

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
<i>Harrisia (=Cereus) portoricensis</i>	Higo chumbo	U.S.A. (PR)	T	397	NA	NA

Dated: July 19, 1990.
 Suzanne Mayer,
 Acting Director, Fish and Wildlife Service.
 [FR Doc. 90-18564 Filed 8-7-90; 8:45 am]
 BILLING CODE 4310-55-M

50 CFR Part 17
RIN 1018-AB36

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant *Aristida portoricensis* (pelos del diablo)

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Final rule.

SUMMARY: The Service determines *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 final rule will implement for *Aristida portoricensis* the Federal protection and recovery provisions afforded by the Act.

EFFECTIVE DATE: September 1, 1990.
ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 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 841-3583).

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 (Liogier 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 (1/8 to 1/4 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 DeFilipps 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 of the 1980 notice (48 FR 53680); 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, in accordance with section 4(b)(3)(B)(iii) of the Act. The final finding required by the Act was completed when the Service proposed listing *Aristida portoricensis* on October 10, 1989 (54 FR 41473).

Summary of Comments and Recommendations

In the October 10, 1989, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate agencies of the Commonwealth of Puerto Rico, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice inviting general public comment was published in the *San Juan Star* on October 29, 1989, and in the *El Dia* on November 3, 1989. Two letters of comment were received and are discussed below. A public hearing was neither requested nor held.

The U.S. Army Corps of Engineers, Jacksonville District, reported that they did not have any action proposed or under consideration which might affect *Aristida portoricensis*. The Puerto Rico Department of Natural Resources, Terrestrial Ecology Section, supported the listing of *Aristida portoricensis* as an endangered species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Aristida portoricensis* should be classified as an endangered species. Procedures found at 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 were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *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 numbers 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 protection for certain Commonwealth listed species. However, *Aristida portoricensis* is not yet on the Commonwealth list. Federal listing

would provide immediate protection and, if the species is ultimately placed on the Commonwealth list, 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 make this rule final. 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 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 finds that designation of critical habitat is not prudent for this species at this time. The number of individuals 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. The protection required for 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)(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, 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 endangered 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 endangered 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).

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

Ayensa, E.S., and R.A. Defilippis. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, DC. 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, DC. 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, F.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 final rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622, (609/851-7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Regulation Promulgation

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

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4261-4245; Pub. L. 94-625, 100 Stat. 3500; unless otherwise noted.

2. 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>	Pelos del diablo	USA (PR)	E	398	NA	NA

Dated: July 19, 1990.
 Suzanne Mayer,
 Acting Director, Fish and Wildlife Service.
 [FR Doc. 90-18565 Filed 8-7-90; 8:45 am]
 BILLING CODE 4310-55-M

Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic published July 19, 1990 (55 FR 29370).
EFFECTIVE DATE: August 20, 1990.

Dated: August 3, 1990.
 Michael F. Tillman,
 Acting Assistant Administrator for Fisheries,
 National Marine Fisheries Service.
 [FR Doc. 90-18562 Filed 8-7-90; 8:45 am]
 BILLING CODE 3510-22-M

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
50 CFR Part 642
 [Docket No. 900495-0175]
RIN 0648-AC77
Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Correction
AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Final rule; correction.
SUMMARY: This document corrects a portion of the preamble to the final rule to implement Amendment 5 to the

FOR FURTHER INFORMATION CONTACT:
 Mark F. Godecharles, 813-693-3722.
 In FR Doc. 90-16791 appearing in the issue of July 19, 1990, make the following correction:
 On page 29370, under the "SUMMARY" heading, column 2, line 16, the information for "(4)" should read "makes the South Atlantic Fishery Management Council responsible for pre-season adjustments of total allowable catch and bag limits for the Atlantic migratory groups of king and Spanish mackerel and the Gulf of Mexico Fishery Management Council responsible for such adjustments for the Gulf migratory groups of king and Spanish mackerel."
Authority: 16 U.S.C. 1801 *et seq.*

50 CFR Part 646
[Docket No. 900798-0198]
Snapper-Grouper Fishery of the South Atlantic
AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Emergency rule.
SUMMARY: The Secretary of Commerce (Secretary) announces an emergency rule that (1) Adds wreckfish to the management unit of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), (2) establishes a fishing year for wreckfish commencing April 16, 1990, (3) establishes a commercial quota of 2 million pounds (907,194 kilograms)