vehicle or aircraft to restrain, seat, or position children who weigh 36 kilograms (kg) or less.

* * * * *

S6.1.1 *Test conditions.*

* * * * *

(d)(1) * * *

(2) When using the test dummies specified in 49 CFR part 572, subparts N, P, R, or T, performance tests under S6.1 are conducted at any ambient temperature from 20.6 °C to 22.2 °C and at any relative humidity from 10 percent to 70 percent.

* * * * *

S6.2.3 Pull the sling tied to the dummy restrained in the child restraint system and apply the following force: 50 N for a system tested with a newborn dummy; 90 N for a system tested with a 9-month-old dummy; 90 N for a system tested with a 12-month-old dummy; 200 N for a system tested with a 3-year-old dummy; 270 N for a system tested with a 6-year-old dummy; 350 N for a system tested with a weighted 6-year-old dummy; or 437 N for a system tested with a 10-year-old-dummy. The force is applied in the manner illustrated in Figure 4 and as follows:

(a) *Add-on Child Restraints.* For an add-on child restraint other than a car bed, apply the specified force by pulling the sling horizontally and parallel to the SORL of the standard seat assembly. For a car bed, apply the force by pulling the sling vertically.

(b) *Built-in Child Restraints.* For a built-in child restraint other than a car bed, apply the force by pulling the sling parallel to the longitudinal centerline of the specific vehicle shell or the specific vehicle. In the case of a car bed, apply the force by pulling the sling vertically.

S7.1.2 * * *

* * * * *

(e) A child restraint that is manufactured on or after August 1, 2005 and before (two years after publication of a final rule; for illustration purposes, August 1, 2007), and that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass greater than 22.7 kg or by children in a specified height range that includes any children whose height is greater than 1100 mm is tested with a 49 CFR part 572, subpart S dummy.

(f) A child restraint that is manufactured after August 1, 2007, and that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass greater than 22.7 kg or by children in a specified height range that includes any children whose height is greater than 1100 mm is tested with a 10-year-old child dummy conforming to the applicable specifications in 49 CFR part 572, subpart T.

* * * * *

S9.1 *Type of clothing.*

* * * * *

(f) *Hybrid III 6-year-old dummy (49 CFR Part 572, Subpart N), Hybrid III 6-year-old weighted dummy (49 CFR Part 572, Subpart S), and Hybrid III 10-year-old dummy (49 CFR Part 572, Subpart T).* When used in testing under this standard, the dummy specified in 49 CFR part 572, subpart N, weighted and unweighted, is clothed in a light-weight cotton stretch short-sleeve shirt and above-the-knee pants, and size 12½ M sneakers with rubber toe caps, uppers of dacron and cotton or nylon and a total mass of 0.453 kg.

* * * * *

S9.3.2 When using the test dummies conforming to Part 572 Subparts N, P, R, S, or T (10-year-old dummy), prepare the dummies as specified in this paragraph. Before being used in testing under this standard, dummies must be conditioned at any ambient temperature from 20.6 °C to 22.2 °C and at any relative humidity from 10 percent to 70 percent, for at least 4 hours.

* * * * *

S10.2.2 *Three-year-old, six-year-old test and ten-year-old test dummy.* Position the test dummy according to the instructions for child positioning that the restraint manufacturer provided with the system in accordance with S5.6.1 or S5.6.2, while conforming to the following:

* * * * *

Issued: August 24, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–17218 Filed 8–30–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG16

Endangered and Threatened Wildlife and Plants; Listing the Gila Chub as Endangered With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Revised proposed rule; notice of availability of draft economic analysis and draft environmental assessment, reopening of public comment period, notice of public hearings, and updated legal descriptions for critical habitat units.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft economic analysis and draft environmental assessment for the proposal to list as endangered and designate critical habitat for the Gila chub *(Gila intermedia)* under the Endangered Species Act of 1973, as amended (Act). We are also reopening the public comment period for the proposal to list the Gila chub as endangered with critical habitat to allow all interested parties an opportunity to comment on and request changes to the proposed listing and critical habitat designation, as well as the associated draft economic analysis and draft environmental assessment.

