and reduction to possession of endangered plant species from areas under Federal jurisdiction. This prohibition is not expected to be significant for *Gardenia brighamii*, since all of the known plants are on private property. 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, D.C. 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).

Literature Cited

Foote, D.E., E.L. Hill, S. Nakamura, and F. Stephens. 1972. Soil survey of the islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii. U.S. Dept. of Agriculture, Soil Conservation Service: Washington, D.C. 232 pp., 130 maps.

Gagne, B.H. 1982. Status report of *Gardenia brighamii*. Research Corporation of the University of Hawaii, under contract 14-16-0001-79096 to the U.S. Fish and Wildlife Service. 42 pp.

Spence, G., and S.L. Montgomery. 1976. Ecology of the dry land forest of Kanepu'u, island of Lanai. Newsletter, Hawaiian Bot. Soc. 15(⅝): 62-80.

Author

The primary author of this final rule is Dr. Derral Herbst, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (808/546-7530).

List of Subjects in 50 CFR Part 17

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

Regulations 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 reads 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 Rubiaceae, 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
*	*	*	*	*		
Rubiaceae—Coffee family: *Gardenia brighamii*	Na'u (Hawaiian gardenia)	U.S.A. (HI)	E	195	NA	NA
*	*	*	*	*		

Dated: August 8, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-19909 Filed 8-20-85; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Determine Primula Maguirei (Maguire Primrose) To Be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service has determined *Primula maguirei* (Maguire primrose) to be a threatened species under the authority of the Endangered Species Act of 1973, as amended. Critical habitat is not included in this final rule. There are nine known populations of *Primula maguirei*; all are located in Logan Canyon, Cache County, Utah, on U.S. Forest Service lands. The species is found only on ledges and in cracks of vertical cliffs and outcroppings of rock within the canyon. The plant is threatened by rock climbing, collecting, and potential campground and highway construction. The determination that *Primula maguirei* is a threatened species will provide it protection under the authority of the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is September 20, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Regional Endangered Species Office, U.S. Fish and Wildlife Service, 134 Union Boulevard, Fourth Floor, Lakewood, Colorado, and at the Endangered Species Field Office, U.S. Fish and Wildlife Service, Room 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104.

FOR FURTHER INFORMATION CONTACT: Mr. John L. England, Botanist, Endangered Species Field Office at the Salt Lake City address (801/524-4430 or FTS 588-4430).

SUPPLEMENTARY INFORMATION:

Background

Primula maguirei was first collected by Aldous and Owen on May 10, 1911, and was later described by L.O. Williams (Williams 1936). The plant is a perennial herb, with conspicuous and showy lavender flowers. Stems are 1.5-4 inches (4-10 cm) tall and bear from one to three flowers. Leaves are broadly spatulate, rounded at the tip, and 1-2.5 inches (3-7 cm) long and 0.3-0.5 inch (0.9-1.3 cm) broad (Welsh and Thorne 1979).

This species is found only in Logan Canyon, Utah, and grows on damp ledges, crevices, and overhanging rocks of the canyon walls. It occurs within an area approximately 10 miles (16 km) by 0.5 mile (0.8 km) (L.M. Shultz, Utah State University, pers. comm. 1984). Montane shrubs, aspen, spruce, and fir are the dominant species of the plant community in this area. *Primula maguirei* is typically found on northerly exposures with a slope of 50 to 100 percent and at elevations of 4,800 to 5,500 feet (1,350-1,700 m). Geological formations of the canyon are composed mostly of carboniferous limestones and dolomites (Welsh 1979).

Primula maguirei was first observed in Logan Canyon in 1911, and was seen again in 1932, 1937, and periodically since then (A. Cronquist, New York Botantical Garden, pers. comm. 1984); however, there is no estimate of the number of plants found on these

occasions. At present, there are nine known populations, one of which contains approximately 100 plants, and the remainder of which contain fewer than 30 each. There appears to be good reproduction within populations and reestablishment of seedlings where habitat is unaltered and impacts minimal (L.M. Shultz, Utah State University, pers. comm. 1984). All populations are threatened by rock climbing and collecting. Some, including the largest and most vigorous extant populations, are threatened by potential highway construction.

Section 12 of the Endangered Species Act of 1973, directed the Secretary of the Smithsonian Institution to prepare a report on those plant species considered to be endangered, threatened, or extinct. This report was designated House Document No. 94–51 and was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the 1973 Act, (petition acceptance is now governed by section 4(b)(3) of the Act, as amended), and of its intention to review the status of the plant taxa named within. *Primula maguirei* was included in the report.

On December 15, 1980, the Service published a new notice of review for plants in the **Federal Register** (45 FR 82480), which included *Primula maguirei* as a Category 1 species. Category 1 comprises taxa for which the Service presently has substantial information on the biological vulnerability of and threats to the taxa to support the appropriateness of proposing to list the taxa as endangered or threatened species. 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. The species listed in the December 15, 1980, notice of review were considered to be petitioned, and the deadline for a finding on those species, including *Primula maguirei*, was October 13, 1983.

On October 13, 1983, the petition finding was made that listing *Primula maguirei* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such petitions are recycled under section 4(b)(3)(C)(i). The Service published a proposed rule to list *Primula maguirei* as a threatened species on April 13, 1984 (49 FR 14771), constituting the next 1-year finding that would have been required on or before October 13, 1984.

Summary of Comments and Recommendations

In the April 13, 1984, proposed rule (49 FR 14771) 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, and other interested parties were contacted and requested to comment. A newspaper notice was published in *The Logan Herald Journal* on May 14, 1984, which invited general public comment. Six comments were received. Summaries of the comments and the Service's response are discussed below. No public hearing was requested prior to May 29, 1984. However, a meeting under the auspices of the Utah Governor's Office of Planning and Budget was held June 18, 1984. This meeting is also summarized below.

Five comments supported the listing of *Primula maguirei* as threatened without the designation of critical habitat and one comment opposed the listing of the species. The Forest Service expressed support for the proposal, and indicated that other activities such as the construction of trails, bike paths, and power transmission line corridors may be potential threats to *Primula maguirei*.

