

## 50 CFR Part 17

**Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Jatropha costaricensis* (quemador del Pacifico)****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to determine *Jatropha costaricensis* (quemador del Pacifico) to be an Endangered species. Only one population of this shrub to small tree occurs on a steep hillside above the Pacific Ocean in tropical dry forest habitat. Dry season fires, trampling by cattle, timber cutting and the negative genetic effects of small population size threaten the plant with extinction. The quemador del Pacifico occurs near sea level near Playas del Coco, Guanacaste Province, Costa Rica. This proposal, if made final, would implement U.S. Federal protection provided by the U.S. Endangered Species Act of 1973, as amended. Comments from the public are solicited.

**DATES:** Comments from the public and the Government of Costa Rica must be received by October 13, 1983. Requests for a public hearing must be received by August 29, 1983.

**ADDRESSES:** Comments and materials concerning this proposal and request for a public hearing should be sent to the Director, U.S. Fish and Wildlife Service (OES), Washington, D.C. 20240. Comments and materials received will be available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia, U.S.A.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, U.S.A. (703/235-2771).

**SUPPLEMENTARY INFORMATION:****Background**

*Jatropha costaricensis* (quemador del Pacifico) is a member of the spurge family (Euphorbiaceae). This is a primarily tropical family, although a number of species occur in the U.S. It includes many plants of horticultural value, such as the poinsettia. *Jatropha costaricensis* is a shrub to small tree (2-5 m tall) with gray leaves and inconspicuous green flowers. It is a member of the maritime tropical dry forest community growing on steep rocky limestone slopes (Webster and Poveda, 1978).

The small population of the species, consisting of fewer than 50 individuals, occurs on a steep, east facing-slope, and a single fire or incidence of trampling by livestock could cause irreversible harm to the species.

The Service was petitioned in 1979 by Sr. Luis J. Poveda of the Museo Nacional, San Jose, Costa Rica, on behalf of *Jatropha costaricensis*. The petitioner indicated that this plant is a phytoecologically significant relict remnant from drier climatic conditions in the past, and that its habitat is being destroyed by nearby housing, trampling by cattle, and the cutting of trees.

In response to the petition, the Service published a status review notice in the July 31, 1979, **Federal Register** (44 FR 44916). Three professional botanists commented in support of the need to list and protect *Jatropha costaricensis*. The Organization of American States and the Missouri Botanical Garden commented that they had no information in their files upon which to base a decision. No one provided data to controvert the need to propose the species for listing.

On February 15, 1983, the Service published a notice in the **Federal Register** (48 FR 6752) of its prior finding that the petitioned action on this species may be warranted, in accord with Section 4(b)(3)(A) of the Act as amended in 1982. We now find that the

petitioned action is warranted, and hereby publish the proposed rule to implement the action, in accord 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. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) set forth the procedures for adding species to the Federal list. The Secretary of Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors in Section 4(a)(1). These factors and their application to *Jatropha costaricensis* Webster et Poveda (quemador del Pacifico) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Trampling by cattle, cutting of trees, and development of housing are modifying and could potentially modify further this species' habitat. A village is within ¼ mile of the habitat, and cattle trails run through it.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Not applicable to this species.

C. *Disease or predation.* Not applicable to this species.

D. *The inadequacy of existing regulatory mechanisms.* Costa Rican law provides no protection for this plant. It is not included on the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, to which Costa Rica is a party.

E. *Other natural or manmade factors affecting its continued existence.* Dry season fires, often kindled by vandals, are frequent in the affected part of Costa Rica, and such a fire might destroy the entire plant population. In addition, small population size might have a deleterious effect on the *Jatropha* through weakening of its genetic variability. Fewer than 50 individuals of

the species are known to exist in a single population.

Available Conservation Measures

The Act and implementing regulations published in the June 24, 1977, Federal Register (42 FR 32373-32381) set forth a series of general trade prohibitions and exceptions that apply to all Endangered plant species. The regulations are found at Section 17.61 of 50 CFR and are summarized below.

With respect to the quemador del Pacifico, all trade prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import, export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. 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. However, because trade in this species is not known, it is anticipated that few permits involving the species would ever be requested.

If this plant is listed as an Endangered species, certain conservation authorities would become available and protective measures might be undertaken for it. These could include the development of a recovery plan for the species as specified in Section 4(f), and cooperation with Costa Rican authorities for the plant's protection under Section 8 of the Act, or through the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, implemented in the United States through Section 8A(e) of the Act.

If this species is listed under the Act, the Service will review it to determine whether it should be recommended to

Costa Rica for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia, U.S.A. A decision will be made at the time of any final rule as to whether this is a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500-1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of each Endangered or Threatened species.

Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

- 1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to Jatropha costaricensis; and
2. Additional information concerning the range and distribution of this species.

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 the proposal. Such requests should be made in writing and addressed to the Director, U.S. Fish and

Wildlife Service, Washington, D.C. 20240.

Final promulgation of the regulations on Jatropha costaricensis will take into consideration any comments and additional information received by the Service, and such communications may lead it to adopt a final rule that differs from this proposal.

Author

The primary author of this proposed rule is Dr. Paul A. Opler, then in the Office of Endangered Species and now in the Division of Biological Services, U.S. Fish and Wildlife Service, Washington, D.C. 20240, U.S.A. Dr. Bruce MacBryde of the Office of Endangered Species served as editor.

Reference

Webster, G. L., and L. J. Poveda. 1978. A phytogeographically significant new species of Jatropha (Euphorbiaceae) from Costa Rica. Brittonia 30:265-270.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17--[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority. Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 [16 U.S.C. 1531 et seq.].

§ 17.12 [Amended]

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

PLANTS

Table with 7 columns: Species (Scientific name, Common name), Historic range, Status, When listed, Critical habitat, Special rules. Row 1: Euphorbiaceae—spurge family, Jatropha costaricensis, Quemador del Pacifico, Costa Rica, E, N/A, N/A.

Dated: June 13, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-19113 Filed 7-14-83; 8:45 am]

BILLING CODE 4310-55-M