

when otherwise specifically provided by rule or statute, documents signed by the attorney for a party need not be verified or accompanied by affidavit. The signature or electronic reproduction thereof by an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If the original of a document is not signed or is signed with intent to defeat the purpose of this section, or an electronic reproduction does not contain a facsimile signature, it may be stricken as sham and false, and the matter may proceed as though the document had not been filed. An attorney may be subjected to appropriate disciplinary action, pursuant to § 1.24, for a willful violation of this rule or if scandalous or indecent matter is inserted.

[FR Doc. 85-11103 Filed 5-7-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

Amateur Radio Service Rules; Specifying Only That Another Station's Call Sign May Not Be Transmitted for Identification Purposes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document clarifies the Amateur Radio Service Rules by specifying only that an amateur station may not transmit, for purposes of identifying the station, any call sign which has not been assigned to it. This action is necessary to resolve uncertainty as to when another station's call sign may be mentioned. The effect of the rule is to permit the mention of another station's call sign in normal conversation, and other circumstances.

EFFECTIVE DATE: May 20, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554 (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Radio.
Order

In the matter of amendment of § 97.121 of the amateur radio service rules.
Adopted: April 25, 1985.
Released: May 1, 1985.

1. The Managing Director has under consideration a petition filed by David Popkin, 303 Tenaflly Road, Englewood, New Jersey 07631-0528, requesting reconsideration of the Order of January 16, 1985, (50 FR 3525, January 25, 1985). That Order editorially amended § 97.121 of the Amateur Rules to clarify that the call sign of another amateur station could be transmitted when responding to a general call or as part of the required station identification procedure. Petitioner points out that by specifying the circumstances when an amateur radio station may transmit a call sign not assigned to it, the rule now implies all other use of another call sign is unauthorized. No oppositions to the petition for reconsideration have been filed.

2. As examples of his concern, petitioner refers us to one station's use of another's call sign when calling on a pre-arranged schedule, or the mention of a call sign during normal conversation. Petitioner believes that the rule should be amended to prohibit transmission of another call sign only when the other call sign is used for the purpose of identifying the station; or amended to include all the times when an amateur radio station can transmit the call sign of another station.

3. We agree with the petitioner that § 97.121 could be construed as restricting the use of another amateur station's call sign in the circumstances that petitioner cites, although that was not our intent. As stated in the Order of January 16th, the intent of the rule is to preclude the unlawful use of a false call sign as an unlicensed station or to avoid detection. Nevertheless, since some confusion still exists with respect to this rule, we will amend it further to specify only that an amateur station may not transmit, for the purpose of identifying the station, any call sign which has not been assigned to it.

4. Accordingly, in view of the foregoing, the petition for reconsideration is granted.

5. Because this clarifying rule amendment rule is non-substantive, the notice and comment provisions as well as the effective date requirements of the Administrative Procedure Act are inapplicable.

6. It is ordered, that § 97.121 of the Commission's Rules is amended as set forth in the Appendix.

7. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and §§ 0.231(d) and 1.106(a)(1) of the Commission's Rules.

8. The effective date of this rule amendment is May 20, 1985.

Federal Communications Commission.
Edward J. Minkel,
Managing Director

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

The authority citation for Part 97 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Section 97.121 is revised to read as follows:

§ 97.121 False signals.

An amateur radio station must not transmit:

- (a) False or deceptive signals or communications by radio; *NOR*
- (b) For purposes of identifying the station, any call sign which has not been assigned to it. Notwithstanding the foregoing, when a station is operated within the privileges of the operator's class of license but which exceed those of the station licensee, station identification must be made by following the station call sign of the station being operated with the operator's primary station call sign in accordance with § 97.84(b).

[FR Doc. 85-10937 Filed 5-7-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

48 CFR Parts 1301, 1302, 1304, 1305, 1306, 1314, 1315, 1319, 1331, 1337, and 1353

[Docket No. 50343-5043; Amdt. 85-1]

Acquisition Regulation; Competition in Contracting

AGENCY: Department of Commerce.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule amends the Commerce Acquisition Regulation (CAR) to implement the Competition in Contracting Act of 1984, Pub. L. 98-369 (CICA), and amendments to the Federal Acquisition Regulation (FAR) which incorporate and reflect changes to Federal acquisition policy required by the CICA. This interim rule also makes a number of miscellaneous changes to the CAR unrelated to implementing the CICA and FAR revisions. These involve the issuance of internal policy guidance on acquisition matters, uniform procurement numbering, small purchase order forms, small business contracting

procedures, precontract costs, and data reporting forms.

DATES: This interim rule is effective as of April 1, 1985. Written comments on the interim rule will be considered if received on or before June 12, 1985.

ADDRESSES: Send written comments to: Director, Office of Procurement and Administrative Services, HCHB, Room H6316, U.S. Department of Commerce, 14th St. between Pennsylvania and Constitution Avenues, NW., Washington, D.C. 20230. Please cite CAR; Amendment 85-1 in any written comments submitted and mark the outside of the envelope, "Comments on CAR; Amendment 85-1". The public docket rulemaking file including all comments received on the interim rule may be inspected by the public during normal business hours in Room H6414 at the above address.

FOR FURTHER INFORMATION CONTACT: David Beveridge, Procurement Analyst, Office of Procurement Management HCHB, Room H6414, U.S. Department of Commerce, 14th St. between Pennsylvania and Constitution Avenues, NW., Washington, D.C. 20230, (202) 377-4248.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1984 the Department of Commerce issued a rule known as the Commerce Acquisition Regulation (CAR) (49 FR 12956-12969, March 30, 1984). That rule implemented and supplemented the Federal Acquisition Regulation (FAR) which was separately promulgated by the General Services Administration (GSA), the Department of Defense (DOD), and the National Aeronautics and Space Administration (NASA). The FAR was promulgated as the uniform, simplified acquisition regulation called for by Executive Order 12352, "Federal Procurement Reforms".

The primary purpose of this amendment to the CAR is to implement the Competition in Contracting Act of 1984, Pub. L. 98-369 (CICA), and recent revisions to the FAR made by GSA, DOD, and NASA to implement that Act. The CICA and the revisions to the FAR require increased use of full and open competition in the acquisition of property and services by agencies of the Federal Government. The CICA requires that any solicitation for bids or proposals issued by the Department on or after April 1, 1985 comply with the requirements of the Act.

This amendment revises the CAR to provide for full and open competition for the Department of Commerce's procurements by requiring that sealed bids be solicited or competitive

proposals be requested, or that other competitive procedures be employed, unless a statutory exception permits other than full and open competition. There are new justification, approval, and notice requirements for contracts employing other than full and open competition. Appointment of the competition advocates required by the CICA is also provided for.

This amendment also revises the authority for issuing internal policy guidance on acquisition matters, provides for the issuance of a Commerce Acquisition Manual to provide long term internal policy guidance to Department contracting offices, changes the approval level for precontract costs, establishes procedures for the review by the Office of Small and Disadvantaged Business Utilization (OSDBU) of subcontracting plans, establishes new contract data reporting procedures and establishes and provides for the use of new small purchase order forms.

Administrative Procedure Act Requirements

Because this amendment involves matters of agency management, public property, and contracts, under subsection 553(a)(2) of the Administrative Procedure Act (APA) (5 U.S.C. 553(a)(2)), it is exempt from all requirements of section 553 including giving notice of proposed rulemaking, providing an opportunity for comment, and delaying the effective date until at least 30 days after publication or service.

Small Business and Federal Procurement Competition Enhancement Act Requirements

Section 302 of the Small Business and Federal Procurement Competition Enhancement Act of 1984, Pub. L. 98-577, added a section 22 to the Office of Federal Procurement Policy Act requiring that notice of proposed rulemaking and at least 30 days opportunity for comment be given for acquisition regulations having a significant cost or administrative impact on contractors or offerors and specifying that such regulations may not take effect until 30 days after such notice.

