oversights. Additionally, the order makes a typographical correction in § 290.101 to change an "and" to an "or" where the Commission intended the use of a disjunctive and not a conjunctive

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stosser, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426 (202) 357-8033.

Daniel G. Lewis, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., 307-RB, Washington, D.C. 20426 (202) 376-9227.

SUPPLEMENTARY INFORMATION:

On December 22, 1983, the Federal Energy Regulatory Commission (Commission) received a Petition for Reconsideration of Order No. 353 [1] from Puget Sound Power and Light Company (Puget), Docket No. RM83-9-001. In Order No. 353, the Commission exempted utilities that had shown that gathering the information required in 18 CFR Part 290 of the Commission's regulations was not likely to carry out the purposes of section 133 of the Public Utility Regulatory Policies Act (PURPA).[2] In response to the petition, this order amends Appendix A of Order No. 353 and adds Puget to the list exempting utilities. In addition, this order also adds to Appendix A three other utilities that has been unintentionally omitted and corrects a typographical error in the regulation.

I. Typographical Error

Newly amended § 290.101(b) of the Commission's regulations exempts from compliance with Part 290 any utility listed in Appendix A (paragraph (b)(1)) or that have total sales of electric energy for purposes other than resale of less than 2 billion kilowatt-hours per year. The Commission intended that these classes of exempted utilities be presented in the alternative, that is, in the disjunctive, not the conjunctive. It intended to exempt a utility that met either of the criteria. Therefore, it is amending the regulation and is replacing the word "and" with the word "or."

II. Appendix A

In Order No. 353, the Commission exempted all utilities and classes of utilities that showed, in accordance with the statute, that gathering the required information was not likely to carry out the purposes of section 133 of PURPA. In order to qualify for an exemption, a utility had to show that PURPA section 133 information was not needed for consideration of the rate standards and policies under Title I of PURPA and that the state regulatory authority or the governing authority of a nonregulated utility seldom or never used, and therefore did not need, the section 133 information in retail rate proceedings. Furthermore, an exemption must be based on a clear indication that the costs of gathering and reporting under PURPA section 133 exceeded the benefit that a state regulatory authority or the public would derive from the data. This list of utilities that made a suffficient showing is contained in Appendix A to Part 290.

On March 31, 1983, Puget filed comments in response to the Notice of Proposed Rulemaking in this docket. In those comments, Puget supplied data on the usefulness of the PURPA section 133 data that it filed which was sufficient to constitute a showing that the company should be exempt from compliance with Part 290. However, the pleading on its face indicated no request to obtain an exemption. Because not all utilities that commented on the proposed rule described were exempted, the Commission did not act at that time to exempt Puget.

In its Petition for Reconsideration, however, Puget makes clear that it requests an exemption from all requirements of Part 290. Therefore, the Commission is amending Appendix A to add Puget.

In addition, the Commission notes that in compiling the lists for Appendix A it failed to include three utilities that had applied and qualified for exemption, and that had expressly requested it. The Commission is therefore rectifying this error of omission by adding Central Hudson Gas and Electric Corporation, Commonwealth Electric Company, Iowa Power and Light Company, Northern Indiana Public Service Company, and Public Utility District of Grant County (Washington) to Appendix A as an indication that the Commission has also found that those utilities are entitled to exemption and have made a sufficient showing under PURPA section 133(b).

The Commission believes that further notice and comment is not necessary under Section 553 of the Administrative Procedure Act (5 U.S.C. § 553 (1982)) because this is a technical change to correct unintentional errors and omissions. For this reason, this order is effective immediately upon issuance.

List of Subjects in 18 CFR Part 290

Electric utilities, Penalties, Reporting requirements, Uniform Systems of Accounts.

In consideration of the foregoing, Part 290 of Chapter 1, Title 18 of the *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 290—[AMENDED]

1. The authority citation for Part 290 reads as follows:

Authority: Public Utility Regulatory Policies Act, Pub. L. 95-617, 92 Stat. 3117 (1978); Federal Power Act, 16 U.S.C. 791a-828c (1976 & Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Executive Order 12,009, 3 CFR 142 (1978).

§ 290.101 [Amended]

2. Section 290.101(b)(1) is amended by removing the word "and" at the end of that sentence and inserting instead the word "or."

3. The Appendix to Part 290 is amended by adding in the list entitled "Investor-Owned Utilities," in appropriate alphabetical order, the names "Central Hudson Gas and Electric Corporation," "Commonwealth Electric Company," "Iowa Power and Light Company," "Northern Indiana Public Service Company," and "Puget Sound Power and Light Company;" and in the list entitled "Publicly-Owned Utilities," in appropriate alphabetical order, the name "Public Utility District of Grant County (WA)."

[FR Doc. 84-3566 Filed 2-8-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Final Rule, "Exemption From, and Revisions to Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service," issued December 7, 1983, 48 FR 55438, Dec. 13, 1983.

[2] 16 U.S.C. 2601-2645 (1978).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Allergenic Extracts Panel; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the termination of the Panel on Review of Allergenic Extracts (the Panel) because the Panel has completed its work. This document removes the Panel from the agency's list of standing advisory committees.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Clay Sisk, National Center for Drugs and Biologics (HFN–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

SUPPLEMENTARY INFORMATION: FDA announced the reestablishment of the Allergenic Extracts Panel on January 18, 1982 (**Federal Register** of March 2, 1982 (47 FR 8763)) to review and evaluate available data on the safety, effectiveness, and adequacy of labeling of biological products for the diagnosis, prevention, and treatment of allergies and allergic diseases. The Panel has submitted to the Commissioner of Food and Drugs its findings and recommendations on the safety, effectiveness, and labeling of these products. FDA will publish in a future issue of the **Federal Register** the Panel's findings and recommendations. Thus, the Panel is no longer needed, and on December 31, 1983, the charter for the Panel expired. Accordingly, FDA is announcing the termination of the Panel.

FDA advises that concurrent with its meetings as an efficacy review panel, the Panel also provided advice to FDA's National Center for Drugs and Biologics, Office of Biologics Research and Review, on other matters, such as the licensing of new products. FDA has received requests from numerous allergists that the agency establish a continuing advisory committee for allergenic extracts. While FDA believes that it is desirable to have an advisory committee to review the licensing of new extracts, new drug studies, and regulatory research conducted by the FDA staff, such a committee would have a structure, mission, and functions different from the original Panel. Therefore, as a separate action, FDA is in the process of requesting a new charter for a continuing Advisory Committee on Allergenic Products.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

§ 14.100 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.10), Part 14 is amended in § 14.100 *List of standing advisory committees* by removing and reserving paragraph (b)(1)(i).

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner of Food and Drugs finds that there is good cause for the rule to be published without notice and comment and to be effective immediately upon publication in the **Federal Register**, February 9, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 31, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–3477 Filed 2–8–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 811 and 883

[Docket No. N–84–1142; FR–1662]

Tax-Exempt Construction Financing for Turnkey Public Housing Projects

AGENCY: Office of the Secretary, HUD.

ACTION: Rule-related notice; statement of HUD policy.

SUMMARY: HUD is giving notice of a modification of its policy concerning tax-exempt construction financing for development of turnkey public housing projects as it applies to State housing finance agencies.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410; (202) 426–0938. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 21, 1983, HUD published a Notice in the **Federal Register** (48 FR 11775) announcing its policy concerning tax-exempt construction financing for development of turnkey public housing projects. The requirements in that Notice were made applicable to all agencies, including State housing finance agencies. After publication of the Notice, numerous State agencies filed objections with HUD. The agencies claimed that their function as finance agencies, using tax-exempt authority under Section 103 of the Internal Revenue Code (the Code) for Section 8 projects, is independent of detailed HUD review. The agencies argued that the HUD policies set forth in the Notice were, as applied to State agencies, unnecessary and overly burdensome. They pointed out that the policies were intended to govern individual public housing agencies (PHAs) issuing obligations for an individual project. Since the State agencies did not issue obligations for individual projects, the agencies urged that many of the requirements caused them an undue hardship.

HUD has determined that these arguments have merit and is modifying the procedures applicable to State agencies issuing obligations under Section 103 of the Code. (These procedures are set out in part II of this Notice.) Most of the material contained in HUD's March 21, 1983 Notice is included in part I of this Notice and remains HUD's policy. However, for purposes of clarity, this Notice supersedes the March 21, 1983 Notice.

I. Information and Commitments to be Submitted to the Field Office by a PHA (or by an agency or instrumentality PHA)

The PHA (or agency or instrumentality PHA as defined in 24 CFR 811.102(b)) proposing to provide tax-exempt construction financing to the turnkey developer shall submit the following information to the Field Office for review. The submission must be made in sufficient time to allow review and approval by the Field Office before execution of the Contract of Sale.

a. A request from the PHA that the tax-exempt financing be approved by HUD.

b. Depending upon the source of tax-exemption, paragraph (1) or (2) below is applicable:

(1) If a PHA is issuing obligations under Section 11(b) of the U.S. Housing Act of 1937 (Act), an opinion of counsel for the PHA that it has the legal authority to provide tax-exempt construction financing and may do so in accordance with State law. If the submission is by an agency or instrumentality PHA, evidence of compliance with the requirements set forth in 24 CFR 811.105.

(2) If the issuance is under Section 103 of the Code, an opinion of bond counsel that the issuance will be in compliance with all requirements of Federal law and regulations.

c. A copy of the proposed construction loan documents, including the trust indenture and related documents, and any agreements between the developer, the issuer, trustee and lender.

d. A statement identifying the amount for the construction financing costs to be included in the Contract of Sale price and an itemization of all amounts to be paid to the lender underwriter and other parties, whether as interest, discounts or fees. (These information collection requirements have been approved by the Office of Management and Budget under OMB control number 2502–0248).

