DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

189-94

RIN 1018–AC12

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Puerto Rican Broad-Winged Hawk and the Puerto Rican Sharp-Shinned Hawk

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Puerto Rican broad-winged hawk *(Buteo platypterus brunnescens)* and the Puerto Rican sharp-shinned hawk *(Accipiter striatus venator)* to be endangered pursuant to the Endangered Species Act (Act) of 1973, as amended. These uncommon woodland raptors are restricted to montane, primarily government-owned forests along the Cordillera Central, Sierra de Cayey and Sierra de Luquillo. There are approximately 155 sharp-shinned hawks and 124 broad-winged hawks island-wide. Both species are currently threatened by timber harvest and management practices in the forests; road construction in relation to timbering and recreational activities; increase in numbers of recreational facilities, and the disturbance associated with public use; mortality and habitat destruction from hurricanes; the lack of comprehensive management plans for the Commonwealth forests; and possible loss of genetic variation due to low population levels. The Puerto Rican sharp-shinned hawk is also affected by warble fly parasitism. This final rule will implement the Federal protection and recovery provisions afforded by the Act for the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk.

EFFECTIVE DATE: October 11, 1994.

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. Marelisa Rivera at the Caribbean Field Office address (809/851–7297), or Mr. Dave Flemming at the Atlanta Regional Office address (404/679–7096).

SUPPLEMENTARY INFORMATION:

Background

The broad-winged hawk *(Buteo platypterus)* was first reported in Puerto Rico by Gundlach (1878). He reported this species as "common" in the "interior" of Puerto Rico. Stahl (1883) reported the species as "transient". In the first half of the 20th century, the species was not reported by other naturalists that visited the island (Bowdish 1902, Wetmore 1914, and Danforth 1931). Wetmore (1927) believed the species extinct. Danforth and Smyth (1935) collected a specimen in Luquillo (Caribbean National Forest) and described it as a distinct resident subspecies, the Puerto Rican broad-winged hawk *(Buteo platypterus brunnescens)*. Danforth (1936) reported sightings of broad-winged hawks from Utuado. Leopold (1963) reported the species from Luquillo, Utuado and Maricao forests.

The Puerto Rican broad-winged hawk is a dark chocolate brown, small-size hawk that measures approximately 39 centimeters (15.5 inches). It is smaller than the *Buteo platypterus platypterus* but larger than the Lesser Antillean subspecies. This is the darkest subspecies of the broad-winged hawk. In adults, the tail, broadly banded with black and white, and the rufous breast are characteristic. Immature birds have dark bars on the breast and lack the distinctive tail bands of the adult. Broadwings flap more than the similar but larger red-tailed hawk (Raffaele 1989). Knowledge of the biology of the Puerto Rican broad-winged hawk is limited. Snyder et al. (1987) conducted food-habit studies on one of the three nests found in the Caribbean National Forest in 1976 and one nest found in Río Abajo in 1978. The prey types taken included centipedes, frogs, lizards, mice, rats and birds (as large as 200 grams). Studies of breeding biology, habitat requirements and other aspects of this species' biology are not available in the literature.

The Puerto Rican broad-winged hawk is an uncommon and extremely local resident. Extant populations are restricted to montane habitats of three forests: Río Abajo Commonwealth Forest, Carite Commonwealth Forest and Caribbean National Forest. Breeding has not been documented in the Carite forest (Hernández 1980, Snyder et al. 1987). In the mid 1980's, the population in the Caribbean National Forest was estimated to be 40–60 individuals and 15–20 breeding pairs (Santana and Temple 1984, Snyder et al. 1987). The broad-winged hawks were more often seen in the eastern side of the Caribbean National Forest, and the tabonuco and palo colorado forest types were reported to be the preferred habitats for the species (Wiley and Bauer 1985). In 1992, 12 broad-winged hawks were sighted in the Caribbean National Forest and the population was estimated at 22 individuals (Delannoy 1992). These individuals were observed to be clustered in the north-central part of the forest within the subtropical wet forest and subtropical rain forest life zones, where the tabonuco is the dominant forest type. Information received from the Service's Puerto Rican Parrot Field Office (*in litt.* 1994) states that broad-winged hawks have been sighted in several watersheds throughout the forest (e.g. Mameyes, Sonadora, Espiritu Santo, and Quebrada Grande) besides the north-central ridge. The field office also mentioned that estimates for the Caribbean National Forest may be underestimated due to limited access to the interior regions of the Forest.

