

(i) The North Fork Holston River Watershed NEP Area is within the species' historic range and is defined as follows: The North Fork Holston River watershed, Washington, Smyth, and Scott Counties, Virginia; South Fork Holston River watershed upstream to Ft. Patrick Henry Dam, Sullivan County, Tennessee; and the Holston River from the confluence of the North and South Forks downstream to the John Sevier Detention Lake Dam, Hawkins County, Tennessee. This site is totally isolated from existing populations of this species by large Tennessee River tributaries and reservoirs. As the species is not known to inhabit reservoirs, and it is unlikely that the fish could move 100 river miles through these large reservoirs, the possibility of this population contacting extant wild populations is unlikely.

(ii) The Tellico River NEP Area is within the species' historic range and is defined as follows: The Tellico River, between the backwaters of the Tellico Reservoir (approximately Tellico River mile (TRM) 19 (30.4 kilometers (km))) and TRM 33 (52.8 km), near the Tellico Ranger Station, in Monroe County, Tennessee. This species is not currently known to exist in the Tellico River or its tributaries. Based on the habitat requirements of this species, we do not expect the fish to become established outside this NEP Area. However, if they do move upstream or downstream or into tributaries outside of the designated NEP Area, we will presume that the fish came from the reintroduced populations. We will amend this rule and enlarge the boundaries of the NEP Area to include the entire range of the expanded population.

(iii) We do not intend to change the NEP designations to "essential experimental," "threatened," or "endangered" within the NEP Areas. Additionally, we will not designate critical habitat for these NEPs, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) What activities are not allowed in the NEP Area?

(i) Except as expressly allowed in this paragraph (e), all the prohibitions of § 17.31(a) and (b) apply to the fish identified in this paragraph.

(ii) Any manner of take not described under paragraph (e)(3) of this section is prohibited in the NEP Area. We may refer unauthorized take of these species to the appropriate authorities for prosecution.

(iii) You may not possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever any of the identified fish, or parts thereof, that are taken or possessed in violation of this paragraph or in violation of the

applicable State fish and wildlife laws or regulations or the Act.

(iv) You may not attempt to commit, solicit another to commit, or cause to be committed any offense defined in this paragraph.

(3) What take is allowed in the NEP Area? Take of this species that is accidental and incidental to an otherwise lawful activity, such as fishing, boating, trapping, wading, or swimming, is allowed.

(4) How will the effectiveness of these reintroductions be monitored? We will prepare periodic progress reports and fully evaluate these reintroduction efforts after 5 and 10 years to determine whether to continue or terminate the reintroduction efforts.

* * * * *

4. Amend § 17.84 by adding paragraph (m) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(m) Spotfin chub (=turquoise shiner) (*Cyprinella* (=Hybopsis) *monacha*), duskytail darter (*Etheostoma percnurum*), smoky madtom (*Noturus baileyi*).

(1) Where are these fish designated as nonessential experimental populations (NEPs)?

(i) The NEP Area for the three fishes is within the species' probable historic ranges and is defined as follows: The Tellico River, from the backwaters of the Tellico Reservoir (approximately Tellico River mile (TRM) 19 (30.4 kilometers (km))) to TRM 33 (52.8 km), near the Tellico Ranger Station, in Monroe County, Tennessee.

(ii) None of the fish named in this paragraph (m) are currently known to exist in the Tellico River or its tributaries. Based on the habitat requirements of these fish, we do not expect them to become established outside the NEP Area. However, if any of the species move upstream or downstream or into tributaries outside of the designated NEP Area, we will presume that the fish came from the reintroduced populations. We will amend this paragraph and enlarge the boundaries of the NEP Area to include the entire range of the expanded population.

(iii) We do not intend to change the NEP designations to "essential experimental," "threatened," or "endangered" within the NEP Area. Additionally, we will not designate critical habitat for these NEPs, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) What activities are not allowed in the NEP Area?

(i) Except as expressly allowed in this paragraph, all the prohibitions of

§ 17.31(a) and (b) apply to the fish identified in this paragraph.

(ii) Any manner of take not described under paragraph (m)(3) of this section is prohibited in the NEP Area. We may refer unauthorized take of these species to the appropriate authorities for prosecution.

(iii) You may not possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever any of the identified fish, or parts thereof, that are taken or possessed in violation of this paragraph or in violation of the applicable State fish and wildlife laws or regulations or the Act.

(iv) You may not attempt to commit, solicit another to commit, or cause to be committed any offense defined in this paragraph.

