Fish and Wildlife Office, Region 8, 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: April 19, 2011.

Will Shafroth,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–10288 Filed 4–27–11; 8:45 am]

BILLING CODE 4310–55–P