Very little is known about the Río Abajo and Carite forest populations. However, it appears that the existence of the Río Abajo population was known by Danforth (1936) and Leopold (1963) since they both reported sightings of broad-winged hawks from Utuado. Snyder et al. (1987) believed that the Río Abajo forest sustains not more than 50 individuals. Delannoy (1992) reported 26 broad-winged hawks, or an estimated population of 52 individuals, in the Río Abajo forest. The Puerto Rican broad-winged hawk was unknown from the Carite forest until 1980, when the existence of a resident population present year-round was reported (Hernández 1980). In 1992, 20 broad-winged hawks were censused in the Carite forest and a population of 22 individuals was estimated (Delannoy 1992). In the Carite forest the species has been reported from the elfin, caimitillo, granadillo, tabonuco, and slope forest types (Hernández 1980, Delannoy 1992).

The 206.4 square kilometers (80 square miles) censused in three forests (Río Abajo, Carite and Caribbean National Forest) in 1992 yielded 58 broad-winged hawks or an estimated population of 124 individuals (Delannoy 1992). Sightings of the broad-winged hawk have been reported from other areas, such as Cayey (next to the Carite forest), Utuado, Jayuya, Adjuntas, Villalba, and the Maricao and Toro Negro forests (Leopold 1963, Pérez-Rivera and Cotte-Santana 1977). Nevertheless, Delannoy (1991) established that the Maricao and Toro Negro forests do not have resident populations. Broad-winged hawks have been searched for, but not sighted, in

upland forested habitats in Utuado, Jayuya, Adjuntas, Orocovis, and Barranquitas (Delannoy 1992).

The sharp-shinned hawk (*Accipiter striatus*) is a polytypic species with nine subspecies distributed in the western hemisphere, from Alaska to Canada south to Argentina and to the West Indies (Cuba, Hispaniola and Puerto Rico) (Wattel 1973). The Puerto Rican sharp-shinned hawk was first discovered in 1912 in the Maricao Commonwealth Forest, and described as a distinct subspecies, *Accipiter striatus venator* (Wetmore 1914).

The Puerto Rican sharp-shinned hawk is a small hawk measuring approximately 28–33 centimeters (11–13 inches). The dark slate gray upper parts and heavily barred rufous underparts of the adults are distinctive. Immatures are brown above and heavily streaked below. It has short, squared tail, often appearing notched when folded, and small head and neck. In flight, the short, rounded wings and long, narrow tail are characteristic (Raffaele 1989).

Extant breeding populations of the Puerto Rican sharp-shinned hawk were located in the mountain forest of the Maricao Commonwealth Forest, Toro Negro Commonwealth Forest, Guilarte Commonwealth Forest, Carite Commonwealth Forest and Caribbean National Forest (Cruz and Delannoy 1986). Sixty individuals were counted in island-wide surveys conducted in 1983 and a breeding density of .73 hawks/km2 was estimated (Cruz and Delannoy 1986). In 1985, 72 individuals were counted and a breeding population of .76 hawk/km2 (230–250 island-wide) were estimated in island-wide surveys (Cruz and Delannoy 1986). In 1992, 285.6 square kilometers (110 square miles) censused yielded 82 sharp-shinned hawks; 40 in Maricao, 30 in Toro Negro, 10 in Carite and 2 in Caribbean National Forest. An overall population of 129 individuals has been estimated for these forests (Delannoy 1992). Although the Guilarte Forest population was not censused in 1992, a population of 25 individuals was estimated for the forest in 1985 (Cruz and Delannoy 1986).

Studies on breeding and nesting habitat of this species, conducted by Cruz and Delannoy (1986) showed that the sharp-shinned hawk population in Maricao nests in both natural and modified (*Calophyllum* plantation) habitats. Plantation nest sites tended to have large canopy trees and fewer understory than natural forest nest sites. Sharp-shinned hawks appear to select plantation and natural forest nest sites with similar vegetative structure and topography. Results suggested that vegetation structural requirements (closed canopies and dense stands) are sought by the Puerto Rican sharp-shinned hawks in the selection of nest sites in Maricao and apparently in other parts of its range in Puerto Rico (Cruz and Delannoy 1986). Furthermore, these authors reported low reproductive success, high desertion of eggs, and high nestling mortality due to parasitism by the warble fly *Philornis* spp.