(3) What take is allowed in the NEP Area? Take of these species that is accidental and incidental to an otherwise lawful activity, such as fishing, boating, trapping, wading, or swimming, is allowed.

(4) How will the effectiveness of these reintroductions be monitored? We will prepare periodic progress reports and fully evaluate these reintroduction efforts after 5 and 10 years to determine whether to continue or terminate the reintroduction efforts.

Dated: March 20, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AH56

Endangered and Threatened Wildlife and Plants; Proposed Rule To Remove *Potentilla robbinsiana* (Robbins' cinquefoil) From the Endangered and Threatened Plant List

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove *Potentilla robbinsiana*, commonly called Robbins' cinquefoil, from the List of Endangered and Threatened Plants. We propose this action because the available data indicate that this species has met the goals for delisting. The main population of the species currently has more than 14,000 plants, and the 2 transplant

populations have reached or surpassed minimum viable population size. The proposed action, if finalized, would remove *Potentilla robbinsiana* as an endangered species from the List of Endangered and Threatened Plants and would remove the designation of critical habitat.

This proposed rule includes a proposed 5-year post-delisting monitoring plan as required for species that are delisted due to recovery. The plan will include monitoring of population trends of natural and transplant populations.

DATES: Comments from all interested parties on the *Potentilla robbinsiana* delisting proposal must be received by August 7, 2001. Public hearing requests must be received by July 23, 2001.

ADDRESSES: Comments and other information concerning this proposal to remove Robbins' cinquefoil from the list of endangered species should be sent to Diane Lynch, U.S. Fish and Wildlife Service, Northeast Regional Office, 300 Westgate Center Drive, Hadley, Massachusetts 01035 (facsimile: 413-253-8482). Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

Comments and suggestions on specific information collection requirements should be sent to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 224 ARLSQ, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Diane Lynch at the above address, or at 413-253-8628. To request a copy of the information collection request, explanatory information, and related forms, contact 703-358-2287.

SUPPLEMENTARY INFORMATION:

Background

Although its discovery was not formalized until 1840 (Torrey and Gray, 1840), the first recorded collection of *Potentilla robbinsiana* (Robbins' or dwarf cinquefoil) by Thomas Nuttall in 1824 generated a strong interest among botanists and others in this diminutive member of the rose family (*Rosaceae*). Initially, there was confusion as to its taxonomic status, and it was designated as a variety of various European cinquefoils, but it was eventually recognized as a distinct species (Rydberg, 1896).

Potentilla robbinsiana is a long-lived perennial herb. Its hairy three-part compound leaves are deeply toothed, and mature plants form a dense 2-4 centimeter (1-1.5 inch) rosette.

Individual plants develop a deep central taproot, which helps to anchor them and resists frost heaving. *Potentilla robbinsiana* is one of the first plants to bloom in the alpine zone where it is found, flowering soon after the snows recede, from late-May to mid-June. Adult plants produce from 1 to 30, 5-petalled yellow flowers on individual stems. The achenes mature by late July, and disperse on dry windy days. These seeds seldom disperse more than 20 cm from the parent plant, which limits natural reestablishment (Kimball and Paul, 1986). The seeds remain dormant for at least one winter, and germination begins the following year during June and July. Although seed viability is generally high, seedling survival is low (Iszard-Crowly and Kimball, 1998).

Various experiments have shown that *Potentilla robbinsiana* produces seed asexually so that seedlings are genetically identical (Lee and Greene, 1986). This species has the chromosome number 49 that allows it to maintain itself through asexual reproduction, which partially explains the low genetic variability found within the sampled population (David O'Malley, personal communication, 2000).

Potentilla robbinsiana is endemic to the White Mountains of New Hampshire and is restricted to two small, distinct areas on lands administered by the White Mountain National Forest. Herbaria collections suggest that historically there may have been a number of small populations in close proximity to these two areas. Currently there are only two natural populations. Reports of occurrences outside of New Hampshire have been discounted (Cogbill, 1993), and records indicate that *Potentilla robbinsiana* has always had a very narrow geographic distribution.