Field Office Review

In addition to the normal turnkey review discussed in Handbooks 7417.1 or 7417.1 REV-1, as applicable, the Field Office shall review the documents outlined above and ensure that the following requirements are met:

a. Neither the PHA nor the agency or instrumentality PHA shall assume any liability in connection with the tax-exempt obligations other than the obligation to acquire the completed project pursuant to the turnkey Contract of Sale.

b. The entity issuing the tax-exempt obligations shall not receive any compensation in connection with the construction financing, except for HUD-approved expenses.

c. The maturity date of the tax-exempt obligations shall not unreasonably exceed the anticipated construction period incorporated in the turnkey Contract of Sale and the period of tax-exemption shall be explicitly limited to this period.

d. The turnkey developer's price shall reflect the cost savings to be realized by using tax-exempt construction financing.

e. The amount of the tax-exempt obligations shall not exceed the total developer's price as stated in the turnkey Contract of Sale.

f. Any income realized from investment of the tax-exempt funds before they are advanced to the developer must accrue to the PHA or the agency or instrumentality PHA to be used as a donation to reduce the total development cost of the project. This income should be invested to earn interest in time deposits that are federally insured, in Treasury securities, in securities issued by a Federal agency or federally sponsored agency, or in certificates of deposit that are fully secured by a pledge of securities similar to those listed above.

g. The interest rate proposed must be reasonable; the current ceiling for obligations issued under 24 CFR Part 811 Subpart A should be used as a guide in determining reasonable construction interest rates. The expenses of issuing the obligations and the financing costs must be reasonable and necessary for the issuance and servicing of the obligations. Tax-exempt financing should not be approved unless the interest and financing costs of the tax-exempt issuance are significantly less than non-tax-exempt construction financing.

Field Office Notification of Approval

If the Field Office approves the use of tax-exempt construction financing, notifications to the PHA or the agency or instrumentality PHA and to the developer shall be prepared by the Chief Counsel for the signature of the Field Office Manager. The notification shall indicate the following:

a. Identification of the project number and the tax-exempt obligations.

b. The total amount of the tax-exempt obligations, including the specific amounts included for interest on the obligations and for all financing costs.

c. If the tax-exemption is under Section 11(b) of the Act, a statement that HUD has approved the obligations in accordance with that section.

d. A statement that the issuance is approved under Section 422 of the Annual Contributions Contract.

e. A statement that before settlement under the Contract of Sale, the PHA or the agency or instrumentality PHA and trustee or lender must submit to the Field Office a report of all advances made in connection with the construction of the project (separately identifying interest payments and all discounts, fees and expenses paid) and a statement as to the amount of investment income realized from the tax-exempt funds before each advance to the developer.

Applicability of this policy

The policy set out in part I of this Notice is applicable to tax-exempt construction financing provided by a PHA or an agency or instrumentality PHA for any turnkey project for which the executed Contract of Sale is approved by HUD after the effective date of this Notice.

Information Collection requirements contained in this Notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0248.

II. Information and Commitments to be Submitted to the Field Office by a State Housing Financing Agency

Any State housing finance agency approved by HUD under 24 CFR Part 883 which proposes to provide tax-exempt construction financing to a turnkey developer under Section 103 of the Code shall submit the following information to the Field Office for review. The submission must be made in sufficient time to allow review by the Field Office before approval of the Contract of Sale.

a. A statement identifying the issuer as a State housing finance agency approved under 24 CFR Part 883 and stating that the source of tax exemption will be Section 103 of the Code (or the Federal Relations Act for Puerto Rico, where applicable).

b. A statement of the interest rate committed to by the construction lender to be charged on the developer's loan during construction, and a statement by the State agency, concurred in by the developer, that, if there is a later reduction in this rate, the agency will disclose to the Field Office the actual rate charged and that the Contract of Sale price will be reduced before settlement to reflect the reduced rate.

c. A certification by the agency, and by any financial institution which lends tax-exempt proceeds under a loan-to-lender or other arrangement, that no kickback, rebate or other compensation has been paid or will be paid to the developer from any source, including investment income resulting from the tax-exempt issue.

(These information collection requirements have been submitted for approval by the Office of Management and Budget.)

Field Office Notification of Approval

If the Field Office receives all statements required by this Notice and has no substantial reason to question them, the Field Office will notify the State agency that the financing is approved and will approve the Contract of Sale. If the interest rate to be charged the developer is reduced, the State agency shall notify the Field Office, and the Contract of Sale price will be reduced at settlement to reflect the reduced rate.

Applicability of This Policy

The policy set out in part II of this Notice is applicable to tax-exempt construction financing provided by a State housing finance agency under Section 103 of the Code for any turnkey project for which the executed Contract of Sale is approved by HUD after the effective date of this notice.

Other Matters

Information collection requirements contained in part II of this Notice have been submitted for approval by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 and are not effective until notice of approval is published.

Authority: Section 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: February 1, 1984.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 84-3513 Filed 2-8-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 84-02]

Drawbridge Operation Regulations; West Palm Beach Canal, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the Olive Avenue drawbridge, mile 0.4, because the bridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: This rule becomes effective on March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Kretschmer, Senior Bridge Administration Specialist, telephone (305) 350–4108.

Drafting Information: The drafters of this rule are Bridge Administration Specialist Mr. Walter Paskowsky, project officer, and Lieutenant Commander K. E. Gray, project attorney.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be non-significant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5/2/80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

§ 117.441a [Removed]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revoking and removing § 117.441a.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 26, 1984.

A. D. Breed,

Captain, U.S. Coast Guard District, Commander, Acting.

[FR Doc. 84–3519 Filed 2–8–84; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Mail Security; Customs Service; Narcotics and Dangerous Drugs

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service adopts its proposal to amend its mail security regulations to permit inspectors to reopen an inbound sealed mail article which is known through a reliable field test or laboratory examination to contain illegal narcotics or dangerous drugs, and which is to be delivered to the addressee under circumstances reasonably calculated to determine whether the addressee or someone else has guilty knowledge of the illegal contents. This action is taken in response to a recent Supreme Court decision and in aid of a national program to curtail the availability of illegal narcotics and dangerous drugs.

EFFECTIVE DATE: March 10, 1984.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun at (202) 245–4620.

SUPPLEMENTARY INFORMATION: A detailed explanation of the nature of the proposal and the reasons for its proposed adoption accompanied its publication in the **Federal Register** on December 21, 1983 (48 FR 56405). One comment concerning the proposal was received, and it supported the proposal. Accordingly, the Postal Service hereby adopts, without change, the following amendments of the Domestic Mail Manual which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

115 Mail Security

Amend part 115 by adding new paragraphs 115.21e and 115.91e as follows:

115.2 Opening, Reading, and Searching of Sealed Mail Generally Prohibited

.21 General. In general, no person may open, read, search, or divulge the contents of mail sealed against inspection, even though such mail may be believed to contain criminal or otherwise nonmailable matter or evidence of the commission of a crime. The only exceptions to this general rule are:

* * * * *

e. A postal inspector, acting in accordance with 115.91e.

* * * * *

115.9 Mail Security, Law Enforcement, and Other Government Agencies.

.91 Customs Service.

* * * * *

e. *Controlled Delivery of Drugs in Sealed Mail.* When a postal inspector decides, upon the request of a federal, military, state, or local narcotics agent, to make a controlled postal delivery of a sealed mail article which the Customs Service has opened in accordance with 115.91, and which the Customs Service has determined through a reliable field test or reliable laboratory examination to contain illegal narcotics or dangerous drugs, the postal inspector may reopen the article without a search warrant. The inspector may reopen the article without a warrant only for the purpose of preparing the article for such a controlled delivery in such way or ways as will lawfully and reasonably aid in the investigation of the crime of importing such substances through the mails. No correspondence inside such an article may be read or divulged without a search warrant as described in 115.6.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 401(10), 404(a)(1), 404(a)(7), 3623(d))

W. Allen Sanders,

Associate General Counsel, General Law & Administration.

[FR Doc. 84–3558 Filed 2–8–84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[WH-FRL 2523-6]

Ocean Dumping; Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today establishes a temporary ocean dumping site in the Gulf of Mexico for the one-time disposal of a damaged platform jacket. This action is necessary to provide a location for the disposal of this jacket since it is currently a hazard to navigation and Department of Interior regulations require that it must eventually be removed. Delay in removal will increase the hazards of disposal because of continued corrosion.

DATE: This site designation shall become effective on March 12, 1984.

ADDRESSES: The material supporting this designation and the letters of comment are available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU); Room 2904 (rear), 401 M Street Southwest, Washington, DC.

EPA Region VI, Water Management Division, 1201 Elm Street, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereafter "the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. Section 228.4(b) provides that the Administrator may designate specific locations for temporary use for disposal of small amounts of materials under a special permit without the need of disposal site designation studies when such materials satisfy the Criteria in 40 CFR Part 227 and the Administrator determines that the quantities to be disposed of at the site will not result in significant impact on the environment. Such designations will be done by promulgation in this Part 228 and will be for a specified period of time and for specified quantities of materials. The designation of a site is not sufficient to authorize dumping at that site; a permit must also be issued in accordance with the regulations.

EPA Region VI has received a completed application from Chevron U.S.A. Inc. for a special permit to transport a damaged platform jacket from its present location, approximately 80 miles offshore south of Atchafalaya Bay, Louisiana, to another location approximately 44 miles southeast of the present location. The proposed site, which was recommended by the Department of the Interior, Minerals Management Service, is approximately 101 miles off the Louisiana coast in approximately 600 fathoms of water with coordinates as follows:

27d 39'44.665" N, 91d 10'03.059" W; 27d 39' 42.304" N, 91d 07'06.927" W; 27d 37'05.471" N, 91d 07'09.610" W; 27d 37'07.828" N, 91d 10'05.672" W.

The site is a square area, three statute miles on the side.

The platform jacket which Chevron wishes to dispose of was installed during July 1980, and was heavily damaged by collision with a tanker on August 21, 1980. After a thorough review of the damage to the jacket, Chevron concluded that it would not be practical to repair or safe to use. The insurance underwriters concurred with this assessment and declared the jacket a total loss. There is currently no approved EPA ocean dumping site in the Gulf of Mexico for dumping of this type of material.

The jacket consists of approximately 4,780 tons of fabricated structural steel pipe in a truncated pyramid shape approximately 325 feet high with a rectangular base 214 feet by 137 feet and a top 150 feet by 45 feet. Chevron proposes to sever the jacket legs below the Gulf bottom, raise the jacket in one piece and attach it to flotation barges. The barges will be towed to the disposal site where the jacket will be cut loose and allowed to sink.

On August 5, 1983, EPA proposed designation of this site in the **Federal Register**, 48 FR 35673. The proposed rulemaking contained detailed information regarding the site and the circumstances surrounding the request to dispose of the damaged platform jacket at the site. The comment period on this proposed rulemaking closed on September 19, 1983.

