accompany this proposed regulatory action.

F. Applicability of Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that EPA determines (1) ''Economically Significant'' as defined under Executive Order 12866 and (2) Concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to E.O. 13045, because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

G. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposal would not create new requirements but would only extend an existing mechanism to allow permitting authorities to more efficiently revise their operating permits programs. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

H. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. It does not result in any expenditure of tribal government revenue or have any impact on tribal governments because it applies only to State and local permitting programs. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Public Law 104–113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by one or more voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative Practice and Procedure, Air pollution control, Intergovernmental relations.

Dated: February 4, 2000.

Carol M. Browner,

Administrator.

[FR Doc. 00–3206 Filed 2–11–00; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL MARITIME COMMISSION

46 CFR Part 515

[Docket No. 99–23]

In the Matter of a Single Individual Contemporaneously Acting as the Qualifying Individual for Both an Ocean Freight Forwarder and a Non-Vessel-Operating Common Carrier

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rule.

SUMMARY: The Federal Maritime Commission amends its regulations

pertaining to the licensing requirements of ocean transportation intermediaries in accordance with the Shipping Act of 1984, as amended by The Ocean Shipping Reform Act of 1998. We are also republishing a certification process pertaining to drug convictions that was previously omitted.

DATES: Submit comments on the proposed rule on or before February 28, 2000.

ADDRESSES: Address comments concerning the proposed rule to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, D.C. 20573–0001.

FOR FURTHER INFORMATION CONTACT:

Austin L. Schmitt, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573–0001, (202) 523–5796

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol St., NW, Washington, DC 20573–0001, (202) 523–5740

SUPPLEMENTARY INFORMATION: On November 10, 1999, the National Customs Brokers & Forwarders Association of America (''NCBFAA'' or ''Petitioner'') filed a Petition in which it requests that the Commission issue a declaratory order confirming, pursuant to 46 CFR 515.11(c)(1999), that a single individual can act contemporaneously as the qualifying individual for both an ocean freight forwarder and a non-vessel-operating common carrier (''NVOCC''), as long as they are affiliated entities. In the alternative, NCBFAA seeks a rulemaking to amend § 515.11(c) to achieve the same result. Notice of the filing of the Petition appeared in the **Federal Register** on November 19, 1999. 64 FR 63318. No comments were received in response to the Petition. For the reasons set forth more fully below, the Commission grants NCBFAA's request to issue a Notice of Proposed Rulemaking.

Background

Effective May 1, 1999, the Commission promulgated final rules to implement changes made to the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. section 1701 *et seq.*, by the Ocean Shipping Reform Act of 1998 (''OSRA''), Pub L. 105–258, 112 Stat. 1902. In Docket No. 98–28, *Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries*, the Commission solicited comments, and ultimately published final rules at 46 CFR part 515, governing ocean transportation intermediaries (''OTIs''). *See* 64 FR 11155, March 8, 1999. OSRA essentially defines OTIs as ocean freight forwarders and NVOCCs as those terms were originally defined by the 1984 Act. Section 515.11 of the Commission's rules sets forth the requirements for obtaining an OTI license in accordance with OSRA's directive that all OTIs in the United States obtain one. Section 515.11(c) provides:

> *Affiliates of intermediaries.* An independently qualified applicant may be granted a separate license to carry on the business of providing ocean transportation intermediary services even though it is associated with, under common control with, or otherwise related to another ocean transportation intermediary through stock ownership or common directors or officers, if such applicant submits: a separate application and fee, and a valid instrument of financial responsibility in the form and amount prescribed under § 515.21. The qualifying individual of one active licensee shall not also be designated as the qualifying individual of an applicant for another ocean transportation intermediary license, except for a separately incorporated branch office.

