

## DEPARTMENT OF THE INTERIOR

## 50 CFR Part 17

**Endangered and Threatened Wildlife and Plants; Proposed Rule to Determine *Hedeoma Todsenii* (Todsens Penneyroyal To Be an Endangered Species and to Determine Its Critical Habitat**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to determine *Hedeoma todsenii* (Todsens penneyroyal), a native plant of New Mexico, to be an Endangered species. There are only two known populations occurring on fragile limestone slopes. The number of existing individuals of this species is estimated to be approximately 750, and reproductive potential appears to be low. The populations are potentially threatened by any disturbance of their habitat including foot traffic. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended, for *Hedeoma todsenii*. Public comments are sought on this proposal.

**DATES:** Comments from the public must be received by September 23, 1980. Comments from the Governor of New Mexico must be received by October 23, 1980. A public meeting will be held on August 26, 1980, at 7:00 p.m.

**ADDRESSES:** Comments and materials concerning this proposal, preferably in triplicate should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, 1000 N. Glebe Road, Fifth Floor, Arlington, Virginia. The public meeting will be held at the Alamogordo Chamber of Commerce, 1301 N. White Sands Boulevard, Alamogordo, New Mexico.

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

**SUPPLEMENTARY INFORMATION:** *Hedeoma todsenii* was first discovered in August 1978, by Dr. Thomas K. Todsen, and was described in 1979 by Dr. Robert S. Irving (1979). *Hedeoma todsenii*, a member of the mint family, is a perennial herb which measures 4-8 inches in height and is somewhat woody at the base. Its leaves are opposite, small, and measure .3-.6 inches long, .1-

.2 inches wide. Its flowers are solitary along the stem and measure about 2 inches long and are orange-red.

*Hedeoma todsenii* occurs on steep gravelly, gypsum limestone on the White Sands Missile Range, Sierra Co., New Mexico, which is under the jurisdiction of the Department of the Army. This rule proposes to determine *Hedeoma todsenii* to be Endangered and if made final would implement the protection provided by the Endangered Species Act of 1973. The following paragraphs further discuss the actions to date involving this plant, the threats to it, and effects of the proposed action.

In the June 24, 1977 Federal Register (42 FR 32373-32381), the Service published a final rulemaking under 50 CFR Part 17 detailing the regulations to protect Endangered and Threatened plant species. The rulemaking established prohibitions and a permit procedure to grant exceptions, under certain circumstances, to the prohibitions.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

**Summary of Factors Affecting the Species**

Section 4(a) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) states that the Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a) of the Act. These factors and their application to *Hedeoma todsenii* (Todsens penneyroyal) are as follows:

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* *Hedeoma todsenii* is endemic to loose gravelly slopes in the San Andres Mountains of New Mexico. The combined area of its two known populations is approximately 3000 m<sup>2</sup> and the number of surviving plants is estimated at 750. The reproductive potential, as measured by seed set, is low with an average seed yield of 0.22 seeds per flower (Irving, 1980).

The remoteness of *Hedeoma todsenii*'s populations and the restricted nature of the White Sands Missile Range affords *Hedeoma todsenii* considerable protection. Yet, its fragile habitat and the small number of known populations and individuals which comprise them combine to leave the species particularly vulnerable and in need of protection. While there is little likelihood of the populations of *Hedeoma todsenii* being hit by a missile, even minor changes in the usage of its

protected canyons could potentially threaten the existence of the species. Activities such as large scale troop movements or the construction of storage facilities, missile retrieval roads, or power and communication lines could jeopardize the habitat of *Hedeoma todsenii* without proper planning for its protection. No protection or management plan currently exist for this species.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

(3) *Disease or predation* (including grazing). Not applicable to this species.

(4) *The inadequacy of existing regulatory mechanisms.* *Hedeoma todsenii* is not protected by any New Mexico state law. The Army's regulations dealing with Endangered species were published in 1977 (42 FR 16385). The Endangered Species Act would offer additional needed protection for this species.

(5) *Other natural or man-made factors affecting its continued existence.* The small size and number of the populations cause this species to be in greater danger of extinction due to natural fluctuations. The low reproductive potential of this species also causes it to be more vulnerable also.

**Critical Habitat**

The Act defines "Critical Habitat" as "(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species."

Critical Habitat for *Hedeoma todsenii* is being determined to include the entire area in New Mexico where the species is known to occur. This area encompasses 2 km<sup>2</sup> of the White Sands Missile Range which is administered by the Department of the Army. In the future, adjacent suitable habitat may be included as essential to the conservation of the species because it is necessary to provide areas for proper management, reintroduction, and natural expansion. Modifications of this Critical Habitat designation may be proposed in the future.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation.

Any activities which would result in increased trampling or disturbance of the extremely fragile areas where *Hedeoma todsenii* occurs would probably adversely modify the Critical Habitat. The long term solution on how to best protect *Hedeoma todsenii* may be to reduce greatly all construction activities and or ground traffic in the area where this plant occurs. In this respect, Critical Habitat designation may affect Federal activities as follows: this may require prohibiting certain activities within the 2 km<sup>2</sup> *Hedeoma todsenii*'s Critical Habitat, which is administered by the Department of the Army.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are not significant in the foreseeable future. The area proposed as Critical Habitat for *Hedeoma todsenii* encompasses 2 km<sup>2</sup> of a very lightly and not critically used portion of the White Sands Missile Range. If the Army diverted certain activities from the 2 km<sup>2</sup>, it would not greatly affect their operations. The only impact would probably be that additional planning to ensure protection of this site would be required.