Two letters of comment were received in response to the proposed rule. One commenter did not object to the proposed designation, but questioned whether the proposed site would be appropriate for disposal of additional platform jackets, since the site is within one Outer Continental Shelf (OCS) block of recently granted leases and could possibly be included in a future lease sale. EPA is designating this site for the one-time disposal of the damaged platform jacket and does not contemplate that additional platforms or parts of platforms would be dumped there in the future.

This commenter also recommended that a simplified procedure for permitting ocean dumping of platforms be developed and that a permanent dump site in a deepwater OCS area not subject to oil and gas operations should be designated for unneeded platforms. EPA is considering amending its general permit for the disposal of vessels to include the disposal of platform jackets or parts of platforms. At that time the Agency would stipulate depth, distance from shore, and other requirements to be placed on any such disposal.

The Mineral Management Service of the Department of the Interior did not object to the designation of the site for the emergency disposal of the damaged structure but pointed out its policy to encourage the conversion of selected obsolete oil and gas structures into artificial reefs. EPA is aware of this policy and also encourages conversions of this type in appropriate circumstances. However, in this particular case, the location available for this use in a fishery enhancement program would require a towing distance of 300 miles, substantially increasing the risks involved in moving such a large structure.

EPA Region VI has determined that the material to be dumped satisfies the Criteria of Part 227 and published a public notice of tentative determination to issue a special permit on March 5, 1983. The public notice and a fact sheet explaining the basis for the determination are available for inspection at the addresses listed above. No comments or requests for a public hearing were received in response to the public notice, and EPA Region VI intends to issue a special permit for this disposal effective at the time the site designation becomes effective.

This site designation is made in accordance with section 228.4(b) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for temporary use without disposal site designation studies for small amounts of materials which meet the Criteria of Part 227. Chevron has prepared a special report in support of its ocean dumping application which addresses general and specific site selection criteria. EPA has reviewed this report and agrees with its conclusions, which were summarized in the proposed site designation. For a more complete discussion of the ocean dumping site selection criteria considered, interested persons should examine the Chevron Special Report for Ocean Dumping Application No. 82OD001 which is available for inspection at the addresses listed above.

From the available data, EPA has determined that the disposal of the jacket at the proposed site will not adversely affect the environment of the Gulf. No impact is anticipated on commercial or recreational fishing, commercial shipping, or any other legitimate marine interest. Disposal of the damaged jacket at the proposed site is the least hazardous of the alternatives considered.

This temporary site designation is being published as final rulemaking in accordance with section 228.4(b) of the Criteria. Management authority of this site will be delegated to the Regional Administrator of EPA Region VI.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for this damaged platform jacket. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water polution control.

Authority: 33 U.S.C. 1412 and 1418.

Dated: February 2, 1984.

Jack E. Ravan,

Assistant Administrator for Water

PART 228—[AMENDED]

In consideration of the foregoing, Subchaper H of Chapter I of Title 40 is amended by adding to § 228.12 a paragraph (b)(16) an ocean dumping site for Region VI as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(16) Gulf of Mexico Platform jacket site—Region VI.

Location: 27d 39′44.665″ N, 91d 10′03.059″ W; 27d 39′42.304″ N, 91d 07′06.927″ W; 27d 37′05.471″ N, 91d 07′09.610″ W; 27d 37′07.828″ N, 91d 10′05.672″ W.

Size: 3 statute miles on the side (9 square statute miles total area).

Depth: 600 fathoms.

Primary Use: One-time disposal of damaged platform jacket. Period of Use: Until the one-time dump of the damaged jacket is concluded; however, the period of use shall not exceed three years from the date of publication of this Notice.

[FR Doc. 84-3510 Filed 2-8-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 82-085]

Documentation of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the standards for determining when a vessel is considered "built in the United States" for purposes of documentation entitling a vessel to engage in the domestic trade. This change is being made because it is not necessary to determine the source of machinery and other components which are not an integral part of the hull or superstructure in order to determine whether a vessel is considered "built in the United States." As a result of this change, U.S. shipyards and vessel purchasers will have greater flexibility in selecting machinery and other components for vessels.

EFFECTIVE DATE: March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety, (202) 426-1492, or (202) 426-1493. Normal office hours are between 7 a.m. and 5 p.m. Monday through Friday, except holidays.

Drafting Information: The principal persons involved in drafting this rulemaking are Lieutenant Commander Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety; and Lieutenant Commander William B. Short (Project Attorney), Office of the Chief Counsel.

SUPPLEMENTARY INFORMATION: The regulations governing documentation of vessels, contained in Part 67 of Title 46, Code of Federal Regulations, were extensively revised in a final rule published on June 24, 1982. That rulemaking project was undertaken primarily to simplify documentation procedures and was in implementation of the Vessel Documentation Act (Pub. L. 96-594). Comments received during the pendency of that rulemaking were critical of proposed § 67.09-3 which pertains to U.S. build determinations. That section reads:

A vessel is considered built in the United States if:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States; and

(c) At least fifty (50) percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure relates to items procured in the United States.

(d) For the purposes of this section, United States includes American Samoa.

The comments received concerning that section before it became final said the words "procured," "components," and "superstructure" as used there were vague. Other commenters said the "fifty percent of cost rule" in paragraph (c) had no basis in law, conflicted with past agency practice, was more restrictive than industry practice, would present great difficulties in terms of proof where older vessels are involved, and would be ineffective due to practical problems relative to enforcement. One commenter also said the regulation constitutes a non-tariff customs barrier.

In the supplementary information published with the final rule on June 24, 1982, the Coast Guard recognized that the regulations were deficient in treating some of the issues raised by the comments, and stated that a further rulemaking to address those issues would be initiated. An Advanced Notice of Proposed Rulemaking (ANPRM) was published on October 14, 1982 (47 FR 45888) and the public was given until December 13, 1982 to comment. As a result of comments received in response to that ANPRM, a Notice of Proposed Rulemaking (NPRM) to delete paragraph (c) was published in the Federal Register on May 5, 1983 (48 FR 20249). The comment period for the NPRM ended on July 5, 1983 and analysis of all comments has been completed.

One late comment requested a public hearing. In view of the fact that this rule was subject to comments during the development of the Vessel Documentation regulations in 1981, the advance notice of proposed rulemaking in October-December 1982, and the NPRM in May-July 1983, the Coast Guard believes that holding a public hearing based on this single request is not warranted.

Discussion of Comments

Eighty relevant comments were placed in the official docket file during the NPRM comment period. These were added to the 28 comments filed in the same docket file in response to the ANPRM. Commenters included shipping companies, marine equipment manufacturers and suppliers, members of Congress, steel companies, trade associations, naval architects and engineers, fishing companies, shipbuilders, and others. In addition, 15 other relevant comments were placed in the docket file more than three weeks after the NPRM comment period had closed. These late comments were found to contain no significant information not covered by comments filed during the comment period. Although two-thirds of the comments opposed the proposal, the nature of the comments received and the variety of interests and organizations represented make numerical comparisons inappropriate. For example, 12 comments in opposition gave no reasons for their position.

Other commenters offered a variety of reasons for disagreeing with the proposal. The following were among the reasons mentioned by one or more commenters:

a. Increased foreign competition.

b. Deterioration of marine equipment supplier base.

c. Difficulty obtaining spare parts or service on foreign items.

d. Tariffs or trade barriers inadequate to protect suppliers.

e. The spirit of nationalism dictates "Buy American."

f. Congress intended to protect entire shipbuilding industry.

g. All machinery is part of vessel.

h. Other countries subsidize their products and refuse ours.

i. Unemployment is high and will increase.

j. Response to national emergencies/defense will suffer.

k. Economy needs help with recovery.

l. Balance of trade will be adversely affected.

The variety of responses indicated that many of the commenters misunderstood the application and effect of the rule and the proposed change.

Although 24 commenters opposing the proposal said they thought its adoption would increase foreign competition for manufacturers and suppliers of items used by shipbuilders, there was virtually no factual information presented in support of this position. As the discussion in our NPRM pointed out, the machinery and components rule has had little practical effect on shipbuilding over the past several years and its elimination should have a negligible effect on manufacturers and suppliers. Related fears about deterioration of the marine equipment supplier base are unwarranted for the same reason. One commenter who supported the Coast Guard proposal pointed out that since 1978 its foreign company has supplied foreign-manufactured engines for some 24 vessels built in the United States. It went on to say that while the company was aware of the rule it had not yet prevented the company from supplying an engine for a vessel being built in the United States.

Concern about limited availability of spare parts or service is not a legitimate factor for consideration in deciding whether or not to adopt the proposed rule. A purchaser who is concerned about the matter may specify that machinery and components be manufactured in the United States. Parts and service availability can also be addressed in vessel construction contracts and there are companies in the United States capable of taking over the service responsibility or providing replacement parts for foreign items as required. One commenter opposed to the proposal said it has done that on a number of occasions.

While the Coast Guard appreciates the concern expressed by commenters who feel the practices of other countries, such as subsidizing manufacturers in their own country and refusing to purchase American marine products, are harmful to domestic suppliers and manufacturers of marine equipment, the resolution of that is completely outside the scope of our rulemaking. The same is true for concerns expressed about the adequacy or effectiveness of existing trade barriers and tariffs, or anticipated changes in our balance of trade.

Several commenters expressed concern about our ability to respond to national emergencies or meet national defense needs if the Coast Guard proposal is adopted. These comments were of two types. Some commenters based their objections on factors such as availability of spare parts and maintenance of suppliers for construction or operation of merchant vessels which might be needed for emergencies or national defense. For the reasons discussed in the two preceding paragraphs, the Coast Guard does not feel that these objections are a valid base for changing the proposal. Another group of commenters raised concerns about national defense or emergencies based on the mistaken belief, apparently gained from third party reports as to the contents of the NPRM, that the Coast Guard intends to permit purchases of its vessels from foreign sources and allow the government to use tax revenues to purchase foreign goods. Those concerns are misplaced and are not valid justification for changing the proposal. This rulemaking has no effect on "Buy American" policies involved in the procurement of vessels by the government. It only affects the basis for deciding whether a vessel qualifies for use in certain domestic trades as a documented vessel. Since vessels of the Coast Guard are not used in domestic trades and are not documented, this rulemaking has no effect on procurement of Coast Guard vessels. The extent to which foreign materials are included in vessels of the armed forces is controlled by government procurement regulations, not by the vessel documentation regulations. Therefore, there is no reason to believe our defense capability or our ability to respond to national emergencies will be affected by the rule.

