

§ 806.40 Public availability of reports.

(a) Any report submitted under this part is available for public disclosure in accordance with part 20 of this chapter.

(b) Before public disclosure of a report, FDA will delete from the report:

(1) Any information that constitutes trade secret or confidential commercial

or financial information under § 20.61 of this chapter; and

(2) Any personnel, medical, and similar information, including the serial numbers of implanted devices, which would constitute a clearly unwarranted invasion of personal privacy under § 20.63 of this chapter; provided, that except for the information under § 20.61

of this chapter, FDA will disclose to a patient who requests a report all of the information in the report concerning that patient.

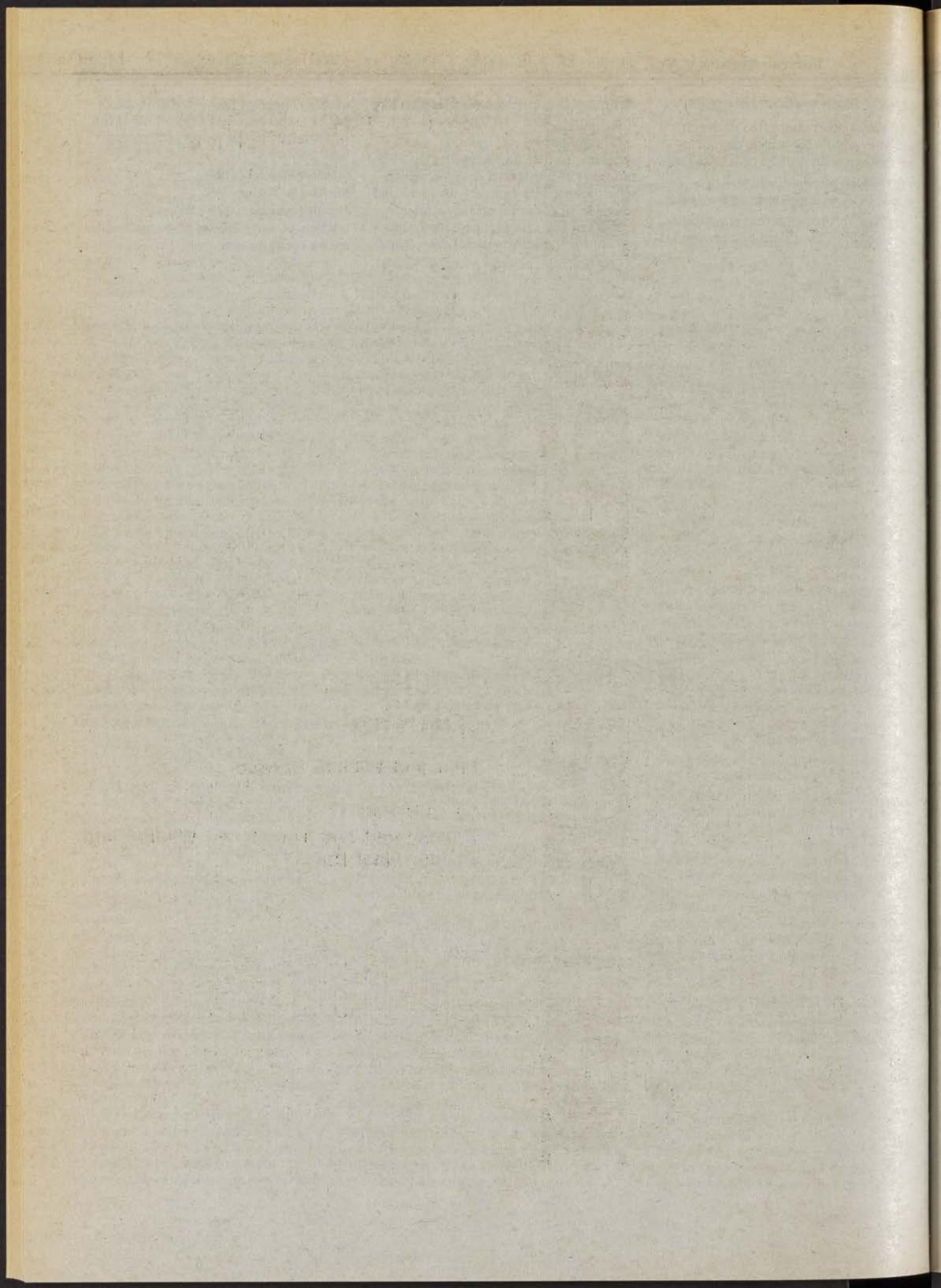
Dated: March 17, 1994.

