

Resource center	Territory included	Location of office
Eastern .....	CT, DC, DE, MA, MD, ME, NJ, NH, NY, PA, PR, RI, VA, VT, WV.	City Crescent Building, #10 South Howard Street, Suite 4000, Baltimore, MD 21201-2819.
Midwestern .....	IA, IL, IN, KS, MI, MO, MN, NE, OH, WI .....	19900 Governors Drive, Suite 210, Olympia Fields, IL 60461-1021.
Southern .....	AL, AR, FL, GA, KY, LA, MS, NC, NM, OK, SC, TN, TX ....	61 Forsyth Street, SW, Suite 17T75, Atlanta, GA 30303-3104.
Western .....	American Samoa, AK, AZ, CA, CO, Guam, HI, ID, Mariana Islands, MT, ND, NV, OR, SD, UT, WA, WY.	201 Mission Street, San Francisco, CA 94105.

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AF68

#### Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Carex lutea* (Golden Sedge)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the Fish and Wildlife Service (Service), propose to determine endangered status for *Carex lutea* (golden sedge) under the authority of the Endangered Species Act of 1973, as amended (Act). This rare plant is presently known from only eight populations in Pender and Onslow counties, North Carolina. *C. lutea* is endangered throughout its range because of habitat alteration; conversion of its limited habitat for residential, commercial, or industrial development; mining; drainage activities associated with silviculture and agriculture; and suppression of fire. In addition, herbicide use, particularly along utility or road rights-of-way, may also be a threat. This proposal, if made final, will extend the protection of the Act to *C. lutea*. We are seeking data and comments from the public.

**DATES:** Send your comments to reach us on or before October 15, 1999. We will not consider comments received after the above date in making our decision on the proposed rule. We must receive public hearing requests by September 30, 1999.

**ADDRESSES:** Send comments, materials, and requests for a public hearing concerning this proposal to the State Supervisor, Asheville Field Office, US Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by

appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nora A. Murdock at the above address (828/258-3939, extension 231).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Carex lutea* (LeBlond) is a perennial member of the sedge family (Cyperaceae) known only from North Carolina. Fertile culms (stem) may reach one meter (3 feet) or more in height. The yellowish green leaves are grasslike, with those of the culm mostly basal and up to 28 centimeters (cm) (10 inches (in)) long, while those of the vegetative shoots reach a length of 65 cm (25 in). Fertile culms produce two to four flowering spikes (multiple flowering structure with flowers attached to the stem), with the terminal (end) spike being male and the one to three (usually two) lateral spikes being female. Lateral spikes are subtended by leaflike bracts (a much-reduced leaf). The male spike is about 2 to 4 cm (0.75 to 1.5 in) long, 1.5 to 2.5 millimeters (mm) (0.05 to 0.10 in) wide, with a peduncle (stalk) about 1 to 6 cm (0.5 to 2 in) long. Female spikes are round to elliptic, about 1 to 1.5 cm (0.5 in) long and 1 cm (0.5 in) wide. The upper female spike is sessile (not stalked; sitting), while lower female spikes, if present, have peduncles typically 0.5 to 4.5 cm (0.2 to 1.75 in) long. When two to three female spikes are present, each is separated from the next, along the culm, by 4.5 to 18 cm (1.75 to 7 in). The inflated perigynia (sac which encloses the ovary) are bright yellow at flowering and about 4 to 5 mm (.16 to .20 in) long; the perigynia beaks (point) are out-curved and spreading, with the lowermost in a spike strongly reflexed (turned downward). *C. lutea* is most readily identified from mid-April to mid-June during flowering and fruiting. It is distinguished from other *Carex* species that occur in the same habitat by its bright yellow color (particularly the pistillate (female) spikes), by its height and slenderness, and especially by the out-curved beaks of the crowded perigynia, the lowermost of which are reflexed (LeBlond *et al.* 1994).

LeBlond *et al.*, in 1994 described *Carex lutea* from specimens collected in 1992 by R. J. LeBlond, B. A. Sorrie, A. A. Reznicek, and S. A. Reznicek in Pender County, North Carolina. It is the only member of the *Carex* section *Ceratocystis* found in the southeastern United States.