Some commenters disagreed with the discussion in the NPRM concerning the intent of Congress in using the phrase "built in the United States." They feel the phrase was meant to protect the entire shipbuilding industry, not just the shipyards. Some commenters also said the mood of Congress when it enacted the various laws pertaining to vessels qualifying for the domestic trade was "build and buy American." It is clear that use of the phrase "built in the United States" in the Vessel Documentation Act necessarily benefits shipyards in the United States. We note that when Congress has intended to extend "Buy American" benefits to manufacturers and suppliers it has done so explicitly. For example, Section 505 of the Merchant Marine Act, 1936 states in part "In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States. . . ." However, that statute relates to construction of vessels for which federal funds are provided to the owner in the form of a construction differential subsidy and has no application to the subject of this rulemaking. As the NPRM pointed out, no statute specifically authorizes the use of a "Buy American" requirement in connection with the vessel documentation regulations, no statute requires it, and reasonable assurance that vessels qualified for domestic trades are the product of United States shipyards may be attained without use of such a provision. Under these circumstances the Coast Guard does not agree that Congress meant us to impose a rule for the benefit of manufacturers or suppliers which is burdensome to the public at large.

A spirit of nationalism does not provide a basis for a "Buy American" rule not required or supported by the statutes. Neither does the present state of the economy or prevailing levels of unemployment justify a rule of that type. The Coast Guard has no reason to believe there is a significant cause and effect relationship between use of the machinery and components rule and the overall state of the economy or levels of unemployment.

Those commenting that all machinery must be considered part of the vessel were urging that a vessel should have 100% domestic content in order to be considered U.S. built. The Coast Guard has never applied this criterion. The shipbuilder has always been able to use foreign material in the hull and superstructure and has been free to install some foreign machinery and components. As discussed above, the concept of 100% American origin is not justified.

The commenters who supported the Coast Guard proposal did so mainly for the reasons discussed in the NPRM. That is, there is little or not legal basis for the machinery and components rule; the rule creates serious problems for those engaged in the fisheries; the proposed change is consistent with the intent of Congress as reflected in the Jones Act and other laws; and costs of domestic vessel construction as well as costs passed through to the public for shipping may be reduced by eliminating the rule. One commenter who agreed with the Coast Guard proposal to eliminate the rule felt it did not go far enough. The commenter suggested the single criterion for "built in the United States" should be that the vessel be "erected entirely in the United States." The Coast Guard is not willing to adopt that proposal. The commonly understood meanings of the words "erected" and "built" are so similar that a regulation substituting erected for built would provide no more guidance than the statute itself.

Although fewer comments were received in support of the Coast Guard proposal than in opposition to it, several of the comments supporting the proposal were from those speaking on behalf of many members of the shipping public, such as trade associations representing those engaged in the fisheries or domestic and international shipping operations, and shipowners.

Regulatory Evaluation

This regulation has been reviewed under the provisions of Executive Order 12291 and determined not to be a major rule. It is considered non-significant within the guidelines of the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The economic impact of this final rule has been found to be so minimal that a full regulatory evaluation is unnecessary. That determination is based on the following circumstances:

When the new vessel documentation regulations were proposed in 1981 an effort was made to include various longstanding agency practices. The rule for machinery and components, § 67.09-3(c) as quoted above, was included on that basis. However, before the regulation was published in final form in June, 1982 it became apparent that paragraph (c), whatever its value or history as a "rule of thumb," would be impossible to implement as a regulation. Rather than change the final regulations, action to deal with § 67.09-3 was deferred to a subsequent rulemaking project and the public was so advised.

From the comments received before publication of the final vessel documentation regulations and in response to an ANPRM and NPRM dealing with this change, it is apparent that the existence of a fifty percent of cost policy relative to the machinery and components of a vessel, as a Coast Guard guideline or "rule of thumb" for U.S. build determinations, was not well-known either within the Coast Guard or the shipbuilding industry and was rarely used. Therefore, it is reasonable to conclude that this guideline had little effect on the construction of vessels to be documented for the domestic trades prior to its promulgation as a rule in June 1982. It is highly unlikely that that situation changed then, since the Coast Guard advised the public that § 67.09-3 would be subjected to further rulemaking action. No doubt affected parties have taken into account the likelihood that paragraph (c) might be removed. Thus, deletion of that paragraph should produce no more than a minimal impact on anyone. For the same reasons, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) that this rule would not have a significant impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 67

Vessels, Documentation.

In consideration of the foregoing, 46 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 is revised to read as follows:

Authority: 46 U.S.C. 12113, 12115, 12103, 12120, 12121; 65 Stat. 290 (31 U.S.C. 483a); 41 Stat. 1002, 80 Stat. 795 (46 U.S.C. 927); 41 Stat. 1006 (46 U.S.C. 983); 94 Stat. 978 (42 U.S.C. 9101).

2. Revise 46 CFR 67.09-3 to read as follows:

§ 67.09-3 United States built

A vessel is considered built in the United States if:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States.

(c) For the purposes of this section, United States includes American Somoa.

Dated: December 23, 1983.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84-3518 Filed 2-8-84; 8:45 am]

BILLING CODE 4910-14-M

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46 CFR Parts 111 and 151

[CGD 82-096]

Unmanned Barges Carrying Certain Dangerous Bulk Cargoes

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In the interest of safety, the Coast Guard reviews all chemicals proposed for bulk shipment by water. All cargoes classified as dangerous are regulated. Safety requirements for such cargoes are continuously reviewed in the light of new developments. This final rule corrects and adds electrical hazard class and group ratings to regulated cargoes, corrects editorial errors, and modifies the provisions of Subchapter J, Electrical Engineering Regulations, to include barges carrying inorganic acids.

EFFECTIVE DATE: March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph J. Jakabcin, G-MTH-3, Room 1208, U.S. Coast Guard Headquarters, Washington, D.C. 20593. Telephone 202-426-6262.

SUPPLEMENTARY INFORMATION: On April 14, 1983 (48 FR 16083), the Coast Guard published a notice of proposed rulemaking. Comments were invited for a period of 45 days ending on May 31, 1983. A public hearing was to be scheduled if requested by anyone raising a genuine issue. No request for a public hearing was received and no comments on the proposed rulemaking were received.

Drafting Information

The principal persons involved in drafting this document are Mr. Joseph J. Jakabcin, Office of Merchant Marine Safety, and Mr. Michael N. Mervin, Office of the Chief Counsel.

Regulatory Evaluation and Certification

This final rule is considered to be non-major under Executive Order 12291 and non-significant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979).

The economic impact of this regulation has been found to be so minimal that further regulatory evaluation is unnecessary. The addition of the approximately 61 electrical hazard class and group ratings updates and codifies existing Coast Guard policies. About 1,080 barges are certified for the carriage of cargoes whose ratings are affected. We estimate that 90 percent of these existing barges carrying hazardous materials have no electrical equipment located in hazardous areas. This change, therefore, would have no effect on these barges. For these reasons, in accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 111

Vessels.

46 CFR Part 151

Hazardous materials, Barges.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 46, Code of Federal Regulations as follows:

PART 111—ELECTRICAL SYSTEMS—GENERAL REQUIREMENTS

1. By revising § 111.105–9(c) to read as follows:

§ 111.105–9 Explosion-proof equipment.

* * * * *

(c) In a Group B atmosphere, if the cargo is an inorganic acid.

2. By revising the heading and paragraphs (a) (introductory text) and (l) (introductory text) of § 111.105–31 to read as follows:

§ 111.105–31 Flammable or combustible cargo with a flashpoint below 60 degrees C (140 degrees F), liquid sulfur and inorganic acid carriers.

(a) *Applicability.* Each vessel that carries combustible or flammable cargo with a closed-cup flashpoint lower than 60 degrees C (140 degrees F) or liquid sulphur cargo, or inorganic acid cargo must meet the requirements of this section, except—

* * * * *

(l) *Weather locations.* A location in the weather, except on an inorganic acid carrier, must have only explosion-proof electrical equipment, purged and pressurized equipment, and through runs of armored or MI type cable if it is—

* * * * *

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

§ 151.05 [Amended]

3. By amending Table 151.05, Summary of Minimum Requirements column entries under "Cargo name", replacing the old cargo names with the new cargo names, to read as follows:

Old	*New*
N-butyl acrylate	n-Butyl acrylate
Isobutyl acrylate	iso-Butyl acrylate
Butyraldehyde, (N)	n-Butyraldehyde
Carbon bisulfide	Carbide disulfide
2-Ethyl, 3-Propyl Acrolein	2-Ethyl-3-propyl acrolein

4. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–A" for "Carbon disulfide".

5. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–B" for the following cargoes:

Chlorosulfonic acid
Hydrochloric acid
Hydrochloric acid, spent (15% or less)
Hydrofluoric acid
Hydrofluorsilicic acid (25% or less)
Hydrogen chloride
Hydrogen fluoride
Nitric acid (70% or less)
Oleum
Phosphoric acid
Sulfuric acid
Sulfuric acid, spent

6. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–C" for the following cargoes:

Allyl alcohol
n-Butyraldehyde
iso-Butyraldehyde
Crotonaldehyde
Epichlorohydrin
2-Ethyl-3-propyl acrolein
Formaldehyde solution 37–50%
Furfural
Morpholine

7. By amending the Table 151.05 column entry under "Electrical hazard" to read "I–D" for the following cargoes:

Acetic acid
Acetic anhydride
Ammonium hydroxide, not to exceed 28% NH^3
n-Butyl acrylate
iso-Butyl acrylate
Camphor oil (light)
Chlorobenzene
Chlorohydrins (crude)
Dichloropropane
Ethyl acrylate
Ethyl chloride
Ethylene diamine
Ethylene dichloride
Formic acid
Isoprene
Methyl acrylate
Motorfuel antiknock compounds
Propionic acid
Vinylidene chloride inhibited

8. By amending the Table 151.05 column entry under "Electrical hazards" to read "NA" for the following cargoes:

Acetone cyanohydrin
Adiponitrile
Aminoethyl ethanolamine
Aniline
Carbolic oil
Carbon tetrachloride
Caustic potash solution
Caustic soda solution
Chlorine
Chloroform
Cresols
Dichlorodifluoromethane
Diethanolamine
Diethylenetramine
Diisopropanolamine
Ethylene cyanohydrin
Monochlorodifluoromethane
Monoethanolamine
Monoisopropanolamine
Phenol
Phosphorus, elemental
Triethanolamine
Triethylene tetramine

9. By removing and reserving Footnote 1 to Table 151.05.

Footnotes:
1 [Reserved]

* * * * *

(46 U.S.C. 391a, 49 CFR 1.46(t))

Dated: January 11, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84–3520 Filed 2–8–84; 8:45 am]

BILLING CODE 4910–14–M

Proposed Rules

Federal Register
Vol. 49, No. 28
Thursday, February 9, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 112

Nondiscrimination in Federally Assisted Programs of SBA Effectuation of Title VI of the Civil Rights Act of 1964

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: In accordance with the requirements of 28 CFR 42.403(d) published by the Department of Justice on December 1, 1976, the Small Business Administration proposes to revise Appendix A of its listing of financial assistance programs. (The proposed rule published in the **Federal Register** (47 FR 21554) on May 19, 1982, is withdrawn.) However, in order to comply fully with the Department of Justice's guidelines, it is necessary to amend our definition of "financial assistance" to coincide with the definition which appears at 28 CFR 42.102(c), and to amend Appendix A by revising the listing of financial assistance programs and by adding a listing of nonfinancial assistance programs which are provided by the Agency.

