

In the event any increase resulting from the application of the tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with — percent interest.⁴

The master tariff shall be conditioned to expire on a date not more than one year after the effective date, and all relief granted in this decision expires with that date, which may not be extended or cancelled except upon specific authorization of this Commission. Respondents are placed on notice that they must comply with the regulations in 49 CFR 1300.32 governing the transfer of railroad general increases from master tariffs. The master tariff must initially contain all provisions necessary to permit application of every aspect of this proposal. Subsequently, provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs).

(c) The master tariff and connecting link supplements issued and filed under this decision shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) above.

(e) By publication of provisions in tariffs or amendments subjecting rates and charges to the provisions of the master tariff, subject to the restriction in (c) above.

2. (a) The master tariff, as amended, and all other tariffs and amendments to tariffs, that employ the shortform methods authorized here shall bear the notation: Form of publication

authorized, I.C.C. permission No. 79-3270.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges shall bear a notation reading: Publication made in accordance with I.C.C. permission No. 79-3270.

3. Connecting-link supplements authorized here shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed under this decision shall not be amended except to correct errors and to comply with findings and orders of the Commission, without specific authorization. The terms of rule 9(e) (40 CFR 1300.9(e)) are not waived as to supplements to the master tariff.

5. Tariff publishing agents must furnish a copy of the master tariff to subscribers of all tariffs which are governed by the master tariff. This must be done not later than the date that copies are sent to the Commission. When there is more than one tariff of a subscriber governed by the master tariff, only one copy of the master tariff need be furnished to the subscriber unless additional copies are requested.

6. Outstanding decisions of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariff publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972*, 341 I.C.C. 288, 336, and *Increased Freight Rates, 1970 and 1971*, 339 I.C.C. 125, 188.

Notice of the filing of a railroad general increase petition will be given by sending a copy of this decision to each party to the Ex Parte No. 357 proceeding, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication in the **Federal Register**.

By the Commission, Chariman O'Neal, Commissioners Stafford, Gresham, Clapp, Christian, Trantum and Gaskins.

Commissioner Gresham not participating in the disposition of this proceeding.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25133 Filed 8-14-79; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Applications for Relief

August 10, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C. Expedited handling of these applications have been granted.

FSA No. 43727, Illinois Central Gulf Railroad Company No. 79-1, reduced rates on corn and soybeans, in carloads, from stations in Iowa and Minnesota, to Chicago, Ill. in Supplement 76 to Tariff ICC ICG 4010 and Supplement 79 to Tariff ICC ICG 4011, effective September 5, 1979, and to expire with March 5, 1980. Authority has been requested to advance the effective date to earliest possible date.

FSA No. 43732, Southern Freight Association No. A-6352, reduced rates on furniture between Southern Railway stations in Southern Territory in Supplement 53 to Tariff ICC SFA 4972, effective September 8, 1979, and to expire with September 30, 1979. Authority has been requested to advance effective date to earliest possible date.

Protests against granting of long-and-short-haul relief requested in the above applications, are due at the offices of the Commission, Suspension and Fourth Section Board, in Washington, D.C., not later than noon, August 20, 1979. Telegraphic filing with indication of notarization is acceptable.

By the Commission,
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25214 Filed 8-14-79; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Applications for Relief

August 10, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

FSA No. 43726, Southwestern Freight Bureau, Agent, No. B-9, paper and paper articles, in carloads, from Fond du Lac, Wis., to points in Southwestern Territory, in Supp. 95 to Southwestern Freight Bureau, Agent Tariff ICC SWFB 4571, effective September 7, 1979. Grounds for relief — market competition.

⁴See footnote 3.

FSA No. 43728, Southwestern Freight Bureau, Agent, No. B-15, In Supp. iron or steel pipe and related articles, in carloads, from points in Eastern and Southern Territories to Fauna, Tex., in Supp. 200 to its Tariff ICC SWFB 4853, effective September 5, 1979. Grounds for relief—rate relationship.

FSA No. 43729, Southwestern Freight Bureau, Agent, No. B-18, petroleum and petroleum products, from Carrizo Springs, Tex., points tin Southwestern Territory, in Supp. 166 to its Tariff ICC SWFB 4679, effective September 18, 1979. Grounds for relief—market competition.

FSA No. 43730, Southwestern Freight Bureau, Agent, No. B-19, pipe or tubing, iron or steel, in carloads, from New Orleans, La., to station in New Mexico, in Supp. 201 to its Tariff ICC SWFB 4853, effective September 4, 1979. Grounds for relief—Market competition.

FSA No. 43731, Southwestern Freight Bureau, Agent, No. B-20, acrylonitrile, in tank carloads, from Dowling Tex., to Dow and Waynesboro, Va., in Supp. 22 to its Tariff ICC SWFB 4615, effective September 4, 1979. Grounds for relief—reduced minimum weights.

FSA No. 43733, Southwestern Freight Bureau, Agent, No. 540, bicycles, bicycle parts, and other commodities from points New Jersey, Ohio, and Pennsylvania, to Phoenix, Ariz. and points in California, to be published in its Tariff ICC TACFB 3001. Grounds for relief—motor competition and improved car utilization.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25215 Filed 8-14-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 159

Wednesday, August 15, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 10 a.m., Wednesday August 15, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

MATTERS TO BE DISCUSSED:

1. *Briefing on Acetaminophen: Final PPPA Rule* (Rescheduled from 8/8/79).—The staff will brief the Commission on issues related to a draft final rule to require child-resistant packaging on oral drugs containing more than one gram of acetaminophen in a single package. The Commission proposed this regulation in February 1978.

2. *Uniform Safety Alert Symbol*.—The staff will brief the Commission on proposed statement of policy about the use of a uniform symbol and statement on envelopes and letterheads of safety-related notifications.

3. *Miniature Christmas Tree Lights*.—The staff will brief the Commission on the status of the miniature Christmas tree light voluntary standard effort.