Michael R. Taylor,

*Deputy Commissioner for Policy.*

[FR Doc. 94-6691 Filed 3-22-94; 8:45 am]

BILLING CODE 4160-01-P



# federal register

Wednesday  
March 23, 1994

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## Part VI

# Department of the Interior

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## Fish and Wildlife Service

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### 50 CFR Part 17

### Endangered and Threatened Wildlife and Plants; Final Rules

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

RIN 1018-AC41

**Endangered and Threatened Wildlife and Plants; Reclassification of the Sacramento River Winter-Run Chinook Salmon From Threatened to Endangered Status**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The Service is reclassifying the Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) from threatened to endangered status. This measure, required by the Endangered Species Act of 1973 (Act), reflects a final determination of endangered status by the National Marine Fisheries Service, which has jurisdiction for the Sacramento River winter-run chinook salmon.

**EFFECTIVE DATE:** March 23, 1994.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jamie Rappaport Clark, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop 452, Arlington, Virginia 22203 (703/358-2171).

**SUPPLEMENTARY INFORMATION:** Under the Endangered Species Act (16 U.S.C. 1531 et seq.), and in accordance with Reorganization Plan No. 4 of 1970, the National Marine Fisheries Services (NMFS), National Oceanic and Atmospheric Administration, Department of Commerce, is responsible for the Sacramento River winter-run chinook salmon. Under section 4(a)(2)(A) of the Act, NMFS must decide whether a species under its jurisdiction should be changed in status from a threatened species to an endangered species. The Fish and Wildlife Service (FWS) is responsible for the actual addition of a species to the List of Endangered and Threatened Wildlife in 50 CFR 17.11(h).

NMFS published its determination of endangered status for the Sacramento River winter-run chinook salmon on January 4, 1994 (59 FR 440). Accordingly, the FWS is revising the status of the Sacramento River winter-run chinook salmon from threatened to endangered on the List of Endangered and Threatened Wildlife. Because this action of the FWS is nondiscretionary, and in view of the public comment period provided by NMFS on the proposed reclassification (June 19, 1992;

57 FR 27416), the FWS finds that good cause exists to omit the notice and public comment procedures of 5 U.S.C. 553(b) and to make this action effective on March 23, 1994.

**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).

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

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, and Transportation.

**Regulation Promulgation**

Accordingly, part 17, subchapter B of chapter 1, 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; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

**§ 17.11 [Amended]**

2. Section 17.11(h) is amended by revising the entry under FISHES for "Salmon, chinook" for the vertebrate population that reads "Sacramento R. (U.S.A.—CA) winter run, wherever found" to read "E" under "Status" and to read "383E, 407, 534" under "When listed."

Dated: February 28, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94-6789 Filed 3-22-94; 8:45 am]

BILLING CODE 4310-55-P

**50 CFR Part 17**

RIN 1018-AB66

**Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant *Ipomopsis Sancti-Spiritus* (Holy Ghost *Ipomopsis*)**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines the plant *Ipomopsis sancti-spiritus* (Holy Ghost *ipomopsis*) is an endangered species, under the authority of the Endangered Species Act of 1973 (Act), as amended. This species occurs at a single location in the Sangre de Cristo Mountains, San Miguel County, New Mexico. Its survival is threatened by limited distribution, low plant numbers, the proximity of development, and intensity of human activity in the area. Potential threats include road maintenance, chemical herbicide and pesticide use, biological pest controls, and any natural or manmade factors that would reduce the already low numbers or significantly alter the habitat. This action will implement Federal protection provided by the Act for Holy Ghost *ipomopsis*. Critical habitat is not being designated.

