(1) Section 91.70(a), to the extent that it would require States and local governments to submit a CHAS annual plan for Fiscal Year 1995 (the period from October 1, 1994 through September 1995);

(2) Section 91.80(a)(2), to the extent that it would require a certification of consistency to apply to a new annual plan for Federal Fiscal Year 1995, rather than the annual plan submitted for Fiscal Year 1994 extended to cover the period in Fiscal Year 1995 until the beginning of the first program year under the consolidated plan;

(3) Section 91.82(b), to the extent that it would require an annual performance report to be submitted by December 31, 1994, to extend the submission deadline to 90 days following the first day of the jurisdiction's first program year under the consolidated plan regulation, in accordance with the revised 24 CFR part 91 published on January 5, 1995.

The good cause for waiver of these provisions is to avoid unnecessary duplication of effort that would otherwise be required for States and local governments developing a consolidated plan and the undue hardship that would result if jurisdictions were not able to provide required certificates of consistency for this time period from October 1, 1994 to the beginning of the Consolidated Plan program year.

III. Effect

As a result of the first waiver, jurisdictions need not submit a CHAS annual plan for the time period between the end of Fiscal Year 1994 and the beginning of the jurisdiction's consolidated program year. The jurisdiction's previously approved CHAS will remain in effect until the start date of the jurisdiction's new consolidated program year, at which point the jurisdiction's new consolidated plan will take effect. The second waiver allows jurisdictions to use their annual plan for Fiscal Year 1994 as extended by this notice for the purpose of certifications of consistency. The third waiver allows jurisdictions to submit a last performance report under the CHAS for a period longer than 12 months, to include Fiscal Year 1994 and the period between the end of Fiscal Year 1994 and the beginning of the first Consolidated Plan program year.

To the extent that a jurisdiction determines that its CHAS needs to be updated, an amendment to the Fiscal Year 1994 CHAS may be submitted to reflect any change. (Under the Consolidated Plan rule, the new consolidated plan strategy is due at least 45 days before the start of the consolidated plan year selected by each jurisdiction.)

Dated: January 31, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–2896 Filed 2–2–95; 11:43 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC25

Endangered and Threatened Wildlife and Plants; Spruce-Fir Moss Spider Determined To Be Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines the spruce-fir moss spider (*Microhexura montivaga*) to be an endangered species under the Endangered Species Act of 1973, as amended (Act). This spider is currently known from four mostly small populations located in western North Carolina and eastern Tennessee. The spider's damp, high-elevation forest habitat is deteriorating rapidly due primarily to exotic insects and possibly past land use history, air pollution, and other factors not yet fully understood. The species' current low numbers also increase its vulnerability to harm from other threats. This final rule extends Federal protection under the Act to the spruce-fir moss spider.

EFFECTIVE DATE: March 8, 1995.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service Field Office, 330 Ridgefield Court, Asheville, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. John Fridell at the above address (704/665–1195, Ext. 225).

SUPPLEMENTARY INFORMATION:

Background

The spruce-fir moss spider was originally described by Crosby and Bishop (1925) based on collections made from a mountain peak in western North Carolina in 1923 (Coyle 1981). Only a few specimens were taken, and little was known about the species until its rediscovery approximately 50 years later by Dr. Frederick Coyle (Western Carolina University, Cullowhee, North Carolina) and Dr. William Shear (Hampden-Sydney College, Hampden-Sydney, Virginia) (Coyle 1981). *Microhexura montivaga* is one of only two species belonging to the genus *Microhexura* in the family *Dipluridae* (Coyle 1981; Harp 1991, 1992). The other species in the genus, *M. idahoana,* occurs only in the Pacific Northwest (Coyle 1981). Diplurids belong in the primitive suborder *Mygalomorphae,* which are often popularly referred to as ''tarantulas'' (Harp 1991, 1992). The genus *Microhexura* is the northernmost representative of the family *Dipluridae* and is also one of the smallest of the mygalomorph spiders, with adults measuring only 2.5 to 3.8 millimeters (0.10 to 0.15 inch) (Coyle 1981). Coloration of *M. montivaga* ranges from light brown to a darker reddish brown, and there are no markings on the abdomen (Harp 1992). The carapace is generally yellowish brown (Harp 1992). The most reliable field identification characteristics for the spruce-fir moss spider are chelicerae that project forward well beyond the anterior edge of the carapace (Harp 1992; Coyle, personal communication 1994), a pair of very long posterior spinnerets, and the presence of a second pair of book lungs, which appear as light patches posterior to the genital furrow (Harp 1992).