DATE: Comments on this proposed rule must be received by March 12, 1984.

ADDRESSES: Send comments to: Office of Civil Rights Compliance, Small Business Administration, 1441 L Street, NW., Room 501, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Adelino Sanchez, Chief, (202) 653-6054.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964 ("Act") provides that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Small Business Administration. This part 112 of Title 13 of the Code of Federal Regulations effectuates such provision. Section 42.102(c) of Title 28 of the Code of Federal Regulations, a subsection of the Department of Justice Title VI implementation regulation, states that the term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. This proposed rule would adopt the definition of Federal financial assistance used in 28 CFR 42.102(c), by adding a new § 112.2(b). This definition will be consistent with that used by the Department of Justice and other agencies which enforce Title VI.

SBA hereby certifies that this rule, if promulgated in final form, will not constitute a major rule for the purposes of Executive Order 12291. In addition, for purposes of the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities. The rule constitutes a non-substantive procedural change, and by its terms will not significantly affect the administration of any of SBA's financial assistance programs.

List of Subjects in 13 CFR Part 112

Civil rights, Small businesses.

PART 112—[AMENDED]

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), Part 112, Chapter 1, Title 13 of the Code of Federal Regulations, is proposed to be amended as follows:

1. Paragraphs (b) and (c) of § 112.2 are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) would be added to read as follows:

§ 112.2 Application of this part.

* * * * *

(b) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grants or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration, or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

* * * * *

2. Appendix A of Part 112 of Title 13 of the Code of Federal Regulations is revised to read as follows:

APPENDIX A

Name of program	Authority
Regular business loans	Small Business Act, sec. 7(a) and 7(a) (11).
Handicapped Assistance loans.	Small Business Act, sec. 7(a) (10).
Small Business Energy Loans.	Small Business Act, sec. 7(a) (12).
Small General Contractors.	Small Business Act, sec. 7(a) (9).
Debtor State development company loans (501) and their small business concerns (No funds have been authorized for this program through FY 1984).	Small Business Investment Act Title V.
Debtor small business investment companies and their small business concerns.	Small Business Investment Act Title III.
Pollution Control	Small Business Investment Act Title IV, Part A.
Disaster Loans	
Physical	Small Business Act, sec. 7(b) (1).
Economic injury (EIDL)	Small Business Act, sec. 7(b) (2).
Federal Action Loan Program.	Small Business Act, sec. 7(b)(3) (No funds have been authorized for this program through FY 1984.
Nonfinancial Programs	
Women's Business Enterprise.	Executive Order 12138.
Small Business Innovation and Research.	Small Business Act, sec. 9.
Procurement Automated Source System.	Small Business Act, sec. 8 and Pub. L 96-302.
Business Development Program.	Small Business Act, sec. 8(a) and Pub. L. 95-507, as amended by Pub. L. 96-481.
Small Business Institute Program.	Small Business Act, sec. 8(b)(1) and Pub. L. 85-536.
Certificate of Competency	Small Business Act, sec. 8(b)(7) and Pub. L. 95-89.
Subcontracting Assistance Program.	Small Business Act, sec. 8(d). and Pub. L. 95-507.
Technology Assistance Program.	Small Business Act, sec. 9.
Small Business Development Centers.	Small Business Act, sec. 21 and Pub. L. 96-302.

APPENDIX A—Continued

Name of program	Authority
International Trade Progam.	Small Business Act, sec. 22 and Pub. L. 96-481.
Service Corps of Retired Executives and Active Corps of Executives.	Small Business Act, secs. 101 and 8(b)(1) and Pub. L. 95-510.
Veterans Affairs Program....	Public Law 93-237.
Private Sector Initiatives......	Small Business Act, sec. 8(b)(1).

Note: All programs listed above are also covered by Part 113 of Title 13 of the Code of Federal Regulations.

(Catalog of Federal Domestic Assistance Programs No. 59.001 through 59.031)

Dated February 2, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-3614 Filed 2-8-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S106]

Electrical Standards for Construction

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of informal public hearing.

SUMMARY: This notice schedules an informal public hearing on the proposed electrical standards for construction published in the **Federal Register** on October 7, 1983 (48 FR 45872).

DATES: The hearing will begin on April 10, 1984, at 9:30 a.m., and may continue for more than one day based on the number of notices of intention to appear which are received. Notices of intention to appear at the public hearing must be postmarked by March 9, 1984. Written comments relating to the hearing issues, and testimony and evidence which will be introduced into the hearing record must be postmarked by March 23, 1984.

ADDRESSES: The informal public hearing will be held in the Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Send written comments to: Docket Officer, Docket S106, Room S6212, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-7894.

Send notices of intention to appear and testimony and evidence which will be introduced into the hearing record to: Mr. Tom Hall, OSHA, Division of Consumer Affairs, Room N3662, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-7178.

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, OSHA, Division of Consumer Affairs, Room N3662, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-7178.

Proposal: Mr. James Foster, OSHA, Office of Information, Room N3662, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-8151.

SUPPLEMENTARY INFORMATION: On October 7, 1983, OSHA published (48 FR 45872) a proposed revision of its electrical safety standards for construction contained in 29 CFR Part 1926, Subpart K. Interested persons were given until November 21, 1983, to submit written comments on the proposal, to file objections, and to request a hearing. At the request of several parties, the comment period was extended to December 31, 1983 (48 FR 54652).

Public Hearing: OSHA has received 36 comments on the proposal, including requests for a hearing. In response to the objections raised and hearing requests received and in accordance with section 6(b)(3) of the Occupational Safety and Health Act and section 107 of the Construction Safety Act, OSHA has scheduled an informal public hearing to be held on April 10, 1984. The hearing is being held to examine the following issues raised in the requests for a hearing:

1. Existing electrical installations in general industry workplaces are required to comply with the provisions of 29 CFR Part 1910, Subpart S. Sometimes, construction activities, which are subject to the provisions of 29 CFR Part 1926, are performed at these existing facilities. Under the existing Part 1910 and Part 1926 regulations, the possibility that Subpart K of Part 1926 would be applied to the permanent wiring of the facility has resulted in some confusion. A hearing request raised the issue of whether OSHA should modify the application of Subpart K to cover existing facilities where construction activities are being performed.

2. The existing and the proposed Subpart K apply only to installations providing power and light for the construction jobsite. Installations which provide for the transmission and distribution of electricity are covered by Subpart V rather than Subpart K. (See existing § 1926.400(b) and proposed § 1926.402.) A hearing request raised the issue of whether some industrial transmission and distribution installations (i.e., those that are less than 15 kV) should be covered by Subpart K.

3. The existing Subpart K incorporates the 1971 National Electrical Code (NEC) by reference. The proposal, which would delete this incorporation by reference, contains provisions of the NEC which OSHA has determined are relevant to worker safety involving electrical wiring used in construction. Certain NEC requirements set forth in the proposal are based on related aspects of the National Fire Protection Association's *Electrical Safety Requirements for Employee Workplaces, NFPA 70E, Part I* applicable to construction. (See preamble to the proposal, 48 FR 45873 through 45874.) A hearing request objected to the proposed elimination of the NEC from the regulations and the consequent use of portions of NFPA 70E as a basis for a standard on electrical installations for construction. Specifically, the objector noted that proposed §§ 1926.404(f)(3) (portable and vehicle mounted generator grounding), 1926.405(a)(2)(ii)(C) (receptacles not allowed on lighting circuits), and 1926.405(a)(2)(ii)(H) (junction boxes on temporary wiring) are covered by the 1984 NEC and that the proposed requirements would be unnecessary if the 1984 NEC were incorporated by reference in Subpart K. OSHA invites comments on whether the NEC should continue to be incorporated by reference and, if not, whether the standard should be based only on applicable provisions of NFPA 70E relevant to construction.

4. Detailed requirements related to bonding and grounding are set forth in § 1926.401 of the existing standard and in Article 250 of the 1971 NEC. OSHA has proposed to retain these provisions in more performance oriented language, as given in § 1926.404(f). A hearing request objected to this approach and requested that OSHA retain the more detailed language of the existing standard, particularly paragraphs (d), (e) and (g) of § 1926.401 dealing with specific ground resistance values and bonding techniques. Comments are invited on this issue.

5. Whether receptacles in existing installations should be permitted to be grounded by means of grounded cold water pipes, as is the case in the existing standards (1971 NEC Section 250-50), or whether they should be required, as proposed, to be grounded by a separate equipment grounding conductor connected back to the service.

6. Existing § 1926.401(j)(2) requires temporary lights to be equpped with "heavy duty" cords. In § 1926.405(a)(2)(ii)(B), the proposed standard would allow other methods of wiring temporary lights, including open conductors, cables suitable for the environment, and conduit. An objection

to the proposal was that the existing requirement in § 1926.401(j)(2) for "heavy duty" cords would be eliminated. Comments are requested on the issue of whether temporary lighting should be required to be installed with "heavy duty" cords rather than with other means, such as conductors within multiconductor cable assemblies or as open conductors.

