

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Violaceae—Violet family:						
<i>Isodendron hosakae</i>	Aupaka	U.S.A. (HI)	E		NA	NA

Dated: September 13, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-23724 Filed 10-6-89; 8:45 am]

BILLING CODE 4310-55-M

## 50 CFR Part 17

RIN 1018-AB36

### Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Aristida portoricensis* (pelos del diablo)

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

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to determine *Aristida portoricensis* (pelos del diablo) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *Aristida portoricensis* is a grass endemic to serpentine slopes and red clay soils of southwestern Puerto Rico. It is presently found on only two sites in this area and is threatened by the expansion of residential and commercial development and by proposals for the mining of copper and gold. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for *Aristida portoricensis*. The Service seeks data and comments from the public on this proposal.

**DATES:** Comments from all interested parties must be received by December 11, 1989. Public hearing requests must be received by November 24, 1989.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, at this office during normal business hours, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Silander at the Caribbean Field Office address (809/851-7297) or Mr. Tom Turnipseed at the Atlanta

Regional Office address (404/331-3583 or FTS 242-3583).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Aristida portoricensis* (pelos del diablo) was first collected in 1903 from Cerro Las Mesas, Mayaguez, in southwestern Puerto Rico. In 1927 this endemic grass was reported by José I. Otero from the nearby Guanajibo area and later from Hormigueros; however, these collection sites have not since been relocated. Both populations appear to have been eliminated as a result of urban and commercial development (Department of Natural Resources 1989, McKenzie et al. 1989).

Today *Aristida portoricensis* is known from only two locations on serpentine slopes and red clay soils of southwestern Puerto Rico: Cerro Las Mesas and the Sierra Bermeja. Recent expansion of residential areas has eliminated portions of the Cerro Las Mesas population and very few plants remain at this site. In both areas *Aristida portoricensis* is threatened by residential and agricultural expansion; however, in the Sierra Bermeja a proposal for the mining of copper and gold threatens the species as well. In the Sierra Bermeja, a small range of coastal hills in the extreme southwestern corner of the island, the species is scattered along the upper slopes where it is found growing on exposed rock crevices (Liohier and Martorell 1982; McKenzie et al. 1989).

The tufted culms of *Aristida portoricensis* may reach 30 to 50 centimeters (12 to 20 inches) in height. These culms occur in large bunches and are slender, erect or spreading at the base. The blades are involute, somewhat curved or flexuous and from 5 to 10 centimeters (2 to 4 inches) long and scarcely 1 millimeter (less than 1/16 inch) wide when rolled. The panicles, from 3 to 8 centimeters (1 to 3 inches) in length, are narrow, loose, and few-flowered. The few, distant branches are stiffly ascending and mostly floriferous from the base. The glumes are awn-pointed, the first about 7 millimeters (1/4 inch) long, the second approximately 10 millimeters (3/8 inch) in length. The lemma is from 10 to 12 millimeters (3/8 to 1/2 inch) long, including the 1 millimeter

(less than 1/16 inch) long callus and the 2 to 3 millimeters (1/16 to 1/8 inch) long, slightly twisted, scabrous neck. The awns are almost equal, divergent or horizontally spreading, 2 to 3 centimeters (3/4 to 1 1/4 inches) long and slightly contorted at the base (Hitchcock 1936).

*Aristida portoricensis* was recommended for Federal listing by Smithsonian Institution (Ayensu and DeFilippis 1978). The species was included among the plants being considered as endangered or threatened species by the Service, as published in the *Federal Register* (45 FR 82480) dated December 15, 1980; the November 28, 1983, update (48 FR 53680) of the 1980 notice; and the September 27, 1985, revised notice (50 FR 39526). The species was designated Category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the three notices.

In a notice published in the *Federal Register* on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service subsequently made petition findings in each October from 1983 through 1988 that listing *Aristida portoricensis* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. This proposed rule constitutes the final 1-year finding in accordance with section 4(b)(3)(B)(iii) of the Act.

#### Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. 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 *Aristida portoricensis* Pilger (pelos del diablo) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Destruction and modification of habitat have been, and continue to be, significant factors reducing the number of *Aristida portoricensis*. Once more widely distributed throughout the southwestern part of Puerto Rico, it is now known to occur on only two sites. The expansion of residential development threatens to eliminate the few remaining individuals on Cerro Las Mesas. The Sierra Bermeja area is one of several areas currently included in the copper and gold mining proposal under consideration by the Commonwealth of Puerto Rico. The area is also subject to intense pressure for residential development. Land clearing to enhance cattle grazing operations has already destroyed some habitat formerly occupied by *Aristida portoricensis* in the Sierra Bermeja (McKenzie et al. 1989).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of this species.

