

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 23****Species Changes Proposed by the United States for the Convention on International Trade in Endangered Species of Wild Fauna and Flora**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of decision on U.S. submissions to amend the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

**SUMMARY:** The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species, which are listed in the appendices of this treaty. The United States, as a Party to CITES, may propose amendments to the appendices for consideration by the other Parties.

In this notice, the U.S. Fish and Wildlife Service (Service) announces the proposals to amend the CITES appendices that it has submitted to the CITES Secretariat on behalf of the United States and which will be considered for adoption by the Parties at the Tenth Meeting of the Conference of the Parties (COP10) in Zimbabwe, June 9–20, 1997. The reasoning for selecting these proposals and rejecting others under consideration is provided below.

In a related notice on March 27, 1997, the Service announced provisional agenda topics, draft resolutions, and other documents that the United States has submitted for consideration by the Parties at COP10 (62 FR 14689).

**DATES:** Proposals adopted by the Parties will effective on September 18, 1997.

**ADDRESSES:** Requests for information about species proposals should be directed to Chief, Office of Scientific Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Room 750; Arlington, VA 22203. Fax: 703–358–2276. Phone: 703–358–1708.

**FOR FURTHER INFORMATION CONTACT:** Dr. Marshall A. Howe (for animal species) or Dr. Bruce MacBryde (for plant species), Office of Scientific Authority, at the above address, telephone 703–358–1708.

**SUPPLEMENTARY INFORMATION:****Background**

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as “CITES” or “the Convention”,

regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in one of three appendices. Appendix I includes species threatened with extinction that are or may be affected by international trade. Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless the trade is strictly controlled. Appendix II also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party country identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties to control trade.

In a March 1, 1996 **Federal Register** notice (61 FR 8019), the Service requested public recommendations or draft proposals to amend Appendix I or II that the Service might consider proposing on behalf of the United States at COP10. That notice described the provisions of CITES for listing species in the appendices and set forth information requirements for proposals, based on new listing criteria adopted by the Parties at COP9. An August 28, 1996 **Federal Register** notice (61 FR 44324) requested additional comments from the public on species proposals still being considered after review of materials received in response to the March 1 notice. On the basis of a thorough review of comments received in response to the August 28 notice, the Service identified those proposals that met the listing criteria and presented the most compelling cases. These proposals to amend the appendices were submitted to the CITES Secretariat on January 10, 1997, to be considered and voted upon by the Parties at COP10. The rationale for selecting the proposals the United States submitted and rejecting the proposals it did not is presented below, along with a summary of the substantive public comments that aided in those decisions. Any proposed amendments to the appendices adopted by the Parties will become effective on September 18, 1997, unless the United States enters a reservation before that time. The Service will publish a rulemaking that would implement such amendments.

**Public Comments and Decisions on Possible Species Proposals**

The biological bases for proposals still being considered for submission by the United States were described in the **Federal Register** notice of August 28, 1996 (61 FR 44324) and are not repeated here in detail in most cases. Decisions and their respective rationales are as follows:

*Species Proposals Not Submitted***1. Walrus (*Odobenus rosmarus*).**

Although the Service's August 28, 1996 notice said nothing about a possible proposal related to walruses, the Service received a letter from Friends of Animals expressing concern about illegal taking of walruses in Alaska (in particular the discovery of 160 carcasses between Shishmaref and Kotzebue in 1996) and recommending that the United States prepare a proposal to include the walrus in CITES Appendix II. Walruses are presently on Appendix III of CITES (included by Canada) and receive extensive protection in the United States under the Marine Mammal Protection Act (MMPA). The MMPA permits limited take of walruses by Alaskan Natives but limits legal international trade of walrus products for the most part to handicraft items. Such uses are guided by a detailed “Conservation Plan for the Pacific Walrus in Alaska.” Population surveys are conducted jointly with Russia at 5-year intervals. Current populations appear to be healthy and have persisted well above the “optimum sustainable population” measure used by marine mammal specialists. There is no evidence of dramatic change in walrus populations in recent years, and the legal take has remained stable.

The Service has reviewed the 1996 incident cited by Friends of Animals and concluded that it was one of a small number of unfortunate and reprehensible poaching incidents that have resulted in mortality that, while locally dramatic in some cases, does not represent a significant impact on the walrus population of Alaska. Although there is a possibility that some of the poached ivory finds its way into illegal international trade, there is no evidence to suggest that the volume warrants additional CITES controls. Both on biological and trade grounds, the walrus in the United States does not meet the criteria for inclusion in CITES Appendix II. Therefore no proposal for taking such action was submitted.

**2. Uril (*Ovis vignei*).**

The Service had requested public comment in its August 28, 1996 notice

on possible co-sponsorship by the United States of a proposal drafted by Germany to include all subspecies of the urial, a species of sheep popular among sport trophy hunters, in Appendix I. There have been varying interpretations of what precise taxonomic entity was intended by the original listing of this species in Appendix I. As reported in the **Federal Register** of December 20, 1996 (61 FR 67293), a review of this problem was undertaken by the CITES Nomenclature Committee at the meeting of the CITES Animals Committee in September 1996, in Prague. The Nomenclature Committee concluded that the taxonomic entity intended for protection by the original listing could not be determined with certainty. It was, therefore, recommended that the current listing be interpreted as being equivalent to that in the CITES-adopted taxonomic reference for mammals, resulting in the entire species being included in Appendix I. The Animals Committee endorsed this interpretation. In light of this recommendation, the draft proposal for listing in Appendix I became redundant and Germany did not submit the proposal.

The Service stated its position in the December 20, 1996 notice that the United States should accept this recommendation of the CITES Nomenclature and Animals Committees and propose a corresponding change in its interpretation of the listing of *Ovis vignei* in 50 CFR part 23. This interpretation will become effective 90 days after the conclusion of COP10, if the Parties adopt the report of the Nomenclature Committee. Under this interpretation, all urial specimens will be considered to be in Appendix I, and imports will be subject to the normal permitting requirements applicable to species included in Appendix I. Public comment on this recommended position was solicited and is presently being reviewed. Irrespective of the final United States position, the proposal by Germany is no longer extant and potential co-sponsorship by the United States is moot. [The Service cautions that the interpretation of *Ovis vignei* likely to be adopted by the CITES Parties, in addition to moving certain sheep populations from unregulated status to Appendix I from the perspective of the United States, is a potential source of confusion with respect to interpretation of taxa listed under the U.S. Endangered Species Act (ESA). It is important to note that changes in CITES nomenclature have no effect whatever on taxa listed under ESA. For example, even though the sheep subspecies *severtzovi* is

considered now by CITES to belong to *Ovis vignei* (only one subspecies of which, *O. v. vignei*, is listed under ESA), the ESA continues to consider *severtzovi* to be a subspecies of the argali, *Ovis ammon*. It therefore continues to have endangered status under ESA as a consequence of the *Ovis ammon* listing as endangered].