The draft economic analysis finds that costs associated with Gila chub conservation activities are forecast to range from $11.3 million to $28.1 million in constant dollars over 20 years ($0.8 million to $1.9 million annually). In addition, we are proposing corrected legal descriptions for the critical habitat units. Comments previously submitted on the August 9, 2002, proposed rule need not be resubmitted as they have been incorporated into the public record and will be fully considered in preparation of the final rule. We will hold three public informational sessions and hearings (see **DATES** and **ADDRESSES** sections).

DATES: Comments must be submitted directly to the Service (see **ADDRESSES** section) on or before September 30, 2005, or at the public hearings.

We will hold public informational sessions from 3 p.m. to 4:30 p.m., followed by a public hearing from 6:30 p.m. to 8 p.m., on the following dates:

1. September 13, 2005: Silver City, New Mexico.
2. September 14, 2005: Thatcher, Arizona.
3. September 15, 2005: Camp Verde, Arizona.

ADDRESSES: *Meetings.* The public informational sessions and hearings will be held at the following locations:

1. Silver City, NM: Flame Convention Center, 2800 Pinos Altos Road, Silver City, New Mexico.
2. Thatcher, AZ: Eastern Arizona College Activity Center, Lee Little Theater (Information Session—Activity Center Quiet Lounge), 1014 North College Avenue, Thatcher, Arizona.
3. Camp Verde, AZ: Camp Verde Unified School District Multi-Use Complex Theater, 280 Camp Lincoln Road, Camp Verde, Arizona.

For information on requesting reasonable accommodations to attend a session, see the ''Public Comments Solicited'' section below.

Comments. If you wish to comment on the proposed rule, draft economic analysis, or draft environmental assessment, you may submit your comments and materials by any one of several methods:

1. You may submit written comments and information by mail or hand-delivery to the Field Supervisor, Arizona Ecological Services Field Office, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021.

2. Written comments may be sent by facsimile to (602) 242–2513.

3. You may send your comments by electronic mail (e-mail) to *gilachubcomments@fws.gov*. For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section below.

You may obtain copies of the proposed rule, draft economic analysis, and draft environmental assessment by mail or by visiting our Web site at *http://arizonaes.fws.gov/*. You may review comments and materials received and review supporting documentation used in preparation of this proposed rule by appointment, during normal business hours, at the Arizona Ecological Services Field Office (address provided above).

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office (telephone, 602–242–0210; facsimile, 602–242–2513; or electronic mail, *steve_spangle@fws.gov*).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective 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 the proposed rule, the draft economic analysis, and the draft environmental assessment. On the basis of public comment on the proposed rule analysis, the draft economic analysis and the environmental assessment, and the final economic analysis and environmental assessment, 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 not appropriate for exclusion. We particularly seek comments concerning:

(1) The reasons why any habitat 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 designation;

(2) Specific information on the distribution of the Gila chub, the amount and distribution of the species' habitat, and which habitat is essential to the conservation of the species and why;

(3) Land-use designations and current or planned activities in the subject area and their possible impacts on the species or proposed critical habitat;

(4) Whether our approach to listing or 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 concerns and comments;

(5) Any foreseeable environmental impacts directly or indirectly resulting from the proposed designation of critical habitat;

(6) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat or coextensively from the proposed listing, and in particular, any impacts on small entities or families;

(7) Whether the economic analysis identifies all State and local costs, and if not, what other costs should be included;

(8) Whether the economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the listing of the species or the designation of critical habitat;

(9) Whether the economic analysis correctly assesses the effect on regional costs associated with land- and water-use controls that derive from the designation;

(10) Whether the critical habitat designation will result in disproportionate economic impacts to specific areas that should be evaluated for possible exclusion from the final designation; and

(11) Whether the economic analysis appropriately identifies all costs that could result from the designation or coextensively from the listing.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. 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 Arizona Ecological Servies Field Office (see **ADDRESSES** section above).

All previous comments and information submitted during the initial comment period on the proposed rule need not be resubmitted. If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Our final designation of critical habitat for the Gila chub will take into consideration all comments and any additional information received during both comment periods. Please submit electronic comments in ASCII file format and avoid the use of special characters or any form of encryption. Please also include 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 Arizona Ecological Services Field Office at (602) 242–0210.

Persons needing reasonable accommodations in order to attend and participate in a public hearing should contact Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office at the phone number or address listed in the **ADDRESSES** section as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing. Information regarding this proposal is available in alternative formats upon request.

