

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for the Hawksbill Sea Turtle in Puerto Rico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, Critical Habitat for the Hawksbill sea turtle.

SUMMARY: The Service proposes to designate Critical Habitat for the hawksbill sea turtle (*Eretmochelys imbricata*) in the Commonwealth of Puerto Rico. Nesting of this species occurs in scattered localities throughout the Caribbean although in no place is nesting as abundant as in the past. The proposed beaches on Mona Island represent a significant nesting area for this species in the Caribbean and were singled out as of major importance at the World Conference on Sea Turtle Conservation held in November 1979, in Washington, D.C. Areas on the islands of Culebra, Culebrita, and Cayo Norte are also regularly used by nesting hawksbills. The hawksbill sea turtle was listed as Endangered on June 2, 1970 (35 FR 8495) and is protected under the provisions of the Endangered Species Act of 1973. An earlier proposal (May 24, 1978; 43 FR 22224-22225) was withdrawn on March 6, 1979 (44 FR 12382) because of procedural and substantive changes made by the Endangered Species Act Amendments of 1978. The proposed rule would identify habitat subject to Federal agency consultation pursuant to Section 7(a) of the Act. Comments and date related to this proposal are solicited.

DATES: Comments on the proposed rule from the public must be received by January 21, 1981. Public meetings on this proposal will be held on December 2, 1980, December 3, 1980 and December 4, 1980 in Puerto Rico at 10:00 a.m.

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 by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia. The time, place and date of the public meetings on this proposal will be:

December 2, 1980—Amphitheater/
General Studies, University of Puerto Rico, Mayaguez, Puerto Rico
December 3, 1980—Conference Room,
Department of Natural Resources,

Puerto de Tierra (San Juan), Puerto Rico; and

December 4, 1980—Conference Room,
Department of Natural Resources
Headquarters, Isle Culebra, Puerto Rico.

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

SUPPLEMENTARY INFORMATION:**Background**

The hawksbill sea turtle is a rare and critically Endangered reptile throughout the world (see Parsons, 1972, Carr and Stancyk, 1975; and Pritchard, 1979) 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 and the protection of nesting beaches is a strategy endorsed by scientists throughout the world (World Conference on Sea Turtle Conservation, 1979) for the conservation of this species. The Service recognizes that areas containing such beaches may qualify for recognition as Critical Habitat as referred to in Section 7 of the Act.

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 responsibility for sea turtles while on land. Such responsibility includes proposing and designation of Critical Habitat. The designation of marine Critical Habitat is the jurisdiction of the National Marine Fisheries Service; therefore, this proposal includes only land areas.

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 (Thurston and Wiewandt, 1975; Wiewandt, 1973; A. Carr, pers. commun.). In addition, green turtles and, rarely, leatherback turtles may also nest on Mona (T. Wiewandt, pers. commun.). The designation of Mona Island as Critical Habitat for the hawksbill sea turtle was recommendation number 83 in the World Action Plan for the Conservation of Sea Turtles (World Conference on Sea Turtle Conservation, 1979). 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 turtles on these beaches (T. Carr, 1974). 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 coasts of the continental United States (primarily Florida), 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 very rarely in Florida (Lund, 1978) and more frequently in the Virgin Islands (Island Resources Foundation, 1978) and on remote islands under U.S. jurisdictions in the Pacific Ocean (Pritchard, 1977). Dodd (1978) has provided a list of nesting areas for the hawksbill in the United States and in areas under its jurisdiction.

The main threats to the worldwide apparent decline in populations of the hawksbill sea turtle comes from three main sources: killing the animal so that the scutes covering the bony shell may be removed to fashion tortoise-shell items, or the animal may be stuffed and sold to tourists; removal of eggs for human consumption or the destruction of eggs by predators; destruction or alteration of the nesting beaches. Additional problems that this species may encounter include killing for meat (this happens occasionally but hawksbill meat is considered poisonous in many parts of the world), incidental catch in trawls (of minor problem in the Caribbean), accidental entanglement in fishing nets, pollution and destruction of resting and feeding reefs, and harassment while nesting and swimming. The problems faced by this species were treated in detail at the recent (November 26-30, 1979) World Conference on Sea Turtle Conservation held in Washington, D.C.

Critical Habitat for beaches used by nesting hawksbills in the Commonwealth of Puerto Rico was proposed on May 24, 1978 in the Federal Register (43 FR 22224-22225). Those areas were withdrawn from consideration on March 6, 1979 (44 FR 12382-12384) because of the substantive changes made to the requirements for the determination of Critical Habitat

made by the Endangered Species Act Amendments of 1978. The areas in the present proposal are essentially the same as those of the original proposal. This proposal is in compliance with the requirements of the 1978 and later amendments.