The center of sharp-shinned hawk courtship and territorial activities in Maricao forest was located in the north-central and eastern parts, within the subtropical lower montane wet forest and subtropical wet forest life zones. In the Carite Forest, territorial and courtship activities occurred in the northeastern and north-central parts, within the caimitillo-granadillo forest types (Delannoy 1992). In Toro Negro, these activities took place in the elfin woodland, sierra palm, caimitillo-granadillo and tabonuco forest types. In the Caribbean National Forest, the only two sharp-shinned hawks sighted (a solitary territorial pair) were detected in the south-central part of the forest, confined to the palo colorado forest type of the lower montane forest life zone (Delannoy 1992).

Although the sharp-shinned hawk was previously known from the karst region of Río Abajo and Guajataca Commonwealth Forests, Cruz and Delannoy (1986) did not find any evidence of its presence in these areas. Fossil evidence indicates that the species was once more widespread in the karst region (Wetmore 1922). Cruz and Delannoy (1986) reported that sharp-shinned hawks have been searched for and not sighted in Cambalache, Vega, Susua, and Guánica forests. More recent observations indicate the hawk does occur in and around the Susua Forest (*in litt.* 1994).

Previous Federal Action

On November 24, 1980, the Service received a petition from Dr. Warren B. King from the International Council for Bird Preservation requesting that the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk be added to the List of Endangered and Threatened Wildlife. On May 12, 1981, the Service published a notice of petition acceptance and status review in the **Federal Register** (46 FR 26464).

In the case of any petition accepted by the Service as containing substantial information, Section 4(b)(3) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), as amended in 1982, requires that a subsequent finding be made within 12 months as to whether the measure is warranted, not warranted, or warranted but precluded by higher priority listing actions. In regard to the Puerto Rican broad-winged hawk, the Service made petition findings of "warranted but precluded" each year, beginning in October of 1983, as required by the Act. A final petition finding of "not warranted", based on a change in Service policy for certain previous "warranted but precluded" findings, was published in the **Federal Register** on December 9, 1993 (58 FR 6828). In the case of the Puerto Rican sharp-shinned hawk, a status survey completed in 1986 resulted in a final petition finding of "not warranted" that was announced in the **Federal Register** of April 25, 1990 (55 FR 17475).

In the Service's notice of review for vertebrate candidates published in the **Federal Register** of December 30, 1982 (47 FR 58454) and September 18, 1985 (50 FR 37958), both hawks were included as category 2 species, i.e., taxa for which there is information to indicate that listing may be appropriate, but for which there is insufficient data to support a listing proposal. In the animal notice of review published January 6, 1989 (54 FR 554), the Puerto Rican sharp-shinned hawk was moved to category 3C based on status information gathered in 1986. Category 3C taxa are those that do not presently qualify for the Act's protection due to absence of significant threat. The Puerto Rican broad-winged hawk was retained in category 2 for the 1989 notice of review and for the subsequent notice published November 21, 1991 (56 FR 58804).

Status surveys conducted in 1991 and 1992 indicated that both species have experienced recent population declines, exist in low numbers, have restricted distribution and currently face significant threats. Based on this information, the Service recently elevated both hawks to category 1. A proposed rule to list these hawk species as endangered was published on January 3, 1994 (59 FR 48).

Summary of Comments and Recommendations

In the 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 requested to comment. A newspaper notice inviting general public comment was published in "The San Juan Star" on January 22, 1994. Seven comment letters were received

and are discussed below. Comments supplying supplemental data have been incorporated into the Background section of this rule, as appropriate. A public hearing was neither requested nor held.

The U.S. Forest Service (USFS), Southern Region, supported the proposal to list both species as endangered. The USFS indicated that several protective measures had been taken to reduce the probability of adverse effects to these species from forest management activities and development. These measures included the designation of both hawk species as "Sensitive Species" and the broad-winged hawk as a "Management Indicator Species", the development of "Standards and Guidelines" to protect all raptor nests and roost sites by directing management activities outside of sensitive raptor areas and raptor breeding time periods, the planning of recreational developments away from primary forest areas and near existing recreational facilities.

The Puerto Rico Department of Natural and Environmental Resources (PRDNER), Natural Heritage Division, supported the listing of the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk. The Department recognized that formal comprehensive management plans for all Commonwealth forest reserves are lacking. However, the PRDNER mentioned that it is their intention to formalize management plans for all forest reserves, and management plans for Río Abajo, Piñones, Carite, and Guánica Forest Reserves have been drafted.