*Carex lutea* grows in sandy soils overlying coquina limestone deposits, where the soil pH is unusually high for this region, typically between 5.5 and 7.2 (Glover 1994). Soils supporting the species are very wet to periodically shallowly inundated. The species prefers the ecotone (narrow transition zone between two diverse ecological communities) between the pine savanna and adjacent wet hardwood or hardwood/conifer forest (LeBlond 1996; Schafale and Weakley 1990). Most plants occur in the partially shaded savanna/swamp where occasional to frequent fires favor an herbaceous ground layer and suppress shrub dominance. Other species with which this sedge grows include tulip poplar (*Liriodendron tulipifera*), pond cypress (*Taxodium ascendens*), red maple (*Acer rubrum* var. *trilobum*), wax myrtle (*Myrica cerifera* var. *cerifera*), colic root (*Aletris farinosa*), and several species of beakrush (*Rhynchospora* spp.). At most sites, *C. lutea* shares its habitat with Cooley's meadowrue (*Thalictrum cooleyi*), federally listed as endangered, and with Thorne's beakrush (*Rhynchospora thornei*), a species of concern to us. All known populations are in the northeast Cape Fear River watershed in Pender and Onslow counties, North Carolina. As stated by LeBlond (1996):

... localities where *Carex lutea* have been found are ecologically highly unusual. . . . The combination of fairly open conditions underlain by a calcareous substrate is very rare on the Atlantic coastal plain. Many rare plant species are associated with these localities, and several have very restricted distributions, either being endemic to a small area or with a few highly scattered occurrences. The affinities of these taxa are variable, but include connections to the calcareous savannas of the Gulf Coast States; alkaline marshes of the Atlantic tidewater; calcareous glades, barrens, and prairies of the Appalachian region and the ridge and valley

province of Georgia and Alabama; and pinelands of the Carolinas and southern New Jersey.

These rare savannas, underlain by calcareous deposits, support unusual assemblages of plants, including several species known from less than a dozen sites worldwide (Schafale 1994). LeBlond (1996) characterizes these habitats as "... a small archipelago of phytogeographic islands ..." that form a refuge for these rare and unique species. Despite extensive searches of the Gulf Coast in northern Florida and southern Alabama, and Atlantic Coast sites in South Carolina, Georgia, and Florida, no other populations of *Carex lutea* were found outside the North Carolina coastal plain. The species appears to be a very rare, narrowly restricted endemic to an area within a 2-mile radius of the Onslow/Pender County line in southeastern North Carolina (LeBlond 1996). It is listed as endangered by the State of North Carolina (Amoroso and Weakley 1995; M. Boyer, North Carolina Department of Agriculture, personal communication, 1998).

#### Previous Federal Activities

Federal government actions on this species have only recently begun, since the species was unknown to science before 1991 and its official description was not published until 1994. In 1995, we funded a survey to determine the status of *Carex lutea* throughout its known and potential range; we accepted the final report on this survey in 1997. A 1998 status report confirmed the species' precarious status (LeBlond 1998). We elevated *C. lutea* to candidate status (species for which we have sufficient information on status and threats to propose the taxon for listing as endangered or threatened) on October 16, 1998.

On May 8, 1998 (63 FR 25502), we published Listing Priority Guidance for Fiscal Years 1998 and 1999. The guidance clarifies the order in which we will process rulemakings, giving highest priority (Tier 1) to processing emergency rules to add species to the Lists of Endangered and Threatened Wildlife and Plants (Lists); second priority (Tier 2) to processing final determinations on proposals to add species to the Lists, processing new proposals to add species to the Lists, processing administrative findings on petitions (to add species to the Lists, delist species, or reclassify listed species), and processing a limited number of proposed or final rules to delist or reclassify species; and third priority (Tier 3) to processing proposed or final rules designating critical habitat.

Processing of this proposed rule is a Tier 2 action.

#### Summary of Factors Affecting the Species

The procedures for adding species to the Federal lists are found in section 4 of the Act and the accompanying regulations (50 CFR part 424). 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 *Carex lutea* (golden sedge) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Seven of the eight known populations of *Carex lutea* are on privately owned land and are potentially threatened with the destruction or adverse modification of their habitat from residential, commercial, or industrial development; mining; drainage activities associated with silviculture and agriculture; and suppression of fire. The eighth population, on land now owned by the North Carolina Department of Transportation (NCDOT), was severely disturbed in the 1980s by clearcutting, ditching, and draining prior to NCDOT ownership. This site has been purchased by the NCDOT as a mitigation site and is currently under study for the restoration of natural communities and protection and enhancement of rare species populations. At least some of the original *C. lutea* plants survived the previous damage to the site, and the remaining population appears stable.

