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#### List of Subjects in 47 CFR Part 73

Radio Broadcasting.

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Three Lakes, Channel 229C2.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-13479 Filed 6-8-93; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 91-248; RM-7778]

#### Radio Broadcasting Services; Huntingdon, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** The Commission, at the request of Milan Broadcasting Company, Inc., licensee of Station WVHR-FM, Channel 265A, Huntingdon, Tennessee, substitutes Channel 265C3 for Channel 265A at Huntingdon and modifies Station WVHR-FM's license to specify operation on the higher powered channel. See 56 FR 41811, August 23, 1991. Channel 265C3 can be allotted to Huntingdon in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.8 kilometers (6.1 miles) northeast. The coordinates for Channel 265C3 are 36-03-00 and 88-20-00. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** July 22, 1993.

**FOR FURTHER INFORMATION CONTACT:** Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 91-248, adopted May 6, 1993, and released June 4, 1993. The full text of this Commission

decision is available for inspection and copying during normal business hours in the FCC's Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under Tennessee, is amended by removing Channel 265A and adding Channel 265C3 at Huntingdon.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93-13601 Filed 6-8-93; 8:45 am]

BILLING CODE 6712-01-M

#### DEPARTMENT OF ENERGY

48 CFR Parts 905, 915, 933, 942, 952, and 970

#### Acquisition Regulation; Miscellaneous Amendments (Number 3)

AGENCY: Department of Energy (DOE).

ACTION: Final rule; technical amendments.

**SUMMARY:** The Department is amending the Department of Energy Acquisition Regulation (DEAR) to perform "housekeeping" duties such as updating references, correcting editorial errors, and clarifying language. This rule falls under the exceptions stated in the Administrative Procedure Act to the proposed rulemaking and public procedure requirements. These corrections and changes are all technical and administrative in nature, and none of them raises substantive issues. All of these changes are summarized in the "Section-by-Section Analysis" appearing later in this document.

**EFFECTIVE DATE:** This rule will be effective July 9, 1993.

#### FOR FURTHER INFORMATION CONTACT:

Kevin M. Smith, Office of Procurement, Assistance and Program Management (PR-121), Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8189.

Laura Fullerton, Office of the Assistant General Counsel for Procurement and

Finance (GC-34), Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1900.

#### SUPPLEMENTARY INFORMATION:

I. Section-by-Section Analysis

II. Procedural Requirements

A. Regulatory Review

B. Review Under the Regulatory Flexibility Act

C. Review Under the Paperwork Reduction Act

D. Review Under Executive Order 12612

E. National Environmental Policy Act

F. Review Under Executive Order 12778

#### I. Section-by-Section Analysis

A detailed list of changes follows:

1. The authority citation for Parts 905, 915, 933, 942, and 952 is restated.

2. Section 905.403 and subsection 905.403-70 are amended to reflect an organizational name change by changing "Office of Congressional Affairs" to "Office of Congressional and Intergovernmental Affairs" wherever it appears.

3. Section 915.504 is amended for clarity at paragraph (b)(6)(i) by adding the word "with" after the word "accordance" and by adding the word "announcement" after the word "development."

4. Section 933.170 is amended to correct a citation at paragraph (a) by changing "970.4406" to "970.7107."

5. Section 942.1004 is amended to reflect a change in the office responsible for advance agreements by deleting "Oak Ridge Operations Office" and substituting "Office of Policy, Office of Procurement, Assistance and Program Management" and by deleting "Oak Ridge Operations Office, Chief, System and Cost Analysis Branch, P.O. Box E, Oak Ridge, TN 37831" and substituting "Office of Policy, Office of Procurement, Assistance and Program Management."

6. Subsection 952.250-70 is amended to correct the date of the clause by changing "(Nov 1991)" to "(Jan 1992)."

7. The authority citation for part 970 is restated.

8. Subsection 970.1509-7 is amended to correct referenced citations in paragraphs (a) and (c) by changing "915.971-5(f)" to "915.971-5(h)."

9. Subpart 970.31 is amended to correct the heading by changing the word "Costs" to "Cost."

10. Subsection 970.5204-15 is amended, at paragraph (b), second sentence, in (2), by changing the word "with" to "which," and at paragraph (c), second sentence, by changing the word "made" to "make."

11. Subsection 970.5204-55 is amended, at paragraph (c), fifth sentence, by changing the word "subcontractor" to "contractor."

12. Section 970.7103 is amended to correct a referenced citation at paragraph (c)(3) by changing "970.7103(b)(4)" to "970.7103(c)(4)."