Background

We proposed to list the Gila chub as endangered, and to designate approximately 211.9 stream miles (mi) (340.9 stream kilometers (km)) of critical habitat, which includes various stream segments and their associated riparian areas, including the stream at bankfull width and a 300-foot buffer on either side of the stream banks. The designation includes Federal, State, tribal, and private lands in Arizona and New Mexico. The proposed rule was published in the **Federal Register** on August 9, 2002 (67 FR 51948), pursuant

to a settlement agreement resulting from litigation by the Center for Biological Diversity and others. The proposed rule also constituted our 12-month finding for the petition to list the Gila chub.

Critical habitat identifies specific areas containing features essential to the conservation of a listed species and that may require special management considerations or protection. If the proposed listing and critical habitat designation is finalized, section 7(a)(2) of the Act would require that Federal agencies ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of the species or result in the destruction or adverse modification of critical habitat.

Section 4 of the Act requires that we consider economic and other relevant impacts prior to making a final decision on what areas to designate as critical habitat. 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 will not result in the extinction of the species.

The draft economic analysis considers and attempts to quantify the potential economic effects of efforts to protect the Gila chub and its habitat, collectively referred to as ''Gila chub conservation activities,'' in the proposed critical habitat designation, as well as the economic effects of protective measures taken as a result of the listing or other Federal, State, and local laws that aid habitat conservation in the areas proposed for designation. In the case of habitat conservation, these costs would reflect the costs associated with the commitment of resources to comply with habitat protection measures. The analysis also addresses how potential economic impacts are likely to be distributed.

Corrected Coordinates for Proposed Units of Critical Habitat

Below we provide corrected legal descriptions for the Gila chub proposed critical habitat designation. Following the publication of the proposed rule on August 9, 2002, and in part through comments we received during the subsequent comment period, we discovered that some of the critical habitat units were incorrectly described. We have since corrected the descriptions to accurately reflect what we are considering for designation of critical habitat, and we provide the corrected descriptions for all critical habitat units below. Corrected Geographic Information System (GIS) layers are available at *http://criticalhabitat.fws.gov/*. The total corrected amount of critical habitat being proposed is approximately 211.9 stream mi (340.9 stream km). Tables 1 and 2 below provide approximate distances by major landowner type.

All legal descriptions for New Mexico and Arizona are based on the Public Lands Survey System (PLSS). Within this system, all coordinates reported for New Mexico are in the New Mexico Principal Meridian (NMPM), while those in Arizona are in the Gila and Salt River Meridian (GSRM). Township has been abbreviated as ''T,'' Range as ''R,'' and section as ''sec.'' Where possible, the ending or starting points have been described to the nearest quarter-section, abbreviated as ''¼.'' Cardinal directions are also abbreviated (N = North, S = South, W = West, and E = East). All mileage calculations were performed using GIS.

TABLE 1.—APPROXIMATE CRITICAL HABITAT IN STREAM KILOMETERS AND MILES (7 RIVER UNITS)

Land owner	New Mexico km (mi)	Arizona km (mi)	Total km (mi)
Federal	18.9 (11.7)	171.1 (106.4)	190.0 (118.1)
State	0	17.1 (10.6)	17.1 (10.6)
County	0	17.2 (10.7)	17.2 (10.7)
Private	3.4 (2.1)	66.1 (41.1)	69.5 (43.2)
Tribal	0	47.1 (29.3)	47.1 (29.3)
Total	22.3 (13.8)	318.6 (198.1)	340.9 (211.9)

TABLE 2.—APPROXIMATE CRITICAL HABITAT IN STREAM KILOMETERS AND MILES (7 RIVER UNITS), BY INDIVIDUAL LANDOWNERS

Land owner	New Mexico	Arizona	Total
Gila National Forest	18.9 (11.7)	0	18.9 (11.7)
Apache-Sitgreaves National Forest	0	50.5 (31.4)	50.5 (31.4)
Coconino National Forest	0	16.9 (10.5)	16.9 (10.5)
Coronado National Forest	0	15.4 (9.6)	15.4 (9.6)
Prescott National Forest	0	21.0 (13.1)	21.0 (13.1)
Tonto National Forest	0	7.4 (4.6)	7.4 (4.6)
SUBTOTAL	18.9 (11.7)	111.2 (69.2)	130.1 (80.9)
BLM—Phoenix District	0	7.7 (4.8)	7.7 (4.8)
BLM—Safford District	0	27.7 (17.2)	27.7 (17.2)
BLM—Tucson District	0	24.5 (15.2)	24.5 (15.2)
SUBTOTAL	0	59.9 (37.2)	59.9 (37.2)
TOTAL	18.9 (11.7)	171.1 (106.4)	190.0 (118.1)