46 CFR 515.11(c).

The Petition

In its Petition, NCBFAA asserts that it is crucial for the Commission to address this issue in a formal proceeding, contending ''the Commission appears to be administering § 515.11(c) in a manner which is fundamentally at odds with the letter and spirit of the interpretation of this provision as stated in its final rule, Docket No. 98–28.'' Petition at 2. NCBFAA argues that in its comments in Docket No. 98–28, it requested that the Commission ''specifically affirm the principle that a qualifying individual is permitted to be a corporate officer of more than a single company.'' *Id.* NCBFAA states that the basis of its request was that many OTIs are relatively small companies that have elected to provide their forwarding and NVOCC services through separate corporate entities for a variety of business reasons. NCBFAA notes that the Commission ''appeared to be sympathetic'' with this position during the rulemaking proceeding when it ''affirm[ed] that a person may be the qualifying individual for more than one company,'' and further when it added the phrase ''except for a separately incorporated branch office'' to proposed section 515.11(c). *Id.* (quoting 64 FR 11158).

NCBFAA points out that when the Commission added the ''except for a separately incorporated branch office'' language to § 515.11(c), it ''meant that separately incorporated branch offices will be permitted to have the same qualifying individuals for licensing purposes.'' *Id.* (quoting 64 FR 11158). However, NCBFAA further contends that only when OTIs were filing their license applications after the rules became effective May 1, 1999, were they informed that only applicants in a parent-subsidiary relationship would be permitted to have the same qualifying individual. NCBFAA objects to the Commission's refusal ''to allow affiliated OTIs owned by a single individual or holding company to share the same person as qualifying individual despite the fact that these corporations are controlled by the same parent and often have identical officers,'' and claims that this ''apparent departure from [the Commission's] expressed policy caught the OTI industry by surprise.'' *Id.*

In submitting its comments to Docket No. 98–28, NCBFAA maintains that it had in mind the numerous small companies that were already organized to provide forwarding and NVOCC services through separate corporate entities, and opines that these companies are the most disadvantaged by what it calls the Commission's ''present restrictive interpretation of § 515.11(c).'' Petition at 3. To remedy the problems presented by the ''except for a separately incorporated branch office'' language, NCBFAA submits that ''if a corporate applicant for an OTI license is affiliated with another applicant or licensee either as a subsidiary, parent or sibling corporation and if an individual is an officer in both entities, that person should be allowed to be the qualifying individual for both companies.'' Petition at 4.

NCBFAA believes that a clarification of the Commission's rule would be sufficient to address the problem, but in the alternative, if the Commission believes that the rule needs to be amended, it suggests amending § 515.11(c) as follows:

> The qualifying individual of one active licensee shall not also be designated contemporaneously as the qualifying individual of an applicant for another ocean transportation intermediary license, unless the entities are affiliated and the person who is to be the qualifying individual is an officer of both entities.

Further, NCBFAA suggests that the term ''affiliated'' be construed to include situations where the relevant companies are commonly controlled or where one directly controls the other. *Id.*

Discussion

At the outset, the Commission denies the Petition for a Declaratory Order, as it is not the proper forum for addressing

the issue raised here. Rule 68 of the Commission's Rules of Practice and Procedure, 46 CFR 502.68, provides that the Commission may, in its discretion, issue a declaratory order to terminate a controversy or to remove uncertainty. 46 CFR 502.68(a)(1)(1999). The rule further provides that this section shall be invoked solely for the purpose of obtaining declaratory rulings which will allow persons to act without peril upon their own view. 46 CFR 502.68(b)(1999).

We do not believe that the Petition provides sufficient information to satisfy the requirements of Rule 68. There is no controversy or uncertainty with respect to the interpretation of § 515.11(c) to be terminated or removed, respectively. Section 515.11(c) contains the express restriction that a qualifying individual of one active licensee may not be a qualifying individual for another OTI licensee, except for a separately incorporated branch office. There is no ambiguity in this proviso, particularly when it is read in conjunction with the definition of branch office:

> Branch office means any office in the United States established by or maintained by or under the control of a licensee for the purpose of rendering intermediary services, which office is located at an address different from that of the licensee's designated home office. This term does not include a separately incorporated entity.

