

# DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[ 50 CFR Part 227 ]

## SEA TURTLES

### Proposed "Threatened" Status

The Director, National Marine Fisheries Service, and the Director, United States Fish and Wildlife Service, hereby issue a notice of proposed rulemaking

that would determine the green sea turtle (*Chelonia mydas*), the loggerhead sea turtle (*Caretta caretta*), and the Pacific ridley sea turtle (*Lepidochelys olivacea*), to be threatened species [as defined in the Endangered Species Act of 1973 (16 U.S.C. 1531-1543)] in 50 CFR 17.32 (published elsewhere in this issue, see FR Doc. 75-13189, *supra*) and establish appropriate protective regulations in 50 CFR 17.32 and in 50 CFR Part 227 (Subpart C) to provide for the conservation of such species.

#### BACKGROUND

On April 23, 1974, Dr. F. Wayne King, Director of Conservation and Environmental Education for the New York Zoological Society, petitioned the Department of the Interior to list the green sea turtle as an "endangered" species, and to list the loggerhead sea turtle and the Pacific ridley sea turtle as "threatened" species. This petition, and supporting data, were examined by the Fish and Wildlife Service and the National Marine Fisheries Service who determined that sufficient evidence existed to warrant a review of the status of these species; a notice to that effect was placed in the FEDERAL REGISTER on August 16, 1974 (39 FR 29605-29607). The Governors of States in which one or more of these species are resident, and the Governors of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and the High Commissioner of the Trust Territory of the Pacific Islands, were notified of the review and were requested to supply data relative to the status of the species. As a result of this review, the Director of the Fish and Wildlife Service and the Director of the National Marine Fisheries Service find that there are sufficient data to warrant a proposed rulemaking that the green sea turtle, the loggerhead sea turtle, and the Pacific ridley sea turtle are "threatened" species.

On August 15, 1974, Mariculture, Ltd., P.O. Box 645, Grand Cayman Island, British West Indies, a business involved in the raising and marketing of captive green sea turtles, petitioned the Secretary of the Interior and the Secretary of Commerce to list the green sea turtle as a "threatened" species, but to exempt specimens bred or raised in captivity from this classification. This petition was considered in the overall review of sea turtles.

The Endangered Species Act of 1973 [16 U.S.C. 1533(a)(1)] 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. These factors, and their applications to the green, loggerhead, and Pacific ridley sea turtles are as follow:

(1) Present or threatened destruction, modification, or curtailment of habitat or range—(a) Green sea turtle. This species has a circumglobal distribution in the tropics, but has been greatly reduced in numbers and distribution, especially in the Caribbean Sea, Gulf of Mexico,

and parts of the Pacific Ocean. Development of coastal areas for industry and tourism, within the species range, is progressively destroying nesting sites.

(b) Loggerhead sea turtle. Coastal development is resulting in a decline in numbers and distribution.

(c) Pacific ridley sea turtle. Apparently, there has been little recent change in overall distribution, but certain rookeries have been eliminated, and suitable habitat along coastlines is decreasing because of human development.

(2) Overutilization for commercial, sporting, scientific, or educational purposes—(a) Green sea turtle. This species is probably the most commercially valuable reptile in the world and one of the most extensively utilized.

Its meat, eggs, and calipee (cartilage used in soup) have been eaten for centuries, and in recent years its skin and oil have found increased use in industry. An international market in turtle products now exists, with the United States being among the largest consumers. Heavy egg harvests continue, especially in southeast Asia, and sometimes nearly all clutches on a nesting beach are taken. This intensive exploitation has been causing a steady decline in numbers throughout much of the world.

(b) Loggerhead sea turtle. While not subject to the same heavy hunting pressure as the green sea turtle, loggerhead eggs are intensively harvested, and some turtles are killed for meat or sport.

(c) Pacific ridley sea turtle. This species seldom is taken commercially for meat, but egg harvesting is intensive along the coasts of Central America and Southeast Asia. Egg collecting and disturbance of nests were the main causes of a great reduction of turtles in Sri Lanka.

A recent rise in the commercial take of turtles in Mexico was stimulated by the development of a market for turtle leather, partly as a substitute for alligator hides. Large numbers of hides and finished products have been either sold in the United States or transshipped through the United States to Europe or Asia.