### 3. Gyrfalcon (*Falco rusticolus*)

The North American Falconry Association (NAFA) recommended that the Service propose transferring the North American population of the gyrfalcon from Appendix I to Appendix II and prepared a proposal in support of this recommendation. NAFA submitted an identical proposal to Canada. Populations of this species have been stable except for natural fluctuations typical of high arctic breeders. Utilization is almost entirely by falconers and use is slight compared with the total population. Today, with the development of effective husbandry techniques, it appears that most demand for gyrfalcons could be met by captive-bred specimens.

The Humane Society of the United States (HSUS) and the International Wildlife Coalition (IWC) opposed the proposal, citing illegal trade concerns and failure to meet the downlisting criteria of CITES Resolution Conf. 9.24, Annex 4, paragraph B. Eight falconry interests favored the downlisting. Reasons included a price structure for captive birds under \$5,000 (some under \$2,000); favoring of hybrid falcons over pure gyrfalcons by Middle Eastern falconry interests; and absence of evidence that the wild population is in any difficulty. Sutton Avian Research Center likened their abundance within their range to that of the red-tailed hawk (*Buteo jamaicensis*) and supported the proposal. The North American Raptor Breeders' Association supported a downlisting but indicated that the species is at the peak of its popularity and that breeders are gearing up to "meet the demand." Sweden and Denmark, in response to range state consultations for other populations, objected to the proposed downlisting of the North American population and consequent split-listing of the species, because of the possibility that enforcement of trade restrictions on Appendix I populations of gyrfalcons would be undermined.

The United States indicated in its August 28, 1996 notice that Canada, the primary range state for the North American population, would be consulted before a final decision was reached. Citing Resolution Conf. 9.24, Annex 4, paragraph B, cautioning

Parties against a downlisting to Appendix II when enforcement problems for other species may ensue, Canada opted not to submit this proposal until after a working group of the Animals Committee has thoroughly evaluated the status of the species and the potential enforcement impacts of a downlisting. The United States agrees that, given the positions still held by some European Parties, the chances for adoption of a downlisting by the CITES Parties are minimal until there has been further review by the Animals Committee. The Service looks forward to working with interested organizations and Parties in the Animals Committee's working group and will proactively seek consensus on the appropriateness of an Appendix II listing for the species.

### 4. Yellow-headed Parrot (*Amazona oratrix*) and Lilac-crowned Parrot (*Amazona finschi*)

The Environmental Investigation Agency (EIA), World Wildlife Fund (WWF), IWC, New York Turtle and Tortoise Society (NYTTS), and Defenders of Wildlife (DOW) recommended that the Service propose the yellow-headed parrot, endemic to Mexico and Belize, for transfer from Appendix II to Appendix I. In addition, WWF recommended the lilac-crowned parrot, another Mexican endemic, for transfer from Appendix II to I. The yellow-headed parrot is restricted to the Atlantic and Pacific lowlands of Mexico and Belize and has suffered precipitous population declines (particularly in Mexico) because of habitat loss and collection for the pet trade. It has long been one of the most popular parrots in international trade. The United States believes this species clearly qualifies for inclusion in Appendix I under the new listing criteria. The status of the lilac-crowned parrot, a Mexican endemic, is not as clear. More information is needed on its status to clarify whether an Appendix I listing is warranted.

In its August 28, 1996 notice, the Service noted its understanding that Mexico was reviewing the status of these species and might develop proposals. The Service also indicated its potential willingness to co-sponsor such proposals, if submitted by Mexico. Since that time, Mexican authorities have concluded that there is insufficient information available at this time to warrant proposing the lilac-crowned parrot for inclusion in Appendix I. Although Mexico informed the United States that it was seriously considering proposing the yellow-headed parrot for Appendix I, no proposal was submitted to the Secretariat by the January 10, 1997, deadline. Therefore there are no

proposals on either of these species that will be considered by the Parties at COP10. The Service intends to continue working with Mexico on these issues between now and COP11.

#### 5. North American Softshell Turtles (*Apalone spp.*)

The HSUS submitted a proposal to include the softshell turtle genus *Apalone* in Appendix II. This genus consists of three species of freshwater turtles inhabiting both riverine and stillwater habitats: *A. spinifera*, ranging across most of the eastern and central United States and northeastern Mexico, with scattered populations farther west; *A. mutica*, inhabiting the Missouri, Ohio, and Mississippi River drainages south to the Gulf of Mexico and extending to western Florida and central Texas, with an isolated population in New Mexico; and *A. ferox*, ranging through southern South Carolina, Georgia, Florida, and the coastal plain of Alabama. Although there is little information on the population status of any of these species, none is considered potentially threatened at present. Some studies suggest population declines. They are more prolific than many turtles species, laying up to 40 eggs in a clutch. They can be multiple-brooded, with up to six clutches per year in *A. ferox*. All species are vulnerable to damming of rivers and to loss of preferred habitats in general.

Although some animals are taken for the pet trade, softshell turtles are primarily exploited for food. We understand that the major domestic and foreign markets are Asian communities. Service data suggest that as many as 60,000 live animals may have been exported in 1994 and over 16,000 lbs. of meat exported in 1993. *Apalone ferox* appears to be the species most heavily exploited. Many of the animals exported are produced in turtle farms in Florida and other southeastern states, but the impact of such farms on wild populations is poorly understood.