13. Subsection 970.7104-12 is amended to correct a referenced citation at paragraph (f) by changing "970.7103(b)(5)" to "970.7103(c)(5)."

14. Subsection 970.7104-39 is amended to correct a misspelled word by changing "Mangement" to "Management."

## II. Procedural Requirements

### A. Regulatory Review

Pursuant to the January 22, 1993, Memorandum for the Heads and Acting Heads of Agencies Described in section 1(d) of Executive Order 12291, from the Director of the Office of Management and Budget (OMB), DOE submitted this Notice to the Director for appropriate review. The Director has completed his review. Separately, the Department has determined that there is no need for a regulatory impact analysis as the rule is not a major rule as that term is defined in section 1(b) of Executive order 12291.

### B. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96-354, which requires preparation of a regulatory flexibility analysis for any rule that is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

### C. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

### D. Review Under Executive Order 12612

Executive Order 12612, entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on states, on the relationship between the Federal government and the states, or in the distribution of

power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. This rule will apply to states that contract with DOE; however, none of the revisions is substantive in nature.

### E. National Environmental Policy Act

DOE has concluded that this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*) (1976) or the Council on Environmental Quality Regulations (40 CFR parts 1500-1508) and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

### F. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency subject to Executive Order 12291 to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2 (a) and (b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's rule meets the requirements of sections 2 (a) and (b) of Executive Order 12778.

### List of Subjects in 48 CFR Parts 905, 915, 933, 942, 952, and 970

Government procurement.

For the reasons set out in the preamble, chapter 9 of title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, DC, on June 4, 1993.  
Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

Chapter 9 of title 48, Code of Federal Regulations, is amended by making the following technical amendments:

1. The authority citation for parts 905, 915, 933, 942, and 952 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

### PART 905—PUBLICIZING CONTRACT ACTIONS

2. Section 905.403 (third sentence) and subsection 905.403-70 (introductory text) are amended by removing the name "Office of Congressional Affairs" and adding in its place the name "Office of Congressional and Intergovernmental Affairs" in all four occurrences.

### PART 915—CONTRACTING BY NEGOTIATION

#### Section 915.504 [Amended]

3. Section 915.504 is amended in paragraph (b)(6)(i) by adding the word "with" after the word "accordance" and by adding the word "announcement" after the word "development".

### PART 933—PROTESTS, DISPUTES, AND APPEALS

#### Section 933.170 [Amended]

4. Section 933.170 is amended in paragraph (a) by changing the citation "970.4406" to "970.7107".

### PART 942—CONTRACT ADMINISTRATION

#### Section 942.1004 [Amended]

5. Section 942.1004 is amended in the first sentence by removing "Oak Ridge Operations Office" and adding in its place "Office of Policy, Office of Procurement, Assistance and Program Management" and in the third sentence by removing "Oak Ridge Operations Office, Chief, System and Cost Analysis Branch, P.O. Box E, Oak Ridge, TN 37831." and adding in its place "Office of Policy, Office of Procurement, Assistance and Program Management."

### PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

#### Section 952.250-70 [Amended]

6. Subsection 952.250-70 (introductory text) is amended by removing "(Nov 1991)" and adding in its place "(Jan 1992)".

### PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

7. The authority citation for part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the

Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254), sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and sec. 1534 of the Department of Defense Authorization Act, 1986, Pub. L. 99-145 (42 U.S.C. 7256a), as amended.

**Section 970.1509-7 [Amended]**

8. Subsection 970.1509-7 is amended by removing "915.971-5(f)" in paragraphs (a) and (c) and adding in its place "915.971-5(h)".

**Section 970.31 [Amended]**

9. The heading of subpart 970.31 is amended by removing "Costs" and adding in its place "Cost".

**Section 970.5204-15 [Amended]**

10. Subsection 970.5204-15 is amended at paragraph (b), second sentence, in (2), by removing "with" and adding in its place "which"; and at paragraph (c), second sentence by removing "made" and adding in its place "make".

**Section 970.5204-55 [Amended]**

11. Subsection 970.5204-55 is amended at paragraph (c), fifth sentence, by removing "subcontractor" and adding in its place "contractor".

**Section 970.7103 [Amended]**

12. Section 970.7103 is amended at paragraph (c)(3) by removing "970.7103(b)(4)" and adding in its place "970.7103(c)(4)".