Subsection 22(d) of the Office of Federal Procurement Policy Act allows the issuing officer to waive the notice of proposed rulemaking, at least 30 days opportunity for public comment, and 30 days delay in effective date requirements of section 22, if urgent and compelling circumstance make compliance with such requirements impracticable.

To the extent that any portions of the regulation are subject to the notices,

comment, and delay in effective date provisions of section 22, the issuing officer hereby finds that because the CICA requires that any solicitation issued by the Department on or after April 1, 1985 comply with the requirements of the CICA, that urgent and compelling circumstances exist which make compliance with the requirements impracticable.

Section 22(d) requires that if this waiver is utilized, the notice issuing the regulation must state that the rules are temporary and must allow the public at least 30 days in which to comment on the temporary rule, beginning on the date the rule is published.

Accordingly, the rule is issued on a temporary or interim final basis, effective retroactively to April 1, 1985. Written comments are invited and will be considered in promulgating a final rule if received on or before June 12, 1985.

Regulatory Flexibility Act Requirements

Since notice and an opportunity for comment are not required to be given for this rule under section 553 of the APA (5 U.S.C. 553), and since no other law requires that notice and an opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)), no initial or final Regulatory Impact Analysis has to be or will be prepared.

Executive Order 12291 Requirements

Under Executive Order (E.O.) 12291, the Department must judge whether this interim rule is "major" within the meaning of section 1 of the Order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This interim rule is not major because it is not likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, preparation of a Regulatory Impact Analysis is not required and no preliminary or final Regulatory Impact Analysis has to be or will be prepared. This interim rule was submitted to the Office of Management and Budget (OMB) for review in accordance with E.O. 12291 and OMB Bulletin 85-7.

Paperwork Reduction Act Requirements

This interim rule does not contain collection of information requirements for purposes of the Paperwork Reduction Act.

List of Subjects in 48 CFR Ch. 13

Government procurement.

For the reasons set forth in the preamble, Chapter 13 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., April 30, 1985.

Hugh L. Brennan,

Director, Office of Procurement and Administrative Services, U.S. Department of Commerce.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

Chapter 13 of Title 48 of the Code of Federal Regulation is amended as set forth below:

PART 1301—[AMENDED]

1. The authority citation for Part 1301 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

2. Section 1301.301(b) is revised to read as follows:

1301.301 Policy.

(b) The Procurement Executive or designee may issue internal Department guidance in the form of Acquisition Letters, policy manuals, or model operating procedures. Documents issued under this authority are not published in the Federal Register.

(1) Acquisition Letters are serially numbered letters which provide immediate short term policy guidance on selected acquisition topics to Department contracting offices. They normally expire within one year from the date of issuance.

(2) The Commerce Acquisition Manual is a manual which provides long term policy guidance on selected acquisition topics to Department contracting offices. The guidance contained in the manual normally remains in effect until cancelled or revised. The numbering system parallels the FAR to the greatest extent practical.

PART 1302—[AMENDED]

3. The authority citation for Part 1302 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

4. Section 1302.1-1 is amended by adding the following definition for "Head of the Operating Unit" after the definition for "Head of the contracting office":

1302.1-1 [Amended]

Head of the Operating Unit means the Administrator of the National Oceanic and Atmospheric Administration (NOAA), acting as the host for the Department's Regional Administrative Support Centers, and any Head of the Operating Unit as defined in Department Organization Order (DOO) 1-1 so long as that Operating Unit is responsible for its own contracting operations.

5. Section 1302.1-1 is further amended by revising paragraph (j) of the list of duties of the Procurement Executive to read as follows:

(j) Promote full and open competition; and

6. A new Part 1304 is added to read as follows:

PART 1304—ADMINISTRATIVE MATTERS**Subpart 1304.6—Contract Reporting****1304.601 Federal Procurement Data System.**

(c) The Department uses a computer generated reporting system to collect and report data for contract actions over \$10,000. The data collection points are identified within a standardized procurement numbering system format specified in the DOC Procurement Data System Handbook.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2)

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

7. The heading of Subchapter B is revised to read as set forth above.

PART 1305—[AMENDED]

8. The authority citation for Part 1305 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

9. Part 1305 is moved from Subchapter A to Subchapter B.

10. A new Part 1306 is added to Subchapter B to read as follows:

PART 1306—COMPETITION REQUIREMENTS

Sec.

Subpart 1306.2—Full and Open Competition After Exclusion of Sources

1306.202 Establishing or maintaining alternative sources.

Subpart 1306.3—Other Than Full and Open Competition

1306.304 Approval of the justification.

Subpart 1306.5—Competition Advocates

1306.501 Requirement.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

Subpart 1306.2—Full and Open Competition After Exclusion of Sources

1306.202 Establishing or maintaining alternative sources.

(b)(1) Every proposed contract action under the authority of FAR 6.202(a) shall be supported by a determination and findings (D&F) signed by the Head of the Contracting Activity.

Subpart 1306.3—Other Than Full and Open Competition

1306.304 Approval of the justification.

(a) If the action is within his or her delegated authority, the Head of the Contracting Activity may issue class justifications for other than full and open competition for:

(1) Contracts for electric power or energy, gas (natural or manufactured), water, or other utility services when such services are available from only one source;

(2) Contracts under the authority cited in FAR 6.302-4 or 6.302-5; or

(3) Contracts for educational services from nonprofit institutions.

(b) No other class justifications are authorized for other than full and open competition.

Subpart 1306.5—Competition Advocates**1306.501 Requirement.**

The Director of the Office of Procurement Management is designated as the Competition Advocate for the Department. The Head of the Operating Unit shall designate a competition advocate for each contracting activity under his direction. The contracting activity competition advocate shall be designated at a level no lower than the Deputy to the Head of the Contracting Activity.

PART 1314—SEALED BIDDING

11. The authority citation for Part 1314 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

12. The heading to Part 1314 is revised as set forth above.

13. A new subsection 1314.404-1 is added to Subpart 1314.4 of Part 1314 as follows:

1314.404-1 Cancellation of invitations after opening.

The head of the contracting office has been delegated the authority to make the determination under FAR 14.404-1 (c) and (e).

PART 1315—[AMENDED]

14. The authority citation for Part 1315 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

1315.307 [Removed]

15. Part 1315 is amended by removing Subpart 1315.3 consisting of section 1315.307.

16. A new section 1315.608 is added to Subpart 1315.6 of Part 1315 as follows:

1315.608 Proposal evaluation.

The head of the contracting office has been delegated the authority to make the determination under FAR 15.608(b).

PART 1319—[AMENDED]

17. The authority citation for Part 1319 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department

Organization Order 10-5 and Department Administrative Order 208-2.

18. A new subsection 1319.202-2 is added to Subpart 1319.2 of Part 1319 as follows:

1319.202-2 Locating small business sources.

(b) The contracting officer shall send a copy of the requisition form for all procurement actions expected to exceed \$500,000 (\$1,000,000 for construction) to the Office of Small and Disadvantaged Business Utilization, as promptly after receipt as possible. The Office of Small and Disadvantaged Business Utilization shall review the procurement actions and recommend action to the contracting officer. Orders under GSA schedule contracts, orders under Department or Government-wide indefinite delivery contracts, or actions within the scope of the changes, value engineering, or similar contract clauses are exempt from the requirements of this subsection.

19. A new Subpart 1319.7 consisting of 1319.705-5 is added to Part 1319 as follows:

Subpart 1319.7—Subcontracting With Small Business and Small Disadvantage Business Concerns**1319.705-5 Awards involving subcontracting plans.**

Prior to making an award that requires a subcontracting plan, the contracting officer shall forward the proposed contract (including the plan and supporting documentation) to the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) to allow that office to review the material and submit advisory recommendations to the contracting officer. The contracting officer shall send the material to the following address:

Director, Office of Small and Disadvantaged Business Utilization,
U.S. Department of Commerce,
Herbert C. Hoover Building, Room
H6411, 14th St. between Pennsylvania
and Constitution Avenues, N.W.,
Washington, D.C. 20230.