Several public comments were received. A large commercial dealer in Florida stated that he obtains young animals from a wide area, raises them to the 1–3 lb. stage in enclosed ponds, and sells them to New York Asian markets. He also believed very large numbers of eggs are collected in Lake Okeechobee, hatched, and exported as hatchlings. WWF and the Florida Game and Freshwater Fish Commission stated that large numbers of adults (presumably breeding-age) are taken from Lake Okeechobee illegally and sold for meat. P. Meylan (Eckard College) indicated such take results in local depletion of populations. The Pet Industry Joint

Advisory Council (PIJAC) stated that hatchling softshell turtles are exported from Louisiana turtle farms after being tested for *Salmonella* infection. David Cook, a Florida biologist, stated the species is not in immediate danger of extinction and, although there is probably some successful propagation, it is probably not happening without supplementation from the wild. P. Pritchard said *A. ferox* is still abundant in Florida. Two biology graduate students from Florida (J. Roman and B. Bowen) also said that *A. ferox* is abundant throughout peninsular Florida. The Wildlife Conservation Society (WCS) felt the biological information was not adequate to justify a proposal, but that there is enough evidence of high-volume trade to list in order that monitoring efforts would be better.

Despite high and apparently increasing levels of trade, the Service believes that the evidence presented does not at this time suggest that wild populations are being negatively affected or are particularly vulnerable to existing pressures. These species (especially *A. ferox*) have substantial recruitment potential compared with many other turtle species and may well be able to sustain current levels of take and trade. Therefore it appears that they may not meet the criteria for inclusion in Appendix II. Nonetheless, the Service intends to explore the relationships between softshell turtle exports and turtle farming practices before COP11, in order to obtain a better assessment of the impact of international trade on wild populations. The Service will also consult State agencies and turtle biologists, in an effort to better understand the degree to which wild animals are taken directly for export and the status and potential vulnerability of wild populations subject to commercial take.

#### 6. Gila Monster (*Heloderma suspectum*) and Beaded Lizard (*Heloderma horridum*)

The HSUS submitted a proposal to transfer the Gila monster and the beaded lizard from Appendix II to Appendix I and requested the Service to consider submitting it to COP10. The partly arboreal beaded lizard is patchily distributed in tropical dry forests of Mexico from Sonora to northern Chiapas, with one isolated race in eastern Guatemala. In consultation with Mexican authorities, the Service was told that the beaded lizard is fairly common within its Mexican range and is not taken for the pet trade to a significant degree. Mexico does not believe the beaded lizard meets the

criteria for inclusion in Appendix I. In the absence of compelling information to the contrary, the United States accepts this position and has not proposed transfer of this species to Appendix I.

The Gila monster occurs in arid and semi-arid gravelly and sandy habitats with some shrubs from southwestern Utah and southern Nevada and California south through Arizona, southwestern New Mexico, and into northern Mexico. Populations are believed by some to have suffered from habitat degradation, killing, and collection for roadside zoos (mainly historically) and the pet trade. But there are no estimates of population size or trend. The species is biologically vulnerable, because it has a clutch size of only 2–12 and it reproduces only every other year. The Gila monster is legally protected from commercial use throughout its range by State and Mexican legislation. Very small numbers appear in legal international trade records (40 were reported exported from the United States in 1994). Illegal trade is considered substantial by some, but total annual confiscations in the United States are typically fewer than 100 animals. The HSUS proposal argued that poaching has reached epidemic levels, individuals cost up to \$3,600 in Japan, and an Appendix I listing would eliminate the opportunity for wild-caught animals to be traded falsely as captive-bred.

There was very limited comment from the public on potential transfer of the Gila monster to Appendix I. The EIA, Sedgwick County Zoo, and an unaffiliated biologist supported the transfer. Transfer to Appendix I was opposed by PIJAC, Reptile Masters, two private breeders, and the National Herpetological Alliance (NHA), representing reptile breeders. PIJAC stated that the levels of reported legal trade are consistent with present captive-breeding capability, and that uplisting will drive prices up. The NHA claimed a transfer would discourage captive-breeding efforts and would not reduce the volume of illegal trade. One of the major breeders of *Heloderma* (S. and K. Osborne) disputed the alleged likelihood of much laundering of wild animals through captive-breeding operations and pointed out that there have been significant improvements in husbandry and breeding success since 1992. They indicated that at least 176 were hatched in the U.S. in the past two years. The State of Arizona opposed a transfer to Appendix I, stating that the species was not rare there, was no longer affected by collection for

roadside zoos, and did not meet the criteria for either Appendix I or Appendix II.

The Service has concluded that there is little evidence to suggest that this species meets the criteria for inclusion in Appendix I. There is no evidence for population declines beyond that which can be deduced from development near urban areas of the arid Southwest. Recorded legal trade is very small, and evidence of an illegal trade of sufficient magnitude to cause serious population concerns has not been provided. International trade controls afforded by the Appendix II listing, in combination with additional protections afforded by State and Mexican legislation, appear to be sufficient at the present time. Therefore, no proposal was submitted for this species.

7. Sail-fin Lizards (*Hydrosaurus* spp., *Hypsilurus* spp., and *Physignathus lesueurii*).

Gregory Watkins-Colwell, a biologist and expert on the genus *Hydrosaurus*, submitted a proposal for the inclusion of the two species in this genus (*H. amboinensis* = *weberi* and *H. pustulatus*) in Appendix II under provisions of Article II(2)(a), and the genus *Hypsilurus* (incorporating 11 species) and the species *Physignathus lesueurii* in Appendix II under provisions of Article II(2)(b) (similarity of appearance), and asked the Service to consider submitting the proposal to COP10. These species, also commonly known as sail lizards, sail-tail dragons, and water dragons, are native to the southwestern Pacific region, including Australia. *Hydrosaurus* lizards are endemic to the Philippines and eastern Indonesia, including western Irian Jaya. *Hypsilurus* are found primarily in New Guinea, with some ranging to Fiji, Oceania, and New South Wales and Queensland in Australia. *Physignathus lesueurii* appears to be confined to eastern Australia.

Virtually nothing is known about current sizes or trends of populations. Clutch size ranges from 5 to 9 eggs and reproduction occurs on an annual cycle. In addition to habitat loss, collection for the pet trade, a practice facilitated by the loss of natural habitat, is perceived to be a potential threat to at least some populations. Service wildlife enforcement records indicate total imports of 1,700 animals reported as *H. pustulatus* from 1993 to 1996.