The typical habitat of the spruce-fir moss spider is found in damp but well-drained moss (and liverwort) mats growing on rocks or boulders, in well-shaded situations in the mature, high-elevation Fraser fir (*Abies fraseri*) and red spruce (*Picea rubens*) forests (Coyle 1981, Harp 1992). The forest stands at the sites where the species has been observed are composed primarily of Fraser fir with only scattered spruce being present. The moss mats found to contain the spider have all been found under fir trees (Harp, personal communication, 1994; Coyle, personal communication, 1994). The moss mats cannot be too dry (the species is very sensitive to desiccation) or too wet (large drops of water can also pose a threat to the spider) (Harp 1992). The spider constructs its tube-shaped webs in the interface between the moss mat and rock surface (Coyle 1981, Harp 1992), though occasionally the web extends into the interior of the moss mat (Harp 1992). The tubes are thin-walled and typically broad and flatten with short side branches (Coyle 1981, Harp 1992). There is no record of prey having been found in the webs of the spruce-fir moss spider nor has the species been observed taking prey in the wild, but the abundant springtails (*collembolans*) in the moss mats provide the most likely

source of food for the spider (Coyle 1981, Harp 1992).

Males of the species mature during September and October, and females are known to lay eggs in June. The egg sac is thin-walled and nearly transparent, and it may contain seven to nine eggs. The female remains with the egg sac and, if disturbed, will carry the egg sac with her fangs. Spiderlings emerge in September (Coyle 1981). The means of dispersal of the spiderlings from the parental moss mat is not known. ''Ballooning,'' a process by which the spiders use a sheet of silk played out into the wind to carry them into the air, has been suggested as a possible means of long-range dispersal (Harp 1992), but the species' high sensitivity to desiccation would likely preclude this dispersal method (Harp, personal communication, 1994). The life span of the species is also unknown, but Coyle (1981) estimated that it may take 3 years for the species to reach maturity.

Previous Federal Activity

From 1989 through 1992, status surveys were conducted for the spruce-fir moss spider (Harp 1991, 1992). Based on the results of these surveys, the spider is presently known to exist at only four locations—three sites in North Carolina and one in Tennessee. Of the four remaining populations, only one appears to be relatively stable. This population is located along the Avery/Caldwell County line in North Carolina. The other two populations in North Carolina are located in Swain County. Both of the Swain County populations are extremely small with only one spruce-fir moss spider having been found at each of these two sites in recent years (Harp 1991, 1992). The forests at the two Swain County sites are rapidly declining. The Tennessee population is located in Sevier County. This population was considered healthy in 1989 but is currently believed to be declining in numbers and is endangered by habitat loss/alteration (Harp 1992). The high-elevation spruce-fir forests throughout much of the species' historic range are being decimated by the balsam wooly adelgid (*Adelges piceae*)—an exotic insect pest—and possibly by air pollution (acid precipitation) and other factors not yet fully understood. The death and thinning of the forest canopy results in locally drastic changes in microclimate including increased temperatures and decreased moisture leading to desiccation of the moss mats on which the spruce-fir moss spider, and possibly its prey base, depend for survival.