The Director of the OSDBU will notify the Small Business Administration procurement center representative of the opportunity to review the proposed contract (including the plan and supporting documentation), to allow that representative an opportunity to participate in any advisory recommendations to be submitted to the contracting officer. The Director of the OSDBU shall return the material and any recommendations to the contracting officer within 5 working days after the

material is received by OSDBU, providing all pertinent documents have been received by the OSDBU.

PART 1331—[AMENDED]

20. The authority citation for Part 1331 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

21. Subsection 1331.205-32 of Subpart 1331.2 of Part 1331 is revised to read as follows:

1331.205-32 Precontract costs.

The payment of precontract costs must be approved in writing by the head of the contracting office.

PART 1337—[AMENDED]

22. The Authority citation for Part 1337 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

23. Subsection 1337.205 of Subpart 1337.2 of Part 1337 is revised to read as follows:

1337.205 Management controls.

(b) The Department's management controls for acquisition of consulting and related services are contained in the Department Administrative Order on *Approval of Advisory and Assistance Services* (DAO 216-13).

PART 1353—[AMENDED]

24. The authority citation for Part 1353 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

25. Subsection 1353.204-2 of Subpart 1353.2 of Part 1353 is revised to read as follows:

1353.204-2 Contract reporting (CD 409).

(a) *CD 409 (11/84) Report of Individual Procurement (over \$10,000).* CD 409 is prescribed for Department-wide use in reporting individual contract actions above \$10,000, in lieu of SF 279.

26. A new section 1353.213 of Subpart 1353.2 of Part 1353 is added as follows:

1353.213 Small purchase and other simplified purchase procedures (CD 404).

(e) *CD 404 (1/84) Supply, Equipment of Service Order.* In lieu of OFs 347 and 348, CD 404 is prescribed for Department-wide use as follows:

- (1) To accomplish small purchases
- (2) To issue orders under basic ordering agreements
- (3) To issue orders for paid advertisements

(4) To issue orders for construction or dismantling, demolition, or removal of improvements.

27. A new section 1353.232 of Subpart 1353.2 of Part 1353 is revised as follows:

1353.232 Contract financing.

A Department approved procurement request form certifies the availability of adequate funds for contract actions (See FAR 32.702). The Department's procurement request form also transmits

technical and other specifications of the request, administrative approvals and clearances, and information for processing payments.

28. Appendix A is amended to remove Form CD 338 and add CD Forms 409 and 404.

Note.—This Appendix does not appear in the Code of Federal Regulations.

Appendix A—Forms

BILLING CODE 3510-17-M

FORM CD-409 (11-84)
 PRESCRIBED BY
 FAR (48 CFR 4.601)

U.S. DEPARTMENT OF COMMERCE

REPORT OF INDIVIDUAL PROCUREMENT (OVER \$10,000)

TRANSACTION TYPE <input type="checkbox"/> Add <input type="checkbox"/> Delete <input type="checkbox"/> Change		1. DOC CONTRACT, PURCHASE OR DELIVERY ORDER NUMBER <input type="text"/>		2. DOLLARS (Round to Nearest Dollar) <input type="text"/>	
		3. OTHER CONTRACT NUMBER (Contract ordered Against) <input type="text"/>		4. MODIFICATION, TASK, OR CHANGE ORDER NO. <input type="text"/>	
5. EFFECTIVE AWARD DATE <input type="text"/> Mo. <input type="text"/> Day <input type="text"/> Yr.		5A. EST. COMPLETION DATE (Optional) <input type="text"/> Mo. <input type="text"/> Day <input type="text"/> Yr.		6. READY REQUISITION DATE <input type="text"/> Mo. <input type="text"/> Day <input type="text"/> Yr.	
7. DOLLARS ASSOCIATED WITH ADVISORY AND ASSISTANCE SERVICES (Round to Nearest Dollar) <input type="text"/>		7A. ADVISORY AND ASSISTANCE PRODUCT SERVICE CODE <input type="text"/>		8. PRODUCT/SERVICE CODE (From FPDS Product Service Code Manual) <input type="text"/>	
9. PRINCIPAL PLACE OF PERFORMANCE <input type="text"/> State or Country <input type="text"/> City, Place or Country					
10. KIND OF PROCUREMENT ACTION <input type="checkbox"/>					
1. Initial Letter Contract 2. Definitive Contract Superseding Letter Contract 3. New Definitive Contract 4. Order Under Reporting Agency's Contract 5. Modification 6. GSA Federal Supply Schedule 7. Order Under Another Agency's Contract 8. Termination for Default 9. Termination for Convenience					
11. TYPE OF CONTRACT <input type="checkbox"/>					
A - Fixed Price Redetermination J - Firm Fixed Price K - Fixed Price Economic Price Adjustment L - Fixed Price Incentive R - Cost Plus Award Fee S - Cost No Fee T - Cost Sharing U - Cost Plus Fixed Fee V - Cost Plus Incentive Fee Y - Time and Materials Z - Labor Hours					
12. SUBJECT TO STATUTORY REQUIREMENTS <input type="checkbox"/>					
A. Walsh-Healey Act, Manufacturer B. Walsh-Healey Act, Regular Dealer C. Service Contract Act D. Davis-Bacon Act E. Not Subject to above Statutory Requirements					
13. METHOD OF CONTRACTING <input type="checkbox"/>					
1. 2 Step Formal Advertising 2. Other Formal Advertising 3. Negotiated Competitive 4. Negotiated Noncompetitive 5. Directed Acquisitions for Foreign Governments 6. Tariff or Regulated Acquisition 7. Negotiated Competitive-Restricted Advertising					
14. NEGOTIATION AUTHORITY (See Reverse for Codes) <input type="text"/>					
15. EXTENT OF COMPETITION <input type="checkbox"/> <input type="checkbox"/>					
Competitive A1 Small Business Total Set-Aside A2 Small Business Partial Set-Aside A3 Labor Surplus Area Set-Aside A4 LSA/Small Business Set-Aside A9 Other Negotiated Competitive Noncompetitive Negotiated B1 Buy Indian B2 B(a) Program B3 Follow-On After Competition B9 Other Negotiated Noncompetitive					
16. LABOR SURPLUS AREA (LSA) <input type="checkbox"/>					
3. LSA-Tie Bid Preference 5. Not a LSA Award 7. Total LSA/Small Business Set-Aside Preference 8. Total LSA Set-Aside Preference					
17. TYPE OF BUSINESS <input type="checkbox"/> <input type="checkbox"/>					
Small Business A1 Disadvantaged B(a) A2 Owned by Minority A3 Other Small Business or Individual Large Business B1 Minority Business B2 Other Large Business Outside U.S. E1 Acquired & Used Outside U.S. E2 Acquired Outside U.S.; Used Inside U.S. Non-Profit C1 Private Educ. Org. C2 Hospital C3 Research Inst. Foundation, Lab. C4 Other Institutions C5 Minority Non-Profit C6 Minority Private Educ. Org. State/Local Gov. D1 Educational D2 Hospital D3 Research Organization D4 Other State/Local D5 Minority Educational					
18. WOMAN-OWNED BUSINESS <input type="checkbox"/>					
1. Yes 2. No 3. Not Certified 0. Exempt					
19. TRADE DATA					
<input type="checkbox"/> Number of Bidders Offering Foreign Items <input type="checkbox"/> Buy American Act: % Difference <input type="checkbox"/> Country of Manufacturer					
20. SYNOPSIS CODE <input type="checkbox"/>					
1. Synopsized Prior to Award 2. Not Synopsized Due to Emergency 3. Not Synopsized Due to Other Reasons					
21. MULTI-YEAR PROCUREMENT					
1. Yes 2. No <input type="checkbox"/>					
22. SUBCONTRACTING PLAN					
1. Yes 2. No <input type="checkbox"/>					
23. CONTRACTOR CODE <input type="text"/>					
24. CONTRACTOR NAME AND ADDRESS (Incl. Division) <input type="text"/> <input type="text"/> <input type="text"/>					
25. CONTRACT SPECIALIST/PROCUREMENT AGENT Name <input type="text"/>					
26. CONTRACTING OFFICER SIGNATURE <input type="text"/>					
I certify that the above information is accurate.					