Utah Governor S.M. Matheson supported the proposal, and informed the Service that no populations of *Primula maguirei* have been identified on State lands. The final rule has been corrected to reflect this comment. The Governor's Office also indicated that the State has no plans for Highway 89 development at this time and the Utah Department of Transportation has no current plans for highway work in the vicinity of *Primula maguirei* that would affect the plant populations.

Dr. Arthur Cronquist of the New York Botanical Garden supported the proposal, and suggested the Service modify the collection dates to include several more, which he provided the Service. The final rule reflects this information. Two additional comments of general support for the proposal were received from G.E. Gordon, Utah Wildlife Federation, and L.M. Shultz, Utah State University.

The Utah Cattlemen's Association opposed the listing of *Primula maguirei* because of concern regarding the effect that a listed plant species would have on future U.S. Highway 89 improvement projects in Logan Canyon. Highway 89 is the primary route from the regional commercial and cultural center of Logan to summer cattle ranges in the Bear River Range and to agricultural areas of the Bear Lake region of northern Utah and southeastern Idaho. The Utah Cattlemen's Association believes that public safety will be enhanced by improvements on Highway 89, which passes through *Primula maguirei* habitat, and that this should outweigh any consideration for absolute preservation of the Maguire primrose. It suggests that adequate protection could be extended to the species through the National Forest Management Act (Title 2600, Chapter 2670.3(2)). The Service recognizes the concerns of this group and will work with the necessary State and Federal agencies through the section 7 interagency consultation process in an effort to resolve potential conflicts between road construction and the conservation of *Primula maguirei* in Logan Canyon.

A public meeting was held on June 18, 1984, in Ogden, Utah. Representatives from the Utah Governor's Office, Utah Department of Transportation, Utah Division of Wildlife Resources, Utah Division of State Lands and Forestry, Utah State University, U.S. Forest Service, and U.S. Fish and Wildlife Service participated. The effect of listing *Primula maguirei* on possible future improvements on Highway 89 through Logan Canyon as well as foot trail and campground development was discussed. It was pointed out by Utah State University and U.S. Forest Service biologists that *Primula maguirei* is essentially restricted to north facing, moss covered limestone cliffs at or near the bottom of Logan Canyon. Alteration of the microenvironment of Logan Canyon may adversely affect the Maguire primrose. Two factors were identified as being of special concern:

1. Cold air drainage down Logan Canyon may be a factor in the location of specific populations of the Maguire primrose. Any change in the geomorphology of the canyon may alter the cold air drainage patterns which may in turn adversely affect one or more populations of the species.

2. Canyon bottom vegetation may have a moderating effect on adjacent cliffs that provide habitat for the Maguire primrose, buffering the possibly adverse thermal effect of the existing paved highway through the canyon. Removal of canyon bottom tree groves for highway or campground construction may alter the microenvironment of the lower canyon cliffs, which in turn may adversely affect populations of the species.

The State Department of Transportation and the U.S. Forest Service both stated that there are no current plans for highway or

campground improvements other than routine maintenance, and that populations of *Primula maguirei* would be avoided when projects are within its range. No State lands are in the immediate vicinity of *Primula maguirei* populations.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Primula maguirei* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) 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 *Primula maguirei* L.O. Williams (Maguire primrose) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Primula maguirei* is found only in Logan Canyon, Cache County, Utah (Welsh and Thorne 1979; Welsh 1979; Beedlow *et al.* 1980). A 1980 survey located two new populations in addition to the seven previously known, bringing the total known populations to nine (Beedlow *et al.* 1980). Increased human activities in Logan Canyon pose a threat to this species. Rock climbing activity is presently damaging some plants; climbers "clean" vegetation from cracks and ledges as they climb (Beedlow *et al.* 1980). Any transportation of utility construction along U.S. Highway 89 from the mouth of Logan Canyon to the Right Fork of Logan Canyon without consideration of *Primula maguirei* could impact the species. Development of campgrounds in the Logan Canyon area also may impact the species (Welsh 1979).

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Primula maguirei* is a beautiful flowering plant that could be used for ornamental purposes and because of this is subject to overcollection. Therefore, exploitation for commercial and amateur gardening is a potential threat (Welsh and Thorne 1979).

C. *Disease or predation.* None known.

D. *The inadequacy of existing regulatory mechanisms.* No State laws or regulations currently protect *Primula maguirei*. The U.S. Forest Service has established a national policy, based on the National Forest Management Act, of protecting species that it has designated as "sensitive" species (Title 2600, Chapter 2670.3(2)). *Primula maguirei* has received such a classification and hence it is the policy of the U.S. Forest Service to provide for its protection. Listing of this species under the Endangered Species Act will provide additional protection and the necessary regulations to aid the U.S. Forest Service in carrying out its national sensitive species policy on behalf of *Primula maguirei*.

E. *Other natural or manmade factors affecting its continued existence.* None known.

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 make this rule final. Based on this evaluation, the preferred action is to list *Primula maguirei* as threatened. While not in immediate danger of extinction *Primula maguirei* is rare, restricted, and highly vulnerable to modification of its habitat. The status of threatened most closely follows the intent of the Endangered Species Act for this species. A decision to take no action would exclude *Primula maguirei* from needed protection available under the Act. For the reasons discussed below, critical habitat is not being determined.

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 the species at this time. As discussed under factor B in the Summary of Factors Affecting the Species, *Primula maguirei* is potentially threatened by taking. Publication of critical habitat maps and descriptions would make this species even more vulnerable and increase enforcement problems. Because *Primula maguirei* occurs only on U.S. Forest Service land and the Act requires Federal agencies to carry out programs for the conservation of listed species, and because the Forest Service is aware of the localities of *Primula maguirei* and will need to protect its essential habitat once the species is listed, the determination of critical habitat would not provide any additional benefits for the species. Therefore, it would not be prudent to determine critical habitat for *Primula maguirei* at this time.

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 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. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). 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. The U.S. Forest Service is aware of the existence of *Primula maguirei* on its lands and is presently managing for its protection.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Primula maguirei*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, 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. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under

certain circumstances. It is anticipated that few trade permits would ever be sought or issued since *Primula maguirei*, although a potentially desirable horticultural species, is not common in cultivation. Its rarity in the wild also precludes any significant trade.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Section 4(d) allows for the provision of such protection to threatened species through regulations. This protection will apply to *Primula maguirei* once revised regulations are promulgated. Permits for exceptions to this prohibition are available through sections 10(a) and 4(d) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. *Primula maguirei* is known only from lands under the jurisdiction of the U.S. Forest Service. It is not known if a significant number of collecting permits will be requested. 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, D.C. 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).