Required Determinations—Amended

This revised proposed rule affirms the information contained in the August 9, 2002, proposed rule (67 FR 51948) concerning Executive Orders 13132 and 12988; the Paperwork Reduction Act; the National Environmental Policy 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 draft economic analysis, we are amending our required determinations, as provided below, concerning Executive Order 12866 and the Regulatory Flexibility Act; Executive Orders 13211 and 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. However, based on our draft economic analysis, it is not anticipated that the proposed designation of critical habitat for the Gila chub would 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) has not formally reviewed the proposed rule or accompanying economic analysis.

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, then the agency will 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 then 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, providing that 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 (RFA) (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 factual basis for determining that this rule will not result in a significant economic impact on a substantial number of small entities.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as 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 this proposed designation of critical habitat for the Gila chub would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (*e.g.*, water management and use, livestock grazing, San Carlos Apache Tribal activities, residential and related development, Gila chub-specific management activities, recreation activities, fire management activities, mining, and transportation). 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 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.

Our economic analysis of this proposed designation evaluated the potential economic effects on small business entities and small governments resulting from conservation actions related to the proposed listing of this species and proposed designation of its critical habitat. We evaluated small business entities in nine categories: water management and use, livestock grazing activities, San Carlos Apache Tribal activities, residential and related development, Gila chub-specific management activities, recreation activities, fire management activities, mining, and transportation. Based on our analysis, impacts are anticipated to occur in water management, livestock grazing, and tribal enterprises of the San Carlos Apache Tribe. The following is a summary of the information contained in Appendix B of the draft economic analysis:

(a) Water Management. Two water supply entities could potentially be impacted by conservation activities related to water supply for the Gila chub, both of which are small entities: the City of Safford, Arizona, and Vail Water Company. The Vail Water Company is considered a small business because its annual revenues are $99,000. The potential restriction to this company relates to its ability to sell water from one of its seven wells. This well is not currently used by Vail Water Company for domestic supply due to high levels of certain constituents. The company could begin pumping water from the well for non-potable uses or for

potable uses with some treatment. The economic analysis estimates that the total annualized replacement costs to the company if it is not able to pump water from the well is $73,000 and $171,000 (discounted at 3 and 7 percent, over 20 years; using high-end estimates of water replacement needs). If the Vail Water Company's ability to sell non-potable water from this well is restricted, we find that it would be a significant effect on the Company.

The potential restriction to the City of Safford as a result of Gila chub conservation measures is related to its ability to make use of its water source in Bonita Creek. The annualized water replacement cost to the City of Safford is $287,000 and $669,000 (discounted at 3 and 7 percent, over 20 years). In the case of Safford, data on the City's current overall budget is unknown. However, annualized impacts could represent approximately between 2.3 and 5.3 percent of annual revenues to the City of Safford's utilities department. If the City is required to locate a replacement source of water, we find that would be a significant effect on the City. A section 7 consultation is currently being developed with the Bureau of Reclamation to expand the City's use of the infiltration gallery, which may allow the City to continue to withdraw water from the Creek. However, the consultation is in its early stages and the outcome is unknown.

(b) Livestock Grazing Activities. Ranching operations are anticipated to be impacted by conservation activities for the Gila chub. Approximately 16 ranching operations may be impacted annually. Annual costs to each of these 16 ranching operations may be between $1,400 and $11,700. Average revenues of a ranch in the region of the proposed critical habitat designation are $144,000. These potential losses represent between 1 and 8 percent of each ranch's estimated average revenues. Exhibit B–2 in the draft economic analysis presents the average revenues of ranches by county. Of the 118 beef cattle ranching and farming operations (NAICS 112111) in Arizona counties with proposed Gila chub critical habitat, 92 percent are considered small businesses. Therefore, 15 small ranching operations (92 percent of 16 operations) may experience a reduction in revenues of between 1 and 8 percent annually. The extent to which these impacts are significant to any of these ranching operations will depend on the individual financial conditions of the ranch.