The largest natural population of *Potentilla robbinsiana* occurs on Monroe Flats located just above treeline on a col between Mt. Monroe and Mt. Washington on the Presidential Range. Within this small area (less than 1 hectares (ha) (2 acres)), the population is well established with more than 14,000 plants at present. Considering its local abundance and density at this one location, it is assumed that some of the unique features of Monroe Flats are important habitat requirements for *Potentilla robbinsiana*. Monroe Flats (elev. 1,550 meters (m) (5,115 feet (ft.)) consists of an exposed low dome that is covered with alternating bands of relatively barren small-stoned terraces and thickly vegetated mats. Blowing winds keep the Monroe Flats mostly free of snow and ice throughout the winter, leaving the vegetation exposed

to the abrasive action of blowing snow and ice and desiccating winds. The moist barren soils are also susceptible to frost disturbance from freeze-thaw cycles for much of the year. In this extreme environment of moderate solifluction and exposed topography, *Potentilla robbinsiana* fills a narrow niche: it is likely a poor competitor with other species, but is able to thrive in a harsh environment where few other species can survive (Cogbill, 1987).

The second extant natural population occurs on Franconia Ridge, 30 kilometers (km) (8.6 miles (mi)) to the west of the Monroe Flats population. Although still within the alpine zone, the habitat here is markedly different. A handful of plants grow at a site on the south end of the Franconia Ridge in crevices along the side of a vertical cliff just below the ridgeline. Although records indicate that the Franconia population was never very large, it is likely that these few plants are the remnants of a larger population from more suitable habitat that previously existed along the top of the ridge. The habitat has long since eroded and the plants have disappeared due to hiking activity along a ridgeline trail.

Potentilla robbinsiana was listed as endangered on September 17, 1980, and critical habitat encompassing the Monroe Flats population was designated at that time. Overzealous specimen collecting and unregulated hiker disturbance were the reasons for listing. At the time, the extent of the Monroe Flats population was shrinking (Graber and Brewer, 1985) and the Franconia Ridge population was thought to be extirpated.

The first Robbins' Cinquefoil Recovery Plan, completed in 1983, featured two main objectives: to protect the existing Monroe Flats colony, encouraging its expansion to previously occupied habitat; and to establish self-maintaining populations in at least four additional potential habitats not occupied at the time.

To accomplish the first objective, a scree wall surrounding the Monroe Flats population was constructed and posted with "closed to entry" signs, and two hiking trails that had previously traveled through the Monroe Flats population were relocated away from the population. Plants have since been successfully transplanted back into the habitat where the trails had resulted in the localized demise of the plants, primarily at the highest locations of the Monroe Flats population. The ability of seed to move downhill from this recolonized site should benefit the Monroe Flats population. In addition, personnel from the White Mountain

National Forest and Appalachian Mountain Club continue to provide stewardship, enforcement, and educational resources on site.

Several tasks were necessary to meet the second objective of establishing four additional self-maintaining transplant populations: (1) Protocols were developed to monitor the Monroe Flats population to better understand its demographic trends and natural rates of recruitment and mortality, and to collect data to model minimum viable population size; (2) the Franconia Notch population (rediscovered in 1984) was annually monitored; (3) micro-habitat components were identified and used to locate unoccupied, potentially suitable habitat; and (4) effective propagation and transplant techniques were developed. Transplant techniques varied over the years. However, the most successful efforts used 2-year-old plants germinated from seed, and transplanted with the soil media intact in mid-June to early July. Each year a portion of the seed collected for use in transplants is placed in cold storage at the New England Wildflower Society to establish a seed bank for this species.

Prior to listing, there had been a number of attempts to establish transplant populations at approximately 20 locations throughout the White Mountains (Graber, 1980). Although some of these efforts showed signs of initial success, all but one eventually failed due to unsuitable habitat or because patches of suitable habitat were too small to support viable populations. The Appalachian Mountain Club Research Department reviewed these efforts, and, using the lessons learned, narrowed recovery efforts to four potential sites as outlined in the updated 1991 recovery plan: two used in the previous transplant efforts and two new ones.

The experience gained from previous transplant efforts and the additional life history and demographic information gathered from ongoing research were used to determine the four most appropriate transplant sites. Two of these chosen sites had previously established transplant populations (Camel Patch and the Viewing Garden), both located on or near Mt. Washington, and two of the sites were unoccupied sites, one on Boott's Spur and one on the Franconia Range near what was thought potentially to be a historic site.

