

Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-23807 Filed 10-6-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-437, RM-6803]

Radio Broadcasting Services; Jackson, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Radio Station WHOD, Inc., licensee of Station WHOD(FM), Jackson, Alabama, seeking the substitution of FM Channel 233C3 for Channel 233A and modification of its license accordingly. Coordinates for this proposal are 31-32-38 and 87-52-30.

DATES: Comments must be filed on or before November 24, 1989, and reply comments on or before December 11, 1989.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Bennie E. Hewett, President, Radio Station WHOD, Inc., P.O. Box 518, Jackson, AL 36545.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-437, adopted September 18, 1989, and released October 2, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International

Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-23801 Filed 10-6-89; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB31

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant, *Isodendron hosakae* (Aupaka)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to determine a plant, *Isodendron hosakae* (aupaka), to be endangered pursuant to the Endangered Species Act of 1973, as amended (Act). This species grows on three privately-owned cinder cones between 2,800 and 3,400 ft. (850 and 1040 m) in elevation in the Waikoloa area of the South Kohala District, Hawaii. The greatest immediate threats to the survival of this species are the destruction of the plant or the degradation of its habitat by domestic cattle grazing in the area, and the potential of fires during the dry season. A determination the *Isodendron hosakae* is endangered would implement the Federal protection and recovery provisions provided by the Act. Critical habitat is not proposed for this plant. Comments and materials related to this proposal are solicited.

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 Pacific Islands Administrator, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ernest F. Kosaka, Field Supervisor, at the above address (808/541-2749 or FTS 551-2749).

SUPPLEMENTARY INFORMATION:

Background

Isodendron hosakae was first collected by Edward Y. Hosaka on November 4, 1984, near the summit of an unnamed cinder cone, Waikoloa, Hawaii. He made another collection from the same locality 3 months later. In 1952, Harold St. John published a revision of the genus in which he named the new species in honor of its discoverer (St. John 1952). The species was not seen again until 1980 when it was rediscovered on a cinder cone in the Waikoloa area. The species subsequently was found on two other cinder cones during surveys made in 1981 and 1982. Today the population is estimated at about 275 individuals growing on three privately-owned cinder cones in the Waikoloa area.

Isodendron hosakae is a small, erect shrub about 18 to 30 inches (46 to 76 cm) tall. It has narrow, lance-shaped leaves about an inch (2.5 cm) long; the upper portion of the stem is nearly concealed by the persistent leaf stipules. The flowers are about 1/2 inch (1.3 cm) long and are yellowish-green to whitish in color. The fruit is a capsule, elliptical in shape, about 3/8 inch (1 cm) long and 1/4 inch (0.6 cm) wide (Nagata 1982). Evidence suggests that it has always been highly restricted in distribution and small in numbers. *Isodendron*, a genus of four species in the violet family, is endemic to the Hawaiian Islands. Probably the greatest immediate threat to the continued survival of this plant is predation and habitat disturbance by domestic cattle. The potential of destruction by range fires during the dry seasons also is a major threat. Low numbers of individuals also could be considered a potential threat through a reduction in reproductive vigor. A cooperative effort between Federal and State agencies and the private landowner

is needed to protect the remaining plants and to provide for the conservation of the species.

The Secretary of the Smithsonian Institution, as directed by section 12 of the Act, prepared a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94-51) was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) accepting the report as a petition within the context of section 4(c)(2) of the Act (petition acceptance provisions are now contained in section 4(b)(3)(A)), and giving notice of its intention to review the status of the plant taxa named therein, including *Isodendron hosakae*, which at that time was considered extinct. As a result of this review, on June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine approximately 1,700 vascular plant species, including *Isodendron hosakae* to be endangered pursuant to section 4 of the Act. In 1978, amendments to the Act 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, the Service published a notice in the *Federal Register* (44 FR 70796) of the withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated Notice of Review for plants on December 15, 1980 (45 FR 82480), including *Isodendron hosakae* as a Category 1 candidate, meaning that the Service had substantial information indicating that listing was appropriate.

Section 4(b)(3)(B) of the Act, as amended, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments to the Act further requires all petitions pending on October 1, 1982, be treated as having been newly submitted on that date. The latter was the case for *Isodendron hosakae* because the Service had accepted the 1975 Smithsonian report as a petition. On October 13, 1983, a further finding was made that listing of *Isodendron hosakae* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of

1984, 1985, 1986, 1987, and 1988.

Publication of the present proposal constitutes the final 1-year finding.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) 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 *Isodendron hosakae* St. John are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Cattle have been responsible for the modification or destruction of much of the native vegetation in Hawaii. Disturbance by their trampling or grazing continues to exist as a potential threat to the integrity of the populations of *Isodendron hosakae*. Feral pigs have been observed in the area and, although there is no documented evidence, disturbance by their rooting is a potential threat. Drought conditions exist throughout the area during much of the year and range fires have threatened the species in the past. On several occasions in the past, the entire area has been leased on a temporary basis to the U.S. military for ground troop training exercises. Disturbance by troop movement and other training activities and the subsequent possibility of fires also are potential threats to the species.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Several cinder cones in the area, including one with a small population of *Isodendron*, are being quarried for their cinder.

