Title 50—Wildlife and Fisheries
CHAPTER 1—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, 1976 (41 FR 17590), there was published a notice of receipt of petitions to list species of fauna as endangered or threatened species as defined by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884) (Scelio madtom (Gasterurinae traxtum)); 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 time and projected the species' future survival. The comments also supported listing of the United States population of the American crocodile (Crocodylus acutus) as an endangered species.

(d) The governor of Hawaii expressed general agreement with the proposed listing of the Hawaiian crested po'o uli (Melampomys phaeosoma) and the Neveil's Manx shearwater (Puffinus gujanus nevelli) and the Newell's Manx shearwater as threatened species. However, a promised official review 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 protect 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 ruling, and has determined that the following species of fauna should indeed be listed as endangered species, for the reasons discussed hereafter.

DISCUSSION

1. THE PERSISTENT OR THREATENED DESTRUCTION, Modification, or Curtailment of Its Habitat or Range

Scelio 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 rifle area with moderate to fast current, where the bottom consists of gravel, sand, silt, and boulders. The Scelio madtom is endangered because of the pollution and alteration 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 Woodruff. There 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 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, but only from the Keys. Today the American crocodile is endangered over its entire range, and 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 Bay, with most of these concentrated along the northeast shore of Florida Bay. The crocodile is known only from Cedar Island off the western coast of Baja California. Currently only a few, perhaps less than a dozen, are thought to survive in restricted coves of the island.

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

Hawaii creeper (Lazops maculata mana). This bird was endemic only to the island of Hawaii, and reportedly was common through the 1890's. Subsequent habitat alteration, and other factors, have led to its range being restricted to two small areas of forest below 5,000 and 6,000 feet elevation, where it is rare and vulnerable to further environmental disruption.

Poa auli. This species of bird was discovered only in 1972 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

Scelio madtom. Not applicable.

American crocodile. Poaching for skins and eggs still sometimes occurs, and enticement of nesting females 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.

Peninsula 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.
RULES AND REGULATIONS

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

3. Disease or Predation

Soloto madtom. Not applicable.

American crocodile. Turtles prey heavily on the nest and young of crocodiles, and probably destroy the great majority of the annual hatching. Turtles 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.

Poʻo ʻui. The history of this species is unknown; it probably declined because of the same factors that affected the Hawaii creeper.

4. The Inadequacy of Existing Regulatory Mechanisms

Soloto 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 known 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 severe.

Hawaii creeper. Not applicable.

Poʻo ʻui. Not applicable.

5. OTHER NATURAL OR MANMADE FACTORS AFFECTING ITS CONTINUED EXISTENCE

Soloto 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.

Poʻo ʻui. This species also may have been affected by competition with non-native birds.

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

Newell's Manx shearwater. Not applicable.

Baysor 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.

Baysor darter. Not applicable.

4. The inadequacy of existing regulatory mechanisms.

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

Baysor 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 10237, June 7, 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 this 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 Soloto madtom (Noturus trautmiini), American crocodile (Crocodylus acutus), Cedros Island mule deer (Odocoileus hemionus cerrosensis), peninsular pronghorn antelope (Antilocapra americana peninsularis), Hawaii creeper (Loxops manuala major), and poʻo ʻui (Meligropyges phaeosoma) are "endangered species" as defined by the Endangered Species Act of 1973.

If so, it is hereby further determined that the Newell's Manx shearwater (Puffinus puffinus newelli) and the Bayson darter (Etheostoma rubrum) are "Threatened Species" within the meaning of the Endangered Species Act of 1973 (16 U.S.C. 1531-1545), 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 26, 1975.

Dated:

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

1. Section 17.13 is amended by adding the following to the section.

FEDERAL REGISTER, VOL. 40, NO. 187—THURSDAY, SEPTEMBER 25, 1975
RULES AND REGULATIONS

§ 17.12 Endangered native wildlife.

Fish:
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Mammals:
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Reptiles and amphibians:
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Crocodiles, American: Crocodylus acutus.
(Range: Florida, West Indies, Central America, South America; Portion of range where endangered: Florida.)

Birds:
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Chameleons, Hawaii: Eucypreus maculate mapu.
(Range: Island of Hawaii; Portion of range where endangered: Entire range.)

Common name        Scientific name          Range                  Portion of range where threatened

(3) Birds:

(5) Fishes:
(1) Bayon: Eubonites radunum. Bayon Heron delta on Mississippi River.

(6) Prohibitions: All prohibitions listed in section 9a(1) of the Endangered Species Act of 1973 (16 USC 1531-1545) shall apply to the Newell's Moa. (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.

The Young Waterfowlers Area will be open on Saturdays and Sundays to individual hunters who possess evidence of completing the prescribed training program. Two youths, accompanied by an instructor who may not discharge a firearm, may use a gun on the West Waterfowl Hunting Area.

(9) On Wednesdays, Fridays and Saturdays, on the South Waterfowl Hunting Area, Young Waterfowlers Area, and 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 hunting 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.


September 19, 1975.

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Illinois

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