

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
Fatmucket, Arkansas	<i>Lampsilis powelli</i>	U.S.A. (AR)	NA	T		NA	NA

Dated: June 7, 1989.

Susan Recce Lamson,  
Acting Assistant Secretary for Fish, Wildlife  
and Parks.

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## 50 CFR Part 17

RIN 1018-AB31

### Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Ottoschulzia rhodoxylon* (Palo de Rosa)

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

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to determine *Ottoschulzia rhodoxylon* (palo de rosa) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *Ottoschulzia rhodoxylon* is a plant that is endemic to Puerto Rico and Hispaniola. In Puerto Rico it is found in the limestone hills of the north coast, on limestone-derived soils of the south coast, and on the serpentine soils of the western mountains. Only nine individuals are known to exist in these three areas. The species is threatened by deforestation due to the expansion of residential and industrial areas and its extremely low population size. This proposal, if made final, would extend the Federal protection and recovery provisions afforded by the Act to *Ottoschulzia rhodoxylon*. The Service seeks data and comments from the public on this proposal.

**DATES:** Comments from all interested parties must be received by September 25, 1989. Public hearing requests must be received by September 11, 1989.

**ADDRESSES:** Comments and materials, and requests for public hearing 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

*Ottoschulzia rhodoxylon* (palo de rosa) was first collected by Leopold Krug near Mayaguez, Puerto Rico, in 1876 and was described in 1908. This West Indian genus of only 3 species was dedicated to Otto Eugen Schulz, a German botanist (Liogier and Martorell 1982). Today the species is known from one locality in the limestone hill area on the north coast near Bayamón and in several sites in the Guánica Commonwealth Forest, a dry limestone forest on the south coast. One individual has recently been reported from the Maricao Commonwealth Forest (G. Proctor, Puerto Rico Department of Natural Resources, personal communication). Urban, residential, and industrial expansion has greatly reduced forested area in all three of these localities. The information available indicates that the species is also rare in the Dominican Republic (Little *et al.* 1974, G. Proctor, personal communication).

*Ottoschulzia rhodoxylon* is a small evergreen tree that has been reported to reach 12 to 15 feet (4 to 5 meters) in height. The leaves are alternate, glabrous, and elliptic to ovate. They are from 2 to 3½ inches (5 to 9 centimeters) long and 1¼ to 2½ inches (3 to 6 centimeters) wide, rounded or blunt at the apex and the base, entire, thick, and leathery. Flowers have not been observed, but fruits have recently been described as a one-seeded drupe with a thin pericarp (G. Proctor personal communication). Flowers in this genus are bisexual, solitary or in clusters at the leaf bases, and composed of a tubular corolla with 5 lobes (Little *et al.* 1974). As indicated by both the common name and specific name, the heartwood

is reddish and suitable for articles of turnery.

On the north coast *Ottoschulzia rhodoxylon* is found in semi-evergreen, seasonal forests at an elevation of approximately 325 feet (100 meters) in the limestone hills of Bayamón, to the west of the San Juan metropolitan area. On the south coast it occurs in low elevation, semi-deciduous, dry forest on limestone. One individual is found along a dry stream bed, which carries water only during periodic torrential rains. All known south coast individuals occur within the Guánica Commonwealth Forest. In Maricao it is found on serpentine soils in lower montane, semi-evergreen forest at an elevation of approximately 1,960 feet (600 meters). These serpentine outcrops and serpentinite soils contribute to a high floristic diversity and endemism.

Deforestation for agriculture, grazing, charcoal production, and urban and industrial development has had a significant effect on the native flora of Puerto Rico. Much of the remaining forest consists of secondary growth. Individual trees of *Ottoschulzia rhodoxylon* are known to have been lost to forest clearing. The extreme rarity of the species and the apparent irregularity of flower and fruit production make the species extremely vulnerable to the loss of any one individual.

*Ottoschulzia rhodoxylon* was recommended for Federal listing by the 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 found in each October of 1983 through 1988 that listing *Ottoschulzia rhodoxylon* 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 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 endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Ottoschulzia rhodoxylon* (Urban) Urban (palo de rosa) are as follows:

**A. The present or threatened destruction, modification, or curtailment of its habitat or range.** Much of the island of Puerto Rico has been deforested, and today all of the known sites for *Ottoschulzia rhodoxylon* are found in areas of secondary forests. The north coast site lies just to the west of the San Juan metropolitan area, an area which is being rapidly developed. Undiscovered individuals in this area are likely to be destroyed before being discovered. Remaining individuals on the southwestern coast are found within the Guánica Commonwealth Forest, but they are found in sites such as dry stream beds and roadsides, which may be vulnerable to forest management practices that do not take the species into consideration.

**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 mechanism.** The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Ottoschulzia rhodoxylon* is not yet on the Commonwealth list. Federal listing would provide interim 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.** *Ottoschulzia rhodoxylon* is limited in its distribution. Only nine individuals are known to occur in Puerto Rico. The fruits of this species were only recently described and are rarely observed. Flowers have not yet been described. The location of some individuals along stream beds makes them vulnerable to natural disturbances such as flash-flooding. Because so few individuals are known to occur, the risk of extinction is extremely high.

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 *Ottoschulzia rhodoxylon* as endangered. Only nine individuals in three areas are known to occur and no seedlings have been observed. 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 designate any habitat of a species which 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 this species at this time. The number of individuals of *Ottoschulzia rhodoxylon* 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 and the section 7 processes of the Act.

#### 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 a 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 *Ottoschulzia rhodoxylon*, 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 a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for listed plants the 1988 amendments (Pub. L. 100-478) to the Act prohibit their malicious damage or destruction on Federal lands, and their

removal, cutting, digging up, damage or destruction 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 *Ottoschulzia rhodoxylon* 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 (424 ARLSQ), Washington, DC 20240; 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 *Ottoschulzia rhodoxylon*;

(2) The location of any additional populations of *Ottoschulzia rhodoxylon*, 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 *Ottoschulzia rhodoxylon*.

Final promulgation of the regulation on *Ottoschulzia rhodoxylon* 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, DC xv + 403 pp.

Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: a systematic synopsis. University of Puerto Rico, Río Piedras, Puerto Rico. 342 pp.  
 Little, E.L., Jr., R.O. Woodbury, and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands, Second Volume. Agriculture Handbook No. 449. U.S.D.A., Forest Service.

**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 wildlife, 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:** Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 93 Stat. 1411; Pub. L. 100-478, 102 Stat. 2306; Pub. L. 100-653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); 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 Icacinaceae, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

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 (h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Icacinaceae—Icacina family: <i>Ottoschulzia rhodoxylon</i>	Palo de rosa.....	U.S.A. (PR), Dominican Republic.....	E		NA	NA

Dated: June 6, 1989.  
 Becky Norton Dunlop,  
 Assistant Secretary for Fish and Wildlife and Parks.  
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