**Section 970.7104-12 [Amended]**

13. Subsection 970.7104-12 is amended at paragraph (f) by removing "970.7103(b)(5)" and adding in its place "970.7103(c)(5)".

**Section 970.7104-39 [Amended]**

14. Subsection 970.7104-39 is amended by removing "Mangement" and adding in its place "Management".

[FR Doc. 93-13572 Filed 6-8-93; 8:45 am]  
BILLING CODE 6450-01-P

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AB83**

**Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Four Endemic Puerto Rican Ferns**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines *Adiantum vivesii* (no common name), *Elaphoglossum serpens* (no common name), *Polystichum calderonense* (no common name), and *Tectaria estremerana* (no common name) to be endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *Adiantum vivesii* and *Tectaria estremerana* have each been reported from only one locality in the limestone hills of northern Puerto Rico. *Elaphoglossum serpens* is found at a single site in the montane dwarf forest of the summit of Cerro Punta in the central mountains. *Polystichum calderonense* is known from only two localities, Monte Guilarte Commonwealth Forest and Cerrote Pñuelas.

Threats to these ferns, depending on the species, include the potential for habitat destruction and modification, impacts from forest management, hurricane damage, and possible collection. This final rule will implement the Federal protection and recovery provisions afforded by the Act for *Adiantum vivesii*, *Elaphoglossum serpens*, *Polystichum calderonense*, and *Tectaria estremerana*.

**EFFECTIVE DATE:** July 9, 1993.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622, and at the Service's Southeast Regional Office, suite 1282, 75 Spring Street, NW., Atlanta, Georgia 30303.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marelisa Rivera at the Caribbean Field Office address (809/851-7297) or Mr. Dave Flemming at the Atlanta Regional Office address (404/331-3583).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Adiantum vivesii* was described by Dr. George R. Proctor in 1985 from specimens collected by Mr. Miguel Vives and Mr. William Estremera at Barrio San Antonio in the municipality of Quebradillas (Proctor 1989). At present, the species is only known from this locality. A single colony of an estimated 1000 plants, or growing apices, has been reported from the locality (Proctor 1991). This species occurs in a deeply shaded hollow at the base of north-facing limestone cliffs at a lower to middle elevation of approximately 250 meters.

*Adiantum vivesii* is a gregarious colonial fern with creeping, nodose, and 2.5-3.0 mm thick rhizomes. The fronds are distichous and erect-spreading,

approximately 0.5 cm apart and 45-71 cm long. The stipes or stalks are lustrous purple-black, 25-46 cm long, irregularly branched and have hairlike scales. The frond's blades are broad and irregular, 20-28 cm long, and 23-35 cm broad. The rachis and costae are more densely covered with hairlike scales than the stip. The blades have 2 or 3 alternative or sometimes subopposite pinnae, with a larger terminal one. These are lance-oblong, 13-20 cm long, and 3.5-5 cm broad. The terminal pinna may be up to 7 cm broad, stalked, and is often somewhat inequilateral. Each pinna has 10-13 pairs of alternate, narrowly oblong-falcate pinnule, which are unequally cuneate at the base. The outer sterile margins of the pinna are irregularly serrulate and the tissue is dull green on both sides. Five elliptic to linear sori are borne along the basal half of acroscopic margin and they are close or contiguous but distinct. The indusoid is gray-brown, turgid, with an erose margin (Proctor 1989).

*A. vivesii* occurs on privately owned land, and is known from only a single locality (Proctor 1991). Clearing or development of this area would result in elimination of the only known population. Also, this species could be an attractive item for collectors.

*Elaphoglossum serpens* was described by Maxon in 1947 from specimens on tree trunks at Monte Jayuya (Liogier and Martorell 1982), but the fern is now extirpated from this site due to construction of a communication facility. It was later found by Roy O. Woodbury and others on the summit of Cerro Punta (Proctor 1991). Most of the plants at the latter site have been destroyed by the construction of telecommunications towers (Proctor 1991). At present, 22 plants are known from the summit area, all occurring on the mossy trunks of only 6 trees (Proctor 1991). These trees are found in a patch of a montane dwarf forest at an elevation of about 1300 meters. This patch of forest is all that has survived the encroachment of telecommunication towers, and was badly damaged in 1989 by Hurricane Hugo (Proctor 1991).

