C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. These proposed actions are not subject to Executive Order 13045 because they are not economically significant as defined under Executive Order 12866 and do not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's proposed actions do not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to these proposed actions.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. These proposed actions will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because these proposed actions do not create any new requirements, I certify that these proposed actions will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that these proposed actions do not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. These proposed actions approve pre-existing requirements under State or local law and withdraw Federal requirements, and impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from these proposed actions.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. No. 104–113, Sec. 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. These federal actions do not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter.

Dated: December 22, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–34422 Filed 12–29–98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General

45 CFR Part 61

RIN 0991–AA98

Health Care Fraud and Abuse Data Collection Program: Reporting of Final Adverse Actions—Extension of Comment Period

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On October 30, 1998, we published a notice of proposed rulemaking designed to set forth the policy and procedures for implementing the new Healthcare Integrity and Protection Data Banks (HIPDB), in accordance with the statutory requirements of section 1128E of the

Social Security Act, as added by section 221(a) of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (63 FR 58341). We are extending the comment period at the request of several organizations.

DATES: To assure consideration, public comments must be delivered to the address provided below by January 11, 1999.

ADDRESSES: Please mail or deliver your written comments to the following address: Health Resources and Services Administration, Bureau of Health Professions, Division of Quality Assurance, Room 8–55, Attention: OIG–46–P, 5600 Fishers Lane, Rockville, Maryland 20857.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX). In commenting, please refer to file code OIG–46–P.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, Office of Counsel to the Inspector General, (202) 619–1306.

SUPPLEMENTARY INFORMATION: The proposed regulations are designed to implement section 221(a) of the HIPAA, which specifically direct the Secretary to establish a national health care fraud and abuse data collection program for the reporting and disclosing of certain final adverse actions taken against health care providers, suppliers or practitioners; and maintain a data base of final adverse actions taken against health care providers, suppliers and practitioners. We indicated in the preamble of that document that we are allowing a 60-day public comment period during which time interested parties could submit their comments and recommendations regarding the implementation of the Healthcare Integrity and Protection Data Bank. The Department agreed to consider all comments received on or before December 29, 1998.

Since publication of the proposed rule, we have received requests from several outside organizations and associations to extend the existing comment period beyond the 60-day period. Because of our desire to work with affected outside organizations and associations in considering their recommendations in establishing viable and operational data bank, and concerns from some parties that the holiday season has hampered their ability to poll constituents in a timely and effective manner to provide comprehensive comments, we have agreed to extend the public comment period to this notice of proposed rulemaking until January 11, 1999.

Dated: December 8, 1998.

Michael Mangano,

Principal Deputy Inspector General.

Approved: December 21, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–34350 Filed 12–29–98; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF36

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for the Cactus Ferruginous Pygmy-Owl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose designation of critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*). A total of approximately 730,565 acres of riverine riparian habitat and upland habitat are proposed. Proposed critical habitat is in Pima, Cochise, Pinal, and Maricopa counties, Arizona. If this proposal is made final, section 7 of the Act would prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designation. We may revise this proposal to incorporate or address new information received during the comment period.

DATES: We will accept comments until March 1, 1999. We will hold three public hearings on this proposed rule; we will publish the dates and locations of these hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

ADDRESSES: Send comments and information to the Field Supervisor, Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona, 85021–4951. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Gatz, Endangered Species Coordinator, at the above address (telephone 602/640–2720 ext. 240; facsimile 602/640–2730).

SUPPLEMENTARY INFORMATION:

Background

The cactus ferruginous pygmy-owl (referred to as ''pygmy-owl'' in this proposed rule) is in the Order Strigiformes and the Family Strigidae. It is a small bird, approximately 17 centimeters (6 3/4 inches) long. Males average 62 grams (g) (2.2 ounces (oz)), and females average 75 g (2.6 oz). The pygmy-owl is reddish-brown overall, with a cream-colored belly streaked with reddish brown. Some individuals are grayish brown, rather than reddish brown. The crown is lightly streaked, and paired black-and-white spots on the nape suggest eyes. The ears lack tufts, and the eyes are yellow. The tail is relatively long for an owl and is colored reddish brown with darker brown bars. The pygmy-owl is diurnal (active during daylight), and its call, heard primarily near dawn and dusk, is a monotonous series of short notes.

The cactus ferruginous pygmy-owl is one of four subspecies of the ferruginous pygmy-owl. It occurs from lowland central Arizona south through western Mexico to the States of Colima and Michoacan, and from southern Texas south through the Mexican States of Tamaulipas and Nuevo Leon. Only the Arizona population of *Glaucidium brasilianum cactorum* is listed as an endangered species.

The pygmy-owl in Arizona occurs in a variety of scrub and woodland communities, including riverbottom woodlands, woody thickets (''bosques''), and Sonoran desertscrub. Unifying habitat characteristics among these communities are fairly dense woody thickets or woodlands, with trees and/or cacti large enough to provide nesting cavities. The pygmy-owl occurs at low elevations, generally below 1,200 meters (m) (4,000 feet (ft)) (Swarth 1914, Karalus and Eckert 1974, Monson and Phillips 1981, Johnsgard 1988, Enriquez-Rocha *et al.* 1993).

The pygmy-owl's primary habitats were riparian cottonwood (*Populus fremontii*) forests, mesquite bosques, and Sonoran desertscrub, but the subspecies currently occurs primarily in Sonoran desertscrub associations of palo verde (*Cercidium* spp.), bursage (*Ambrosia* spp.), ironwood (*Olneya tesota*), mesquite (*Prosopis velutina*, and