In absence of status information, the spruce-fir moss spider was not included in the Service's notice of review for animal candidates that was published in the **Federal Register** of November 21, 1991 (56 FR 58804). However, subsequent surveys of both historic and potential habitat of the species indicate that the spruce-fir moss spider is undergoing a rapid decline in distribution. Presently only one relatively stable population is known to survive and, while currently considered to be healthy, this population is threatened by the same factors that are believed to have resulted in the extirpation and/or decline of the species elsewhere within its historic range. Accordingly, on August 30, 1993, the Service approved the spruce-fir moss spider as a category 1 candidate. Category 1 represents those species for which the Service has enough substantial information on biological vulnerability and threats to support proposals to list them as endangered or threatened species.

The Service has met and been in contact with various Federal and State agency personnel and private individuals knowledgeable about the species concerning the species' status and the need for the protection provided by the Act. On December 31, 1992, the Service notified appropriate Federal, State, and local government agencies, landowners, and individuals knowledgeable about this or similar species, in writing, that a status review was being conducted and that the species might be proposed for Federal listing. A total of 10 written comments were received. The National Park Service, the North Carolina Division of Parks and Recreation, and three private individuals (including the owner of the site containing the Avery/Caldwell County, North Carolina, population) expressed strong support for the potential listing of the spruce-fir moss spider as an endangered species. The U.S. Soil Conservation Service, Tennessee Wildlife Resources Agency, Tennessee Department of Environment and Conservation, Tennessee Valley Authority, and the North Carolina Department of Agriculture stated that they had no new or additional information on the species or threats to its continued existence. No negative comments were received.

On January 27, 1994, the Service published in the **Federal Register** (59 FR 3825) a proposal to list the spruce-fir moss spider as an endangered species. That proposal provided information on the species' biology, status, and threats to its continued existence.

Summary of Comments and Recommendations

In the January 27, 1994, spruce-fir moss spider proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to development of a final rule. Appropriate Federal and State agencies, county governments, scientific organizations, individuals knowledgeable about the species or its habitat, and other interested parties were contacted and requested to comment. A legal notice, which invited general public comment, was published in the following newspapers: the ''Avery Journal,'' Newland, North Carolina, February 10, 1994; the ''Lenoir News-Topic,'' Lenoir, North Carolina, February 10, 1994; the ''Watauga Democrat,'' Boone, North Carolina, February 16, 1994; the ''Smoky Mountains Times,'' Bryson City, North Carolina, February 10, 1994; and the ''Mountain Press,'' Sevierville, Tennessee, February 11, 1994.

All written comments received during the comment period are covered in the following discussion.

Ten written responses to the proposed rule were received. The National Park Service, North Carolina Wildlife Resources Commission, North Carolina Division of Parks and Recreation, and three private individuals expressed strong support for the listing of the spruce-fir moss spider as endangered. One of these responses received from a private individual identified errors in the proposed rule concerning the size range of spruce-fir moss spider, and the likely age at which sexual maturity is reached by the species. Another of these respondents provided additional information concerning the status of the species. The Service has incorporated these corrections and additional information into this final rule.

Two responses were received from the Tennessee Valley Authority (TVA) and one from the U.S. Soil Conservation Service (SCS) that expressed neither support nor opposition to the listing. A response from the TVA, Regional Natural Heritage Project, and the response from the SCS stated they had no additional information concerning the spruce-fir moss spider. A response received from the TVA Land Management, while stating that they did not oppose listing of the spider, expressed concern about the lack of peer reviewed information presented in the proposed rule (concerning the spruce-fir moss spider and role of atmospheric pollution as factor in decline of its habitat), stating that the proposal relied

mainly on two unpublished, unreviewed project reports by Harp (1991, 1992). They also stated that they felt that the habitat of the spruce-fir moss spider described in the proposed rule was too general; identified errors in the citation of the Krahl-Urban et al. (1988) document cited in the ''Summary of Factors Affecting the Species,'' factor A, of the proposed rule; and provided additional information concerning the decline of the spruce-fir forest in the Southeast.