Literature Cited

Beedlow, Peter A., John C. Carter, and Frank J. Smith. 1980. *Primula maguirei* L. Wms. (Primulaceae): A Preliminary Report on the Population Biology of an Endemic Plant. Bio-Resources, Inc., Logan, Utah. 2 pp.

Welsh, S.L. 1979. Status Report: *Primula maguirei*. U.S. Fish and Wildlife Service, Denver, Colorado. 6 pp.

Welsh, S.L., and K.H. Thorne. 1979. Illustrated Manual of Proposed Endangered and Threatened Plants of Utah. U.S. Fish and Wildlife Service, Bureau of Land Management, and U.S. Forest Service, Denver, Colorado. 318 pp.

Williams, Louis O. 1936. Revision of the Western Primulas. American Midland Naturalist 17:741-748.

Author

The primary author of this final rule is Mr. John L. England, Endangered Species Field Office, U.S. Fish and Wildlife Service, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104. Dr. James L. Miller of the Regional Endangered Species Division, U.S. Fish and Wildlife Service, Denver, Colorado, served as editor.

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 Primulaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	*
Primulaceae—Primrose family: *Primula maguirei*.	Maguire primrose	U.S.A. (UT)	T	197	NA	NA
*	*	*	*	*	*	*

Dated: August 8, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-19908 Filed 8-20-85; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Rule To Determine Townsendia Aprica (Last Chance Townsendia) To Be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service has determined *Townsendia aprica* (Last Chance townsendia) to be a threatened species under the authority of the Endangered Species Act, as amended. The Last Chance townsendia has three populations totaling approximately 2,000 individuals in Sevier, Emery, and Wayne Counties, Utah. Most of the plants are on public land managed by the Bureau of Land Management; a few are on private land. One small population is in Capitol Reef National Park. Trampling by cattle, highway construction, off-road vehicle activity, and coal and petroleum exploration are current threats, and coal mining and oil and gas recovery are potential threats to this species. This final rule implements protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is September 20, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Endangered Species Office at 134 Union Boulevard, fourth floor, Lakewood, Colorado 80228, and the Endangered Species Field Office at Room 2078, 1745 W. 1700 S., Salt Lake City, Utah 84104.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, at the above Salt Lake City address (801/524-4430 or FTS 588-4430).

SUPPLEMENTARY INFORMATION:

Background

Townsendia aprica (Last Chance townsendia) was discovered in 1966 by Stanley L. Welsh and James L. Reveal, and was described as a new species by them in 1968. It is a herbaceous perennial, less than one inch tall and 1-2 inches wide. *Townsendia aprica* is a member of the aster or sunflower family

(Asteraceae). Stems grow from an underground base and branch to form a dense mat or tuft low to the ground. The flower heads are about one-inch wide with almost no stalk and have distinctive yellow to golden rays. The ray florets are densely glandular, the pappus is very short. The golden ray florets make the plant unusual in its genus; ray florets of the other known taxa are white, blue, or red with fresh (Welsh and Reveal 1968), except in *Townsendia jonesii* var. *lutea* (Welsh 1983) where the yellow is not so intense.

It appears that *Townsendia aprica* has never been abundant. At present, there are 12 individual sites clustered in three known populations in eastern Sevier, adjacent western Emery, and north central Wayne Counties, Utah. *Townsendia aprica* occurs on silty soils of the Mancos Formation, and is associated with the pinyon-juniper vegetative community. The species location on this formation makes it vulnerable to disturbance by coal mining and oil and gas drilling activity.

The first discovered population, with about 400 individual plants, is in the Last Chance Creek drainage about six miles south of Fremont Junction in eastern Sevier County (Welsh 1978, Welsh and Thorne 1979, Welsh and Reveal 1968, England 1984). A second population, with about 1,500 plants, is located about six miles northeast of the Last Chance Creek population in scattered stands between Ivie Creek and Willow Springs Wash in extreme western Emery County (Harris 1980, England 1984, Welsh 1978; N.D. Atwood and S.L. Welsh, pers. comm.). The third population, with about 100 plants, is about 15 miles south of the other two populations in the extreme northern portion of Capitol Reef National Park (England 1984). A botanical collection made in 1971 may represent a fourth population east of the second population near Rock Canyon. The locality information on the museum specimen is not definite and recent searches for this population have failed to locate it (England 1984; N.D. Atwood, pers. comm.). The populations are threatened by current and potential off-road vehicle use, coal mining, petroleum exploration and development, cattle grazing and trampling, and highway construction.

Section 12 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of section 4(c)(2) of the 1973 Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended), and of its intention thereby to review the status of the plant taxa named within. 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. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1975 **Federal Register** notice. *Townsendia aprica* was included in the July 1975 notice (40 FR 27880) and the June 1976 proposal (41 FR 24527). General comments received in relation to the 1976 proposal are summarized in an April 26, 1978, Federal Register publication (43 FR 17909).

The Endangered Species Act amendments of 1978 required that all proposals over two years old be withdrawn. On December 10, 1979, the Service published a notice of withdrawal (44 FR 70796) of the still applicable portions of the June 1976 proposal along with other proposals that had expired. The July 1975 notice was replaced on December 15, 1980, by the Service's publication in the **Federal Register** (45 FR 82480) of a new notice of review for plants, which included *Townsendia aprica*. No comments on this species have been received in response to the 1980 notice. On February 15, 1983, the Service published a notice in the **Federal Register** (48 FR 6752) of its prior finding that the petitioned action on this species may be warranted, in accordance with section 4(b)(3)(A) of the Act, as amended in 1982.

On October 13, 1983, the petition finding was made that listing *Townsendia aprica* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Notification of the finding was published in the January 20, 1984, **Federal Register** (49 FR 2485). Such a finding requires a reevaluation of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. Therefore a new finding was made that the petitioned action was warranted and the proposed rule to list the species as endangered in accordance with section 4(b)(3)(B)(ii) of the Act was published in the **Federal Register** (49 FR 22352) on May 29, 1984.

