

shall not be routinely granted" (47 CFR 1.46(a)), NATA has certified that copies of its motion were mailed on July 20, 1990 to all parties of record to the proceeding. The FCC has not received comments on that motion, and we are persuaded by the circumstances presented to grant NATA's request in part. Accordingly, we hereby extend the comment and reply comment period, pursuant to authority delegated in 47 CFR 0.291, as subdelegated.

DATES: The comment period for the Further NPRM is extended until August 27, 1990, and the reply comment period is extended until September 24, 1990. No further extension of time is anticipated.

ADDRESSES: Comments should be filed with the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cheilik, Domestic Services Branch, Common Carrier Bureau, (202) 634-1837.

SUPPLEMENTARY INFORMATION:

Order

In the Matter of Access to Telecommunications Equipment and Services by the Hearing Impaired and Other Disabled Persons.

Adopted: July 31, 1990.

Released: August 1, 1990.

By the Chief, Domestic Facilities Division:

Before the Common Carrier Bureau is a Motion for Extension of Time, filed by the North American Telecommunications Association (NATA) for extension of the comment period in the above captioned proceeding until August 31, 1990. NATA claims that it needs to gather information as to expected costs incurred by manufacturers, distributors and users in order to comply with the proposed hearing aid compatibility requirement. It claims that preparation of comments in this proceeding is an unusually complex task. NATA certifies that copies of its motion were served on all parties of record, and no oppositions were received. It is the Commission's policy not to grant extensions routinely. However, the short extension sought by NATA is justified in this technically complex proceeding, given its potential impact on the parties noted by NATA. Accordingly, an extension of time for the filing of comments is granted until August 27, 1990. Reply comments will be due on September 24, 1990. No further extensions of time are anticipated.

Federal Communications Commission.

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 90-18462 Filed 8-7-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN: 1018-AB42

Endangered and Threatened Wildlife and Plants; Proposal to Determine the plant, *Rhynchospora knieskernii* (Knieskern's beaked-rush), to be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a plant, *Rhynchospora knieskernii* (Knieskern's beaked-rush) as a threatened species. The species is currently known from twenty-two sites in the New Jersey Pinelands; however, many of these are small, unprotected populations. An early successful species and poor competitor, *R. knieskernii* is threatened by successional and other natural and man-induced factors affecting its wetland habitat, such as development, agriculture, and other activities influencing water quality and hydrologic regimes. This proposal, if made final, will implement the protection provided by the Endangered Species Act of 1973, as amended, for *R. knieskernii*. Critical habitat is not proposed. Comments on this proposal are solicited.

DATES: Comments from all interested parties must be received by October 9, 1990. Public hearing requests must be received by September 24, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to Supervisor, U.S. Fish and Wildlife Service, 927 North Main Street (Building E), Pleasantville, New Jersey 08232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Lynn Wilson, Fish and Wildlife Biologist (see "ADDRESSES" section) (609/646-9310).

SUPPLEMENTAL INFORMATION:

Background

The Knieskern's beaked-rush (*Rhynchospora knieskernii*), a member of the sedge family (Cyperaceae), is endemic to the Pinelands of New Jersey. Historically, thirty-eight sites were known in New Jersey. One historic Delaware site, known from a 1875 herbarium record from Sussex County, has not been relocated (Snyder and Vivian 1981). There is no specific locational information for this specimen, and some botanists question its validity,

suggesting it may actually have been collected in New Jersey (James Stasz, *in litt.*, Botanist, 1989; David Snyder, pers. comm., New Jersey Natural Heritage Program, 1989). Approximately, twenty-two sites exist today, confined to four counties (Atlantic, Burlington, Ocean, Monmouth) in southern New Jersey.