Letters supporting the listing and providing comments were also received from Mr. José L. Chabert, Wildlife Coordinator for the PRDNER, Mr. Enrique Hernández-Prieto from the Biology Department of the University of Puerto Rico, the Service's Puerto Rican Parrot Field Office, and the Caribbean Islands National Wildlife Refuge.

The U.S. Department of the Army, Jacksonville District Corps of Engineers, Antilles Office, provided comments, but did not indicate either support or objection to listing the species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk should be classified as endangered species. Procedures found at 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 were followed. 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 the Puerto Rican broad-winged hawk *(Buteo platypterus brunnescens)* and the Puerto Rican sharp-shinned hawk *(Accipiter striatus venator)* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk are uncommon and extremely local residents. Extant populations of the broad-winged hawk and the sharp-shinned hawk are restricted to three and five montane forests, respectively. The destruction and modification of forested habitats in Puerto Rico may be one of the most significant factors affecting the numbers and distribution of these hawk species. The patchy distribution of both species may have resulted from the fragmentation of forested habitats. During the first half of the 20th century forested areas were drastically reduced for intensive agricultural uses. Only small areas in the montane forests remained. In the last half of this century early secondary forests have developed in areas that are no longer under intensive cultivation and these secondary forests connect patches of more mature forests that were previously isolated. Nevertheless, both hawk species are restricted to the mature montane forests and have not been observed in these secondary forests (Delannoy, pers. com.). Both species were searched for, but not sighted, in other upland forested habitats in central parts of Puerto Rico.

Extant populations of these species occur in low numbers. The total population estimate of 124 broad-winged hawks island-wide is very low. Broad-winged hawks have experienced a local population decline of approximately 50 percent in the Caribbean National Forest (Delannoy 1992). Total population numbers are significantly low in both the Carite and Río Abajo forests. The sharp-shinned hawk has experienced a 60 percent decline in the Carite forest and 93 percent decline in the Caribbean National Forest (Delannoy 1992).

Timber harvest and management practices that would result in a reduction in numbers or in the diminishing of habitat quality of species already limited in their abundance and distribution could be detrimental. Cruz and Delannoy (1986) found that 50 percent of the nesting areas in the Maricao forest were in plantations of maría *(Calophyllum brasiliense)*. They established that timber harvest and management practices could have negative effects on sharp-shinned hawks if vegetation structural features such as high stem density and canopy closure were not maintained. Adequate nest site habitat in the Maricao forest was considered to be in limited supply. Any activities that modify required structural features of vegetation in sharp-shinned hawk nesting areas could result in the reduction of the effective population size. Sharp-shinned hawks showed a strong nest site tenacity and returned year after year to the same nesting areas (Cruz and Delannoy 1986).

Road construction in the forests (related to timber programs and/or recreational activities) could result in substantial habitat alteration and fragmentation. Also, roads could provide a chronic source of human disturbance, reducing habitat effectiveness for species with a strong need for isolation. Roads could increase animal harvest and the introduction of exotic fauna. Road construction and/or road repair have been proposed in the Caribbean National Forest. In the Río Abajo forest, the construction of highway P.R. 10 from Arecibo to Ponce, which has been under way for several years, could affect the broad-winged hawk population. Delannoy (1992) documented, from the Puerto Rico Highway and Transportation Authority files, that approximately 2.5 kilometers (1.6 miles) of the P.R. 10 will enter and cut through forest land in the northeastern corner, where high densities of broad-winged hawks were detected. Bulldozer activities were reported less than 500 meters from lookout sites in the forest. He estimated that approximately 3.79 ha. (9.5 acres) of apparently prime broad-winged hawk habitat will be destroyed by the road.

Construction of recreational facilities has been proposed for the western and northern sides of the Caribbean National Forest, areas where both species occur Such recreation facilities could potentially eliminate habitat or bring human activities too close to preferred nesting areas. Raptors are particularly sensitive to disturbance near their nesting territories. In the Carite forest increasing pressure for new recreation facilities has been identified (Delannoy 1992). In the Maricao forest, Cruz and Delannoy (1986) found that nest failures related to direct human harassment ranked third in importance. Five nesting areas in Maricao forest are in, or less than 100 meters (328 feet) from, the camping and picnic areas. Some of the

traditional nesting areas for the Puerto Rican sharp-shinned hawk in the Toro Negro forest lie near recreation facilities (Cruz and Delannoy 1986). Increased pressure for recreation from a growing human population could bring about frequent and regular human disturbance near nest sites.