This endangered status was based upon the then current status information, which indicated that the species was found in only 3 disjunct populations with a total of about 215 individuals. During the 1984 field season and subsequent herbarium searches, the Service's Salt Lake City Field Office developed more accurate status information. *Townsendia aprica* is now known from at least 12 different locations, over an area about 30 miles across, and with a population in excess of 2,000 individuals. The Service, after evaluating the threats and the biological status of *Townsendia aprica*, has determined that the species should be listed as threatened rather than endangered as was proposed in the May 29, 1984, **Federal Register**.

Summary of Comments and Recommendations

In the May 29, 1984, proposed rule (49 FR 22352) 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, and other interested parties were contacted and requested to comment. A newspaper notice was published in the Richfield *Reaper* on June 18, 1984, which invited general public comment. One comment was received. Gerald E. Gordon of the Utah Wildlife Federation commented in favor of the proposed listing by agreeing with the information as contained within the **Federal Register** proposal. No public hearing was requested.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Townsendia aprica* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) 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 *Townsendia aprica* (Last Chance townsendia) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* At present, there are three known populations of *Townsendia aprica* within a ten-mile radius between Fremont Junction in extreme eastern Sevier County, Utah, and the northern portion of Capitol Reef

National Park in the extreme northwest corner of Wayne County, Utah (J. Anderson, pers. comm.). The two northern populations occupy habitat that corresponds with the geological strata (Blue Gate Shale) immediately above the coal-bearing seams (Ferron Sandstone) of the Mancos Formation. This area constitutes the bulk of the exposed coal seam area of the Emery Coal Field (Doelling and Smith 1983). Development of the Dog Valley Mine, located in the middle of Willow Springs Wash, has disturbed some potential habitat of *Townsendia aprica*. Coal mining development and production, especially strip mining along the exposed coal seams in the Emery coal field, has the potential of impacting and possibly eradicating 95 percent of the total population of *Townsendia aprica*. Most of the habitat of *Townsendia aprica* under Federal ownership (approximately 80 percent) is under lease either for coal or oil and gas. A cattle driveway and Utah Highway 72 traverse the habitat of the Last Chance Creek population of *Townsendia aprica*. Use of the livestock driveway is continually affecting this population by trampling. Proposed realignment and improvement of Highway 72 has the potential of also affecting this population. Unimproved roads provide access to all populations of *Townsendia aprica* exposing them to the possibility of vehicular disturbance (Harris 1980, MacBryde 1984, England 1984).

B. *Overutilization for commercial, recreational, scientific, or educational purpose.* None.

C. *Disease or predation.* None.

D. *The inadequacy of existing regulatory mechanisms. Townsendia aprica* is not specifically protected by any Federal or State laws or regulations. Known populations of *Townsendia aprica* are found on BLM, National Park Service, and private lands. Although the BLM is aware of this species, it cannot completely regulate activities affecting its survival. The small population in Capitol Reef National Park may be vulnerable to roadside disturbance unless actively protected.

E. *Other natural or manmade factors affecting its continued existence.* The small size and few populations of *Townsendia aprica* make it vulnerable to adverse changes in ecological factors associated with human activities.

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 make this rule final. Based on this evaluation, the preferred action is to list *Townsendia aprica* as a threatened species. With only about 2,000 individuals known, the damage occurring, and other damage possible to the species' three populations, threatened status seems an accurate assessment of the species; condition. It is not prudent to propose critical habitat, because doing so would increase risk for the species, as discussed below.

Critical Habitat

Section 4(a)(3) of the Endangered Species 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. *Townsendia aprica* is threatened by off-road vehicles damaging it and its habitat. Publication of critical habitat descriptions and maps would make this species even more vulnerable through possible wanton vandalism and would increase enforcement problems. Therefore, the Service finds that it would not be prudent to determine critical habitat for *Townsendia aprica*.

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, as appropriate, following listing. The protection required by 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. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). 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. Possible effects of this rule on the BLM might include restricting traffic to some existing roads, fencing to control cattle and vehicles, and administering leases so that the species is accommodated in mineral exploration or development activity.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Townsendia aprica*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, 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. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species, under certain circumstances. No such trade in *Townsendia aprica* is known. It is anticipated that few trade permits would ever be sought or issued since this species is not known in cultivation or common in the wild and is not of particular trade interest.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Section 4(d) allows for the provision of such protection to threatened species through regulations. This new protection will apply to *Townsendia aprica* once revised regulations are promulgated. Permits for exceptions to this prohibition are available through sections 10(a) and 4(d) of the Act, until revised regulations are promulgated to incorporate the 1982 amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417) and these will be made final following public comment. *Townsendia aprica* occurs primarily on public lands managed by the BLM. It is anticipated that few taking permits for the species would ever be requested, as this plant is not common in the wild and has not been of interest to collectors. 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, D.C. 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).

Literature Cited

Doelling, H.H., and M.R. Smith. 1983. Overview of Utah Coal Fields, 1982. Utah Geological and Mineral Survey, Bulletin 118.

England, [J.]L. 1984. Field report: Herbarium searches and field reconnaissance of *Townsendia aprica* populations. U.S. Fish and Wildlife Service, Salt Lake City, Utah. 4 pp.

Harris, J. 1980. Inventory of endangered and threatened plants on proposed coal lease lands in Emery County. Bureau of Land Management, Moab, Utah. 3 pp.

MacBryde, B. 1984. Supplemental status information, *Townsendia aprica*, January 1984. U.S. Fish and Wildlife Service, Washington, D.C. 1 p.

Welsh, S.L. 1978. Status report: *Townsendia aprica*. U.S. Fish and Wildlife Service, Denver, Colorado. 6 pp.

Welsh, S.L. 1983. Utah flora: Compositae (Asteraceae). Great Basin Naturalist 43(2):179-357.

Welsh, S.L., and J.L. Reveal. 1968. A new species of *Townsendia* (Compositae) from Utah. Brittonia 20:375-377.

Welsh, S.L., and K.H. Thorne. 1979. Illustrated manual of proposed endangered and threatened plants of Utah. U.S. Fish and Wildlife Service, Bureau of Land Management, and U.S. Forest Service; Denver, Colorado. 318 pp.