The species was first discovered by Peter D. Knieskern, M.D. in Ocean County, New Jersey in 1843 (Stone 1973) who originally labelled specimens as *Rhynchospora grayana*; however, the species description was not published until John Carey did so in 1847 (Carey 1847), naming it after Dr. Knieskern. *Rhynchospora knieskernii* is an annual species which grows from 1.5 cm to 60 cm high and is slender with short narrowly linear leaves. Clusters of small flowers are numerous and contained at intervals along the length of the culm. Fruiting occurs from July to September.

P. D. Knieskern's *Catalogue of Plants Growing Without Cultivation in Monmouth and Ocean Counties, New Jersey*, published in 1857, described *R. knieskernii* as "rare." Much of this perceived rarity stemmed from the fact that from its discovery in the 1800's up to recent years, it was thought to be restricted to bog iron deposits within pitch pine lowland swales and pine barren savannas. These bog-iron beds are iron-coated surface sediment deposits formed by the oxidation of iron-rich sediments at aerated surfaces, such as streams and wetlands. Since 1984, additional occurrences on unvegetated, muddy substrates associated with abandoned clay pits, sand pits, railroads, paths, rights-of-way, and other disturbed, early successional areas have been discovered.

Of the twenty-two extant sites, six (all on State lands) are found on bog iron substrates. Two occurrences are on Federal land: one is located on property administered by the Federal Aviation Administration in Ocean and Burlington Counties and one is located at Naval Weapons Station Earl in Monmouth County. Remaining sites are located on private property.

Rhynchospora knieskernii is a rare species due to a combination of factors. Succession, biological circumstances, as well as documented and potential human disturbance, threaten many populations. Although the species receives some protection at sites under Federal or State jurisdiction, management is needed to maintain the species as its community experiences successional changes. The species occurs in groundwater-influenced, constantly fluctuating environments and

requires disturbance for successful colonization, establishment and maintenance. However, too much disturbance may eliminate populations. Many of the habitats supporting the species are unstable or ephemeral, such as fire ruts, paths, roadsides and ditches, and rights-of-way, where competition from natural and introduced species adversely affects populations.

Populations vary in size from the smallest sites containing about a dozen plants or occupying just a few square feet of habitat to the largest site occurring in patches covering at least 2 acres. In a status survey of extant occurrences conducted in 1984 and 1985 by the New Jersey Natural Heritage Program, over half of the populations were severely reduced or not found due to severe drought. Several other sites were inundated by water and thus were not relocatable. Of the extant occurrences, only five have been ranked by the New Jersey Natural Heritage Program as "A" rank occurrences, meaning that they are considered to have long-term viability. These are all in natural bog iron habitats. All other occurrences are in man-made habitats and are considered suboptimal in terms of site quality, quantity, and protection. At least six sites are being affected by succession. Several are threatened by development and human disturbance, including trash dumping, off-road vehicle use, and trampling. Field observations by the New Jersey Natural Heritage Program suggest that not all plants produce culms each year.

Wetland habitats in the New Jersey Pinelands have historically been subject to man-induced impacts from Atlantic white-cedar and pitch pine logging, bog iron excavation, glass and paper industries, charcoal production, and more recently from residential, commercial and industrial development, sand and gravel mining, expansion of roads, rights-of-way and other infrastructure, sewage disposal, landfills, and agricultural expansion. In addition to the direct loss of habitat, succession, changes in water quality and quantity, changes in nutrient levels, disturbances of soil, etc. have contributed to the decrease in available suitable habitat (Robichaud 1980; Roman and Good 1983).

Federal government action on this plant began as a result of Section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened or extinct. This report (later published as Ayensu and DeFilipps 1978), designated as

House Document No. 94-51, was presented to Congress on January 9, 1975. *R. knieskernii* was designated as "endangered" in that document. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) of the Endangered Species Act (now section 4(b)(3)) and of its intention to review the status of plant taxa named within. On June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered pursuant to Section 4 of the Endangered Species Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received in relation to House Document No. 94-51 and the July 1, 1975, Federal Register publication.