C. Disease or predation. Predation by cattle and feral pigs is probable.

D. The inadequacy of existing regulatory mechanisms. There are no existing regulatory mechanisms to protect this plant. However, Federal listing would automatically invoke listing under Hawaii State law, which prohibits taking and encourages conservation by State government agencies. Funds for activities required for the conservation, management, enhancement, or protection of the species could be made available under section 6 of the Act (State Cooperative Agreements). Additional protection would be extended to the species by a 1988 amendment to the Act which prohibits removing, cutting, digging up, damaging, or destruction in knowing violation of State law or regulation or in

the course of any violation of a State criminal trespass law.

E. Other natural or manmade factors affecting its continued existence. The small, extant populations remaining (estimated at 275 individuals) make *Isodendron hosakae* vulnerable to any catastrophe, natural or man-caused, that may impact its habitat. Reduction of the gene pool and genetic variability, resulting from a small population size, potentially could have detrimental effects on the continued existence of the species. Although seedling are present within the population, seed production appears to be very nominal. The plant is reproducing successfully, but probably only marginally. However, evidence indicates that the taxon has always been highly restricted and small in numbers, so the low reproductive rate may not be due to repressed reproductive viability.

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 *Isodendron hosakae* as endangered. Only about 275 individuals remain in the wild, and these face threats from browsing by cattle, habitat degradation, and fires, as well as other lesser factors. Given these circumstances, the determination of endangered status seems warranted. Critical habitat is not being proposed for the reasons discussed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be 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 *Isodendron hosakae* at this time. Such a determination would result in no known benefit and may be detrimental to the species. Publishing a detailed description and map of this species' habitat would stimulate public interest and make this species more vulnerable to vandalism and taking by collectors or curiosity seekers. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Consequently, no critical habitat is being proposed at this time.

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 activities. 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. Such actions are initiated by the Service following listing. Since *Isodendron hosakae* occurs on privately owned land, cooperation between Federal and State agencies and the private landowner is necessary to provide for its conservation. The protection required of Federal agencies and the prohibitions against trade and collecting 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 proposed species or result in destruction or adverse modification of proposed habitat. If a species is listed subsequently, 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 list species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The area that includes the habitat of *Isodendron hosakae* has been leased to the U.S. military in the past for temporary use for ground troop training exercises. If the species is listed as endangered, the Department of Defense would be required to enter into consultation with the Service before undertaking or permitting any action that may affect the plants.

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 plant species. With respect to *Isodendron hosakae* 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, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction of listed plants on Federal lands, and the removal, cutting, digging up, or damaging or destroying of these plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and 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 plant species under certain circumstances. It is anticipated that few, if any, trade permits would ever be sought or issued, since the species is not common in cultivation nor 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 (703/358-2104).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. 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 the following:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Isodendron hosakae*;
- (2) The location of any additional populations of *Isodendron hosakae* 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 the possible impacts on *Isodendron hosakae*.

The final decision on this proposed rule 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 date of publication of the proposal in the **Federal Register**. Such requests must be made in writing to the Service's Pacific Islands Administrator (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined pursuant to 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).

Literature Cited

- Nagata, K. 1982. Unpublished status survey of *Isodendron hosakae* St. John (aupaka). U.S. Fish and Wildlife Service. 31 pp.
 St. John, H. 1952. Monograph of the genus *Isodendron* (Violaceae). Hawaiian plant studies 21. Pac. Sci. 6:213-255.

Author

The primary author of this proposed rule is Dr. Derral R. Herbst, Office of Environmental Services, U.S. Fish and Wildlife Service, Pacific Islands, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541-2749 or FTS 551-2749).

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 the family Violaceae, 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					
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]

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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 (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 (1/16 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 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 (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. Defilippis. 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.
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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>	Pelos del diablo	U.S.A. (PR)	E		NA	NA

Dated: September 21, 1989.
Richard N. Smith,
 Acting Director, Fish and Wildlife Service.
 [FR Doc. 89-23725 Filed 10-6-89; 8:45 am]
 BILLING CODE 4310-55-M

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

(54 FR 36823-36827), the Service announced a proposed policy for issuance of permits for the import of giant pandas. Existing regulations and guidelines would be clarified with respect to new information for situations involving issuance of permits for giant pandas. Specifically, restrictions on animals intentionally removed from the wild for exhibition loans would continue. Only female pandas 2 years to under 4 years and males 2 years to under 5 years at the start and conclusion of a loan period, respectively, and those over 18 years old would typically be considered for temporary exhibition loans, and then only if funds committed in the loan agreement are used for specific projects designed primarily to enhance the survival of the giant panda. The Service would be supportive of the

use of captive animals when the loan or permanent transfer is likely to enhance the captive-breeding population. Furthermore, the basis for findings required by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) on "primarily commercial purposes" and the "suitability of facilities" are clarified and conditioned in the proposed policy.

In its announcement of the proposed policy, the Service requested that all comments on the matter be submitted by October 5, 1989. However, in a letter of September 7, 1989, the American Association of Zoological Parks and Aquariums, which has considerable interest in the matter, stated that many of its members would be involved in meetings through late September, and

therefore would not be able to prepare a substantive response to the Service by the original deadline. A 30-day extension of the comment period was requested. The Service considers this request reasonable, and therefore now announces that comments from any interested party will be accepted through November 5, 1989.

This notice was prepared by Dr. Charles W. Dane, Chief, Office of Scientific Authority, and Mr. Marshall P. Jones, Chief, Office of Management Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 30, 1989.

Richard N. Smith,
Acting Director.

[FR Doc. 89-23767 Filed 10-6-89; 8:45 am]

BILLING CODE 4310-55-M