4. *Carbon Water Filters Petition, CP 79-19*.—The staff will brief the Commission on a petition from Dr. Robert R. Austin requesting the issuance of a consumer product safety rule banning those home-use water filters containing activated carbon and no bacteriostat.

5. *CB Antennas Notice of Proceeding*.—The staff will brief the Commission on the draft notice of proceeding to develop a standard for omnidirectional CB antennas.

Agenda approved August 7, 1979.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th

Street NW., Washington, D.C. 20207, Telephone (202) 634-7700.

[S-1621-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 10:30 a.m., Friday, August 10, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Asbestos—General*.—The staff will brief the Commission on strategies concerning asbestos in consumer products.

2 p.m.

2. *Budget*.—The staff and Commission will continue their discussion of issues related to CPSC's proposed budget for fiscal year 1981.

Agenda approved August 7, 1979.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-1622-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda¹

TIME AND DATE: 9:30 a.m., Thursday, August 16, 1979.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C.

STATUS:

A. *Open to the Public.*

MATTERS TO BE DISCUSSED:

1. *Sleepwear Enforcement Policy*.—The Commission will consider reissuing an enforcement policy statement concerning children's sleepwear in sizes 0-6X originally published by the Federal Trade Commission and proposing to issue the same policy statement for children's sleepwear in sizes 7-14. The two statements set forth the factors that CPSC will consider in deciding whether particular fabrics or garments are covered by the two standards for flammability of children's sleepwear.

2. *Powered Lawn Edgers and Trimmers Petition, CP 78-7* (Rescheduled from 8/9/

¹ Revised agenda approved August 9, 1979.

79).—The Commission will consider a petition from Gerald Price of Fullerton, California, concerning gasoline- and electric-powered lawn edgers and trimmers. In the petition, Mr. Fuller asks that the Commission initiate a proceeding to develop mandatory requirements to address the hazard of thrown objects, and suggest requirements for instructions concerning the use of a face mask or safety goggles when using these trimmers. The staff briefed the Commission on this petition on July 18.

3. *Unlicensed Two-Wheel Motorized Vehicles Petition, CP 79-4* (Rescheduled from 8/9/79).—The Commission will consider a petition in which Drs. Frederick Rivara and Lawrence Berger request mandatory safety requirements for unlicensed two-wheeled motorized vehicles. The staff and Commission discussed this petition at the July 18 Briefing.

4. *Modification of National Electronic Injury Surveillance System (NEISS)*.—The Commission will consider a Hazard Identification and Analysis proposal to broaden the hazard identification injury data collection activities.

B. *Closed to the Public:*

5. *Section 15 Corrective Action Plan*.—The Commission will consider a proposed voluntary corrective action plan on a product which may pose a substantial product hazard.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634-7700.

[S-1623-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 9:30 a.m., Thursday, August 23, 1979.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Fuel Sentry Corporation, thermostats, ID 78-105*.—The Commission will consider the issuance of a public notice in this matter involving possible fire hazards associated with certain automatic day/night thermostat controls.

2. *Scovill Manufacturing, electric heater, ID 78-54*.—The Commission will consider a voluntary corrective action plan in this matter involving a possible shock hazard

associated with certain portable electric heaters.

3. *Acetaminophen: Final PPPA Rule.*—The Commission will consider a draft final rule to require child-resistant packaging on oral drugs containing more than one gram of acetaminophen in a single package. The Commission proposed this regulation in February 1978.

4. *Uniform Safety Alert Symbol.*—The Commission will consider a proposed statement of policy about the use of a uniform symbol and statement on envelopes and letterheads of safety-related notifications.

5. *Carbon Water Filters Petition, CP 79-19.*—The Commission will consider a petition from Dr. Robert R. Austin requesting the issuance of a consumer product safety rule banning those home-use water filters containing activated carbon and no bacteriostat.

6. *CB Antennas Notice of Proceeding.*—The Commission will consider a draft notice of proceeding to develop a standard for omnidirectional CB antennas.

7. *Asbestos—General.*—The Commission will consider strategies concerning asbestos in consumer products.

CONTACT PERSON FOR ADDITIONAL

INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone (202) 634-7700.

Agenda approved August 7, 1979.

[S-1824-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

5

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: 10 a.m., Wednesday, August 22, 1979.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the public.

MATTERS TO BE DISCUSSED:

1. *Methylprednisone: Final PPPA Rule.*—The staff will brief the Commission on the issuance of a final exemption for the anti-inflammatory steroid drug methylprednisone. Upjohn Company petitioned the Commission to exempt from child-resistant packaging requirement methylprednisone when packaged in a mnemonic package form, 21 4mg. tablets intended for 8 days of countdown therapy. On October 17, 1978, the Commission published a proposed exemption in the Federal Register.

2. *Possible Extension of the Small Parts Regulation.*—The staff will brief the Commission on a proposal to initiate a project which would extend the scope of the

small parts regulation to products intended for children up to the age of 5 years and to propose cautionary labeling to address choking hazards for products intended for older children.

3. *Architectural Glazing: Weathering Amendment.*—The staff will brief the Commission on proposing a partial revocation of the Architectural Glazing Standard by eliminating the requirement that plastic glazing materials comply with an accelerated environmental durability test.

4. *Energy Product Rule.*—The staff will brief the Commission on a draft rule to gather information on certain energy conservation devices.

5. *Energy Conservation Devices Status Report.*—The staff will brief the Commission on the status of staff activities related to energy conservation devices.

CONTACT PERSON FOR ADDITIONAL

INFORMATION: Sheldon D. Butts, Assistant Secretary, suite 300, 1111 18th Street, NW., Washington, D.C. 20207, telephone: (202) 634-7700.

Agenda approved August 7, 1979.

