
DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

**ENDANGERED AND THREATENED
WILDLIFE AND PLANTS**

**Proposed Determination of Threatened
Status for Three Species of Reptiles
From Mona Island, P.R., With a Pro-
posal for Critical Habitat**

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Proposed rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to the Endangered Species Act of 1973 (16 U.S.C.1531-1543, 87 Stat. 884, hereinafter the Act), which would determine three species of reptiles, the Mona boa (*Epicratus monensis*), the Mona ground iguana (*Cyclura stejnegeri*), and the Mona blind snake (*Typhlops monensis*), to be threatened species and which would determine critical habitat for these species. These species occur on Mona Island, Commonwealth of Puerto Rico.

DATES: All relevant comments and material submitted in response to this proposed rulemaking received no later than August 14, 1977, will be considered by the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Comments and materials concerning this proposed rulemaking preferably in triplicate, should be sent to the Director (FWS/OFS), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4616).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific, or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

The three reptiles that are the subject of this proposed rulemaking are all endemic to Mona Island, a small (13,658 acres) island located midway between the Dominican Republic and Puerto Rico. Because they live in close proximity to one another, the factors affecting the status of these species will be summarized together. It should also be noted that all species of ground iguanas (*Cochlura* sp.) and all species of Caribbean boas (*Epiplatys* sp.) are listed as Appendix II species by the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the three reptiles from Mona Island are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* At present, there are extensive plans for the development of Mona Island, which is not now inhabited. Should this development, principally an oil superport be initiated and completed, a decline in the available habitat, especially those areas required for nesting by these species, would be expected. As such, the populations of these three reptiles would experience a serious decline in numbers.

(2) *Overutilization for commercial, sporting, scientific, or educational pur-*

poses. This is probably not a major threat to the Mona reptiles. However, Mona boas and Mona ground iguanas are occasionally shot by hunters who come to the island to hunt the many introduced mammals. Protection of these threatened would serve to discourage such activity.

(3) *Disease or predation.* Predation on the eggs, young, and adults of Mona reptiles by introduced mammals, primarily rats, cats, and pigs, have contributed to the scarcity of many species of native Mona animals, including the three species which are the subject of this proposed rulemaking.

(4) *The inadequacy of existing regulatory mechanisms.* There are a few existing regulatory measures to protect the Mona ground iguana. No iguanas or their eggs may be killed or collected without a special permit from the Puerto Rico Department of Natural Resources, and public hunting is not allowed during iguana nesting season. There are no specific regulatory measures regarding the Mona boa or Mona blind snake.

(5) *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the Act, entitled "Inter-agency Cooperation," states:

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 this 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.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764-17765).

The areas delineated below (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) may not necessarily include the entire Critical Habitat of the three species of reptiles in this proposed rulemaking, and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of these species found within the areas delineated below.

Until the promulgation of Section 7 regulations, all Federal departments and agencies should, in accordance with Section 7 of the Act, consult with the Sec-

retary of the Department of the Interior to an action which may be required to affect Critical Habitat within the delineated areas. Consultation is required to Section 7 of the Act, and the Secretary of the Interior, U.S. Department of the Interior, Washington, D.C. 20240. Assistance in carrying out Section 7 of the Endangered Species Act of 1973 which have been made available to the Federal agencies by the Service. In addition, proposed provisions for interagency cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4863-4875) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

CRITICAL HABITAT DETERMINATION

Critical Habitat for the three species of reptiles in this proposed rulemaking includes the following areas (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species):

I. Mona Island, Commonwealth of Puerto Rico, Entire Island.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

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. All of those prohibitions and exceptions also apply to any Threatened Species unless a Special Rule pertaining to the Threatened Species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered and Threatened Species, are found at §§ 17.21 and 17.31 of Title 50, and, for the convenience of the reader are reprinted below:

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take any endangered wildlife within the United States within the territorial sea of the United States or upon the high seas. The high seas shall mean all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c) of this section, any person may take any endangered wildlife in defense of his own or the lives of others.

