

Advocacy Advises FWS to Address Additional Small Business Impacts in Its Designation of Seven Mussels

On August 3, 2007, the Office of Advocacy (Advocacy) filed a comment with the U.S. Fish and Wildlife Service (FWS) in response to a proposed rule and notice of availability of draft economic analysis that it recently published titled, *Revised Critical Habitat Designation Proposed for Five Endangered and Two Threatened Mussels in Four Northeast Gulf of Mexico Drainages and Release of Economic Analysis*. Advocacy recommended that FWS issue a supplemental IRFA providing a more thorough analysis of the economic impacts of this critical habitat designation (CHD) on small entities and outlining available regulatory alternatives. A complete copy of Advocacy's letter to FWS may be accessed at <http://www.sba.gov/advo/laws/comments/>.

- FWS has identified the maintenance of water levels and constant water flow as important elements for the conservation of the seven mussel species in this CHD. FWS's proposal will reduce the availability of water to a number of sectors, including agriculture, recreation and hydro-electric power.
- The proposed CHD covers 1,185 river miles as critical habitat for seven species of mussels, divided into eleven units and spanning 45 counties in Georgia, Alabama and Florida. The rivers primarily affected are the Flint and the Appalachicola. Other areas include Lake Blackshear, Lake Lanier, West Point Lake, Spring Creek, Jim Woodruff Dam, and Walter F. George Reservoir.
- Pursuant to the Regulatory Flexibility Act (RFA), FWS is required to prepare an IRFA to assess the economic impact of a proposed rulemaking on small entities. Advocacy believes that FWS's analysis underestimates the economic impacts of this CHD on small entities in the agricultural industry by not accurately quantifying the numbers of small farms and acres that will be affected by this rule. Advocacy also believes that FWS's economic analysis understates the economic impact of this rule on the hydro-electric power and recreation industries. Advocacy recommended that FWS publish a supplemental IRFA that supplies complete economic information.
- Advocacy also recommended that FWS give consideration to excluding high-cost areas from its final designation, such as Units 5, 7, and 8 in Georgia and Florida and lowering required critical flow levels so the impact on surrounding reservoirs and lakes will be less severe.

For more information, visit Advocacy's Web page at <http://www.sba.gov/advo>, or contact Assistant Chief Counsel Janis Reyes by email at Janis.Reyes@sba.gov or by phone at 202-619-0312.