Author

The primary author of this rule is John L. England, Botanist, U.S. Fish and Wildlife Service, Salt Lake City Field Office, Salt Lake City, Utah. Dr. James L. Miller, of the Regional Endangered Species Division, U.S. Fish and Wildlife Service, Denver, Colorado, served as editor.

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 Asteraceae, 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
Asteraceae—Aster family:						
Townsendia aprica	Last Chance townsendia	U.S.A. (UT)	T	196	NA	NA

Dated: August 8, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-19911 Filed 8-20-85; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 20

Final Frameworks for Selecting Early Hunting Seasons on Certain Migratory Game Birds in the United States for the 1985-86 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks (i.e., the outer limits for dates and times when shooting may begin and end, hunting areas, and the numbers of birds which may be taken and possessed) for early season migratory bird hunting regulations from which States may select season dates and daily bag possession limits for the 1985-86 season. These seasons may open prior to October 1, 1985, and apply to mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; teal (September only, in designated States); sea ducks (Atlantic Flyway only); experimental September duck seasons in Florida, Iowa, Kentucky and Tennessee; and experimental early goose season framework in a portion of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; and special extended falconry seasons.

DATES: Effective on August 21, 1985. Selected season dates are to be transmitted to the U.S. Fish and Wildlife Service (hereinafter the Service) for publication in the Federal Register as amendments to §§ 20.103 through 20.106 and 20.109 of 50 CFR Part 20.

ADDRESSES: Season selections from States are to be mailed to: Director (MBMO Room 3252), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received are available for public inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, DC 20240, telephone (202) 254-3207.

SUPPLEMENTARY INFORMATION: On March 14, 1985, the U.S. Fish and Wildlife Service published for public comment in the Federal Register (50 FR 10276) proposals to amend 50 CFR Part 20, with comment periods ending June 20, 1985, for Alaska, Hawaii, Puerto Rico and the Virgin Islands frameworks; July 15, 1985, for other early season frameworks; and August 19, 1985, for late season frameworks. That document dealt with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. A supplemental proposed rulemaking for both the early and late hunting season frameworks appeared in the Federal Register dated June 4, 1985 (50 FR 23459).

On June 20, 1985, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged and white-tipped doves, sandhill cranes and other species. The meeting was announced in the **Federal Register** on March 14, 1985, (50 FR 10276) and June 4, 1985 (50 FR 23459). Proposed hunting regulations were discussed for these species and for common snipe; rails; common moorhens and purple gallinules; September teal seasons in the Mississippi and Central Flyways; experimental early duck seasons in Florida, Iowa, Kentucky and Tennessee; special sea duck seasons in the Atlantic Flyway; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; extended falconry seasons and hunting regulations for Alaska, Puerto Rico and the Virgin Islands. Public comments on these matters were received.

On July 5, 1985, the Service published in the **Federal Register** (50 FR 27638) a third document in the series of proposed and final rulemaking ⅓documents dealing specifically with proposed frameworks for the 1985–86 season from which, when finalized, wildlife conservation agency officials may select season dates for hunting certain migratory birds in their respective jurisdictions during the 1985–86 season. On July 26, 1985, the Service published in the **Federal Register** (50 FR 30424) a fourth document in the series which dealt specifically with final frameworks for Alaska, Puerto Rico and the Virgin Islands.

This rulemaking is the fifth in the series and deals specifically with final frameworks for other early season migratory game bird hunting regulations from which State wildlife conservation agency officials may select season dates and daily bag and possession limits for the 1985–86 season. These seasons may open prior to October 1, 1985, and apply to mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens and purple gallinules; teal (September only, in designated States); sea ducks (Atlantic Flyway only); experimental September duck seasons in Florida, Iowa, Kentucky and Tennessee; an experimental early goose season framework in a portion of Michigan; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; and special extended falconry seasons.

These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Review of Public Comments

The Service has already responded to earlier comments on proposed regulations published in the **Federal Register** on March 14, 1985 (50 FR 10276) and June 4, 1985 (50 FR 23459), and discussed at the June 20, 1985, Public Hearing in Washington, DC. These responses appeared in the **Federal Register** on June 4, 1985 (50 FR 23459), July 5, 1985 (50 FR 27638), and July 26, 1985 (50 FR 30424). Two additional comments, relating to proposed early season frameworks, have been received and are discussed here. They are discussed in the same order as the items, to which they apply, were listed in previous 1985 **Federal Register** publications.

2. *Framework dates for ducks and geese in the continental United States.* In the June 4, 1985, **Federal Register** (at 50 FR 23463) the Service gave notice of the recommendations received from the Mississippi Flyway Council Upper Region Regulations Committee requesting that the September 26 framework opening date for goose hunting in the western portion of Michigan's Upper Peninsula (UP) be expanded to include the entire UP. The Service's response indicated that because the upcoming 1985–86 waterfowl season is the final year of the scheduled 3-year study, expansion of the early goose season option to other areas should be deferred until Michigan's ongoing goose season framework extension study has been completed and their final report has been submitted to and evaluated by the Service and Mississippi Flyway Council.

By letter dated July 12, 1985, Michigan requested that the Service reconsider its position on the Upper Region's recommendation because it would not affect the evaluation of their experimental season and would simplify goose hunting regulations across the UP.

The State also requested that, in an effort to reduce unintended harvest of Mississippi Valley Population Canada geese and/or Tennessee Valley Population Canada geese during their late extended hunting season in the Southern Michigan Goose Management Area (to control local giant Canada geese) they be given the option to conduct a hunt for local giant Canada geese in the Area on September 14–16, 1985. Michigan indicated that the timing of the season would precede the arrival of northern migrant Canada geese into the Area and the 3 days in September would be taken in lieu of any December hunting days for the late extended season.

Response. The Service continues to believe that until Michigan's experimental early goose season in the western UP has been completed and its effect on the waterfowl resource has been evaluated by the flyway council and the Service, expansion of the option for an early goose season should be deferred.

The Service noted that Michigan's request for a 3-day hunting season in September for the control of local giant Canada geese has not received Mississippi Flyway Council review and therefore defers action on it pending receipt of recommendation from the Council.