7. The specific language in existing paragraphs (a)(1), (a)(3), (a)(6), and (a)(8) of § 1926.402 would be eliminated by the proposal. These requirements, dealing with design details of attachment plugs and receptacles and with protection of cables from damage, are covered by other proposed performance-oriented requirements (see Distribution Table in proposal at 48 FR 45875). A hearing request objected to the deletion of the language contained in the four paragraphs. Comments are requested on the issue of whether the language of these paragraphs from the present standard should be retained, or whether their objectives are adequately addressed in the proposal.

8. Proposed § 1926.403(j) and the existing standard in 1971 NEC Article 710 contain general provisions relating to installations of more than 600 volts, nominal. An interested person objected, stating that voltages addressed by the proposed paragraph are normal supply-side voltages, and that the proposal should cover such voltages wherever they are found in construction. In light of the fact that neither the proposal nor the existing standard apply to distribution installations, OSHA requests comments on the issue of whether proposed § 1926.403(j) should apply to equipment on the supply side of the service conductors and, if so, suggestions on how the scope of the standard should be modified so that such equipment is covered.

9. Both the existing standard, in 1971 NEC section 250-33, and the proposal, in § 1926.404(f)(7)(i), contain a requirement for metal enclosures for conductors to be grounded. Two exemptions, however, are provided in each standard: one for enclosures used to protect cable assemblies from damage and the other for enclosures for conductors added to existing installations of open wire, knob-and-tube wiring, and nonmentallic-sheathed cable, under certain restrictions. A hearing request objected to the proposal's inclusion of these two exceptions (contained in § 1926.404(f)(7)(i) (A) and (B)). Therefore, OSHA solicits comments on the issue of whether these exemptions should be removed.

10. The definitions in the proposal are derived from and are consistent with those in the National Electrical Code. In some cases, certain minor differences have resulted from NEC changes over the years. Also, as explained in the preamble to the proposal (48 FR 45877), definitions related to "approval" are proposed to be modified to remove references to specific testing laboratories. One interested person objected to several of the proposed definitions—to some because they are not consistent with the 1984 NEC, to those related to "approval" because they are "inappropriate and unenforceable," and to the definition of "qualified person" because it is diferent from the general definition of that term in § 1926.32. OSHA invites comments on the issue of whether the definitions as proposed are appropriation or whether they should be modified to conform to those either in the 1984 NEC or in the existing standard.

11. One of the requests for a hearing raised two other issues— one resulted from a misunderstanding of the proposal, the other from a mistake in the printing of the proposal. The request objected to the removal of existing § 1926.400(h), dealing with ground-fault protection. However, as noted in the preamble to the proposal (48 FR 45878) and in the proposal itself (48 FR 45881), this paragraph would be redesignated as § 1926.404(b)(1). This paragraph in the proposed text was reserved for this purpose. The other issue raised was of the omission of the word "grounding" from proposed § 1926.404(a)(1). As noted in the hearing request, the correct wording of the second sentence of this paragraph is: "A conductor used as an equipment grounding conductor shall be identifiable and distinguishable from all other conductors." The concerns raised in these two issues will be addressed in the final rule.

Public Participation

Written comments on the issues listed in this notice must be postmarked by March 23, 1984. These comments should be submitted, in quadruplicate, to the Docket Office, Docket No. S106, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-7894. All materials submitted will be available for inspection and copying at this address.

Additionally, under section 6(b)(3) of the Occupational Safety and Health Act, and 29 CFR Part 1911, an opportunity to testify orally concerning the issues raised in this notice will be provided at an informal public hearing.

Notice of Intention to Appear

Persons desiring to participate at the hearing, including those who previously requested that a public hearing be held, must file a notice of intention to appear with Mr. Tom Hall, OSHA Division of Consumer Affairs, Room N3662, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: (202) 523-7178. This notice must be postmarked by March 9, 1984.

The notice of intention to appear, which will be available for inspection and copying at the OSHA Docket Office (address previously listed), must contain the following information:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issue(s) that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence, and a summary of the evidence proposed to be adduced at the hearing.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 10 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide, in quadruplicate, the complete text of the testimony including all documentary evidence to the OHSA Division of Consumer Affairs. This material will be available for inspection and copying at the Docket Office. This material must be postmarked by March 23, 1984. Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 10 minute presentation and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Conduct of the Hearing

The hearing will commence at 9:30 a.m. on April 10, 1984, in the Auditorium of the Frances Perkins Department of

Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections and comparable matters;

3. To confine the presentation to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the Judge's discretion, to question and permit questioning of any witness; and

6. In the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral procedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. Proposed Subpart K of 29 CFR Part 1926 will be reviewed in light of all testimony and written submissions received as part of the record, and a standard will be issued, or a determination will be made not to issue a rule, based on the entire record of the proceeding, including the earlier written comments and evidence received through the public.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

It is issued pursuant to Sec. 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655); Sec. 107 of the Construction Safety Act (83 Stat. 96, 40 U.S.C. 333); Secretary of Labor's Order No. 9-83 (48 FR 35736); and 29 CFR Part 1911.

Signed at Washington, D.C. this 3rd day of February, 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 84-3478 Filed 2-8-84; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status and Critical Habitat for the Fresno Kangaroo Rat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment time.

SUMMARY: The Service gives notice that the comment period on the proposed endangered status and critical habitat for the Fresno kangaroo rat will be reopened for a period of 30 days. This measure will allow an opportunity for parties that may not have originally received sufficient notification of the proposal to provide comments to the Service.

DATES: Comments must be received by March 12, 1984. Public hearing requests will be accepted until this date.

ADDRESSES: Comments and materials should be sent to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection during normal business hours, by appointment, at this address.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur at the above address, (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

In the **Federal Register** of November 21, 1983 (48 FR 52608-52611), the Service proposed to determine endangered status and critical habitat for the Fresno kangaroo rat. This small, hopping mammal is restricted to the native grasslands of Fresno County in the San Joaquin Valley of California. From 1938 to 1981, over 90 percent of the approximately 100,000 acres of these grasslands was destroyed by agricultural development, and a recent survey found only about 857 acres to be actually occupied by the kangaroo rat.

The Endangered Species Act of 1973, as amended, requires a number of notifications with respect to proposed regulations. Among others, these requirements include publishing a summary of the proposal in a newspaper of general circulation in each area of the United States in which the involved species occurs. Because of a problem in mail routing, the relevant summary on the Fresno kangaroo rat proposal was not published. As a consequence, persons who might have received notice of the proposal through the newspaper summary were not given sufficient time to submit comments. Therefore, the Service now reopens the comment period for 30 days. The newspaper summary will be published promptly upon appearance of this notice in the **Federal Register.**

Author

The primary author of this notice is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: January 31, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-3484 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status and Critical Habitat for the Key Largo Woodrat and Key Largo Cotton Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list two small mammals, the Key Largo woodrat and the Key Largo cotton mouse, as endangered and to determine their critical habitat. Both species are endemic to Key Largo, Monroe County, Florida. Destruction of tropical hardwood hammock forest, to which these rodents are restricted, is a threat to their continued existence. Forest vegetation is being reduced by residential and commercial development on north Key Largo. Almost all of the Key Largo woodrat and cotton mouse populations are on private land where further habitat destruction is imminent. Both species have already been listed as endangered through an emergency rule, but that rule will expire on May 18, 1984, and permanent protection by the Endangered Species Act is now required. The Service seeks data and comments from the public on this proposal.

DATES: Comments from the public and the State of Florida must be received by April 9, 1984. Public hearing requests must be received by March 26, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field

Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David Wesley, Endangered Species Field Supervisor, at the above address (907/791-2580 or FTS 946-2580).

SUPPLEMENTARY INFORMATION:

Background

The Key Largo woodrat (*Neotoma floridana smalli*) was described by Sherman (1955). It is the southernmost subspecies of woodrat in the U.S., and is separated by a 150-mile gap from other Florida woodrat (*N. f. floridana*) populations. The Key Largo cotton mouse (*Peromyscus gossypinus allapaticola*) was described by Schwartz (1952). Both the woodrat and cotton mouse are endemic to Key Largo, Monroe County, Florida. Both species were introduced to Lignum Vitae Key, Monroe County, Florida in 1970. The woodrat has apparently flourished on Lignum Vitae Key, a State preserve, and may have reached the carrying capacity of the available habitat on this 90-hectare (220-acre) key. The status of the cotton mouse on Lignum Vitae Key is unknown. The Florida Department of Parks and Recreation had considered relocating the woodrat and cotton mouse from Lignum Vitae Key, because neither species is native there. No such translocation efforts are presently planned, however.

On May 19, 1980, Dr. Stephen R. Humphrey of the Florida State Museum, Gainesville, Florida, petitioned the Service to add the Key Largo woodrat and cotton mouse to the U.S. List of Endangered and Threatened Wildlife, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The petition included a status report prepared under contract to the Florida Game and Fresh Water Fish Commission. Portions of the report were recently published (Barbour and Humphrey, 1982). In the **Federal Register** of July 28, 1980 (45 FR 49961-49962), the Service published a notice of petition acceptance and status review, and announced its intention to propose listing the two Key Largo rodents. In the **Federal Register** of September 21, 1983 (48 FR 43040-43043), the Service issued an emergency rule listing both species as Endangered (for details, see below under "Available Conservation Measures."

The upland areas which the woodrat and cotton mouse inhabit on north Key Largo reach an elevation of about 4 meters (13 feet). The uplands support a rich biota, including many rare plant species. The climax vegetation type is a hardwood hammock forest with close floristic affinities to the West Indies. The hammocks are restricted to upland areas because they do not tolerate the intrusion of salt water in the tidal lowland areas.

Species associated with the north Key Largo hammocks include the Schaus swallowtail butterfly (*Papilio aristodemus ponceanus*), federally threatened; and several Florida State-listed plant species: tamarindillo (*Acacia choriophylla*), powdery catopsis (*Catopsis berteroniana*), prickly apple (*Cereus gracilis* var. *simpsonii*, a cactus that the Service presently has under review (45 FR 82496) for possible listing as endangered or threatened), silver palm (*Coccothrinax argentata*), lignum-vitae (*Guaiacum sanctum*), inkwood (*Hypelate trifoliata*), mahogany mistletoe (*Phoradendron rubrum*), and brittle thatch palm (*Thrinax microcarpa*).