The U.S. Department of the Army was contacted and requested to submit information on economic or other impacts of the proposed action and this information was utilized in completing this analysis. The Service will prepare a final impact analysis prior to the time of final rulemaking. The Service's Draft Economic Impact Analysis was used as part of the basis for the Service's decision as to whether or not to exclude any area from Critical Habitat for *Hedeoma todsenii*.

#### Effects of This Proposal if Published as a Final Rule

In addition to the effects discussed above, the effects of this proposal if published as a final rule would include, but would not necessarily be limited to, those mentioned below.

The Act and implementing regulations published in the June 24, 1977 **Federal Register** set forth a series of general prohibitions and exceptions which apply

to all Endangered plant species. All of those prohibitions and exceptions also apply to any Threatened species, excluding seeds of cultivated plants treated as Threatened, unless a special rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered and Threatened plants, are found at §§ 17.61 and 17.71, of 50 CFR and are summarized below.

With respect to *Hedeoma todsenii* all prohibitions of Section 9(a)(2) of the Act, as implemented by § 17.61 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR § 17.62 also provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species which is listed as Endangered or Threatened. Provisions for Interagency Cooperation implementing Section 7 are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of *Hedeoma todsenii*, but also to insure that their actions are not likely to result in the destruction or adverse modification of its Critical Habitat which has been determined by the Director.

#### National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia, and may be examined during regular business hours, by appointment. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

#### Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation

of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Comments particularly are sought concerning:

- (1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;
- (2) The location of any population of *Hedeoma todsenii* and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;
- (3) Additional information concerning the range and distribution of this species;
- (4) Current or planned activities in the subject area and the probable impact of such activities on the area designated as Critical Habitat; and
- (5) The foreseeable economic and other impacts of the Critical Habitat designation on Federal activities.

Final promulgation of a rule on *Hedeoma todsenii* will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt a final rule that differs from this proposal.

#### Public Meeting

The Service hereby announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on this proposed rule. Specific information relating to the public meeting is set out below:

Place	Date	Time	Subject
1. Alamogordo Chamber of Commerce, 1301N White Sands Blvd., Alamogordo, N.Mex	August 26, 1980	7:00 p.m.	Endangered Status for <i>Hedeoma todsenii</i>

This proposal is being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat 884).

#### Author

The primary author of this proposed rule is Ms. E. LaVerne Smith, Washington Office of Endangered Species (703/235-1975). Status information and a preliminary listing

package was provided by Dr. Robert S. Irving, University of Nebraska at Omaha, Omaha, Nebraska.

**Literature Cited**

Irving, R.S. 1979. *Hedeoma todsenii* (Labiatae), a new and rare species from New Mexico, Madrono, 28(4): 184-187.

Irving, R.S. 1980. *Hedeoma todsenii* Status Report. Submitted to the U.S. Fish and Wildlife Service, Albuquerque, New Mexico. February 1, 1980.

**Regulations Promulgation**

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. It is proposed to amend § 17.12 by adding, in alphabetical order, the following to the list of plants:

**§ 17.12 Endangered and threatened plants.**

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Lamiaceae—Mint family:						
<i>Hedeoma todsenii</i>	Todsens pennyroyal	New Mexico	E	NA	17.96a	NA

**§ 17.96 [Amended]**

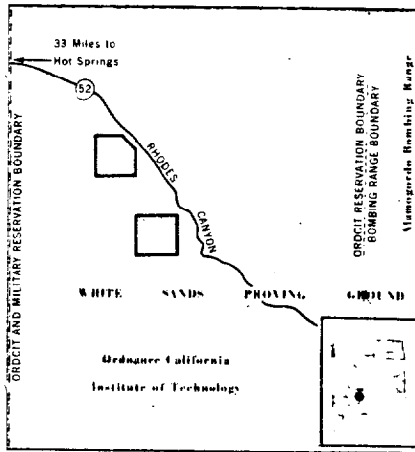
2. Also, the Service proposes to amend § 17.96(a) by adding the Critical Habitat of *Hedeoma todsenii* after that of the Brassiclene (*Erysimum capitatum* var. *zngustatum*) as follows:

**Lamiaceae**

*Hedeoma todsenii*—*Todsens pennyroyal*

New Mexico; Sierra County; the Critical Habitats of *Hedeoma todsenii* is best defined by two square kilometer sections on the 1000 m2 Universal Transverse Mercator Grid, Zone 13. The more northern critical habitat lies between 76 and 77,000 m N and 39 and 40,000 m E excluding the triangular area bordered by running a line 150 meters west and 150 meters south of the northeast corner and connecting the west and south end points of these two lines. The southern area lies between 74 and 75,000 m N and 40 and 41,000 m E. Gypsum limestone soils;

TODSENS PENNEYROYAL  
Sierra County NEW MEXICO



Dated: May 15, 1980.

Lynn A. Greenwalt,  
Director, Fish and Wildlife Service.

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