[S-1825-79 Filed 8-13-79; 3:29 pm]

BILLING CODE 6355-01-M

6

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: FCC amends August 6 public notice regarding decision of FCC to hold special open commission meeting:

Agenda, Item Number, and Subject

Assignment and transfer—1—Title: Request for an exception to the Top Fifty Market Policy in connection with an application for the transfer of control of the licensee of WDCA-TV, Washington, D.C., to Taft Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH).

Summary: Taft presently controls the licenses of one UHF and five VHF television stations in the Nation's top 50 markets. It is requesting an exception to the top 50 market policy to enable it to acquire its seventh television station and its second independent UHF station.

In an open meeting held at the conclusion of the closed meeting of August 2, 1979, the Commission (Commissioners Ferris, Chairman; Quello, Washburn, Fogarty and Jones) voted to schedule this matter on August 10, 1979. Because of certain Commissioners' travel plans, the exact time of the August 10 meeting could not be established at the August 2 meeting. After the 10 a.m. meeting time was established, the Commission on August

6 released a Public Notice (No. 20148) of the intended-consideration of this matter at the August 10 meeting. Because the August 6 Public Notice was necessarily issued less than seven days from the date of the August 10 meeting, the Commission clarifies and affirms its decision to afford less than 7 days notice. Various factors relating to the prompt and orderly conduct of Commission business, particularly the fact that the parties agreement to transfer control of WDCA-TV is voidable by either party if the Commission does not consent to the transfer on or before August 17, 1979, and the difficulty of arranging a satisfactory time for attendance of as many Commissioners as possible given the preexisting travel plans, require that less than 7-days notice be given consideration of this matter.

Action by the Commission August 8, 1979. Commissioners Ferris, Chairman; Quello, Fogarty and Brown voting to consider this matter.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: August 9, 1979.

[S-1817-79 Filed 8-13-79; 10:50 am]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Television—1—Title: Petition for reconsideration of an August 1, 1979 telegram sent to Western Communications, Inc., licensee of television station KORK-TV, Las Vegas, Nev.

Summary: The FCC considers the above petition requesting that it reconsider imposing an impoundment of profits condition upon Western's authority to continue operating station KORK-TV.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: August 9, 1979.

[S-1615-79 Filed 8-13-79; 10:59 am]

BILLING CODE 6712-01-M

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Friday, August 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: Delegation and rescheduling:

Agenda, Item Number and Subject

Assignment and transfer—1—Title: Request for an exception to the top 50 market policy in connection with an application for the transfer of control of the licensee of WDCA-TV, Washington, D.C., to Taft Broadcasting Company; Petition to deny filed by Washington Association for Television and Children (WATCH).

Summary: Taft presently controls the licenses of one UHF and five VHF television stations in the nation's top fifty markets. It is requesting an exception to the top 50 market policy to enable it to acquire its seventh television station and its second independent UHF station.

This item has been rescheduled to be considered in a Special Open Meeting, August 16, 1979, starting at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C. and deleted from the list of items scheduled for consideration on August 10, 1979.

Action by the Commission August 9, 1979. Commissioners Ferris, Chairman; Lee, Quello, Fogarty, and Brown voting to reschedule consideration of this matter.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this matter may be obtained from the FCC Public Affairs Office, telephone number (202)632-7260.

Issued: August 10, 1979.

[S-1615-79 Filed 8-13-79; 10:59 am]

BILLING CODE 6712-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 10:10 a.m. on Friday, August 10, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation regarding the initiation of cease-and-desist proceedings and the issuance of temporary cease-and-desist orders against an insured State nonmember bank and certain individual members of its board of directors, in accordance with sections 8(b) and 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b), (c)).

In calling the meeting, the Board determined, on motion of Director John G. Heimann (Comptrolling of the Currency), seconded by Director William M. Isaac (Appointive), and concurred in by Chairman Irvine H. Sprague, that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter was eligible for consideration in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: August 10, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1619-79 Filed 8-13-79; 1:11 pm]

BILLING CODE 6714-01-M

10

FEDERAL ELECTION COMMISSION.

"Federal Register" No. 1586.

PREVIOUSLY ANNOUNCED DATE AND TIME:

10 a.m., Thursday, August 16, 1979.

CHANGES IN MEETING: The following matters have been added to the portion open to the public:

1980 elections and related matters: Request for Public Financing 1980 Democratic National Convention Committee, Inc. Revision of Candidate debates. Clearinghouse: Proposal for FEC Support of Council on Government Ethics.

The following matter has been added to the portion closed to the public: Litigation.

PERSONS TO CONTACT FOR INFORMATION:

Mr. Fred S. Eiland, Public Information Officer, telephone: 202-523-4065.

Lena L. Stafford,

Secretary to the Commission.

[S-1618-79 Filed 8-13-79; 1:11 pm]

BILLING CODE 6715-01-M

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: August 9, 1979

(changes).

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

CHANGES IN THE MEETING: Thursday, August 9:

11 a.m.—Affirmation session (approximately 10 minutes), (public meeting). Item a. (City of Gainesville) was postponed.

2 p.m.—Both the personnel matter (closed exemption—6) and the budget markup session were cancelled.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

August 10, 1979.

[S-1620-79 Filed 8-13-79; 2:09 pm]

BILLING CODE 7590-01-M

federal register

Wednesday
August 15, 1979

Part II

Department of the Interior

Fish and Wildlife Service

Department of Commerce

National Oceanic and Atmospheric
Administration

**Proposed Rule for Revising the Lists of
Endangered and Threatened Wildlife and
Plants and Designating Species' Critical
Habitat**

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[50 CFR Parts 17, 402, and 405]

Endangered and Threatened Wildlife and Plants; Revising the Lists of Endangered and Threatened Wildlife and Plants and Designating Species' Critical Habitat

AGENCIES: Fish and Wildlife Service, Interior; and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The Services are proposing new rules for revising and maintaining the lists of Endangered and Threatened Wildlife and Plants and for determining listed species' Critical Habitats. Procedures for receiving and considering petitions to revise the lists and for conducting periodic reviews of species contained on the lists are proposed. These rules will implement the requirements of section 4 of the Endangered Species Act of 1973, as amended.