Mona Island is presently owned by the Commonwealth of Puerto Rico who manages the island as a Natural Reserve. A management plan has been developed which takes the fragile nature of the island's beaches into account. The island is uninhabited except for Puerto Rico Conservation Rangers who enforce wildlife laws.

Culebra Island—The areas proposed as Critical Habitat include all the major sand beaches on the north shore of the island. These areas are presently owned by the U.S. Navy but are scheduled to be transferred to the Commonwealth of Puerto Rico sometime in 1981. The beaches are visited occasionally by fishermen but there are no permanent dwellings in the vicinity. Under draft agreements, these beaches will not be further developed and will be managed by the Commonwealth as marine turtle nesting beaches with numerous conditions on human use and activities.

Culebrita—Isla Culebrita is presently uninhabited and is part of the National Wildlife Refuge System. No development is present and there is virtually no public access. This island may be transferred to the Commonwealth of Puerto Rico in 1981, pending Congressional approval, although this has not been decided as yet. If transfer is completed as expected, the same restrictions with regard to human activities that will apply to Culebra will also apply to this island.

Cayo Norte—Cayo Norte is in private ownership in two separate parcels. No one presently lives on the island, although there are reportedly some occupied dwellings. The beach may occasionally be visited by private boats but the remoteness of the island makes such visits rare.

Critical Habitat

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

determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain beaches and adjacent landward areas within the geographical area occupied by the hawksbill sea turtle in the Commonwealth of Puerto Rico should be designated as Critical Habitat. This species is highly susceptible to changes in its nesting habitat and unless these areas are managed carefully with regard to nesting and the successful incubation and hatching of eggs, the species could disappear from these beaches, which are reputed to be among the best in the world for hawksbills. The Service believes that the designation of Critical Habitat is essential to the conservation of this species and will work carefully in cooperation with the Department of Natural Resources in Puerto Rico to insure survival of the species, which requires special management considerations and protection.

Section 424.12(b) of 50 CFR further states that, when considering the designation of Critical Habitat, the Director shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the Critical Habitat description. The following elements are known or believed to be constituent elements in the nesting habitat of the hawksbill sea turtle.

1. *Presence of clean sand.* The hawksbill sea turtle requires clean sand free of pollutants such as oil, to have successful incubation of its eggs.

2. *Obstructions.* Tree roots, beach debris, steep banks, and offshore obstructions such as rocks or jetties may prohibit or hinder successful nesting. Beaches should be free from or have a minimum of such obstructions.

3. *Depth of sand.* There must be sufficient depth of sand to allow successful incubation and hatching without the eggs being drowned by sea water intrusion.

4. *Lights of land.* Areas behind and on the nesting beach should be free of lights. Lights may inhibit females from nesting and disorient hatchlings (Philibosian, 1976).

5. *Beach disturbance.* Beaches should receive a minimum of disturbance, especially after dark. Loud noise and even silhouettes may inhibit females from nesting. In addition, vehicles on a beach or even careless human walking may collapse nesting cavities.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has

prepared a draft impact analysis and believes at this time that economic and other impacts of this section are not significant in the foreseeable future. The Service is notifying Federal and Commonwealth agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rules, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for the hawksbill sea turtle.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act provides (in part):

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the 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.

(2) 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") is not likely to 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. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out, do not jeopardize the continued existence of the hawksbill sea turtle but also to insure that their actions do not result in the destruction or adverse modification of these Critical Habitats which have

been determined by the Secretary to be critical. Section 4(f)(4) of the Act requires, to the maximum extent practicable that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act. At this time, no Federal activities are known which would be significantly affected by this proposed action.

Examples of activities that could be detrimental to the environment of this species and lead to further reduction of its range include:

1. The destruction of reef areas needed for feeding and resting or actual physical disturbance or pollution.
2. The modification of nesting beaches through removal of sand.
3. The placement of artificial lighting too near the nesting beach which could disorient hatchlings.
4. Putting human recreational facilities too close to nesting beaches which could allow the destruction of already completed nests or the spooking of nesting females as they come onto shore to lay.
5. Pollution of the nesting beaches by oil or other fouling materials.
6. The use of off-road vehicles on nesting beaches.
7. The creation of off-shore barriers which could prevent the females from reaching the beaches.
8. General harassment by people and domestic and introduced animals.

The above eight examples are provided as illustrations of the types of activities which may be detrimental to the physical environment of hawks-bill sea turtle nesting beaches. They are not necessarily examples of what is actually happening at each of the areas proposed as Critical Habitat.

If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the hawksbill sea turtle, but also requires them to insure their actions are not likely to result in the destruction or adverse modification of their Critical Habitat which has been determined by the Director (who is authorized to make such designations on behalf of the Secretary). Provisions for

Interagency Cooperation are codified at 50 CFR Part 402.