We disagree that the Commission's interpretation of § 515.11(c) represents a departure from its expressed policy and thereby creates an ambiguity; rather, this is a matter in which the Commission took a more narrow approach in enacting § 515.11(c) than NCBFAA originally sought during the rulemaking proceeding in Docket No. 98–28. The language and interpretation of § 515.11(c) are the same as they were pre-OSRA, except for the addition of the branch office language which lessens the restrictions pertaining to qualifying individuals. In fact, NCBFAA acknowledges that this is helpful, although it does not address the problems faced by the closely affiliated entities. Petition at 2.

Nor is there a controversy within the meaning of the rule such that Petitioner is acting at peril of violating the regulations. Upon application of the criteria of the current provision, the OTIs Petitioner claims are most harmed by § 515.11(c) would be denied licenses to operate and would be so advised. Moreover, the Commission's Bureau of Tariffs, Certification and Licensing has refrained from denying licenses on this basis until the conclusion of this proceeding. Thus, there is no basis for any claim that OTIs are currently acting at some peril of violating the OTI licensing rules based on the identity of their qualifying individual. We conclude, therefore, that a declaratory order is not the appropriate mechanism for relief.

However, we believe that a Notice of Proposed Rulemaking is the proper venue for allowing the Petitioner to seek relief in the form of a proposed rule change. We are aware that since the implementation of the new rules effective May 1, 1999, some entities have been affected by this provision. Although § 515.11(c) remains largely the same as the provisions in § 510.11(c) of the Commission's pre-OSRA regulations, OSRA now requires that all OTIs in the United States, rather than only ocean freight forwarders, obtain a license. As a consequence, this provision has had a restrictive impact on those entities that are jointly held in some manner. We are especially mindful of the burden imposed on sole proprietors who operate both an NVOCC and an ocean freight forwarder. We do not want these entities to be required unnecessarily to modify their existing business structures to comply with OSRA and its implementing regulations. To that end, the Commission is issuing this notice of proposed rulemaking to broaden § 515.11(c) to allow affiliated entities to have the same qualifying individual to obtain a license under this part. We are, however, modifying the language suggested by Petitioner to effect this change.

The last sentence of § 515.11(c) currently states:

> The qualifying individual of one active licensee shall not also be designated as the qualifying individual of an applicant for another ocean transportation intermediary license, except for a separately incorporated branch office.

In its Petition, NCBFAA suggests replacing ''except for a separately incorporated branch office'' with ''unless the entities are affiliated and the person who is to be the qualifying individual is an officer of both entities.'' Petition at 4. We find that proposal to be redundant, however, because the rules already specify who may be a qualifying individual, including not only an active corporate officer or an active managing partner, but also a sole proprietor. *See* 46 CFR 515.11(b). Further, NCBFAA suggests that the term ''affiliated'' be construed to include situations where the relevant companies are commonly controlled or where one directly controls the other. Petition at 4. We prefer to make this explicit in the rule, rather than leave it open to interpretation. Thus, the Commission proposes the following amendment to the last sentence of § 515.11(c):

> The qualifying individual of one active licensee shall not also be designated as the qualifying individual of an applicant for another ocean transportation intermediary license, unless both entities are commonly owned or where one directly controls the other.

This proposal is somewhat broader than that urged by Petitioner. It encompasses not only the type of entities described by NCBFAA in support of its Petition, but also the multiple offices such as those licensed under the ''separately incorporated branch office'' provision in the current § 515.11(c). Moreover, we have incorporated into the express language of the proposed rule NCBFAA's suggestion that the rule be construed to include situations where the relevant companies are commonly controlled or where one directly controls the other, so as to prevent any misunderstanding or confusion with respect to those requirements.

