

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That *Sarracenia oreophila* Is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Sarracenia oreophila* (green pitcher plant) to be an Endangered species. The plant is currently known to occur only in Alabama although records indicate it may have also occurred in Georgia and Tennessee at one time. Past reductions in the range of *Sarracenia oreophila* and degradations to its populations and habitats have resulted from habitat destruction and over-collecting, both of which still threaten the species. A determination of *Sarracenia oreophila* to be an Endangered species would implement the protection provided by the Endangered Species Act of 1973 as amended.

DATE: This rulemaking becomes effective on October 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202/343-4646.

SUPPLEMENTARY INFORMATION:**Background**

The Secretary of the Smithsonian Institution, in response to Section 12 of the Endangered Species Act, presented his report on plant species to Congress on January 9, 1975. This report, designated as House Document No. 94-51, contained lists of over 3,100 U.S. vascular plant taxa considered to be endangered, threatened, or extinct. On July 1, 1975, the Director published a notice in the Federal Register (40 FR 27823-27924) of his acceptance of the report of the Smithsonian Institution as a petition to list these species under Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within as well as any habitat which might be determined to be critical.

On June 16, 1976, the Service published a proposed rulemaking in the Federal Register (41 FR 24523-24572) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This 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 above mentioned Federal Register publication.

Sarracenia oreophila was included in both the July 1, 1975, notice of review and the June 16, 1976, proposal. A public hearing on the June 16, 1976 proposal was held on August 4, 1976, in Washington, D.C. In the June 24, 1977, Federal Register, the Service published a final rulemaking (42 FR 32373-32381, to be codified in 50 CFR Part 17) detailing the regulations to protect Endangered or Threatened plant species. The rules establish prohibitions and a permit procedure to grant exceptions to the prohibitions under certain circumstances. The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the Federal Register prior to adding any species to the list of Endangered and Threatened Wildlife and Plants.

Hundreds of comments on the general proposal of June 16, 1976, were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature in that they did not address individual plant species. Most comments addressed the program or the concept of Endangered and Threatened plants and their protection and regulation. These comments are summarized in the April 26, 1978, Federal Register publication which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909-17916). The Governor of Alabama was notified of the proposed action. The Governor of Alabama, the Alabama Forestry Commission, and Union Camp Corporation all requested the comment period extend beyond August, 1976 allowing more time for evaluation and comment. Since the Service has now been gathering information on these plants for three years, adequate time for comment has been provided.

A number of people submitted comments concerning carnivorous plants. The Governor of Georgia commented that Georgia felt all species of the genus *Sarracenia* should be placed in protected status. Others interested in carnivorous plants

submitted comments describing threats to carnivorous plants, those carnivorous plants most deserving protection, and commercial exploitation of carnivorous plants.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Sarracenia oreophila* (Kearney) Wherry (green pitcher plant) is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

These factors and their application to *Sarracenia oreophila* are as follows:

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, *Sarracenia oreophila* has been reported from northeast and central Alabama, Georgia and Tennessee. Both the Tennessee Natural Heritage Program and the Georgia Protected Plants Program report no known sites for this plant in either Tennessee or Georgia. *Sarracenia oreophila* has been reported for the following Alabama counties: Elmore, Cherokee, DeKalb, Jackson, Etowah, and Marshall. The central Alabama or Elmore county population has been reported to have been completely destroyed by over-collecting. The Etowah county report was based on a specimen collected in the 1800's and is not known to be extant today.

Past reductions in the range of *Sarracenia oreophila* and degradations to its populations and habitats have resulted from and are still threatened by increased rural residential, agricultural, and silvicultural development. Several populations of this species were inundated by the construction of the Weiss Reservoir on the Coosa River. The best remaining populations of the species occur along the Little River and future impoundments for flood control or increased pollution of the river could wipe out large numbers of this species. Increased pressures to strip mine coal and increased road construction within the range of this plant may cause further habitat degradation. One location for *Sarracenia oreophila* is on state-owned land which is protected, however, the other populations occur on privately-owned lands.

(2) *Overutilization for commercial, sporting, scientific or educational purposes.* Carnivorous plants, including *Sarracenia oreophila* have been seriously threatened by over-collecting for many years. Removal of these unique plants from their natural habitats by curious individuals, carnivorous plant enthusiasts, botanists, and commercial

dealers has resulted in the depletion and destruction of populations. The Elmore county, Alabama population of *Sarracenia oreophila* is reported totally extirpated by collectors. This was the only central Alabama population of the species and thus this represents a reduction in the range of this species. As interests in carnivorous plants continue to increase, as they have in past years, the pressure from collectors on natural populations will also increase.

(3) *Disease or predation* (including grazing). Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms*. There currently exist no State or Federal laws protecting this species or its habitat.

(5) *Other natural or man-made factors affecting its continued existence*. The regulation and removal of wild fire from the wetland habitats where *Sarracenia oreophila* occurs has resulted in the succession of the bog communities and the eventual elimination of the pitcher plants. When these bogs are managed with periodic prescribed burns, the pitcher plants have been noted to flourish.

Effects of the Rulemaking

Section 7(a) of the Act as amended provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purpose of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of Section 7 of the Endangered Species Act Amendments of 1978.

Provisions for Interagency Cooperation are contained in 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7(a) of the Act. This rulemaking requires Federal agencies to satisfy these statutory and regulatory obligations with respect to this species.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations referred to above, which pertain to plant species, are found at § 17.61 and are summarized below.

All provisions of Section 9(a)(2) of the Act, as implemented by § 17.61 (42 FR 32373-32381), would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, or to deliver, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity, or to sell or offer for sale in interstate or foreign commerce this plant. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the Federal Register of June 24, 1977 (42 FR 32373-32381), to be codified in 50 CFR Part 17, provide for the issuance of permits under certain circumstances to carry out otherwise prohibited activities involving Endangered plants.

Effect Internationally

In addition to the protection provided by the Act, the Service will review the status of this species to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendices to that Convention and whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of

Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulation [to determine a species to be an Endangered or Threatened species] is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Populations of *Sarracenia oreophila* have already been greatly reduced in size and are threatened by taking, an activity not prohibited by the Endangered Species Act of 1973. Publication of critical habitat maps would make this species more vulnerable and therefore it would not be prudent to determine critical habitat.

Sarracenia oreophila was proposed on June 16, 1976, and since critical habitat is not being determined for this species, none of the other amended subsections are applicable. Accordingly, the Service is proceeding at this time with a final rulemaking to determine this species to be Endangered pursuant to the Endangered Species Act of 1973, as amended. This rule is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884).

The primary author of this rule is Ms. E. La Verne Smith, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (703/235-1975).

Regulation Promulgation

Accordingly, § 17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order by family, genus, species, the following plant:

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion of range where threatened or endangered			
Sarraceniaceae—Pitcher plant family:						
<i>Sarracenia oreophila</i>	Green pitcher plant	U.S.A., AL	Entire	E		NA

Dated: August 30, 1979.
 Robert S. Cook,
 Deputy Director, Fish and Wildlife Service.
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