DATES: Comments from the public must be received on or before October 15, 1979.

ADDRESSES: Submit comments to the Director, Fish and Wildlife Service (FWS/OES), U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours (7:45 a.m. to 4:15 p.m.) at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:**Background**

The Endangered Species Act of 1973 establishes a comprehensive program to conserve endangered and threatened species of wildlife and plants. The Act requires the Departments of the Interior and Commerce to insure the conservation of these species through the promulgation of rules.

Section 4 of the Act sets forth procedures for listing species, designating their critical habitats, and maintaining the Lists of Endangered and Threatened Wildlife and Plants. Before these activities may be undertaken, the Service must assess the biological status of the species, consult with interested parties, publish proposed rules, receive comments, consider the comments and evidence, and carefully weigh all relevant factors. The Services also believe that increased flexibility is necessary for the management of reintroduced populations of listed species. The Services are presently considering a regulatory mechanism to facilitate this flexibility.

The requirements of section 4 reflect the competing interests that come into play during the promulgation of regulations to conserve endangered or threatened species. On the one hand, species threatened with extinction require immediate protection to increase their chance of survival; on the other hand, knowledgeable parties should be consulted before Federal actions of potentially broad impact are taken. The Fish and Wildlife Service and the National Marine Fisheries Service are committed to providing full protection as quickly as possible for endangered and threatened species consistent with the requirements of the Act.

Present rules implementing section 4 of the Act appear in §§ 17.11, 17.12, 17.13 and 402.05 of 50 CFR and are limited primarily to maintenance of the Lists of Endangered and Threatened Wildlife and Plants, petitions to list, delist, or reclassify species, and factors relating to the designation of Critical Habitat. Both Services now believe that comprehensive regulations implementing the requirements of section 4 should be promulgated. The purpose of these regulations is to establish uniform procedures that fully comply with the requirements of section 4 of the Act to aid the Services in promulgating rules to conserve endangered and threatened species.

Major features of the proposed rule are summarized below:

(a) Section 405.01 sets out the scope of the proposed rule. The rule describes the procedures the Services will follow in listing species, designating Critical Habitat, and reviewing petitions and the status of species already listed.

(b) Section 405.02 defines important terms used in the rule.

(c) Section 405.10 provides that the Director must follow the rule's procedures when listing or delisting a species, designating Critical Habitat, and promulgating special rules to

conserve listed species. Section 4(f) of the Act requires the Director to satisfy numerous requirements when promulgating rules to carry out the purposes of the Act.

(d) Section 405.11 sets out which fish, wildlife and plants may be protected under the Act and those factors the Director will consider in determining whether a species is Endangered or Threatened. The section provides that the fact that a species is protected by The Convention on International Trade in Endangered Species of Wild Fauna and Flora or similar international agreement constitutes evidence that the species should be listed under the Act. The weight of this evidence will vary depending on the international agreement and the criteria pursuant to which the species is listed under the agreement.

(e) Section 405.12 describes factors that the Director will consider prior to designating Critical Habitat. Section 4(c) of the Act requires that the Director, to the maximum extent prudent, specify Critical Habitat at the time a species is proposed. Paragraph (a) establishes criteria for determining whether it would be prudent to designate Critical Habitat and provides that such designation is imprudent when detrimental or not beneficial to the species. The section also sets guidelines for the Director to use in determining whether a particular area should be excluded from Critical Habitat. To implement the apparent congressional intent of section 3(5) of the Act, paragraph (f) describes conditions under which habitat outside the species' present range may be designated Critical Habitat.

(f) Section 405.13 sets out those interested persons, organizations and public agencies that will be consulted, when appropriate, in promulgating rules pursuant to this Part.

(g) Section 405.14 describes the manner in which persons or organizations may submit petitions requesting the Service to list, delist or reclassify a species and provides guidance as to what material the petition should contain. The section also provides criteria for determining whether the petition presents substantial evidence as required by section 4(c) of the Act and indicates how the Service will proceed after a petition has been submitted.

(h) Section 405.15 sets out the procedures the Director will follow in promulgating proposed rules when he determines that one of the actions described in section 405.10 may be warranted. These procedures include consultation with foreign or State

governments, the manner in which public meetings and hearings will be conducted, and other procedures for soliciting public comments. The section also outlines the procedure the Director will use in considering the economic and other impacts of designating critical habitat.

(i) Section 405.16 summarizes the content of final rules adopted pursuant to these regulations. The section also provides that a proposed rule be withdrawn unless made final within two years from the date of proposal unless voluntarily withdrawn because available information and data do not support the proposal.

(j) Section 405.17 establishes procedures for the promulgating of emergency rules for the conservation of species of fish and wildlife.

(k) Section 405.18 sets out the manner in which the Director will periodically review the List of Endangered and Threatened wildlife and plants.

(l) New section 17.94 explains the effect of designating an area as Critical Habitat and indicates how Critical Habitats are described. Further, sections 17.11, 17.12 and 17.95 have been amended to comply with the Endangered Species Act Amendments of 1978.

(m) Section 402.05 of 50 CFR is withdrawn and reserved for future rules, since the provisions dealing with the designation of critical habitat are now included in these proposed rules.

Public Comments Solicited

The Fish and Wildlife Service and the National Marine Fisheries Service solicit comments or suggestions on this proposal from interested persons or organizations and Federal, state and local governments. Comments should be as specific as possible, refer to the subsection being discussed, and include the rationale for the suggestion.

The primary authors of this proposal are Ronald M. Nowak, John L. Paradiso, and Jay M. Sheppard, Office of Endangered Species, U.S. Fish and Wildlife Service (703/235-1975).