**EFFECTIVE DATE:** April 22, 1994.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the New Mexico Ecological Services Field Office, U.S. Fish and Wildlife Service, 3530 Pan American Highway NE., suite D, Albuquerque, New Mexico 87107.

**FOR FURTHER INFORMATION CONTACT:** Philip Clayton, at the above address (505/883-7877).

**SUPPLEMENTARY INFORMATION:**

**Background**

*Ipomopsis sancti-spiritus* (Holy Ghost *ipomopsis*) is an erect, biennial to short-lived perennial plant, known only from the Sangre de Cristo Mountains of San Miguel County, in north central New Mexico. It was first collected by Dr. Edward F. Castetter in 1929. Mr. Reggie Fletcher, U.S.D.A. Forest Service, collected the species in 1977. Wilken and Fletcher (1988) later described the plant as a species distinct from the closely related *Ipomopsis aggregata*.

The Holy Ghost *ipomopsis* is a member of the phlox family (Polemoniaceae). It is 30-80 centimeters (cm) (12-31 inches (in)) tall, with mostly solitary stems, occasionally branched from the base. The leaves are oval in outline, 3-6 cm (1-2.4 in) long, with 9-15 linear divisions. The basal leaves form a loose to compact rosette that dies back at flowering. The leaves are gradually reduced in size up the length of the stem. The flowers are tubular, pink, and about 2-2.5 cm (0.8-1 in) long. The stamens do not extend beyond the corolla tube.

The Holy Ghost *ipomopsis* occurs at an elevation of approximately 2,440 meters (m) (8,000 feet (ft)). The species is found only in a 3.2-kilometer (km) (2-

mile (mi)) segment of a canyon in the Sangre de Cristo Mountains. The plants are restricted to steep, south- or southwest-facing slopes, primarily in openings under ponderosa pine (*Pinus ponderosa*), Douglas fir (*Pseudotsuga menziesii*), Gambel oak (*Quercus gambellii*), and quaking aspen (*Populus tremuloides*). The substrate is a sandy to pebbly limestone conglomerate derived from the Terrero and Espiritu Santo formations (Wilken and Fletcher 1988).

The plant grows in small openings or clearings on the forested slopes, and it is likely that fire may have played a role in the past in maintaining open habitat for this species. Plants have colonized the cut-and-fill slopes of a Forest Service road, indicating some preference for open, disturbed areas. The entire population of the Holy Ghost ipomopsis consists of approximately 1,200–2,500 plants, located on Forest Service and private lands within the boundaries of the Santa Fe National Forest. Approximately 80 percent of the population occupies the cut-and-fill slopes along a Forest Service road; the remaining 20 percent of the population occurs on the natural dry and open habitat higher up on the canyon slopes.

Most of the occupied habitat is along a Forest Service road that provides access to summer homes and Forest Service campgrounds. In this location, the plants and their habitat are vulnerable to harm from road maintenance, wildfire, fire management, and possible pesticide spraying. Surveys conducted by Forest Service personnel and New Mexico Energy, Minerals and Natural Resources Department botanists within a 24-km (15-mi) radius of the known population have failed to locate any additional populations of the species (Sivinski and Lightfoot 1991).

The Holy Ghost ipomopsis was included as a Category 2 candidate species in a February 21, 1990, notice of plants under review for classification as threatened or endangered species (55 FR 6184). Category 2 includes those taxa for which available information indicates that proposing to list them as endangered or threatened may be appropriate, but for which there are insufficient data to support listing proposals at this time. A status report was completed on the Holy Ghost ipomopsis in 1991 (Sivinski and Lightfoot 1991). This report, along with other available data, provided sufficient biological information to justify proposing to list the Holy Ghost ipomopsis as endangered. On September 22, 1992, the Service published in the *Federal Register* a proposed rule to list this species as endangered (57 FR 43682). A notice of

public hearing and reopening of the comment period was published in the *Federal Register* (58 FR 4144) on January 13, 1993, and a public hearing was held on January 27, 1993.