In enacting the Endangered Species Act, Congress required the Service to list species as endangered or threatened based on the best scientific and commercial information available. The Service has carefully assessed the best available information in determining to propose and list the spruce-fir moss spider as endangered. This included a review of literature, State and Federal data bases, and museum records; intensive surveys of historic and potential habitat; correspondence with other Federal, State, and private agencies, companies, and individuals knowledgeable about the species; and all relevant comments received throughout the review process. Although all of these information sources have been considered, most of the data for the species is contained in Coyle (1981), and in the status survey reports by Harp (1991 and 1992). The Service considers both of these investigators as highly reliable sources. The only other paper that provides any detail concerning the species, of which the Service is aware, that was not referenced in the proposed rule is a paper on the mating behavior of the spruce-fir moss spider (Coyle 1985).

Despite the fact that the status survey reports by Harp are not published documents, the information on the spider contained in these reports has been reviewed by numerous individuals. As part of the listing process for this species, the Service notified affected Federal, State, and local government agencies, landowners, and individuals knowledgeable about this or similar species and requested their review of the findings presented in Harp's status survey reports and any additional information that they may have on the species, its status, or threats to its continued existence. As stated above, no negative comments in response to the notification of status review were received and all respondents expressed support of the information presented in the notification, support of Federal listing of the species, and/or stated that they had no additional information on the species. In addition, the proposed rule to list the spruce-fir moss spider was widely distributed and reviewed. The majority of the responses support the findings presented in the proposed rule. No factual or substantive information was received that indicates that the information concerning the species, its habitat, its biology, its past and present distribution, and decline and status of its populations and threats as presented in the proposed rule is incorrect, with the exception of those items identified above (size, age at sexual maturity, and the Krahl-Urban et al. (1988) document citation). Accordingly, the Service believes that sufficient information is currently available and has been presented that clearly shows that the species has undergone a drastic decline throughout its range, that the species' remaining habitat is significantly threatened, and that the species is in danger of extinction.

The Service does concur that a detailed characterization of the spruce-fir moss spider's habitat, threats to its habitat, and additional information concerning the species biology will be necessary in order to properly manage and implement protection and recovery measures. These, as well as other research needs and activities necessary to ensure the long-term survival of the species, will be addressed by the Service in the development and implementation of a recovery plan for the spruce-fir moss spider and through other means (see ''Available Conservation Measures'' below). The Service has corrected the reference to the Krahl-Urban et al. (1988) document, changed the citation to the relevant chapter author (R. I. Bruck), and incorporated additional information concerning the sites where the species has been found and factors believed to be contributing to the decline of the spruce-fir forest ecosystem in the Southeast into this final rule, as requested by the TVA. The Service has also added additional citations to this final rule to support statements concerning possible factors contributing to the decline of spruce-fir forests associated with populations of the spruce-fir moss spider.

One comment opposing the proposal to list the spruce-fir moss spider was received. This individual stated that ''The scientific community, and the Service in particular, need to recognize that extinction has always been a continuing process and will continue to be so.'' The Service agrees that extinction can be a natural process. Extinction occurs naturally as species respond by evolving into new species, or are unable to respond (become extinct) to a changing environment. However, virtually all of the historical extinctions that have been documented are attributable either directly or indirectly to human induced environmental changes (Greenway 1967; Frankel and Soulé 1981; Soulé 1983), changes that are too new (changes that most species have not evolved the ability to cope with; i.e., exotic pests, pollutants, etc.), too rapid, and too destructive to allow the species the chance to respond. A species being eliminated by processes such as the human related introductions of exotic pests, applications of poisonous chemicals, forest clearing, etc., is far different than a species being unable to adapt to a naturally changing environment. Further, the Act requires the Service to list species that are in danger of going extinct without regard as to what factor may be inducing extinction.

This same respondent also inquired whether there is documentation that pollution is a contributing factor to the loss of forest cover. The Service recognizes that the possible role of atmospheric pollution in the decline of the high elevation spruce in spruce-fir forest ecosystem in the southern Appalachians is a controversial and highly complex topic. However, several studies have been conducted and are currently ongoing to address this issue and, while opinions vary and much more research is needed, there is field and laboratory data available that indicates that atmospheric pollution in combination with other stress factors has played a role in the deterioration of the health of high elevation red spruce in the southern Appalachians (Johnson et al., 1992).

