

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 designate 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