*Elaphoglossum serpens* is an epiphytic fern with a wide-creeping, 1.5-2 mm thick rhizome. The apex and nodes bear lustrous reddish-brown scales with ciliate margins which are lanceolate to attenuate and 3-4 mm long. This species has only a few, distant, and erect fronds. Sterile fronds are 7-19 cm long and the stipes, from 3.5-11 cm in length, are usually as long or longer than the blades. The blades are ovate, 3.5-8 cm long and 2-3.5 cm broad, obtuse at the apex, cuneate at the base. The veins are free, reaching the

margins of the blades. The coriaceous tissue is opaque with only scattered scales on the abaxial side. The fertile fronds are 8.5–18 cm long, and in contrast to the sterile fronds the stipes are about three times longer than the blades. The blades are lanceolate to elliptic-oblong with rounded or blunt apex, 2.5–4.5 cm long and 1–1.5 cm broad.

*Polystichum calderonense* was described by Dr. George Proctor in 1985 from specimens collected from the summit of La Silla de Calderón, Monte Guilarte Commonwealth Forest, in the municipality of Adjuntas (Proctor 1989). A second population was found in 1987 on Cerrote de Peñuelas, in the municipality of Peñuelas, by Dr. Proctor with Dr. Haneke (Proctor 1991). At present this species is known to occur only at these two localities. The plants grow on moist, shaded, non-calcareous ledges on mountain tops at elevations of 1000–1150 meters. Fifty-seven individual plants are known from the two localities: 45 (including juveniles) on La Silla de Calderón and 12 on Cerrote Peñuelas (Proctor 1991).

Both sites were identified by Proctor (1991) as vulnerable to indiscriminate cutting or fires. In Peñuelas, the plants are on private land which may be affected by industrial or residential development.

*Polystichum calderonense* is an evergreen terrestrial fern. It has a curved-ascending, 7 mm thick rhizome which is clothed at the apex with lanceolate to oblong, curved, shining black, marginate scales up to 10 mm long. Its fronds are erect to spreading and may reach 60 cm in length. The twice-pinnate blades are lanceolate, 25–40 cm long, 6–14 cm broad, and narrowed and truncate at the apex. Blades terminate in a scaly proliferous bud which is somewhat narrowed toward the base. This species has 30–36 pairs of oblique, short-stalked pinnae. It has a characteristic 4–7 cm long and 0.9–1.3 cm broad middle pinnae, with 8–10 pairs of free pinnules. The tissue is dark green, rigid, and opaque. From 1 to 5 sori are found dorsally on the veins of each pinnule, but are not clearly arranged in rows. The sori are covered by a light brown, deciduous, thin indusium.

*Tectaria estremerana* was described by Proctor and Evans in 1984 from specimens collected by William Estremera at Barrio Esperanza, Arecibo, in the vicinity of the Arecibo Radio Telescope (Proctor 1988). This species is found in moist shaded humus on and among limestone boulders on a wooded rocky hillside at an elevation of 250–300 meters (Proctor 1989). This fern is

known only from this site, where a total of 23 individual plants were found. The site is about 200 meters south of the Arecibo Radio Telescope, and any expansion or development of the facilities may adversely affect the habitat of this endemic fern (Proctor 1991).

*Tectaria estremerana* has a woody, erect, 10–15 mm thick rhizome. The rhizome's apex bears a dense tuft of erect, brown, glabrous, narrowly deltate-attenuate scales about 15 mm long and 0.5–0.8 mm wide at the base. This fern has several loosely fasciculate, 65–80 cm long fronds. The light orange-brown stipes are shorter or nearly as long as the blades and are covered with pale jointed hairs. Scales up to 12 mm long clothe the base. The blades are oblong-ovate, 35–41 cm long, 20–25 cm broad below the middle, and acuminate at the pinnatifid apex. The rachis, the costae, and the costules are softly puberulous with articulate hairs on both sides. This fern has 3–4 pairs of free pinnae, and has several distal divisions which are more or less adnate. The basal pair of pinnae is deltate-oblong, strongly inequilateral, 12–13 cm long, coarsely lobate or subpinnatifid. The lobes are from 9 to 13 mm broad except for the larger basal basiocopic ones. Its tissue is firmly herbaceous and glabrous, but the margins are ciliate. The sori are located nearer to the midvein than the margin of the pinna-lobes.

*Adiantum vivesii*, *Elaphoglossum serpens*, *Polystichum calderonense*, and *Tectaria estremerana* were recommended for Federal listing in an interagency workshop held to discuss candidate plants in September 1988. The species were subsequently included as Category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in the February 21, 1990 (55 FR 6184) notice review. A proposed rule to list these four species was published July 14, 1992 (57 FR 31167).