Rhynchospora knieskernii was included in the July 1, 1975, notice of review and the June 16, 1976, proposal. General comments received in relation to the 1976 proposal were summarized in the Federal Register on April 26, 1978 (44 FR 17909). On December 10, 1978, the Service published a notice (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments to the Endangered Species Act. On December 15, 1980 (45 FR 82479) and September 27, 1985 (50 FR 99525), the Service published revised notices of review for native plants in the Federal Register. *R. knieskernii* was included in this notice as a category 1 species. Category 1 taxa are those taxa for which the Service presently has information to support a proposed rule.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *R. knieskernii*, because the 1975 Smithsonian report had been accepted as a petition. Each October, 1983 through 1989, the Service found that the petitioned listing of *R. knieskernii* was warranted but precluded by other listing actions of a higher priority.

In 1985, the Service contracted with The Nature Conservancy's Eastern Regional Office to conduct status survey work on *R. knieskernii* along with several other Federal candidate species. This report (Rawinski and Cassin 1986) updated Service informational files on

this species and reconfirmed the need for listing of *R. knieskernii*. The February 21, 1990, notice of review (55 FR 6184) retained *R. knieskernii* as a category 1 species. This proposed rule constitutes the Service's final finding on the petition, required by the Endangered Species Act, to list *R. knieskernii*.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act and regulations promulgated to implement the listing provisions of the Endangered Species Act (50 CFR part 424) set forth the procedures for adding species to the Federal Lists. 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 *R. knieskernii* Carey (Knieskern's beaked-rush) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. As an obligate hydrophyte, *R. knieskernii* is threatened by loss and degradation of its wetland habitat. The species has declined from a historic record of approximately thirty-eight sites to twenty-two extant, confined to Atlantic, Burlington, Ocean, and Monmouth Counties in southern New Jersey. Historically, the species was also known from Camden County. It is highly likely that additional sites once existed, but because the species habitat was once thought to be restricted to bog iron habitats, many habitats suitable by today's standards probably were not searched. Some New Jersey populations have been discovered using a soil-habitat predictive search (James Stasz, *in litt.*, 1989), but while additional populations may be discovered in the future, the species will probably always be considered rare.

Rhynchospora knieskernii is endemic to the Pinelands of New Jersey, an area whose history is one of repeated disturbance. Regular fires (now controlled) maintain the predominately oak/pitch pine dominated forest stands. Logging of pitch pine and Atlantic white-cedar, expansion of roads and infrastructure, bog iron works, glass making, paper industries, charcoal production, sand and gravel mining, agricultural expansion, and residential and commercial development have contributed to habitat loss and degradation in the Pinelands (Robichaud 1980; Pinelands Commission 1980). These activities have resulted in the extirpation of some species and

classification of others as endangered or threatened by the Pinelands Commission (1980); *R. knieskernii* is listed as "endangered" by the Pinelands Commission. With the advance of the casino gambling industry in southeastern New Jersey and the linking of major highways and railways to more developed parts of New Jersey and neighboring states, increased population growth is expected to lead to further reductions in suitable habitat.

Natural and man-induced succession has played a major role in the decline of the species from many sites (New Jersey Natural Heritage Program 1989) and continues to be the greatest threat to *R. knieskernii*. Pollutants such as agricultural fertilizers, pesticides, herbicides, and organic and inorganic wastes, entering streams directly or seeping through the soils to the groundwater and then to stream waters, have caused nutrient and pH changes that, in turn, have led to changes in the floral composition of the Pinelands (Pinelands Commission 1980). Nutrient influxes and sedimentation from adjacent development, landfills, sewage disposal areas, and other poorly enforced soil erosion control measures from other sources within the watershed probably serve as catalysts in increasing rates of succession by creating conditions favorable to more competitive species, such as red maple, poison ivy, honeysuckle, greenbriar, and Virginia creeper. *Rhynchospora knieskernii* occurs on unvegetated, muddy substrates of gravel, sand, or clay of ephemeral habitats such as tire tracks, paths, ditches and other disturbed areas, such as those found along powerlines, pond edges, roadsides, and railroads. Without management, these populations may decline in response to successional changes in vegetation over time. Maintenance of these habitats through mowing, pesticide applications, and conversion to other uses, could potentially impact the species; however, some form of habitat disturbance is necessary to maintain open habitat for the species. Bog iron habitats are naturally subject to erosion and other dynamic processes that tend to maintain early successional stages, although at least one of the occurrences on bog iron is susceptible to succession.

