



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Fish and Wildlife Enhancement
927 North Main Street (Bldg. D)
Pleasantville, New Jersey 08232
(609) 646-9310

IN REPLY REFER TO:

July 31, 1991

Tom Gentile, Station Forester
Naval Weapons Station Earle
Highway 34
Colts Neck, New Jersey 07722

Dear Mr. Gentile:

Enclosed is a copy of the July 18, 1991, Federal Register in which the U.S. Fish and Wildlife Service (Service) announced our determination that Rhynchospora knieskernii (Knieskern's beaked-rush) is a threatened species pursuant to the Endangered Species Act of 1973 (Act) as amended.

Determination that the Knieskern's beaked-rush is threatened makes it eligible for protection provided by the Act. Section 7(a)(1) of the Act directs federal agencies to carry out programs for the conservation of endangered and threatened species. Section 7(a)(2) requires federal agencies, through consultation with the Service, to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species. In regard to listed plants, Section 9 of the act, as amended in 1988, prohibits removing and reducing for possession or maliciously damaging or destroying any endangered or threatened species from areas under federal jurisdiction. Section 9 also prohibits removing, cutting, digging, damaging, or destroying these species on other areas in knowing violation of State regulations or laws, or in the course of violating State criminal trespass law.

A recovery plan describing the research, management, and protective measures needed to conserve and recover the species will now be prepared. The Service invites any suggestions from you concerning the preparation of this plan. Questions concerning this final rule, the protective provisions of the Act, or the species' recovery plan can be referred to Dana Peters, U.S. Fish and Wildlife Service, 927 North Main Street (Bldg. D-1), Pleasantville, New Jersey 08232, telephone (609) 646-9310.

Sincerely,

Clifford G. Day
Supervisor

Enclosure

IN REPLY REFER TO
11015
Code 2023CK

From: Commanding Officer, Northern Division, Naval Facilities
Engineering Command
To: Commanding Officer, Naval Weapons Station Earle, Colts
Neck, NJ

Subj: **ENDANGERED SPECIES AT IR SITE #11**

Ref: (a) Rare Species Survey: Naval Weapon Station - Earle,
dated Feb. 1988 and finalized Sept. 1989
(b) Real Estate Operations and Natural Resources
Management Procedural Manual, NAVFAC P-73, May 1987.
(c) Installation Restoration Program Phase III - Remedial
Investigation/Feasibility Study, Work Plan for Naval
Weapons Station Earle, Colts Neck, NJ. Jan. 1991

Encl: (1) 50 CFR Part 17, Vol. 56, No. 138 of Thursday July 18,
1991

1. According to reference (a), our Natural Resources Section has identified the potential occurrence of several rare plant species at NWS IR site #11 (Contract Ordnance Disposal Area). One of these species was recently upgraded in status as the Federally listed threatened Knieskern's beaked-rush (Rhynchospora knieskernii), as identified in enclosure (1).

2. According to the Endangered Species Act of 1973 as amended (ESA), Federal agencies are directed to utilize their authorities in furtherance of the Act by carrying out programs for the conservation and recovery of listed species. Accordingly, reference (b) supports that any action which may affect the continued existence of a Federally listed threatened or endangered species must undergo consultation with the U.S. Fish and Wildlife Service as stated in Section 7 of the ESA.

3. The status of IR Site #11 is that the sampling phase of remedial investigation has been undertaken (reference (c)) and collected data is currently being analyzed. Although it is not known exactly what surface activities will further be undertaken at this particular site, the Navy is compelled to comply with applicable law(s) on subject.

4. Consultation will be planned with the U.S. Fish and Wildlife Service to assess potential impacts, if any, to the beaked rush

and to resolve possible conflicts. Coordination on this topic has been established with Mr. Bill Matthaev and Mr. Tom Gentile of NWS, and with Mr. Jerry Hoover, NorthDiv Project Manager. The NorthDiv point of contact is Mr. Carl Keller, Wildlife Biologist at AV 443-6207.

