

the implementation of section 112(g) and title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purposes of any other provision under the Act, for example, section 110. The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations, to provide Illinois adequate time for the State to adopt any necessary regulations consistent with the Federal requirements.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final interim approval, including four public comments received and reviewed by EPA on the proposal, are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Effective Date

An administrative agency engaging in rulemaking must comport with the requirements of section 553 of the Administrative Procedures Act (5 U.S.C.A., chapter 5). Section 553 requires that an agency allow at least 30 days from the date of publication before the effective date of a substantive rulemaking. If, however, good cause can be shown, then the agency may impose an effective date of less than 30 days after publication. Good cause exists to initiate an effective date less than 30 days after publication when it is in the public interest and the shorter time period does not cause prejudice to those regulated by the rule. *British American Commodity Options Corp. v. Bagley*, 552 F.2d 482, at 488-89 (1977). For the reasons explained below, EPA believes that good cause exists for the effective

date of Illinois' CAAPP to be the date of publication of this rulemaking.

An immediate effective date is in the public's interest for several reasons. The requirement for sources to submit CAAPP applications to the State is contingent in the Illinois regulations upon the effective date of the program, not the date of publication. All sources subject to title V in Illinois must submit their title V applications to the state within one year of the effective date of the State's program. Likewise, the collection of fees, hiring of permit engineers and analysis of applicants' permits cannot begin until the State's program is effective. Illinois' program, therefore, should be adopted without any further delay inasmuch as the public has been without the protection of this comprehensive regulatory program and because any further delay would not serve the public interest.

Although it is in the public's interest to commence Illinois' title V program upon the date of publication, EPA must ensure that this action will not have any prejudicial effects upon the regulated community. *Rowell v. Andrus*, 631 F.2d 699, at 702-703 (1980). For example, EPA must ensure that the regulated community has sufficient notice of this rulemaking and ample opportunity to comment. EPA believes that all interested parties have had sufficient notice of this rulemaking and ample time to comment. The development of the State's CAAPP occurred over the last few years. As such, it contains a combination of legislation and regulations. These regulations were all previously subjected to public comment at the State level. The State's legislation has been effective and fully enforceable as a matter of State law since September 26, 1992, and the first set of State CAAPP regulations became effective on June 10, 1993. Illinois' CAAPP program, therefore, has been fully effective and enforceable as a matter of State law for over the past year. In addition, EPA also subjected these same regulations and legislation to public comment when it published its proposed interim approval of the State's CAAPP on September 30, 1994. From the preceding facts, it is obvious that all interested parties have had ample time both to participate in the rulemaking process and to ready themselves to comply with this program.

List of Subjects in 40 CFR Part 70

Environmental Protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 24, 1995.

Valdas V. Adamkus,
Regional Administrator.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. sections 7401 et seq.

2. Appendix A to part 70 is amended by adding the entry for Illinois in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Illinois

(a) The Illinois Environmental Protection Agency: submitted on November 15, 1993; interim approval effective on March 7, 1995; interim approval expires March 7, 1997.

(b) Reserved

* * * * *

[FR Doc. 95-5516 Filed 3-6-95; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AC28

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for *Gesneria pauciflora*

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Gesneria pauciflora* (no common name) to be a threatened species pursuant to the Endangered Species Act (Act) of 1973, as amended. This small shrub is endemic to Puerto Rico, where only three populations are known to exist in the western mountains in the municipalities of Maricao and Sabana Grande. The species is threatened by the potential for natural disasters and modification of its highly restricted habitat. This final rule extends the Act's protection and recovery provisions to *Gesneria pauciflora*.

EFFECTIVE DATE: April 6, 1995.

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, 1875 Century Boulevard, Atlanta, Georgia 30345.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851-7297).

SUPPLEMENTARY INFORMATION:

Background

Gesneria pauciflora is a small shrub currently known from only three populations in the western mountains of Puerto Rico. It was discovered by the German botanical collector Paul Sintenis on December 3, 1884, at "Indiera Fria" in Maricao, Puerto Rico. Numerous other botanists collected the plant from this same location throughout the years. A second population was discovered recently in the municipality of Sabana Grande, near the headwaters of the Seco River and a third from a small tributary of the Lajas River. Herbarium specimens indicate that the species has also been collected in the past from the Yaguez River and from Cerro Las Mesas (D. Kolterman and G. Breckon, pers. comm.). Population estimates are difficult due to the plant's habit of growing in dense mats; however, the largest population (Maricao River) has been estimated at approximately 1,000 individuals and the second (Seco River) at 50 (Proctor 1991; CPC 1992). Plants are known to occur in clusters of few to numerous individuals. Each population consists of clusters or colonies of individuals. D. Kolterman and G. Breckon (pers. comm.) have indicated that the population of the Maricao River consists of 12 colonies; the Seco River of 3; and the Lajas River of 2.