As described in the "Background" section, the habitat upon which this species depends is extremely rare. Most of the remaining populations are very small, with five of the eight occupying a combined total area of less than 58 square meters. Three of the sites have populations composed of fewer than 50 individuals. Although little is known about natural population fluctuations in this species, severe population declines (exceeding 83 percent) were noted between 1992 and 1996 at three of the eight remaining sites. The exact causes for these losses are unknown. One population is located on a roadside, and another is on a power line right-of-way, where they are exceptionally vulnerable to destruction from highway expansion or improvement or herbicide application. All the known sites have been damaged to some degree in the past by ditching and drainage, mining, logging, bulldozing, and/or road building. Because the species was only recently discovered, it is impossible to know exactly what its historic

distribution and population numbers might have been. However, LeBlond (1996) states: "It is probable that drainage ditches (that lower the water table over a large area) have reduced, perhaps greatly, the amount of suitable habitat available for *Carex lutea* and other rare species at these sites."

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* There is no known commercial trade in *C. lutea* at this time. However, because of its small and easily accessible populations, it is vulnerable to taking and vandalism that could result from increased publicity. Most populations are too small to support even the limited collection of plants for scientific or other purposes.

C. *Disease or predation.* Disease and predation are not known to be factors affecting the continued existence of the species at this time.

D. *The inadequacy of existing regulatory mechanisms.* *Carex lutea* is listed by the State of North Carolina as endangered. As such, it is afforded legal protection within the State by North Carolina General Statutes, § 106–202.12 to 106–202.19 (Cum. Supp. 1985), which provide for protection from intrastate trade (without a permit) and for the monitoring and management of State-listed species and prohibit the taking of plants without a permit and written permission from the landowner. However, State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitats, such as disruption of drainage patterns and water tables or exclusion of fire. Two of the sites are somewhat protected by registry agreements between the landowner and the North Carolina Natural Heritage Program. These agreements are strictly voluntary, however, and may be canceled by the landowner at any time. Part of another population is owned by The Nature Conservancy; however, this site is next to a quarry, and the rest of the population is vulnerable to destruction.

Section 404 of the Clean Water Act represents the primary Federal law that may provide some regulation of the species' wetland habitats. However, the Clean Water Act by itself does not provide adequate protection for the species. Although the objective of the Clean Water Act is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 U.S.C. § 1251), no specific provisions exist that address the need to conserve rare species. The Army Corps of Engineers (Corps) is the Federal agency responsible for administering the section 404 program. Under section 404, the Corps may issue nationwide permits

for certain activities that are considered to have minimal impacts. However, the Corps seldom withholds authorization of an activity under nationwide permits unless the existence of a listed threatened or endangered species would be jeopardized. The Corps may also authorize activities by an individual or regional general permit when the project does not qualify for authorization under a nationwide permit. These projects include those that would result in more than minimal adverse environmental effects, either individually or cumulatively, and are typically subject to more extensive review. Regardless of the type of permit deemed necessary under section 404, rare species such as *Carex lutea* may receive no special consideration with regard to conservation or protection unless they are listed under the Act.

*E. Other natural or manmade factors affecting its continued existence.* As mentioned in the "Background" section of this proposed rule, many remaining populations are small in numbers of individuals and in area covered by the plants. This may suggest low genetic variability within populations, making it more important to maintain as much habitat and as many remaining colonies as possible.

Little is known about the life history of this species or about its specific environmental requirements. However, its apparent restriction to wet pine savannas is a strong indication that it is adapted to the pyric (associated with burning) and hydrological conditions associated with this community type. Such habitats were historically exposed to wildfires approximately every 3 to 5 years, usually during the growing season, which maintained the open habitats favored by *Carex lutea* and dozens of other fire-adapted species. During winter and spring, the soils where *C. lutea* grows are often shallowly flooded. At other times of the year these sites are very wet to saturated. Such high water tables also serve to control woody growth in undisturbed savanna habitats. However, without regular fire, which has been intensively suppressed on the Atlantic coastal plain for half a century, and with the lowering of water tables due to ditching, the open savannas are rapidly changing to dense thickets dominated by the trees and shrubs of the adjacent uplands. As a result, the extraordinary plant diversity characteristic of the savannas is being eliminated, and species such as *C. lutea* are disappearing from the landscape. Even where such habitat is owned by an organization that is able to manage the land with prescribed fire, like The Nature Conservancy, increasingly

restrictive smoke management regulations make burning very difficult.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in making this determination. Based on this evaluation, the preferred action is to list *Carex lutea* as an endangered species. Endangered status is more appropriate than threatened status because of the following factors: this species occurs in only 2 counties; only 8 populations survive, all of which have already been damaged to some degree; most of the remaining populations are very small, with five of the eight occupying a combined total area of less than 58 square meters; three of the remaining populations are composed of fewer than 50 individuals; there are documented severe population declines (exceeding 83 percent) between 1992 and 1996 at three of the eight remaining sites; and all of the remaining populations are currently threatened by fire suppression, highway expansion, right-of-way management with herbicides, and drainage ditching.

#### Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate any critical habitat at the time the species is listed as endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the 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 human activity, and 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. We find that designation of critical habitat for *Carex lutea* is not

prudent because such designation would not be beneficial to the species.

Critical habitat designation, by definition, directly affects only Federal agency actions through consultation under section 7(a)(2) of the Act. 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 destroy or adversely modify its critical habitat. None of the known populations of *Carex lutea* occur on Federal land. However, Federal involvement with this species may occur through the use of Federal funding for power line construction, maintenance, and improvement; highway construction, maintenance and improvement; drainage alterations; and permits for mineral exploration and mining on non-Federal lands. The use of such funding for projects affecting occupied habitat for this species would be subject to review under section 7(a)(2), whether or not critical habitat was designated. The precarious status of *C. lutea* is such that any adverse modification or destruction of its occupied habitat would also jeopardize its continued existence. Thus, the only potential benefit that would result from critical habitat designation would be notification to Federal, State and local government agencies and private landowners. However, during the listing process, and after a species is listed, we conduct public outreach in affected local communities and with government agencies. All involved parties and landowners are aware of the location and importance of protecting this species' habitat. For these reasons, we believe that designation of currently occupied habitat of this species as critical habitat would not result in any additional benefit to the species and that such designation is not prudent.

Because this species occupies an extremely rare habitat type, little of which remains in an unaltered, functional state, we do not expect that reintroduction to currently unoccupied habitat is essential for recovery efforts. Therefore, we believe that designation of currently unoccupied habitat of this species as critical habitat would not result in any additional benefit to the species and, therefore, such designation is not prudent.

Most populations of this species are small, and the loss of even a few individuals to activities such as collection for scientific purposes could extirpate the species from some locations. Taking without a permit is prohibited by the Act from locations under Federal jurisdiction; however, none of the known populations are

located on Federal land. Therefore, publication of critical habitat descriptions and maps would increase the vulnerability of the species to collection, but would not increase its protection under the Act. The contractor we hired to conduct the rangewide status survey declined to include directions to the occupied sites in his report, stating: "Due to the extreme rarity of *Carex lutea* and its vulnerability to extinction, a description of site boundaries or precise directions to population micro sites cannot be provided here" (LeBlond 1996). The owners and managers of all the known populations of *C. lutea* have been made aware of the plant's location and how important it is to protect the plant and its habitat. Since no additional benefits would result from designation of critical habitat, and there are some risks associated with potential collection, we conclude that it is not prudent to designate critical habitat for *C. lutea*.

#### 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 local agencies, private organizations, 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 certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, 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)(4) requires Federal agencies to confer informally with us on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, 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 such a species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its

critical habitat, the responsible Federal agency must enter into formal consultation with us.

Federal activities that could impact *Carex lutea* and its habitat in the future include, but are not limited to, the following: power line construction, maintenance, and improvement; highway construction, maintenance, and improvement; drainage alterations; and permits for mineral exploration and mining. We will work with the involved agencies to secure protection and proper management of *C. lutea* while accommodating agency activities to the extent possible.

If the species is added to the Federal List of Endangered and Threatened Wildlife and Plants, additional protection from taking will be provided when the taking is in violation of any State law, including State trespass laws. It would also provide protection from inappropriate commercial trade and encourage active management for *Carex lutea*. Specifically, the Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to our agents and to State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. We anticipate that few trade permits would ever be sought or issued, because the species is not common in cultivation or in the wild. You may request copies of the regulations on plants from and direct inquiries about prohibitions and permits to the US Fish and Wildlife Service, 1875 Century Boulevard,

Atlanta, Georgia (telephone 404/679-7313).

It is our policy, published on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable, those activities that would or would not constitute a violation of section 9 of the Act at the time of listing. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. The eight remaining populations of *Carex lutea* occur on non-Federal land. We believe that, based upon the best available information, you can take the following actions without resulting in a violation of section 9, only if these activities are carried out in accordance with existing regulations and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (e.g., wetland modification; power line construction, maintenance, and improvement; highway construction, maintenance, and improvement; and permits for mineral exploration and mining) when such activity is conducted in accordance with any reasonable and prudent measures given by us according to section 7 of the Act.