(3) Notwithstanding paragraph (c) (1) of this section, any employee or agent of the Service, any other Federal land mana-

ment agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

- (i) Aid a sick, injured, or orphaned specimen; or
- (ii) Dispose of a dead specimen; or
- (iii) Salvage a dead specimen which may be useful for scientific study; or
- (iv) Remove specimens which constitute a demonstrable but not immediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a promise to the effect that no sale will be made unless a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

[40 FR 44115; Sept. 26, 1975 as amended at 40 FR 53400; Nov. 18, 1975; 41 FR 19226, May 11, 1976]

§ 17.31 Prohibitions

(3) Except as provided in Subpart A of this Part, or in a permit issued under this Subpart all of the provisions in § 17.21 (a) through (c)(4) shall apply to threatened wildlife.

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Co-operative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take any threatened wildlife to carry out scientific research or conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

[40 FR 44415; Sept. 26, 1975 as amended at 41 FR 19226; May 11, 1976]

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) 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.

Pursuant to Section 4(b) of the Act, the Director will notify the Governor of Puerto Rico with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interest 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 these three species of reptiles.

(2) The location of and reasons why the habitat of these three species of reptiles should or should not be determined to be "Critical Habitat" as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of these three species.

Final promulgation of the regulations on the three species of reptiles in this proposed rulemaking will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours. A determination will be made at the time of final rulemaking 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.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (86 U.S.C. 1531-1543; 87 Stat. 884), and prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species (202-434-7814).

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

Date: May 17, 1977.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11 (a) by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and Threatened Wildlife.

Species			Range			
Common name	Scientific name	Population	Known	Portion of range where endangered or threatened	Status	When listed
REPTILES:						
Boa, Mona	<i>Epicrater monensis</i>	NA	Mona Island	Entire	T	NA
Snake, Mona blind	<i>Trophops monensis</i>	NA	do	do	T	NA

PROPOSED RULES

It is further proposed to amend 50 CFR Part 17:

2. By adding new paragraph (c) (5), (6), and (7) to proposed § 17.95 to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

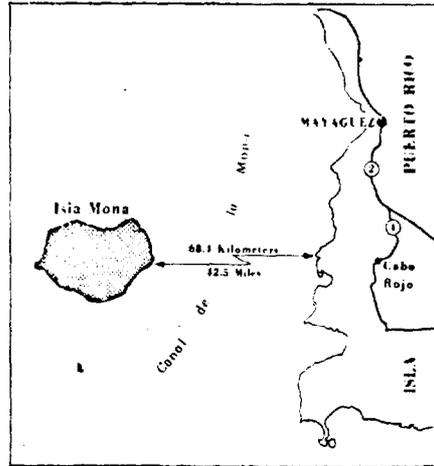
(c) Reptiles. * * *

(5) Mona boa.

(i) The following area (exclusive of those existing manmade structures or

settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the three species of Mona reptiles:

(A) Mona Island, Commonwealth of Puerto Rico, Entire Island (ii) Pursuant to Section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat area.



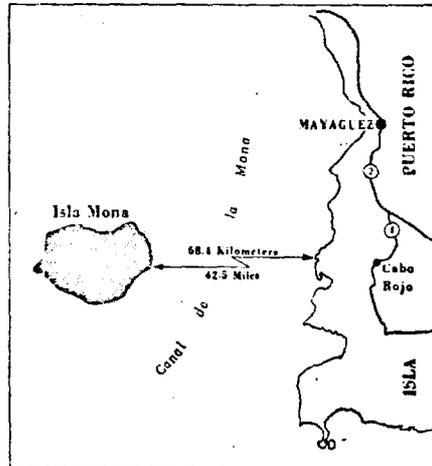
CRITICAL HABITAT FOR THREE REPTILES FROM MONA ISLAND, PUERTO RICO

(6) Mona ground iguana.

(i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the three species of Mona reptiles:

(A) Mona Island, Commonwealth of Puerto Rico, Entire Island.

(ii) Pursuant to Section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat area.



