

**For more information on the
Endangered Species program, contact:**

U.S. Fish and Wildlife Service
Division of Endangered Species
452 ARLSQ
Washington, D.C. 20240

Or the appropriate Regional Office:

- Northwest:** U.S. Fish and Wildlife Service
Eastside Federal Complex
911 N.E. 11th Avenue
Portland, OR 97232
- Southwest:** U.S. Fish and Wildlife Service
P.O. Box 1306
Albuquerque, NM 87103
- North Central:** U.S. Fish and Wildlife Service
Whipple Building
Number One Federal Drive
Ft. Snelling, MN 55111-4056
- Southeast:** U.S. Fish and Wildlife Service
1875 Century Boulevard
Suite 324
Atlanta, GA 30345
- Northeast:** U.S. Fish and Wildlife Service
300 Westgate Center Drive
Hadley, MA 01035
- Mountain-Prairie:** U.S. Fish and Wildlife Service
PO. Box 25486
Denver Federal Center
Denver, CO 80225
- Alaska:** U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, AK 99503
- Foreign Species:** U.S. Fish and Wildlife Service
Office of Scientific Authority
750 ARLSQ
Washington, D.C. 20240
- Marine Species:** Office of Protected Resources and
Habitat Programs
National Marine Fisheries Service
Department of Commerce/NOAA
1335 East-West Highway
Silver Spring, MD 20910

Front cover photos from top to bottom:

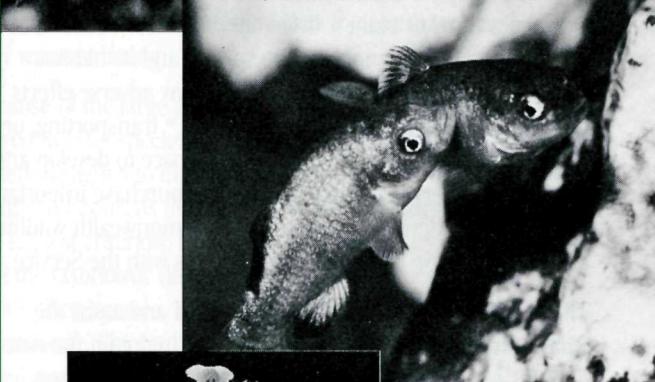
Schaus swallowtail by George Krizek
Devil's Hole pupfish by Tom Baugh
Eastern fringed prairie orchid by Charles Sheviak



Revised, 1993

Placing Animals and Plants on the List of Endangered and Threatened Species

Endangered Means There's Still Time



**U.S. Department
of the Interior**
U.S. Fish and
Wildlife Service

The Endangered Species Act of 1973 is one of the most far-reaching wildlife conservation laws ever enacted by any nation. It is administered primarily by the U.S. Fish and Wildlife Service, working in cooperation with other Federal, State, and local agencies, as well as independent organizations.

More than 800 species of plants and animals native to the United States, and more than 530 species living in other parts of the world, have been placed on the U.S. List of Endangered and Threatened Wildlife and Plants, and thus receive protection under the Act. A species can be listed under one of two categories, endangered or threatened, depending on its status and the degree of threat it faces. An "endangered" species is one that 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 in the foreseeable future. To help conserve genetic diversity, the Act defines "species" broadly to include subspecies, varieties, and (in the case of vertebrates) distinct populations.

The listing process, which is explained in this publication, is one of the basic functions performed by the Service in carrying out its responsibilities under the Endangered Species Act. Once an animal or plant is listed, all protective measures authorized by the Act apply to the species and its habitat. Such measures include protection from any adverse effects of Federal activities; restrictions on taking,* transporting, or selling a species; authorization for the Service to develop and carry out recovery plans; the authority to purchase important habitat; and Federal aid to State and Commonwealth wildlife agencies that have cooperative agreements with the Service.

These efforts contribute to species survival and assist the Service in achieving its ultimate goal—to maintain the natural diversity of plants and animals and the ecosystems upon which they depend.

The Listing Process

In order to list a species, the Fish and Wildlife Service must follow a strict legal process known as a "rulemaking (or regulatory) procedure." Federal agencies follow this procedure to propose and later adopt regulations that have the effect of law and apply to all persons and agencies under U.S. jurisdiction.

* "Take" is defined in the Act as "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." (Restrictions on take are different for plants.)



James Powell/U.S.F.W.S.

Manatee habitat in Florida was the subject of recent emergency protection.