Transplant efforts at these 4 locations began in 1986 with the introduction of 160 plants over 3 years at the Boott's Spur site. The site showed some initial promise, but by 1991 mortality was 100%. Although the Boott's Spur location was recognized as suboptimal

habitat and had failed in a previous transplant effort, another 27 plants were transplanted in 1995, but survival was 0% after the first year. The new Franconia population was established in 1988 with 61 plants transplanted over 2 years and an additional 108 plants through 1996, the date of the last transplant efforts. Like the natural populations, this transplant population has fluctuated over the years, but now appears well established with over 331 plants counted in 1999 and good natural recruitment occurring. Of the transplant populations created prior to this species listing, one continues to persist (Camel Patch) and has been supplemented with additional transplants. The transplant records for the Camel Patch by Graber from the 1980s to 1991 were not available, but the Appalachian Mountain Club inventoried this site starting in 1984 when they located 84 plants. Only one of the transplant zones in this habitat showed viable natural reproduction occurring. An additional 6 transplants were done at this location in 1999, which boosted this population to 23 adults, 60 juveniles, and 6 new transplant adults. The Viewing Garden had received 19 known adult transplants from about 1980 through 1997. Though the adults survived for some time, viable natural reproduction was problematic and these individuals died out over time.

The Robbins' Cinquefoil Recovery Plan: First Update, published in 1991, retained recovery criteria for the protection of existing natural populations and establishing additional transplant populations, contained minor changes to incorporate the rediscovered natural Franconia population, and acknowledged that suitable additional unoccupied habitat may be a limiting factor. In addition to the protection of the natural populations, this plan determined that a historically occupied zone within the Monroe Flats should be recolonized. Transplant efforts began in 1996 to meet this objective, and successful juvenile recruitment has since been observed.

To delist *Potentilla robbinsiana*, long-term demographic evidence must show that the Monroe Flats population is stable or increasing in size. Although counts were undertaken in 1973, 1983, and 1992, the methodology used to count the plants differed. The most reliable comparison between the three prior censuses and the most recent census (1999) is the number of plants found that were greater than 14 millimeters (mm.) (0.5 in.) in stem diameter. Comparing the number of plants greater than 14 mm. in diameter for censuses in 1983, 1992, and 1999

clearly demonstrates that the Monroe Flats population has dramatically increased (Table 1). Transplant efforts in three different zones historically occupied by *Potentilla robbinsiana* began in 1996, and juvenile recruitment has been established in two of the zones.

TABLE 1.—MONROE FLATS CENSUS COUNTS FOR *POTENTILLA ROBBINSIANA*

Year	Number of plants with stems greater than 14 mm. in diameter	Increase from previous count (Percent)
1999	4,575	36
1992	3,368	118
1983	1,547	-14
1973	1,801	

While the 1991 recovery plan still calls for the establishment of four transplant populations, it also recognizes that suitable habitat may be a limiting factor, and requires that only two of the four transplant populations need to be viable. Boott's Spur has subsequently been dropped as a result of the unsuccessful transplant efforts resulting in 100% mortality. The Viewing Garden also reached 100% mortality in 1998. There are no plans to reestablish a population at this location because the suitable habitat is very limited and cannot support more than a few individual plants that are unlikely to persist under natural population fluctuations. Biologists familiar with this species are confident that little if any suitable habitat in the White Mountains remains to be discovered (K. Kimball, Appalachian Mountain Club, pers. comm. 2000). Therefore, given that the discovery of additional suitable habitat for the establishment of new transplant attempts is unlikely, recent efforts have focused on ensuring viable populations at the two remaining transplant locations.

Both the Camel Patch and Franconia Ridge transplant populations have persisted for more than 10 years. Both have juvenile recruitment and successful second generation seedling establishment. Transplant and/or monitoring efforts for these populations continue on a near annual basis (Kimball, 1998). The high level of soil movement throughout Camel Patch makes much of the site unsuitable for transplant efforts, nevertheless a population located along the edge of the encircling vegetation is well established. The Franconia Ridge population has increased dramatically in recent years and is now well established. Although

precise historic records are lacking, even if the present Franconia transplant population happens to be located at a historical location, the amount of suitable habitat would eventually limit the population size.

An 11-year demographic study, funded by us, the U.S. Forest Service, and Appalachian Mountain Club, was conducted along four permanent transects within the Monroe Flats population, in part, to determine a minimum viable population for the transplant populations based on the stage-based survival of the Monroe Flats population. The study recommended a minimum viable population of 50 plants (Iszard-Crowley and Kimball, 1998). Both the Franconia transplant location with a current population of 331 plants and the Camel Patch location with a current population of 87 plants meet this criteria.