Of the substantive comments received, eight were opposed to the listing and none were in support. The World Conservation Union (IUCN, R.W. Jenkins) pointed out that wild examples of the mentioned species that occur in

Australia and Papua New Guinea are protected by law, that there is not a similarity-of-appearance problem between *Hydrosaurus* and *Physignathus*, and that the species *Hydrosaurus amboinensis* is common to moderately abundant in Indonesia. The latter comment was supported by P. Harlow (University of Sydney), an expert on some of the species. He, along with PIJAC and California Zoological Supply, stated that the proposal was based too much on absence of evidence that Appendix II criteria are not met, rather than on evidence that they are.

In the absence of new information in support of the arguments for an Appendix II listing, the Service is not convinced, by either the biological or trade information, that the criteria for Appendix II are met. Although some of the species proposed, or isolated populations of some species, may face potential threats from international trade, the preponderance of evidence points to species that are fairly common and resilient. More species-specific information, more field evidence of population status, and evidence of higher trade volume would strengthen the proposal. The Service has, therefore, not submitted a proposal on this group of species at this time. However, the Service will make an effort to monitor more closely the imports of *Hydrosaurus* species in particular, and will urge other importing Parties to do the same, in an effort to improve our understanding of the magnitude of trade.

8. Eastern Diamondback Rattlesnake (*Crotalus adamanteus*) and Western Diamondback Rattlesnake (*C. atrox*)

EIA submitted a proposal for including the eastern diamondback rattlesnake in Appendix II and recommended that the Service consider submitting it to COP10. In considering this proposal, the Service suggested, in its August 28, 1996 notice, that the western diamondback should also be included, because of its similarity of appearance and its occurrence in high volumes in trade. Eastern diamondbacks range mainly through lowland pine forests from North Carolina to extreme eastern Louisiana. Because of extensive loss of those natural habitats, these snakes now survive in reduced numbers in other natural and human-altered habitats. Reproduction is limited by delayed sexual maturity (2–3 years) and long inter-birth intervals (2–3 years). Populations have declined significantly enough to result in their classification as a species of special concern in both South Carolina and Alabama. Using a scoring system for vulnerability, the

Florida Game and Freshwater Fish Commission ranked it near the median score for "species of special concern," but has not included the species in that list. Because rattlesnakes represent a potential threat to human health and life, this species, like many other rattlesnakes, has historically been killed intentionally in large numbers. Although commercial utilization for the pet trade, and for meat, skins, and novelty jewelry is noteworthy, records of export are not high. Service wildlife enforcement data show exports of 1,510 and 1,475 whole animals in 1992 and 1993 respectively. In 1992, 1993, and 1994, 26.7, 119.8, and 2,419.7 pounds of eastern diamondback meat were also recorded as being exported.

The proposal to include the eastern diamondback rattlesnake in Appendix II was supported by the HSUS and WWF. WWF pointed out, however, that 90% of the international trade is in *C. atrox*. Comments from eight biologists or biological organizations (including the Virginia Herpetological Society and the Herpetologists' League) were supportive. J. Butler (University of North Florida) said not enough is known about population status. B. Herrington (Georgia Southwestern University) and R. Mount (Auburn University) said there have been declines in populations, the latter saying it has been precipitous in Georgia, Alabama, and Florida. A large commercial dealer in the Southeast (Campbell's Farm) said the species is increasing in the Southeast, and 96% of the snakes he handles (domestic transactions) had been found dead. The Wildlife Conservation Society questioned whether, given the apparently low level of international trade, a listing on Appendix II would confer a significant conservation benefit. Louisiana (where the species is very rare) and Florida opposed listing. Florida advised caution in interpreting their own data on domestic trade, as they have drawn no conclusions themselves. Arizona opposed listing of the western diamondback for reasons of similarity of appearance, stating that the eastern diamondback is more easily confused with some other species of *Crotalus*.

Based upon population and trade data made available to the Service, the Service does not find a convincing case for proposing either of these species for Appendix II at this time. Although there are no quantitative data, population decline speculations for the eastern diamondback are undoubtedly correct. However, the declines appear to be related mainly to factors other than international trade. And there appears to be no basis for concluding (as for the

timber rattlesnake, discussed below) that populations are in such poor condition that even low levels of international trade could be detrimental. However, the Service acknowledges the existence of a significant level of international trade overall in rattlesnake products originating in the United States. Most of this trade is recorded as being in the western diamondback, a species considered biologically more resilient to exploitation than its eastern relative. But the potential for mislabelling eastern diamondbacks as western diamondbacks exists. The Service has not submitted a proposal but will continue to monitor trade in both of these species and reassess before COP11 whether either or both warrant Appendix II status at that time.

9. Western Atlantic and Gulf of Mexico Populations of Requiem Sharks (*Carcharhinidae* spp.) and Spiny Dogfish (*Squalus acanthias*)

The Ocean Wildlife Campaign (OWC) initially recommended that the Service propose listing in Appendix II populations of all shark species in the *Carcharhinidae* family that occur in the western Atlantic and Gulf of Mexico. A complete proposal on the dusky shark (*C. obscurus*) was subsequently received by the Service.

The dusky shark is a cosmopolitan, warm-water species, one of over 50 species in the *Carcharhinidae* family. The northwest Atlantic population has declined to only a small fraction of 1970's population levels. There is no strong evidence that the population is recovering. It, along with 38 other shark species, is managed in the United States under the National Fisheries Service's (NMFS) Fishery Management Plan for Sharks of the Atlantic Ocean (large coastal shark category). The species is subjected to a targeted long-line and inshore gill net fishery and is one of only several species of requiem sharks targeted by fisheries. It is a very desirable species for its fins, which are exported to Asian markets. Because requiem sharks are long-lived, slow-growing animals with limited reproductive potential, they are particularly vulnerable to overfishing.

Additionally, the OWC proposed that the spiny dogfish population in western Atlantic waters be listed in Appendix II. The western Atlantic population ranges from Greenland to Florida. Like the dusky shark, the spiny dogfish is an elasmobranch or cartilaginous fish. It shares with other elasmobranchs life history characteristics that render it more vulnerable to exploitation than many bony fishes. The spiny dogfish occurs in discrete populations in warm

temperate and boreal waters. Currently it appears to be common in northwest Atlantic waters, but it is considered fully utilized by the fishery. Recent stock assessments indicate a rapid increase in landings and a possibly unsustainable take of adult females. Between 1987 and 1993, spiny dogfish landings appear to have increased seven-fold. Dogfish are vulnerable to overharvest, as evidenced by the collapse of the Scottish-Norwegian stock of spiny dogfish. Discards from other fisheries, especially from vessels targeting groundfish, contribute an unknown but substantial fraction to current mortality levels. Spiny dogfish meat is increasingly popular as a substitute for more traditional commercial fish in such products as fish and chips in Europe. The primary commercial markets are Europe, for meat, and Asia, for fins and skin. There is no management plan in the U.S. waters for spiny dogfish, although the mid-Atlantic Fishery Management Council has begun the scoping process for such a plan.