(3) Disease and predation—(a) Green sea turtle. Disease or predation are not presently known to constitute a major threat to the species, but these factors could develop into serious problems if populations become more restricted in distribution and numbers.

(b) Loggerhead sea turtle. Raccoons prey heavily on eggs in nests along the coasts of the southeastern United States. This problem was intensified because of man's elimination of cougars and other natural predators of raccoons.

(c) Pacific ridley sea turtle. Disease and predation are not presently known to constitute a major threat to the species, but these could develop into serious problems if populations become more restricted in distribution and numbers.

(4) The inadequacy of existing regulatory mechanisms—(a) Green sea turtle. Present laws and enforcement measures are not adequate with regard to exploitation and importation of turtles and turtle products. The United States and Europe continue to serve as major outlets for the world market, even though populations are declining. In some areas turtles are protected on nesting sites, but are subject to unregulated hunting at sea.

(b) Loggerhead sea turtle. Although there is legal protection along the coasts of the United States and Australia, some other countries permit the commercial taking of turtles and eggs. The lack of restrictions on importing loggerhead sea turtles into the United States encourages this exploitation.

(c) Pacific ridley sea turtle. Importation of turtle products by the United States may be encouraging excessive exploitation in Mexico.

(5) Other natural or manmade factors affecting its existence—(a) Green sea turtle. Commercial fishermen accidentally catch and drown green sea turtles in nets. Much of the incidental catch is by fishermen trawling for shrimp.

(b) Loggerhead sea turtle. Many of these turtles are accidentally caught and killed by trawl fishermen. Along some coastlines bright city or highway lights confuse hatchlings, and attract them inland where they die.

(c) Pacific ridley sea turtle. Accidental catching also may be a problem for this species in some areas.

Factors 1, 2, and 4 are considered the major reasons for the decline of these species.

#### DESCRIPTION OF THE PROPOSAL

The proposed listing would add the three sea turtles—the green sea turtle, the loggerhead sea turtle, and the Pacific ridley sea turtle—to the threatened wildlife list.

The proposal also lists all the activities which are prohibited in regard to these species. These include taking, importing, exporting, interstate transportation in the course of a commercial activity, and interstate sale. However, the prohibitions on interstate transportation and sale will not apply until after 1 year from the date of publication of these proposed regulations.

There would also be a series of exceptions to the prohibitions, including mariculture operations and economic hardship. Specifically, the exceptions are as follows:

(1) Permits for scientific purposes, or enhancement of propagation or survival could be issued on the same basis as they are for endangered species under Fish and Wildlife Service regulations, except that the mandatory 30-day public review period would not apply;

(2) Injured, dead, or stranded specimens could be salvaged or disposed of by Federal or State officials;

(3) Incidental catch of sea turtles during fishing or research activities conducted at sea would be exempted, provided that the fishing or research are not taking place in areas of substantial breeding or feeding, and that the sea turtles are immediately returned to the sea;

(4) An exception, under controls, would be authorized for mariculture, for

two years, if there is a periodic showing of significant progress, deemed sufficient by both the Fish and Wildlife Service and the National Marine Fisheries Service, toward raising the turtles in captivity from a completely self-sustaining stock; after the second year the exception would be continued only if the sea turtles are being raised in captivity from a completely self-sustaining stock;

(5) Live specimens or products held as of the date of the proposal would be exempted from the prohibitions, provided they were not held in the course of a commercial activity; and

(6) Permits would be available for economic hardship, on the same basis as they are for endangered species under Fish and Wildlife Service regulations.

While we recognize that there is some subsistence taking of these species for food purposes by persons subject to the jurisdiction of the United States, these regulations do not allow for such taking. It is believed that in no case should taking for food purposes be allowed on or near nesting beaches. Although there may be a limited subsistence taking in other areas for food purposes, we do not believe it to be a dominant factor in maintaining life, as there are alternative food sources from species other than those that are believed to be threatened with extinction.

At a later time, a description of certain breeding and feeding areas of these species of sea turtles will be proposed in the FEDERAL REGISTER to be designated as critical habitat.