Previous Federal Action

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823) of his acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. Comments on this proposal were summarized in the April 26, 1978, **Federal Register** publication of a final rule, which also determined 13 plants to be either endangered or threatened species (43 FR 17909). *Potentilla robbinsiana* was included in the Smithsonian's report, the July 1, 1975, notice of review, and the June 16, 1976, proposal.

The amendment of the Act in 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, we published a notice withdrawing the June 16, 1976, proposal to list *Potentilla robbinsiana*.

Based on sufficient new information, we again proposed *Potentilla robbinsiana* for listing on March 24, 1980, and proposed its critical habitat for the first time (45 FR 19004). A public

meeting was held on this proposal on April 28, 1980, in Concord, New Hampshire. On September 17, 1980, we published a final rule in the **Federal Register** (45 FR 61944) listing *Potentilla robbinsiana* as endangered and designating critical habitat.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provision of the Act, set forth the procedures for listing, reclassifying, and delisting species on the Federal lists. A species may be listed if one or more of the five factors described in section 4(a)(1) of the Act threatens the continued existence of the species. A species may be delisted according to 50 CFR 424.11(d), if the best scientific and commercial data available substantiate that the species is neither endangered nor threatened (1) because of extinction, (2) because of recovery, or (3) because the original data for classification of the species were in error.

After a thorough review of all available information, we determined that substantial *Potentilla robbinsiana* recovery has taken place since listing in 1980. We have also determined that none of the five factors identified in section 4(a)(1) of the Act, and discussed below, are currently affecting the species in such a way that the species is endangered (in danger of extinction throughout all or a significant portion of its range) or threatened (likely to become endangered in the foreseeable future throughout all or a significant portion of its range). These factors and their application to Robbin's cinquefoil, *Potentilla robbinsiana* (Torrey and Grey, 1840), are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Potentilla robbinsiana utilizes a substrate described as a shallow loamy sand topped with a stony, pavement-like surface. This stony surface layer protects the soil from being either blown or washed away. The 1980 final listing rule determined that the plant and its habitat were damaged by trampling from hikers. Hiking through the habitat is unimpeded due to the lack of most vegetation. Because the plants are small, it is easy for hiker boots to crush adult, juvenile, and seedling plants.

Since listing, the threat from trampling has been reduced by rerouting trails and protecting habitat. The section of the Appalachian Trail that bisected the Monroe Flats population is referred to locally as the Crawford Path, named

after Abel Crawford who constructed the path in 1819. In 1915, the Appalachian Mountain Club constructed Lakes of the Clouds Hut, 270 m. (295 yards (yd.)) to the north of the trail. The Crawford Path was relocated at this time to bring the trail by the Hut, and although the trail was no longer directly bisecting *Potentilla robbinsiana* habitat, it still went through the northwest corner of the critical habitat. In 1983, the Crawford Path and Dry River Trails were rerouted a second time in response to the Federal listing, to move the trails outside of the plant's critical habitat. A low scree wall was constructed in conjunction with the trail relocation, around the critical habitat, and has been particularly effective in places where the trail abuts critical habitat. Signs posted around the Monroe Flats population notify hikers that there is a federally listed species present and no admittance is allowed without a permit. These signs are replaced as needed. Hiker traffic and trespassers into the critical habitat were recorded by pressure plates during 1985 to assess the effectiveness of hiker management. The plates were operated from June through October 1985 and checked several times weekly. Of 4,286 hikers counted over 115 days the counters were functional, the trespass rate was 2 percent (Kimball and Paul, 1986). The target compliance level established by the 1983 recovery plan was 95 percent of the hikers not trespassing into the critical habitat, an objective that has been maintained or exceeded since 1981. Outreach has also been a strong recovery component for ensuring hiker compliance of no trespassing into the *Potentilla robbinsiana* habitat. A naturalist is stationed at the Lakes of the Clouds Hut throughout the summer. The Hut naturalist is available during the day to answer questions and give interpretive talks regarding *Potentilla robbinsiana*. The naturalist and other Hut staff are also instrumental in monitoring the Monroe Flats population for human disturbance.

In 1973, prior to listing, the Monroe Flats population contained approximately 1,801 individual plants larger than 14 mm. As of 1999, this population included approximately 4,575 individuals of similar size. This represents a greater than 250% increase in this population. Counting plants of all sizes (seedlings to adults) in 1999, the established population size was 14,195 individuals.

The second natural population is near the Appalachian Trail on Franconia Ridge. The location of this population has been purposefully kept undisclosed

and is presently out of the way of the average hiking public.