6. *September teal season.* Michigan, by letter dated July 12, 1985, requested that the Service include the State among those in the Central and Mississippi Flyways eligible for selection of a 1985 September teal season.

Response. States, such as Michigan, that have breeding populations of teal are classified as waterfowl production States and are not presently offered a September teal season because the Service believes that additional hunting pressure in September would be detrimental to local breeding populations. The Service favors continuing to limit the September teal season option to States in the Central and Mississippi Flyways not classified as waterfowl production States. It is noted that in lieu of the September teal season option, Michigan has the option to include additional teal in the daily bag limit during a portion of its regular duck hunting season.

21. *Woodcock.* One individual from Maine requested that the Service reconsider its proposed changes in woodcock hunting regulations in the Atlantic Flyway for 1985. He suggested that the restrictive changes were unwarranted in view of increased counts of woodcock at Moosehorn National Wildlife Refuge and general reports of above average brood rearing conditions.

Response. The Service believes that while increased counts of woodcock at Moosehorn Refuge are gratifying, such local conditions do not make the proposed changes unwarranted. More important considerations are that counts in Maine and in the Atlantic Flyway as a whole were up only 4.2 and 7.6 percent, respectively, from 1984 counts. Despite these modest increases over 1984 and a favorable outlook for production in 1985, woodcock populations in Maine and the Atlantic Flyway remain at low levels. The

Service views the proposed restrictive changes in hunting regulations as being necessary to adjust harvest opportunities to a level commensurate with the populations' status.

Comments received are available for public inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street NW., Washington, DC.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act "[and]" . . . by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical." The Service therefore initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 18, 1985, the Acting Chief, Office of Endangered Species, concluded that the proposed actions were not likely to jeopardize the continued existence of listed species.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinions resulting from its consultation under Section 7 are considered public documents and are available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated March 14, 1985 (50 FR 10276), the Service reported measures it had undertaken to comply with requirements for the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Memorandum of Law

The Service published its Memorandum of Law, as required by section 4 of Executive Order 12291, in the **Federal Register** dated July 26, 1985 (50 FR 30424).

Authorship

The primary author of this final rulemaking is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rules were published March 14, June 4, and July 5, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that States would have insufficient time to select their season dates, shooting hours and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR Part 20 to reflect seasons, limits, and shooting hours for the contiguous United States, Alaska, Hawaii, Puerto Rico and the Virgin Islands for the 1985–86 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Final Regulations Frameworks for 1985–86 Early Hunting Seasons on Certain Migratory Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed frameworks which prescribe season lengths, limits, shooting hours and outside dates within which States may select seasons for mourning doves; white-winged and white-tipped doves; band-tailed pigeons; rails; woodcock; snipe; common moorhens; purple gallinules; September teal seasons; experimental duck seasons opening in September in Iowa, Florida, Kentucky, and Tennessee; sea ducks (scoters, eider and oldsquaw) in certain defined areas of the Atlantic Flyway; sandhill cranes; sandhill cranes-Canada geese in southwestern Wyoming; experimental early goose framework in a portion of Michigan; and special extended falconry seasons. For the guidance of State conservation agencies, these frameworks are summarized below.

Notice

Any State desiring its hunting seasons for mourning doves, white-winged doves, white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, common moorhens, purple gallinules, sandhill cranes or special extended falconry seasons to open in September must make its selection no later than July 26, 1985. States desiring these seasons to open after September 27 may make their selections at the time they select regular waterfowl seasons. Season selections for the 4 States offered experimental September duck

seasons must also be made by July 26, 1985.

Atlantic Flyway Coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selection no later than July 26, 1985. Those desiring this season to open after September may make their selections when they select their regular waterfowl seasons.

Outside Dates: All dates noted are inclusive.

Shooting Hours: Between ½ hour before sunrise and sunset daily for all species except as noted below. The hours noted here and elsewhere also apply to hawking (taking by falconry).

Mourning Doves

Outside Dates: Between September 1, 1985 and January 15, 1986, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit

(All States east of the Mississippi River and Louisiana)

Hunting Seasons, and Daily Bag and Possession Limits: Not more than 70 days with bag and possession limits of 12 and 24, respectively, or

Not more than 60 days with bag and possession limits of 15 and 30, respectively.

Hunting seasons may be split into not more than 3 periods under either option.

Shooting Hours: Between ½ hour before sunrise and sunset daily.

Zoning:—Alabama, Georgia, Illinois, Louisiana, and *Mississipi,* may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama—South Zone: Mobile, Baldwin, Excambia, Covington, Coffee, Geneva, Dale, Houston and Henry Counties. North Zone: Remainder of the State.

Georgia—The Northern Zone shall be that portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County, thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans to Bulloch County; thence north along the western border of Bulloch County to Highway 301; thence northeast along Highway 301 to the South Carolina line.

Illinois—U.S. Highway 36.

Louisiana—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi—U.S. Highway 84.

B. Within each zone, these States may select hunting seasons of not more than 70 days (or 60 under the alternative) which may be split into not more than 3 periods.

C. The hunting seasons in the South Zones of Alabama, Georgia, Louisiana and Mississippi may commence no earlier than September 20, 1985.

Central Management Unit

(Arkansas, Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming).

Hunting Seasons and Daily Bag and Possession Limits: Not more than 70 days with bag and possession limits of 12 and 24, respectively.

Not more than 60 days with bag and possession limits of 15 and 30, respectively.

Hunting seasons may be split into not more than 3 periods under either option.

Texas Zoning.—In addition to the basic framework and the alternative, Texas may select hunting seasons for each of 3 zones described below.

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Interstate Highway 20; northeast along Interstate Highway 20 to Interstate Highway 30 at Fort Worth; northeast along Interstate Highway 30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. 90 to San Antonio; then southeast on U.S. Highway 87 to port Lavaca (*or*, as an option from San Antonio: then northeast on Interstate 10 to Orange).

