

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 2, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 28165-28166) advising that sufficient evidence was on file to support a determination that the Atlantic salt marsh snake was a Threatened Species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq. That proposal summarized the factors thought to be contributing to the likelihood that this snake could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory, within which a resident species of wildlife is known to occur, be notified and be provided 90 days to comment before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to Governor Askew of the State of Florida on June 17, 1977, notifying him of the proposed rulemaking for the Atlantic salt marsh snake. On this same date, a memorandum was sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties.

No official comments were received from Governor Askew. However, Colonel B. M. Brantley replied for the Florida Game and Fresh Water Fish Commission and indicated full support for the proposal as published in the FEDERAL REGISTER.

SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the List of Endangered and Threatened Wildlife and Plants.

In the June 2, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 28165-28166) and associated June 7, 1977, Press Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period June 2, 1977, to September 23, 1977, were considered.

In addition to the comments received from Colonel Brantley, comments were received from eight individuals and representatives of various organizations.

F. Wayne King (N.Y. Zoological Society) commented on behalf of the staff of the Society and supported the pro-

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Title 50—Wildlife and Fisheries

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Listing of the Atlantic Salt Marsh Snakes as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Atlantic salt marsh snake (*Nerodia fasciata taeniata*) to be a Threatened species. This action is being taken because of the threats of habitat modification and resulting hybridization, and provides Federal protection for the species. The Atlantic salt marsh snake is known only from coastal areas of Brevard, Volusia, and Indian River Counties in Florida.

DATES: This rule becomes effective on December 29, 1977.

posal as published in the FEDERAL REGISTER. He added that the extensive use of chlorinated hydrocarbons and petroleum distillates have detrimental effects on reptiles and pose a threat to the continued existence of the Atlantic salt marsh snake.

William A. Butler, representing the Environmental Defense Fund, supported the proposal but suggested an Endangered status and recommended Critical Habitat to include coastal areas of Brevard, Volusia, and Indian River Counties. James N. Layne (Archbold Biological Station) also questioned whether an Endangered status would be more appropriate and noted that the Technical Advisory Committee on endangered species of the Florida Game and Fresh Water Fish Commission recommended that this species be listed as Endangered on the Federal list.

Alfred Gardner, Acting Director of the National Fish and Wildlife Laboratory, made general comments on the status of the Atlantic salt marsh snake. He supported Threatened status and suggested Critical Habitat be proposed to include brackish creeks, marshes, swamps, and wetlands from National Gardens to Vero Beach.

Roy W. McDiarmid (University of South Florida) made general comments on the status of this species and Ray Ashton (North Carolina State Museum of Natural History) indicated that in his opinion, Endangered status is warranted.

Howard Kochman (National Fish and Wildlife Laboratory) included a copy of a report previously submitted to the Office of Endangered Species on the distribution and status of this species. He emphasized careful management of coastal ecosystems and the designation of Critical Habitat (New Smyrna barrier island of Volusia County) as of primary importance to the continued survival of this species. He indicated that hybridization with *N. f. pictiventris* is a main concern rather than generally referring to "adjacent species of salt marsh snakes".

Richard Demner (Florida Technological University) provided comments on the status of the Atlantic salt marsh snake and provided information on morphology and distributional records.

CONCLUSION

Although no one commented on it, the name *Natrix* for North American species of water snakes has recently been changed to *Nerodia* since the proposal appeared in the FEDERAL REGISTER. Consequently, this final rulemaking refers to the Atlantic salt marsh snake as *Nerodia fasciata taeniata*.

Although the State of Florida lists the Atlantic salt marsh snake as Endangered, and several individuals have indicated that the Federal Government should also list it as Endangered, a careful examination of the available data indicates that the status of this species does not fit the definition of an Endangered species under the Endangered Species Act of 1973. An Endangered species is defined by the Act as one

which is in danger of extinction throughout all or a significant portion of its range; a Threatened species is one that is likely to become Endangered within the foreseeable future. Although the threats to the snake (habitat alteration and hybridization) are serious, the species is not in danger of becoming extinct at the present time. On the other hand, if the threats continue to be operational, the snake is likely to become an Endangered species within the foreseeable future. Because of this, the Service has determined the Atlantic salt marsh snake to be a Threatened species rather than an Endangered species.

After a thorough review and consideration of all the information available, the Director has determined that the Atlantic salt marsh snake is threatened with becoming Endangered 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. This review amplifies and substantiates the description of those factors and are described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* This rare snake has a small range within which there is a very limited amount of remaining habitat. The coastal salt marsh and brackish-water areas, to which this form is restricted, have been the object of intensive drainage and development. If habitat destruction continues, this snake may be extirpated from the Florida coastal herpetofauna. Although the historical range of this species has probably changed only slightly, habitat destruction is believed to have caused a decline in the numbers of snakes.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable for this species.

3. *Disease or predation.* Unknown.

4. *The inadequacy of existing regulatory mechanisms.* This species has recently been classified as Endangered by the State of Florida. Listing the species as Threatened under the Endangered Species Act of 1973 will afford it additional protection.

5. *Other natural or manmade factors affecting its continued existence.* Alteration of the coastal marsh ecosystem has led to the direct decline of available habitat of this species. It has also led to the breakdown of the ecological isolating mechanisms separating the various races of salt marsh snakes along the coast of Florida. Therefore, hybridization with *Nerodia fasciata pictiventris*, as a result of man's activities, could cause a further decline in the viable numbers of this unique species.

EFFECT OF THE RULEMAKING

Section 7 of the Act provides:

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 the 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.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of Section 7 of the Act. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868-4875) to assist Federal agencies in complying with Section 7.

Although no Critical Habitat has yet been determined for this species, the other provisions of Section 7 are applicable.

Endangered species regulations already published 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 referred to above, which pertain to Endangered and Threatened species, are found at §§ 17.21 and 17.31 of Title 50 and are summarized below.

With respect to the Atlantic salt marsh snake in the United States, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR Part 17.21, would apply. 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 in interstate or foreign commerce this species. 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.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), codified in 50 CFR Part 17, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review the Atlantic salt marsh snake to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether it should be considered under other appropriate international agreements.

RULES AND REGULATIONS

60745

NATIONAL ENVIRONMENT POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the Atlantic salt marsh snake. The assessment is the basis for a decision that this determination is not 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 rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202/343/7814).

REGULATION PROMULGATION

Accordingly, § 17.11 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. By adding the Atlantic salt marsh snake to the list, alphabetically, under "Reptiles" as indicated below:

§ 17.11 Endangered and threatened wildlife and species.

Species		Range		Portion of range where threatened or endangered	Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution				
Reptiles: Snake, Atlantic salt marsh	<i>Nerodia fasciata taeniata</i>	NA	U.S.A. (Florida)....	Entire.....	T	30	NA

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

Dated: November 21, 1977.

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

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