WILLIAM J. SUMMERS
By direction

Encl (1)

Federal Communications Commission.
Andrew J. Rhodes,
Chief, Allocations Branch, Policy and Rules
Division, Mass Media Bureau.
[FR Doc. 91-17136 Filed 7-17-91; 8:45 am]
BILLING CODE 6712-01-0

47 CFR Part 73

[MM Docket No. 90-32; RM-6954; RM-7051;
RM-7077; RM-7200; RM-7362; RM-7363;
RM-7364; RM-7365]

Radio Broadcasting Services,
Fairmont, NC, Andrews, Charleston,
Ellore, Estill, Little River, and
Sullivan's Island, SC

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Southern Communications, Inc., substitutes Channel 263C3 for channel 264A at Charleston, South Carolina, and modifies Station WSUY's construction permit to specify operation on the higher powered channel. At the request of Pro Media, Inc., Channel 265C2 is substituted for Channel 265A at Fairmont, North Carolina, the license of Station WSTS-FM is modified to specify operation on the higher powered channel. Channel 264A is substituted for Channel 265A at Andrews, South Carolina, and the license of Station WGTN-FM is modified to specify the alternate Class A channel. At the request of Clarence E. Jones, Channel 262C3 is substituted for Channel 262A at Ellore, South Carolina, and the license of Station WMNY-FM is modified to specify operation on the higher powered channel. The proposals of Southern Communications to substitute channel 263C2 for channel 264A at Charleston, reall t Channel 263C2 to Sullivan's Island, and modify the construction permit of Station WSUY accordingly, Little River Radio to allot Channel 264A to Little River, South Carolina, and Estill Broadcasting Company to allot Channel 263A to Estill, South Carolina, are dismissed. See 55 FR 4898, February 12, 1990, and Supplementary Information, *infra*. With this action, the proceeding is terminated.

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT:
Leslie K. Shapiro, Mass Media Bureau,
(202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the commission's Report and Order, MM Docket No. 90-32, adopted June 24, 1991, and released July 10, 1991. The full text of this Commission decision is available for inspection and

the FCC...
1919 M Street, NW., Washington, DC 20036.
The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Channel 265C2 can be allotted to Fairmont, North Carolina, with a site restriction of 30.8 kilometers (19.1 miles) southeast to accommodate Pro Media's desired transmitter site, at coordinates 34-15-47 and 79-55-50. Channel 264A can be allotted to Andrews, South Carolina, at Station WGTN-FM's present transmitter site, at coordinates 33-24-24 and 79-27-07. Channel 263C3 can be allotted to Charleston, South Carolina, with a site restriction of 7.1 kilometers (4.4 miles) south to accommodate Southern's desired transmitter site, at coordinates 32-41-59 and 79-55-34. Channel 262C3 can be allotted to Ellore, South Carolina, with a site restriction of 20.1 kilometers (12.5 miles) southwest to avoid short-spacings to Station WSCQ, Channel 261A, West Columbia, South Carolina, and to the outstanding construction permit for Channel 262A at Pawley's Island, South Carolina, at coordinates 33-22-00 and 80-40-00. Because the petition which resulted in the allotment of Channel 264A to Andrews was filed prior to October 2, 1989, the licensee of Station WGTN-FM may avail itself of the provisions of § 73.213(c)(1) with respect to the outstanding construction permit for Channel 262A at Pawley's Island (BPH-880630ME). Because the petition which resulted in the allotment of Channel 262C3 to Ellore was filed prior to October 2, 1989, the licensee of Station WMNY-FM may avail himself of the provisions of § 73.213(c)(1) with respect to Station WSCQ, Channel 261A, West Columbia, South Carolina.

List of Subjects in 47 CFR Part 73
Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:
Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

- 2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 265A and adding Channel 265C2 at Fairmont.
- 3. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 264A and adding Channel 263C3 at Charleston, removing Channel 265A and

Federal Communications Commission.
Andrew J. Rhodes,
Chief, Allocations Branch, Policy and Rules
Division, Mass Media Bureau.
[FR Doc. 91-17137 Filed 7-17-91; 8:45 am]
BILLING CODE 6712-01-0

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB43



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

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the plant, *Rhynchospora knieskernii* (Knieskern's beaked-rush) to be a threatened species. The species is currently known from 27 sites in New Jersey; however, many of these are small, unprotected populations. An early successional species and poor competitor, *R. knieskernii* is threatened by succession and other natural and human-induced factors affecting its wetland habitat, such as development, agriculture, and other activities influencing water quality and hydrologic regimes. This rule implements the protection provided by the Endangered Species Act of 1973, as amended, for *R. knieskernii*.

EFFECTIVE DATE: August 19, 1991.

ADDRESSES: The complete file for this species is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 927 North Main Street (Building D-1), Pleasantville, New Jersey 08232.