#### PERMIT REGULATIONS

Several of the exceptions referred to above allow the issuance of permits. Although these three sea turtles are proposed as threatened species, and not endangered species, certain permits for their use would be issued under the rules and procedures proposed by the Fish and Wildlife Service for endangered species. It is felt that this will simplify permit administration, and will make permit procedures simpler and more uniform for the public.

Simultaneously with this proposal, the Fish and Wildlife Service has proposed amendments to §§ 17.22 and 17.23, to revise and update those sections. With these amendments, the permit regulations of the Fish and Wildlife Service will be appropriate for endangered species, and for threatened species of sea turtles under these regulations. Permit applications must be submitted to the Fish and Wildlife Service, under its regulations. Processing of applications and issuing of permits will be carried out jointly by the Fish and Wildlife Service and the National Marine Fisheries Service. This will simplify permit processing for the public, while assuring adequate review of all applications, for the benefit of the wildlife resource.

#### PUBLIC COMMENTS SOLICITED

The Directors of the Fish and Wildlife Service and the National Marine Fisheries Service, intend that finally adopted rules be as responsive as possible to the

conservation of sea turtles. They therefore desire to obtain the comments and suggestions of the public, other concerned State and Federal Governmental agencies and private interest groups on these proposed rules.

During this comment period, the Services will consult, in cooperation with the Secretary of State, with other nations within whose territories these turtles occur in the wild or whose citizens harvest them upon the high seas. Those views will be considered prior to publication of final regulations.

Final promulgation of sea turtle regulations will take into consideration the comments received by the Directors. Such comments and any additional information received, may lead the Directors to adopt final regulations that differ from this proposal. The Fish and Wildlife Service and the National Marine Fisheries Service have under preparation an environmental assessment concerning this matter.

#### SUBMITTAL OF WRITTEN COMMENTS

Written comments, views, and objections may be made, preferably in triplicate, to the Director (FWS/LE), Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20036, on or before July 18, 1975. Final regulations will be promulgated as soon as possible after the 60-day comment period required by the Endangered Species Act of 1973. If any person feels that he may be adversely affected by the proposed regulations, he may file objections thereto and request a public hearing thereon on or before July 3, 1975. Comments received will be available for public inspection during normal business hours at the Fish and Wildlife Service Office in Suite 600, 1612 K Street, N.W., Washington, D.C.

This notice of proposed rulemaking is issued under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

ROBERT W. SCHONING,  
Director, National Marine  
Fisheries Service.

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

MAY 15, 1975.

Accordingly, it is proposed to add a new Subpart C, Green Sea Turtle (*Chelonia mydas*), Loggerhead Sea Turtle (*Caretta caretta*), and Pacific Ridley Sea Turtle (*Lepidochelys olivacea*), in Part 227, Threatened Species—Fish, (proposed 39 FR 14777-14778), Chapter II of Title 50, Code of Federal Regulations, as follows:

**Subpart C—Green Sea Turtle (*Chelonia mydas*), Loggerhead Sea Turtle (*Caretta caretta*), and Pacific Ridley Sea Turtle (*Lepidochelys olivacea*)**

Sec.  
227.21 Prohibitions.  
227.22 Exceptions to the prohibitions.

Authority: Endangered Species Act of 1973, Pub. L. 93-205 (16 U.S.C. 1531 et seq.) (the Act).

**Subpart C—Green Sea Turtle (*Chelonia mydas*), Loggerhead Sea Turtle (*Caretta caretta*), and Pacific Ridley Sea Turtle (*Lepidochelys olivacea*)**

#### § 227.21 Prohibitions.

The following prohibitions apply to green sea turtles, *Chelonia mydas* (including *C. agassizi* Boucourt), loggerhead sea turtles, *Caretta caretta*, and Pacific ridley sea turtles *Lepidochelys olivacea*. [For a listing of these sea turtles as threatened species, see § 17.32(e) (1), (2), and (3) of Chapter I of this title.] Except as provided in § 227.22 below, it is unlawful for any person subject to the jurisdiction of the United States to:

(a) Import any such species into, or export any such species from, the United States;

(b) Take any such species within the United States or the territorial sea of the United States;

(c) Take any such species upon the high seas;

(d) Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation or prohibitions in paragraphs (b) and (c) of this section;

(e) Deliver, receive, carry, transport or ship in foreign commerce by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in foreign commerce, any such species; and

(f) After one year from the date of publication of these proposed regulations, deliver, receive, carry, transport, or ship in interstate commerce by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in interstate commerce, any such species.

