

result from its addition? How often do the various items need to be replaced?

25. What intermix of devices would be the least costly, while still adequately protecting student pedestrians from being struck by a school bus?

26. What is the current number and type of new school buses that have been ordered or delivered with additional devices to increase driver awareness? What was the additional cost for such devices? What factors resulted in the decision to add such safety devices despite increased costs?

Impact Assessments

NHTSA has considered costs and other factors associated with this advance notice. The agency has determined that Executive Order 12291 is inapplicable because that Order applies only to notices of proposed rulemakings and final rules. NHTSA has further determined that this advance notice is not a significant rulemaking action under the Department of Transportation's Regulatory Policies and Procedures. Although there is general public and Congressional interest in school bus safety matters, that interest is focused primarily upon the types of school bus safety issues (number of exits, flammability of interior materials, and fuel system integrity) involved in the rulemakings being conducted in the aftermath of the 1988 bus crash and fire in Kentucky.

The agency may determine to propose a rule requiring additional mirrors, upgraded mirror specifications, or additional devices. Before the agency can make a full assessment of the potential benefits of taking such an action, it must complete a full review of the available information on pedestrian crashes in school bus loading zones, including information to be provided in the comments to this notice.

As detailed above, NHTSA has obtained cost estimates for retrofitting devices in the aftermarket. The agency emphasizes that the cost of installing devices on new school buses should decrease if the installation is part of the manufacturer's regular production run for new vehicles. The agency notes that approximately 38,000 new school buses are produced each year.

NHTSA has analyzed this action under the principles and criteria in Executive Order 12612. The agency has determined that this advance notice does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The agency welcomes comment on this issue.

The Regulatory Flexibility Act does not apply to advance notices of proposed rulemakings. If the agency

decides to issue a proposed rule, this Act will be addressed.

Comments

NHTSA invites comments from interested persons on the questions presented in this advance notice and on other relevant issues. It is requested but not required that 10 copies be submitted.

Comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

NHTSA will consider all comments received before the close of business on the comment closing date indicated in the "Dates" caption of this advance notice. To the extent possible, the agency will consider comments filed after the closing date. Comments on the advance notice will be available for inspection in the docket. After the closing date, NHTSA will continue to file relevant information in the Docket as this information becomes available, and recommends that interested persons continue to examine the Docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicle.

Authority: (15 U.S.C. 1392, 1401, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 20, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-29967 Filed 12-26-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB36

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for White-necked Crow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for the white-necked crow (*Corvus leucognaphalus*), a bird found in the Dominican Republic and Haiti, and formerly in Puerto Rico and the Virgin Islands. It disappeared in the latter areas because of human hunting and destruction of its natural forest habitat, and is now confronted by the same problems in those places where it does survive. This proposal, if made final, would implement the protection of the Endangered Species Act of 1973, as amended, for this crow. The Service seeks relevant data and comments from the public.

DATES: Comments must be received by February 26, 1990. Public hearing requests must be received by February 12, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Chief, Office of Scientific Authority, Mail Stop: Room 725, Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240. Comments and materials received will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 750, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (703-358-1708 or FTS 358-1708).

SUPPLEMENTARY INFORMATION:

Background

The white-necked crow (*Corvus leucognaphalus*) resembles the crows of the mainland United States in physical appearance, but is distinguished by the pure white base of the feathers of the hind neck (Wetmore and Swales 1931). Also, in habits and voice, this species is more like ravens than like other crows. The ordinary call note is a high-pitched *klock* (Wetmore 1916).

This crow originally occurred in the Dominican Republic, Haiti, Puerto Rico, and St. Croix in the U.S. Virgin Islands.

It seems to thrive only where there are extensive growths of natural forest, and to disappear when these growths are cut down (Wetmore 1916). Because of this factor, and human hunting, the crow has been exterminated throughout its range, except in limited parts of the Dominican Republic and Haiti.

On July 25, 1986, the Service received a petition from Mr. Alexander R. Brash, Department of Biology, Rutgers University, requesting that the white-necked crow be added to the U.S. List of Endangered and Threatened wildlife. On October 31, 1986, the Service made a finding that this petition had presented substantial information. On August 4, 1987, and again the following year, the Service made a finding that the requested measure was warranted but precluded by other listing activity. Section 4(b)(3) of the Endangered Species Act, as amended in 1982, requires that, if a warranted but precluded finding is made with respect to a petition, a subsequent finding be made within 12 months as to whether the requested measure is warranted, not warranted, or warranted but precluded. This proposal incorporates the Service's finding that listing of the white-necked crow is warranted.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to the white-necked crow (*Corvus leucognaphalus*) are as follows.

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Crows are generally thought to be highly adaptable birds that can thrive in large numbers in a variety of habitats, even if extensively disturbed by people. Actually, various island species of crows are restricted to very limited conditions and do not tolerate changes or the close proximity of human activity. Examples are the Hawaiian crow (*Corvus hawaiiensis*) and the Mariana crow (*C. kubaryi*), both of which the Service already classifies as endangered.

