

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the U.S. Breeding Population of the Wood Stork

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

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes the U.S. breeding population of the wood stork (*Mycteria americana*) to be an Endangered species pursuant to the Endangered Species Act. This action is being taken because U.S. breeding populations of the wood stork have declined over 75 percent from their 1930 levels. If this trend continues, the birds are expected to become extirpated as U.S. breeders by the turn of the century. The proposed rule would provide the protection of the Endangered Species Act to this species. The Service seeks comments and data from the public on this proposal.

**DATES:** Comments by the public must be received by April 29, 1983.

Public hearing requests must be received by April 14, 1983.

**ADDRESSES:** Interested persons or organizations are requested to submit comments to the Endangered Species Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials relating to this proposed rule are available for public inspection by appointment during normal business hours at the Service's Endangered Species Field Station at the above address.

**FOR FURTHER INFORMATION CONTACT:** For further information on this proposal, contact Mr. David Peterson, Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (phone 904/791-2580 or FTS 946-2580).

**SUPPLEMENTARY INFORMATION:** The wood stork (*Mycteria americana*) is a large, long-legged, white wading bird with an unfeathered head and a stout bill. It is the only species of true stork breeding in the U.S. Wood storks frequent freshwater and brackish wetlands, feeding primarily on small fishes which they locate by groping with their beaks (Kahl, 1964). They usually nest in cypress and mangrove swamps.

The wood stork occurs from northern Argentina to the southern United States. The present U.S. breeding population is disjunct from the population which breeds from Mexico to South America.

Wood storks from Mexico and Central America disperse into the southern U.S. after breeding. This proposed regulation would afford the protection of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) to the U.S. population of wood storks residing and breeding east of the Alabama-Mississippi State line. Breeding in the U.S. is now restricted to Florida, southeastern Georgia, and South Carolina. Nesting formerly occurred in Texas, Louisiana, Mississippi, and Alabama. U.S. breeding pairs of the wood stork have declined from over 20,000 in the 1930's to 4,800 in 1980 (Ogden and Patty, 1981). About 3600 pairs appear to have attempted breeding in the 1982 nesting season. This decline is believed to have resulted from man's alteration of wetlands and water management activities. Nesting failures have become increasingly frequent in recent decades, particularly in the historically large south Florida wood stork rookeries.

#### Background

A notice of review of the status of the U.S. breeding population of the wood stork was published in the February 16, 1982, *Federal Register* (47 FR 6675-77). This notice solicited biological information on status of the wood stork, as well as information on activities which might be detrimental to this species or be affected by listing of or Critical Habitat designation for the species. The notice also listed major wood stork rookeries and feeding areas. Twenty Florida rookeries, three Georgia rookeries, and three Florida feeding areas were described. Presently 90 percent of the U.S. breeding wood storks nest in 14 Florida counties located throughout the State.

#### Summary of Factors Affecting the Species

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 (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal list. The Secretary of Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act.

These factors and their application to the U.S. breeding population of the wood stork are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The decline of the wood stork as a U.S. breeding bird is believed to be primarily due to the loss

of suitable feeding habitat (Ogden and Patty, 1981). This is especially true for the south Florida rookeries, where repeated nesting failures have occurred despite protection afforded the rookeries. Feeding areas in south Florida have decreased by about 35 percent since 1900 due to man's alteration of wetlands. Additionally, manmade levees, canals, and floodgates have greatly changed natural water regimes in south Florida. Optimal water regimes for the wood stork involve periods of flooding, during which prey fish populations increase, alternating with drying periods, during which fish are concentrated at high densities during the nesting season. Loss of nesting habitat (primarily cypress swamps) may be affecting wood storks in central Florida, where nesting in non-native trees and in manmade impoundments has been occurring recently.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not available.

C. *Disease or predation.* Raccoon predation has sometimes been severe at certain central Florida rookeries. In 1981, raccoons destroyed all 168 wood stork nests at a rookery in Hillsborough County. Water levels dropped under nest trees, providing easy access for the raccoons.

D. *Inadequacy of existing regulatory mechanisms.* The wood stork is protected by the Migratory Bird Treaty Act of 1918 and is State-listed as Endangered in Florida, Threatened in South Carolina, and as a species of special concern in Alabama. The Migratory Bird Treaty Act prohibits taking or possession of the wood stork except by permit. The Alabama designation presently provides no protection to the wood stork. The Florida and South Carolina designation prohibits take, except by permit, and provide for certain conservation efforts. The Florida Game and Fresh Water Fish Commission currently has one biologist studying the wood stork in order to recommend conservation measures. South Carolina has no specific recovery efforts but intends to continue monitoring nesting in the State. No coordinating recovery efforts among the States are presently in effect.

E. *Other natural or manmade factors affecting its continued existence.* A prolonged period of drought in Florida has probably adversely affected wood stork reproduction for the past few years. Heavy rainfall during the nesting season, causing flooding of the feeding areas, apparently caused almost complete nest abandonment at one

rookery (Moore Island) in the spring of 1982.

Disturbance by humans during the nesting season has been observed to cause adult wood storks at some rookeries to leave their nests. This exposes eggs and young birds to predation by gulls and fish crows, and can result in heavy mortality.

Significant pesticide levels have been reported in this species, with some eggshell thinning, but this apparently has not yet adversely affected reproduction (Ohlendorff *et al.*, 1978).