Proposing the dusky shark and spiny dogfish for inclusion in Appendix II was opposed by all commercial interests and supported by all conservation organizations that responded to the August 28, 1996 notice. It was opposed by the National Fisheries Institute (a U.S. non-government organization), Fisheries Agency of Japan, Japan Fisheries Association, Global Guardian Trust (a Japanese non-government organization), International Wildlife Management Consortium, the European Bureau for Conservation and Development, the New Hampshire Commercial Fishermen's Association, Massachusetts Netters Association, and Seatrade (a commercial dealer in dogfish meat). It was supported by the National Coalition for Marine Conservation, National Audubon Society, WCS, OWC, American Society of Ichthyologists and Herpetologists, American Elasmobranch Society, and a petition from 21 scientists in the IUCN Shark Specialist Group.

The main arguments of supporters of the dusky shark proposal were the severely depleted populations, heavy targeted take for fins, lack of data on export from the United States, and the vulnerable biological characteristics of sharks. The main arguments of opponents were lack of adequate population information, existence of other multilateral fisheries management bodies, the need to complete the implementation of CITES Resolution Conf. 9.17, "Status of International Trade in Shark Species", before any listings are considered, the existence of

a management plan under NMFS, abuse of the precautionary principle (cf. Resolution Conf. 9.24), and the unfairness of the implications for commercial take of the other similar species worldwide.

The main arguments of supporters of the spiny dogfish being listed were the very heavy and increasing fishing pressure, decrease in the catch-per-unit-effort in the past few years, the targeting of adult females, the decrease in the size of fish now available and corresponding changes in the types of nets used to catch them, a history of other populations of elasmobranchs collapsing from over-fishing, biological vulnerability, and the absence of a management plan. The main arguments of those opposed to the listing were the large current populations, the importance in the commercial catch of New England fishermen, the prediction of a management plan being developed, existence of other multilateral fisheries management bodies, the need for better population information, and damage to the process for implementation of Resolution Conf. 9.17.

Although the United States believes both of these species meet the criteria for inclusion in Appendix II, for several reasons we have chosen not to propose them at this time. Foremost among these is the fact that management of landings, import, and export of marine fish will be complex and will take time to implement effectively. New mechanisms of interagency and international cooperation, new funding, additional personnel, training, and new permitting procedures will likely be required. Second, there is a serious similarity-of-appearance problem within the requiem shark group that will further complicate implementation and enforcement. Finally, more effective mechanisms of coordination and cooperation between CITES and international commercial fishery management bodies are desirable with respect to regulation of trade in CITES-listed marine fishes. For these reasons the United States has submitted a draft resolution to COP10 proposing establishment of a Marine Fishes Working Group (described in more detail in a notice in the **Federal Register** published on March 27, 1997 (62 FR 14689), under the auspices of the CITES Standing Committee and analogous to the CITES Timber Working Group, to address implementation issues associated with inclusion of sharks or other marine fishes in Appendix II, and to provide a forum for the completion of the implementation of Resolution Conf. 9.17. Given the anticipated substantial progress by this working group, the

United States will be prepared to submit appropriate shark species proposals for consideration by the Parties at COP11.

#### 10. Edible Pearlymussel (*Cyprogenia aberti*)

In the August 28, 1996 notice, the Service was considering proposing removal of four species of freshwater mussels (*Cyprogenia aberti*, *Fusconaia subrotunda*, *Lampsilis brevicula* [= *Lampsilis reeviana brevicula*], and *Lexingtonia dolabelloides*) from Appendix II. These were among several species recommended for removal from Appendix II by the Periodic Review Working Group of the CITES Animals Committee. This working group examines historical and recent trade levels in species included in Appendix II to determine whether their listing continues to be warranted. There is no evidence that any of the four species listed above have been involved in trade. In reviewing the status of these four species, the United States has concluded that only the edible pearly mussel (= western fanshell) warrants retention in Appendix II as a precautionary measure pending further review, as it is considered endangered by the IUCN. The United States has submitted a proposal, discussed below, to remove the other three species of freshwater mussels from Appendix II. No public comments were received on mussels.

#### 11. Pacific Yew (*Taxus brevifolia*)

The Oregon Natural Resources Council (ONRC) recommended that the United States propose the Pacific yew for inclusion in Appendix II. This species occurs in a limited range on public and private lands in the western United States and Canada. An effective anti-cancer compound (paclitaxel or Taxol) is obtained especially from its bark, as well as to an increasing but unknown extent from other species of *Taxus*, and similar *Taxus* compounds are being investigated. Some companies are working on methods of obtaining paclitaxel from *Taxus* needles and branches (which avoids loss of the whole plant). Laboratory substitutes for the natural compound are either not available or not available in adequate commercial quantity, and there is some semi-synthetic production. This species is not grown commercially in large quantity for medicinal use, but there is some ornamental cultivation. Pacific yew has minor value as a timber species. There is some export of Pacific yew biomass for manufacture of paclitaxel in other countries. The Himalayan yew (*Taxus wallichiana*) was listed in Appendix II at COP9 in 1994,

excluding the finished pharmaceutical products (i.e., the end-product medicine).

The Service sought information regarding: (1) the intensity and purposes of removal of the several parts of this species from the wild in various areas, the characteristics of the populations impacted by these extractions, and the trends in those populations; (2) the location, characteristics, and safety of populations that will not be available for extraction; (3) the extent to which biomass from the wild (i.e., materials other than the end-point medicine) is exported from either country; and (4) the degree to which the medicinal trade involves other wild *Taxus* species, and/or non-wild sources of the compound (e.g., from cultivated Pacific yew or other species, or from laboratory synthesis).