(2) Normal agricultural and silvicultural practices, including pesticide and herbicide use, that are carried out in accordance with any existing regulations, permit and label requirements, and best management practices.

(3) Normal landscape activities around your own personal residence.

We believe that the following might potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Removal, cutting, digging up, damaging, or destroying endangered plants on non-Federal land if conducted in knowing violation of State law or regulation or in violation of State criminal trespass law. North Carolina prohibits the intrastate trade and take of *C. lutea* without a State permit and written permission from the landowner.

(2) Interstate or foreign commerce and import/export without previously obtaining an appropriate permit.

#### Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we are soliciting comments or suggestions from the public, other concerned government agencies, the scientific community, industry, or any other interested party concerning this proposed rule. In particular, we are seeking comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Carex lutea*;

(2) The location of any additional populations of *Carex lutea* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Carex lutea*.

We will consider your comments and any additional information received on this species when making a final determination regarding this proposal. The final determination may differ from this proposal based upon the information we receive.

You may request a public hearing on this proposal. Your request for a hearing must be made in writing and filed within 45 days of the date of publication of this proposal in the **Federal Register**. Address your request to the State Supervisor (see **ADDRESSES** section).

#### Executive Order 12866

Executive Order 12866 requires agencies to write regulations that are easy to understand. We invite your comments on how to make this proposal easier to understand including answers to questions such as the following: (1) Is the discussion in the "Supplementary Information" section of the preamble helpful in understanding the proposal? (2) Does the proposal contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposal (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? What else could we do to make the proposal easier to understand?

#### National Environmental Policy Act

We have determined that an environmental assessment, 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 Act. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018-0094. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.62.

#### References Cited

- Amoroso, J., and A. Weakley. 1995. Natural Heritage Program list of the rare plant species of North Carolina. Natural Heritage Program, Division of Parks and Recreation, North Carolina Department of Environment, Health, and Natural Resources, Raleigh.
- Glover, L. 1994. *Carex lutea*: alive and well in Pender County, North Carolina. Report prepared by the North Carolina Chapter of The Nature Conservancy, Durham.
- LeBlond, R. 1998. Supplement to the status survey for *Carex lutea*. Unpublished report submitted to the Asheville Field Office, U.S. Fish and Wildlife Service, Asheville, NC.
- \_\_\_\_\_. 1996. Status survey for *Carex lutea* LeBlond. Unpublished report submitted to the Asheville Field Office, U.S. Fish and Wildlife Service, Asheville, NC.

- LeBlond, R., A. Weakley, A. Reznicek, and W. Crins. 1994. *Carex lutea* (Cyperaceae), a rare new coastal plain endemic from North Carolina. *SIDA* 16:153-161.
- Schafale, M. 1994. Inventory of longleaf pine natural communities in North Carolina. Natural Heritage Program, Division of Parks and Recreation, North Carolina Department of Environment, Health, and Natural Resources, Raleigh.
- Schafale, M., and A. Weakley. 1990. Classification of the natural communities of North Carolina (third approximation). Natural Heritage Program, Division of Parks and Recreation, North Carolina Department of Environment, Health, and Natural Resources, Raleigh.

#### Author

The primary author of this document is Ms. Nora A. Murdock (see **ADDRESSES** section).

#### List of Subjects in 50 CFR Part 17

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

#### Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the 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.

2. Amend § 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

#### § 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
<i>Carex lutea</i> .....	Golden sedge .....	U.S.A. (NC) .....	Cyperaceae .....	E	.....	NA	NA
*	*	*	*	*	*		*

Dated: July 12, 1999.

**Marshall P. Jones,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 99-20964 Filed 8-13-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[I.D. 080499B]

#### Environmental Impact Statement (EIS) for the Proposed Fishery Management Plan (FMP) for the Coral Reef Ecosystem Fishery Management Plan of the Western Pacific Region (Coral Reef Ecosystem FMP); EIS for the FMP for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region; (Bottomfish and Seamount Groundfish Fisheries FMP)

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

**ACTION:** Notice of intent to prepare EISs; request for comments; notice of scoping meeting.

**SUMMARY:** NOAA announces its intention to prepare an EIS in accordance with the National Environmental Policy Act of 1969 for the proposed Coral Reef Ecosystem FMP, and an EIS for the Bottomfish and Seamount Groundfish Fisheries FMP. The Western Pacific Fishery Management Council (Council) will hold a public scoping hearing in American Samoa on management alternatives to be analyzed under both EISs.

