

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Abronia macrocarpa* (Large-Fruited Sand-Verbena)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine a plant, *Abronia macrocarpa* (large-fruited sand-verbena), to be an endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. The single known population of this plant occurs on active sand dunes on private land in Leon County, Texas. Because of its small population size and limited distribution, this species is vulnerable to the threats of residential development, recreation, and commercial use. Critical habitat is not being proposed because easy access to the species' only population creates the potential for collecting and vandalism. This proposal, if made final, would extend the protection of the Act to *Abronia macrocarpa*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by August 17, 1987. Public hearing requests must be received by July 31, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Sue Rutman, Endangered Species Botanist, Albuquerque, New Mexico (see **ADDRESSES** above) (505/766-3972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:**Background**

Abronia macrocarpa is an herbaceous perennial endemic to Leon County, eastern Texas. The species is restricted to actively blowing sand dunes in the Post Oak Forest and Grassland Mosaic vegetation types (McMahan *et al.* 1984). *Quercus stellata* (post oak) and *Ilex vomitoria* (yaupon) are dominants in the small wooded islands within the dunes

and in the surrounding woodlands. *Abronia macrocarpa* is one of the many herbaceous species that temporarily dominate the bare sands during spring. Some common associated species are *Gaillardia pulchella* (Indian blanket), *Coreopsis* sp. (tickseed), *Rhododon ciliatus*, *Stylisma* sp., and *Croton argyranthemus* (silver croton).

Showy pink-purple flower clusters make *Abronia macrocarpa* an attractive component of the spring wildflower display. Twenty to seventy-five flowers are arranged in each spherical nodding head that is golf ball size or larger. The plant's ascending or erect stems may reach 5 decimeters (20 inches) in height. Leaves are hairy, have sticky glands, and are arranged oppositely on the stems. The large scarious fruits of *Abronia macrocarpa* distinguish this species from related taxa.

The only known population of *Abronia macrocarpa* occurs on sand dunes that lie entirely within a residential resort community. The dunes cover about 30 acres, but the area occupied by *Abronia macrocarpa* is much less. In 1986, Service botanists estimated that the population contained about 250 plants.

Abronia macrocarpa was first collected in 1968 by Dr. D.S. Correll and H.B. Correll at its only known locality. Dr. L. Galloway described this species in 1972 (Galloway 1972), and later, he published a monograph of the entire genus (Galloway 1975). Galloway was writing his account of the species when the *Manual of the Vascular Plants of Texas* (Correll and Johnston 1970) was published; thus *Abronia macrocarpa* does not appear in the manual.

Federal action involving *Abronia macrocarpa* began when this species was included in category 1 of the December 15, 1980, notice (45 FR 82480) of plants under review for threatened or endangered classification. Category 1 comprises taxa for which the Service has substantial biological information to support proposing them as endangered or threatened. Further evaluation of *Abronia macrocarpa* indicated the need for more data, and the species was placed in category 2 (those species for which listing may be warranted but for which the Service does not presently have sufficient biological data to support proposing them as endangered or threatened) in a November 28, 1983, supplement (48 FR 53640) to the 1980 notice. A status report by Turner (1983) provided sufficient data to support proposing *Abronia macrocarpa* as endangered. The species was returned to category 1 in the September 27, 1985, revision (50 FR 39526) of the 1980 notice and the 1983 supplement.

Species covered in the December 15, 1980, notice (45 FR 82480), including *Abronia macrocarpa*, were considered to be petitioned for listing. Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within one year of their receipt. Section 2(b)(1) of the Act's Amendments of 1982 further requires that all petitions pending on October 12, 1982, be treated as having been newly submitted on that date. Since *Abronia macrocarpa* was included in the 1980 notice, the petition to list this species was treated as being newly submitted on October 12, 1982. On October 13, 1983, October 12, 1984, and October 11, 1985, the Service made the required one-year finding that the petition to list *Abronia macrocarpa* was warranted but precluded by other listing actions of higher priority. The publication of this proposed rule indicates that the petitioned action is warranted, and constitutes the next required finding in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Abronia macrocarpa* Galloway (large-fruited sand-verbena) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The historic and present known ranges of *Abronia macrocarpa* are the same; however, residential expansion and recreational activities associated with the surrounding resort community have destroyed habitat. Roads for a new residential area were recently built adjacent to the population. The open space of the sand dunes is an attractive area for horseback riding, bicycling, off-road vehicle (ORV) riding, and general play. These high-impact uses have produced wide paths where the sand is too disturbed to support vegetation.