#### Summary of Comments and Recommendations

In the September 22, 1992, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final action on this species. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting public comment was published in the Santa Fe New Mexican on September 30, 1992. The public comment period was reopened and extended until February 23, 1993, in order to accommodate a request for a public hearing. Newspaper notices announcing the public hearing and extending the comment period were published in the Las Vegas Daily Optic on December 23, 1992, and in the Santa Fe New Mexican on January 1, 1993.

A total of 11 written comments were received within the proposed rule comment period. One Federal agency and one State agency supported the proposal. Of the four individuals who commented on the proposal, three supported it and one opposed it. Five private organizations commented on the proposal; three supported it, one opposed it, and one was neutral.

A public hearing was requested by Mr. Bert Turner, President of the Mora/San Juan County Farm and Livestock Bureau, Wagon Mound, New Mexico. The hearing was held at the Public Employees Retirement Association Building, Santa Fe, New Mexico, on January 27, 1993, with 21 people attending. Nine oral comments were presented at the hearing. One comment was supportive, three were in opposition, and five were neutral.

Written comments received during the comment period and oral statements presented at the public hearing are covered in the following summary. Comments of a similar nature or point are grouped into a number of general issues. These issues, and the Service's response to each, are discussed below.

**Issue 1: Why was the public hearing held in the middle of winter rather than in the summer, when more of the nonresident owners of the summer homes could attend and people could see the plant?**

**Response:** The Act requires that a public hearing be held promptly if

requested within 45 days after the date of publication of the proposed rule. The Service received a public hearing request on October 21, 1992, and scheduled the hearing for January 27, 1993. A delay would have violated the requirement to hold the hearing promptly and would have made it difficult to prepare a final action on the proposed rule within the 1-year deadline mandated by the Act.

**Issue 2: Why wasn't the public hearing held in Pecos, New Mexico, instead of Santa Fe, New Mexico?**

**Response:** Service policy dictates that, if requested, a public hearing will be held within the general area in which the species occurs. Santa Fe was thought to be the most convenient location for the public hearing.

**Issue 3: Why were the homeowners' association and adjacent landowners not notified about the upcoming public hearing?**

**Response:** The Act requires notification of various parties at certain stages in the rulemaking process. The Service attempts to notify all interested parties of all notices and rules and to solicit data and comments when appropriate. Notification is provided and comments solicited by correspondence, public hearings (if requested), newspaper notices, press releases, and *Federal Register* notices. Newspaper notices were published in the Las Vegas Daily Optic on December 23, 1992, and in the Santa Fe New Mexican on January 1, 1993. Both are newspapers of general circulation within the vicinity of Pecos, New Mexico. A notice of the upcoming hearing was also published in the *Federal Register* on January 13, 1993 (58 FR 4144).

In cases where numerous landowners are involved, the Service attempts to contact the major owners. The Santa Fe National Forest, which contains most of the known Holy Ghost ipomopsis plants, was notified of the public hearing. Several individuals in the local area were notified in writing of the public hearing. The former president of the homeowners' association was advised by telephone on November 30, 1992, and was later sent a letter (January 13, 1993), notifying him of the proposed listing and upcoming hearing.

**Issue 4: Is Holy Ghost ipomopsis a distinct species?**

**Response:** The senior author of the paper describing Holy Ghost ipomopsis as a species is a leading authority on the phlox family (Polemoniaceae), of which Holy Ghost ipomopsis is a member. The paper (Wilken and Fletcher 1988) was published in a peer-reviewed journal and met the general professional

requirements for naming new species. The paper has been reviewed by Service botanists and others who find no reason to doubt Wilken and Fletcher's findings. Also, Wolf et al. (1991), using electrophoretic enzyme analysis, confirmed that Holy Ghost ipomopsis is a distinct species.

