

**DEPARTMENT OF THE INTERIOR**  
**Fish and Wildlife Service**  
**50 CFR Part 17**  
**Determination that *Echinocereus***  
***lloydii* is an Endangered Species**

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

**ACTION:** Final rule.

**SUMMARY:** The Service determines *Echinocereus lloydii* (Lloyd's hedgehog cactus), a native plant of Texas, to be an Endangered species. The range of this species has been decreased by a highway widening project which passed through the species' habitat. Removal of plants by private collectors and commercial suppliers has resulted in a further depletion of natural populations and continues to threaten this species. This action will extend to this plant the protection provided by the Endangered Species Act of 1973, as amended.

**DATE:** This rulemaking becomes effective on November 28, 1979.

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

**SUPPLEMENTARY INFORMATION:**  
**Background**

*Echinocereus lloydii* (Lloyd's hedgehog cactus) occurs in one Texas county. The entire occupied historical and present range of this cactus is approximately eight square miles. The area in which this species occurs is primarily privately owned ranch lands except for one highway right-of-way. *Echinocereus lloydii* is a columnar cactus which reaches twelve inches in height and four and one-half inches in diameter. The flowers are scarlet to coral pink and the fruits are greenish-orange when ripe. This species' continued existence is in danger and this rule will extend to it the protection provided by the Endangered Species Act of 1973, as amended. The following paragraphs summarize the actions leading to this final rule and the factors which are currently threatening this cactus.

The Secretary of the Smithsonian Institution, in response to Section 12 of the Endangered Species Act, presented his report on plant species to Congress on January 9, 1975. This report, designated as House Document No. 94-51, contained lists of over 3,100 U.S. vascular plant taxa considered to be Endangered, Threatened, or extinct. On July 1, 1975, the Director published a notice in the *Federal Register* (40 FR 27823-27924) of his acceptance of the report of the Smithsonian Institution as

a petition to list these species under Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within as well as any habitat which might be determined to be critical.

On June 16, 1976, the Service published a proposed rulemaking in the *Federal Register* (41 FR 24523-24572) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa 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 above mentioned *Federal Register* publication.

*Echinocereus lloydii* was included in both the July 1, 1975, notice of review and the June 16, 1976, proposal. Four general hearings were held in July and August 1976 on the June 16, 1976 proposal: Washington, D.C.; Honolulu, Hawaii; El Segundo, California; and Kansas City, Missouri. A fifth public hearing was held on July 9, 1979, in Austin, Texas for seven Texas cacti, including *Echinocereus lloydii*, and one fish.

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

The Department has determined that this rule neither meets the criteria for significance in the Department Regulations implementing Executive Order 12044 (43 CFR Part 14) nor requires a regulatory analysis.

**Summary of Comments and Recommendations**

Hundreds of comments on the general proposal of June 16, 1976, were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature, in that they did not address individual plant species. Most comments addressed the program, or the concept of Endangered and Threatened plants and their protection and regulation. These comments are summarized in the April 26, 1978, *Federal Register* publication which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909-17916). Some of these comments had addressed the provisions for plants under Section 9(a)(2) and 10(a) of the Act. These comments are summarized in the June 24, 1977, *Federal Register* final

prohibitions and permit provisions. No comments dealing specifically with *Echinocereus lloydii* were received during these official comment periods. The Governor of Texas was notified of the proposed action, but the governor submitted no comments dealing specifically with *Echinocereus lloydii*. The Texas Forest Service commented on the proposed Texas trees and requested more time for comments beyond the August 16 comment period. The Service has continued to solicit comments since the publication of the proposal in 1976.

On July 9, 1979, the Service held a second public hearing in Austin, Texas and again solicited comments on seven Texas cacti and one fish. Dr. Del Weniger, a botanist, who the Service contracted to prepare status information on Texas cacti commented concerning the current status of *Echinocereus lloydii*. He noted that this species is highly Endangered. The El Paso Cactus and Rock Club submitted a written comment that they favored the proposed action. No other comments dealt specifically with *Echinocereus lloydii*.

**Conclusion**

After a thorough review and consideration of all the information available, the Director has determined that *Echinocereus lloydii* Brittain and Rose (Lloyd's hedgehog cactus; synonyms: *Echinocereus roetteri* var. *lloydii* Backeberg) is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

These factors and their application to *Echinocereus lloydii* are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, this cactus was known from a small area (approximately 8 square miles). This is the only area known today. A swath through this population was eliminated and many cacti destroyed by a highway construction project which is now complete. Botanists have noted a dramatic and significant decrease in the number of individuals at this site over the past 15 years, primarily due to the highway construction and subsequent access which was provided to collectors.