Increased pressure for new right-of-way access to farms through the Carite forest land and the establishment of new communication facilities could also destroy prime habitat or bring human activities too close to broad-winged hawks. Delannoy (1992) documented that destruction of substantial caimitillo-granadillo habitat occurred in the right-of-way-access through Camino El Seis in the north-central part of the Carite forest. Delannoy also reported the establishment of new communication facilities along an access road through sector Farallón in the northwestern part of the forest where the highest broad-winged hawk densities have been reported.

In the Maricao forest, the Puerto Rico Energy Power Authority has a power substation located in the lower montane wet forest life zone, the center of sharp-shinned hawk nesting habitat. Many kilometers of aerial power lines run through forest lands. The access road for the substation is located adjacent to sharp-shinned hawk habitat in the subtropical wet forest life zone (Delannoy 1992). The construction of this access road resulted in the destruction of approximately 2.6 ha (6.4 acres) of sharp-shinned hawk habitat (Delannoy 1992). The construction of new or the enlargement of the existing communication infrastructure could potentially eliminate important sharp-shinned hawk habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of these species. Nevertheless, the size and the appearance of these birds make them potentially attractive for some hunters.

C. *Disease or predation.* The mortality of sharp-shinned hawk nestlings due to parasitism by the warble fly *Philornis* spp. has been documented. Studies conducted in Maricao forest attributed 61 percent of nestling mortality to *Philornis* parasitism (Cruz and Delannoy 1986).

D. *The inadequacy of existing regulatory mechanisms.* The Puerto Rican sharp-shinned hawk was designated by the Commonwealth Department of Natural Resources as a threatened species in 1985. Existing Commonwealth regulations for the protection of threatened and endangered species have not been effective at preventing habitat destruction or alteration. The Puerto Rico broad-winged hawk is not protected by Commonwealth regulations.

E. *Other natural or manmade factors affecting its continued existence.* Two of the most important factors affecting these species in Puerto Rico are their limited distribution and low numbers. The Puerto Rican broad-winged hawk experienced a local population decline of approximately 50 percent in the Caribbean National Forest (from 50 individuals in 1984 to 22 in 1992). The Puerto Rican sharp-shinned hawk experienced a 40 percent population decline in a period of seven years (from 250 individuals in 1985 to 150 in 1992). Locally, the Carite population experienced a 60 percent decline and the Caribbean National Forest population a 93 percent decline. Decline of both species have been attributed to possible direct and indirect effects of hurricane Hugo in 1989.

The extensive devastation from hurricanes may be particularly detrimental to species with small population size and long generation time, such as the broad-winged hawk and sharp-shinned hawk. Additionally, there may also be a long-term reduction in effective population size if the hawks prove to require habitat characteristics not presently available in the storm-damaged forest.

The lack of comprehensive management plans for the Commonwealth forests could be considered a serious threat for these species. In absence of such plans, policy makers and managers lack basic information on which to base decisions related to the best use and management of forest resources.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these two species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Puerto Rican broad-winged hawk and the Puerto Rican sharp-shinned hawk as endangered.

The Puerto Rican broad-winged hawk populations are extremely small and limited to only three montane forests. Significant adverse effects to this species or its habitat could drive it to extinction. The potential for illegal shooting, increased human disturbance and loss of prime habitat in the forests constitute serious threats to the continued survival of the species. The Puerto Rican sharp-shinned hawk has experienced a 40 percent decline in a period of 7 years. The potential for alteration of the species' habitat, human disturbance, illegal shooting, and nestling parasitism by warble flies constitute serious threats to the continued survival of the species. A decision to determine only threatened status would not adequately reflect the evident rarity and threats confronting these species. A decision to take no action would exclude these species from benefits provided by the Endangered Species Act. Endangered status is therefore appropriate.

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 a 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: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. The Service finds that, in the case of the latter situation, designation of critical habitat is not prudent for these species due to lack of benefit.

Section 7(a)(2) and regulations codified at 50 CFR part 402 require Federal agencies to ensure, in consultation with and with the assistance of the Service, that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat, if designated. (See "Available Conservation Measures" section for a further discussion of Section 7.) As part of the development of this final rule, the USFS and the PRDNER were provided with available information on the distribution and threats to the two hawks. Should any future projects be proposed in areas inhabited by these hawks, the two agencies will already have the information needed to determine if the species may be impacted by the proposed action.