#### Summary of Comments and Recommendations

In the July 14, 1992, proposed rule and associated notifications, all interested parties were requested to submit factual reports of information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were requested to comment. A newspaper notice inviting general public comment was published in the San Juan Star on August 1, 1992. Two letters of comment were received and

are discussed below. A public hearing was neither requested nor held.

The Puerto Rico Department of Natural Resources, Natural Heritage Division, supported the listing of *Adiantum vivesii*, *Elaphoglossum serpens*, *Polystichum calderonense*, and *Tectaria estremerana* as endangered species. The Department mentioned that these four plant species are currently considered critical in their Natural Diversity Inventory.

The U.S. Forest Service provided comments, but did not indicate either support or objection to listing the species.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Adiantum vivesii*, *Elaphoglossum serpens*, *Polystichum calderonense*, and *Tectaria estremerana* should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Adiantum vivesii* Proctor, *Elaphoglossum serpens* Maxon & Maxon ex Maxon, *Polystichum calderonense* Proctor, and *Tectaria estremerana* Proctor & Evans, are as follows:

##### A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Destruction and modification of habitat may be the most significant factors affecting the numbers and distribution of these four endemic ferns. Three of the species (*Adiantum vivesii*, *Elaphoglossum serpens*, and *Tectaria estremerana*) are each known from only one site, all of which are privately owned lands. The construction of communications facilities at Monte Jayuya destroyed the only other known population of *Elaphoglossum serpens*, and similar facilities encroach upon the population at Cerro Punta. It appears that this species is in extreme danger of extinction.

Although *Polystichum calderonense* occurs within the Guilarte Commonwealth Forest, this population may be affected by forest management practices. These four fern species are rare, extremely restricted in distribution, and very vulnerable to habitat destruction or modification. The

extreme rarity of these species makes the loss of any one individual even more critical.

#### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Taking for these purposes has not been a documented factor in the decline of these fern species. However, these four species may be very attractive for collectors.

#### C. Disease or Predation

Disease and predation have not been documented as factors in the decline of these species.

#### D. The Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Adiantum vivesii*, *Elaphoglossum serpens*, *Polystichum calderonense*, and *Tectaria estremerana*, are not yet on the Commonwealth list. Federal listing would provide immediate protection and, if the species are ultimately placed on the Commonwealth list, enhance their protection and possibilities for funding needed research.

#### E. Other Natural or Manmade Factors Affecting Its Continued Existence

Probably the most important factor affecting *Adiantum vivesii*, *Elaphoglossum serpens*, *Polystichum calderonense*, and *Tectaria estremerana*, is their limited distribution. The patch of forest where *Elaphoglossum serpens* is found was badly damaged in 1989 by Hurricane Hugo.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Adiantum vivesii*, *Elaphoglossum serpens*, *Polystichum calderonense*, and *Tectaria estremerana* as endangered. Only one population each of *Adiantum vivesii*, *Elaphoglossum serpens*, and *Tectaria estremerana* is known. Only two populations of *Polystichum calderonense* are known to occur. Collecting may severely impact these populations. Habitat modification, including indirect effects that alter microclimatic conditions, may dramatically affect these four endemic fern species. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not

proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these species at this time. The number of populations of *Adiantum vivesii*, *Elaphoglossum serpens*, *Polystichum calderonense*, and *Tectaria estremerana* are sufficiently small that vandalism and collection could seriously affect the survival of these species. Taking is an activity that is difficult to control, and it is only regulated by the Act with respect to endangered plants in cases of (1) removal and reduction to possession of these plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying these plants in knowing violation of any State law or regulation, including State criminal trespass law. Publication of critical habitat descriptions and maps in the Federal Register would only increase the likelihood of such activities and would not provide offsetting benefits. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting these species' habitats. Protection of these species' habitats will also be addressed through the recovery process and through the section 7 jeopardy standard.

#### Available Conservation Measures

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

required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for these four fern species, as discussed above. Federal involvement is not anticipated where the species are known to occur.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits for these four species will ever be sought or issued, since the species are not known to be in cultivation and are uncommon in the wild. Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and

Wildlife Service, 4401 Fairfax Drive, room 432, Arlington, Virginia 22203 (703/358-2104).