As a first step in assessing the status of a species, the Service publishes notices of review that identify U.S. species considered as "candidates" for listing. Through "notices of review," the Service seeks biological information that will complete the status reviews for these species. These and all other notices throughout the rulemaking process are published in the *Federal Register*, a daily Federal Government publication. About 3,770 species are now considered candidates, but close to 3,400 of these lack sufficient data to determine whether they warrant listing.

Because of the large number of candidates and the time required to list a species, the Service has developed a priority system designed to direct its efforts objectively toward the plants and animals in the greatest need. The degree of threat is the highest criterion, followed by the immediacy of the threat and the taxonomic distinctiveness of the species (monotypic genus, then species, and lastly subspecies, variety, or vertebrate population). The Endangered Species Act gives no preference to popular species or so-called "higher life forms."

In some cases, the Service initiates conservation activities for various candidate species before listing. This "preventive" approach is taken for species that can benefit from early recovery efforts, with the goal of precluding the need to formally list them at a later date.

Public Comment

Once a species is chosen for listing, the Fish and Wildlife Service (or the National Marine Fisheries Service for most marine species) publishes a proposed rule in the *Federal Register*. The Service sometimes publishes multi-species proposals when several candidate species share a common ecosystem. At this stage, all interested parties are encouraged

to comment and provide additional information on the proposal (generally during a 60-day comment period), and to submit statements at any public hearings that may be held.

To ensure that all potentially interested parties are made aware of a proposal, the Service issues news releases, conducts special mailings, and directly informs the scientific community and other Federal and State agencies. In addition, the Service publishes a summary of any proposal as a legal notice in newspapers serving each area in which the species is believed to occur. The Service may hold public hearings in cases of high public interest, or if requested to do so within 45 days of a proposal. Information received in public comments and testimony is analyzed and considered in the final rulemaking process.

By law, listing decisions must be based solely on the best available biological data.

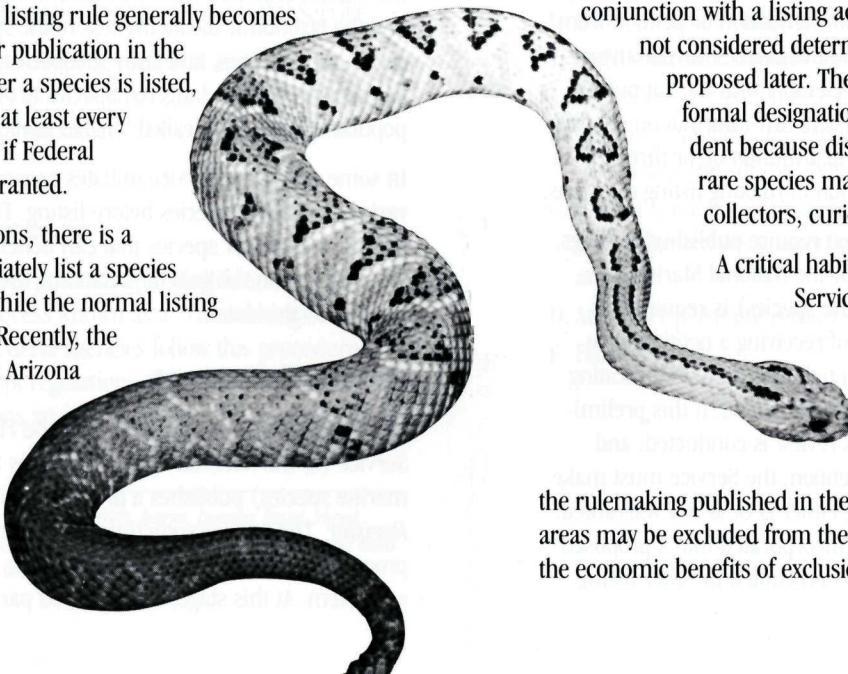
Within one year of when a listing proposal is published, one of three possible courses of action must be taken:

- 1) a final listing rule is published (as proposed, or revised);
- 2) if the biological information then on hand does not support the listing, the proposal is withdrawn; or
- 3) if, at the end of one year, there is substantial disagreement within the scientific community concerning the biological appropriateness of the listing, the proposal may be extended, but only for an additional 6 months. After that, a decision must be made on the basis of the best scientific information available.

If approved, the final listing rule generally becomes effective 30 days after publication in the *Federal Register*. After a species is listed, its status is reviewed at least every 5 years to determine if Federal protection is still warranted.