Comments were received from eleven organizations or individuals. The California Department of Forestry and Fire Protection stated they were "not opposed" to the potential listing in Appendix II, and comments in support of a proposal were received from the Oregon Department of Forestry, ONRC Action and ONRC, and the Humane Society of the United States. Weyerhaeuser Company stated that they were neutral with regard to inclusion of the wild population in Appendix II, and opposed to inclusion of specimens of cultivated origin. Comments in opposition to a proposal were received from the Province of British Columbia, the U.S. Forest Service, U.S. Fish and Wildlife Service Region 1 (which includes the Pacific Northwest region), the American Forest & Paper Association, and a private individual.

The threat (i.e., harvest pressure) on the Pacific yew and other yew (*Taxus*) species may presently be increasing, because of the interest of various companies in obtaining medicinal compounds from yews, and the limited capability of most companies to synthesize the effective medicine. Nevertheless, substantial populations of *Taxus brevifolia* are effectively protected in Federal and State parks and similar natural areas throughout its range in the United States and similarly in British Columbia. In addition, tree species in riparian areas (usually within 100 feet of streams) receive protection on some U.S. Federal lands (e.g., public lands administered by the U.S. Forest Service and the Bureau of Land Management). Furthermore, the U.S. Forest Service has developed thorough detailed management plans for harvesting and conserving Pacific yew, and the Pacific yew also has some direct legal protection in Oregon and British

Columbia. Also, efforts are continuing to produce the medicinal compounds in commercial quantity by chemical synthesis, and to cultivate several *Taxus* species in quantity.

Given these several circumstances, the U.S. Fish and Wildlife Service concluded that sufficient wild and managed populations of *Taxus brevifolia* are or can be sufficiently conserved under existing authorities and management systems or plans, so that inclusion of the species in Appendix II was not warranted. Reconsideration of this species for CITES might only become appropriate if, with an increasing interest in harvest from the wild, such authorities and directives in the United States or Canada were to significantly weaken or the management systems and plans were found to be inadequate in practice.

#### 12. Aloe Vera (*Aloe vera* var. *vera*) (Wild Population)

At its meeting in June 1995, the CITES Plants Committee recognized that this taxon may be endangered rather than extinct within its native range, which is increasingly considered to be on the Arabian Peninsula (or possibly the adjacent horn of Africa). At COP9, the wild population was delisted along with the artificially propagated population. All other aloes are listed in Appendix II or Appendix I, but the cultivated specimens of *Aloe vera* var. *vera* and products derived from them are very common in international trade. A specialist in succulents recommended that the United States submit a proposal to return this wild population to Appendix II. Because the focus would be on protecting the plants of this taxon in its isolated native range, such a listing would not interfere with the unregulated trade in the very common artificially propagated specimens and the derivatives of them.

Comments were received from: (1) the Humane Society of the United States recommending that a proposal be submitted to include the taxon in Appendix II or preferably Appendix I; (2) a succulent specialist, supporting a proposal; (3) the California Cactus Growers Association against submitting a proposal; and (4) the World Wildlife Fund-U.S., which provided some comments toward obtaining fuller information on the topic.

The United States considered this subject in coordination with the North Africa representative to the CITES Plants Committee (as agreed at the 1995 meeting of the Plants Committee), and with the IUCN Species Survival Commission Arabian Plant Specialist Group. Results were discussed at the

November 1996 meeting of the Plants Committee. The conclusion there was to agree to a collaborative effort involving especially Morocco, Italy, and the United Kingdom, for field work on the Arabian Peninsula and analysis of genetic variability to ascertain whether populations known there are truly native wild populations or only naturalized (perhaps from ancient introduction). The results are expected to be ready in time to make decisions for COP11.

### Species Proposals Submitted

#### 1. Green-cheeked (Red-crowned) Parrot (*Amazona viridigenalis*)

The EIA, WWF, IWC, NYTTS, and DOW recommended that the Service propose the green-cheeked (red-crowned) parrot, a Mexican endemic, for transfer from Appendix II to Appendix I. This species is endemic to riparian forests and deciduous woodlands of Tamaulipas and San Luis Potosí in northeast Mexico. Feral populations have been established in several locations in both Mexico and the United States, including Texas. Recent population estimates of only 3,000 to 6,500 birds in the wild represent a severe decline from populations several decades ago. Habitat loss, control as an agricultural pest, and extensive exploitation for the pet trade have all contributed to the decline. Although protected from capture and trade in Mexico since 1982, the level of illegal trade suggested by confiscations is highly significant relative to the estimated population of the species. The level of known, illegal international trade relative to its population status indicates that trade is a significant contributor to the precarious status of its populations. The Service indicated in its August 28, 1996 notice that it believes this species qualifies for Appendix I under the new listing criteria and that Appendix I trade controls would further discourage illegal trade, because of the more stringent permitting requirements and the rigorous criteria that captive-breeding facilities for Appendix I species must meet.

Proposing the green-cheeked parrot for inclusion in Appendix I was supported by the HSUS, DOW, and the Animal Welfare Institute (AWI). It was opposed by the American Federation of Aviculture (AFA), Hill Country Aviaries, PIJAC, and C. Roscher. Arguments against uplisting any of the Amazon parrots then being considered included: insufficient data on the status of wild populations; low likelihood that a complete prohibition on trade would

decrease the incidence of illegal trade (because the species is presently protected in both range states); and discouragement of captive-breeding, which is viewed as a hedge against loss of species in the wild for reasons unrelated to international trade.

In its August 28, 1996 notice, the Service noted that it expected Mexico to prepare a proposal to include this species in Appendix I. Mexico did prepare and submit such a proposal to the CITES Secretariat. The United States continues to believe that this species clearly meets Appendix I criteria and will gain a measure of additional security from an Appendix I listing. The United States appreciates that the country to which it is endemic has similarly recognized this need. In response to concerns expressed by avicultural interests about the impact of an Appendix I listing on trade in captive-bred birds, the Service notes that specimens of Appendix I species bred in captivity in accordance with CITES standards (and in facilities registered by the CITES Secretariat, if bred for commercial purposes) can be traded with CITES Appendix II documents. The Service believes that such a listing will encourage captive-breeding operations that are virtually self-sustaining and represent no direct or indirect threat to wild populations. Having received Mexico's concurrence, the United States is now a co-proponent of their proposal. Independently, Germany also submitted a proposal to include the green-cheeked parrot in Appendix I.