**Issue 5:** Does unique flower coloration make Holy Ghost ipomopsis a distinct species?

**Response:** This species is unique among plants of the genus *Ipomopsis* in having pink-purple flowers, but even more significant are the anatomical differences. The flower's ovary and stigma are shorter in Holy Ghost ipomopsis than in any other species in the genus.

**Issue 6:** Were enough field surveys conducted to determine that Holy Ghost ipomopsis has a very restricted distribution?

**Response:** Wilken and Fletcher (1988) surveyed within a 24-km (15-mi) radius of the known locality for this species in July 1986, but failed to locate additional plants. Dr. Wilken visited the area and adjacent areas at least three times in 1987, 1989, and 1990, but failed to locate additional plants in similar habitats in either the Pecos River drainage or adjoining drainages in eastern Santa Fe County, southeastern Taos County, or western San Miguel County (Dieter Wilken, Colorado State University, *in litt.*, 1992). He also conducted an exhaustive search of U.S. herbaria and failed to locate any additional collections of this species. The State of New Mexico (Sivinski 1991) also surveyed for Holy Ghost ipomopsis but failed to find additional plants. The Service believes sufficient searches have been made to confirm that Holy Ghost ipomopsis is a very rare species. However, the Service also believes that other natural populations may be found and will likely recommend additional searches as part of the recovery program for the species.

**Issue 7:** Two other possible populations of Holy Ghost ipomopsis were mentioned at the public hearing, one between Glorieta and Pecos, New Mexico, and one near the Grand Canyon in Arizona.

**Response:** The Service relies on the best available biological information when determining to propose or list a species as endangered or threatened. No reference to either of these populations was available in the literature or through contacts with botanists who are familiar with the species. The State of New Mexico surveyed between Glorieta and Pecos during the summer of 1993, but no Holy Ghost ipomopsis was found (Robert Sivinski, New Mexico Energy,

Minerals and Natural Resources Department, pers. comm., 1993). There is no way to verify the location or the identity of the plant from the Grand Canyon. However, Arizona has been botanically explored for at least 100 years, and if Holy Ghost ipomopsis did occur there, it is likely that a specimen would have been collected, deposited in a herbarium, and then noted during Dr. Wilken's examination of herbarium specimens.

**Issue 8:** Is *Bacillus thuringiensis* (BT) a threat to Holy Ghost ipomopsis?

**Response:** The biological pest control BT is commonly used for outbreaks of spruce budworm. Both the U.S. Forest Service and the State of New Mexico (Forestry and Resources Conservation Division of the Energy, Minerals and Natural Resources Department) have used BT to control spruce budworm in New Mexico. Because of the anatomical characteristics of its flowers, Holy Ghost ipomopsis is thought to be pollinated by various moths and butterflies, which are highly susceptible to BT. Elimination of these pollinators could reduce seed production and seedling recruitment, and contribute to a decline in the population and range of Holy Ghost ipomopsis.

**Issue 9:** The Forest Service's use of BT, a biological pest control, was listed as a primary threat to Holy Ghost ipomopsis in the proposed rule, yet no such activities have taken place on the Santa Fe National Forest for over 25 years.

**Response:** One commenter stated that the area was sprayed with BT in the 1980's. Although the Forest Service has no current plans to use BT, the potential to destroy the lepidopteran pollinators for Holy Ghost ipomopsis still exists. The State of New Mexico has also been involved in spraying BT for control of spruce budworm infestation on private property in New Mexico.

**Issue 10:** How will the listing of Holy Ghost ipomopsis restrict recreation, wilderness and campground access, or existing cabin leases in the area?

**Response:** The Service believes that listing will have little, if any, impact on recreation, wilderness and campground access, and cabin leases. The Service will work with the Forest Service to minimize possible adverse impacts to the species from human activities in Holy Ghost ipomopsis habitat.

**Issue 11:** Listing the Holy Ghost ipomopsis will not provide any more protection for this species than it already receives under Forest Service management.