#### Critical Habitat

Section 4(a)(1) of the Act requires the Secretary to designate Critical Habitat for a species, to the maximum extent prudent and determinable, concurrent with the determination that such species is an Endangered or Threatened species. Critical Habitat is presently considered neither prudent nor determinable for the U.S. breeding population of the wood stork for the following reasons:

1. Since localities of some wood stork rookeries and feeding areas change over time, rigidly defined Critical Habitat boundaries around presently utilized nesting and feeding areas may not be adequate for long-term conservation of this species. Continuing environmental changes, both man-made and natural, are expected to cause further changes in wood stork nesting and feeding sites. Therefore, it is not presently possible to enclose all areas which may be necessary to the wood stork's long-term survival within Critical Habitat boundaries. The Governor of Florida, through his Game and Fresh Water Fish Commission, has recommended that Critical Habitat designation for this species be postponed until the Commission completes ongoing studies on the stork's habitat requirements. Since these studies will not be completed for 2 to 3 years, the Commission has suggested that the wood stork be federally listed at this time without Critical Habitat designation.

2. The wood stork's feeding areas may be separated by large (up to 130 km) distances from its rookeries. Additionally, post-breeding dispersal of the U.S. breeding birds extends throughout most of the southeastern U.S. Critical Habitat inclusions of such large areas, even though they may be important in the bird's biology, would be misleading because the stork uses only very limited resources over these large areas.

3. Wood storks are sensitive to disturbance during the breeding season. Observers have often avoided publicizing exact locality data,

particularly for recently discovered rookeries. Publication of Critical Habitat maps in the *Federal Register*, as required by Section 4(b)(5) of the Act, would increase the chance that wood stork rookeries would be subjected to human disturbance or vandalism, causing decreased productivity and, perhaps, increased mortality.

#### Effects of This Rule

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

Subsection 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. Subsection 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize proposed species. If made final, this rule would require Federal agencies, in consultation with and with the assistance of the Secretary, to insure that their activities are not likely to jeopardize the continued existence of this species. Pursuant to these requirements, no major effects are anticipated from the listing of the wood stork. The principal agency affected would be the U.S. Army Corps of Engineers, which issues permits for the discharge of dredged or fill material in U.S. waters under Section 404 of the Clean Water Act of 1977. The Corps also carries out Congressionally authorized water development projects.

In the future, the proposal and listing of the wood stork may in some cases influence either Corps decisions to grant Section 404 permits or the mitigation measures conditional to the granting of permits.

Proposal of the wood stork as an Endangered species may also affect one Corps project in particular, the Shark River Slough Study. This project seeks alternatives to provide a more natural water flow to Everglades National Park. Water regimes favorable to wood stork nesting may therefore be given higher priority. This, however, is not a conflict but a reinforcement of one of the purposes of the project.

The proposal and listing of the wood stork as an Endangered species could also affect future permitting activities by the Environmental Protection Agency, under Section 402 of the Clean Water Act (National Pollutant Discharge Elimination System). No present conflict with these permits is known to the Service.

All prohibition is Section 9 of the Act, implemented at 50 CFR 7.21, would

apply to the wood stork. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import, or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered species under certain Circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23.

With regard to the prohibitions on taking, import and export, interstate commerce and sale, no effects are expected should this proposed rule be made final. This is because this species is already protected by the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 *et seq.*), which prohibits such activities except under permit.

Due to presently existing local, State, and Federal constraints on development of wetlands and floodplains in Florida, Federal listing of the U.S. breeding population of the wood stork will place few additional constraints upon the environmental regulation and planning in effect in the State.

Conservation of the wood stork would allow the species to continue to serve as an ecological indicator of wetland health and to provide pleasure as a natural attraction, particularly in Florida. The wood stork, as one of the most sensitive wading birds to changes in wetland hydrologic regimes, is valuable as an indicator of wetland health and the welfare of other waders such as herons and egrets. The wood stork is also a natural feature of great interest to birdwatchers and tourists. It is the only North American breeding stork and is an important attraction at heavily visited natural areas such as Everglades National Park and Corkscrew Swamp Sanctuary in south Florida.

#### National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207, and may be examined by appointment, during regular business hours (7:45-4:15 pm). This assessment will be used as the basis for a decision as to whether or not 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 (implemented at 40 CFR Parts 1500-08).

**Public Comments Solicited**

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

1. Biological or other relevant data concerning any threat (or the lack thereof) to the wood stork;
2. 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 4 of the Act;
3. Additional information concerning the range and distribution of this species; and
4. Current or planned activities in the subject area, and their possible impact on the wood stork.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing to the Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, 2747 Art Museum Drive Jacksonville, Florida 32207.

Final promulgation of the regulation on the wood stork will take into

consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

**Author**

The primary author of this proposed rule is Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791-2580 or FTS 946-2580).

**References**

Kahl, M. P. 1964. Food ecology of the wood stork (*Mycteria americana*) in Florida. Ecol. Monogr. 34: 97-117.  
 Ogden, J. C. and B. W. Patty. 1982. The recent status of the wood stork in Florida and Georgia. Proc. Nongame and Endangered Wildlife Symposium. Aug. 13-14, 1981. Athens, Georgia. Georgia Dept. Nat. Res. Game and Fish Div. Tech Bull. WL 5: 97-101.  
 Ohlendorff, H. M., E. E. Klaas, and T. E. Kaiser. 1978. Organochlorine residues and eggshell thinning in Wood Storks and Anhingas. Wilson Bull. 90(4): 608-618.

**List of Subjects in 50 CFR Part 17**

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

**Proposed Regulation Promulgation**

**PART 17--[AMENDED]**

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

1. The authority citation for Part 17 reads as follows:  
 Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; and Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*)

2. It is proposed to amend § 17.11(h) by adding, in alphabetical order the following under the list of BIRDS.

**§ 17.11 Endangered and Threatened Wildlife.**

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Stork, wood	<i>Mycteria americana</i>	U.S.A. (CA, AZ, TX, to Carolinas), Mexico, Central and South America	U.S.A. (AL, FL, GA, SC)	E		NA	NA

Dated: February 1, 1983.

**G. Ray Arnett,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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