*Echinocereus lloydii* has also been reported as occurring in New Mexico (several individuals at two or three scattered locations). Based on current biological opinion these reports appear erroneous or at best the identity of the New Mexico plants is questionable. Until further studies are completed, the range should only include Texas.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* As with many other cacti, this species is in world-wide demand by collectors of rare cacti. Removal of plants from the wild has occurred and has resulted in the depletion of natural populations. Following construction of the highway through the population almost all the plants were removed from their natural habitat. This is the primary threat to this species since no further construction projects are now planned for the area. Over-collection is certainly an ongoing threat to this cactus.

3. *Disease or predation* (including grazing). Cattle grazing could adversely affect this species by trampling, especially young plants. At present, light grazing does not seem to affect the species, however, if this were intensified it could threaten the continued existence of this species.

4. *The inadequacy of existing regulatory mechanisms.* Texas has no state laws protecting Endangered and Threatened plants. All native cacti are on Appendix II of the convention on International Trade in Endangered Species of Wild Fauna and Flora. However, this Convention regulates export of cacti, but does not regulate interstate or intrastate trade in this cactus or habitat destruction. No other Federal protective laws currently apply specifically to this species. The Endangered Species Act will now offer additional protection for the cactus.

5. *Other natural or manmade factors affecting its continued existence.* Restriction to a specialized and localized soil type, and the low total population level with a resultant restricted gene pool are factors which tend to intensify the adverse effects of threats to the plants and their habitat.

**Effect of the rulemaking**

Section 7(a) of the Act, as amended in 1978, will affect Federal agencies as follows:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with, and with the assistance of, the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with, and with the assistance of, the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse modification of

habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for Interagency Cooperation were published on January 4, 1978, in the Federal Register (43 FR 870-876) and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7(a) of the Act. This rulemaking requires Federal Agencies to satisfy these statutory and regulatory obligations with respect to this species. However, this cactus is presently known only from privately owned lands.

Endangered species regulations in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations which pertain to Endangered plant species, are found at §§ 17.61-17.63 (42 FR 32378-32381).

Section 9(a)(2) of the Act, as implemented by § 17.61, would apply. With respect to any species or plant listed as Endangered, it is, in general, illegal for any person subject to the jurisdiction of the United States to import or export such species; deliver, receive, carry, transport, or ship such species in interstate or foreign commerce by any means and in the course of a commercial activity; or sell or offer such species for sale in interstate or foreign commerce. Certain exceptions apply to agents of the Service and State conservation agencies.

Section 10 of the Act and regulations published in the Federal Register of June 24, 1977 (42 FR 32373-32381, to be codified at 50 CFR Part 17), also provides for the issuance of permits under certain circumstances to carry out otherwise prohibited activities involving Endangered plants.

**Effect Internationally**

In addition to the protection provided by the Act, all native cacti are on Appendix II of the Convention of International Trade in Endangered Species of Wild Fauna and Flora which requires a permit for export of this plant. The Service will review whether it should be considered under the

**§ 17.12 Endangered and Threatened plants.**

Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere or other appropriate international agreements.

**National Environmental Policy Act**

A final Environmental Assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

**Critical Habitat**

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulation (to determine a species to be an Endangered or Threatened species) is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be Critical Habitat.

*Echinocereus lloydii* is threatened by taking (see discussion under factors 2 and 4 in the Conclusion section of this rule) and the taking of plants is not prohibited by the Endangered Species Act of 1973. Publication of Critical Habitat maps would make this species more vulnerable to taking and therefore it would not be prudent to determine Critical Habitat.

The Service now proceeds with the final rulemaking to determine this species to be Endangered under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531-1543).

The primary author of this rule is Ms. E. La Verne Smith, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (703/235-1975). Status information for this species was compiled by Dr. Del Weniger (Our Lady of the Lake Univ., San Antonio, Texas).

**Regulation Promulgation**

Accordingly, § 17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order by family, genus, species, the following plant:

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Cactaceae—Cactus family:						
<i>Echinocereus lloydii</i>	Lloyd's hedgehog cactus	U.S.A.—TX	Entire	E		NA

Dated: October 22, 1979.