Rhynchospora knieskernii is influenced by fluctuating ground water levels. Water withdrawal from aquifers underlying the Pinelands affects the characteristic ecosystem by lowering the water table. Modification of groundwater supply as a result of adjacent withdrawal of irrigation water,

and draining and ditching of lands for agriculture and residential and commercial development has adversely affected some populations. Conversion of wetlands for commercial cranberry production may threaten populations (Rawinski and Cassin 1986).

In some cases, manmade or man-altered wetlands left undisturbed for a period of years have developed vegetative characteristics similar to that found in natural intermittent ponds and shores, and have been found to support *R. knieskernii* (Rawinski and Cassin 1986). Habitats such as rights-of-way, abandoned cranberry bogs, former bog iron, sand and gravel mining pits have produced savannahs, ponds and other wetland habitats in which rare plant species, such as *R. knieskernii* may be found. However, these disturbed wetlands tend to be ephemeral in nature and thus probably do not represent habitats conducive to the long-term survival of the species.

Restricted today to the most densely populated State in the Nation, New Jersey's growth and development continues to encroach upon remaining suitable habitat for *R. knieskernii*. Although previously direct habitat loss was a great concern, today with the enactment of wetland protection laws, it is the indirect and cumulative effects of adjacent projects and other disturbances within the watershed that most seriously threaten *R. knieskernii*. Many habitats have been rendered unsuitable due to natural succession, changes in water quality and hydrologic regimes from sediment and nutrient influxes, and colonization by opportunistic plant species. Some activities that may adversely affect the species include draining or filling of wetlands; road, bridge, and railroad construction and maintenance; pipelines, transmission lines, and other linear developments and associated rights-of-way; and other development activities that directly or indirectly affect the species or its habitat.

B. Overutilization for commercial, recreational, scientific or educational purposes. Because of its lack of aesthetic character, most collections of *R. knieskernii* have been for scientific purposes. Plants have been taken for the purpose of documenting the species range and distribution, and some sites have been subject to frequent collection in the past. While collection has been relatively low in recent years, any future collections could seriously threaten populations, especially sites consisting of only a few plants or occupying a very small area.

C. Disease or predation. Disease is not known to be a threat of existing populations. The role of herbivory has not been determined.

D. The inadequacy of existing regulatory mechanisms. New Jersey has listed *R. knieskernii* on a recently proposed Endangered Plant Species List authorized by the Endangered Plant Species List Act (N.J.A.C. 7:5C). This list provides recognition to listed plants, but does not provide regulatory protection to the species in the form of prohibitions on collection or habitat loss or degradation.

The New Jersey Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 *et seq.*) prohibits regulated activities from jeopardizing threatened or endangered species or adversely modifying the historic or documented habitat of these species, but this protection only extends to plants if they are federally listed under the Endangered Species Act. Further, the New Jersey Freshwater Wetlands Protection Act does not pertain to areas under jurisdiction of The Pinelands Commission, where *R. knieskernii* occurs.

Pursuant to the policy to preserve, protect, and enhance the diversity of plant communities through regulation of development, the Pinelands Protection Act (N.J.S.A. 13:18-1 *et seq.*) states that no development within the Pinelands shall be carried out unless it is designed to avoid irreversible adverse impacts to the survival of populations of threatened or endangered plants listed therein. *Rhynchospora knieskernii* is listed as "endangered." This Act excludes the following from the definition of development: improvements, expansion, or reconstruction of single family dwellings or structures used for agricultural or horticultural purposes; repair of existing or installation of utilities to serve existing or approved development; and, clearing of less than 1,500 square feet (not wetlands or within 200 feet of a scenic corridor). Cranberry and blueberry production are considered by the Pinelands Commission to be part of the overall culture and character of the Pinelands and thus are encouraged forms of agriculture. Withdrawal of water for production of these berries as well as the conversion of reuse of sites for production may threaten some *R. knieskernii* sites (Rawinski and Cassin 1986).