Regulations promulgated for implementing Section 7 provide for both a jeopardy standard, based on listing alone, and for a destruction or adverse modification standard, in cases where critical habitat has been designated. The Puerto Rican broad-winged and the Puerto Rican sharp-shinned hawks occupy restricted areas within the borders of the Caribbean National Forest and several Commonwealth forests. Any significant

adverse modification or destruction of their habitat would likely jeopardize their continued existence. Under these conditions, the standards for jeopardy and adverse modification are essentially equivalent. Therefore, no additional protection for the species would accrue from critical habitat designation that would not also accrue from listing these species. Once listed, the Service believes that protection of their habitat can be accomplished through the Section 7 jeopardy standard, and through Section 9 prohibitions against take. It is more likely, however, that any federally related action of concern will receive early review and any problems will be resolved informally.

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)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed 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.

In the case of the two hawks, Federal involvement relates to activities to be conducted or permitted by the U.S. Forest Service in the Caribbean National Forest, or by other federal agencies in the Commonwealth forests. Federal funds or permits could be involved in the construction, maintenance or enlargement of facilities such as power substations, communication towers, and roads and trails in the Commonwealth forests. Federal funds could be utilized by the Department of Natural Resources in the management of Commonwealth forests.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer it for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Requests for copies of the regulations on listed species and inquiries regarding prohibitions and permits should be addressed to the U.S. Fish and Wildlife Service, Ecological Services (TE), 1875 Century Boulevard, Atlanta, Georgia 30345–3301 (phone 404/679–7096, facsimile 404/679–7081).

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).

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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.

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. Amend § 17.11(h) by adding the following, in alphabetical order under "BIRDS," to the List of Endangered and Threatened Wildlife, to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*		*	*
Birds:							
*	*	*	*	*		*	*
Hawk, Puerto Rican broad-winged.	*Buteo platypterus brunnescens.*	U.S.A. (PR)	Entire	E	550	NA	NA
Hawk, Puerto Rican sharp-shinned.	*Accipiter striatus venator.*	U.S.A. (PR)	Entire	E	550	NA	NA
*	*	*	*	*		*	*

Dated: August 26, 1994.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 94–22369 Filed 9–8–94; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Three Puerto Rican Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Mitracarpus maxwelliae* (no common name), *Mitracarpus polycladus* (no common name), and Eugenia woodburyana (no common name) to be endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *M. maxwelliae,* a small shrub, and *E. woodburyana,* a small evergreen tree, are endemic to southwestern Puerto Rico. *M. polycladus* is a small shrub found in the same general area of Puerto Rico as the other two species, but it also has been reported from one other island, Saba, in the Lesser Antilles. These species are variously threatened by road construction, recreational activities, wildfires, and land clearing associated with development for agriculture and other purposes. This final rule provides *M. maxwelliae, M. polycladus* and *E. woodburyana* with the Federal protection and recovery provisions afforded by the Act for listed species.

EFFECTIVE DATE: October 11, 1994.

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) or Mr. Dave Flemming at the Atlanta Regional Office address (404/679–7096).

SUPPLEMENTARY INFORMATION:

Background

Mitracarpus maxwelliae was discovered on March 8, 1925, by Nathaniel L. Britton on a limestone hill in the municipality of Guánica, Puerto Rico. The site was later rediscovered by Alain Liogier in 1982 and again by George R. Proctor and Miguel Canals in 1987. The species has never been found at any other location but the type locality. At this locality, it is found along an unpaved road, growing on dry exposed gravel. Approximately 1,443 plants, including mature flowering individuals and seedlings, were counted within an area of about 7,500 square meters (697 square feet) (Proctor 1991a).

Mitracarpus maxwelliae is a low, densely-branching, moundlike shrub which may reach approximately 20 centimeters (8 inches (in)) in height. The somewhat woody branches are striate and sharply 4-angled. The leaves are opposite, sessile, linear or linear-lanceolate, densely scabrous, and from 1 to 3 centimeters (.4 to 1 in) long and 2 to 5 millimeters (.01 to .2 in) wide. The flower heads are terminal, dense, subglobose, and from .8 to 1.3 centimeters (.3 to .5 in) in diameter. The corolla is white, narrowly funnelform, minutely glandular-papillose, 5 to 6 millimeters (.20 to .23 in) long. The capsule is about 1.5 millimeters (.06 in) in diameter, opening by a transverse circular split at about the middle. The seeds are ellipsoid, brownish-black, and 1.2 millimeters (.05 in) long and .8 millimeter (.03 in) wide.

Mitracarpus polycladus was first discovered growing on coastal rocks near Caña Gorda, Guánica, Puerto Rico,