C. *Disease or predation.* Disease and predation have not been documented as factors in the decline of this species.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides some protection for certain Commonwealth listed species. However, *Aristida portoricensis* is not yet on the Commonwealth list. Federal listing would provide certain protection and, if the species is ultimately placed on the Commonwealth list, will further enhance its protection and possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence.* One of the most important factors affecting the continued survival of *Aristida portoricensis* is its limited distribution. Only two populations are known to exist and one of these has been almost totally eliminated. Introduced grasses, widely planted for grazing purposes, may have excluded this endemic grass from parts of its past range (McKenzie et al. 1989).

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 propose this rule. Based on this evaluation, the preferred action is to list *Aristida portoricensis* as endangered. The species is restricted to only two locations in southwestern Puerto Rico.

both of which are imminently threatened by habitat destruction and modification. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. The number of individual of *Aristida portoricensis* is sufficiently small that vandalism could seriously affect the survival of the species. Publication of critical habitat descriptions and maps in the Federal Register would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the Section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for *Aristida portoricensis*.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species 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, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking 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 the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in 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 affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Aristida portoricensis*, as discussed above. Federal involvement is not expected where the species is known to occur.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for listed plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of listed plants in knowing violation of any State (Commonwealth) law or regulation, including State (Commonwealth) criminal trespass law. Certain exceptions can apply to agents of the Service and Commonwealth 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 species under certain circumstances. It is anticipated that few trade permits for *Aristida portoricensis* will ever be sought or issued, since the species is not known to be in cultivation and is uncommon in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507, Arlington, Virginia 22203-3507 (703/358-2104).

**Public Comments Solicited**

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Aristida portoricensis*;
- (2) The location of any additional populations of *Aristida portoricensis*; 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 areas and their possible impacts on *Aristida portoricensis*.

Final promulgation of the regulation on *Aristida portoricensis* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within

45 days of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622.

**National Environmental Policy Act**

The Fish and Wildlife Service has 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 Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

**References Cited**

Ayensu, E.S., and R.A. Defilipps. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, D.C. xv + 403 pp.  
 Department of Natural Resources. 1989. Natural Heritage Program status information on *Aristida portoricensis*. San Juan, Puerto Rico.  
 Hitchcock, A.S. 1936. Manual of the grasses of the West Indies. U.S. Department of Agriculture, Miscellaneous Publication No. 243. Washington, D.C. 439 pp.  
 Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: a systematic synopsis. University of Puerto Rico, Rio Piedras, Puerto Rico. 342 pp.

McKenzie, P.M., R.E. Noble, L.E. Urbatsch, and G.R. Proctor. 1989. Status of *Aristida* (Poaceae) in Puerto Rico and the Virgin Islands. In press.

**Author**

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851-7297).

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

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

**Proposed Regulation Promulgation**

Accordingly, it is hereby proposed 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. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Poaceae, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

- \* \* \* \* \*
- (h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Poaceae—Grass family:						
<i>Aristida portoricensis</i> .....	Peios del diablo .....	U.S.A. (PR)	E		NA	NA

Dated: September 21, 1989.  
 Richard N. Smith,  
 Acting Director, Fish and Wildlife Service.  
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**50 CFR Parts 17 and 23**

**Proposed Panda Permit Policy**

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

**ACTION:** Notice of proposed panda import permit policy; extension of comment period.

**SUMMARY:** The Service extends for 30 days the public comment period on its

proposed policy for issuance of permits for the import of giant pandas.

**DATES:** The Service now will consider comments received through November 5, 1989, before announcing a final decision on this proposed policy.

**ADDRESSES:** Comments may be submitted to the Office of Scientific Authority; Mail Stop: Arlington Square Building, Room 725; U.S. Fish and Wildlife Service; Washington, DC 20240. Materials received will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Office of Scientific Authority; Arlington Square Building, Room 750; 4401 Fairfax Drive; Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:**

*Scientific Authority Findings*—Dr. Charles W. Dane, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 358-1708.

*Management Authority Findings*—Mr. Marshall P. Jones, Office of Management Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 358-2093.

*Permit Issuance*—Mr. Richard K. Robinson, Office of Management Authority, U.S. Fish and Wildlife Service, Washington, DC 20240, telephone (703) 358-2093.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of September 5, 1989