(c) Tribal Enterprises. As explained in Appendix B of the draft economic analysis, Tribal governments are not considered small governments under RFA/SBREFA but rather as independent sovereigns. However, tribal enterprises can be considered small entities under the RFA/SFREFA. For the purpose of this analysis we find that approximately three livestock associations and one timber operation are considered to be small entities. Quantified impacts to tribal livestock grazing activities are estimated to range from $22,000 to $306,000 annually using a seven percent discount rate ($18,000 to $274,000 discounted at three percent), or between one percent and 57 percent of annual revenues to each of the three livestock associations. Quantified impacts of reduced lumber production are estimated to be approximately $15,000 annually. These impacts could be borne by a Tribally-owned timber mill, a private leasee of the mill, and/or a small logging contractor. There are 25 forestry and logging companies in Arizona.

Based on these data, we have determined that this proposed designation would not affect a substantial number of small businesses involved in or affected by water management activities, timber harvest, or livestock grazing. As such, we are certifying that this proposed designation of critical habitat would not result in a significant economic impact on a substantial number of small entities. Please refer to Appendix B of our draft economic analysis of this designation for a more detailed discussion of potential economic impacts to 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. This proposed rule is considered a significant regulatory action under E.O. 12866 due to its potentially raising novel legal and policy issues, but it is not expected to significantly affect energy supplies, distribution, or use. Appendix B of the draft economic analysis provides a discussion and analysis of this determination. The Office of Management and Budget has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared without the regulatory action under consideration. The draft economic analysis finds that none of these criteria are relevant to this analysis; thus, energy-related impacts associated with Gila chub conservation activities within proposed critical habitat are not expected.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), 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)–''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; AFDC 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, or permits, or that 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) The economic analysis discusses potential impacts of critical habitat designation for the Gila chub on water management activities, livestock grazing, Tribes, residential and commercial development activities, recreation activities, fire management activities, mining, and transportation activities. The analysis estimates that annual costs of the rule could range from $11.3 million to $28.1 million in constant dollars over 20 years ($0.8 million to $1.9 million annually). Impacts are largely anticipated to affect water operators and Federal and State agencies, with some effects on livestock grazing operations. Impacts on small governments are not anticipated, or they are anticipated to be passed through to consumers. For example, costs to water operations would be expected to be passed on to consumers in the form of price changes. Consequently, for the reasons discussed above, we do not believe that the designation of critical habitat for the Gila chub will significantly or uniquely affect small government 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 the Gila chub in a takings implications assessment. The takings implications assessment concludes that this proposed designation of critical habitat for the Gila chub does not pose significant takings implications.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Rule Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. As proposed on August 9, 2002, at 67 FR 51948, amend § 17.11(h) by adding Gila chub, in alphabetical order under ''FISHES'', to the List of Endangered and Threatened Wildlife, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
FISHES							
*	*	*	*	*	*		*
Chub, Gila	*Gila intermedia*	U.S.A. (AZ, NM), Mexico.	Entire	E	NA	17.95(e)	NA
*	*	*	*	*	*		*

3. Critical habitat for the Gila chub (*Gila intermedia*) in § 17.95 (e), which was proposed to be added on August 9, 2002, at 67 FR 51948, is proposed to be amended by revising the critical habitat unit descriptions as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) *Fishes.*

* * * * *

Gila chub (Gila intermedia)

1. Critical habitat for the Gila chub in Arizona and New Mexico is depicted on the following overview map and described in detail following the map.