The regulations governing the Coastal Area Facility Review Act (N.J.S.A. 13:19-1 *et seq.*) state that habitat for endangered and threatened species on official Federal or State lists or under active consideration for inclusion on

either list will be considered "special areas." Development in these special areas is prohibited unless it can be shown that endangered or threatened wildlife or vegetative species habitat would not be adversely affected. Only one population of *R. knieskernii* occurs within the jurisdiction of this coastal legislation.

Existing regulations are inadequate to provide protection from deleterious disturbance, habitat loss and degradation, and biological limitations, which are major threats to the species. The New Jersey Pinelands Protection Act reduces threats to this rare species from some types of direct habitat loss, but exempts many categories of projects. Further, these regulations provide little or no protection from the indirect and cumulative impacts of adjacent projects and other deleterious disturbances within the watershed that alter water quality, hydrologic regimes, vegetative composition, and nutrient and sediment influxes.

E. Other natural or manmade factors affecting its continued existence. Changes in the water table have been associated with population fluctuations. During extremely wet periods, plants do not appear until water levels have dropped sufficiently to expose the shoreline. Similarly, during periods of drought, plants do not appear. The New Jersey Natural Heritage Program (1989) has suggested that several sites have probably been severely reduced by drought. Further, not all plants in a population produce culms each year (see Background).

At least two sites have been impacted by intense off-road vehicle use (New Jersey Natural Heritage Program 1989), which has compacted soils in some areas to the extent that the species cannot thrive. Because of its occurrence in disturbed areas, *R. knieskernii* is subject to trash dumping and trampling, which could become significant considering the low numbers of plants and small size of some populations, and the restricted distribution of the species.

Preliminary information suggests that the species requires some form of habitat manipulation to maintain the early successional habitats required for its establishment and maintenance. Natural forms of disturbance such as fires and erosion have been suppressed or controlled at many sites.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *R. knieskernii* in determining to propose this rule. Based on this evaluation, the preferred action is to list *R. knieskernii* as a threatened species. Federal listing

will provide opportunities for protection of populations from natural and man-induced habitat loss and degradation, resulting from direct, indirect, and cumulative actions in the watershed. Although documented from 22 sites, the species is in need of protection because of threats of succession and competition from other species, habitat loss and degradation, human disturbance, and other factors such as fluctuating populations, small population size, and restricted range.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary proposed to be endangered or threatened. The Service finds that the designation of critical habitat is not presently prudent for this species, because of the potential for collection and vandalism that could result from the publication of a detailed critical habitat description and map. The majority of populations are located on private property, for which there is no protection against taking. Many sites are very small in size, occupying only a few square feet, thus loss of plants from vandalism or increased collection could potentially eliminate these populations. Prohibitions on taking from areas under Federal jurisdiction will be available at only two sites. The designation of critical habitat would not provide additional benefits to populations that do not already accrue from the listing through section 7 requirements and the recovery process. The U.S. Air Force, the Federal Aviation Administration, and the U.S. Navy have been informed regarding the presence of *R. knieskernii* on their properties and of the section 7 requirements. Populations located on State land are known to the stewarding agencies, who manage and protect the sites. Therefore, it would not now be prudent to designate critical habitat for *R. knieskernii*.

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, State and private agencies, groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the states and requires that recovery actions be carried out for all listed species. Such activities are initiated by the Service

following listing. Some activities may be initiated prior to listing if circumstances permit.