CRITICAL HABITAT FOR THREE REPTILES FROM MONA ISLAND, PUERTO RICO

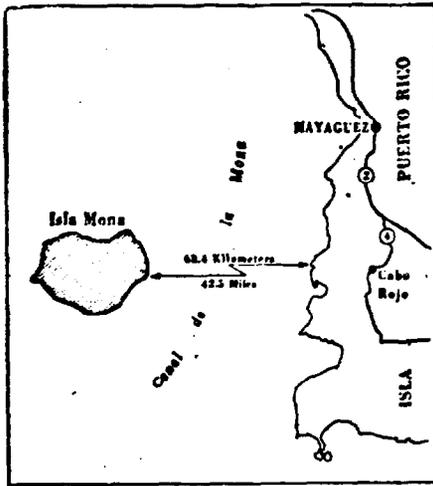
(7) Mona blind snake.

(i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the three species of Mona reptiles:

(A) Mona Island, Commonwealth of Puerto Rico, Entire Island.

(ii) Pursuant to Section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat area.

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**CRITICAL HABITAT FOR THREE REPTILES
FROM MONA ISLAND, PUERTO RICO**
[FR Doc.77-14847 Filed 5-25-77;8:45 am]

[50 CFR Part 17]

**ENDANGERED AND THREATENED
WILDLIFE AND PLANTS**

**Proposed Endangered Status and Critical
Habitat for the New Mexican Ridge-
Nosed Rattlesnake**

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Proposed rulemaking.

SUMMARY: The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, 87 Stat. 884; hereinafter the Act), which would determine the New Mexican ridge-nosed rattlesnake (*Crotalus willardi obscurus*) to be an endangered species and which would determine Critical Habitat for this species. This species occurs in New Mexico and Chihuahua, Mexico.

DATES: All relevant comments and materials with regards to this proposed rulemaking received no later than August 24, 1977, will be considered by the Director, U.S. Fish and Wildlife Service.

ADDRESSES: Comments and materials concerning this proposed rulemaking preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4646).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific, or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

**SUMMARY OF FACTORS AFFECTING
THE SPECIES**

The findings are summarized herein under each of the five criteria of Section 4(a) of the Act. These factors, and their application to the New Mexican ridge-nosed rattlesnake are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The range of the New Mexican ridge-nosed rattlesnake is primarily restricted to two canyons in the Animas Mountains of New Mexico and may involve habitat of approximately one square mile or less. A small population also exists in the Sierra de San Luis, Chihuahua, Mexico. The Playas Valley is experiencing development in the form of a copper ore reduction plant and associated "company town." Evidence indicates that the plant itself will not adversely affect the rattlesnake; however, the increased usage of the Animas Mountains for recreational purposes could severely reduce available habitat and thus be detrimental to the populations of the New Mexican ridge-nosed rattlesnake.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* This is probably the chief danger to the New Mexican ridge-nosed rattlesnake. Although relatively abundant when first discovered in 1961, the attractiveness of this species, coupled with its limited geographic range, has made it a very desirable animal for scientific and commercial purposes. Dealers in live herpetological specimens have priced this species as high as \$175 or more for an 18-

inch specimen. The value of this animal has led to extreme habitat destruction in the process of collecting, even to the point of using dynamite to blast boulders out of the way. Evidence indicates that the New Mexican ridge-nosed rattlesnake is now rare and will continue to decline unless measures are enacted to restrict collecting.

3. *Disease or predation.* This is probably not a significant factor contributing to the current plight of the species.

4. *The inadequacy of existing regulatory mechanisms.* This species is currently listed an Endangered and protected by State law in New Mexico. The U.S. Fish and Wildlife Service has also entered into agreement with the Pruett-Wray Cattle Company, owners of the canyons where the New Mexican ridge-nosed rattlesnake lives, to close access to collectors. However, this has only been a partial deterrent to those who want a member of this species for their collection.

5. *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the Act, entitled "Inter-agency Cooperation," states:

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 this 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.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764-17785). In addition, proposed provisions for Inter-agency Cooperation were published on January 26, 1977, in the FEDERAL REGISTER (42 FR 4868-4875) to assist Federal agencies in complying with Section 7 of the Endangered Species Act of 1973.

The areas delineated below do not necessarily include the entire Critical Habitat of the New Mexican ridge-nosed rattlesnake, and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with Section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out