An active oil well occurs on the sand dunes and construction of the well and the access road have destroyed habitat. Maintenance activities and oil spills could destroy additional plants and habitat. Maintenance of electric utility

lines near the population could also contribute to site disturbance.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Presently, no commercial trade in *Abronia macrocarpa* exists, but horticultural interest may develop. *Abronia macrocarpa* could be developed as an ornamental, as has the similar species *Abronia ameliae*. Because of the easy accessibility of the site, the potential exists for uncontrolled collecting for horticultural research material or for commercial sale. Because the population occurs on private land, plants will not be protected, under the Endangered Species Act, from taking.

C. *Disease or predation.* No threats are known.

D. *The inadequacy of existing regulatory mechanisms.* Currently, *Abronia macrocarpa* is not protected by either Federal or State laws or regulations.

E. *Other natural or manmade factors affecting its continued existence.* The limited distribution of this species makes it vulnerable to a variety of threats including disease, insect predation, and extreme weather conditions. Further reduction of its small population size may result in a reduced gene pool that could threaten the species' reproductive capacity or genetic potential.

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 *Abronia macrocarpa* as endangered without critical habitat. Endangered status is appropriate because only one known population exists and it is subject to possible destruction by residential development, recreation, and commercial activity. The reasons for not designating critical habitat are 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 any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Abronia macrocarpa* at this time due to this species' low numbers and restriction to one population. Designation could result in an especially severe problem for *Abronia macrocarpa*, which is located on private land in a residential area and is easily accessible. Listing of a species,

with attendant publicity, highlights its rarity and attractiveness to collectors. Publication of critical habitat descriptions for this species would make it more vulnerable to taking or vandalism. Although listing establishes certain prohibitions that apply to endangered plants (see below), it does not specifically protect these plants from taking or vandalism. Therefore, it would not be prudent to determine critical habitat for *Abronia macrocarpa* at this time. The location of this plant will be brought to the attention of appropriate agencies and other involved parties through regular communications.

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, 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 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)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. However, *Abronia macrocarpa* is not known to occur on Federal lands and no Federal involvement with this species is currently known or expected.

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. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction 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. With respect to *Abronia macrocarpa*, it is anticipated that few trade permits would be sought or issued since the species is not presently 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).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or other interested parties concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Abronia macrocarpa*;
- (2) The location of any additional populations of *Abronia macrocarpa* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;
- (3) Additional information concerning the range and distribution of *Abronia macrocarpa*; and
- (4) Current or planned activities in the subject area and their possible impacts on *Abronia macrocarpa*.

Final promulgation of the regulation on *Abronia macrocarpa* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director (see ADDRESSES section).

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

Correll, D.S., and M.C. Johnston. 1970. Manual of the vascular plants of Texas. Texas Research Foundation, Renner, Texas. 1861 pp.
 Galloway, L.A. 1972. *Abronia macrocarpa* L. A. Galloway. Brittonia 24:148-149.

Galloway, L.A. 1975. Systematics of the North American desert species of *Abronia* and *Tripterocalyx* (Nyctaginaceae). Brittonia 27:328-347.

McMahan, C.A., R.G. Frye, and L.K. Brown. 1984. The vegetation types of Texas including cropland. Texas Parks and Wildlife Department, Austin, Texas. 40 pp. + map.

Turner, B.L. 1983. Status report on *Abronia macrocarpa*. U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 10 pp.

Author

The primary author of this proposed rule is Sue Rutman, Endangered Species Botanist, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

Status information was provided by Dr. B.L. Turner, University of Texas at Austin, Texas.

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, 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. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Nyctaginaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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 (h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Nyctaginaceae—Four-o'clock family:						
<i>Abronia macrocarpa</i>	Large-fruited sand-verbena	U.S.A. (TX)	E		NA	NA

Dated: May 29, 1987.
 Susan Recco,
 Acting Assistant Secretary for Fish and Wildlife and Parks.
 [FR Doc. 87-13666 Filed 6-15-87; 8:45 am]
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