Special White-Winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Fort Hancock; north along FR 1088 to State Highway 20; west along State Highway 20 to State Highway 148; north along State Highway 148 to Interstate Highway 10 at Fort Hancock; east along Interstate Highway 10 to Van Horn, south and east on U.S. Highway 90 to Uvalde, south on U.S. Highway 83 to State Highway 44; east along State Highway 44 to State Highway 16 at Freer; south along State Highway 16 to State Highway 285 at Hebbronville; east along State Highway 285 to FM 1017; southeast along FM 1017 to State Highway 186 at Linn; east along State Highway 186 to the Mansfield Channel at Port Mansfield east along the Mansfield Channel to the Gulf of Mexico.

Central Zone—That portion of the State lying between the North and South Zones.

Hunting seasons in these zones are subject to the following conditions:

A. The hunting season may be split into not more than 2 periods, except that, in that portion of Texas where the special 2-day white-winged dove season is allowed, a limited mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves (see white-winged dove frameworks).

B. Each zone may have a season of not more than 70 days (or 60 under the alternative). The North and Central zones may select a season between September 1, 1985 and January 25, 1986; the South zone between September 20, 1985 and January 25, 1986.

C. Except during the special 2-day white-winged dove season in the South Zone, each zone may have an aggregate daily bag limit of 12 doves, (or 15 under the alternative), no more than 2 of which may be white-winged doves and no more than 2 of which may be white-tipped doves. The possession limit is double the daily bag limit.

Western Management Unit (Arizona, California, Idaho, Nevada, Oregon, Utah and Washington)

Hunting Seasons and Daily Bag and Possession Limits: Not more than 70 days with bag and possession limits of 12 and 24 respectively, or

In all states except Arizona, not more than 60 days with bag and possession limits of 15 and 30, respectively.

Hunting seasons may be split into not more than 3 periods under either option.

White-Winged Doves

Outside Dates:—Arizona, California, Nevada, New Mexico, and *Texas* (except as shown below) may select hunting seasons between September 1 and December 31, 1985. *Florida* may select hunting seasons between September 1, 1985 and January 15, 1986.

Arizona may select a hunting season of not more than 29 consecutive days running concurrently with the first period of the split mourning dove season. The daily bag limit may not exceed 12 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

In the *Nevada* counties of Clark and Nye, and in the *California* counties of Imperial, Riverside and San Bernardino, the aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24, respectively, with a 70-day season, or 15 and 30 if the 60-day option for mourning doves is selected; however, in either season, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 2 days for the special white-winged dove area of the South Zone. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate including no more than two mourning doves and two white-tipped doves per day; and the possession limit may not exceed 20 white-winged, mourning and white-tipped doves in the aggregate including no more than four mourning doves and four white-tipped doves in possession; and

In addition, *Texas* may also select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1985, and January 25, 1986, and coinciding with the mourning dove season. The daily bag limit may not exceed 12 white-winged, mourning and white-tipped doves (or 15 under the alternative) in the aggregate, of which not more than 2 may be white-winged doves and not more than 2 of which may be white-tipped doves. The possession limit may not exceed 24 white-winged, mourning and white-tipped doves (or 30 under the alternative) in the aggregate, of which not more than 4 may be white-winged doves and not more than 4 of which may be white-tipped doves.

Florida may select a white-winged dove season of not more than 70 days (or 60 under the alternative for mourning doves) to be held between September 1, 1985, and January 15, 1986, and coinciding with the mourning dove season. The aggregate daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected); however, in either season, the bag and possession limits of white-winged doves may not exceed 4 and 8, respectively.

Band-Tailed Pigeons

Pacific Coast States and Nevada—California, Oregon, Washington and the Nevada counties of Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral and Storey.

Outside Dates—Between September 1, 1985, and January 15, 1986.

Hunting, Seasons, and Daily Bag and Possession Limits—Not more than 30 consecutive days, with a bag and possession limit of 5. Each band-tailed pigeon hunter in Nevada must have in possession while hunting a permit issued by the State for the purpose of collecting harvest and hunter participation data.

Zoning—California may select hunting seasons of 30 consecutive days in each of the following two zones:

1. In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama and Trinity; and

2. The remainder of the State.

Four-Corners—Arizona, Colorado, New Mexico and Utah.

Outside Dates—Between September 1 and November 30, 1985.

Hunting Seasons, and Daily Bag and Possession Limits—Not more than 30 consecutive days, with bag and possession limits of 5 and 10, respectively.

Areas—These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Zoning—New Mexico may be divided into North and South Zones along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Hunting seasons not to exceed 20 consecutive days may be selected between September 1 and November 30, 1985, in the North Zone and October 1 and November 30, 1985, in the South Zone.

Rails

(Clapper, King, Sora and Virginia)

Outside Dates—States included herein may select seasons between September 1, 1985, and January 20, 1986, on clapper, king, sora and Virginia rails as follows:

Hunting Seasons—The season may not exceed 70 days. Any State may split its season into two segments.

Clapper and King Rails

Daily Bag and Possession Limits—In *Rhode Island, Connecticut, New Jersey, Delaware,* and *Maryland,* 10 and 20 respectively, singly or in the aggregate of these two species. In *Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina,* and *Virginia,* 15 and 30, respectively, singly or in the aggregate of the two species.

Sora and Virginia Rails

Daily Bag and Possession Limits—In the Atlantic, Mississippi and Central [1] Flyways and portions of Colorado, Montana, New Mexico and Wyoming in the Pacific Flyway,[2] 25 daily and 25 in possession, singly or in the aggregate of the two species.

Woodcock

Outside Dates—States in the Atlantic Flyway may select hunting seasons between October 1, 1985, and January 31, 1986. States in the Central and Mississippi Flyways may select hunting seasons between September 1, 1985, and February 28, 1986.

Hunting Seasons, and Daily Bag and Possession Limits: In the Atlantic Flyway, seasons may not exceed 45 days, with bag and possession limits of 3 and 6, respectively; in the Central and Mississippi Flyways, seasons may not

---

[1] The Central Flyway is defined as follows: Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide but outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dokota, Texas and Wyoming (east of the Continental Divide).

[2] The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher and Park, and all counties west thereof.

exceed 65 days, with bag and possession limits of 5 and 10, respectively. Seasons may be split into two segments.

Zoning—New Jersey may select seasons by north and south zones divided by State Highway 70. The season in each zone may not exceed 35 days.

Common Snipe

Outside Dates—Between September 1, 1985, and February 28, 1986. In *Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland* and *Virginia* the season must end no later than January 31.

