

ice Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-25676 Filed 9-24-75;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED WILDLIFE

Listing of Endangered and Threatened Fauna

In the FEDERAL REGISTER of April 21, 1975 (40 FR 17590), there was published a notice of proposed listing of the following species of fauna as endangered species and threatened species as defined by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884): Scioto madtom (*Noturus trautmani*); United States population of the American crocodile (*Crocodylus acutus*); Mexican wolf (*Canis Lupus baileyi*); Cedros Island mule deer (*Odocoileus hemionus cerrosensis*); peninsular pronghorn antelope (*Antilocapra americana peninsularis*); Hawaii creeper (*Loxops maculata mana*); po'o uli (*Melamprosope phaeosoma*); Newell's Manx shearwater (*Puffinus puffinus newelli*); Bayou darter (*Etheostoma rubrum*); and gray bat (*Myotis grisescens*).

Supporting data were on file and interested persons were given until July 21, 1975, to submit written comments, suggestions, objections, and factual information regarding these proposed listings. The governors of the States of Alabama, Arizona, Arkansas, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Mississippi, Missouri, New Mexico, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, and West Virginia were notified with respect to this proposed rulemaking and requested to submit comments and recommendations. The Fish and Wildlife Service also consulted with the government of Mexico.

However, with respect to the gray bat (*Myotis grisescens*), the Service inadvertently failed to notify Oklahoma along with the other states. The governor of that State has subsequently been notified and the 90-day comment period has had to be extended accordingly. Therefore, a final rulemaking on the gray bat will be issued at a later date.

Further, with respect to the Mexican wolf (*Canis Lupus baileyi*), the government of Mexico has notified the Service that it wishes to comment and intends to submit a prepared opinion with support data. Therefore, the Service has

determined not to take further action on the Mexican wolf at this time.

SUMMARY OF COMMENTS

Seventeen comments were received as follows: (a) The Environmental Defense Fund supported listing of the above animal species as endangered or threatened species, as appropriate.

(b) Ohio concurred with the listing of the Scioto madtom (*Noturus trautmani*) as an endangered species, and noted that this species is included on Ohio's list of endangered species.

(c) Fourteen persons, including the National Wildlife Federation and the International Union for Conservation of Nature and Natural Resources, completely supported listing of the United States population of the American crocodile (*Crocodylus acutus*) as an endangered species. Six of these comments were from scientists, two of whom studied the American crocodile in its habitat over a period of years and included extensive reports containing valuable scientific data. One of these scientists, whose field work has been primarily on the crocodilians of Mexico, Central America, and the West Indies, suggested that the rulemaking go still further, to extend the protection of the Endangered Species Act to *Crocodylus acutus* throughout its range. The State of Florida "heartily" concurred in the listing of the American crocodile as an endangered species.

(d) The governor of Hawaii expressed general agreement with the proposed listing of the Hawaii creeper and the Po'o uli as endangered species, and the Newell's Manx shearwater as a threatened species. However, a promised official response based on a status review was not received by the Director.

(e) Mississippi supported listing of the Bayou darter (*Etheostoma rubrum*) as an endangered species, and noted that its Game and Fish Commission has taken official action to place this species on the State list of endangered species.

ENDANGERED SPECIES

Section 4(a) of the Endangered Species Act of 1973 states that the Secretary of the Interior or the Secretary of Commerce may determine a species to be an endangered species, or a threatened species, because of any of five factors.

The Director has considered the above comments as well as the evidence accompanying such comments. The Director has also considered other information obtained by the Service both before and after the proposed rulemaking, and has determined that the following species of fauna should indeed be listed as endangered species, for the reasons discussed hereafter.

DISCUSSION

1. THE PRESENT OR THREATENED DESTRUCTION, MODIFICATION, OR CURTAILMENT OF ITS HABITAT OR RANGE

Scioto madtom. This fish is known only from one locality in the lower portion of Big Darby Creek, tributary to the Scioto River, Pickaway County, Ohio. In Big Darby Creek the species has been taken

in a riffle area with moderate to fast current, where the bottom consists of gravel, sand, silt, and boulders. The Scioto madtom is endangered because of the pollution and siltation of its habitat, and by two proposed impoundments on Big Darby Creek.

American crocodile. This reptile once was a common species in southern Florida, and is known to have bred as far north as Lake Worth. There also are scattered records suggesting its occasional presence considerably farther to the north, both on the Atlantic and Gulf Coasts. By the early Twentieth Century the crocodile still was common throughout Biscayne Bay, as well as along the shores of Florida Bay and in the Florida Keys.