(Instructions on Reverse Side)

USCOMM-DC 84-52015

TRANSACTION TYPE

1 Delete = Removal of invalid report.

2 Change = Correction of errors on a previous report except for control field error.

0 Add = A new action not previously reported.

1. DOC CONTRACT, PURCHASE OR DELIVERY ORDER NUMBER

Enter the DOC contract, purchase, or delivery order number. LEFT JUSTIFY

2. DOLLARS

Enter the dollars (round to the nearest dollar) obligated or deobligated. RIGHT JUSTIFY

3. OTHER CONTRACT NUMBER

Enter the number of the contract being ordered against when placing a delivery order. If not placing a delivery order, leave this blank. LEFT JUSTIFY

4. MODIFICATION NUMBER

Enter the modification, task order or change order number. RIGHT JUSTIFY

5. EFFECTIVE AWARD DATE

Enter the effective date of award

5A. ESTIMATED COMPLETION DATE

Enter the estimated completion date.

6. READY REQUISITION DATE

Enter the date the requisition was ready for processing by procurement.

7. DOLLARS ASSOCIATED WITH ADVISORY AND ASSISTANCE SERVICES

Enter dollars obligated or deobligated for advisory and assistance services. (See DOC FPDS Handbook for the list of services reportable under this heading and DAO 216-13 section 3. for their definition.)

7A. ADVISORY AND ASSISTANCE PRODUCT/ SERVICE CODE

Enter code for services specified in DOC FPDS Handbook.

8. PRODUCT SERVICE CODE

Enter the 4-character product/service code.

9. PRINCIPAL PLACE OF PERFORMANCE

Enter the code to report the principal place of performance.

10. KIND OF PROCUREMENT ACTION

Enter the kind of procurement action.

11. TYPE OF CONTRACT

Enter the type of contract.

12. SUBJECT TO STATUTORY REQUIREMENTS

Enter the code that identifies the statutory requirement.

13. METHOD OF CONTRACTING

Enter the method of contracting.

14. NEGOTIATION AUTHORITY

Enter the 2-character negotiation authority only if reporting a negotiated procurement.

CODE MEANING

- 01 - National Emergency (i.e., Small Business Unilateral Set-Aside, Labor Surplus Area Set-Aside)
- 02 - Public Exigency
- 03 - Purchase not more than \$25,000
- 04 - Personal or Professional Service
- 05 - Services of Educational Institutions
- 06 - Purchase Outside the United States
- 07 - Medicine or Medical Supplies
- 08 - Supplies Purchased for Authorized Resale
- 09 - Perishable or Non-Perishable Subsistence
- 10 - Impractical to Secure Competition by Formal Advertising
- 11 - Experimental, Developmental, Test or Research
- 12 - Classified Purchases
- 13 - Technical Equipment Requiring Standardization and Interchangeability of Parts
- 14 - Negotiation after Advertising
- 15 - Otherwise Authorized by Law (i.e., Small Business Joint Set-Asides, 8(a) awards)

15. EXTENT OF COMPETITION

Enter the extent of competition.

16. LABOR SURPLUS AREA (LSA)

Enter the appropriate code.

17. TYPE OF BUSINESS

Enter the type of business.

18. WOMAN-OWNED BUSINESS

Enter the appropriate code.

19. TRADE DATA

- Enter the number of bidders offering foreign items.
- Enter the percentage difference applied under the Buy American Act.
- Enter the country of manufacturer.

20. SYNOPSIS CODE

Enter the code reflecting Commerce Business Daily synopsis.

21. MULTI-YEAR PROCUREMENT

Enter whether or not this is a multi-year procurement action.

22. SUBCONTRACTING PLAN

Enter whether or not a subcontracting plan is required.

23. CONTRACTOR CODE

Enter the contractor's 9-character DUNS number.

24. CONTRACTOR NAME AND ADDRESS

Print the name and address of the contractor. Include the name of the contractor division if applicable.

25. CONTRACT SPECIALIST/PROCUREMENT AGENT

Enter the last name of the contract specialist or procurement agent who is responsible for processing this procurement action.

26. CONTRACTING OFFICER SIGNATURE

To be signed by Contracting Officer who certifies that the information on this form is correct. The original of this form is to be retained in the contract file.

UNITED STATES DEPARTMENT OF COMMERCE
SUPPLY, EQUIPMENT OR SERVICE ORDERTHIS NUMBER MUST
APPEAR ON ALL
INVOICES, PACKAGES AND
PAPERS RELATING TO
THIS ORDER

PAGE NUMBER	QUOTATION, REF. OR CONTRACT NO.	ORDER DATE	ORDER NUMBER	SUB		
OF						
CHECK ONE	TO (Seller)	SHIP TO (Consignee and Destination)				
<input type="checkbox"/> Purchase Order (See Reverse)						
<input type="checkbox"/> Delivery Order (See Block 3)						
1039 <input type="checkbox"/> TAX	EMPLOYER IDENTIFICATION NUMBER (EIN)					
LINE ITEM	ACTION CODE	DESCRIPTION	QUANTITY	UNIT ISSUE	UNIT PRICE	AMOUNT
<div style="writing-mode: vertical-rl; transform: rotate(180deg); font-weight: bold; font-size: 2em;">SELLER'S ORIGINAL</div>						
FOB POINT		DISCOUNT TERMS			TOTAL	
TIME FOR DELIVERY		SHIP VIA				

BILLING INSTRUCTIONS:

DO NOT
SHIP ORDER TO
THIS ADDRESS
(Ship to Consignee
Address Above)

Furnish invoice with our ORDER NUMBER to:

U.S. Department of Commerce
Management Service Center/P.O.
Caller Service Number 4025
Germantown, Maryland 20874FAILURE TO SHOW OUR ORDER NUMBER ON IN-
VOICE WILL DELAY PAYMENT. FREIGHT CHARGE
OVER \$100 REQUIRES BILL OF LADING

ISSUING OFFICE NAME AND ADDRESS

ORDERED BY (Name and Title)

PHONE (Area Code and Number)

CONTRACTING/ORDERING OFFICER SIGNATURE

SELLER'S ORIGINAL

U.S. DEPARTMENT OF COMMERCE TERMS AND CONDITIONS OF PURCHASE ORDER

THE FOLLOWING CLAUSES APPLY TO ALL PURCHASE ORDERS. IN ACCORDANCE WITH FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) 52.252, CLAUSES INCORPORATED BY REFERENCE, THOSE CLAUSES LISTED BY REFERENCE HAVE THE SAME FORCE AND EFFECT AS IF THEY WERE GIVEN IN FULL CONTEXT. UPON REQUEST THE CONTRACTING OFFICER WILL MAKE THEIR FULL TEXT AVAILABLE.

1. INSPECTION AND ACCEPTANCE - Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance, and after any rejections, risk of loss will be on the Contractor unless loss results from negligence of the Government.
2. VARIATION IN QUANTITY (APRIL 84) - FAR 52.212-9
3. PAYMENTS (APRIL 84) - FAR 52.232-1
4. DISCOUNTS FOR PROMPT PAYMENT (APRIL 84) FAR 52.232-8
5. CHANGES - FIXED PRICE (APRIL 84) FAR 52.243-1
6. DISPUTES (APRIL 84) FAR 52.233-1
7. BUY AMERICAN ACT - SUPPLIES (APRIL 84) - FAR 52.225-3
8. SERVICE CONTRACT ACT OF 1965 - CONTRACTS OF \$2,500 OR LESS (APRIL 84) - FAR 52.222-40
9. SERVICE CONTRACT ACT OF 1965 (APRIL 84) - FAR 52.222-41
10. EQUAL OPPORTUNITY (APRIL 84) - FAR 52.222-26
11. AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (APRIL 84) - FAR 52.222-36
12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION - GENERAL (APRIL 84) - FAR 52.222-4
13. CONVICT LABOR (APRIL 84) - FAR 52.222-3
14. OFFICIALS NOT TO BENEFIT (APRIL 84) - FAR 52.203-1
15. GRATUITIES (APRIL 84) - FAR 52.203-3
16. COVENANT AGAINST CONTINGENT FEES (APRIL 84) - FAR 52.203-4
17. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (SHORT FORM) (APRIL 84) - FAR 52.249-1
18. FEDERAL, STATE, AND LOCAL TAXES - Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties in effect on the date of this contract but does not include any taxes from which the Government, the Contractor or this transaction is exempt. Upon request of the Contractor, the Government shall furnish a tax exemption certificate or similar evidence of exemption with respect to any such tax not included in the contract price pursuant to this clause. For the purpose of this clause, the term "date of this contract" means the date of the contractor's quotation or, if no quotation, the date of this purchase order.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of *Carex Specuicola* to be a Threatened Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Carex specuicola*, to be a threatened species under the authority contained in the Endangered Species Act of 1937 (Act), as amended. Critical habitat is being designated. This plant occurs in Coconino County, Arizona, on the Navajo Indian Reservation. The three known populations and their habitat are currently threatened with impacts from livestock grazing and water development. This action implements the protection provided by the Act.