FOR FURTHER INFORMATION CONTACT:
Supervisor, U.S. Fish and Wildlife Service (see ADDRESSES section) (609/646-9310).

SUPPLEMENTARY INFORMATION

Background

The Knieskern's beaked-rush (*Rhynchospora knieskernii*), a member of the sedge family (Cyperaceae), is endemic to New Jersey. Historically, 38 sites were known in New Jersey. Two historic Delaware sites, known from 1874 and 1875 herbarium records, have

Encl (1)

not been relocated (Keith Clancy, Community Ecologist/Botanist, Delaware Division Natural Resources and Environmental Control, *in litt.*, 1990). Specific locational information is lacking for these specimens, and some botanists question whether the specimens were actually collected in Delaware, suggesting they may actually have been collected in New Jersey (James Stasz, Botanist, *in litt.*, 1989; David Snyder, Botanist, New Jersey Natural Heritage Program, pers. comm., 1989). Twenty-seven sites exist today, confined to four counties (Atlantic, Burlington, Ocean, Monmouth) in New Jersey.

Knieskern's beaked-rush 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 plant 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 distant 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. Since the publication of the proposed rule, three previously undocumented sites were reported to the Service, and Service biologists located two additional sites during field surveys.

Of the 27 extant sites, six (all on State lands) are found on bog iron substrates. Of the remaining sites not on bog iron substrate, two occurrences are on Federal land (one is located on property owned by the Federal Aviation Administration in Ocean and Burlington Counties, and one is located at Naval

Weapons Station Earle in Monmouth County), one is on State land, and the rest 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 stewardship, 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 sites supporting the species are unstable or ephemeral, such as tire 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 on natural bog iron substrates. All other occurrences are in man-made habitats and are considered suboptimal in terms of site quality, quantity, or 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 human-induced impacts from Atlantic white-cedar and pitch pine logging, bog iron excavation, glass and paper industries, and charcoal production. More recently, residential, commercial, and industrial development; sand and gravel mining; expansion of roads, rights-of-way, and other infrastructure; sewage disposal; landfills; and agricultural expansion have adversely

affected wetland habitat in the Pinelands. In addition to the direct loss of habitat, succession, changes in water quality and quantity, changes in nutrient levels, and disturbance of soil have contributed to the decrease in 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 DeFilippo 1978), designated as House Document No. 94-51, was presented to Congress on January 9, 1975. *Rhynchospora 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. The 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 28, 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*. *Rhynchospora 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. The Service published the proposed rule for this species on August 8, 1990 (FR 32271). That proposal constituted the Service's final finding on the petition, required by the Endangered Species Act.

Summary of Comments and Recommendations

In the August 8, 1990 proposed rule (55 FR 32271) and associated notifications, all interested parties were requested to submit factual reports or information by October 9, 1990, that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in The Press of Atlantic City on August 28, 1990, and the Asbury Park Press on August 22, 1990, which invited general public comment.

The New Jersey Department of Environmental Protection and The Nature Conservancy commented that *R. knieskernii* should receive "endangered" status due to the threats to its continued existence (see Summary of Factors Affecting the Species). No additional data to suggest that the species is in danger of extinction in the immediate future were provided. Information received from the Philadelphia Botanical Club provided reports of three additional locations of the species, and the U.S. Fish and Wildlife Service has located two others, thus increasing the total number of known sites to 27. It is likely that sites can be maintained through management and protection efforts of involved parties. Based upon available information on rarity and threats, the Service retains the position that *R. knieskernii* is most appropriately

designated as "threatened," as it is threatened with becoming endangered, rather than extinct in the foreseeable future.

The New Jersey Pinelands Commission, the Philadelphia Botanical Club, and the Monmouth County Department of Planning provided additional background information and the Division of Parks and Recreation in Delaware indicated concurrence with the proposed listing.

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 38 sites to 27 extant, confined to Atlantic, Burlington, Ocean, and Monmouth Counties in New Jersey. Historically, the species was also known from Camden County, New Jersey. Two occurrences are recorded from Delaware; however, there is some dispute regarding the validity of these records (see Background section). 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.

All but one of the known populations of *Rhynchospora knieskernii* occurs in the New Jersey Pinelands, 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 residents' 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 (Pinelands Commission 1980); *Rhynchospora* is listed as "endangered" by the Pinelands Commission. With the expansion 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 human-induced succession have 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 sources within the watershed probably serve as catalysts in increasing rates of succession by creating conditions favorable to more competitive species, such as maple, poison ivy, honeysuckle, greenbriar, and Virginia creeper. *Rhynchospora knieskernii* occurs on otherwise 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 adversely impact the species; however, some form of habitat disturbance is necessary to maintain the open habitat conditions required by this 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 have adversely affected some populations. Conversion of wetlands for commercial cranberry production may threaten populations (Rawinski and Cassin 1986).

