Acquisition Policy and Regulations (VP), (202) 566-1224.

SUPPLEMENTARY INFORMATION:

Background

On December 26, 1985, the General Services Administration (GSA) published in the **Federal Register** (51 FR 52780) Acquisition Circular AC-85-5 and on March 13, 1986, (51 FR 8677) Acquisition Circular AC-86-3, which temporarily revised the GSAR and invited comments from interested parties on the changes. Comments received from the American Bar Association and various GSA offices have been incorporated, when appropriate, in this final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The changes implement the U.S. Trade Representative's decision to reduce the dollar threshold for applicability of the Trade Agreements Act and provides for nonprofit workshops for the blind and other severely handicapped to be dealt with in a manner consistent with all other GSA contractors when negotiating adjustments in delivery schedules. Accordingly, no flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Parts 508 and 525

Government procurement.

1. The authority citation for 48 CFR Parts 508 and 525 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 508—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Section 508.602 is amended by revising paragraph (b) to read as follows:

508.602 Policy.

* * * * *

(b) A contract for services shall not be awarded to the Federal Prison Industries, Inc. (FPI) without providing for full and open competition unless the contracting officer justifies such action in accordance with FAR 6.302. FAR 6.302-5 may not be cited as justification for a sole source acquisition of services from FPI because 18 U.S.C. 4121-4128 does not authorize or require the procurement of services from FPI.

3. Section 508.705-70 is amended by revising paragraph (b) to read as follows:

508.705-70 Adding items to the Procurement List.

* * * * *

(b) The Committee for Purchase from the Blind and Other Severely Handicapped (the Committee), if requested by the CNA, may assign the supply or service to the CNA for development by a workshop and will list the item in the Preliminary Evaluation Record. A copy of the record, updated monthly, is maintained by the Office of Small and Disadvantaged Business Utilization (AU).

* * * * *

4. Section 508.705-73 is amended by revising paragraphs (a) and (a)(1) to read as follows:

508.705-73 Delinquent delivery orders.

(a) Contracting officers shall take appropriate action on delinquent delivery orders until all deliveries are made. Contracting officers shall follow the procedures outlined in FAR 8.705 and the regulations of the Committee for Purchase from the Blind and Other Severely Handicapped (see 41 CFR 51-5.2 and 51-5.7).

(1) In cases of excusable delays, contract delivery schedules should be extended without obtaining consideration. However, when the delay is inexcusable, normal procedures should be followed in reviewing and adjusting contract prices if appropriate.

* * * * *

PART 525—FOREIGN ACQUISITION

5. Section 525.402 is amended by revising paragraph (a) to read as follows:

525.402 Policy.

(a) Pursuant to FAR 25.402(a), contracting officers shall evaluate offers of $149,000 or more for an eligible product without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The $149,000 threshold must be inserted in paragraph (b) of the FAR clause at 52.225-9 (see Article 30 of the GSA Form 3507, Supply Contract Clauses).

* * * * *

6. Section 525.402-71 is amended by revising paragraph (c) to read as follows:

525.402-71 Delegation of limited waiver authority.

* * * * *

(c) When the head of the contracting activity grants such a waiver, a copy of the waiver will be furnished to the Associate Administrator for Acquisition Policy for subsequent transmittal to the U.S. Trade Representative.

Dated: June 24, 1986.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc 86-15225 Filed 7-7-86; 8:45 am]

BILLING CODE 6820-61-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1180

[Ex Parte No. 282 (Sub-11)]

Rail Consolidation Procedures; Continuance in Control of a Nonconnecting Carrier

AGENCY: Interstate Commerce Commission.

ACTION: Final rule and exemption.

SUMMARY: The Commission is expanding its railroad class exemption (49 CFR 1180.2(d)(2)) to include the continuance in control of a nonconnecting carrier by a person already controlling one or more other rail carriers. This modification will further several goals of the rail transportation policy. By eliminating the need for Commission review and formal decisions, as well as the time and expense to prepare pleadings with attendant decisional delays, it will reduce regulatory oversight over the rail transportation system and regulatory barriers to entry. By facilitating acquisitions of lines from larger carriers that might otherwise be abandoned as unprofitable but that can often be operated more efficiently by short-lines, it ensures the development and continuation of a sound rail transportation system to meet public needs, fosters sound conditions in transportation, and encourages efficient rail management. The exemption does not cover transactions involving class I carriers. Carriers using this exemption will remain subject to standard employee protective conditions.

