

SUMMARY: The U.S. Fish and Wildlife Service proposes to list *Ribes echinellum* (Miccosukee gooseberry), a native plant of Florida and South Carolina, as a threatened species under the authority contained in the Endangered Species Act of 1973, as amended. *Ribes echinellum* is threatened by potential recreational activities, development of its lakeshore habitat, and logging. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended, for *Ribes echinellum*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by October 30, 1984. Public hearing requests must be received by October 15, 1984.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, 75 Spring Street, S.W., Atlanta, Georgia 30303. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Ingram at the above address (404/221-3583 or FTS 242-3583).

SUPPLEMENTARY INFORMATION:

Background

Ribes echinellum was first discovered by two Florida botanists in the early spring of 1924, along the shore of Lake Miccosukee in Jefferson County, Florida (Coville, 1924). *Ribes echinellum* remained known only from this one population along the shores of Lake Miccosukee for over 30 years, until a second population was located about 200 miles northeast in McCormick County, South Carolina in 1957 (Radford, 1959). The South Carolina location is considered to represent one of the most unusual floristic assemblages in the two Carolinas (Radford and Martin, 1975). These two sites remain the only known locations for *Ribes echinellum*.

This unique plant is a shrub that reaches 1 meter in height and forms patches that often measure several meters in diameter. The plant has spiny stems and 3-lobed leaves that measure 1-2 centimeters long. The flowers are greenish white and small. The fruits are spiny and measure up to 22 millimeters in diameter.

Federal Government actions on this species began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a

report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. The Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and of its intention thereby to review the status of the 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 species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** publication. *Ribes echinellum* 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 April 28, 1978, **Federal Register** publication, which also determined 13 plant species to be endangered or threatened species (43 FR 17909). On December 10, 1979, the Service published a notice withdrawing the June 16, 1976, proposal along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82479); *Ribes echinellum* was included in that notice as a category-1 species. Category-1 species are those for which data in the Service's possession indicate listing is warranted.

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 *Ribes echinellum* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of *Ribes echinellum* was warranted, and that although other pending proposals had precluded its proposal, expeditious progress was being made to add species to the list. Notice of this finding was published in the **Federal Register** on January 20, 1984, (49 FR 2485). Publication of this proposal constitutes the next 1-year finding

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; *Ribes Echinellum* (Miccosukee Gooseberry) Proposed To Be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

requirement, which must be made by October 13, 1984.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983) 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 *Ribes echinellum* (Coville) Rehder (Miccosukee gooseberry) (Syn: *Grossularia echinella* Coville), are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Because of its localization to only two sites, *Ribes echinellum* is particularly vulnerable to any natural or man-influenced disturbance. The South Carolina population occurs on lands managed as a nature preserve by the South Carolina Wildlife and Marine Resources Department. Increased visitation by the public to this area could increase the risk of accidental destruction and trampling. Additional protection and management planning is needed at the South Carolina site; species biology research is needed to determine what type of management the *Ribes* needs. The species' continued existence is more tenuous in Florida. The Florida population is privately owned and the site has potential for lakeside development. The present owner has no plans to sell or develop the site, but subsequent owners may well choose to develop the site for homesites or recreational developments, if protection planning does not occur. Logging of the associated hardwoods and severe fire could pose additional threats to the Florida population (Milstead, 1978). It is known that logging has occurred near part of the Florida site with observed detrimental effects (Kral, 1977).

B. Overutilization for commercial, recreational, scientific, or educational purposes. Both populations of *Ribes echinellum* occur at sites (riveredge and lakeshore) that have potential for recreational use. If this recreational use is not controlled with the protection of the *Ribes* as a primary consideration,

negative impacts to the populations could result. Gooseberries and currants are cultivated for their edible fruits and for their ornamental habit and bloom. The Miccosukee gooseberry is not in demand for these purposes at present but with publicity such a demand could occur.

