

[4310-55]

## DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE  
AND PLANTSProposed Determination of Critical habitat for  
the Hawksbill Sea TurtleAGENCY: Fish and Wildlife Service,  
Interior.

ACTION: Critical Habitat proposal.

**SUMMARY:** The Service hereby proposes Critical Habitat for the hawksbill sea turtle (*Eretmochelys imbricata*) in the Commonwealth of Puerto Rico. This proposal would make these areas subject to full protection under section 7 of the Endangered Species Act of 1973 and is being taken to insure the integrity of beaches on Isla Mona and Culebra Island, areas which contain a significant nesting aggregation of hawksbill sea turtles.

**DATES:** Comments from the public must be received by July 23, 1978. Comments from the Governor of the Commonwealth of Puerto Rico must be received by August 22, 1978.

**ADDRESSES:** Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

The hawksbill sea turtle is a rare and critically Endangered reptile throughout the world and has been officially listed as Endangered since 1970. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable and undisturbed nesting beaches. The Service recognizes that areas containing such beaches may qualify for recognition as Critical Habitat as referred to in Section 7 of the Act.

Hawksbill sea turtles are known to nest on all of Mona Island's 7.2 kilometers of beaches. The offshore areas

appear to support a somewhat stable and resident population. In addition, green sea turtles also nest on Mona. The entire island of Mona is already Critical Habitat for the listed yellow-shouldered blackbird, Mona ground iguana, and Mona boa.

Nesting of hawksbill sea turtles occurs on suitable sandy beaches on the north shore of Culebra Island, as well as the nearby islands of Cayo Norte and Isla Culebrita. Turtles are known to feed on the rich offshore reefs around these islands. In addition to hawksbills, occasional nesting has been reported for leatherback, loggerhead, and green sea turtles on these beaches. The Critical Habitat for the Endangered giant anole barely overlaps the proposed Critical Habitat of the hawksbill on Playa Resaca.

The hawksbill sea turtle is a tropicopolitan species. It occurs in waters off the east coast of the continental United States, the U.S. Virgin Islands, mainland Puerto Rico, the Hawaiian Islands, Pacific Trust Territory, American Samoa, Guam, and Territory of the Northern Marianas. Nesting is known to occur in Florida and the Virgin Islands and probably elsewhere in areas under United States jurisdiction. However, not enough information is presently available on these areas to include specific nesting beaches in this present proposal. As information becomes available, additional areas may be proposed as Critical Habitat for this species in the future.

## EFFECT OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and 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 and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

A definition of the term "Critical Habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870-876) and is reprinted below:

"Critical habitat" means any air, land, or water area (exclusive of those existing man-

made structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for Interagency Cooperation, as published in the January 4, 1978, FEDERAL REGISTER (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

- (1) Space for individual and population growth and for normal behavior;
- (2) Food, water, air, light, minerals, or other nutritional or physiological requirements;
- (3) Cover or shelter;
- (4) Sites for breeding, reproduction, or rearing of offspring; and generally,
- (5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

In accordance with the July 18, 1977, Memorandum of Understanding between the Fish and Wildlife Service and National Marine Fisheries Service, the Fish and Wildlife Service was given the responsibility for sea turtles while on land. Such responsibility includes the determination of Critical Habitat. Since the only time sea turtles leave the water to come onto beaches in the Commonwealth of Puerto Rico is to lay eggs, the areas included in this proposal are areas where hawksbill sea turtles nest. All the beaches in this proposed rulemaking provide sites for the incubation of eggs and are known to provide proper sand size, moisture, and temperature conditions for successful development and hatching.

There may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal

agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect the Service, in cooperation with other Federal agencies, has drawn up a set of regulations which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat. The regulations for Interagency Cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying with section 7 of the Endangered Species Act of 1973.

**PUBLIC COMMENTS SOLICITED**

The Director intends that the rules finally adopted will be as accurate as possible in delineating the Critical Habitat of the hawksbill sea turtle. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific commu-

nity, or any other interested party on these proposed rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The Primary author of this proposed rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202-343-7814).

**REGULATIONS PROMULGATION**

Accordingly, the Service proposes to amend §17.95(c) by adding Critical Habitat of the hawksbill sea turtle before that of the leatherback sea turtle as follows:

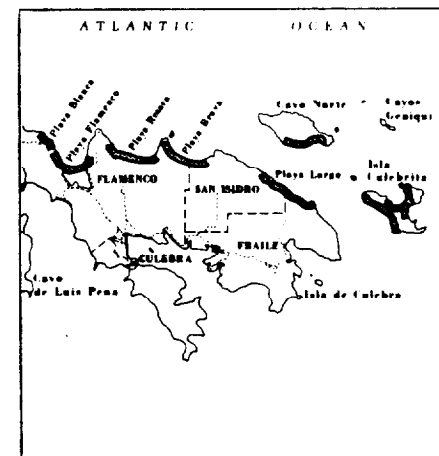
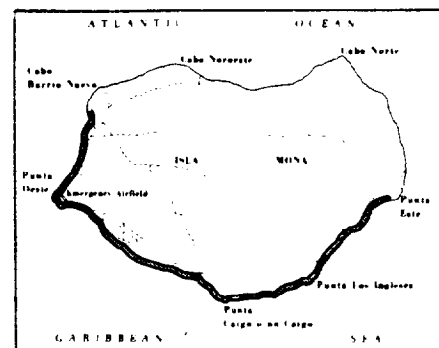
(c) *Reptiles.* \* \* \*

**HAWKSBILL SEA TURTLE**

(*Eretmochelys imbricata*)

**Puerto Rico**— (1) *Isla Mona*. All areas of beachfront on the west, south, and east sides of the island from mean high tide inland to a point .1 mile from shore. This includes all 7.2 kilometers of beaches on Isla Mona. (2) *Culebra Island*. All areas of beachfront on the north shore of the island from mean high tide inland to a point .1 mile from shore. This includes the following beaches: Playa Blanca, Playa Flamenco, Playa Resaca, Playa Brava, and Playa Larga. (3) *Cayo Norte*. South beach, from mean high tide inland to a point .1 mile from shore. (4) *Isla Culebrita*. All beachfront areas on the southwest facing shore, east facing shore, and northwest facing

shore of the island from mean high tide inland to a point .1 mile from shore.



**NOTE.**—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 16, 1978.

**LYNN A. GREENWALT,**  
Director,  
Fish and Wildlife Service.

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