DATES: The effective date of this rule is June 7, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Region 2, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Peggy Olwell, Botanist, Region 2, Office of Endangered Species, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:**Background**

Carex specuicola is a perennial member of the family Cyperaceae (sedge family). This species was first collected by J.T. Howell in 1948, and the description was published by him in 1949. *Carex specuicola* has a triangular stem 25-40 centimeters (10-16 inches) high, which extends from an elongate, slender rhizome (underground stem). The leaves are pale green, 1-2 millimeters (.04-.08 inches) wide, 12-20 centimeters (4.7-7.9 inches) long, and clustered near the base. The flowers are in 2-4 groups or spikes. The terminal spike has both male and female flowers, with the female flowers above the male flowers. The lateral spikes contain only female flowers. The flowers are reduced and not showy; they consist of small, green-brown, scale-like parts 2-3 millimeters (.08-.12 inches) long and 1-1.5 millimeters (.04-.06 inches) wide. Flowering and fruit set occur from spring

to summer, but most of the reproduction appears to be vegetative.

Carex specuicola is known only from sites near Inscription House Ruin on the Navajo Indian Reservation in Coconino County, Arizona. The plants are found around three shady seep-springs. The vegetation is pinyon-juniper woodland at elevations of 1,740-1,824 meters (5,707-5,983 feet), with an average annual precipitation of approximately 19.4 centimeters (7.6 inches). Within its habitat *Carex* is locally common, growing in dense clumps from the rhizomes. Each population covers an area of less than 200 square meters (2,152 square feet) along the outflow from its respective seep-spring. In 1980, all plants were healthy and vigorous (Phillips *et al.*, 1981).

Federal actions involving *Carex specuicola* began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context section 4(c)(2), now section 4(b)(3)(A), of the Act and of its intention thereby to review the status of those plants. On June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Carex specuicola* was included in the Smithsonian petition and the 1976 proposal. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, *Federal Register* publication (43 FR 7909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. In the December 10, 1979, *Federal Register* (44 FR 70796), the Service published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired. *Carex specuicola* was included as a category-1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, *Federal Register* (45 FR 82480). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species listed in the December 15, 1980, notice of review were considered to be petitioned, and the deadline for a finding on those species, including *Carex specuicola*, was October 13, 1983.

On October 13, 1983, the petition finding was made that listing *Carex specuicola* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B) (iii) of the Act. Such a finding requires a recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. A proposed rule published April 11, 1984 (49 FR 14406), constituted the next required finding that the petitioned action was warranted in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the April 11, 1984, proposed rule (49 FR 14406) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the Flagstaff, Arizona, *Arizona Daily Sun* on May 9, 1984, which invited general public comment. Six comments were received, one each from the U.S. Forest Service, the Bureau of Indian Affairs (BIA), the Arizona State Agriculture and Horticulture Department, the Arizona Wildlife Federation, the International Union for Conservation of Nature and Natural Resources (IUCN), and a professional botanist at the University of Arizona. No public hearing was requested or held.

None of the comments contradicted the Service's findings of rarity or need of protection for *Carex specuicola*. Two commenters, the Forest Service and the BIA, however, did suggest additional field surveys be conducted to locate more plants. The Service agrees that the discovery of any currently unknown populations would be very beneficial, but these three populations were the only ones located in past survey work. Three commenters, the Arizona State Agriculture and Horticulture Department, the Forest Service, and the Arizona Wildlife Federation, suggested fencing be used to exclude livestock from the three springs where the species occurs and that water for livestock then

be piped outside the fenced enclosures. The Service finds that these measures may help protect the species, and watering sights are now found away from the *Carex* locations. The Arizona State Agriculture and Horticulture Department suggested not posting fenced areas or mapping plant habitat as these activities could provide locality information to unscrupulous collectors. Because *Carex specuicola* is inconspicuous and not subject to commercial or other trade, the Service does not believe posting fenced areas or mapping habitat will substantially increase the threats to the species. The Arizona Wildlife Federation suggested a monitoring system be established to ascertain population status, and the BIA suggested that in any monitoring system the effect of erosion be considered along with other factors that might jeopardize the species. The Service agrees monitoring will be needed to ensure maintenance of the species.

The BIA described grazing and water use in the areas occupied by *Carex specuicola*. In regard to grazing, the BIA stated there is not record of the number of livestock grazing in the areas prior to 1943. Carrying capacities were established in 1943 and livestock numbers have since remained constant, being regulated by permit. Grazing permits are renewed automatically but BIA action is required to cancel or modify them. With regard to water use, the BIA stated that two of the three seep-springs with *Carex specuicola* populations are presently used to water livestock. At one, livestock drink water caught in a natural basin downhill from the spring. At the other, a stone and mortar diversion has been built to direct water from the spring to a storage structure. Water from the storage structure flows through a pipe to a livestock drinker located away from the area occupied by *Carex specuicola*. These structures were built in the 1930's. Application for any additional livestock water development would have to be approved by the BIA, which states that it would review any proposal for water development with protection of *Carex specuicola* as a priority.

Neither the professional botanist at The University of Arizona nor the IUCN had any substantive comments on the proposal.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Carex specuicola* should be classified as a threatened species. Procedures found at section 4(a)(1) of

the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to *Carex specuicola* J.T. Howell are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Carex specuicola* has only been found at its original locality around three seep-springs in the vicinity of Inscription House Ruin on the Navajo Indian Reservation. This habitat is vulnerable to changes resulting from water development for livestock. Heavy trampling in conjunction with livestock watering already occurs around two of the three seep-springs. An increase in the number of livestock could possibly damage the *Carex* populations. Severe impacts to any one of the three populations would have a substantial detrimental effect on the species (Phillips *et al.*, 1981).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Commercial or other trade in this plant is not known to exist (Phillips *et al.*, 1981).

C. *Disease or predation.* Many species within the genus *Carex* are palatable to livestock and wildlife. Two of the three *Carex* sites are used as livestock water sources and grazing areas (mainly for sheep), especially the one at Inscription House Ruin Spring. While not expected, an increase in grazing pressure could be harmful to the species, and should be avoided until the grazing impact is thoroughly assessed (Phillips *et al.*, 1981).

D. *The inadequacy of existing regulatory mechanisms.* *Carex specuicola* is not protected by Federal law or the Arizona Native Plant Law. A permit is needed, however, from the Navajo Tribe for plant study or collection on the Reservation.

E. *Other natural or manmade factors affecting its continued existence.* The specific habitat requirements of *Carex specuicola*, the limited distribution, and small number of populations (3) make the existence of this species especially precarious in the event of habitat disturbance or any activity that results in the loss of a significant number of individuals.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule

final. Based on this evaluation, the preferred action is to list *Carex specuicola* as threatened with critical habitat. Threatened status seems appropriate because of the restricted distribution of the species and the small size of populations which, although they are vigorous and reproducing well, are threatened by livestock grazing, habitat deterioration due to water development, and livestock trampling of areas around water sources. Also, the only protection for this species is a Navajo Tribal Law prohibiting study or collection of this species without a permit. No other laws, State or Federal, provide protection to this species.