Proposed Critical Habitat

The 1979 Amendments require Federal agencies to confer with the Service on any agency action which is likely to result in the destruction or adverse modification of Critical Habitat proposed to be designated for listed species. The purpose of this requirement is to identify and resolve all potential conflicts between a proposed action and conservation of endangered and threatened species at an early point in the decisionmaking process. That purpose is to be achieved with respect to listed species through informal/formal discussions between the Federal agency and the Service on potential impacts of a proposed Critical Habitat. Some of the proposed areas already constitute critical habitat for other species. The Service believes that the goal of early resolution of potential conflicts between proposed Critical Habitat and proposed actions can best be achieved by consolidating the discussions on proposed Critical Habitats with consultations conducted for already listed species. By consolidating conferences on proposed Critical Habitat with consultations conducted on listed species/Critical Habitat, additional procedural steps can be avoided so as to reduce the potential for delay. While not required by the statute, the Service recommends, for administrative ease and efficiency, that this procedure be followed. A biological assessment prepared for construction projects will identify the listed species that may be affected by the action, setting the stage for concurrent discussions on those species.

The Federal agency and the Service should attempt to consolidate discussions on listed and proposed species in non-construction cases as well. As with all discussions on endangered species problems, early initiation increases the chances of resolution of potential conflicts.

For proposed projects which impact only proposed Critical Habitats, the requirements for conferring will be met on an informal basis. The Service will be responsible for documenting the conference for administrative purposes. Although consolidation of conferences on proposed species with consultations on listed species is encouraged, the Service does not intend that the informal nature of the conference on proposed species be changed or that any of the formal requirements for consultation be imposed on Federal agencies with respect to proposed Critical Habitats.

Literature Cited

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- Island Resources Foundation. 1978. Report on sea turtle nesting, sighting, eggs and hatchlings for 1978 in the U.S. Virgin Islands and a recommended research methodology for dealing with hatchling disorientation on the beach (with special reference to leatherback nests at Sandy Point, St. Croix). Rept. to NOAA/NMFS on purchase order 01-8-D08-00187. 29 pp.
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- Philibosian, R. 1976. Disorientation of hawksbill turtle hatchlings, *Eretmochelys imbricata*, by stadium lights. Copeia 1976:824.
- Pritchard, P. C. H. 1977. Marine turtles of Micronesia. Chelonia Press, San Francisco, California. 83 pp.
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- Wiewandt, T. A. 1973. Mona amphibians, reptiles, and mammals. In: Mona and Monito Islands, an assessment of their natural and historical resources. Vol. II. Environmental Quality Board of Puerto Rico, San Juan.
- World Conference on Sea Turtle Conservation. 1979. Sea Turtle Conservation Strategy. IUCN, Gland, Switzerland. 38 pp.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of this Endangered species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

- (1) The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act;
- (2) Current or planned activities which may adversely affect the subject areas

which are being considered for Critical Habitat and;

(3) The foreseeable economic and other impacts of Critical Habitat designation on federally funded or authorized projects.

Public Meetings

The Service hereby announces that public meetings will be held on this proposed rule. The public is invited to attend these meetings and to present opinions and information on the proposal. Specific information relating to the public meetings have been set out in the section above.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule 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 and 40 CFR Parts 1500-1508.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235-1975).

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

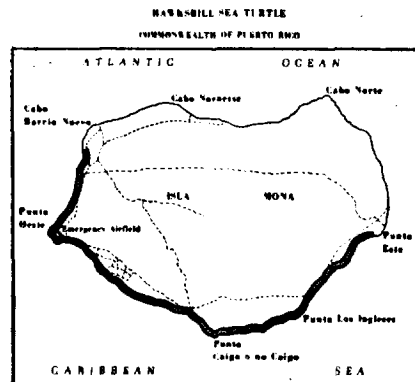
1. It is proposed that § 17.95(c), Reptiles, be amended by adding Critical Habitat of the hawksbill sea turtle before that of the leatherback sea turtle as follows:

Hawksbill Sea Turtle

(*Eretmochelys imbricata*)

Puerto Rico—(1) Island Mona. All areas of beachfront on the west, south, and east sides of the island from mean high tide inland to a point 150 meters from shore. This includes all 7.2 kilometers of beaches on Isla Mona. (2) Culebra Island. The following areas of beachfront on the north shore of the island from mean high tide inland to a point 150 meters from shore: Playa Resaca, Playa Brava, and Playa Larga. (3) Cayo Norte. South beach, from mean high tide inland to a point 150 meters 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 150 meters from shore.



Dated: September 30, 1980.

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

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