Gesneria pauciflora is a small gregarious shrub which may reach 30 centimeters in height and 8 millimeters in diameter. Stems may be erect or decumbent and the bark is smooth, gray-brown, and glabrous. The leaves are alternate and the terete or flattened petioles are from 2 to 7 millimeters long. Leaf blades are shaped like a narrow trowel, 2.8 to 9.2 centimeters long and .9 to 2.3 centimeters wide, membranous, dark green and glossy above, and pilose along the prominent veins. The margin is subentire toward the cuneate base and serrate to sublobate above. The inflorescences are one to few-flowered and the peduncles from 6.1 to 15.3 centimeters long and slightly curved. The pedicels are 1 to 2 centimeters long, reddish-brown, and pilose to glabrescent. The corolla is tubular, curved, 2 to 2.3 centimeters long, 4 millimeters wide at the base, narrowing to 3 millimeters but widening to 5 millimeters at the middle and again

narrowing to 4 millimeters at the mouth. The 5-lobed corolla is yellow to yellow-orange and densely pilose outside but glabrous inside. The fruit is a capsule, approximately 4 millimeters long and wide, gray-brown, glabrescent, with 5 to 10 not prominent ridges (Proctor 1991).

At all known localities the species is found growing in rocky stream beds on wet serpentine rock, where water is constantly seeping. The plants may be submerged for a short time during periods of high water (D. Kolterman and G. Breckon, pers. comm.). The Maricao and Seco River localities are found within the Maricao Commonwealth Forest, managed by the Puerto Rico Department of Natural and Environmental Resources. However, the Lajas River population lies at the edge of the forested area and it is not certain whether the site falls within Commonwealth Forest property (D. Kolterman and G. Breckon, pers. comm.). The largest population is located in an area of steep unstable slopes and may be threatened by landslides and flood damage. Forest management practices such as trail construction may adversely affect the species. The Center for Plant Conservation (1992) assigned *Gesneria pauciflora* a priority 1 ranking, indicating that the plant could possibly go extinct in the wild within the next 5 years.

Previous Federal Action

Gesneria pauciflora 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 by the Service as published in the Federal Register notice of review dated December 15, 1980 (45 FR 82480); the November 28, 1983 update (48 FR 53680), the revised notice of September 27, 1985 (50 FR 39526), and the February 21, 1990 (55 FR 6184) and September 30, 1993 (58 FR 51144) notices of review. The species was designated as a category 1 species (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in the notices of review published on February 21, 1990, and September 30, 1993.

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. Beginning in October 1983, and in

each October thereafter, the Service found that listing *Gesneria pauciflora* 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. A proposed rule to list *Gesneria pauciflora*, published on February 18, 1994 (59 FR 8165), constituted the final 1-year finding for the species in accordance with Section 4(b)(3)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the February 18, 1994, proposed rule and associated notifications, all interested parties were requested to submit factual reports of 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 comment was published in the "El Dia" on March 18, 1994. Four letters of comment were received and discussed below. A public hearing was neither requested nor held.

The Puerto Rico Department of Natural and Environmental Resources, both the Terrestrial Ecology Section and the Natural Heritage Program, supported the listing of the species as threatened.

The Puerto Rico Planning Board stated that although they did not have any proposed projects before them at this time that might affect the species, they would circulate the information within the agency in order that it could be considered upon receipt of projects.

Dr. Duane Kolterman and Dr. Gary Breckon provided additional information on a recently discovered population along a tributary of the Lajas River in or near the Maricao Commonwealth Forest as well as on historical records, biological information and threats. They state that survival of the colonies is dependent on water flow, water level, siltation and land slippage and that any major clearing or water removal upstream or water impoundment downstream may potentially harm the species. They stated that because of the absence of a management program in the Commonwealth Forest and the apparent loss of the species at two historical collection sites, the species should be designated as endangered rather than threatened. The Service, however, believes that current threats to the species are not imminent and that a classification of threatened is more appropriate.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Gesneria pauciflora* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424) were followed. 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 *Gesneria pauciflora* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Gesneria pauciflora* is known from only three populations in western Puerto Rico. Although at least two of the populations are found within the Maricao Commonwealth Forest, a management plan for the Forest has not been prepared. Activities within the Forest may increase the potential for erosion of the steep unstable slopes where the species occurs. Management practices such as trail construction may directly affect the species. Because the plant has not been found more than 1 meter above or away from the water, any water removal upstream or water impoundment downstream may adversely affect this plant (D. Kolterman and G. Breckon, pers. comm.). Due to water shortages experienced by the whole island, the number of proposed water intakes has increased, which would result in a lower flow of water.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although an attractive plant, 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, *Gesneria pauciflora* is not yet on the Commonwealth list. Federal listing will provide immediate protection and, when 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 this species is its limited distribution. Because so few