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the spruce-fir moss spider should be classified as an endangered species. Procedures found at section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424) were followed. 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 the spruce-fir moss spider are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The spruce-fir moss spider is known to be endemic only to high-elevation spruce-fir forests of western North Carolina and eastern Tennessee. Historically, the

species has been reported from four sites in North Carolina and one in Tennessee. In North Carolina the species has been recorded from two sites in Swain County, one in Yancey County, and one in Avery/Caldwell Counties (Coyle 1981, Harp 1992). In Tennessee, the species is known from only one site in Sevier County (Coyle 1981).

During 1989 and through 1992, both historic and potential habitat of the species was surveyed (Harp 1991, 1992). No new populations of the spruce-fir moss spider were discovered and of the five previously recorded populations, only one—the Avery and Caldwell County, North Carolina, population—appears to be stable (Harp 1992).

The Yancey County, North Carolina, population appears to have been extirpated, and only one individual could be found at each of the two sites in Swain County, North Carolina (Harp 1992). The population in Sevier County, Tennessee, was surveyed in 1989 and was considered to be relatively healthy at that time (Harp 1991). However, revisits to this site in 1992 found that the population level is declining, apparently in conjunction with a rapid decline of Fraser fir occurring at the site and associated desiccation of moss-mat habitat (Harp 1992). Recent monitoring of this population indicates that it will likely be extirpated within the next 1 to 2 years (Harp, personal communication 1994).

The spruce-fir moss spider is very sensitive to desiccation and requires situations of high and constant humidity (Coyle 1981; Harp 1991, 1992). Loss of forest canopy (primarily the Fraser fir, the dominant canopy species in the forest stands where the spider has been found) leading to increased light and decreased moisture on the forest floor (resulting in desiccation of the moss mats) appears to be the major cause for the loss and decline of the spruce-fir moss spider at all four of these sites and the major threat to the species' continued existence. In a 1991 letter to Mr. Keith Langdon (National Park Service, Great Smoky Mountains National Park), Dr. Frederick Coyle (Western Carolina University) indicated that the spruce-fir moss spider was common at one of the sites in Swain County, North Carolina, as late as 1983 but was extremely rare by 1988. In his letter to Mr. Langdon, Dr. Coyle stated that many of the moss mats at this site had become dry and loose, which he suspected was due largely to deterioration of the forest canopy at the site.

Fraser fir at all four of these sites from which the spider has been recorded (the Swain and Yancey County sites in North Carolina and the Sevier County, Tennessee, site) have suffered extensive mortality, believed to be primarily due to infestation by the balsam wooly adelgid (J. Harp, Oak Ridge National Laboratory, personal communication, 1993), a non-native insect pest believed to have been introduced into the United States, around 1900, from Europe (Kotinsky 1916; Eagar 1984). The adelgid was first detected in North Carolina on Mount Mitchell in 1957 (Speers 1958), though it was likely established at that site as early as 1940, and from Mount Mitchell it spread to the Fraser fir communities throughout the southern Appalachians (Eagar 1984). Most mature Fraser fir are easily killed by the adelgid (Amman and Speers 1965) with death occurring within 2 to 7 years of the initial infestation (Eagar 1984).

While the loss of the Fraser fir appears to be the most significant threat to the remaining spruce-fir moss spider populations, the combined effects of several other factors are also believed to be stressing and contributing to the decline of the high elevation spruce-fir forest stands. Bruck (1988) estimated that trees 45 through 85 years of age at the summit of Mount Mitchell, (the site in Yancey County, North Carolina, where the species is now believed to be extirpated) showed an average defoliation of 75 to 90 percent and that all the trees exhibited some form of growth reduction. He hypothesized that atmospheric pollution was a possible factor in the decline. Regional scale air pollution in combination with other stress factors is believed to have played a significant role in the deterioration of the health of high elevation red spruce in the east (Johnson et al. 1992). Site deterioration due to past land use history (past logging and burning practices in southern Appalachians) and winter injury have also been identified as possible contributing factors (Peart et al. 1992). The death and thinning of the canopy trees within these stands also cause the remaining trees to be more susceptible to wind and other storm damage, which has become a major concern at the Sevier County, Tennessee, site (J. Harp, personal communication 1992).