Conservation and management of *R. knieskernii* will likely involve an integrated approach of site protection and habitat manipulation to maintain early successional habitats. Protection efforts will likely focus on reducing known threats, land acquisition, landowner agreements, and management of habitats to maintain conditions conducive to the species establishment and maintenance. It is also anticipated that listing will encourage research on critical aspects of the species population biology. Information regarding disturbance requirements for establishment and maintenance of populations, population fluctuations, seed production and seed banking, is needed. These factors will be important in long-term management considerations for individual populations.

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 Endangered Species 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 Endangered Species Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, 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 such species or destroy or adversely modify its critical habitat. If a Federal agency action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal actions that could affect *R. knieskernii* include the funding, authorization, and implementation of projects such as roads, railroads, bridges, sewerage and stormwater management pipes, pipelines, transmission lines and other rights-of-way, draining and filling of wetlands, and other development activities. The Service anticipates that applications for

permits issued by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act will be the most likely triggers for section 7 consultation for this species. However, the Service is not presently aware of any specific proposed projects that might affect known populations of *R. knieskernii*.

The Federal Aviation Administration administers property on which one population is located. The U.S. Air Force proposes to build a Northeast Regional Communications Facility and the Federal Aviation Administration proposes construction of a ground-to-air communication facility at this site. A second population occurs at Naval Weapons Station Earl. These agencies have been informed of the species presence and section 7 consultation requirements for activities that may affect the species. The Endangered Species Act directs Federal agencies to utilize their authorities in furtherance of the Endangered Species Act by carrying out programs for the conservation and recovery of listed species. Because maintenance and survival of populations will likely involve maintaining early successional habitats and eliminating potential threats to existing sites, the areas under Federal jurisdiction would benefit from habitat management by the respective agency.

The Endangered Species Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exemptions that apply to all threatened plants. All trade prohibitions of section (a)(2) of the Endangered Species Act, implemented by 50 CFR 17.71, 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 this species in interstate or foreign commerce, or to remove and reduce to possession this species from areas under Federal jurisdiction. Seeds from cultivated plant specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. For plants, the 1988 amendments (Pub. L. 100-478) of the Endangered Species Act also prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of listed species in knowing violation of any State law or regulation, including State criminal trespass law. Certain exemptions apply to agents of the Service and State conservation agencies. The Endangered Species Act

and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued because the species is not common in cultivation or trade. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, P.O. Box 3507, Arlington, Virginia 22203 (703/358-2093).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments are particularly sought concerning:

- (1) Biological, commercial trade, or relevant data concerning any threat (or lack thereof) to *R. knieskernii*;
- (2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Endangered Species Act;
- (3) Additional information concerning the range, distribution and population size of the species; and,
- (4) Current or planned activities that may impact existing populations.

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

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication, of the proposal. Such requests must be made in writing and addressed to Supervisor, U.S. Fish and Wildlife Service (see ADDRESSES section).

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

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- Pinelands Commission. 1980. Comprehensive Management Plan for the Pinelands National Reserve and Pinelands Area. Pinelands Commission, New Lisbon, New Jersey. 439 pp.
- Rawinski, T., and J. Cassin. 1986. Status of *Rhynchospora knieskernii*. Unpublished Report for the Fish and Wildlife Service, Newton Corner, Massachusetts. 4 pp.
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- Snyder, D., and E. Vivian. 1981. Rare and Endangered Vascular Plant Species in New Jersey. The Conservation and Environmental Studies Center, Inc. 96 pp.
- Stone, W. 1973. The Plants of Southern New Jersey. Quarterman Publications, Inc., Boston, Massachusetts. 828 pp.

Author

The primary author of this rule is Lynn K. Wilson (see "ADDRESSES" section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of the chapter I, title 50 of the Code of Federal Regulations set forth below:

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

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend 17.12(h) by adding the following, in alphabetical order under the family Cyperaceae, 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					
Cyperaceae—Sedge family:						
Rhynchospora knieskemii.....	Knieskem's beaked-rush.....	U.S.A. (NJ, DE).....	T		NA	NA

Dated: July 17, 1990.
James C. Leupold,
Acting Director, Fish and Wildlife Service.
[FR D.O.C. 90-18567 Filed 8-7-90; 8:45am]
BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Status of Three Species of Kangaroos

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status review.