individuals are known to occur in a limited area, the magnitude of threat is extremely high. Landslides, floods and storm damage are natural occurrences that may affect the steep, unstable slopes associated with the species' habitat.

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 *Gesneria pauciflora* as threatened. Three populations are currently known, the largest one of which may contain as many as 1,000 individuals; however, at least two occur on land managed by the Commonwealth. Although limited in distribution, the species does not appear to be in imminent danger of becoming extinct. Therefore, threatened rather than endangered 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's regulations (50 CFR 424.12(a)(1) state that designation of critical habitat is not prudent when one or both of the following situations exist: (i) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (ii) Such designation of critical habitat would not be beneficial to the species.

The Service finds that designation of critical habitat is not prudent for this species due to the potential for taking and vandalism. The number of individuals of *Gesneria pauciflora* is sufficiently small that vandalism and collection 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 these plants occur 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, required 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 a 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 *Gesneria pauciflora*, as discussed above. Federal involvement may occur through the use of federal funds (U.S. Department of Agriculture) for forest management practices.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any threatened 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. 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 plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction 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. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation.

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. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

It is the policy of the Service published in the Federal Register on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time of listing those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed or ongoing activities. Two of the three known populations of *Gesneria pauciflora* are located in the Maricao Commonwealth Forest. The third population lies on the border of the Maricao Forest and the ownership of this site is uncertain. Since there is no Federal ownership, and the species is not currently in trade, the only potential section 9 involvement would relate to

removing or damaging the plant in knowing violation of Commonwealth law, or in knowing violation of Commonwealth criminal trespass law. Section 15.01(b) of the Commonwealth "Regulation to Govern the Management of Threatened and Endangered Species in the Commonwealth of Puerto Rico," states "It is illegal to take, cut, mutilate, uproot, burn or excavate any endangered plant species or part thereof within the jurisdiction of the Commonwealth of Puerto Rico." The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9.

Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Caribbean Office (see ADDRESSES section). Requests for copies of the regulations on listed species and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Regional Permit Coordinator, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (404/697-7110).

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, D.C. xv + 403 pp.
- Center for Plant Conservation. 1992. Report on the rare plants of Puerto Rico. Center for Plant Conservation, Missouri Botanical Garden, St. Louis, Missouri.
- Proctor, G. R. 1991. Status report on *Gesneria pauciflora* Urban. In Puerto Rican plant species of special concern: status and recommendations. Publicacion Cientifica Miscelanea No. 2, Department of Natural Resources, San Juan, Puerto Rico.

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, 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.

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. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under flowering plants, to the list of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family name	Status	When listed	Critical habi- tat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*		*	*
<i>Gesneria pauciflora</i>	None	USA (PR)	<i>Gesneriaceae</i>	T	578	NA	NA
*	*	*	*	*		*	*

Dated: February 15, 1995.
Mollie H. Beattie,
Director, Fish and Wildlife Service.
[FR Doc. 95-5508 Filed 3-6-95; 8:45 am]
BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 675**

[Docket No. 950206040-5040-01; I.D. 022895D]

Groundfish of the Bering Sea and Aleutian Islands Area; Inshore Component Pollock Fishery in the Bering Sea Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian

Islands management area (BSAI). This action is necessary to prevent exceeding the first allowance of the pollock total allowable catch (TAC) for the inshore component in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 1, 1995, until 12 noon, A.l.t., August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the first seasonal allowance of pollock for the inshore component in the BS was established by the final groundfish specifications (60 FR 8479, February 14, 1995) as 167,344 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined in

accordance with § 675.20(a)(8), that the first allowance of pollock TAC for the inshore component in the BS soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 162,344 mt with consideration that 5,000 mt will be taken as incidental catch in directed fishing for other species in the BS. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the BS.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 1, 1995.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95-5434 Filed 3-1-95; 3:56 pm]

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