Robert S. Cook,  
Acting Director, Fish and Wildlife Service.  
[FR Doc. 79-33149 Filed 10-25-79; 8:45 am]  
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## 50 CFR Part 17

### Determination that *Echinocereus reichenbachii* var. *albertii* is an Endangered Species

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

**ACTION:** Final rule.

**SUMMARY:** The Service determines *Echinocereus reichenbachii* (Terscheck) Haage f. var. *albertii* L. Benson (Black lace cactus), a native plant of Texas, to be an Endangered species. Known populations of this cactus have been reduced fifty percent (from six sites to three) by brush clearing for range improvement programs. Remaining populations are seriously threatened by further brush clearing of the brush communities in the South Texas Coastal Bend.

Another threat to this cactus is over-collecting. This cactus is in world-wide demand by collectors of rare cacti, especially for show specimens. Past commercial and private exploitation has caused a serious decline in its natural population level so that not more than 4,000 plants remain in the wild. This determination that *Echinocereus reichenbachii* var. *albertii* is an Endangered species implements the protection provided by the Endangered Species Act as well as mechanisms to assist in management and recovery of surviving populations.

**DATE:** This rulemaking becomes effective on November 28, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Mr. John Spinks, Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 703/235-2771.

**SUPPLEMENTARY INFORMATION:**

#### Background

*Echinocereus reichenbachii* var. *albertii* is an endemic member of the Gulf Coast Plain brush community of the South Texas Coastal Bend. It is found on the ecotone between the Gulf coastal plain and the more rolling interior mesquite-chapparal country. It is highly

salt tolerant. This cactus is presently known from only three sites, one in each of the following three counties: Refugio, Kleberg and Jim Wells. The combined area of all sites for this taxon is about seven hectares. Not more than 4,000 plants are known to remain in the wild.

The Secretary of the Smithsonian Institution, in response to Section 12 of the Endangered Species Act, presented his report on plant species to Congress on January 9, 1975. This report, designated as House Document No. 94-51, contained lists of over 3,100 U.S. vascular plant taxa considered to be Endangered, Threatened, or extinct. On July 1, 1975, the Director published a notice in the Federal Register (40 FR 27823-27924) of his acceptance of the report of the Smithsonian Institution as a petition to list these species under Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within as well as any habitat which might be determined to be critical.

On June 16, 1976, the Service published a proposed rulemaking in the Federal Register (41 FR 24523-24572) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa 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 above mentioned Federal Register publication.

*Echinocereus reichenbachii* var. *albertii* was included in both the July 1, 1975, notice of review and the June 16, 1976, proposal. Public hearings on the June 16, 1976, proposal were held on July 22, 1976, in El Segundo, California and on July 28, 1976, in Kansas City, Missouri. Another public hearing was held on July 9, 1979, in Austin, Texas for the seven Texas cacti proposed as Endangered species, including *Echinocereus reichenbachii* var. *albertii*.

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

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 RECOMMENDATIONS:** In keeping with the intent of section 4(b)(1)(C) of the Act, a summary of all comments and recommendations received are here published in the Federal Register prior to adding this species to the List of Endangered and Threatened Wildlife and Plants.

Hundreds of comments on the general proposal of June 16, 1976, were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature, in that they did not address individual plant species. Most comments addressed the program, or the concept of Endangered and Threatened plants and their protection and regulation. These comments are summarized in the April 26, 1978, Federal Register publication which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909-17916). Some of these comments had addressed the general problems of cacti conservation. Additionally, many comments on the cactus trade were received in response to the June 7, 1976, proposed rule (41 FR 22915) on prohibitions and permit provisions for plants under Section 9(a)(2) and 10(a) of the Act. These comments are summarized in the June 24, 1977, final prohibitions and permit provisions (42 FR 32374-32381).

No comments dealing specifically with *Echinocereus reichenbachii* var. *albertii* were received during these official comment periods. The Governor of Texas was notified of this proposed action. The Governor submitted no comments on the proposed action, nor did the State Conservation Agency. Botanists have submitted information on this species since the close of the official comment period.

On July 9, 1979, a public hearing was held in Austin, Texas, and the comment period was officially reopened (July 2 through July 23, 1979). The Governor of Texas was notified of the proposal to list *Echinocereus reichenbachii* var. *albertii* as an Endangered species. The Governor submitted no comments on the proposed action.

One written comment specific to *Echinocereus reichenbachii* var. *albertii* was received in the July, 1979, comment period. The El Paso Cactus and Rock Club favored listing this species as Endangered.