Amendment of the Regulations

Accordingly, the Fish and Wildlife Service and the National Marine Fisheries Service propose to amend Title 50 by adding a new Part 405 and § 17.94; amending §§ 17.11, 17.12, and 17.95 and withdrawing §§ 402.05 and 17.13 as set forth below:

1. Adding a heading for new Part 405: "Listing of Endangered and Threatened Species and Designating of Critical Habitat."

2. Add a table of sections for new Part 405 to read as follows:

PART 405—LISTING OF ENDANGERED AND THREATENED SPECIES AND DESIGNATING OF CRITICAL HABITAT

Subpart A—General Provisions

Sec.	
405.01	Scope and purpose.
405.02	Definitions.

Subpart B—Revision of the List

405.10	General.
405.11	Factors considered for listing species.
405.12	Criteria for designating Critical Habitat.
405.13	Sources of information and relevant data.
405.14	Petitions.
405.15	Proposed rules.
405.16	Final rules.
405.17	Emergency rules.
405.18	Periodic review.

Authority: Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*).

3. Add Sections 405.01-405.18 to new part 405 to read as follows:

Subpart A—General Provisions

§ 405.01 Scope and purpose.

(a) This Part 405 provides rules for revising the Lists of Endangered and Threatened Wildlife and Plants and designating their Critical Habitats. Criteria for determining species to be Endangered or Threatened and for designating Critical Habitats are provided. Procedures for receiving and considering petitions to revise the lists and for conducting periodic reviews of species contained in the lists are also set forth.

(b) The purpose of this rule is to implement section 4 of the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*

§ 405.02 Definitions.

(a) The definitions of terms in 50 CFR § 402.02 shall apply to this part 405, except as otherwise stated.

"Critical Habitat" means (1) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with section 4 of the Act, on which are found those physical or biological features (i) essential to the conservation of the species and (ii) which may require special management considerations or protection, and (2) specific areas outside the geographical area occupied by a species at the time it is listed in accordance with the provisions of section 4 of the Act upon a determination by the Secretary that such areas are essential for the conservation of the species.

"Director" means the Director of the U.S. Fish and Wildlife Service, Department of the Interior, or the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, as appropriate.

"Endangered species" means a species which is in danger of extinction throughout all or a significant portion of its range.

"List" or "lists" means the lists of endangered or threatened wildlife and plants found at 50 CFR § 17.11 or § 17.12.

"Special management considerations or protection" means any methods or procedures useful to the conservation of listed species.

"Species" means any subspecies of fish and wildlife or plants, and any distinct population segment of any species or subspecies of vertebrate fish or wildlife which interbreeds when mature.

"Threatened species" means any species which is likely to become an Endangered species within the foreseeable future throughout all or a significant portion of its range.

Subpart B—Revision of the Lists

§ 405.10 General.

The Director may add a species to the lists or designate Critical Habitat, delete a species or Critical Habitat, change the classification of a species, change an area designated as Critical Habitat, or adopt or modify special rules for an Endangered or Threatened species only in accordance with the procedures of this Part.

§ 405.11 Factors considered for listing species.

(a) Any species as defined in § 405.02 is eligible for listing under the Act. In determining whether a particular taxon or population is a species for the purposes of the Act, the Director shall rely on standard taxonomic distinctions and the biological expertise of the Service.

(b) A species shall be listed if the Director determines on the basis of the best scientific and commercial data available that the species is endangered or threatened because of any one or a combination of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Utilization for commercial, sporting, scientific, or educational purposes; at levels that detrimentally affect the species;

(3) Disease or predation;

(4) Absence of regulatory mechanism adequate to prevent the decline of a species or degradation of its habitat; and

(5) Other natural or manmade factors affecting its continued existence.

(c) The fact that a species of fish, wildlife or plant is protected by the Convention on International Trade in Endangered Species of Wild Fauna and Flora or similar international agreement shall constitute evidence that the species is Endangered or Threatened. The Director shall give full consideration to any species protected by such an international agreement to determine whether the species is Endangered or Threatened.

§ 405.12 Criteria for designating Critical Habitat.

(a) Critical Habitat shall be specified to the maximum extent prudent at the time a species is proposed for addition to the list or change of status from Threatened to Endangered. Designation of Critical Habitat is not prudent:

(1) When the species is in need of immediate listing, and the delay resulting from preparing a proposal for Critical Habitat would have a detrimental effect upon the conservation of the species, or

(2) When the species is threatened by taking or other human activity and identification of Critical Habitat can be expected to increase the degree of such threat to the species, or

(3) When such designation of Critical Habitat would not be beneficial to the species.

(b) The Director shall consider the physiological, behavioral, ecological, and evolutionary requirements essential for the conservation of listed species as well as special management considerations or protection in determining what areas are Critical Habitats. 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 disturbances or are representative of the geographical distributions of listed species.

When considering the designation of Critical Habitat, the Director shall focus on the biological or physical constituent elements within the defined area that

are essential to the conservation of the species. Primary known constituent elements shall be listed with the critical habitat description. Examples of such constituent elements which may be identified include, but are not limited to, the following: roost site, nesting ground, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, host animal or plant, pollinator, tide, geological formation, and specific soil types.

(c) The Director shall consider the economic impact, and any other relevant impacts, of specifying any particular area as Critical Habitat, and may exclude any such area from the Critical Habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the Critical Habitat. The Director shall not exclude any such area if he determines, based on the best scientific and commercial data available, that the failure to designate that area as Critical Habitat will result in the extinction of the species.

(d) Each Critical Habitat will be defined by specific prescribed limits. Each area will be described by references to the State, county(ies), or other local governmental units within which all or part of the Critical Habitat is located. Unless otherwise indicated within Critical Habitat descriptions, the names of the State, county, or other local governmental units are provided for information purposes only and do not constitute the boundaries of the area. The Director shall attempt to use easily located landmarks found on standard topographic maps of the area. Whenever possible the use of ephemeral reference points will be avoided (e.g., trees, sand bars).