Tropical hardwood hammocks develop a closed canopy when they are mature, providing a more moderate, humid environment than the surrounding habitats. The Key Largo woodrat and cotton mouse are restricted to these hammocks. Tropical hardwood hammocks were originally found from Key West northward into the southern peninsula of Florida. Many of the hardwood hammocks on the peninsula, however, have been destroyed due to human activities. This habitat is one of the most limited and threatened ecosystems in Florida. The hammocks on north Key Largo represent some of the largest remaining tracts of this vegetation type.

Hersh (1981) studied the ecology of the woodrat on north Key Largo. Woodrat densities on the 5.25-hectare (13-acre) study area varied between 2 and 2.5 woodrats per hectare (0.8-1.0 woodrats per acre). Mean home range was 0.2368 hectares (0.6 acres). Each woodrat used several stick nests (about 5.6 nests per woodrat). Woodrats fed on leaves, buds, seeds, and flowers of a variety of plants.

Barbour and Humphrey (1982) found that the woodrat and cotton mouse were most abundant in mature hammocks and were rare or absent in young or recovering hammocks. Cotton mouse density was estimated to be 21.8 mice per hectare (8.8 per acre) in mature forest, but only 1.2 per hectare (0.5 per acre) in successional forest. About 466 hectares (1,150 acres) on north Key Largo were occupied by woodrats. The average density of nests was 7.7 per hectare (3.1 per acre). The total woodrat population was estimated to be 654 individuals.

Both studies recommended protection of hammock forest habitat if the Key Largo woodrat and cotton mouse were to survive on north Key Largo.

Summary of Factors Affecting the Species

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 (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments to the Act) set forth the procedures for adding species to the Federal lists. The Secretary of the Interior shall determine whether any species is an endangered or a 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 the Key Largo woodrat and cotton mouse are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The native range of the Key Largo woodrat and cotton mouse is Key Largo, Monroe County, Florida. Both species are dependent on tropical hardwood hammock forest. The rodents are presently found only on 1,150 acres of the northern portion of Key Largo, where most of the remaining hardwood hammocks occur. Increased protection for mangroves and wetlands in Florida has moved development pressure to the much more limited upland areas where tropical hammocks occur. The remaining hammocks of north Key Largo are the proposed sites for a large number of residential developments. Intensive development in the Keys generally results in destruction of the hammock ecosystem, even though individual large trees may be preserved. The Florida Keys Aqueduct Authority is presently completing a new pipeline to the Keys. A spur of the pipeline now extends into north Key Largo, and increased availability of water is expected to accelerate the rate of residential, commercial, and recreational development. The Florida Keys Electric Cooperative has requested a loan from the Rural Electrification Administration for construction of a substation to provide increased electrical delivery on northern Key Largo. Up to 6,000 new residential units could be served by this system. Therefore, accelerated development would likely result and a substantial part of the habitat of the Key Largo woodrat and cotton mouse would probably be lost.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* Monroe County Ordinance 18-1975 for Site Clearing and Tree Protection recognizes the uniqueness and fragility of the tropical hardwood hammocks in the Keys and regulates clearing of the hammocks. Numerous violations of the Ordinance have occurred, however, and penalties have been small enough that they are not necessarily a deterrent to potential violators. More importantly, the ordinance does not specifically protect the integrity of hammocks, but instead emphasizes the protection of individual large trees. The Key Largo woodrat and cotton mouse are considered endangered by the State of Florida (Chapter 39-27.03 of the Florida Administrative Code), but this legislation does not protect the habitat of these species.

E. *Other natural or manmade factors affecting its continued existence.* The Key Largo woodrat may be at the carrying capacity of the available habitat on Lignum Vitae Key. Ths status of the cotton mouse on this key is presently unknown. Should these species be removed from Lignum Vitae Key, where they are not native, it would be difficult to locate sufficient suitable habitat to introduce them into.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires the Secretary, to designate the "critical habitat" of a species, concurrent with listing, "to the maximum extent prudent and determinable." The Act defines critical habitat as: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of 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 (ii) specific areas outside the geographical area occupied by the 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.

The proposes critical habitat of the Key Largo woodrat and cotton mouse consists of approximately 810 hectares (2,000 acres) of uplands on north Key Largo which support tropical hardwood hammock, disturbed hammock, and transition (between hammock and mangrove) vegetation. Within this overall zone, currently suitable habitat is fragmented, not continuous. Neither is the area currently occupied by the species continuous. The proposed critical habitat includes about 344 hectares (850 acres) not now occupied by the woodrat or cotton mouse, but which are essential to the conservation of the species. Section 3(3) of the Act defines "conservation" as the use of all methods and procedures necessary to bring a protected species to the point where the Act's protections are no longer necessary. The areas within the proposed critical habitat not currently occupied include many disturbed tracts that formerly provided habitat for the two mammals, and that will again become suitable as the hammock vegetation recovers and matures. If these tracts are not protected, the range of the mammals would become excessively and permanently fragmented. If the population in any one segment of the current range were to be eliminated by fire, storm, disease, predation, or some other factor, that population could not be replaced by natural movement of animals from another segment. Such fragmentation and loss of potential habitat would ensure that woodrat and cotton mouse numbers remained small and highly vulnerable, and that recovery would not be possible. The unoccupied portion of the proposed critical habitat also includes tracts of transition vegetation adjacent to the hammocks. These tracts protect the shallow-rooted hammock trees from blowdowns, and so are necessary to the integrity of the hammocks. Thus, the proposed critical habitat outside the current range of the species is not only essential to the recovery of the species, but is crucial to the protection of the species in their current range.

In considering designation of critical habitat, the Service is required by 50 CFR 424.12(b) to focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species involved. With respect to the Key Largo woodrat and cotton mouse, the areas designated as critical habitat satisfy all known criteria for the ecological, behavioral, and physiological requirements of the animals. These elevated forest areas, on an island covered otherwise mainly by mangrove wetlands, have sufficient drainage and vegetation to provide protective cover, a variety of tropical plants for food, and suitable sites for the terrestrial nests of the cotton mouse and the elaborate stick houses of the woodrat.

Section 4(b)(8) of the Act requires, to the maximum extent practicable, that any determination of critcal habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be affected by such designation. Activities most likely to adversely modify the critical habitat of the Key Largo woodrat and cotton mouse are the continued clearing of hardwood hammocks for residential, commercial, and recreational development. Minor adverse private activities include poaching of tropical hardwoods, dumping of trash and exotic plant debris, and setting fires.

Subsection 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. Therefore, an impact analysis will be prepared prior to the time of a final permanent rule and will be used as the basis for a decision on whether or not to exclude any area from critical habitat for the Key Largo woodrat and cotton mouse. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration. These agencies and other interested parties are requested to submit information on economic or other impacts of the proposed measure.

There are a number of Federal activities that may relate to the proposed critical habitat of the Key Largo woodrat and cotton mouse. These are described below under "Available Conservation Measures." It should be emphasized, however, that critical habitat designation does not necessarily prevent Federal activities. If appropriate, the impacts will be addressed during consultation with the Service as required by Section 7 of the Endangered Species Act, as amended. Modification, and not curtailment, of the affected Federal activity has traditionally been the result of Section 7 consultations.

Available Conservation Measures

Endangered Species regulations already published in Title 50, Section 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered wildlife species. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale any Key Largo woodrat or cotton mouse in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the U.S. Fish and Wildlife Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and for incidental takings in limited circumstances. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

This proposed rule requires Federal agencies to satisfy their statutory obligations with respect to the Key Largo woodrat and cotton mouse. Agencies will now be required, in accordance with Section 7(a)(4), to informally confer with the Service on any action that is likely to jeopardize these species or result in the destruction or adverse modification of their proposed critical habitat. Moreover, if the Key Largo woodrat and cotton mouse are ultimately added to the List of Endangered and Threatened Wildlife, Section 7(a)(2) would require Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of these species or result in the destruction or adverse modification of their critical habitat that has been determined by the Secretary (this requirement is currently in effect under the emergency rule of September 21, 1983).

A possible Federal involvement in the upland areas of north Key Largo would be the flood insurance provided by the Federal Emergency Management Agency (FEMA). Monroe County regulations qualify the area under the National Flood Insurance Program administered by this agency. Insurance is provided only for completed structures. Should this program be restricted on north Key Largo, increased risk or increased insurance costs could result. Development would be less attractive in the area.

Due to the high-cost, luxury type of development planned for north Key Largo, future loans by such Federal agencies as the Federal Housing Administration, Veterans Administration, and Small Business Administration are not considered likely. If loans were sought from these agencies, however, their availability might be affected by the need to consider the welfare of the Key Largo woodrat and cotton mouse. Some increases in costs, e.g., higher interest rates, could result. Development would continue on north Key Largo, however, without the assistance of these particular federal agencies.

The U.S. Fish and Wildlife Service is presently acquiring lands on north Key Largo for the Crocodile Lake National Wildlife Refuge. The projected size of the refuge in about 7,000 acres. At present, 203 acres have been acquired with an additional 450 acres planned for acquisition in 1983. The projected refuge boundaries include about 800 acres of the proposed critical habitat of the Key Largo woodrat and cotton mouse. Service management would preserve the hardwood hammock vegetation on these uplands. Few if any increased costs to the refuge would result from this listing action.

A previous Service consultation pursuant to Section 7 of the Endangered Species Act occurred in relation to the Farmers Home Administration (FmHA) funding of the Florida Keys Aqueduct Authority's (FKAA) new aqueduct in the Florida Keys. The Service's concern was that the new pipeline would encourage development, thereby adversely affecting listed species. FmHA entered into consultation with the Fish and Wildlife Service on February 4, 1980. The consultation involved one Endangered species, the American crocodile (*Crocodylus acutus*), and one Threatened species, the Schaus swallowtail butterfly (*Papilio aristodemus ponceanus*) on north Key Largo. A biological opinion, issued by the Service on May 29, 1980, indicated that these species would be jeopardized by the project. FmHA accepted, as a condition of its loan, a requirement to restrict water delivery on north Key Largo, thus avoiding a violation of subsection 7(a)(2) of the Endangered Species Act. The areas excluded from water delivery were within the boundaries of the Crocodile Lake National Wildlife Refuge as well as uplands of several sections of land east of the refuge. About 45 percent of the total Key Largo woodrat and cotton mouse population on north Key Largo occurs in hammocks denied water in conformity with existing biological opinion. Much of the most densely occupied habitat, however, lies outside these areas. Since the FmHA is not involved with the construction or operation of the pipeline, no future Federal involvement with this project is anticipated.