Subsequently, intensive human development of southern Florida eliminated much habitat and also led to excessive killing by man. In the 1950's there still was significant nesting on Key Largo and on islands to the south of Florida Bay, but human pressure has eliminated most of this activity. The last suitable areas on Key Largo are rapidly being destroyed by commercial development. At present there are thought to be only about 10 to 20 breeding females in Florida, with most of these concentrated along the northeast shore of Florida Bay.

Cedros Island mule deer. This deer is known only from Cedros Island off the western coast of Baja California. Currently only a few, perhaps less than a dozen, are thought to survive in restricted sections of the island.

Peninsular pronghorn antelope. This animal once inhabited most of Baja California, but has been greatly reduced in range, and currently only two or three small remnant groups survive.

Hawaii creeper. This bird was endemic to the island of Hawaii, and reportedly was common through the 1890's. Subsequent habitat alteration, and other factors, restricted it primarily to a small area of forest between 5,000 and 6,000 feet elevation, where it is rare and vulnerable to further environmental disruption.

Po'o uli. This species of bird was discovered only in 1973 and is restricted to a small area of forest on the northeastern slope of Haleakala volcano on the island of Maui. Its past history is unknown, but presumably its decline was caused in part by habitat alteration.

2. OVERUTILIZATION FOR COMMERCIAL, SPORTING, SCIENTIFIC, OR EDUCATIONAL PURPOSES

Scioto madtom. Not applicable.

American crocodile. Poaching for skins and eggs still sometimes occurs, and crocodiles occasionally are shot for "sport" from passing boats.

Cedros Island mule deer. Excessive killing has been an important factor in the decline of this deer; illegal poaching continues.

Peninsular pronghorn antelope. Excessive hunting, some of it by visitors from the United States, also seems to have been an important factor in the decline of this animal.

Hawaii creeper. Not applicable.
Po'o uli. Not applicable.

3. DISEASE OR PREDATION

Scioto madtom. Not applicable.
American crocodile. Raccoons prey heavily on the eggs and young of crocodiles, and probably destroy the great majority of the annual increment. Raccoon numbers are thought to have increased considerably after man largely eliminated natural predators, including the crocodiles themselves.

Cedros Island mule deer. Predation by feral dogs is thought to have been a major factor in the decline of this deer.

Peninsular pronghorn antelope. These factors are not known to be applicable.

Hawaii creeper. This bird is thought to have declined through transmission of avian diseases by the introduced mosquito *Culex pipiens quinquefasciatus*, and predation by rats.

Po'o uli. The history of this species is unknown, but it probably declined because of the same factors that affected the Hawaii creeper.

4. THE INADEQUACY OF EXISTING REGULATORY MECHANISMS

Scioto madtom. Not applicable.

American crocodile. Although crocodiles are protected by State law, and by Federal law in Everglades National Park where most of the population occurs, enforcement is difficult. Most nest sites and adult crocodiles are found in exposed areas that cannot be constantly guarded in the face of increasing human presence. Furthermore, present regulations do not restrict the destruction of habitat outside the Park.

Cedros Island mule deer. Although it is illegal to hunt this deer, poaching continues.

Peninsular pronghorn antelope. It also is illegal to hunt this animal, but poaching is a problem.

Hawaii creeper. Not applicable.

Po'o uli. Not applicable.

5. OTHER NATURAL OR MANMADE FACTORS AFFECTING ITS CONTINUED EXISTENCE

Scioto madtom. Not applicable.

American crocodile. The possibility of a hurricane or other major natural disaster is a real threat to such a small, isolated population. The restriction of the flow of fresh water to the Everglades, because of increasing human developments in southern Florida, may affect the crocodiles as well as the entire ecosystems of the area. It is known that the young crocodiles swim up streams and depend for a period on water with low salt content.

Cedros Island mule deer. Not applicable.

Peninsular pronghorn antelope. Competition with domestic livestock for forage has been a factor in the decline.

Hawaii creeper. Competition with introduced birds probably contributed to the decline of this native species.

Po'o uli. This species also may have been affected by competition with non-native birds.

THREATENED SPECIES

The Director has determined that the Newell's Manx shearwater should indeed be listed as a threatened species. In light of evidence received subsequent to the proposed rulemaking, the Director has determined that the Bayou darter should also be listed as a threatened species, not as an endangered species as originally proposed, for the reasons discussed hereafter.

1. *Present or threatened destruction, modification, or curtailment of habitat or range.*

Newell's Manx shearwater. This bird probably once bred on all of the main Hawaiian islands, but now is known to breed only on a very restricted part of Kauai. Nonetheless, it is thought to number in the low thousands, and does not appear in immediate danger of extinction.