(e) When several suitable habitats are located in close proximity to one another, an inclusive area may be designated as Critical Habitat.

(f) The Director shall designate as Critical Habitat areas outside the geographical area occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.

§ 405.13 Sources of information and relevant data.

When considering any revision of the lists, the Director shall consult, as appropriate, with affected States, interested persons and organizations, other interested Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the species concerned are normally found or whose citizens harvest such species on the high seas.

Data reviewed by the Director may include, but are not limited to, publications or written reports, maps or graphic materials, information received from persons expert on the subject, and comments from interested parties.

405.14 Petitions.

(a) Any interested person may submit a petition to the Director to review the status of any species with a view to taking one of the actions described in § 405.10. Such petitions must be in writing, contain the date submitted, and the name, signature, address, telephone number, and the association, institution, or business, if any, represented by the petitioner. The Director will acknowledge in writing receipt of the petition within 30 days.

(b) The Director shall determine whether substantial evidence has been presented in support of the measure recommended by a petitioner. "Substantial evidence" is that quantum of evidence that would lead a reasonable person to conclude that the measure proposed in the petition is warranted. In making this determination the Director shall consider whether the petition:

(1) Clearly indicates the administrative measure recommended, the scientific and any common name of the species involved, and the precise area recommended as Critical Habitat;

(2) Contains detailed narrative justification for the recommended measure, describing, based on available information, the past and present numbers and distribution of the involved species, the particular threatening factors confronting the species, and the features and importance of any recommended Critical Habitat;

(3) Indicates any beneficial or adverse effect on the species of designating Critical Habitat;

(4) Provides information on the status of the species over a significant portion of its range; and

(5) Is accompanied by appropriate supporting documentation, such as a list of bibliographic references, reprints or pertinent publications, copies of written reports or letters from authorities, and maps, if appropriate.

(c) If the Director finds that substantial evidence has not been presented, the petition shall be denied and the petitioner shall be so notified. If the petitioner proposes to list, delist, or change the status of a species and the Director finds that substantial evidence has been presented in such petition, the Director shall: (1) promptly publish a notice in the **Federal Register** announcing such determination, (2)

conduct and publish in the **Federal Register** a status review of the species that is the subject of the petition, within 90 days of receipt of the petition and (3) indicate at the time the status review is published how the Service intends to proceed with respect to the listing, delisting or reclassifying, of the species. If the petition relates only to Critical Habitat or a special rule for the conservation of a species, the Director will promptly conduct a review and take appropriate action.

§ 405.15 Proposed rules.

(a) If the Director finds that one of the actions described in § 405.10 may be warranted, but that the evidence is insufficiently definitive to justify proposing the action, he may publish a notice of review in the **Federal Register**. The notice of review will include a description of the measure under consideration, a brief explanation of why the action may be warranted, and will solicit comments and additional information on the action under consideration. At the time of publication of the notice, notification in writing will be sent to the Governors of any affected States and the governments of any foreign countries where the subject species normally occurs. If a Critical Habitat area is involved in the review, notification will also be sent in writing to any Federal agencies and local governments with jurisdiction over lands or waters under consideration and to all general local governments within or adjacent to the proposed critical habitat.

(b) Based on the threshold review conducted pursuant to § 405.14(c) or § 405.15(a), or on other information that the Service has obtained, the Director may propose revising the lists as described in § 405.10.

(c) *Procedures.* (1) *Content of proposed rule.* A proposed rule promulgated to carry out the purposes of the Act will be published in the **Federal Register** and will include the complete text of the proposed rule, a summary of factors affecting the species, a summary of the data on which the proposal is based, the relationship of such data to the proposed rule, and a description of the anticipated effects of the rulemaking if finalized in the proposed form. A proposed rule involving Critical Habitat will also contain a map of the proposed Critical Habitat, and will, to the maximum extent practicable, be accompanied by a brief description of those activities (whether public or private) that might occur in the area and that, in the opinion of the Director, may, if undertaken, adversely modify such

habitat or may be affected by designating the area Critical Habitat.

(2) *Period for public comments.* At least 30 days will be allowed for public comments following publication of a proposed rule in the **Federal Register**.

(3) Notification of and comment by Governors of affected States and governments of foreign countries.

The Director shall give notice of any proposed rule in writing to the governments of any foreign countries in which the subject species normally occurs or whose citizens harvest such species on the high seas. With respect to resident species of wildlife and plants, the Director shall give notice of any proposed rule in writing to the Governors of the States in which the subject species normally occurs. A Governor so contacted will be allowed 90 days after notification to submit comments and recommendations on the proposed rule except to the extent that such period is shortened by agreement between the Director and Governor concerned.

(4) *Offer for publication.* The Director shall offer the substance of the **Federal Register** notice proposing a rule for publication in appropriate scientific journals or newsletters.

(5) *Public meetings on proposals not involving Critical Habitat.* If the rule proposes to list or change the status of a species and does not specify Critical Habitat, the Director shall promptly hold a public meeting on the proposed rule within or adjacent to the area in which the species is located, if a request for such a meeting is made by any person within 45 days after the date of publication of the proposal in the **Federal Register**. The specific locations and times of such meetings will be determined by the Director and published in the **Federal Register**.

(6) *Additional requirements for proposed rules involving Critical Habitat.* (i) *Public meetings or hearings.*

If a proposed rule includes Critical Habitat, the Director shall hold a public meeting on the proposal within the area in which such Critical Habitat is located in each State. The specific locations and times of such meetings shall be determined by the Director and published in the **Federal Register**. Such public meetings will be held promptly, but not sooner than 30 days after notice of the meetings is given unless good cause is shown. A public hearing shall be held in each State in which such habitat is located if requested in writing more than 15 days before a scheduled public meeting.