In conjunction with the proposed amendment to § 515.11(c), we also at this time seek to amend the definition of ''branch office'' at 46 CFR 515.2(c), by removing the last sentence of the definition, which states that the term does not include a separately incorporated branch office. The Commission has recognized separately incorporated branch offices elsewhere in part 515, particularly with respect to licensing and financial responsibility requirements. This proposed modification should remove any potential confusion.

Other Correction

In promulgating the rules to implement OSRA in Docket No. 98–28, we inadvertently failed to carry over § 510.12(a)(2) into part 515. That section was a certification process to effect the requirements of 21 U.S.C. 862, which provides that Federal benefits shall be withheld in certain circumstances from individuals who have been convicted of drug distribution or possession in Federal or state courts. As described in the original proceeding, a license issued by the Commission is considered to be a Federal benefit. Further, if an individual is banned from receiving Federal benefits pursuant to 21 U.S.C. 862, the Commission has no discretion in the matter; this section merely establishes a practice and procedure for implementing the ban. *See* 55 FR 42193, October 18, 1990 and 59 FR 59171, November 16, 1994. Therefore, we are republishing the omitted section at this time.

Initial Regulatory Flexibility Analysis

Why the Commission Is Considering the New Rule

On November 10, 1999, the NCBFAA filed a Petition requesting that the Commission issue a declaratory order, confirming, pursuant to 46 CFR 515.11(c)(1999), that a single individual can act contemporaneously as the qualifying individual for both an ocean freight forwarder and an NVOCC, as long as they are affiliated entities. In the alternative, NCBFAA seeks a rulemaking to amend § 515.11(c) to achieve the same result. For reasons set forth more fully in the supplementary information of the proposed rulemaking, the Commission decided to grant NCBFAA's request to issue a Notice of Proposed Rulemaking.

Legal Basis and Objectives for the New Rule

Effective May 1, 1999, the Commission promulgated final rules to implement changes made to the 1984 Act, 46 U.S.C. app. § 1701 *et seq.*, by OSRA, Pub. L. 105–258, 112 Stat. 1902. *See* 64 FR 11155, March 8, 1999. Section 515.11(c) of those rules provides:

Affiliates of intermediaries. An independently qualified applicant may be granted a separate license to carry on the business of providing ocean transportation intermediary services even though it is associated with, under common control with, or otherwise related to another ocean transportation intermediary through stock ownership or common directors or officers, if such applicant submits: a separate application and fee, and a valid instrument of financial responsibility in the form and amount prescribed under § 515.21. The qualifying individual of one active licensee shall not also be designated as the qualifying individual of an applicant for another ocean transportation intermediary license, except for a separately incorporated branch office. 46 CFR 515.11(c).

Since the implementation of the new rules effective May 1, 1999, some entities have been affected by this provision. Although § 515.11(c) remains largely unchanged since OSRA's enactment, OSRA now requires that all OTIs in the United States, rather than only ocean freight forwarders, obtain a license. As a consequence, this provision has had a restrictive impact on those entities that are jointly held in some manner. The Commission is especially mindful of the burden imposed on sole proprietors who operate both as an NVOCC and an ocean freight forwarder. The Commission does not want these entities to be required unnecessarily to modify their existing business structures to comply with OSRA and its implementing regulations. To that end, the Commission is issuing a notice of proposed rulemaking to broaden § 515.11(c) to allow affiliated entities to have the same qualifying individual to obtain a license under this part.

Description of and Estimate of the Number of Small Entities to Which the New Rule Will Apply

It is estimated that the proposed rulemaking will benefit OTIs that act as qualifying individuals for both affiliated ocean freight forwarders and NVOCCs. At present, there are approximately 600 OTIs with affiliated ocean freight forwarder and NVOCC operations affected by the proposed rulemaking, including approximately 20 sole proprietorships.

Entities affected by the current rule, particularly sole proprietors, could be required to modify their existing business structures, either by (1) Merging their affiliated ocean freight forwarder and NVOCC operations, (2) creating a branch office, or (3) hiring a qualifying individual to oversee their operations. However, the Commission's Bureau of Tariffs, Certification and Licensing has refrained from denying licenses on this basis pending the conclusion of this proceeding.