Bayou darter. This fish is known only from Bayou Pierre drainage, a small river tributary to the Mississippi River in west Mississippi. In Bayou Pierre the Bayou darter inhabits most clean, silt-free gravel riffle areas in the lower portion of Turkey, White Oak and Fosters creeks and the main channel from Dentville downstream nearly to Port Gibson, Mississippi. In recent years gravel-pit operations and poor agricultural practices have adversely altered the habitat resulting in a reduction in the population of Bayou darters. The Soil Conservation Service has proposed a watershed project which would result in further degradation of the habitat of the Bayou darter. The proposed project would adversely alter the water chemistry and contribute an additional silt-load to the stream. This project, if constructed as proposed, would pose a serious threat to continued existence of the Bayou darter.

The Fish and Wildlife Service is convinced that only the combined effect of both the gravel-pit operations and the watershed project would place the Bayou darter in danger of extinction throughout all or a significant portion of its range. However, the Soil Conservation Service is currently reviewing the environmental impacts of the proposed watershed project. This review could result in modifications to the project which would significantly reduce the threat to the Bayou darter as previously understood when it was proposed on April 21, 1975, to be listed as endangered. Because the threat to the continued existence of the Bayou darter is not as immediate and may not be as significant as earlier believed, listing it as an endangered species would be premature at this time. The Act defines a "threatened species" as one which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Fish and Wildlife Service has determined that threatened is a more appropriate description of the Bayou darter's status, at least pending the outcome of the Soil Conservation Service's impact study which may result in modification to the project as originally conceived.

2. *Overutilization for commercial, sporting, scientific or educational purposes.*

Newell's Manx shearwater. Not applicable.

Bayou darter. Not applicable.

3. *Disease or predation.*

Newell's Manx shearwater. Predation by introduced species such as mongooses, dogs, pigs, and rats may have exterminated this species from most of its range.

Bayou darter. Not applicable.

4. *The inadequacy of existing regulatory mechanisms.*

Newell's Manx shearwater. Not applicable.

Bayou darter. Not applicable.

5. *Other natural or manmade factors affecting its continued existence.*

Newell's Manx shearwater. Attraction to lights causes considerable mortality from collisions with cars and lighted towers.

Bayou darter. Not applicable.

NEW FORMAT

In the near future, it is possible that these regulations will be republished in a new format, without substantive change. This new format has been proposed along with the proposal to reclassify the American alligator (40 FR 28712; July 8, 1975). The new format would provide greater ease of reference for all endangered and threatened species, and would consolidate and clarify a number of existing provisions. At the time that that proposal comes into effect, assuming that it does become effective, it will incorporate a republication, in the new format, of this regulation.

FINAL RULEMAKING

For the reasons stated above, it is hereby determined that the Scioto madtom (*Noturus trautmani*), American crocodile (*Crocodylus acutus*), Cedros Island mule deer (*Odocoileus hemionus cerrosensis*), peninsular pronghorn antelope (*Antilocapra americana peninsularis*), Hawaii creeper (*Loxops maculata mana*), and po'o uli (*Melanerops phaeosoma*) are "endangered species" as defined by the Endangered Species Act of 1973.

It is hereby further determined that the Newell's Manx shearwater (*Puffinus puffinus newelli*) and the Bayou darter (*Etheostoma rubrum*) are "Threatened Species" within the meaning of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), and that the following regulations are deemed necessary and advisable for the conservation of such species.

Accordingly, Part 17 of Chapter I, Title 50, Code of Federal Regulations, is amended as set forth below.

These amendments will be effective on October 28, 1975.

Dated:

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

1. Section 17.12 is amended by adding the following, in alphabetical order:

§ 17.12 Endangered native wildlife.

- * * * * *
- Fishes:
- * * * * *
- Madtom, Scoto; *Noturus trautmani*.
(Range: Big Darby Creek, Ohio; Portion of range where endangered: Entire range.)
- * * * * *
- Reptiles and amphibians:
- * * * * *
- Crocodile, American; *Crocodylus acutus*.
(Range: Florida, West Indies, Central America, South America; Portion of range where endangered: Florida.)
- * * * * *
- Birds:
- * * * * *
- Creepers, Hawaii; *Loxops maculata mana*.
(Range: Island of Hawaii; Portion of range where endangered: Entire range.)
- * * * * *

Po'o uli; *Melanerpes phaeosoma*.
(Range: Island of Maui; Portion of range where endangered: Entire range.)