**Response:** Holy Ghost ipomopsis is currently protected under the State of New Mexico Endangered Plant Species

Act (75-6-1 NMSA) and is on the U.S. Forest Service's Sensitive Species List. Even so, it does not have the same degree of protection and management as a federally listed species. Listing under the Endangered Species Act promotes recovery through the development and implementation of a recovery plan, provides additional management opportunities by drawing attention to the species and its habitat requirements, creates the requirement for interagency consultation through the section 7 process, and makes it illegal, with possibly severe penalties, to maliciously damage, destroy, or remove and possess plants from lands under Federal jurisdiction.

**Issue 12:** A commercial nursery has Holy Ghost ipomopsis under cultivation.

**Response:** Apparently, propagation material was obtained several years ago by a commercial grower of native plants. Nursery propagation of this material could provide a commercial source for Holy Ghost ipomopsis plants, and thus help conserve this species by discouraging the collection or digging of plants from wild populations. Propagation knowledge gained by the commercial grower may be of considerable value in establishing a refugial population or in reestablishing populations in natural habitat within the species' historic range.

**Issue 13:** Critical habitat should be designated and an economic analysis should be done. Although critical habitat was not proposed for Holy Ghost ipomopsis because of a perceived threat from overcollection that could be worsened by publication of critical habitat locality maps, this species can be located from available information.

**Response:** Overcollection of plants with unusual coloration or showy flowers is a real threat. Horticulturists and rare plant enthusiasts are constantly looking for new plants for commercial use. Locality information for this species is available in the scientific literature; however, the Service does not wish to attract additional or undue attention to the exact location of Holy Ghost ipomopsis populations by publication of maps in the Federal Register. An analysis of economic impacts is required for critical habitat designation, but cannot be considered for the species' listing itself. Nor can a decision not to list a species be based on economic considerations. A decision not to list a species or to delist a species can only be made if the Service determines, based on the best scientific and commercial information available, that listing is not warranted. Because the Service has determined that critical

habitat designation is not prudent, no economic analysis is required.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that Holy Ghost ipomopsis should be classified as an endangered species. Procedures found at section 4(a)(1) of the 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 *Ipomopsis sancti-spiritus* Wilken and Fletcher (Holy Ghost ipomopsis) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Holy Ghost ipomopsis occurs in an area that has been heavily used for recreation for at least the last 50 years. This use includes approximately 36 recreation cabins and a Forest Service campground. A nearby trout stream receives significant use by anglers. These high-use recreational values have been protected by the almost complete exclusion of timber harvests and forest fires. As the forest has become more mature and natural openings less numerous, the majority of the known population of the Holy Ghost ipomopsis has become associated with the manmade disturbance associated with the Forest Service road.

Road maintenance poses a potential threat to the species. An example is a nearby Forest Service road that was graveled using crushed waste rock from an abandoned mine. The sulfides in this mine waste created highly acid road runoff that killed the surrounding vegetation. If this or other toxic materials were used for the Forest Service road occupied by Holy Ghost ipomopsis, those portions of occupied habitat would no longer be suitable for the species. Although Forest Service roads in the area are not presently sprayed with herbicides, this type of weed control could be a future maintenance threat. The Forest Service road occupied by Holy Ghost ipomopsis was straightened and paved in 1989. The 111 plants that would have been destroyed by the activity were moved in mid-June of that year to similar habitat at Elk Mountain. None of the transplants survived.

The control of spruce budworm is a potential threat to pollinators of Holy Ghost ipomopsis. The spruce budworm

is a moth larva that can defoliate large areas of spruce and Douglas fir. When infestations occur in residential areas, the State of New Mexico receives numerous requests for large area aerial broadcast of *Bacillus thuringiensis* as a pesticide. This pesticide kills not only the spruce budworm moth, but all other lepidopterans including those that serve as pollinators for the Holy Ghost ipomopsis. If this treatment were repeated for more than one year, it might have a serious impact on seed production and population recruitment for this short-lived species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No economic uses for the Holy Ghost ipomopsis are known. However, the low population numbers make the species vulnerable to harm from both scientific and non-scientific collecting. The species produces a very attractive flower, which may make the plants more likely to be picked by visitors to the canyon. If the plants become well known, there may be interest in propagating the species for commercial purposes.