Records indicated the extant Franconia Ridge population was never very large. Nevertheless, it is considered to be a reproducing population, with 18 individual plants consisting of 4 adults, 13 juveniles, and 1 seedling, as of 1999.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The 1980 final listing identified that the collecting of specimens for herbaria probably contributed to the loss of *Potentilla robbinsiana* and possibly the cause for the extirpation of one of the Franconia sites (Steele, 1964). It was noted that over 40 herbarium sheets containing nearly 100 plants (6 percent of the known mature population at the time of listing) were counted in various New England herbaria (Graber, 1980). Cogbill's more recent paper (1993) documents the collection of over 850 plants in herbaria collections worldwide, which represents one of the most extensive collections known for a single species. However, collection of the species has, to date, not been a threat. Commercial trade in the species occurred in the early 1900s but has not occurred since and is not expected to occur in the future. Import or export of this species also is not anticipated. Therefore, taking of *Potentilla robbinsiana* for these purposes is not considered to be a threat.

C. Disease and Predation

This species is not known to be threatened by disease or predation.

D. The inadequacy of Existing Regulatory Mechanisms.

Potentilla robbinsiana is currently afforded limited protection by the Endangered Species Act. Section 9 of the Act prohibits the removal and possession of endangered plants from lands under Federal jurisdiction and the malicious damage and destruction of endangered plants in such areas, and the damage or destruction of endangered plants from any other area in knowing violation of any State law or regulation, or in the course of a violation of State criminal trespass law. Section 7 of the Act requires Federal agencies to ensure that their actions do not jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat.

Section 7(a)(1) requires Federal agencies to carry out programs for the conservation of threatened and endangered species. The entire range of *Potentilla robbinsiana* occurs on Forest Service lands. Forest Service regulations

prohibit removing, destroying, or damaging any plant that is classified as a threatened, endangered, rare or unique species (36 CFR 261.9). On December 2, 1994, we, the Forest Service, and the White Mountain National Forest, signed a Memorandum of Understanding for the conservation of *Potentilla robbinsiana*. The MOU states that the Forest Service agrees to carry out specific management measures, with our assistance, both through the recovery period, and if and when *Potentilla robbinsiana* is removed from the list of endangered and threatened plants. The MOU further states that the change in the species' legal status will not affect the Forest Service's commitment to implement management programs to promote long-term conservation of this sensitive species regardless of its standing under the Federal Act.

Potentilla robbinsiana does appear on the Forest Service Region 9 list of "species of concern" and on the New Hampshire State list, although State legislation currently offers it no protection. However, the State of New Hampshire has a cooperative plant agreement with us as specified under section 6(c)(2) of the Act that allows the State to apply for funds from the Service to aid in the conservation of threatened, endangered, or rare plants.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Recovery efforts have been directed toward protection and environmental education. A number of approaches have been used to educate the hiking public and the scientific community about *Potentilla robbinsiana*. Providing information to the public regarding the species' biology and management satisfies their curiosity and increases their willingness to participate in protection of this species. These efforts include a permanent display and presentations about *Potentilla robbinsiana* by the seasonal Appalachian Mountain Club naturalist at Lakes of the Clouds Hut.

The 1980 final listing rule mentioned that *Potentilla robbinsiana* is vulnerable to the harsh climate in which it lives. The weather regime experienced by the species is highly variable from year to year. During demographic studies over the past 16 years it has been observed that late frosts in June have the potential to damage flowers and greatly reduce the seed crop for that year. By virtue of a deep taproot, the species appears to be adapted to a moderate level of frost-heaving, a stress that may limit competing species. At the same time, it cannot tolerate frost induced movement

of more than 18 mm/yr, or frost action sufficient to produce stone stripes or other patterned ground (Cogbill, 1987). Overall, however, this species is now thriving in a very localized part of the alpine zone of the White Mountains, and adapts to the harsh climate conditions, where few other species survive.

Summary of Status

Delisting *Potentilla robbinsiana*, as described in the 1991 updated recovery plan, requires that (1) four transplant colonies are viable, with self-reproducing capability; (2) the Monroe Flats population demonstrates population stability for a full generation; and (3) the two natural existing populations are protected from human disturbance. This delisting objective was based on the best information available at that time. The habitat of the two existing natural populations is protected from human disturbance, and the Monroe Flats population is considered viable and increasing. Though the recovery plan calls for the establishment of four transplant populations, it also recognizes that suitable habitat may be a limiting factor. We have determined that at the two sites where transplanting has proven to be unsuccessful, Boot's Spur and the Viewing Garden, no further attempts to reestablish populations will be considered. Discovery of additional suitable habitat for the establishment of new transplant populations is unlikely, so recent efforts are focusing on maintaining viable populations at the two remaining transplant locations. Two of the three delisting components have been met. It is unlikely additional habitat for future transplants will be found, and achieving the third component is improbable. We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule: The threats to the species have been reduced or removed, the number of plants is increasing, the species is not in imminent danger of extinction, and the species appears unlikely to become endangered within the foreseeable future.