The spruce-fir forest at the site harboring the Avery/Caldwell County, North Carolina, population of the spruce-fir moss spider has not experienced the degree of decline that has occurred (and is occurring) at the other sites known to support (or to have supported) populations of the spider. However, the same factors that are believed to have resulted in the decline of the spruce-fir forest and the associated loss of suitable moss-mat habitat at these other sites threaten this population and its habitat at this site as well.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The spruce-fir moss spider is not currently known to be commercially valuable; however, because of its extreme rarity and uniqueness, it is conceivable that it could be sought by collectors. It is one of only two members of the genus *Microhexura,* it is the only representative of the primitive family *Dipluridae* in eastern North America and is one of the smallest of the world's ''tarantulas.'' While collecting or other intentional take is not presently identified as a factor contributing to the species' decline, the low numbers, slow reproductive rate, and extremely restricted range of the spruce-fir moss spider make it unlikely that the species could withstand even moderate collecting pressure.

C. *Disease or predation.* It is presently unknown whether disease or predation have played a role in the decline of the spruce-fir moss spider. Further research is needed in this area. While predation is not thought to be a significant threat to a healthy population of the spruce-fir moss spider, it could limit the recovery of the species or contribute to the local extirpation of populations already depleted by other factors. Possible predators of the spruce-fir moss spider include pseudoscorpions, centipedes, and other spiders (Harp 1992).

D. *The inadequacy of existing regulatory mechanisms.* Neither the State of North Carolina nor the State of Tennessee include arachnids on their lists of endangered and threatened species; therefore, the species is unprotected in both States. Federal listing will provide protection for the spruce-fir moss spider throughout its range by requiring Federal permits to take the species and by requiring Federal agencies to consult with the Service when activities they fund, authorize, or carry out may affect the species.

E. *Other natural or manmade factors affecting its continued existence.* Only one of the four remaining populations of this species appears stable. The other three surviving populations are extremely small and all four populations are geographically isolated from one another. Therefore, the long-term genetic viability of these populations is in doubt. Also, the restricted range of each of the surviving populations makes them extremely vulnerable to extirpation from a single event or activity, such as a severe storm,

fire, land-clearing or timbering operation, pesticide/herbicide application, etc. Because they are isolated from one another natural repopulation of an extirpated population would be unlikely without human intervention.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. The species has been greatly reduced in numbers throughout the majority of its historic range and presently is known to occur at only four locations. At two of these locations, only lone individuals—one at each location—have been observed in recent years; at a third location the species has undergone a rapid decline in numbers and is endangered by further habitat degradation/alteration. Only one of the remaining populations appears to be stable at this time, and it is threatened by many of the same factors that are believed to have resulted in the extirpation or decline of the other historically known populations. Due to the species' history of population loss and decline and the extreme vulnerability of the surviving populations, threatened status does not appear appropriate for this species. Critical habitat is not being proposed for this species at this time for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designates critical habitat at the time the species is determined to be endangered or threatened. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. The Service finds that designation of critical habitat is not prudent for this species. Such a determination would result in no known benefit to the spruce-fir moss spider, and designation of critical habitat could further threaten the species.

Section 7 of the Act requires that Federal agencies insure that their actions are not likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of critical habitat. (See ''Available Conservation Measures'' section for a further discussion of section 7.) As part of the development of this rule, Federal and State agencies were notified of the spruce-fir moss spiders' general distribution, and they were requested to provide data on proposed Federal actions that might adversely affect the species. No specific projects were identified. Should any future projects be proposed in areas inhabited by the spruce-fir moss spider, the involved Federal agency will already have the general distribution data needed to determine if the species may be impacted by their action. If needed, more specific distribution information would be provided.