- * * * * *
- Mammals:
- * * * * *
- Antelope, peninsular pronghorn; *Antilocapra americana peninsularis*. (Range: Baja, California; Portion of range where endangered: Entire range.)
- * * * * *
- Deer, Cedros Island mule, *Odocoileus hemianus cerrosensis*. (Range: Cedros Island, Mexico; Portion of range where endangered: Entire range.)

2. In § 17.32, (b) (1) (i) and (d) (4) (i) are revised to read as follows:

§ 17.32 Threatened wildlife list.

Common name	Scientific name	Range	Portion of range where threatened
(b) Birds:			
(1) Newell's Manx shearwater.	<i>Puffinus puffinus newelli</i>	Hawaiian Islands	Entire range.

(1) All prohibitions listed in section 9(a)(1) of the Endangered Species Act of 1973 (16 USC 1531-1543) shall apply to the Newell's Manx shearwater.

Common name	Scientific name	Range	Portion of range where threatened
(d) Fishes:			
(4) Bayou darter.	<i>Etheostoma rubrum</i>	Bayou Pierre drainage in Mississippi.	Entire range.

(1) Prohibitions. All prohibitions listed in section 9(a)(1) of the Endangered Species Act of 1973 (16 USC 1531-1543) shall apply to the Bayou darter, except that they may be taken in accordance with State law.

[FR Doc.75-25481 Filed 9-24-75;8:45 am]

Title 50—Wildlife and Fisheries
CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Bombay Hook National Wildlife Refuge, Delaware

The following special regulation is issued and is effective during the period November 1, 1975 through January 31, 1976.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

DELAWARE

BOMBAY HOOK NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Bombay Hook National Wildlife Refuge, Delaware, is permitted on areas designated by signs as open to hunting including the South Waterfowl Hunting Area, the West Waterfowl Hunting Area, the Young Waterfowlers Area, and the South Upland Hunting Area. These open areas are delineated on maps available at the refuge head-

quarters, Smyrna, Delaware, or from the Regional Director, U.S. Fish and Wildlife Service, Post Office and Courthouse Building, Boston, Massachusetts 02109.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

(1) Hunting is permitted on the West Waterfowl Hunting Area from one-half hour before sunrise to 12 noon local standard time, Tuesdays, Thursdays, and Saturdays during the goose season.

(2) Hunting in the South and West Waterfowl Areas and Young Waterfowlers Area shall be from existing numbered blinds. The possession of a loaded gun or shooting while outside of a blind is prohibited on these areas.

(3) No person shall have in their possession or use in one day more than 10 shells on the West Waterfowl Hunting Area or 15 shells on the Young Waterfowlers Hunting Area.

(4) Hunting is permitted in the South Waterfowl Hunting Area only during the State duck season.

(5) The necessary permit to enter the South Waterfowl Hunting Area will be

issued each hunting day by a ticket-lottery system at 1½ hours before legal shooting time at the checking station at Port Mahon. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis until 3:00 p.m. Permits will be surrendered at the checking station within one-half hour after sunset. The necessary permit to enter the West Waterfowl Hunting Area may be obtained by applying to the Refuge Manager for advance reservation. The permits for advance reservations will be canceled if the holder is not present one hour prior to the start of legal shooting time on the date of his reservation. These forfeited permits and permits not reserved by advance reservation will be awarded to other hunters by lot on the morning of the hunt. All hunters will check out through the headquarters checking station prior to leaving the refuge.

(6) Each hunting permittee using the West Waterfowl Hunting Area will pay a recreation fee of \$10.00 on the day of the hunt. A recreation fee of \$2.00 per hunter will be charged on the South Waterfowl Hunting Area.

(7) Not more than four persons may occupy a blind at any one time on the West Waterfowl Hunting Area nor more than three on the South Waterfowl Hunting Area.

(8) The Young Waterfowlers Area will be open on Saturdays and holidays to young hunters who present evidence of having completed the prescribed training program. Two youths, accompanied by an instructor who may not discharge a firearm, may use one blind.

(9) On Wednesdays, Fridays and Saturdays on the South Waterfowl Hunting Area and Tuesdays and Saturdays on the West Waterfowl Hunting Area, migratory waterfowl will be hunted with 12-gauge shotguns using steel shot. Ammunition will be provided by the refuge at a charge of not less than \$0.20 per round. No person shall have in his possession lead shot shells during steel shot hunt days.

(10) Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

The provisions of this special regulation supplement the regulations which govern hunting of wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1976.

ROBERT H. SHIELDS,
Acting Regional Director,
U.S. Fish and Wildlife Service.

SEPTEMBER 19, 1975.

[FR Doc.75-25550 Filed 9-24-75;8:45 am]

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective on September 25, 1975.