#### 2. Straw-Headed Bulbul (*Pycnonotus zeylanicus*)

WWF proposed that "southeast Asian songbirds" involved extensively in the pet trade be considered for CITES protection, but did not provide a draft proposal. The Service examined the information contained in the TRAFFIC Southeast Asia report "Sold for a Song" provided by WWF, and indicated its interest in proposing one of the species that clearly meets the criteria for inclusion in Appendix II, the straw-headed bulbul of Indonesia (Sumatra, Kalimantan, Java) and Malaysia. This species has declined or been extirpated from all but the remotest parts of its range in Indonesia by a combination of excessive trapping for the pet trade and habitat destruction. The remainder of its natural range, in Peninsular Malaysia, is smaller than its former range in Indonesia.

Subsequent to its initial consideration of developing a proposal, the United States learned that the Netherlands had already drafted a proposal to include the

straw-headed bulbul in Appendix II and conducted range-state consultations. In its August 28, 1996 notice, the Service indicated its potential interest in co-sponsoring this proposal with the Netherlands. No public comments were received on this possibility. The Service, therefore, with the approval of the Netherlands, indicated its co-proponency on the proposal submitted to the CITES Secretariat by the Netherlands to include the straw-headed bulbul in Appendix II.

#### 3. Map Turtles (*Graptemys* spp.)

HSUS, supported by DOW, EIA, IWC, and NYTTS, submitted a proposal to include the twelve species of map turtles, genus *Graptemys*, in Appendix II and requested the Service to consider proposing it to COP10. This genus includes the following species: *Graptemys geographica*, *barbouri*, *pulchra*, *ernsti*, *gibbonsi*, *caglei*, *pseudogeographica* (includes *kohnii*), *ouachitensis*, *versa*, *oculifera*, *flavimaculata*, and *nigrinoda*. *Graptemys geographica* occurs throughout most of the eastern half of the United States and southeastern Canada; *G. pseudogeographica* ranges through the Missouri and Mississippi River drainages; *G. ouachitensis* overlaps extensively with the latter but extends farther east and west. These three species are the most common and widely distributed members of the genus. *Graptemys flavimaculata* and *G. oculifera* are the most geographically restricted species, occurring only in limited river systems in Mississippi (and Louisiana—*G. oculifera* only). Both are listed as threatened under the ESA. *Graptemys nigrinoda* is classified as endangered under Mississippi State law and *G. barbouri* is considered vulnerable to extirpation in Florida.

As with most turtle species, population data are limited, except for those species already considered endangered or threatened. Biologists who have studied seven of the species believe that populations have generally declined. Data from the Service's wildlife enforcement records show that international trade is substantial and may be increasing significantly. Although Service export records identified to genus or species totaled 27,720 for 1991 and 111,674 for 1994, discussions with turtle farmers and the State of Louisiana (see below) indicate that actual numbers are much higher. The bulk of this trade appears to consist of hatchlings produced in captivity on turtle farms in the Southeast. Although some turtle farmers in Louisiana are beginning to recruit some of their own breeding stock from captive-hatched

animals, it is still necessary to draw upon wild populations to varying degrees for establishing and maintaining a breeding population.

There was considerable public reaction to the proposal. The WCS recommended listing for monitoring purposes and recommended that States collect species-specific data on age classes, because of the sensitivity of populations to collection of breeding adults. M. Ewert (Indiana University) felt the genus should be listed because nine of the twelve species are so restricted in distribution. K. Dodd (U.S. Geological Survey, Biological Resources Division) believes some of the unlisted species are vulnerable to international trade, although some species are abundant. S. Santhuff (University of Florida) supported the proposal and believes *G. nigrinoda* should be listed under the ESA. He expressed concern over the vulnerability of the genus to collection and referred to a collector in Georgia who set 3,000 as a goal for a single night's collection.

PIJAC and various commercial interests expressed opposition to the proposal. PIJAC questioned assertions about the popularity of map turtles as pets in the United States, and pointed out that the majority of exporters listed in the proposal are regulated turtle farms. PIJAC recommended that export figures be broken down by "captive-raised" and "wild-caught" in order to judge potential impacts. The proposal from the HSUS did not reflect the significant portion of the trade attributable to captive-hatched animals. C. Sullivan (a shipper of turtles) stated that there are at least 40 licensed turtle farms in the Southeast and that all exports are of hatchlings from eggs laid in turtle farms. He indicated that Florida, Tennessee, Arkansas, and Louisiana, unlike Mississippi, permit take of map turtles from the wild. This situation was also reflected in comments from several turtle farmers. Sullivan also stated that farmers have recently learned that these species reproduce well in captivity after an adjustment period of about three years. A turtle farmer (Belzoni Turtle Farms) from Mississippi claimed to produce 10,000 hatchlings/year. Another Mississippi farmer (P. Alleman, Sunshine Turtle Farms) said the farms are not currently managed for perpetuity, i.e., young are not raised to replace breeders.

Of States responding to the notice, Pennsylvania, West Virginia, and Mississippi supported the proposal. Wisconsin supported listing of the nine more restricted species, but was neutral on the other three. Louisiana opposed

the proposal. Louisiana stated that hatchlings sold from Louisiana are from farms, which restock with fewer than 1,000 wild-caught adults per year total. They estimated that 128,000 to 150,000 hatchlings from Louisiana are exported per year. There is no State management plan in Louisiana, but the State Department of Agriculture and Forestry requires that each farm return at least 200 turtles to the wild annually.

Given the large numbers exported and the restricted distributions and apparently diminished (in some cases) populations of nine *Graptemys* species, the Service is concerned about the potential impact of present levels of international trade on wild populations. The Service believes all species except *G. geographica*, *G. pseudogeographica*, and *G. ouachitensis* qualify for inclusion in Appendix II under provisions of Article II(2)(a). For effective enforcement of regulations applicable to trade in these nine species, it is also necessary to include the remaining three similar-appearing species in Appendix II pursuant to Article II(2)(b). Therefore the Service has submitted a proposal to include *G. barbouri*, *pulchra*, *ernsti*, *gibbonsi*, *caglei*, *versa*, *oculifera*, *flavimaculata*, and *nigrinoda* in Appendix II under provisions of Article II(2)(a), and *G. geographica*, *pseudogeographica*, and *ouachitensis* in Appendix II under provisions of Article II(2)(b). Fortunately, it appears from preliminary information made available to the Service, that *G. pseudogeographica* (including *kohnii*) and *G. ouachitensis*, two of the species proposed under 2(b) provisions, are the dominant species in trade. Scientific Authority findings for species so listed will be based only upon the potential impact of their export on any of the other nine species.