Three of the four surviving populations of the spruce-fir moss spider are considered to be extremely small, and suitable habitat at each of the four sites still supporting the species is very limited. Thus, any Federal action with the potential to result in significant adverse modification or destruction of the species' habitat would also likely jeopardize its continued existence, thereby triggering both the destruction or adverse modification of critical habitat standard and the jeopardy standard. Therefore, no additional protection for the spruce-fir moss spider would accrue from critical habitat designation that would not also accrue from listing the species. Consequently, when listed, habitat protection for the spruce-fir moss spider will be accomplished through the section 7 jeopardy standard and section 9 prohibitions against take.

In addition, the spruce-fir moss spider is very rare and unique, and taking for scientific purposes and private collection could pose a threat if specific site information were released. The publication of critical habitat maps in the **Federal Register**, local newspapers, and other publicity accompanying critical habitat designation could increase the collection threat. The locations of populations of these species have consequently been described only in general terms in this proposed rule. Any existing precise locality data would be available to appropriate Federal, State, and local government agencies from the Service office described in the **ADDRESSES** section; from the Service's Raleigh Field Office, P.O. Box 33726, Raleigh, North Carolina 27636–3726; the Service's Cookeville Field Office, 446 Neal Street, Cookeville, Tennessee 38501; and from the North Carolina Wildlife Resources Agency, North Carolina Natural Heritage Program, Tennessee Wildlife Resources Agency, and Tennessee Department of Conservation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the 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 Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act 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 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 a listed 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 formal consultation with the Service. The Service has notified Federal agencies that may have programs that affect the species. Federal activities that occur and impact the species include, but are not limited to, the carrying out or issuance of permits for construction, recreation or development actions that could result in the loss or thinning of the high-elevation forest canopy, and pesticide or herbicide applications for the control of noxious insects or weeds. It has been the experience of the Service, however, that nearly all section 7 consultations can be resolved so that the species is protected and the project objectives met.

Section 9 of the Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is

illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

It is the policy of the Service, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time of listing those activities that would constitute a violation of Section 9 of the Act. The intent of this policy is to increase public awareness of the listing on proposed and on-going activities within a species' range. Activities that could potentially result in ''take'' of the spruce-fir moss spider include, but are not limited to, unauthorized collecting or handling of the spider, unauthorized pesticide applications within the occupied habitat of the spider, or intentional or unauthorized destruction of the species' habitat (e.g., burning or forest clearing within the occupied range of the species; trampling or other disturbance of the moss mats within which the species occurs, etc.).

Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Asheville Office (see **ADDRESSES** section). Requests for copies of the regulations regarding listed wildlife and inquiries about prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Southeast Regional Office, Ecological Services, Division of Endangered Species, 1875 Century Boulevard, Atlanta, Georgia 30345–3301 (Telephone 404/679–7099; Facsimile 404/679–7081).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, 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).

References Cited

Amman, G. D. and C. F. Speers. 1965. Balsam wooly aphid in the southern Appalachians. Journ. For. 63:18–20.

Bruck, R. I. 1988. Research site: Mount Mitchell (southern Appalachians). Decline of the red spruce and Fraser fir. IN: B. Krahl-Urban, H. E. Papke, K. Peters, and C. Shimanski (eds.). Forest Decline. U.S. Environmental Protection Agency and German Ministry of Research and Technology. 137 pp.

Coyle, F. A. 1981. The mygalomorph genus *Microhexura (Araneae, Dipluridae).* Bull. Amer. Mus. Nat. Hist. 170:64–75.

Coyle, F. A., 1985. Observations on the mating behavior of the tiny mygalomorph spider, *Microhexura montivaga* Crosby & Bishop (Araneae, Dipluridae). Bull. Brit. Arach. Soc. 6(8):328–330.