(ii) If the proposed rule involves Critical Habitat, the Director shall: (A) notify in writing any Federal agencies with jurisdiction over lands included in the area under consideration; (B) publish general notice of the proposed rule (including its complete text) in a newspaper of general circulation within or adjacent to such habitat within 30 days of the date of the proposal and not less than 60 days before the effective date of the regulation; and (C) give actual notice of the proposed rule (including its complete text) and any draft National Environmental Policy Act documents prepared on the proposed rule within 30 days of the date of the proposal, and not less than 60 days before the effective date of the rule, to all general local governments located within or adjacent to the proposed Critical Habitat. However, any accidental failure to provide actual notice pursuant to (C) above to all such local governments will not invalidate any Critical Habitat determination.

(iii) *Consideration of economic and other impacts.* (A) Upon determining that the proposal of a particular area as Critical Habitat is appropriate for biological reasons, the Director shall gather economic and other information on impacts associated with the Critical Habitat designation from affected Federal agencies.

(B) The Service may publish a notice of intent or review in the **Federal Register** prior to proposal of a rule in order to receive additional economic or other relevant information from the public concerning the area that may be affected by the Critical Habitat designation.

(C) The Service shall prepare a draft impact analysis which will consider the beneficial or detrimental economic and other impacts of the Critical Habitat designation. This draft impact analysis shall be available to the public.

(D) Prior to the time of final rulemaking, the Service shall prepare a final impact analysis based upon information contained in the draft impact analysis and that received during the comment period, including information provided at public meetings and hearings. The final impact analysis will analyze and discuss both the beneficial and detrimental economic and other relevant impacts of possible Critical Habitat configurations. This analysis will form the basis for the Director's decision as to whether or not to exclude any area from the Critical Habitat. Upon determining that the benefits of excluding an area from the Critical Habitat outweigh the benefits of specifying the area as part of the Critical

Habitat he may exclude such an area from the Critical Habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate that area as Critical Habitat will result in the extinction of the species.

(E) Such impact analyses may be combined with a determination of significance or a regulatory analysis prepared pursuant to Executive Order 12044.

§ 405.16 Final rules.

(a) After consideration of public comments and all relevant data, the Director shall either publish a final rule or publish a notice of withdrawal of the proposal in the Federal Register.

(b) *Contents of the final rule.* A final rule promulgated to carry out the purposes of the Act shall include the complete text of the rule, a summary of the comments and recommendations received on the proposal, a summary of the data on which the rule is based and the relationship of such data to the final rule, a summary of the factors affecting the subject species, and a description of the anticipated effects of the rulemaking. A rule involving a Critical Habitat area will also contain a map of any designated Critical Habitat and will, to the maximum extent practicable, be accompanied by a brief description of those kinds of activities (whether public or private) that might occur in the area and which, in the opinion of the Director, may, if undertaken, adversely modify such habitat, or may be impacted by designation of the area as Critical Habitat.

(c) A final regulation adding a species to the lists shall be published in the Federal Register not later than two years after the date such rule was proposed. If a final rule is not adopted within this two-year period, the Director shall withdraw the proposed rule and will publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Director shall not propose a regulation adding to the list any species for which a proposed regulation has been withdrawn under this section unless he determines that sufficient new information is available to warrant the proposal of a rule. Notwithstanding the above provision, the Director may withdraw a proposal voluntarily upon a determination that available information and data do not support the proposal.

(d) *Effective date of the final rules.* Final rules shall become effective not less than 30 days after their publication in the Federal Register except as otherwise provided for good cause

found and published with the rule. A final rule shall not become effective before 60 days after the last public meeting or hearing conducted on the proposal.

§ 405.17 Emergency rules.

Sections 405.15 and 405.16 notwithstanding, the Director may by regulation take any action described in § 405.10 if such a measure is warranted by the development of a significant risk to the well-being of a species of fish or wildlife. Such rules shall at the discretion of the Director be effecting immediately on publication in the Federal Register. No such action that applies to resident species will be taken until the Director has complied with the requirements of section 4(b)(1)(A) of the Act. At the time of publication in the Federal Register of the emergency rule, the Director shall give detailed reasons why the rule is necessary. An emergency rule shall cease to have force and effect after 120 days unless the procedures described in §§ 405.15 and 405.16 have been complied with during that period.

§ 405.18 Periodic review.

At least once every five years the Director shall conduct a review of all listed species to determine whether any species should be removed from the list, be changed from an Endangered to a Threatened status, or be changed from a Threatened to an Endangered status. In the conduct of such reviews, the Director shall comply with section 405.13.

4. Add a new § 17.94 to 50 CFR as follows:

§ 17.94 Critical Habitats.

(a) The areas listed in § 17.95 (fish and wildlife) and § 17.96 (plants) and referred to in the lists of §§ 17.11 and 17.12 have been determined by the Director to be Critical Habitat. All Federal agencies must insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the constituent elements essential to the survival of the listed species within these defined Critical Habitats. (See Part 402 for rules concerning this prohibition)

(b) The map provided by the Director does not, unless otherwise indicated, constitute the definition of the boundaries of a Critical Habitat. Such maps are provided for reference purposes to assist Federal agencies in locating the general area of the Critical Habitat. Critical Habitats are described by reference to the State and county(ies)

within which all or part of the Critical Habitat is located. Unless otherwise indicated within the Critical Habitat description, the State and county names are provided for information purposes only.

(c) Critical Habitat preservation focuses only on the biological or physical constituent elements within the defined area of Critical Habitat that are essential to the conservation of the species. Such major constituent elements that are known will be listed with the description of the critical habitat.

(d) The sequence of species within each list of Critical Habitats in §§ 17.95 and 17.96 will follow the sequences in the lists of endangered and threatened wildlife (§ 17.11) and plants (§ 17.12). Multiple entries for each species will be alphabetic by State.