EFFECTIVE DATE: August 7, 1986.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7245.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking in this proceeding

was published at 51 FR 1828, January 15, 1986.

Additional information is contained in the Commission's full decision in this proceeding. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll free (800) 424–5403.

This action will not significantly affect the quality of the human environment or energy conservation, nor will it have a significant economic impact on a substantial number of small entities, because it reduces regulatory burdens.

List of Subjects in 49 CFR Part 1180

Administrative practice and procedure; Railroads.

Dated: June 27, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

Appendix

Title 49, Subtitle B, Chapter X, Part 1180, Subpart A, of the Code of Federal Regulations is amended to read as follows:

PART 1180—[AMENDED]

1. The authority citation following §§ 1180.2, 1180.4 and 1180.6 and preceding Subpart C are removed, and the authority citation for 49 CFR Part 1180 is revised to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10903–10906, 11341, 11345, 11346; 5 U.S.C. 553 and 559; 45 U.S.C. 904 and 915.

2. Paragraph (d)(2) of § 1180.2 is revised to read as follows:

§ 1180.2 Types of transactions.

* * * * *

(d) * * *

(2) Acquisition or continuance in control of a nonconnecting carrier or one of its lines where (1) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not involve a class I carrier.

* * * * *

[FR Doc. 86–15274 Filed 7–7–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Eriogonum Ovalifolium var. Williamsiae (Steamboat Buckwheat)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status for *Eriogonum ovalifolium* var. *williamsiae* (Steamboat buckwheat). This plant is only known from one site at Steamboat Hot Springs, Washoe County, Nevada, where it grows in several colonies scattered over approximately 100 acres. This species is vulnerable to habitat alteration that may be caused by the potential threats of drilling for geothermal development, recreational and commercial development, and mining activities near where it occurs. It is presently affected by off-road vehicle use, dumping of refuse, and alterations to moisture patterns. This determination that *Eriogonum ovalifolium* var. *williamsiae* is endangered implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is August 7, 1986.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The Steamboat buckwheat was first collected in 1884 by K.C. Brandegee, but was not recognized taxonomically until 1981, when James Reveal (1981) described it as a new variety of *Eriogonum ovalifolium* The species is known only from one site at Steamboat Hot Springs in Washoe County, Nevada. Most of the plants are concentrated on 20 acres of a total of 80 acres of Bureau of Land Management (BLM) land at the Hot Springs (currently leased to Washoe County for eventual development as a recreational and interpretive site), and on 40 acres owned by a private citizen. The buckwheat occurs on open, slightly to steeply sloped areas composed of loose, gravelly, sandy-clay soil derived from hotsprings deposits. The plant is a low perennial with small, oval, greenish-white leaves that are densely congested in tight rosettes. It frequently forms large mats. It has small white flowers (often with a pink midrib on each sepal) that are clustered in a head at the end of an erect stem 4 to 10 inches (10 to 25 centimeters) high.

The species has only been collected from the area around Steamboat Hot Springs, but is thought to have been more widespread in the past. Approximately one acre of habitat was destroyed in about 1978 during the construction of a U.S. Post Office. It is not known what effects other past developments have had on the buckwheat. Two collections from the 1930's refer to Reno Hot Springs as a collection site. A mineral bath by that name was operated, in the past, a few miles from Steamboat Hot Springs. No plants occur there at this time. It is possible that this site was actually Steamboat Hot Springs, since herbarium labels are often quite general. At Steamboat Hot Springs Spa, a nearby commercial development, no plants have been found even though the habitat is similar to sites where colonies do occur. *Eriogonum ovalifolium* var. *williamsiae* is thought to have declined because of past development activities and is vulnerable, due to its restricted range, to any further alterations of its remaining habitat.