Hunting Seasons, and Daily Bag and Possession Limits—Seasons may not exceed 107 days in the Atlantic, Mississippi and Central Flyways and 93 days in Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico. In the remainder of the Pacific Flyway the season shall coincide with the duck seasons. Seasons may be split into two segments. Bag and possession limits are 8 and 16, respectively.

Common Moorhens And Purple Gallinules

Outside Dates—September 1, 1985, through January 20, 1986, in the Atlantic and Mississippi Flyways and September 1, 1985, through January 19, 1986, in the Central Flyway. States in the Pacific Flyway must select their hunting seasons to coincide with their duck seasons.

Hunting Seasons, and Daily and Possession Limits—Seasons may not exceed 70 days in the Atlantic, Mississippi and Central Flyways; in the Pacific Flyway seasons may be the same as the duck seasons. Seasons may be split. Bag and possession limits are 15 and 30 common moorhens and purple gallinules, singly or in the aggregate of the two species, respectively; except in the Pacific Flyway the daily bag and possession limits may not exceed 25 coots and common moorhens, singly or in the aggregate of the two species.

Sandhill Cranes

Regular Seasons in the Central Flyway—Seasons not to exceed 58 days between September 1, 1985, and February 28, 1986, may be selected in the following States: *Colorado* (the Central Flyway portion except the San Luis Valley); *Kansas; Montana* (the Central Flyway portion except that area south of I-90 and west of the Bighorn River); *North Dakota* (west of U.S. 281); *South Dakota;* and *Wyoming* (in the counties of Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte and Weston).

For the remainder of the flyway, seasons not to exceed 93 days between September 1, 1985 and February 28, 1986 may be selected in the following States: *New Mexico* (the counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay and Roosevelt); *Oklahoma* (that portion west of I-35); and *Texas* (that portion west of a line from Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Sonora; U.S. 277 to Abilene; Texas 351 to Albany; U.S. 283 to Vernon; and U.S. 183 to the Texas-Oklahoma boundary).

Bag and Possession Limits—3 and 6, respectively.

Permits—Each person participating in the regular sandhill cranes season must obtain and have in his possession while hunting, a valid Federal sandhill crane hunting permit.

Special Seasons in the Pacific Flyway—Arizona may select a sandhill crane season subject to the following conditions:

1. The season may not exceed 6 days in November 1985.

2. The hunting area is confined to Game Management Units 30A, 30B 31, and 32.

3. Each hunter must obtain and have in possession while hunting a special permit issued by the State. No more than 200 permits may be issued. Each permittee may take 2 sandhill cranes per season.

4. Emergency closures for all crane hunting may be invoked as necessary.

Special Sandhill Crane-Canada Goose Season

Wyoming may select a season(s) on sandhill cranes and Canada geese subject to the following conditions:

1. Outside dates for the season(s) are September 1-22, 1985.

2. Hunting will be by State permit, with 125 permits issued for the Bear River drainage and 125 permits issued for Star Valley, all in Lincoln County. Each permittee may take 2 sandhill cranes and 3 Canada geese per season.

3. Emergency closures for all crane hunting may be invoked as necessary.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates—Between September 15, 1985, and January 20, 1986.

Hunting Seasons, and Daily Bag and Possession Limits—Not to exceed 107 days, with bag and possession limits of 7 and 14, respectively, singly or in the aggregate of these species.

Bag and Possession Limits During Regular Duck Season—In the Atlantic Flyway, States may set, in addition to the limits applying to other ducks during the regular duck season, a daily limit of 7 and a possession limit of 14 scoter, eider and oldsquaw ducks, singly or in the aggregate of these species.

Areas—In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in *Maine, New Hampshire, Massachusetts, Rhode Island* and *Connecticut;* in those coastal waters of the State of *New York* lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of *New York* lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island and emergent vegetation in *New Jersey, South Carolina,* and *Georgia;* and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 years or open water from any shore, island and emergent vegetation in *Delaware, Maryland, North Carolina* and *Virginia;* and provided that any such areas have been described, delineated and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

Deferred Selection—Any State desiring its sea duck season to open in September must make its selection no later than July 26, 1985. Any State desiring its sea duck season to open after September may make its selection at the time it selects the waterfowl season.

September Teal Season

Outside Dates—Between September 1 and September 30, 1985, an open season on all species of teal may be selected by *Alabama, Arkansas, Colorado* (Central Flyway portion only), *Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico,* (Central Flyway portion only), *Ohio, Oklahoma, Tennessee* and *Texas* in areas delineated by State regulations.

Hunting Seasons, and Bag and Possession Limits—Not to exceed 9 consecutive days, with bag and possession limits of 4 and 8, respectively.

Shooting Hours—From sunrise to sunset only.

Deadline—States must advise the Service of season dates and special provisions to protect non-target species by July 26, 1985.

Special September Duck Seasons

Iowa September Duck Season—Iowa may experimentally hold a portion of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment of the season. In 1985, the 5-day season segment may commence no earlier than September 21, with daily bag and possession limits being the same as those in effect during the 1985 regular duck season.

Tennessee, Kentucky and Florida September Duck Seasons—Experimental 5-consecutive-day duck seasons may be selected in September by *Tennessee, Kentucky,* and *Florida* subject to the following conditions:

1. In *Kentucky* and *Tennessee* the seasons will be in lieu of September teal seasons; in *Florida* the season will be in lieu of the extra teal option.

2. In all States, the daily bag limit will be 4 ducks, no more than 1 of which may be a species other than teal or wood ducks, and the possession limit will be double the daily bag limit.

Experimental September Goose Season

Michigan—In the counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon, the framework opening date for geese is September 26. Season length and limits for geese in this area will be established later with other regulations for the regular waterfowl season.

Special Falconry Regulations

Extended Seasons—Falconary is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates—Seasons must fall within the regular season framework dates and, if offered and accepted, other special season framework dates for hunting.

Daily Bag and Possession Limits—Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication—Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons—General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note:—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September seasons, special scaup season, special scaup and goldeneye season or falconry season) exceed 107 days for a species in one geographical area.

Dated: August 6, 1985.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-19873 Filed 8-20-85; 8:45 am]

BILLING CODE 4310-55-M