SUMMARY: The Service announces (1) receipt and availability of a petition "to reinstate the ban on commercial importation of kangaroos and kangaroo products into the United States" by removal or revision of the special rule, (2) availability of a report entitled "Review of Kangaroo Management—Australia, March 1990", prepared by Service employees, and (3) a review of the status of the three species of kangaroos listed as threatened under the Endangered Species Act, i.e., *Macropus giganteus*, *Macropus rufus*, and *Macropus fuliginosus*. These species were originally listed as threatened in 1974, and in 1981, the import of kangaroos and their parts and products was allowed under provisions of a special rule on the basis of conservation benefit accruing to the species under proper Australian state management programs that were required before importation would be allowed. Comments and information related to the points presented in the petition and the report, as well as additional information on the status of these species, are solicited.

DATES: Comments and information may be submitted until November 6, 1990.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service;

Washington DC 20240. Comments and other information received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in room 750, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703-358-1708 or FTS 921-1708).

SUPPLEMENTARY INFORMATION: On December 30, 1974, the Fish and Wildlife Service (Service) listed the red kangaroo (*Macropus rufus*), the western gray kangaroo (*Macropus fuliginosus*), and all subspecies of the eastern gray kangaroo (*Macropus giganteus*) except the subspecies *M. g. tasmaniensis* as threatened under the Endangered Species Act of 1973 (the Act). The latter subspecies and seven other species of kangaroos and wallabies, as well as five species of rat-kangaroos, are classified as endangered. At the time the three threatened species were listed, the Service established a special rule that effectively placed a ban on commercial imports of kangaroos and their parts and products until effective Australian state management programs for these kangaroos were established. In April 1981, the Service lifted the import ban on these species on a trial basis. In April 1983 (48 FR 15428), the Service proposed to continue allowing kangaroos and their parts and products to be imported into the United States and to remove the three species from the List of Endangered and Threatened Wildlife. Subsequently, the Service in August 1983 (48 FR 34757), published a rule permitting the continuation of imports, but in April 1984 (49 FR 17555), withdrew its proposal to delist the three species, citing population declines associated with widespread drought in southern and eastern Australia, as the reason for withdrawal. Since that time, the kangaroo populations have essentially recovered to pre-drought numbers, and harvest quotas and actual

harvest have also increased.

The Service has continued to review the kangaroo situation as have other entities including the Congressional Research Service (CRS Report for Congress-Kangaroo Management Controversy, 1988) and the Australian Senate Select Committee on Animal Welfare (Kangaroos, 1988). Furthermore, in November 1989, the Australian National Parks and Wildlife Service and the Fish and Wildlife Service agreed to an on-site visit by Service employees.

Then, on December 20, 1989, the Fish and Wildlife Service received a petition from Greenpeace USA as filed under provisions of the Administrative Procedure Act. The petition to reinstate a ban on the commercial importation of kangaroos and kangaroo products through repeal of the special rule found in 50 CFR 17.40(a). The petition notes that the Fish and Wildlife Service has a statutory obligation to ensure conservation and protection of these three listed species. The Service determined that conservation of these species was accomplished/served with the adoption of effective Australian State management programs, but the petitioners contend that the management programs were not "devised to protect kangaroos and to ensure their role, over the entirety of their range, in the ecosystem of which they are a part", but "to legitimize commercial utilization of kangaroos". Furthermore, the petitioners contend that management programs are not adequate or effective, and specifically that (1) population data gathering and analysis are inadequate, (2) quotas are set without consideration of all relevant factors, (3) effective enforcement is lacking, especially enforcement of quota systems and monitoring of exports, and (4) management is reactive especially as it relates to changes in harvest schemes in response to droughts. The petitioners also question the withholding of information by Australian state and/or federal governments and the late