C. Disease or predation. None known.

D. The inadequacy of existing regulatory mechanisms. *Ribes echinellum* is afforded limited protection under Florida State law, Chapter 65-426, which includes prohibitions concerning taking, transport, and the sale of plants listed under the Florida law. South Carolina does not have a State law to protect endangered plants, but *Ribes echinellum* is indirectly protected under the Natural Area prohibitions against unauthorized plant taking. The Endangered Species Act would offer additional protection for the species.

E. Other natural or manmade factors affecting its continued existence. The small size and number of the populations cause this species to be in danger of extinction due to natural perturbations such as lightning fires or to natural fluctuations in the numbers of extant individuals.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Ribes echinellum* as threaten. With only two populations of this species known to exist it appears to warrant protection under the Act; threatened status seems appropriate since one of the sites is in State ownership. Critical habitat is not proposed for designation, as is discussed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Ribes echinellum* at this time. Gooseberries and currants are cultivated for their edible fruits and for their ornamental habit and bloom. Increased publicity and the provision of specific location information associated with critical habitat designations could result in taking pressures on the Miccosukee gooseberry. Prohibitions against taking of plants are difficult to

enforce. Taking is not prohibited by Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants from lands under Federal jurisdiction. Publication of critical habitat descriptions would make this species even more vulnerable and increase enforcement problems. Although South Carolina State law prohibits unauthorized plant taking from natural areas, drawing attention to the site could increase enforcement problems. Increased visitation at both sites stimulated by critical habitat designation could result in trampling problems. But the appropriate South Carolina land-management agency as the Florida landowner have been informed of the locations of this species and the importance of protecting *Ribes echinellum*, so no additional benefits from the notification function of a critical habitat designation would result. Therefore, it would not be prudent or beneficial to determine critical habitat for *Ribes echinellum* at this time.

Available Conservation Measures

Conservation measures provided for 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 actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking 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. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). 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. When a species is listed

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 a 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 consultation with the Service. No Federal involvement is expected or known for *Ribes echinellum*.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Ribes echinellum* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the U.S. to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appear on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The 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 since *Ribes echinellum* is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Section 4(d) allows for the provision of such protection to threatened species through regulations. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417) and it is anticipated that these will be made final following public comment. *Ribes echinellum* is not known to occur on Federal lands. However, this new protection will apply to *Ribes echinellum* once revised regulations are promulgated if this plant is ever found

on Federal lands. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

Public Comments Solicited

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

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Ribes echinellum*,

(2) The location of any additional populations of *Ribes echinellum* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

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

(4) Current or planned activities in the subject area and their possible impacts on *Ribes echinellum*.

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

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Service's southeastern Regional Director (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by 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).

Literature Cited

- Coville, F.V. 1924. *Grossularia echinella*, a spiny-fruited gooseberry from Florida. *Journal of Agricultural Research* 28:71-76.
- Kral, R. 1977. Personal communication by letter to Dr. R. R. Altevoigt (then Staff Botanist at Office of Endangered Species, Washington, D.C.) regarding the Florida population he visited in 1977.
- Milstead, Wayne L. 1978. Status report on *Ribes echinellum*. U.S. Fish and Wildlife Service, Atlanta, Georgia.
- Radford, A.E. 1959. A relict plant community in South Carolina. *Journal of the Elisha Mitchell Scientific Society* 75:35-43.
- Radford, A.E., and D.L. Martin. 1975. Potential Ecological Natural Landmarks, Piedmont Region, Eastern United States. UNC-Chapel Hill, North Carolina.

Authors

The primary authors of this proposed rule are Ms. E. LaVerne Smith and Mr. Quinn P. Sinnott, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975). Status information and a preliminary listing package were provided by Dr. Wayne C. Milstead, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order, under the family Saxifragaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Saxifragaceae—Saxifrage family:						
<i>Ribes echinellum</i>	Micosukee gooseberry.....	U.S.A. (FL, SC).....	T		NA	NA

Dated: August 13, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

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