* * * * *

Upper Gila River Area 1

a. Turkey Creek—13.7 km (8.5 mi) of creek extending from the edge of the Gila Wilderness boundary at T14S, R16W, sec. 15 NW¼ and continuing upstream to T13S, R15W, sec. 30 NE¼. Land ownership: Gila National Forest.

b. Eagle Creek and East Eagle Creek—39.2 km (24.4 mi) of creek extending from its confluence with an unnamed tributary at T1N, R28E, sec. 31 SW¼ upstream to the headwaters of East Eagle Creek just south of Highway 191 in T3N, R29E, sec. 28 SE¼. Land ownership: Apache-Sitgreaves National Forest and private.

c. Harden Cienega Creek—22.6 km (14.0 mi) of creek extending from its confluence with the San Francisco in GSRM T3S, R31E, sec. 3 SE¼ continuing upstream to the headwaters in NMPM T14S R21W sec. 6 NE¼. Land ownership: Apache-Sitgreaves National Forest, Gila National Forest, and private.

d. Dix Creek—Portions of the Creek beginning 1.0 mi upstream from its confluence with the San Francisco River at a natural rock barrier in T3S, R31E, sec. 9 NE¼ continuing upstream for 0.9 km (0.6 mi.) to the confluence of the right and left forks of Dix Creek in T3S, R31E, sec. 9 center. Left Fork Dix Creek continues upstream 2.0 km (1.24 mi) to T3S, R31E, section 15 NW¼. Land ownership: Apache-Sitgreaves National Forest. Right Fork Dix Creek continues upstream 4.8 km (3.0 mi) to T3S, R31E, section 20 SE¼. Land ownership: Apache-Sitgreaves National Forest.

* * * * *

Middle Gila River Area 2

a. Mineral Creek—14.4 km (9.0 mi) of creek extending from its confluence with Devil's Canyon in T2S, R13E, section 35 NW¼ continuing upstream to its headwaters in T2S, R14E, sec. 15 center at the confluence of Mineral Creek and an unknown drainage. Land ownership: Tonto National Forest, State Lands, and private.

b. Blue River—40.5 km (25.2 mi) of creek extending from its confluence

with the San Carlos River in T1N R19E, sec. 20 on the border of section 20 and 29, continuing upstream to T3N, R20E, sec. 21 NE¼. Land ownership: San Carlos Apache Reservation.

c. Bonita Creek—30.6 km (19.0 mi) of Creek extending from T6S, R28E, sec. 21 SE¼ continuing upstream to T4S, R27E, sec. 18 SW¼. Land ownership: Bureau of Land Management, Tribal, and private.

* * * * *

Babocomari River Area 3

a. O'Donnell Canyon—10.0 km (6.2 mi) of creek extending from its confluence with Turkey Creek at T21S, R18E, sec. 22 SE¼ upstream to the confluences of Western, Middle, and Pauline Canyons in T22S, R18E, sec. 17 NE¼. Land ownership: Bureau of Land Management, Coronado National Forest, and private.

b. Turkey Creek—6.3 km (3.9 mi) of creek extending from its confluence with O'Donnell Canyon in T21S, R18E, sec. 22 SE¼ upstream to where Turkey Creek crosses AZ Highway 83 in T22S, R18E, sec. 9 NE¼. Land ownership: Coronado National Forest and private.

c. Post Canyon—4.6 km (2.8 mi) of creek extending from its confluence with O'Donnell Canyon in T21S, R18E, sec. 22 SE¼ upstream to Welch Spring at T21S, R18E, sec. 29 NW¼. Land ownership: Coronado National Forest, Bureau of Land Management, and private.

* * * * *

Lower San Pedro River Area 4

a. Bass Canyon—5.5 km (3.4 mi) of creek extending from its confluence with Hot Springs Canyon in T12S, R20E, sec. 36 NE¼ upstream to the confluence with Pine Canyon in T12S, R21E, sec. 20 SW¼. Land ownership: Bureau of Land Management and private.

b. Hot Springs Canyon—10.5 km (6.5 mi) of creek extending from T13S R20E, sec. 5 NW¼ continuing upstream to its confluence with Bass Canyon in T12S, R20E, sec. 36 NE¼. Land ownership: Bureau of Land Management, State Lands, private (The Nature Conservancy).

c. Redfield Canyon—11.6 km (7.2 mi) of creek extending from the western boundary of T11S, R19E, section 35 upstream to its confluence with Sycamore Canyon in T11S, R20E, sec. 20 NE¼. Land ownership: Bureau of Land Management, State Lands, and private.