On December 15, 1980 (45 FR 82480), the Service published a notice of review of plant taxa. *Eriogonum ovalifolium* var. *williamsiae* was included in that notice (as *E. ovalifolium* var. nov. ined.) as a category-1 species, indicating that the Service then had sufficient information to support a proposal to list it as threatened or endangered. A supplement to the 1980 notice of review, published on November 28, 1983 (48 FR 53640), also placed this taxon in category 1 as *E. ovalifolium* var. *williamsiae*. The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. Category 1 and 2 species included in the December 15, 1980, notice of review are treated as under petition to be listed. A finding was required on such species on or before October 13, 1983. On October 13, 1983, and again on October 12, 1984, findings were made that the listing of the Steamboat wild buckwheat was warranted, but precluded by other listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a

finding requires recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. Consequently, a new finding was required by October 13, 1985, which was represented by the proposed rule published on September 12, 1985 (50 FR 37252).

Summary of Comments and Recommendations

In the September 12, 1985, proposed rule (50 FR 37252) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, private landowners, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Reno Gazette-Journal* on December 17, 1985. The comment period was reopened until January 27, 1986, to accommodate this advertisement.

A total of six written comments were received and are discussed below. Three comments neither supported nor opposed the listing and provided some additional information concerning potential projects: One comment, from an attorney representing a private landowner, expressed concern over possible effects of the listing on geothermal development in the area and offered to participate in planning aimed at reducing any potential conflicts; two comments supported the listing, one of which voiced concern over potential impacts to buckwheat habitat from geothermal development.

The Nevada Department of Transportation (NDOT) provided information about two planned highway projects that may possibly impact the Steamboat buckwheat. However, one project is outside the known distribution of the species, and final alignment for the second project has not yet been decided. The Bureau of Land Management commented that geothermal development of public land adjacent to the Steamboat buckwheat population may be affected by the listing since such activities "might alter the discharge rates and temperatures of the water sources depended on by the species". The Washoe County Department of Comprehensive Planning included area-wide planning documents that (1) recognize the Steamboat buckwheat as an "endangered" species in Nevada, following Mozingo and Williams (1980); and (2) "support public and private efforts toward the development of geothermal resources." The Service responds that potential effects of any proposed projects involving Federal lands, funds, or permits will be addressed in appropriate section 7 consultation(s) which will identify any determinable effects on the buckwheat and provide recommendations and/or alternatives to avoid or minimize impacts.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Eriogonum ovalifolium* var. *williamsiae* should be classified as an 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 *Eriogonum ovalifolium Nutt.* var. *williamsiae* Reveal (Steamboat buckwheat) are as follows (abstracted from Williams 1982):

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* In the past, as discussed in the "Background" section, development led to a decline in the species. The *Eriogonum* is detrimentally affected by drilling of geothermal test wells (Mozingo and Williams 1980), development of a park on the Bureau of Land Management (BLM) parcel that is leased to the Washoe County Parks and Recreation Department, and a planned commercial development on private land that is adjacent to a colony of plants. Also threatening this small population is the possibility of mining on private lands. BLM has restricted mining on public lands containing the species. Cinnabar is sufficiently abundant to be commercially profitable, and stibnite, gold, and silver are found in small amounts in the species' habitat.

Roads have been built through most of the colonies of *Eriogonum ovalifolium* var. *williamsiae*, and off-road vehicle (ORV) travel has further disturbed the habitat and destroyed plants. BLM has designated the main terrace with active geothermal activity as an Area of Critical Environmental Concern and has fenced this area on three sides. Although it is posted as closed to motor vehicles, ORV's have entered on the unfenced side and driven across the terrace. It is not known whether trespassers are intentionally damaging the Steamboat buckwheat, but with increased public awareness of the species it will become more vulnerable to such actions. Also, refuse has been dumped on and near the buckwheat colonies in some areas, resulting in additional loss of habitat.

The Steamboat buckwheat is sensitive to changes in moisture and has been observed to die when more than normal moisture is received. Degradation of its habitat by ORV use and dumping of refuse may alter moisture patterns, further threatening the species. There is also a possibility that drilling of geothermal test wells may contribute to changes in water regimes for the plants.