Critical Habitat

Critical habitat, as defined by section 3 of the Act, means: (i) 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 (I) essential to the conservation of the species, and (II) that may require special management considerations or protection; and (ii) 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.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being designated for *Carex specuicola* to include the entire areas occupied by the three known populations of the plant. The locations are on the Navajo Indian Reservation in Coconino County, Arizona, and are 40 x 5 meter (about 200 square meters) rectangular areas with their long axes in the direction of seep-spring flow, centered on the following points: (1) latitude 36°39'53" N, longitude 110°47'18" W; (2) latitude 36°40'07" N, longitude 110°47'55" W; and (3) latitude 36°40'18" N, longitude 110°48'15" W. The total area designated comprises about 600 square meters (about 0.15 acres), and contains all habitat presently known to be occupied by the species. Constituent elements are moist sandy to silty soils at shady seep-springs within the Navajo Sandstone Formation (Phillips *et al.*, 1981).

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) that may adversely modify such habitat or may

be affected by such designation. The activities that may potentially affect the critical habitat of *Carex specuicola* or be affected by its designation are spring development and grazing. Spring development could affect the free-flowing seep-springs upon which the species depends. Livestock trampling has contributed to some soil erosion on the steeper sandy soil sites at the Inscription House Ruin Spring site. Withdrawal of the critical habitat area from grazing (representing less than one Animal Unit Month and no grazing fees) or fencing may be warranted to protect the critical habitat from soil erosion or trampling. It is not expected that use of the seep-spring water for livestock watering will affect or be affected by the critical habitat designation because the watering sites are located away from the area where *Carex specuicola* is found. There is a coal mining operation about ten miles away from the critical habitat, but it is located in a different geologic formation and has a different water source than the critical habitat's water source. Small farms in the area may use excess water runoff, but are not expected to affect or be affected by the critical habitat designation. The BIA has informed the Service that it plans to monitor the critical habitat of *Carex specuicola* as part of its plans to develop an informal monitoring system for the resources under its jurisdiction. Currently, no plans for water development, farm use, or additional grazing permit applications are known that would involve Federal funds or permits for the area affected by the critical habitat designation.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has considered the critical habitat designation in light of relevant additional information obtained during the public comment period and concludes that no significant economic impacts are expected as a result of the designation and no adjustments to the area proposed as critical habitat are warranted.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land

acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies, and the taking prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provisions of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29890; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. With respect to *Carex specuicola*, if an adverse effect pertaining to spring development is expected and BIA funding or authorization is involved, the BIA must enter into consultation with the Service prior to issuance of a BIA permit. Permits for grazing are also issued by BIA.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Carex specuicola*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. International and interstate commercial trade in *Carex specuicola* is not known to exist. It is anticipated that few trade permits would ever be sought or issued since

this plant is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Section 4(d) allows for the provision of such protection to threatened species through regulations. This new protection will apply to *Carex specuicola* when revised regulations are promulgated. Permits for exceptions to this prohibition are available through sections 10(a) and 4(d) of the Act, until revised regulations are promulgated to incorporate the 1982 amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. All three populations of *Carex specuicola* are on the Navajo Indian Reservation. It is anticipated that few collection permits for the species will ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The critical habitat designation as defined in the proposed rule for *Carex specuicola* did not bring forth economic or other impacts to warrant consideration of adjusting the critical habitat designation. The critical habitat area is located entirely on Indian land within the Navajo Indian reservation in Coconino County, Arizona. The Navajo Indian Tribe owns and manages the critical habitat area. The BIA also has

some permitting and management authority over the critical habitat area. Based on BIA's current management and planned monitoring of the critical habitat area, it is not expected that significant economic impacts will result from the designation of critical habitat on the Navajo Indian Reservation. These determinations are based on a Determination of Effects that is available at the Regional Office, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Literature Cited

Howell, J.T. 1949. Three new Arizona plants. *Leaflets of Western Botany* 5(9):148.
Phillips, A.M., B.G. Phillips, L.T. Green, J. Mazzoni, and N. Brian. 1981. Status report: *Carex specuicola* J.T. Howell. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 12 pp.

Authors

The authors of this final rule are Charles McDonald and Peggy Olwell, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972). The editor was E. LaVerne Smith, Office of Endangered Species,

Washington, D.C. 20240 (703/235-1975 or FTS 235-1975). Status information and a preliminary listing package were provided by Dr. A.M. Phillips, Dr. B.G. Phillips, L.T. Green, J. Mazzoni, and N. Brian, Museum of Northern Arizona, Route 4, Box 720, Flagstaff, Arizona 86001.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17 Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Cyperaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cyperaceae—Sedge family:						
<i>Carex specuicola</i>	None	U.S.A. (AZ)	T	178	17.96(a)	NA

3. Amend § 17.96(a) by adding the critical habitat of *Carex specuicola* as follows: The position of this entry under § 17.96(a) will follow the same sequence as the species occurs in § 17.12.

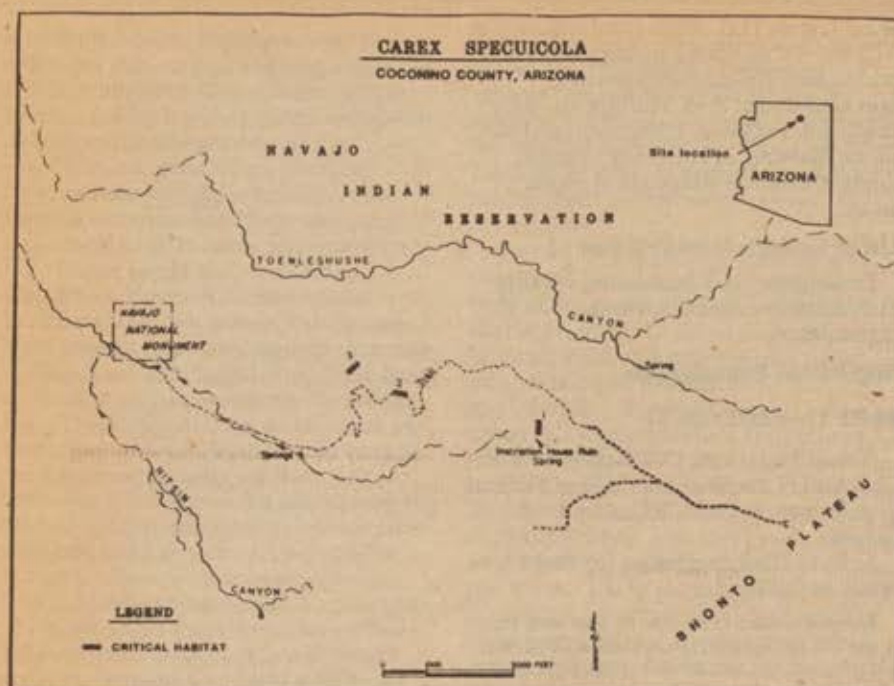
§ 17.96 Critical habitat—plants.

(a) * * *

Cyperaceae—*Carex specuicola*

Arizona: Coconino County: Navajo Indian Reservation. A 40 x 5 meter rectangular area,

with its long axis in the direction of seep-spring flow, around each of the following points: (1) Latitude 36°39'53" N, longitude 110°47'18" W; (2) latitude 36°40'07" N, longitude 110°47'55" W; and (3) latitude 36°40'18" N, longitude 110°48'15" W. Primary constituent elements include moist sandy to silty soils at shady seep-springs within the Navajo Sandstone Formation.



Dated: March 25, 1985.

J. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-11097 Filed 5-7-85; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That *Amsinckia Grandiflora* is an Endangered Species and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status and designates critical habitat for *Amsinckia grandiflora* (large-flowered fiddleneck). This action is being taken because population numbers have declined since historic times, possibly as a result of modification of habitat for agricultural use, intensive livestock grazing, urban development, and other land use activities that have altered the natural plant communities within the large-flowered fiddleneck's historic range. Weedy exotic plants and aggressive *Amsinckia* species are presently invading the grassland habitat at the one site it now occupies. The species

has an extremely restricted range, reduced gene pool, and low reproductive potential. The single known population, found in southwestern San Joaquin County, California, on Department of Energy land, has been observed from 1980 to 1984 and found to vary in size from 30 to 70 individuals for those years. There is the possibility that controlled burning and the testing of chemical explosives (both activities occur near its present environment) may be affecting the species. A determination that *Amsinckia grandiflora* is an endangered species and designation of its critical habitat will implement the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is June 7, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address or 503/231-6131 or FTS 429-6131.

SUPPLEMENTARY INFORMATION: Background

Amsinckia grandiflora was first

collected in 1869 by Kellogg and Harford and was described in 1876 by Asa Gray. This annual species has red-orange flowers arranged in a fiddleneck-shaped inflorescence. Its bright green foliage is covered with coarse, stiff hairs. Historically, the species was found in Alameda, Contra Costa, and San Joaquin Counties, California. Today, it is known to survive only at a ½-acre site on Department of Energy (DOE) land, near Livermore, San Joaquin, California. The site is a grassy, steep, west- and south-facing slope of a small ravine with light-textured clay soil.

The reasons for the species' decline are not known, but two factors have been suggested. The reproductive system of *Amsinckia grandiflora* is considered "primitive." The species has two flower morphs, a condition that encourages outcrossing and may lead to lowered fecundity. The displacement of the large-flowered fiddleneck by aggressive fiddleneck species may be due to its inability to compete with species having higher fecundity (Ray and Chisaki, 1957; Ornduff, 1976). Also, the introduction of grazing animals into the Livermore area and the development of lands for agricultural and urban uses are believed to have been responsible for the extirpation of some populations. At this time fewer than 50 individuals are known to exist.

The Secretary of the Smithsonian Institution, as directed by section 12 of the Endangered Species Act of 1973, prepared a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94-51) was presented to Congress on January 9, 1975. On July 1, 1975, the Fish and Wildlife Service published a notice in the *Federal Register* (40 FR 27823) accepting the report as a petition within the context of section 4(c)(2) of the Endangered Species Act (petition acceptance provisions are now contained in section 4(b)(3)(A)), and giving notice of its intention to review the status of the plant taxa named therein, including the large-flowered fiddleneck. As a result of this review, on June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine approximately 1,700 vascular plant species, including the large-flowered fiddleneck, to be endangered pursuant to Section 4 of the Act. In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2

years old. On December 10, 1979, the Service published a notice in the Federal Register (44 FR 70796) of the withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480), including *Amsinckia grandiflora*. On February 15, 1983, the Service published a notice (48 FR 6752) announcing its finding that the listing of this species, as petitioned by the Smithsonian Institution, may be warranted in accordance with section 4(b)(3)(A) of the Endangered Species Act as amended in 1982. On October 13, 1983, a further finding was made that listing of *Amsinckia grandiflora* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. On May 8, 1984, a proposed rule to list the large-flowered fiddleneck as endangered and designate its critical habitat was published (49 FR 19534), constituting a finding that the petitioned listing of the species was warranted.

Summary of Comments and Recommendations

In the May 8, 1984, proposed rule (49 FR 19534) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices that invited general public comment were published in the *Oakland Tribune* on June 12 and in the *San Francisco Chronicle* on June 13. Five substantive comments were received from four sources and are discussed below. Also received was a comment from Bureau of Land Management that provided no information or recommendation.

All substantive comments received were favorable to the proposed rule. These comments were received from the Defenders of Wildlife, Dr. A.Q. Howard, Dr. T.O. Duncan, and the California Native Plant Society. Additional information was supplied in three letters of comment. The California Native Plant Society suggested that fire in the habitat might reduce competition from introduced grasses and weedy species of *Amsinckia* and should be studied as a tool for recovery actions. Dr. A.Q.

Howard, of the University of California, Berkeley, discussed the establishment of *Amsinckia grandiflora* on the newly purchased Antioch Dunes National Wildlife Refuge, a site considered by her to be the probable "Antioch" site in historical collections. On the basis of studies by Dr. R. Ornduff, Dr. Duncan suggested that the present Corral Hollow site may be a natural site (it has been suggested that the site may be composed of displaced soil) and that construction of a road to the drop-tower may have altered natural drainages, thus affecting the species. He also reported the successful storage of seed by Dr. Ornduff in a home-type freezer. It was pointed out that "media events" held within the critical habitat may be as threatening to the species' survival as is scientific research. Scientific research was discussed under the Summary of Factors Affecting the Species, "Factor B," in the proposed rule.

In response to the above comments, most of the new information received applies to recovery actions to be initiated by the Service after listing of the *Amsinckia* and will be useful in implementing such actions. In response to Dr. Duncan, the discussion in "Factor B" of the proposed rule was not intended as a criticism of research studies on the *Amsinckia*. Such studies have been valuable both in our efforts at protection of the species and also in the field of population biology and evolution. The discussion was included in the proposed rule because such studies are seen as a potential threat and because of the need for careful monitoring of studies involving removal of plant material, in order to prevent adverse impacts. No impacts to the large-flowered fiddleneck from public visits are presently known. However, upon listing of the species, DOE will be required to ensure that visits granted to enter the critical habitat will not cause adverse effects to the *Amsinckia*. In addition, any removal and reduction to possession of individuals or parts of this species from the area under DOE jurisdiction will require a permit.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Amsinckia grandiflora* should be listed as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 et seq.) and regulations promulgated to implement the listing provisions of the Act (to be codified at 50 CFR Part 424, see 49 FR 38900, October 1, 1984) were followed. A

species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Amsinckia grandiflora* Gray (large-flowered fiddleneck) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The large-flowered fiddleneck is presently threatened by the invasion of aggressive *Amsinckia* species and weedy exotic plants into the grassland habitat it occupies. The small population occurs next to a drop-tower on DOE land. According to DOE, testing of the integrity of canisters and shipping containers is performed at the drop-tower; however, such tests are infrequent and detonation is not expected. Testing of explosives does not occur in the immediate vicinity of the population. Tests conducted nearby have the potential to start grass fires that could enter the species' habitat and affect the long-term survival of the species. In addition, DOE has authorized laboratory personnel to perform controlled burning in some test areas. Such burns, if conducted in or near the proposed critical habitat, may adversely affect the species and its habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The large-flowered fiddleneck has an unusual flower morphology and highly restricted distribution, both of which contrast sharply with most other members of the genus. As a consequence, the species has been the subject of a number of studies concerning the reproductive biology and evolution of the genus *Amsinckia*. Such studies often require the use of plant materials, usually reproductive parts or occasionally whole plants. Such studies are potential threats to the species should population numbers continue to decline and collection of plant material not be monitored or managed to reduce impacts.

C. *Disease or predation.* Grazing may have been responsible, at least in part, for extirpation of some populations of this species. *Amsinckia grandiflora* is part of a remnant native grassland flora at the site it now occupies. The introduction of grazing animals into the Livermore area is thought to have degraded native grasslands that once existed there.

D. *The inadequacy of existing regulatory mechanisms.* Although the State of California lists the large-flowered fiddleneck as endangered, State law does not provide adequate protection for this species in its natural

habitat. The law provides that a landowner who has been notified by the State Fish and Game Commission that a State-listed plant is growing on her or his property must notify the Department of Fish and Game "at least 10 days in advance of changing the land use to allow for salvage of such plant."

Although State law also provides for such measures as research, land acquisition, and trade restrictions, provisions of the Endangered Species Act would offer additional protection to this species and its habitat.