The white-necked crow has become progressively rarer and more restricted in distribution as its natural forest habitat has been invaded and modified by people. This bird once occurred on Saint Croix in the U.S. Virgin Islands,

but was extirpated there long ago (Raffaele 1983). It survived on much of Puerto Rico until the 19th century, but then declined as most of the island's forests were cleared for agricultural purposes (Brash 1987). By the early 20th century the species was considered to be almost gone from Puerto Rico (Wetmore 1916). The last record for the island was in the Luquillo Mountains in 1963, and the crow is not thought to have completely vanished from Puerto Rico (Raffaele 1983).

The white-necked crow apparently still occurs in the Dominican Republic and Haiti, which share the island of Hispaniola. However, the same process of forest destruction, which eliminated the species from Puerto Rico, now seems to be occurring on Hispaniola. According to Lewis and Coffey (1985), only 6.7 percent of Haiti was still forested in 1978, and all remaining large areas of forest are expected to disappear within 50 years. The forested portion of the Dominican Republic has declined from about 95 percent originally to less than 15 percent, and only about a third of the remaining forest is considered undisturbed (Hartshorn *et al.* 1981). The white-necked crow remained locally common in the Dominican Republic until the early 20th century (Wetmore 1931), but recent surveys there either have had difficulty locating this bird, which is extremely localized in dry forests (Chandler Robbins, Patuxent Research Center, U.S. Fish and Wildlife Service, pers. comm.), or have been unable to find the species at all (Robert Waide, Center For Energy and Environmental Research, San Juan, pers. comm.)

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The white-necked crow is considered to have good-tasting flesh, and was extensively hunted as a game bird on Puerto Rico and Hispaniola. This factor contributed to its decline, especially as clearing of the forests made it accessible to hunters (Wetmore 1916; Wetmore and Swales 1931).

C. *Disease or predation.* Not known to be a factor.

D. *The inadequacy of existing regulatory mechanisms.* The main problem for the species is habitat loss, which is not restricted by regulations.

E. *Other natural or manmade factors affecting its continued existence.* None now known.

The decision to propose endangered status for the white-necked crow was based on an assessment of the best available scientific information, and of past, present, and probable future threats to the species. A decision to take no action would exclude this bird from

benefits provided by the Endangered Species Act. A decision to propose only threatened status would not adequately reflect the evident rarity and long-term problems confronting the species. Critical habitat is not being proposed, as its designation is not applicable outside of the United States.

Available Conservation Measures

Conservation measures provided to species listed as endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Some actions are initiated prior to listing, conditions permitting. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, Section 7(a)(2) requires Federal agencies to ensure that the continued existence of such a species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. With respect to the white-necked crow, no Federal activities are known that would require conferral or consultation. Such measures may be called for, however, if the species is rediscovered or reintroduced in the Commonwealth of Puerto Rico.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21, set forth a series of general

prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, 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 any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and Commonwealth conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance propagation or survival, or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, comments and suggestions concerning any aspect of this proposed rule are hereby solicited from the public, concerned governmental agencies, and other parties. Comments are particularly sought concerning the following:

(1) Biological, commercial, or other relevant data concerning any threat (or lack thereof) to the subject species;

(2) The location of any additional populations of the subject species;

(3) Additional information concerning the distribution of this species; and

(4) Current or planned activities in the involved areas, and their possible effect on the subject species.

Final promulgation of the regulation on the subject species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal, should be in writing, and should be directed to the party named in the above "ADDRESSES" section.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register of October 25, 1983 (48 FR 49244).

References Cited

Brash, A.R. 1987. The history of avian extinction and forest conversion on Puerto Rico. *Biological Conservation* 39:97-111.
 Hartshorn, G., G. Antonii, R. Dubois, D. Harcharik, S. Heckadon, H. Newton, C. Quesada, J. Shores, and G. Staples. The Dominican Republic. Country environmental profile. A field study. JRB Associates, McLean, Virginia, 84 pp.

Lewis, L.A., and W.V. Coffey. 1985. The continuing deforestation of Haiti. *Ambio* 14:158-160.

Raffaele, H.A. 1983. A guide to the birds of Puerto Rico and the Virgin Islands. Fondo Educativo Interamericano, San Juan, 255 pp.

Wetmore, A. 1916. Birds of Puerto Rico. U.S. Dept. Agriculture Bull., Number 326, 140 pp.

Wetmore, A., and B.H. Swales. 1931. The birds of Haiti and the Dominican Republic. U.S. National Museum Bull., Number 155, 483 pp.

Author

The primary author of this proposed rule is Ronald M. Novak, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC. 20240 (703-358-1708 or FTS 358-1708).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "BIRDS," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *
 (h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
BIRDS							
Crow, white-necked	<i>Corvus leucoqnapalus</i>	U.S.A. (PR), Dominican Republic, Haiti.	Entire	E	NA	NA	

Dated: November 6, 1989.
 Richard N. Smith,
 Acting Director, Fish and Wildlife Service.
 [FR Doc. 89-29952 Filed 12-26-89; 8:45 am]
 BILLING CODE 4310-56-M