**National Environmental Policy Act**

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

**References Cited**

Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: a systematic synopsis. University of Puerto Rico, Río Piedras, Puerto Rico. 342 pp.  
 Proctor, G.R. 1988. Status of Puerto Rican Endemic Ferns. List presented in the Interagency Workshop on candidate plant

species. Caribbean Islands National Wildlife Refuge, Boquerón, Puerto Rico.  
 Proctor, G.R. 1989. Ferns of Puerto Rico and the Virgin Islands. The New York Botanical Garden, Bronx, New York. 389 pp.  
 Proctor, G.R. 1991. Puerto Rican Plant Species of Special Concern; Status and Recommendations. Publicación Científica Miscelánea No. 2, Departamento de Recursos Naturales, San Juan, Puerto Rico. 196 pp.

**Author**

The primary author of this proposed rule is Ms. Marelisa Rivera, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851-7297).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulations Promulgation**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal

Regulations, is amended as set forth below:

**PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Public Law 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the three new families, "Dryopteridaceae—Wood fern family", "Lomariopsidaceae—Vine fern family", and "Adiantaceae—Maidenhair family", in alphabetical order, and by adding the following entries, in alphabetical order under the three new families as indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.  
 \* \* \* \* \*  
 (h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Adiantaceae—Maidenhair family:						
<i>Adiantum vivesii</i> .....	None .....	U.S.A. (PR) .....	E	504	NA	NA
Dryopteridaceae—Wood fern family:						
<i>Polystichum calderonense</i> ..	None .....	U.S.A. (PR) .....	E	504	NA	NA
<i>Tectaria estremerana</i> ..	None .....	U.S.A. (PR) .....	E	504	NA	NA
Lomariopsidaceae—Vine fern family:						
<i>Elaphoglossum serpens</i> ..	None .....	U.S.A. (PR) .....	E	504	NA	NA

Dated: May 7, 1993.  
 Richard N. Smith,  
 Acting Director, Fish and Wildlife Service.  
 [FR Doc. 93-13517 Filed 6-8-93; 8:45 am]  
 BILLING CODE 4310-55-M

**DEPARTMENT OF COMMERCE  
 National Oceanic and Atmospheric Administration  
 50 CFR Part 630**

[Docket No. 910640-1140; I.D. 060393B]

**Atlantic Swordfish Fishery**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.  
**ACTION:** Closure of the Atlantic swordfish drift gillnet fishery.

**SUMMARY:** NMFS closes the drift gillnet fishery for swordfish in the Atlantic

Ocean, including the Gulf of Mexico and Caribbean Sea. NMFS has determined that the first semi-annual quota for swordfish that may be harvested by drift gillnet will be reached on or before June 14, 1993. This closure is necessary to prevent the catch of swordfish by drift gillnet vessels from exceeding the quota.

**EFFECTIVE DATE:** Closure is effective 0001 hours, local time, June 15, 1993, through 2359 hours, local time, June 30, 1993.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Stone, 301-713-2347.

**SUPPLEMENTARY INFORMATION:** The Atlantic swordfish fishery is managed

under the authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*).

The implementing regulations at 50 CFR 630.24(b)(1)(i)(A) establish a quota of 47,583 pounds (21,584 kg) of swordfish that may be harvested by drift gillnet during the period January 1 through June 30, each year. Under 50 CFR 630.25(a), NMFS is required to close the drift gillnet fishery for swordfish when its quota is reached, or is projected to be reached, by filing a notice with the Office of the Federal Register at least 8 days before the closure is to become effective.

Based on the current level of swordfish catch by drift gillnets and historic data on catch per set for June,

NMFS has determined that the drift gillnet quota for the January 1 through June 30 period will be reached on or before June 14, 1993. Hence, the drift gillnet fishery for Atlantic swordfish is closed effective 0001 hours, local time, June 15, 1993, through 2359 hours, local time, June 30, 1993, when a new semi-annual quota becomes available. NMFS may adjust the July 1 through December 31, 1993, drift gillnet quota to reflect actual catches made in the January 1 through June 30, 1993, semi-annual period as specified in 50 CFR 630.24.

During this closure of the drift gillnet fishery: (1) A person aboard a vessel using or having aboard a drift gillnet may not fish for swordfish from the North Atlantic swordfish stock; (2) no more than two swordfish per trip may be possessed in the North Atlantic

Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat.; and (3) no more than two swordfish per trip may be landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

#### Classification

This action is required by 50 CFR 630.25(a) and complies with E.O. 12291.

#### List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements, Treaties.

Dated: June 4, 1993.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 93-13616 Filed 6-4-93; 3:53 pm]

BILLING CODE 3510-22-M