Projected Reporting, Record Keeping and Other Compliance Requirements of the New Rule

The Commission is not aware of any additional reporting, record keeping or other compliance requirements as a result of the proposed rulemaking. Rather, the Commission believes that the impact of the proposed rulemaking will primarily be to benefit sole proprietorship OTIs that act as qualifying individuals for both affiliated ocean freight forwarders and NVOCCs.

The benefit of the proposed rulemaking can be measured primarily as the savings to sole proprietorships of not having to modify their business structures as described above. Moreover, the proposed rulemaking will benefit corporations and partnerships with affiliated freight forwarder and NVOCC operations by giving them greater flexibility in selecting a single qualifying individual for both organizations. However, it is not feasible to specifically quantify these benefits because individual OTI operations vary dramatically in scope and overhead.

The Chairman cannot certify that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities. However, the Commission believes that the proposed rulemaking will have no adverse impact on small entities. Further, the Commission believes that the impact of the proposed rulemaking will be to benefit OTIs that act as qualifying individuals for both affiliated ocean freight forwarders and NVOCCs.

Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the New Rule

The Commission is not aware of any other federal rules that duplicate, overlap, or conflict with the proposed rulemaking.

List of Subjects in 46 CFR Part 515

Exports, Freight forwarders, Non-vessel-operating common carriers, Ocean transportation intermediaries, Licensing requirements, Financial responsibility requirements, Reports and recordkeeping requirements.

For the reasons stated in the preamble, the Federal Maritime Commission proposes to amend 46 CFR chapter IV, subchapter B, as set forth below:

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES OF OCEAN TRANSPORTATION INTERMEDIARIES

1. The authority citation is amended to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718, Pub. L. 105–383, 112 Stat. 3411, 21 U.S.C. 862.

2. In § 515.2, revise paragraph (c) to read as follows:

§ 515.2 Definitions.

* * * * *

(c) *Branch office* means any office in the United States established by or maintained by or under the control of a licensee for the purpose of rendering intermediary services, which office is located at an address different from that of the licensee's designated home office.

* * * * *

3. In § 515.11, revise paragraph (c) to read as follows:

§ 515.11 Basic requirements for licensing; eligibility.

* * * * *

(c) *Affiliates of intermediaries.* An independently qualified applicant may be granted a separate license to carry on the business of providing ocean transportation intermediary services even though it is associated with, under common control with, or otherwise related to another ocean transportation intermediary through stock ownership or common directors or officers, if such applicant submits: a separate

application and fee, and a valid instrument of financial responsibility in the form and amount prescribed under § 515.21. The qualifying individual of one active licensee shall not also be designated as the qualifying individual of an applicant for another ocean transportation intermediary license, unless both entities are commonly owned or where one directly controls the other.

4. In § 515.12, revise paragraph (a) to read as follows:

§ 515.12 Application for license.

(a) *Application and forms.*

(1) Any person who wishes to obtain a license to operate as an ocean transportation intermediary shall submit, in duplicate, to the Director of the Commission's Bureau of Tariffs, Certification and Licensing, a completed application Form FMC–18 Rev. (''Application for a License as an Ocean Transportation Intermediary'') accompanied by the fee required under § 515.5(b). All applications will be assigned an application number, and each applicant will be notified of the number assigned to its application. Notice of filing of such application shall be published in the **Federal Register** and shall state the name and address of the applicant and the name and address of the qualifying individual. If the applicant is a corporation or partnership, the names of the officers or partners thereof shall be published.

(2) An individual who is applying for a license in his or her own name must complete the following certification:

I, (Name) , certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to 21 U.S.C. 862.