In some cases, manmade or human-altered wetlands left undisturbed for a period of years have developed vegetative characteristics that temporarily mimic those found in naturally fluctuating ponds and shores, and have been found to support *R. knieskernii* (Rawinski and Cassin 1986). 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 man-made 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, *R. knieskernii* is vulnerable as New Jersey's growth and development continues to encroach upon its remaining suitable habitat. Although previously direct habitat loss was of greatest 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 wetlands 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.

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 to existing populations. The role of herbivory has not been determined.

D. The inadequacy of existing regulatory mechanisms. Existing regulations provide limited protection from deleterious disturbance, habitat loss and degradation, and biological limitations, which are major threats to the species. New Jersey has listed *R. knieskernii* on the Endangered Plant Species List authorized by the Endangered Plant Species List Act of 1989 (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 the 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."

Through the New Jersey Pinelands Protection Act, as implemented through the Pinelands Comprehensive Management Plan, threats to this rare species from direct habitat loss have been greatly reduced. The Pinelands Protection Act clearly provides a certain level of protection from 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. However, 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 or 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.

E. Other natural or manmade factors affecting its continued existence. Changes in the water table have been associated with population fluctuations of *R. knieskernii*. 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).

Several sites have been adversely affected 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 make this rule final. 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 27 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. For the reasons discussed below, a critical habitat designation is not included in this rule.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that the designation of critical habitat is not presently prudent for this species. The Service finds designation of critical habitat to be imprudent 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 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 standards.

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.

Conservation and management of *R. knieskernii* will likely involve an integrated approach of site protection and habitat manipulation to maintain early plant succession. 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)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or result in destruction or adverse modification of critical habitat. If a proposed 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 (33 U.S.C. 1344 *et seq.*) 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 under jurisdiction of the Corps of Engineers that might affect known populations of *R. knieskernii*.

The Federal Aviation Administration administers property on which one population of *R. knieskernii* is located. The U.S. Air Force had proposed to build a Northeast Regional Communications Facility on the property, but is no longer considering use of the site. The Federal Aviation Administration proposes construction of a ground-to-air communication facility at this site and has initiated coordination with the Service regarding this proposal. A second population occurs at Naval Weapons Station Earle. 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 9(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 1968 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, Rm 432, 4401 N Fairfax Dr., Arlington, Virginia 22203-3507 (703/358-2104).

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).

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 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. U.S. Fish and Wildlife Service, present address: 24000 Avila Road, Laguna Niguel, California 92656 (714/643-4270 or FTS 796-4270).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—(AMENDED)

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as 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. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat 3500; unless otherwise noted.

2. Amend 17.12(h) by adding the following, in alphabetical order under the family 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:						
<i>Rhynchospora knieskernii</i>	Knieskern's beaked-rush	U.S.A. (NJ,DE)	T	429	NA	NA

Dated: May 22, 1991.
 Richard N. Smith,
 Acting Director, Fish and Wildlife Service.
 [FR Doc. 91-17133 Filed 7-17-91; 8:45 am]
 BILLING CODE 4310-55-01

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 672
 [Docket No. 901184-1042]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Notice of change in reporting requirements.

SUMMARY: The Director of the NMFS, Alaska Region (Regional Director), announces that the submission of Daily Production Reports from processors fishing for or receiving sablefish harvested with hook-and-line gear in the Central and Eastern Regulatory areas and associated reporting areas of the Gulf of Alaska is no longer required because sablefish fisheries for vessels using hook-and-line gear in the Central and Eastern Regulatory Areas is closed to directed fishing.

DATES: Effective 12 noon Alaska local time (A.l.t.), July 15, 1991, until the end of the fishing year or until further notice.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the Exclusive Economic Zone within the Gulf of Alaska (GOA) management area under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 for the foreign fishery and at 50 CFR parts 620 and 672 for the U.S. fisheries.

Daily Production Reports of sablefish received from the hook-and-line sablefish fishery in the Central and Eastern Regulatory Areas were required by the Regional Director under the authority of § 672.5(c)(3), as of 12 noon,