§ 17.95 [Amended]

5. Amend § 17.95 by deleting the introductory paragraph before subsection (a) and rearranging all entries in the sequence followed in the list of endangered and threatened wildlife (§ 17.11) and plants (§ 17.12).

6. Amend §§ 17.11 and 17.12 to read as follows (exclusive of the lists of wildlife and plants):

§ 17.11 Endangered and Threatened Wildlife.

(a) The list in this section contains all the species of wildlife which are determined by the Director to be Endangered or Threatened. It also contains species of wildlife treated as Endangered or Threatened either because they are similar in appearance to Endangered or Threatened species which require protection of the former in order to avoid unwanted impacts on the latter (see Subpart E), or because they constitute captive, self-sustaining populations of otherwise Endangered species (see § 17.17).

(b) The columns entitled "Common Name", "Scientific Name", and "Population where Endangered or Threatened" define the species of wildlife within the meaning of the Act. Thus, differently classified geographic populations of the same vertebrate subspecies or species shall be identified by their differing geographic boundaries, even though the other two columns are identical. For captive, self-sustaining populations, the "Population where Endangered or Threatened" would simply state "In captivity in U.S." the term "Entire" would mean that all populations throughout the present range of the species are listed. Although common names are included, they

cannot be relied upon for identification of any specimen, since they may vary greatly in local usage. The Director shall use the most recently accepted scientific name. In cases in which confusion might arise, a synonym will be provided in parentheses.

(c) In the "Status" column the following symbols are used: "E" for Endangered, "T" for Threatened, "T(C/P)" for captive, self-sustaining population, and "E [or T] (S/A)" for similarity of appearance species.

(d) For information purposes only, the "Historic Range" lists the general known distribution of the species or subspecies as reported in the scientific literature. This column does not imply any limitation on the application of the prohibitions in the Act and in this Part 17. Such prohibitions apply to all individuals of the species, wherever found. The list will be updated promptly if new distributional records are discovered.

(e) For information purposes only, a

footnote to the Federal Register publication originally listing a species is provided under the column "When Listed." Footnote numbers to §§ 17.11 and 17.12 are in the same numerical sequence, since plants and animals may be listed in the same Federal Register document. That document includes a statement indicating the basis for the listing status.

(f) The "Special Rules" and "Critical Habitat" columns provide a cross-reference to other sections in this Part 17 or Parts 222 or 227. The letters "N/A" (not applicable) appearing in either of these two columns indicate that there are no special rules and/or critical habitat for that particular species. However, all other appropriate rules in this Part 17 and Parts 217-227 and 402 still apply to that species. In addition, there may be other rules in this Subchapter B that relate to such wildlife, i.e., port-of-entry requirements. It is not intended that the references in the

"Special Rules" column lists all the regulations of the two Services which might apply to the species, or the regulations of other Federal agencies or State or local governments.

(g) The listing of a particular taxonomic group includes all lower taxonomic groups. For example, if the genus *Felis* is listed for Africa and Asia, then all species, subspecies and populations of that genus from those two continents are considered to be listed. If the species *Felis concolor* is listed and the "Population where Endangered or Threatened" is defined as "Canada, U.S.A. (except Alaska), and Mexico", then all subspecies and populations in Canada, the conterminus 48 States, and Mexico are considered listed for the purposes of this Part 17.

(h) The "List of Endangered and Threatened Wildlife" is provided below.

[Note: The format proposed in this rule for wildlife is as follows:]

List of Endangered and Threatened Wildlife (§ 17.11)

Species		Historic range	Population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						

§ 17.12 Endangered and Threatened plants.

(a) The list in this section contains all species of plants which are determined by the Director to be Endangered or Threatened. It also contains species of plants treated as Endangered or Threatened because they are similar in appearance to an Endangered or Threatened species (see subpart E).

(b) The columns entitled "Scientific Name" and "Common Name" define the species of plant within the meaning of the Act. Although common names are usually included, they cannot be relied upon for identification of any specimen, since they may vary greatly with local usage. The Director will use the most recently accepted scientific name. In cases in which confusion might arise, a synonym will be provided in parentheses.

(c) In the "Status" column the following symbols are used: "E" for Endangered, "T" for Threatened, and "E

[or T] (S/A)" for similarity of appearance species.

(d) For information purposes only, the "Historic Range" lists the general known distribution of the species as reported in the scientific literature. This column does not imply any limitation on the application of the prohibitions in the Act and in Part 17. Such prohibitions apply to all individuals of the species, wherever found. The list will be updated promptly if new ranges are discovered.

(e) For information purposes only, a footnote to the Federal Register publication which originally listed the species is provided under the Column "When Listed." Footnote numbers to § 17.12 and § 17.11 are in the same numerical sequence since plants and animals may be listed in the same Federal Register document. That document includes a statement indicating the basis for listing.

(f) The "Special Rules" and "Critical Habitat" columns provide a cross-

reference to other sections in this Part 17 or Parts 222 or 227. The letters "N/A" (not applicable) appearing in either of these two columns indicate that there are no special rules and/or critical habitat for that particular species.

However, all other appropriate rules in this Part 17 and Parts 217-227 still apply to that species. In addition, there may be other rules in this Subchapter B that relate to such plants, for example, port-of-entry requirements. It is not intended that the references in the "Special Rules" column list all the regulations of the two Services which might apply to the plants in question, or the regulations of other Federal agencies or State or local governments.

(g) The listing of a particular taxonomic group includes all its lower taxonomic units.

(h) The "List of Endangered and Threatened Plants" is provided below.

[Note: The format proposed in this rule for plants is as follows:]

List of Endangered and Threatened Plants (§ 17.12)

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					

§ 17.13 and 402.05 [Reserved].

7. Delete the text and references in the tables of sections for §§ 17.13 and 402.05 from 50 CFR and reserve those sections for future rules.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: July 23, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

Jack W. Gehringer,

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National Oceanic and Atmospheric
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