

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That *Echinacea tennesseensis* Is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

SUMMARY: The Service determines *Echinacea tennesseensis* (Tennessee purple coneflower), a native plant of Tennessee, to be an Endangered species. Past and potential loss of this species; habitat due to residential development is threatening the continued existence of the species. Overutilization of this species due to its esthetic and possibly medicinal qualities also poses a threat to this species. This action will provide the species protection provided by the 1973 Endangered Species Act, as amended.

DATE: This rulemaking becomes effective on July 5, 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**

In response to Section 12 of the Endangered Species Act of 1973, the Secretary of the Smithsonian Institution, presented a report to Congress on January 9, 1975. This report, designated as House Document No. 94-51, listed 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) announcing his acceptance of the report as a petition to list these species under Section 4(c)(2) of the Act. The Director also announced his intention to review the status of the plant taxa named in the report as well as any habitat which might be determined to be critical.

In the June 16, 1976, issue of the *Federal Register* (41 FR 24523-24512), the Service proposed approximately 1,700 vascular plant species to be designated as Endangered 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 July 1, 1975, *Federal Register* publication.

Echinacea tennesseensis was included in both the July 1, 1975, notice of review and the June 16, 1976, proposed rulemaking.

In the June 24, 1977, *Federal Register* (42 FR 23272-23281) the Service published a final rulemaking detailing the regulations to protect Endangered and Threatened plant species. The rules establish prohibitions and a permit procedure to grant exceptions to the prohibitions under certain circumstances.

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 Tennessee was notified of the June 16, 1976 proposal, but he submitted no comments on the proposed action. A summary of the comments pertaining specifically to *Echinacea tennesseensis* are discussed in the following paragraph.

No comments referring specifically to *Echinacea tennesseensis* were received during the official comment period. Since the close of the official comment period the Tennessee Heritage Program recommended that *Echinacea tennesseensis* and one other plant which occurs in Tennessee as most worthy of Federal endangered status.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Echinacea tennesseensis* (Beadle) Small (Tennessee purple coneflower) 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 *Echinacea tennesseensis* are as follows:

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, *Echinacea tennesseensis* has been found in three Tennessee counties, Wilson, Davidson, and Rutherford. A 1933 manual of botany noted its distribution as the Interior and Ozark Plateaus of Tennessee and Arkansas. However, no localities of the species in Arkansas have ever been verified. Three extant populations of the coneflower occur today, in the same three Tennessee counties. However, one population has been totally destroyed and a new population discovered in the same county.

The population located in Davidson County has been reduced in size due to housing construction. This site occurs in an area undergoing rapid residential and recreational development, which could further threaten this species.

Three sites have been reported for Rutherford County but only one is extant today. The type locality was reported as a gravelly hillside near LaVergne, but the exact location of this site was not known. A population was known to occur near LaVergne on Stones River Road up until 1967, when the site was converted to a trailer park. Recent searches failed to locate any coneflowers among the trailers. The extant Rutherford County population occurs in a corporation's crushed limestone lot, whose present owner discovered the plants, reported their location to the Tennessee Heritage Program, and is sympathetic to conserving the species.

The third extant population is located in Wilson County in a pasture cedar glade. The majority of this site is in private ownership adjoining Cedars of Lebanon State Forest. A portion of this population occurs in the state forest. The private owner at this site is sympathetic to conserving the coneflower, but ownership could change leaving the species in a vulnerable position.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* The esthetic qualities of the species make it appealing to amateur collectors and wildflower enthusiasts. One instance of a large number of plants being removed from the Wilson County site has been observed. At one time in the 1960's, *Echinacea* roots were being purchased by a crude drug company for their believed medicinal qualities. If this

demand reoccurs, then this could pose a threat to the species also.

(3) *Disease and predation (including grazing)*. Some light grazing occurs at the Wilson County site but may not be detrimental and may even be beneficial. However, an increase in the intensity of the grazing could be detrimental.

(4) *The inadequacy of existing regulatory mechanisms*. Tennessee does not currently have a law to protect rare plants. The Endangered Species Act would offer needed protection for the species.

(5) *Other natural or manmade factors affecting its continued existence*. Succession of the cedar glade communities in which this species occurs has been correlated with less reproductive "effort" in *Echinacea tennesseensis*. Maintenance of these communities may be advantageous to this species.

Effect of the Rulemaking

Section 7(a) of the Act as amended in 1978 provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes 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.

Endangered species regulations already codified and to be codified in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered or Threatened species. The regulations referred to above, which pertain to plant species, are found at § 17.61 (42 FR 32373-32381) and § 17.71 of Title 50 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, would make it illegal for any person subject to the jurisdiction of the United States to

import or export, or to deliver, receive, 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), provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered plants are available for scientific purposes or for enhancing the propagation or survival of the species.

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 Appendix 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.

§ 17.12 Endangered and threatened plants.

| Species | | Range | When listed | Critical habitat | Special rules |
|--------------------------------------|------------------------------|----------------------|-------------|------------------|---------------|
| Scientific name | Common name | Known distribution | Status | | |
| ASTERACEAE—Aster Family: | | | | | |
| <i>Echinacea tennesseensis</i> | Tennessee purple coneflower. | U.S.A. (Tennessee).. | E | N/A | N/A |

Note.—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 Part 14.

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 specify that the following be added at the end of subsection 4(a)(1) of the Endangered Species Act of 1973:

"At the time any such regulation (any proposal 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."

Echinacea tennesseensis is threatened by taking, an activity not prohibited by the Endangered Species Act of 1973 with respect to plants. Publication of critical habitat maps would make this species more vulnerable and therefore it would not be prudent to determine critical habitat.

Echinacea tennesseensis 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 as Endangered pursuant to the Endangered Species Act of 1973. This rule is issued under the authority contained in the Endangered Species Act of 1973 (U.S.C. 1531-1543; 87 Stat. 884).

The primary author of this rule is Ms. E. LaVerne 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:

Dated: May 16, 1979.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 79-17476 Filed 6-5-79; 8:45 am]

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