E. Other natural or manmade factors affecting its continued existence.

Although very little is known about the ecology of *Amsinckia grandiflora*, recent pollination studies suggest that its reproductive system is primitive and relatively inefficient in comparison with related species (Ray and Chisaki, 1957; Ornduff 1976). Consequently, its inherently low reproductive potential places it at a distinct disadvantage in competition with other more aggressive or "weedy" species of *Amsinckia*. Furthermore, declines in population numbers could place this annual species below the reproductive level needed for replacement and recovery.

The Service has carefully assessed the best scientific information available, regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Amsinckia grandiflora* as endangered with critical habitat. In view of its demonstrated contraction of range and low population numbers, endangered status is considered most appropriate. The designation of critical habitat is discussed below.

Critical Habitat

Critical habitat, as defined by section 3 of the Act, means: (i) 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 (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) 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.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being designated for *Amsinckia grandiflora* to include one

area of approximately 160 acres in San Joaquin County, California. This area includes the known primary constituent elements of a steep, west- and south-facing slope with light-textured but stable soils. The metes and bounds of the critical habitat can be found in the "Regulations Promulgation" section.

The Service is required to consider in determining what areas are critical habitat those physiological, behavioral, ecological, and evolutionary requirements essential to the conservation of the species and which may require special management considerations or protection. These requirements include, but are not limited to:

- (1) Space for individual and population growth and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,
- (5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distribution of listed species.

With respect to the large-flowered fiddleneck, although little is known of its biology and ecology, it is the Fish and Wildlife Service's best judgment that the area designated as critical habitat will satisfy most of the plant's requirements on a long-term basis and is essential for its conservation. Thus it appears that the proposed critical habitat, with a steep west- and south-facing slope and light-textured but stable soil, satisfies the fiddleneck's most immediate physiological needs. The area designated may not include the entire suitable habitat of this plant, and revision of critical habitat may be warranted in the future.

The critical habitat designated exceeds the current range of the fiddleneck. The fiddleneck's range is now limited to a 1/2-acre area. Stabilization of the small population present within that area would likely not constitute recovery for the species, since a single grass fire or other local threat could render it extinct. The area designated as critical habitat is believed to contain places suitable for expansion or relocation; unless such areas are available, recovery would not be likely. Accordingly, the Service believes protection of this area is essential to the conservation of this species.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those

activities (public or private) which may adversely modify such habitat or may be affected by such designation. Any activity that would result in a disturbance of the soil or the hydrological regime where the large-flowered fiddleneck occurs would probably adversely modify the critical habitat. Also, any activity that may increase the frequency of grass fires in the area may adversely affect the population and modify the critical habitat. The University of California's Lawrence Livermore Laboratory has been given funding and authorization by DOE to conduct various activities in the vicinity of the large-flowered fiddleneck population and its critical habitat. The principal concerns are with construction activities, testing of chemical high explosives, and controlled burns. It is believed that these activities could have an adverse impact on the large-flowered fiddleneck and its habitat unless they are undertaken carefully.

Designation of critical habitat may affect Federal activities and actions in the vicinity of the population by prohibiting or requiring modifications to, test activities, controlled burns, and construction activities. If appropriate, the impacts will be addressed during consultation with the Service as required by section 7 of the Act.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. No additional information has been obtained as a result of the proposed rule on economic or other impacts that might result in a change to the designation of the proposed critical habitat. The species occurs within a research facility on lands owned by DOE. DOE has informed the Service that designation of critical habitat is compatible with present and proposed activities occurring on its land.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection

required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that any activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. DOE funds various activities such as construction, testing of chemical high explosives and controlled burning on its lands. Consultation with the Service will be necessary to ensure that such activities do not adversely affect *Amsinckia grandiflora* or its critical habitat.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Amsinckia grandiflora*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. No trade is known for this species. It is anticipated that few trade permits will be sought or issued for the large-flowered fiddleneck.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This prohibition now applies to *Amsinckia grandiflora*. Permits for exceptions to this prohibition are available through

section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. *Amsinckia grandiflora* occurs on Federal lands. A few collecting permits for scientific research are anticipated. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The critical habitat designation, as defined in the proposed rule, for *Amsinckia grandiflora* did not bring forth economic or other impacts to warrant consideration of revising the critical habitat designation. The critical habitat area is located entirely on DOE lands. No significant changes in DOE management of the proposed critical habitat area are envisioned. DOE management of the area is compatible with the present and foreseeable uses of

the area. The designation of critical habitat is not expected to result in any significant economic impact or significant changes in the research activities occurring within the critical habitat or on adjacent lands. No direct costs, enforcement costs, or information collection or record-keeping requirements are imposed on small entities by this designation. These determinations are based on a Determination of Effects that is available at the Regional Office, U.S. Fish and Wildlife Service, at the address found in the "ADDRESSES" section.

Literature Cited

- Ornduff, R. 1978. The reproductive system of *Amsinckia grandiflora*, a distylous species. *Syst. Bot.* 1:57-66.
Ornduff, R. 1977. Status report on *Amsinckia grandiflora*. California Native Plant Society. 4 pp. Unpublished.
Ray, P.M., and H.F. Chisaki. 1957. Studies on *Amsinckia*. I and II. *Amer. J. Bot.* 44:529-544.

Author

The primary author of this rule is Carol Wilson, U.S. Fish and Wildlife Service, at the address found in the "ADDRESSES" section.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Boraginaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Boraginaceae—Borage family: <i>Amsinckia grandiflora</i>	Large-flowered fiddleneck	U.S.A. (CA)	E	179	17.96(a)	NA

3. Amend § 17.96(a) by adding critical habitat of the large-flowered fiddleneck as follows: The position of this entry under § 17.96(a) will follow the same sequence as the species occurs in 17.12(h).

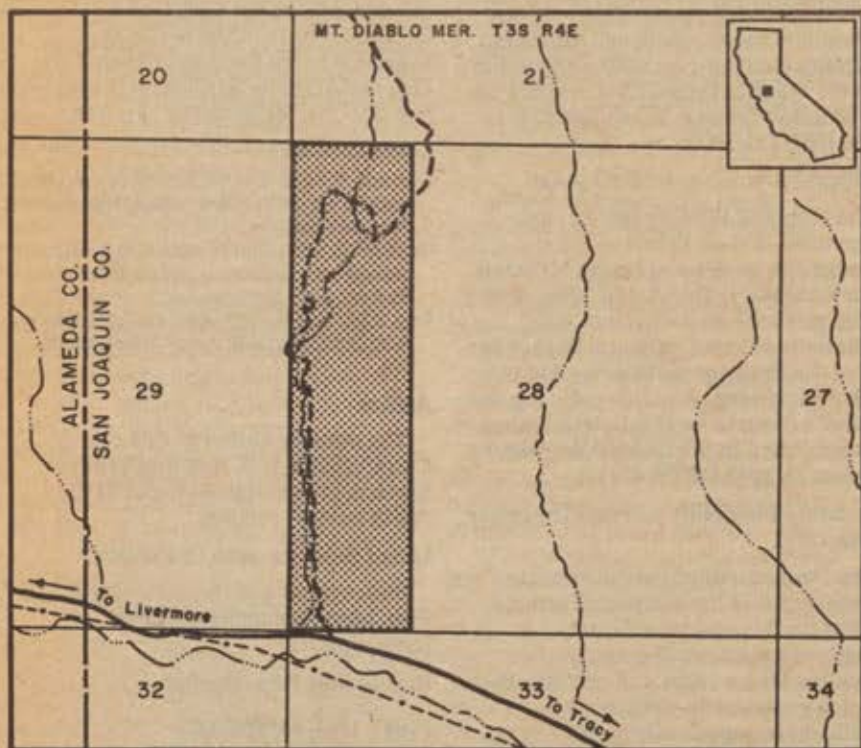
§ 17.96 Critical habitat—plants.

(a) * * *

Boraginaceae: *Amsinckia grandiflora* (large-flowered fiddleneck)

California, San Joaquin County, Mount Diablo Meridian, T3S R4E Section 28 W½ NW¼ and W½ SW¼.

This includes the known primary constituent elements of a steep, west- and south-facing slope with light textured but stable soils.



Dated: March 21, 1985.

Susan Reece,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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