

3. Add the following paragraph (f) as a special rule to § 17.44.

§ 17.44 Special rules—fishes.

(f) Hutton tui chub (*Gila bicolor* subspecies) and Foskett speckled dace (*Rhinichthys osculus* subspecies).

(1) No person shall take these species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of these species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (f) (1) through (3) of this section.

Dated: March 13, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for *Solidago spithamaea* (Blue Ridge Goldenrod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Solidago spithamaea* M. A. Curtis (Blue Ridge goldenrod) to be a threatened species under the authority contained in the Endangered Species Act of 1973 (Act), as amended. *Solidago spithamaea* is endemic to high mountain

peaks in North Carolina and Tennessee. Only three populations of *Solidago spithamaea* are known to exist; one is on public land administered by the U.S. Forest Service and the other two are on privately owned lands. Past loss of habitat and populations has occurred due to the recreational development of the high mountain peaks where this plant occurs. The continued existence of this plant is threatened by trampling and habitat disturbance due to heavy recreational use. This action will implement the protection provided by the Act, for *Solidago spithamaea*.

DATE: The effective date of this rule is April 29, 1985.

ADDRESSES: A complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Endangered Species Field Station, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Currie, Asheville Endangered Species Field Station (see ADDRESSES above, 704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

*Solidago spithamaea* (Blue Ridge goldenrod) was described from material collected in North Carolina by M. A. Curtis in the 1830's (Massey, Whitson, and Atkinson 1980). Today, three populations of the species are known: Two in Avery County, North Carolina, and one on the border of Mitchell County, North Carolina, and Carter County, Tennessee. Two populations are located on privately owned lands and one is located on public lands administered by the U.S. Forest Service. Two additional populations were historically known for the species, but both sites have been developed and no Blue Ridge goldenrod have been relocated there during recent searches. It is believed either that the plant is extirpated from these sites or that the original reports were erroneous.

*Solidago spithamaea* is an erect perennial herb that arises from a short, stout rhizome and is a member of the aster family. The yellow flowers are borne in heads arranged in a corymbiform inflorescence. *Solidago spithamaea* grows above 4,600 feet

(1,400 meters) in dry rock crevices of granite outcrops on the high peaks of the Blue Ridge Mountains. The continued existence of *Solidago spithamaea* is threatened by trampling and habitat disturbance due to heavy recreational use of its habitat by hikers. Construction on new trails and other recreational improvements at any of the three sites where populations of this plant exists could further jeopardize the plant's continued existence. This rule determines *Solidago spithamaea* to be a threatened species and implements the protection provided by the Endangered Species Act of 1973, as amended.

Past Federal Government actions affecting this plant 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. The Secretary of the Smithsonian presented this report (House Document No. 94-51) to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review 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) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended). *Solidago spithamaea* was included in the Smithsonian report and the 1975 notice of review. On December 15, 1980, the Service published a revised notice of review of native plants in the *Federal Register* (45 FR 82480), and *Solidago spithamaea* was included in that notice as a category-1 species. Category-1 species are those for which date 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 *Solidago spithamaea* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, the Service found that the petitioned listing of *Solidago spithamaea* was warranted, and that although other pending proposals had precluded its proposal, expeditious