Effects of This Rule

If finalized, the proposed action would remove *Potentilla robbinsiana* from the List of Endangered and Threatened Plants. Furthermore, the critical habitat for this plant, one location in the White Mountain National Forest, New Hampshire (50 CFR 17.96(a)), would be removed. The

prohibitions and conservation measures provided by the Act would no longer apply to this species. Therefore, taking, interstate commerce, import, and export of *Potentilla robbinsiana* would no longer be prohibited under the Act. In addition, Federal agencies would no longer be required to consult with us under section 7 of the Act to insure that any action they authorize, fund, or carry out, is not likely to jeopardize the continued existence of *Potentilla robbinsiana* or destroy or adversely modify designated critical habitat.

The take and use of *Potentilla robbinsiana* must comply with appropriate Forest Service regulations, since the entire population lies within the White Mountain National Forest in New Hampshire.

Future Conservation Measures

Section 4(g)(1) of the Act requires that the Secretary of the Interior, through the Service, implement a monitoring program for not less than 5 years for all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If at any time during the 5-year monitoring program, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

Monitoring

Our Northeast Region will coordinate with the Forest Service, the Appalachian Mountain Club, and State resource agencies to develop and implement an effective 5-year monitoring program to track the population status of *Potentilla robbinsiana*. To detect any changes in the status of *Potentilla robbinsiana*, we will use, to the fullest extent possible, information routinely collected by the Appalachian Mountain Club Research Department and the Forest Service. During the fifth year of the 5-year monitoring period, a quantitative population assessment of the Monroe Flats population will be conducted using transects to further evaluate the stability and health of this population.

It is believed that the two transplanted sites have reached viable population status. However, during the required 5-year monitoring period, transplants at the Camel Patch site will continue annually to supplement the current population or until the habitat is thought to be saturated with plants.

If we determine at the end of the mandatory 5-year monitoring period,

and the fifth year population assessment of Monroe Flats, that recovery is complete, and factors that led to the listing of *Potentilla robbinsiana*, or any new factors, remain sufficiently reduced or eliminated, monitoring may be reduced or terminated. If data show that the species is declining or if one or more factors that have the potential to cause a decline are identified, we will continue monitoring beyond the 5-year period and may modify the monitoring program based on an evaluation of the results of the initial 5-year monitoring program, or reinstate listing if necessary.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments should be sent to our Northeast Regional Office (see ADDRESSES section). We particularly seek comments concerning: biological, commercial trade, or other relevant data concerning any threat, or lack thereof, to this species; and information and comments pertaining to the proposed monitoring program contained in this proposal.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold from the rulemaking record a respondent's identity as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received, as well as supporting information used to write this rule, will be available for public inspection, by appointment, during normal business hours at the above address.

The final decision on this proposal for *Potentilla robbinsiana* will take into consideration the comments received by us during the comment period. Such

communications may lead to a final regulation that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of this proposal. Such requests must be made in writing and sent to our Northeast Regional Office identified in the ADDRESSES section at the beginning of this proposed rule.

Executive Order 12866

This proposed rule is not subject to review by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

The OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, require that Federal agencies obtain approval from OMB before collecting information from the public. The OMB regulations at 5 CFR 1320.3(c) define a collection of information as the obtaining of information by or for an agency by means of identical questions proposed to, or identical reporting, record keeping, or disclosure requirements imposed on, 10 or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that "ten or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For purposes of this definition, employees of the Federal Government are not included.

This rule does not include any collections of information that require approval by OMB under the Paperwork Reduction Act. *Potentilla robbinsiana* occurs entirely on lands administered by the Forest Service and only in one State, New Hampshire. The information needed to monitor the status of *Potentilla robbinsiana* following delisting will be collected primarily by a limited number of personnel from the Forest Service and the Appalachian Mountain Club. We do not anticipate a need to request data or other information from 10 or more persons during any 12-month period to satisfy monitoring information needs. If it becomes necessary to collect information from 10 or more non-Federal individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment, as defined under the authority of the National Environmental

Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from our Northeast Regional Office (see **ADDRESSES** section).