#### § 227.22 Exceptions to the prohibitions.

The following exceptions apply to the prohibitions, as set forth in § 227.21, governing sea turtle species *Chelonia mydas* (including *C. agassizi* Boucourt), *Caretta caretta*, and *Lepidochelys olivacea*.

(a) *Scientific purposes, enhancement of propagation or survival.* The Directors of the National Marine Fisheries Service and the Fish and Wildlife Service (hereinafter referred to as the "Directors") may jointly process applications and issue permits for activities which would otherwise be prohibited regarding such sea turtles, for scientific purposes or to enhance the propagation or survival of such species. The requirements of section 10(a) of the Endangered Species Act of 1973 (16 U.S.C. 1539(a)) regarding permits for endangered species shall apply to applications for permits under this provision as if such sea turtles were classified "endangered," but in no case shall the requirements of section 10(c) of the Act apply to such permits. Application shall be made in accordance with Part 13 of Subchapter B, Chapter I of this Title 50, and the requirements of § 17.22 of Subchapter B, Chapter I of this Title 50. The duration of permits under this provision shall be designated on the face of the permit.

(b) *Injured, dead or stranded specimens.* In the case of such sea turtles found injured, dead, or stranded in the wild, any officer or employee of the National Marine Fisheries Service, of the Fish and Wildlife Service, of the U.S. Coast Guard, or any officer or employee of a State government may, in the course of official duty, take such wildlife for rehabilitation, return to its environment or other appropriate action, including collection for scientific research. Whenever possible, live specimens shall be returned to their aquatic environment as soon as practicable. Every such action shall be reported in writing to the Directors within six months from the occurrence, and such reports may be cumulative for the six month period. Reports shall be mailed to the Director (FSW/SE), U.S. Fish and Wildlife Service, Washington, D.C., and shall contain the following information:

- (1) Name and official position of the official or employee involved;
- (2) Description of the specimen(s) involved;
- (3) Date and location of disposal;
- (4) Circumstances requiring the action;
- (5) Method of disposal;
- (6) Disposition of the specimen(s), including cases where the turtle(s) has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and
- (7) Such other information as the Directors may require.

(c) *Incidental catch.* The incidental catch of such sea turtles during fishing or research activities conducted at sea shall not be prohibited provided:

- (1) The specimen was caught by fishing gear incidental to fishing effort or research not directed toward such species; and
- (2) The person responsible for the fishing gear or vessel was fishing in an area of substantial breeding or feeding of any such wildlife; and
- (3) Any such wildlife which is caught is immediately returned to its aquatic environment whether dead or alive, with due care to minimize injuries to live specimens.

(d) *Mariculture.* The Directors may jointly issue permits for mariculture operations. For a period of two years from the effective date of these regulations, any person may apply for a permit to conduct any of the activities otherwise prohibited in § 227.21 regarding such wildlife, provided that such wildlife is taken for or derived from a captive population in the course of mariculture operations. After two years from the effective date of these regulations permits may be issued or renewed only if the applicant or permittee can demonstrate to the satisfaction of the Directors, that such wildlife is derived from a closed-cycle farming operation consisting of a captive-bred population which is completely self-sustaining and independent of wild stocks. Applications shall be made, and permits shall be issued, in accordance with Part 13 of Subchapter B,

Chapter I of this Title 50, except that all applications will be reviewed and all permits issued jointly by the Directors.