In addition, on June 27, 1983, the Rural Electrification Administration (REA) submitted to the U.S. Fish and Wildlife Service a request for immediate initiation of formal consultation on a proposed loan to the Florida Keys Electric Cooperative (FKEC) for construction of a substation to provide increased electrical delivery on northern Key Largo. Such consultation was required by Section 7 of the Endangered Species Act, as amended, because of the presence of the threatened Schaus swallowtail butterfly and the endangered American crocodile, which may be affected by the project. Subsection 7(a)(2) requires consultation to insure that Federal actions are not likely to jeopardize the continued existence of listed species or result in the destruction of adverse modification of their critical habitat.

The proposed electric delivery system, which could serve up to 6,000 new residential units, would probably have even greater adverse effects on the Key Largo woodrat and cotton mouse, which were not listed at the time consultation was initiated. These two species occur exclusively in upland hardwood hammocks, which are prime targets of development. Even though a portion of the habitat of these species lies within the authorized boundaries of the approved Crocodile Lake National Refuge, little of the upland habitat has been acquired so far, and future acquisitions are expected to proceed slowly. Moreover, most habitat of these species is outside the refuge boundaries. Increased availability of electric power would likely result in accelerated residential and commercial development both within and outside the authorized refuge boundaries. Consequently, a substantial part of the habitat of the Key Largo woodrat and cotton mouse would probably be lost, and the survival of these species would be jeopardized.

Since the Key Largo woodrat and cotton mouse were not on the U.S. List of Endangered and Threatened Wildlife at the time consultation on the REA loan was initiated, their welfare could not then be given full consideration in the consultation process. Even if a proposed rule had been issued at that time, it could not have been made final in time for such consideration to have been given, because normally: (1) The proposed rule must be published at least 90 days before the effective date of the final listing, and (2) the consultation process relative to Federal actions must be completed within 90 days of initiation. Also, if these two species were only proposed for listing, they would only be subject to subsection

7(a)(4) of the Endangered Species Act, which requires that Federal agencies informally "confer" on actions likely to jeopardize the continued existence of proposed species. Unlike the protection afforded listed species, this subsection does not legally prohibit such actions, one informal conferral has taken place, and does not prohibit agencies from making irreversible or irretrievable commitments of resources with respect to such actions. Thus, proposed species are afforded no substantive protection pursuant to the Act. Therefore, in order to insure that the welfare of the Key Largo woodrat and cotton mouse was considered in regard to the REA loan, an emergency rule determining both species as endangered was issued in the Federal Register of September 21, 1983 (48 FR 43040–43043). Consequently, the opinion issued by the Service on the REA loan indicated that the proposed electric delivery system would result in development that would jeopardize the continued survival of the two species. The emergency rule, however, will expire on May 18, 1984, and it is now necessary to propose permanent Endangered status.

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this proposed rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act. *PLF* v. *Andrus* 657 F.2d 829 (6th Cir. 1981).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly sought include:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the Key Largo woodrat and cotton mouse;

(2) The location of and the reasons why any habitat of these species should or should not be determined to be critical habitat as provided for by Section 4 of the Act;

(3) Additional information concerning the range and distribution of these species;

(4) Current or planned activities that may adversely modify the areas being considered for designation as critical habitat; and

(5) The foreseeable economic and other impacts of the critical habitat designation on Federal activities, private individuals, etc.

Final promulgation of the regulations on the Key Largo woodrat and cotton mouse will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Copies of the base map dated March 31, 1983, which sets out the critical habitat proposed by this rule, are also available at this office, in the Service's Regional Office in Atlanta, Georgia, and at the Service's Office of Endangered Species in Washington, D.C.

Author

The primary author of this proposed rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580).

References

Barbour, D. B., and S. R. Humphrey. 1982. Status and habitat of the Key Largo woodrat and cotton mouse (*Neotoma floridana smalli* and *Peromyscus gossypinus allapaticola*). J. Mamm. 63:144–148.

Hersh, S. L. 1981. Ecology of the Key Largo woodrat (*Neotoma floridana smalli*). J. Mamm. 62:201–206.

Schwartz, A. 1952. Three new mammals from southern Florida. J. Mamm. 33:381–385.

Sherman, H. B. 1955. Description of a new race of woodrats from Key Largo, Florida. J. Mamm. 36:113–120.

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, 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. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife under Mammals:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		
Mouse, Key Largo cotton	*Peromyscus gossypinus allapaticola.*	U.S.A. (Florida)	Entire	E		17.95(a)	N/A
*	*	*	*	*	*		
Woodrat, Key Largo	*Neotoma floridana smalli*	U.S.A. (Florida)	Entire	E		17.95(a)	N/A
*	*	*	*	*	*		

3. It is further proposed that § 17.95(a), *Mammals*, be amended by adding the critical habitat of the Key Largo cotton mouse after that of the Florida manatee as follows:

§ 17.95 Critical habitat—fish and wildlife.

(a) * * *

* * * * *

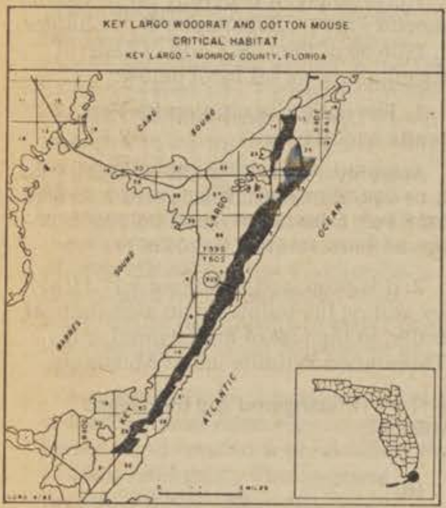
Key Largo Cotton Mouse

(*Peromyscus gossypinus allapatiola*)

Florida. Hammocks (elevated tracts of land naturally supporting hardwood vegetation), distrubed hammocks, and zones of transition between hammocks and mangrove (as designated on a base map prepared by the U.S. Fish and Wildlife Service, dated March

31, 1983, the original of which is on file at the Service's Regional Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303) constituting approximately 810 hectares within the following areas of Key Largo in Monroe County (Tallahassee meridian): Areas in T59S R40E sec. 13 west of Old State Road 905 and south of the east-west road connecting Old State Road 905 with State Road 905 south of the Ocean Reef property; areas, in T59S R40E sec. 13 and 14 west of State Road 905 and south of a line extended westward at a bearing of S89°38'W from the junction of said connecting road and State Road 905; areas in T59S R40E sec. 24 west of Old State Road 905; areas in T59S R40E sec. 24 east of Old State Road 905 and south of the fence line that forms the southern boundary of the Harbor Course section of the Ocean Reef community; areas in T59S R40E sec. 25 and 26 along the east and west sides of both State Road 905 and Old State Road 905; and areas in T59S R40E sec. 23, 34, and 35, and in T60S R40E sec. 2, 3, 9, 10, 15,, 16, 20, 21, 28, 29, and 30 along the east and west sides of State Road 905.

Within these areas, the major constituent elements that are known to require special management considerations or protection are uplands and associated tropical hardwood hammock forest trees and shrubs that provide food and cover for the Key Largo cotton mouse.



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4. It is further proposed that § 17.95(a), Mammals, be amended by adding the Critical Habitat of the Key Largo woodrat after that of the gray wolf as follows:

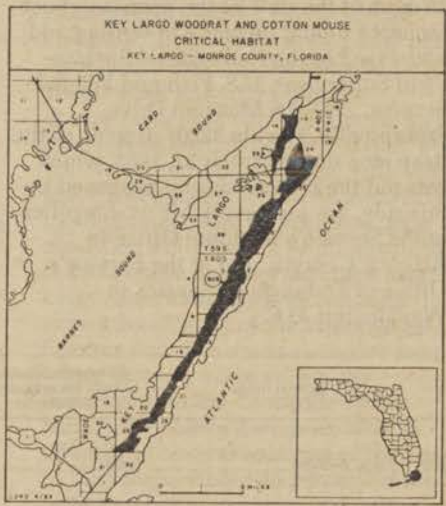
Key Largo Woodrat

(*Neotoma floridana smalli*)

* * * * *

Florida. Hammocks (elevated tracts of land naturally supporting hardwood vegetation), disturbed hammocks, and zones of transition between hammocks and mangrove (as designated on a base map prepared by the U.S. Fish and Wildlife Service, dated March 31, 1983, the original of which is on file at the Service's Regional Office, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303) within the following areas of Key Largo in Monroe County (Tallahassee Meridian): areas in T59S R40E sec. 13 west of Old State Road 905 and south of the east-west road connecting Old State Road 905 with State Road 905 south of the Ocean Reef property; areas in T59S R40E secs. 13 and 14 west of State Road 905 and south of a line extended westward at a bearing of S89°38' W from the junction of said connecting road and State Road 905; areas in T59S R40E sec. 24 west of Old State Road 905; areas in T59S R40E sec. 24 east of Old State Road 905 and south of the fence line that forms the southern boundary of the Harbor Course section of the Ocean Reef community; areas in T59S R40E secs. 25 and 26 along the east and west sides of both State Road 905 and Old State Road 905; and areas in T59S R40E secs. 23, 34, and 35, and in T60S R40E secs. 2, 3, 9, 10, 15, 16, 20, 21, 28, 29, and 30 along the east and west sides of State Road 905.

Within these areas, the major constituent elements that are known to require special management considerations or protection are uplands and associated tropical hardwood hammock forest trees and shrubs that provide food and cover for the Key Largo woodrat.



Dated: January 25, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc 84-3483 Filed 2-8-84; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31004-196]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area; withdrawal of Proposed Rule

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: NOAA by this document withdraws the proposed rule to implement Amendment 6 to the fishery management plan for the groundfish fishery in the Bering Sea and Aleutian Islands area that appeared at page 45806 in the **Federal Register** of Friday, October 7, 1983 (48 FR 45806). This rulemaking was disapproved by the Secretary of Commerce under Section 304(b)(2) of the Magnuson Fishery Conservation and Management Act on December 8, 1983 for additional analysis of the potential impacts of the action and opportunity for public review.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson (Regional Plan Coordinator, Alaska Region, National Marine Fisheries Service), 907-586-7230.

(16 U.S.C. 1801 *et seq.*)

Dated: February 3, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-3479 Filed 2-8-84; 8:45 am]

BILLING CODE 3510-22-M