**DATES:** Written comments on the intent to prepare the EISs will be accepted on or before August 26, 1999. A public scoping meeting is scheduled for August 19, 1999.

**ADDRESSES:** Written comments on the intent to prepare the EISs or other aspects of the scoping documents, which contain suggested alternatives and potential impacts should be sent to and copies of the scoping documents are available from Kitty M. Simonds, Executive Director, Western Pacific Regional Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, and to Charles Karnella, Administrator, National Marine Fisheries Service, Pacific Islands Area Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu HI 96814.

The following location and time have been set for the scoping meeting:

American Samoa, August 19, 1999, 3-5 p.m., Conference Room, Division of Marine and Wildlife Resources, Pago Pago, AS. Phone contact 684-633-4456 for information. Subsequent public scoping meetings are tentatively planned for Hawaii (details regarding times and locations will follow in a separate **Federal Register** announcement).

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, at 808-522-8220.

**SUPPLEMENTARY INFORMATION:** A summary of the Coral Reef Ecosystem FMP will be presented including initial recommendations for management action, as described here. Comments will be solicited from the public on these and any other management alternatives the public cares to offer.

Management measures that might be adopted in the Coral Reef Ecosystem FMP include permit and reporting requirements for non-subsistence harvest of coral reef resources, marine protected areas to ensure greater conservation and management to special locations, allowable gear types to harvest coral reef resources in the U.S. exclusive economic zone (EEZ), prohibition on use of gear in ways destructive to habitat, and a framework management process to add future new measures. The FMP would also include essential fish habitat and habitat areas of particular concern, including fishing and non-fishing threats, as well as other components of FMPs required under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). An additional measure, still under consideration for possible inclusion, is a ban on the possession or collection, for commercial purposes, of wild "live rock" and coral (other than coral covered by the Fishery Management Plan for the Precious Corals Fisheries of the Western Pacific Region). The collection of live rock or coral for scientific and research purposes and the collection of small amounts of live coral as brood-stock for captive breeding/aquaculture would be allowed by permit.

The Coral Reef Ecosystem FMP, and its associated EIS, would be the Council's fifth FMP for the EEZ for all U.S. Pacific Islands. This area includes nearly 11,000 km<sup>2</sup> (4,000 square miles) of coral reefs. Development of the Coral Reef Ecosystem FMP is timely, considering such new mandates and initiatives as the April 1999 report to Congress by the Ecosystem Principles Advisory Panel on Ecosystem-Based Fishery Management, the President's 1998 Executive Order on Coral Reefs (E.O. 13089), and priorities of the U.S.

Coral Reef Task Force and the U.S. Coral Reef Initiative, as well as the provisions of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act. The draft Coral Reef Ecosystem FMP would describe the importance of coral reef resources to the region and current and potential threats that warrant an FMP at this time.

Information regarding the harvest of these resources in the EEZ is largely unknown. Potential for unregulated harvest and bio-prospecting for reef fish, live grouper, live rock and coral exists throughout the region. Marine debris, largely from fishing gear, is adversely impacting reefs in the Northwestern Hawaiian Islands.

The public is also invited to assist the Council in developing the scope of alternatives and impacts that should be analyzed in an EIS for the Bottomfish and Seamount Groundfish Fisheries FMP. An EIS has not been prepared for the FMP. Since the FMP was implemented in 1986, many changes have occurred in this fishery, and with the stocks and management regimes. As part of the scoping process for the EIS for this FMP, the public is also invited to comment on an alternative being considered for the addition of bottomfish species, in the EEZ around the U.S. Pacific Island possessions (and the Commonwealth of the Northern Mariana Islands (CNMI)), to the management unit of the Bottomfish and Seamount Groundfish FMP. Federal regulations for the EEZ off the U.S. Island possessions (and the CNMI) that would provide basic protection and conservation measures are already established in the EEZs for other parts of the Western Pacific Region, and include no taking with explosives, poisons, trawl nets or bottom-set gillnets. A definition of overfishing for a list of identified FMP management unit species would be established and evaluated annually, with required action in the event of overfishing.

#### Public Information Meetings

Additional public information meetings and public hearings on the proposed EISs may be held in Hawaii later in the year. These meetings will be advertised in the **Federal Register** and the local newspapers.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (see **ADDRESSES**), 808-522-8220 (voice) or 808-522-8226 (fax), at least 5 days prior to the meeting date.