B. *Overutilization for commercial, recreational, scientific, or eductional purposes.* Species of *Eriogonum* are often collected for rock gardens. Although it is not known whether this species has been sought by collectors in the past, it is possible that its rare status may make it a desirable garden subject.

C. *Disease or predation.* Nothing is known about disease or predation that may harm this plant.

D. *The inadequacy of existing regulatory mechanisms.* This species is protected on private and State lands by the Nevada Division of Forestry under provision of NRS 527.270 c 527.300. These regulations, however, do not apply to Federal lands on which the species is found, nor do they allow for protection of the species' habitat. Under provisions of State law, the private landowner is required to notify the State if the plants are going to be destroyed so that they may be salvaged by the State prior to destruction. Listing under the Act would provide this taxon with additional habitat protection and protection from collecting on Federal land.

E. *Other natural or manmade factors affecting its continued existence.* The species is known from only one population, consisting of seven colonies on less than 100 acres of land. Even though the species is abundant where it occurs, with individual plants numbering about 10,000–15,000, its restricted distribution makes it vulnerable to fire or any other disturbance in its habitat. The further loss of individuals may have adverse effects on the reproductive capacity and survival of the species. During a field survey in 1981, no seedlings were found, indicating that the buckwheat may have low reproductive potential.

The Service has carefully assessed that best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Eriogonum ovalifolium* var. *williamsiae* as

endangered without critical habitat. The need for such listing is demonstrated by the restricted range of the lone population and the immediate and potential threats faced by the species. Critical habitat is not being proposed for *Eriogonum ovalifolium* var. *williamsiae* for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a 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. As discussed under Factors A and B in the "Summary of Factors Affecting the Species," the Steamboat buckwheat is vulnerable to collecting and vandalism, activities not prohibited by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants on lands under Federal jurisdiction. Publication of precise critical habitat descriptions, and maps delineating localities of colonies, would make this species more vulnerable to collecting pressures and vandalism than it is at present.

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 action by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States 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 prohibition 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 and were recently revised at 51 FR 19926 (June 3, 1986). 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 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. Since BLM closed mining on its land where *Eroigonum ovalifolium* var. *williamsiae* occurs, the only known Federal activity that may affect the species is the proposed development of a recreational area by Washoe County on land leased from BLM. Development of such an area will require measures for protection of the *Eriogonum*. BLM has already expressed a willingness to work with the public and with the private landowner to develop conservation and management programs for the *Eriogonum*. Such programs might include the development of a cooperative agreement with landowners, and/or possibly a land exchange.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export this species, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or to remove it and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. No trade in this species is known. It is anticipated that few trade permits involving *Eriogonum ovalifolium* var. *williamsiae* would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

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

Mozingo, H. N. and M. Williams. 1980. Threatened and Endangered Plants of Nevada—An Illustrated Manual. U.S. Fish and Wildlife Service and Bureau of Land Management. 268 pp.

Reveal, J. 1981. Notes on endangered buckwheats with three newly described forms from the western United States. Brittonia 33: 446.

Williams, M. 1982. Status report on *Eriogonum ovalifolium* var. *williamsiae*. Unpubl. report under contract with U.S. Fish and Wildlife Service. 30 pp.

Author

The primary author of this final rule is Randy M. McNatt, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Bldg. C. Reno, Nevada 89502 (702/784–5227 or FTS 470–5227).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Polygonaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species						
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
*	*	*	*	*	*	*
Polygonaceae—Buckwheat Family:						
Eriogonum ovalifolium var *williamsiae*	Steamboat buckwheat	U.S.A. (NV)	E	237	NA	NA
*	*	*	*	*	*	*

Dated: June 12, 1986.