Crosby, C. R., and S. C. Bishop. 1925. Two new spiders from the Blue Ridge Mountains of North Carolina (*Araneina*). Ent. News. 36:142–146, Figs. 1 and 2.

Eagar, C. 1984. Review of the biology and ecology of the balsam woolly aphid in southern Appalachian spruce-fir forests. IN: P. S. White (ed.), The southern Appalachian spruce-fir ecosystem: its biology and threats. Research/Resources Management Report SER–71. U.S. Dept. of Interior, National Park Service.

Frankel, O. H., and M. E. Soulé. 1981 Conservation and evolution. Cambridge University Press, Cambridge, England.

Greenway, J. C., Jr. 1967. Extinction and vanishing birds of the world. Dover Publications, New York.

Harp, J. M. 1991. Status of the spruce-fir moss spider, *Microhexura montivaga* Crosby and Bishop, in the Great Smoky Mountains National Park. Unpubl. report to the National Park Service, U.S. Department of the Interior. 12 pp. plus appendix.

Harp, J. M. 1992. A status survey of the spruce-fir moss spider, *Microhexura montivaga* Crosby and Bishop (*Araneae, Dipluridae*). Unpubl. report to the North Carolina Wildlife Resources Commission, Nongame and Endangered Wildlife Program, and the U.S. Fish and Wildlife Service, Asheville, North Carolina. 30 pp.

Johnson, A. H., S. B. McLaughlin, M. B. Adams, E. R. Cook, D. H. DeHayes, C. Eagar, I. J. Fernandez, D. W. Johnson, R. J. Kohut, V. A. Mohnen, N. S. Nicholas, D. R. Peart, G. A. Shier, and P. S. White. 1992. Synthesis and conclusions from epidemiological and mechanistic studies of red spruce decline. IN: C. Eagar and M. B. Adams (eds.) Ecology and decline of red spruce in the eastern United States. Springer-Verlag, New York.

Kotinsky, J. 1916. The European fir trunk louse, *Chermes (Dreyfusia) piceae* (Ratz.). Ent. Proc. Soc. Washington 18:14–16.

Peart, D. R., N. S. Nicholas, S. M. Zedaker, M. Miller-Weeks, and T. G. Siccama. 1992. Condition and recent trends in high-elevation red spruce populations. IN: C. Eagar and M. B. Adams (eds.) Ecology and decline of red spruce in the eastern United States. Springer-Verlag, New York.

Speers, C. F. 1958. The balsam woolly aphid infestation on cambial activity in Abies grandis. Amer. Jour. Bot. 54:1215–1223.

Author

The primary author of this proposed rule is John A. Fridell, U.S. Fish and Wildlife Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806 (704/665–1195, Ext. 225).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

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. Section 17.11(h) is amended by adding the following, in alphabetical order under ARACHNIDS, to the List of Endangered and Threatened Wildlife, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * * √

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
ARACHNIDS							
*	*	*	*	*		*	
Spider, spruce-fir moss	*Microhexura montivaga*	U.S.A. (NC and TN)	NA	E	576	NA	NA
*	*	*	*	*		*	

Dated: December 12, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–2836 Filed 2–3–95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 941241–4341; I.D. 020195A]

Groundfish of the Bering Sea and Aleutian Islands Area; Atka Mackerel in the Eastern Aleutian District and Bering Sea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Atka mackerel in the Eastern Aleutian District and Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the interim specification of Atka mackerel in these areas.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), February 2, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(i), the interim 1995 specifications of groundfish for the BSAI (59 FR 64346, December 14, 1994) established 2,864 metric tons (mt) as the interim allowance of Atka mackerel for the Eastern Aleutian District and the Bering Sea (BS) subarea.

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Atka mackerel total allowable catch (TAC) in the Eastern Aleutian District and BS subarea soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 2,464 mt after determining that 400 mt will be taken as incidental catch in directed fishing for other species in the Eastern Aleutian District and BS subarea. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the BS subarea.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 1, 1995.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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