* * * * *

By the Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 00–3325 Filed 2–11–00; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF75

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Hackelia venusta (Showy Stickseed)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose endangered species status pursuant to the Endangered Species Act (Act) of 1973, as amended, for *Hackelia venusta* (Piper) St. John (showy stickseed). The species is a narrow endemic limited to one small population on unstable, granitic scree located on the lower slopes of Tumwater Canyon, Chelan County, Washington. The population has declined to the current size of less than 150 individual plants at the single location in Tumwater Canyon. Threats include competition and shading from native trees and shrubs, encroachment onto the site by nonnative, noxious plant species, wildfire and fire suppression, activities associated with fire suppression, and low seedling establishment. In the past, highway maintenance activities, such as the spreading of sand and salt during winter months and the application of herbicides, have threatened the species and may do so in the future. Reproductive vigor may be depressed because of the plant's small population size and limited gene pool. A single natural or human-caused random environmental disturbance could destroy a significant percentage of the population. This proposal, if made final, would implement the Federal protection and recovery programs of the Act for this plant.

DATES: We must receive comments from all interested parties by April 14, 2000. Public hearing requests must be received by March 30, 2000.

ADDRESSES: Send comments and materials concerning this proposal to the Manager, U.S. Fish and Wildlife Service, Western Washington Office, 510 Desmond Drive, Suite 102, Lacey, Washington 98503–1273. Comments and materials received will be available, by appointment, for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ted Thomas, (see **ADDRESSES** section), telephone 360/753–4327; facsimile 360/753–9518.

SUPPLEMENTARY INFORMATION:

Background

Hackelia venusta (showy stickseed) is a showy perennial herb of the Borage family (Boraginaceae). The plant was originally described by Charles Piper as *Lappula venusta,* based on a collection from Tumwater Canyon, Chelan County, Washington made by J. C. Otis in 1920 (Piper 1924). In 1929, Harold St. John reexamined the specimen and placed it in the related genus *Hackelia* upon recognizing that, being a perennial plant, it more properly fit with *Hackelia* than *Lappula,* a genus of annual plants (St. John 1929).

Hackelia venusta is a short, moderately stout species, 20 to 40 centimeters (cm) (8 to 16 inches (in)) tall, often with numerous, erect to ascending stems from a slender taproot. It has large, showy, five-lobed flowers that are white and reach approximately 1.9 to 2.2 cm (0.75 to 0.87 in) across. Basal leaves are 7 to 14 cm (2.8 to 5.5 in) long and 0.64 to 1.3 cm (0.25 to 0.5 in) wide, while the upper stem leaves are 2.5 to 5.1 cm (1 to 2 in) long and 0.38 to 0.64 cm (0.15 to 0.25 in) wide (Barrett *et al.* 1985). The fruit consists of a prickly nutlet, approximately 0.38 to 0.43 cm (0.15 to 0.17 in) long, and is covered with stiff hairs that aid in dispersal by wildlife. *Hackelia venusta* is morphologically uniform and is distinct from other species occurring in central Washington. It can be distinguished from other species in the genus, in part, by its smaller stature, shorter leaf length, fewer basal leaves, and the large size of the flowers. High-elevation *Hackelia* populations that have, in the past, been assigned to *Hackelia venusta* have distinct morphological features with the most obvious distinction being blue flowers. The Tumwater Canyon flowers are white, and on rare occasion, washed with blue. Other distinct morphological characteristics between the Tumwater Canyon and the high-elevation *Hackelia* populations are limb width, plant height, and radical leaf length (Harrod *et al.* 1998).

Hackelia venusta is shade-intolerant (Robert Carr, Eastern Washington University, pers. comm. 1998) and grows in openings within ponderosa pine (*Pinus ponderosa*) and Douglas-fir (*Pseudotsuga menziesii*) forest types. This vegetation type is described as the Douglas-fir zone by Franklin and Dyrness (1973, updated in 1988). *Hackelia venusta* is found on open, steep slopes (minimum of 80 percent inclination) of loose, well-drained,