Author

The primary author of this notice is Diane Lynch, Endangered Species Biologist (See **ADDRESSES** section), and Doug Weihrauch, staff scientist for the Appalachian Mountain Club Research Department, provided assistance with the summary of the biological record for this species.

Lists of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

For the reasons set out in the preamble, we propose to amend part 17, subpart B of chapter I, title 50 Code of Federal Regulations, 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.

§ 17.12 [Amended]

2. Section 17.12(h) is amended by removing the entry for “*Potentilla robbinsiana*, Robbins’ cinquefoil” under “FLOWERING PLANTS,” from the List of Endangered and Threatened Plants.

§ 17.96 [Amended]

Section 17.96(a) is amended by removing the critical habitat entry for “*Potentilla robbinsiana*, (Robbin’s cinquefoil)” which is under Family Rosaceae.

Dated: May 12, 2001.

Marshall Jones, Jr.,

Director, Fish and Wildlife Service.

[FR Doc. 01–14453 Filed 6–7–01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 052201E]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of scoping meetings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene scoping meetings to obtain public comments on essential fish habitat (EFH) issues to be discussed in and potentially added to a Supplemental Environmental Impact Statement (SEIS) for the Council’s Generic Essential Fish Habitat Amendment to the Fishery Management Plans of the Gulf of Mexico (EFH Generic Amendment).

DATES: The scoping meetings will be held in June. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the scoping meetings.

ADDRESSES: Written comments on the scope of issues that should be addressed in and potentially added to the SEIS should be sent to and copies of the EFH Generic Amendment are available from the Council. The Council’s address is: Gulf of Mexico Fishery Management Council, The Commons at Rivergate, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619–7015; telephone (813) 228–2815; fax (813) 225–7015. See **SUPPLEMENTARY INFORMATION** for specific dates, locations, and times of the scoping meetings.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone (813) 228–2815.

SUPPLEMENTARY INFORMATION: The scoping meetings will be convened to obtain public comments on the range of issues to be discussed in the SEIS for the EFH Generic Amendment. The Council is especially interested in public views on what alternatives should be considered for the designation of EFH, the identification of Habitat Areas of Particular Concern (HAPC), and the recommendation of management measures to minimize the adverse impacts of fishing activities and gear on identified EFH and HAPC areas.

The Council prepared the EFH Generic Amendment in response to

provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The EFH Generic Amendment identifies and describes EFH for the species managed under the Council’s fishery management plans; it also discusses threats to EFH from both fishing and non-fishing activities, discusses EFH conservation and enhancement opportunities, and identifies HAPCs. NMFS partially approved the EFH Generic Amendment in 1999 after conducting Secretarial review under Magnuson-Stevens Act procedures. NMFS and the Council previously published a notice in the **Federal Register** (66 FR 15405; March 19, 2001) announcing their intent to prepare a SEIS for the EFH Generic Amendment that will supersede the environmental assessment originally prepared in support of this amendment.

Meeting Dates, Locations, and Times

The scoping meetings will be held at the following dates, locations, and times:

1. Thursday, June 14, 2001, 3 p.m.–5 p.m., Omni Bayfront Hotel, 900 North Shoreline Boulevard, Corpus Christi, TX 78401; telephone (361) 887–1600
2. Friday, June 15, 2001, 1 p.m.–3 p.m., Courtyard by Marriott, 9190 Gulf Freeway, Houston, TX 77017; telephone (713) 910–1700
3. Monday, June 18, 2001, 2 p.m.–4 p.m., New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA 70062; telephone (504) 469–5000
4. Tuesday, June 19, 2001, 3 p.m.–5 p.m., Imperial Palace Hotel, 850 Bayview, Biloxi, MS 39530; telephone (228) 436–3000
5. Thursday, June 21, 2001, 3 p.m.–5 p.m., National Marine Fisheries Service, 3500 Delwood Beach Road, Panama City, FL 32408; telephone (850) 234–6541
6. Monday, June 25, 2001, 3 p.m.–5 p.m., Holiday Inn Beachside, 3841 North Roosevelt Boulevard, Key West, FL 33040; telephone (305) 294–2571
7. Thursday, June 28, 2001, 3 p.m.–5 p.m., Tampa Airport Hilton, 2225 Lois Avenue, Tampa, FL 33607; telephone (813) 877–6688

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by June 8, 2001.