* * * * *

Lower Santa Cruz River Area 5

a. Cienega Creek—(Two Segments) First segment includes 17.2 km (10.7 mi) of creek extending from where Cienega Creek becomes Pantano Wash in T16S, R16E, sec. 10, S½ to where it crosses I–10 at T17S, R17E, sec. 1 NW¼. Land ownership: County. Second segment includes 13.6 km (8.4 mi) of creek extending from T18S, R18E, sec. 6 S½ to its confluence with an unnamed stream at T19S, R17E, sec. 3 SW¼. Land ownership: Bureau of Land Management.

b. Mattie Canyon—4.0 km (2.5 mi) of creek extending from its confluence with Cienega Creek in T18S, R17E, sec. 23 NE¼ upstream to the Bureau of Land Management Boundary in T18S, R17E, sec. 25 SW¼. Land ownership: Bureau of Land Management.

c. Empire Gulch—5.2 km (3.2 mi) of creek extending from its confluence with Cienega Creek in T19S, R17E, sec. 3 SE¼ continuing upstream to T19S, R17E, sec. 16 NW¼ on the western boundary of section 16. Land ownership: Bureau of Land Management and State.

d. Sabino Canyon—11.1 km (6.9 mi) of creek extending from the southern boundary of the Coronado National Forest in T13S, R15E, sec. 9 SE¼ upstream to its confluence with the West Fork of Sabino Canyon in T12S, R15E, sec. 22 NE¼. Land ownership: Coronado National Forest.

* * * * *

Verde River Area 6

a. Walker Creek—7.6 km (4.7 mi) of creek extending from Prescott National Forest Road 618 in T15N, R6E, sec. 33 SW¼ upstream to its confluence with Spring Creek in T14N, R6E, sec. 1, SE¼. Land ownership: Coconino National Forest and private lands.

b. Red Tank Draw—11.1 km (6.9 mi) of creek extending from the National Park Service boundary just upstream of its confluence with Wet Beaver Creek in T15N, R6E, sec. 31 NE¼ upstream to the confluence of Mullican and Rarick canyons in T15N, R6E, sec. 2 NW¼. Land ownership: Coconino National Forest and private.

c. Spring Creek—5.7 km (3.6 mi) of creek extending from T16N, R4E, sec. 27 SE¼ at the boundary of Forest Service land and continuing upstream to the Arizona Highway 89A crossing in T16N, R4E, sec. 16 SE¼. Land ownership: Coconino National Forest, State Lands, and private.

d. Williamson Valley Wash—7.2 km (4.4 mi) of creek extending from the gauging station in T17N, R3W, sec. 7 SE¼ upstream to the crossing of the Williamson Valley Road in T17N, R4W, sec. 36 NE¼. Land ownership: private.

* * * * *

Agua Fria River Area 7

a. Little Sycamore Creek—4.7 km (2.9 mi) of creek extending from its confluence with Sycamore Creek in T11N, R4E, sec. 6 SW¼ upstream to T11N, R4E, sec. 4 NE¼. Land ownership: Prescott National Forest and private.

b. Sycamore Creek—18.3 km (11.4 mi) of creek extending from its confluence with Little Sycamore Creek at T11N, R4E, sec. 6 SW¼ upstream to Nelson Place Spring in T11N, R5E, sec. 21 NE¼. Land ownership: Prescott National Forest and private.

c. Indian Creek—8.4 km (5.2 mi) of creek extending from T11N, R3E, sec. 35 NE¼ to Upper Water Springs in T11N, R4E, sec. 16 SE¼. Land ownership: Bureau of Land Management, Prescott National Forest, and private.

d. Silver Creek—8.5 km (5.3 mi) of creek extending from T10N, R3E, sec. 10 SE¼ continuing upstream to the spring in T10N, R4E, Sec. 4 SW¼. Land ownership: Tonto National Forest and Bureau of Land Management.

e. Larry Creek—Portions of the creek from an unnamed tributary and continuing upstream 0.7 km (0.4 mi) to the confluence of two adjoining unnamed tributaries, entirely within T9N, R3E, sec. 9 NW¼. Land ownership: Bureau of Land Management.

f. Lousy Canyon—Portions of the creek from the confluence of an unnamed tributary upstream to the fork with an unnamed tributary approximately 0.6 km (0.4 mi) upstream, all entirely within T9N, R3E, sec. 5 NW¼. Land ownership: Bureau of Land Management.

* * * * *

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

Dated: August 23, 2005.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–17450 Filed 8–29–05; 2:55 pm]

BILLING CODE 4310–55–P