Susan E. Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-15349 Filed 7-7-86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Mezoneuron Kavaiense (Uhiuhi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a Hawaiian plant, *Mezoneuron kavaiense* (uhiuhi), to be an endangered species. Once fairly common on the islands of Hawaii, Maui, Oahu, and Kauai, only 3 small populations of this endemic species, totaling fewer than 50 individuals, remain. These are located on State and privately owned land in North Kona, island of Hawaii; in the Waianae Mountains, island of Oahu; and in western Kauai. Populations of the species face threats from continued cattle grazing, wildfire, and impaired seedling establishment because of exotic plant species, rodent and insect damage, and feral animal browsing on or near sites on which they occur. Protective measures are needed to ensure its continued existence. This determination that *Mezoneuron kavaiense* is an endangered species implements the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is August 7, 1986.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Mezoneuron kavaiense (uhiuhi) is an endemic Hawaiian tree that grows to 10 meters (34 feet) in height and 30 centimeters (12 inches) in truck diameter, with loose, spreading branches. The bark is rough-scaly and of a dark gray to brown color. The leaves are pinnate, having 4 to 8 leaflets about 3 centimeters (1.25 inches) in length. The flowers are arranged in terminal racemes 2.5 to 10 centimeters (1 to 4 inches) long and are dark red in color (Rock 1913). Seed pods are flat, very thin, bluish-glaucous when young, and pale pink to gray when older. They are about 8 centimeters (3.2 inches) long and 5 centimeters (2 inches) wide, with a conspicuous line running down the length of the pod (Lamoureux 1982).

Sites occupied by *Mexoneuron kavaiense* can be described as dryland open forest on rough weathered (unweathered on Hawaii) lava on steep slopes, ranging in elevation from 76 meters (250 feet) to 910 meters (3,000 feet). Annual rainfall varies from 75 centimeters (30 inches) to 152 centimeters (65 inches) and is evenly distributed throughout the year. Associated species include *Erythrina sandwicensis, Chenopodium oahuense, Diospyros ferrea,* and *colubrina oppositifolia* (Lamoureux 1982). *Kokia drynarioides,* an endangered species (see 49 FR 47397; December 4, 1984), coexists with uhiuhi in North Kona, island of Hawaii.

Although well known to Hawaiian natives, who used its strong, dark, heavy wood for spears and fishing implements, the species remained uncollected by botanists until 1865, when Horace Mann, Jr. obtained specimens from Kauai. He later described them as a new species, *Caesalpinia kavaiensis* (Mann 1867). William Hillebrand acquired additional specimens for Oahu and Maui and transferred the species to the genus *Mezoneuron,* as *Mezoneuron kavaiense* (Hillebrand 1888). As they differ only in minor characters of the seed pod, the genera *Mezoneuron* and *Caesalpinia* are combined under the older name *Caesalpinia* by many botanists. Commonly known as uhiuhi, the tree is also referred to as kea (on Maui only).

Historically known to have occurred on the islands of Hawaii, Oahu, Maui, and Kauai, *Mezoneuron kavaiense* has declined to only 3 populations, totaling fewer than 50 individuals, located on the slopes of Hualalai, North Kona, Hawaii; in the Waianae Mountains, Oahu; and in the Waimea Canyon in western Kauai. The Hawaii population occurs on the Pu'uwa'awa'a Ranch, State-owned land, and on private land owned by the Bernice P. Bishop Estate. These lands are leased as cattle pasture.

Grazing by cattle, goats, and other herbivores is the most probable cause for the species' decline, and continues to impact the remaining trees. In recent years rodent and insect damage and competition form exotic plant species, especially fountaingrass *(Pennisetum setacrum),* have reduced the number and survivorship of seedlings, and increased the probability, extent, and intensity of wildlife (Lamoureux 1982). Only 1 of the 3 remaining populations exhibits signs of successful reproduction. A cooperative effort among Federal, State, and private agencies is needed to preserve the remaining trees and promote the species' recovery.

Section 12 of the Endangered Species Act of 1973 (Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to he endangered, threatened, or extinct. This report (House Document No. 94-51) was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice of review in the **Federal Register** (40 FR 27823) accepting this report as a petition within the context of section 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended). On June 16 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to section 4 of the Act. *Mezoneuron kavaiense* was included in the Smithsonian report, the notice of review of July 1, 1975, and the proposal of June 16, 1976.

The Act, as amended in 1978, required that all proposals over 2 years old be withdrawn, except that a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with 4 other proposals that