(1) The information requirements of § 17.22(a) of Subchapter B, Chapter I of this Title 50, shall apply to permits issued under this provision, except that in addition to the information required in that section, the applicant shall also present complete information demonstrating the following points:

(i) That during the first two years such wildlife will be either (A) derived from a captive-bred population that is completely self-sustaining and independent of wild stocks, or (B) taken for or derived from a captive population that is demonstrably in the process of becoming a captive breeding population that is completely self-sustaining and independent of wild stocks, but is temporarily sustained in part by the addition of turtles or eggs taken in the wild, the taking of which is demonstrably not a major threat to wild stocks;

(ii) That the applicant or the applicant's supplier has an accurate system of record keeping showing the origin and numbers of such wildlife taken for addition to the captive population, and showing all subsequent transactions with such wildlife;

(iii) That the applicant or the applicant's supplier is prepared to institute a system of marking or other identification of any such wildlife transferred from the propagating facility. The markings or other identification must be capable of remaining on the wildlife, in any form, until after retail sale or export from the United States;

(iv) That if any of the applicant's facilities, or the facilities of any supplier of the applicant or the area of collection of such wildlife, are located outside the jurisdiction of the United States, the applicant has made suitable arrangements for the inspection visits referred to in § 13.47 of Subchapter B, Chapter I of this Title 50, including quarters, and any necessary permission of the government of the jurisdiction in which such facilities or area are located; and

(v) That the applicant or the applicant's supplier has submitted with the application a complete listing or inventory of all specimens held by him as of the date of the application. This listing or inventory shall be certified by the applicant to be a true and correct statement and subject to the penalties for false statements under the penalties for false statements under section 1001, title 18, United States Code.

(2) In addition to the conditions for permits issued under § 17.22(c) of Subchapter B, Chapter I of this Title 50, any permits issued under this provision will be subject to the following conditions:

(i) That the permittee or the permittee's supplier mark or otherwise identify all such wildlife transferred in any way from the propagating facility, and that the mark or other identification remain on the wildlife until after the retail sale or export from the United States of such wildlife;

(ii) That the permittee provide proof, when requested by either the Director of the National Marine Fisheries Service or the Director of the Fish and Wildlife Service, of the origin of such wildlife held in his rearing and propagating facilities or the facilities of his supplier; such proof may be in the form of the invitation of observers appointed by either the Director of the National Marine Fisheries Service or the Director of the Fish and Wildlife Service, at the permittee's expense, to any taking of such wildlife;

(iii) That the permit shall terminate automatically at the end of two years from the effective date of these regulations and thereafter at annual intervals, unless the permittee has demonstrated to the satisfaction of the Directors that for each succeeding one-year period the wildlife to be covered by the permit will be derived from a captive-bred population which is completely self-sustaining and independent of wild stocks; and

(iv) That if such wildlife involved in the mariculture operation is taken outside the jurisdiction of the United States, the government of the country in which the taking occurs sends a certificate to the Directors stating that (A) such wildlife is legally protected from over-exploitation in that country and (B) the taking of such wildlife in that country will not be detrimental to the survival of the species in the wild; in the event that such certification is unobtainable, the Directors may accept such other certification as they deem sufficient.

(e) *Wildlife held in captivity or a controlled environment.* The prohibitions in § 227.21 shall not apply to any such wildlife held in captivity or a controlled environment on the date of the FEDERAL REGISTER notice proposing to add such wildlife to the threatened wildlife list, provided, That the person claiming such exemption can show by documentary evidence to the satisfaction of the Directors, that the specimen was held in captivity or in a controlled environment on the required date, and was not being held in the course of a commercial activity. Such documentary evidence may include bills of sale or inventory or other records which are certified therein.

(f) *Economic hardship.* The Directors may issue permits to import or export such wildlife in order to prevent undue economic hardship. Applications shall be made and permits shall be issued in accordance with Part 13, Subchapter B, Chapter I of this Title 50, and the provisions of § 17.23 of Subchapter B, Chapter I of this Title 50, except that all applications will be reviewed and all permits will be issued jointly by the Directors. In addition, the requirements of section 10(b) of the Endangered Species Act of 1973 (16 U.S.C. 1539(b)) regarding hardship exemptions shall apply to applications for hardship exemptions under this provision as if such wildlife were classified "endangered." The tenure of any economic hardship exemption permit issued for such wildlife under this provision will be for one year from the effective date of these regulations. No economic hardship permit will be granted

21986

which will result in the killing of sea turtles.

[FR Doc.75-13188 Filed 5-19-75;8:45 am]

---