
DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****RIN 1018-AB42****Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Plant *Schoepfia arenaria*****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

SUMMARY: The Service proposes to determine *Schoepfia arenaria*, a small evergreen tree, to be a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended. Historically, *Schoepfia arenaria* was

known from the coastal forests of northern Puerto Rico. Deforestation for industrial and urban development has extirpated the species from most of these areas. This endemic plant is currently threatened by proposed development projects in Isabela and by illegal home construction in Piñones. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for *Schoepfia arenaria*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by November 16, 1990. Public hearing requests must be received by November 1, 1990.**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 business hours, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Marelisa T. Rivera at the Caribbean Field Office address (809/851-7297) or Mr. Tom Turnispeed at the Atlanta Regional Office address (404/331-3583 or FTS 841-3583).**SUPPLEMENTARY INFORMATION:****Background**

Schoepfia arenaria was first collected in Puerto Rico by Amos Arthur Heller in 1899 from sandy coastal thickets at San José Lagoon, Santurce (Little et al. 1974), but it was described by Britton (Urban 1907). San José Lagoon was the source of specimens collected by Holdridge in 1939 and by L.E. Gregory in 1939.

However, urban and industrial expansion has resulted in the elimination of this population. Today it is known from Isabela, Piñones, Fajardo and the Rio Abajo Commonwealth forest.

Schoepfia arenaria is an evergreen shrub or small tree up to 20 feet (7 m) tall with several trunks from the base up to 4 inches (10 cm) in diameter. The leaves are simple, alternate, without stipules, with petioles 1/2 inch (4 mm) long; the upper surface is green and slightly shiny, and the lower surface is light green. *Schoepfia arenaria* has been observed with flowers mainly in spring and fall, and with fruits in summer and winter. Usually two or three light yellow tubular-shaped flowers are borne on the end of the stalk in the leaf bases. The fruit is elliptic, one-seeded, shiny red, and 1/2 inch (12 mm) in diameter. The wood is light brown and hard.

Schoepfia arenaria is found in low elevation evergreen and semi-evergreen forests (subtropical moist forest life zone) of the limestone hills of northern Puerto Rico. In the Isabela area approximately 100 individuals are known from the wooded upper slopes of the hills to the west of the mouth of the Guajataca Gorge. Individuals of all size classes have been reported. Hills in this area were destroyed for the construction of Highway 2 and the area is under intense development pressure for both rural and urban development. The construction of a resort development, including 7 hotels, 5 golf courses, 36 tennis courts and 1,300 housing units, threatens the area.

In Piñones Commonwealth Forest about 30 mature plants and numerous saplings and seedlings of *Schoepfia arenaria* are known from Punta Maldonado. The land invasion for house construction, the encroachment of the illegal dumping of trash and the introduction of domestic animals threatens the area. In Piñones Commonwealth Forest, this species was also known from Punta Vacía Talega, last seen by Woodbury in 1981 (Department of Natural Resources 1990).

This species is also found in limestone hills at El Convento, Fajardo (property owned by the Commonwealth of Puerto Rico for the governor's beach house). In this area there are approximately 50 individuals. In the Rio Abajo Commonwealth Forest one individual was found in 1985 at "cuesta de los perros" (C. Laboy, pers. comm.).

Schoepfia arenaria 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 revised notices of September 27, 1985 (50 FR 39526) and February 21, 1990 (55 FR 6184). 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 four 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 1989 that listing *Schoepfia arenaria* 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)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1532 *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 *Schoepfia arenaria* Urban & Britton 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 *Schoepfia arenaria*. Deforestation for construction, including urban, industrial and tourist development, the leveling of limestone hills for construction material, random cutting and yam harvesting have all contributed to the species' decline.

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. However, its ornamental potential could result in future taking.

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, *Schoepfia arenaria* 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 *Schoepfia arenaria* is its limited distribution.

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 *Schoepfia arenaria* as threatened. The species is restricted to only a few sites in coastal thickets and limestone hills of northern Puerto Rico, all of which are subject to habitat destruction and modification by development projects. However, because plants of all sizes and ages have been observed, it appears that natural reproduction is offsetting some losses and that the species is not in imminent danger of becoming extinct. Threatened status, therefore, seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for *Schoepfia arenaria* 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 *Schoepfia arenaria* is sufficiently small that vandalism could seriously affect the survival of the species. 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.

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 certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with 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 adversely 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 *Schoepfia arenaria*, as discussed above. Federal involvement is not anticipated where the species is known to occur.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.71, 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 this species in interstate or foreign commerce, or to remove and reduce to

possession the species from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. 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 Commonwealth law or regulation, including Commonwealth criminal trespass law. The 1988 amendments do not reflect this protection for threatened plants. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies.

The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. However, it is anticipated that few trade permits for *Schoepfia arenaria* will ever be sought or issued, since the species is not known to be in cultivation and is uncommon in the world. 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 *Schoepfia arenaria*;

(2) The location of any additional populations of *Schoepfia arenaria*, 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 *Schoepfia arenaria*.

Final promulgation of the regulations on *Schoepfia arenaria* 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 publication date 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, DC xv + 403 pp.
- Department of Natural Resources. 1990. Natural Heritage Program. San Juan, P.R.
- Little, E.L., R.O. Woodbury, and F.H. Wadsworth. 1974. Trees of Puerto Rico and the Virgin Islands. U.S. Department of Agriculture, Washington, DC 1024 pp.
- Urban, I. 1907. *Symb. Ant.* 5:181.

Author

The primary author of this proposed rule is Ms. Marelisa Rivera, 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, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

PART 17—[AMENDED]

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:

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 Olacaceae 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					
Olacaceae—Olax family:						
<i>Schoepfia arenaria</i>	None.....	U.S.A. (PR).....	T	NA	NA