In emergency situations, there is a procedure to immediately list a species for up to 240 days, while the normal listing process takes place. Recently, the Kanab ambersnail in Arizona and Utah both were protected this way.

Threatened Aruba Island Rattlesnake.
C. Kenneth Dodd, Jr.



Criteria for Listing a Species

A species is added to the list when its survival is found to be threatened by one or more of the following factors:

- The present or threatened destruction, modification, or curtailment of the species' habitat or range.
- Overutilization for commercial, recreational, scientific, or educational purposes.
- Disease or predation.
- The inadequacy of existing regulatory mechanisms.
- Other natural or manmade factors affecting the species' continued existence.

Designating Critical Habitat

When a species is proposed for listing as endangered or threatened, areas of habitat believed essential to its conservation may be proposed for designation as "critical habitat." This includes areas of land, water, and air space required by a listed species for its survival and recovery. Designated areas usually include only the habitat actually occupied by a species, but areas outside of the species' current range may also be included when considered essential to its survival and recovery.

The Act directs the Service to designate critical habitat for endangered and threatened species when "prudent and determinable." When a designation of critical habitat is believed to be prudent, the Service publishes a proposal in the *Federal Register* and solicits public comments. This usually is done in conjunction with a listing action, but if critical habitat is not considered determinable at that time, it can be proposed later. The Service may sometimes find formal designations of critical habitat not prudent because disclosing the exact location of a rare species may make it more vulnerable to collectors, curiosity seekers, or vandals.

A critical habitat designation requires the Service to prepare an analysis that considers the economic and other impacts of the proposed designation. A summary of the analysis is included in

the rulemaking published in the *Federal Register*. Certain areas may be excluded from the critical habitat designation if the economic benefits of exclusion outweigh the benefits of



Donald W. Sada

The Ash Meadows ecosystem in Nevada is "critical habitat" for a number of endemic endangered and threatened species.

inclusion. However, such areas cannot be excluded if their exclusion would result in extinction of the species.

A designation of critical habitat does not create a wildlife refuge or wilderness area, nor does it close the area to human activity. It applies only to Federal agencies if they propose to fund, authorize, or carry out activities that may adversely modify areas within designated critical habitat. Although critical habitat may be designated on private or State lands, activities on these lands are not restricted by the Endangered Species Act unless direct harm to listed wildlife would result or a Federal permit or other Federal involvement is required.

Suggested Criteria for Listing Recommendations or Petitions

Although the Service usually initiates listing proposals, such actions also may start as a recommendation or petition from knowledgeable individuals or organizations. Indeed, anyone may suggest that a species—preferably with the support of adequate biological data—be listed. Any information submitted on the systematics, biology, distribution of, or threats to a species is taken into consideration in making listing decisions.

Petitions are formal requests that require published findings. The Fish and Wildlife Service (or the National Marine Fisheries Service for most marine species) is required to make a finding within 90 days of receiving a petition as to whether or not there is "substantial information" indicating that the petitioned listing *may be* warranted. If this preliminary finding is positive, a status review is conducted, and within 1 year of receipt of the petition, the Service must make a further finding that the listing either *is* or *is not* warranted. A positive 1-year finding can be incorporated into a proposed listing or, if a prompt proposal is precluded by other listing

activities, the proposal may be deferred. Deferred proposals require subsequent 1-year findings on each succeeding anniversary of the petition until either a proposal is undertaken or a *not warranted* finding is made.

Below is a suggested outline for submitting data in support of either a recommendation or a petition. A listing petition must be clearly labeled as such.

I. General Information

- A. Name of species, subspecies, plant variety, or vertebrate population
- B. Present and past distribution
- C. Estimated numbers—past and present
- D. Ecological requirements, natural history and limiting factors
- E. Habitat: General and specific habitat needs including, but not limited to, physiographic, botanical, and zoological requirements
- F. Significance or special considerations
- G. Reproductive potential in captivity or by other manipulative methods

II. Reasons for Consideration

- A. Range or habitat destruction or modification—past, present, and/or future
- B. Overuse for commercial, recreational, scientific, or educational purposes
- C. Depletion through disease, predation, or grazing
- D. Inadequate protective laws or regulations
- E. Other natural or manmade factors affecting existence

III. Additional Comments

- A. Status recommended based upon prognosis for survival
- B. Recommendations for actions (short-term and long-term) to enhance the survival possibilities of the species
- C. Critical Habitat—include both a written recommendation and suggested designation on topographical maps, if available
- D. Any other pertinent remarks
- E. Bibliography