C. *Disease or predation.* No significant disease or predation has been observed for this species.

D. *The inadequacy of existing regulatory mechanisms.* There is no Federal law that protects the Holy Ghost ipomopsis. The plant is protected by the New Mexico Endangered Plant Species Act. Any person wishing to collect a species listed under this Act for the purposes of scientific investigation, documenting a new population, or transplanting must first obtain a permit from the New Mexico Energy, Minerals and Natural Resources Department. The Forest Service has included the Holy Ghost ipomopsis on its Sensitive Plant Species List. The species is considered in Forest Service environmental assessments and planning. The Endangered Species Act would provide additional protection for this species through section 7 (interagency cooperation) requirements and through section 9, which prohibits malicious damage, destruction, or removal and reduction to possession of plants occurring on lands under Federal jurisdiction.

E. *Other natural or manmade factors affecting its continued existence.* Low numbers and limited distribution make this species vulnerable to extinction from natural and manmade threats. Reduction in plant numbers could reduce the reproductive capabilities and genetic potential of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past,

present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list Holy Ghost ipomopsis as endangered without critical habitat. This status is appropriate because of the species' limited distribution, low population numbers, proximity of human development, and intensity of human use of the area. Potential threats include road maintenance, habitat alteration, pesticide application, and fire suppression. Critical habitat is not being designated for the reasons discussed below.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. Pursuant to 50 CFR 424.12(a)(1), a designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. As discussed under Factor B in the "Summary of Factors Affecting the Species," Holy Ghost ipomopsis is threatened by taking, an activity that is difficult to prevent and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of listed 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 in knowing violation of any state law or regulation, including state criminal trespass law. Such provisions are difficult to enforce, and publication of critical habitat descriptions and maps would make Holy Ghost ipomopsis more vulnerable and increase enforcement problems. All involved parties and principal landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through section 7 consultation. Therefore, it would not now be prudent to determine critical habitat for Holy Ghost ipomopsis.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or

threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. 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.

Possible future Federal actions that could affect Holy Ghost ipomopsis on the Santa Fe National Forest include road construction and maintenance, aerial spraying of *Bacillus thuringiensis* to control spruce budworm infestations, and fire suppression within the habitat area.

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, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for endangered plants, the Act prohibits the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few trade permits would ever be sought or issued because Holy Ghost ipomopsis is not common in cultivation or in the wild. However, because of its beautiful and uniquely colored flowers, local demands for garden cultivation may increase as the species becomes better known. Requests for copies of the regulations on listed species and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, room 420C, 4401 N. Fairfax Drive, Arlington, Virginia 22203 (703/541-2104; FAX 703/358-2281).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, 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

- Sivinski, R., and K. Lightfoot. 1991. Status report on *Ipomopsis sancti-spiritus*. U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 17 pp.
- Wilken, D.H., and R. Fletcher. 1988. *Ipomopsis sancti-spiritus* (Polemoniaceae), a new species from northern New Mexico. *Brittonia* 40(1):48-51.
- Wolf, P.G., P.S. Soltis, and D.E. Soltis. 1991. Genetic relationships and patterns of allozymic divergence in the *Ipomopsis aggregata* complex and related species (Polemoniaceae). *American Journal of Botany* 78(4):515-526.

#### Author

The primary author of this final rule is Philip Clayton (see ADDRESSES section).

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

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

#### Regulation 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; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

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

#### § 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Polemoniaceae—Phlox family:						
<i>Ipomopsis sancti-spiritus</i>	Holy Ghost ipomopsis	U.S.A. (NM)	E	535	NA	NA

Dated: March 7, 1994.

Mollie H. Beattie,

*Director, Fish and Wildlife Service.*

[FR Doc. 94-6790 Filed 3-22-94; 8:45 am]

BILLING CODE 4310-55-P