#### 4. Alligator Snapping Turtle (*Macrochelys temminckii*).

The HSUS, supported by DOW, EIA, IWC, and NYTTS, submitted a proposal to include the alligator snapping turtle in Appendix II and requested the Service to consider proposing it to COP10. The alligator snapping turtle, the largest freshwater turtle in North America, inhabits most river systems emptying into the Gulf of Mexico, including the Mississippi River as far north as Illinois. It also makes use of bodies of still water associated with river systems. In these habitats, females of about 12 years and older produce one clutch of 9 to 52 eggs annually, with a mean of 25. From mostly anecdotal evidence, especially from turtle trappers, it is evident that this species has declined severely throughout much

of its range. The primary agents of population decline appear to be degradation and damming of river systems and (largely historical) widespread commercial take for its meat, which has been marketed both domestically and internationally. Collection appears to have severely depleted some local populations and altered demographic structure in others.

The species is classified as vulnerable by the IUCN and listed as rare, threatened, or endangered in many of the States on the periphery of the range and in Georgia. Most southeastern States afford this species a greater level of protection than that afforded most other turtles. It is considered a species of special concern in Florida and "questionable" as a possible addition to Louisiana's list of species of special concern. Louisiana appears to be the only State that has not prohibited commercial take. Hatchlings, almost entirely produced in turtle-farming operations, are exported for the pet trade. Service wildlife enforcement records show an increase in the export of live turtles from 290 in 1989 to 9,639 in 1994, primarily to markets in Japan, Hong Kong, and Western Europe. Most of these exports probably represent such farm-raised hatchlings.

Inclusion of the alligator snapping turtle in Appendix II was strongly supported by WCS, which cited the well-documented population decline and a need to monitor trade more effectively. The NHA, which opposed listing of other turtles being considered, supported this proposal, if there are data independent of the proposal that support the arguments advanced. NHA also insisted that permits for captive-reared or sustainably wild-taken specimens be issued. P. Meylan (Eckard College) pointed out that this species is threatened by both habitat specificity (like map turtles) and commercial demand for meat (like softshell turtles). M. Ewert (Indiana University) also pointed out the sometimes severe effect that raccoons and fire ants can have as predators on alligator snapper nests. According to a member of the Louisiana Reptile and Amphibian Task Force, in the late 1970's trappers in southern Louisiana had to go to northern part of the State to find significant numbers of this species. Sixty-one percent of the respondents to a questionnaire from the Louisiana Department of Wildlife and Fisheries to trappers on the population status of alligator snappers reported a decrease, especially in the past 10 years. Two graduate students (J. Roman and B. Bowen, University of Florida) who were collecting meat from dealers around the Southeast for mitochondrial DNA

analysis, said that trappers in southern Louisiana reported the area being "trapped out." One turtle farmer (P. Alleman) in Mississippi stated that the species has become very rare in Mississippi.

Three States responded to the notice: Mississippi strongly supported the proposal; Oklahoma had no opinion; and Louisiana opposed it. A consensus of Louisiana turtle farmers was that virtually all exports of alligator snappers were of farm-raised hatchlings and that few animals are taken from the wild. This was supported by the Louisiana Department of Wildlife and Fisheries, which stated that fewer than 100 are sold commercially for meat each year and probably fewer than 100 are collected from the wild annually for any commercial purpose, including supplementation or expansion of farm breeding stock (presently about 1,000 adults in Louisiana). The proposal was opposed by PIJAC on the grounds that the commercial farms in Mississippi and Louisiana are the source of most of the exported animals.

The Service continues to be concerned about the contribution of past commercial take to the current precarious status of alligator snapping turtles in many parts of their range and believes the species clearly meets criteria for inclusion in Appendix II. Although the increasing levels of export appear to be related largely to expanding markets for farm-raised hatchlings, the direct or indirect impact of these practices on wild populations are not well known or monitored. Therefore the Service believes inclusion in Appendix II will provide a needed measure of protection for the species and has submitted an Appendix II proposal.

##### 5. Timber Rattlesnake (*Crotalus horridus*)

The EIA, supported by HSUS and IWC, submitted proposals for including the timber rattlesnake in Appendix II and recommended that the Service consider submitting it to COP10. The timber rattlesnake occurs in 27 States, from New Hampshire and Minnesota south to Texas and Florida, having been extirpated from Maine and Rhode Island, and Canada (Ontario). It occupies a variety of habitats, particularly rugged, rocky outcroppings. Southern forms ("canebrake" rattlesnakes) use a variety of lowland sites such as pine flatwoods, floodplains, and bottomland hardwoods.

Populations have declined severely in northeastern states, primarily from human encroachment and development and hunting. The species is now known

from only 23 localities in New England, contrasted with 90 localities twenty years ago. A 1991 biological symposium concluded that serious declines have taken place in Connecticut, Massachusetts, Michigan, New York, New Jersey, and Vermont. It is considered endangered in Connecticut, Vermont, New Hampshire, Ohio, Massachusetts, and New Jersey and threatened in New York, Texas, Illinois, and Indiana. It is believed to be approaching extinction in Pennsylvania, where large specimens are extremely rare today. It is particularly vulnerable in the northern part of its range, because females mature at age 7–11 years and produce young only every 3–4 years. The habit of congregating in hibernacula during winter months makes them vulnerable to being killed in large numbers.

Trade is relatively limited compared with some of the larger species of *Crotalus*. Only Florida appears to have collected information on domestic trade: between 1990 and 1992, 109 were taken for the pet trade and dealers handled 366 dead animals obtained in Florida and an additional 4,346 obtained from other southeastern states. Service records for international trade show an average of 50–75 live/year and 200–750 leather pieces/year. Most of the trade in parts probably represents the commoner and less vulnerable southeastern "canebrake" rattlesnakes.

The proposal was supported by the HSUS. Seven of eight biologists responding to the notice supported the proposal, with one offering no position. One supported mainly due to lack of information and another added parenthetically that the species may actually be increasing in Georgia (where it seems to be more of a habitat generalist than the eastern diamondback). The proposal was opposed by the WCS on the basis of the apparent paucity of trade, and there were no comments from commercial interests. Listing was supported by West Virginia, Connecticut, Illinois, Wisconsin, and Pennsylvania and opposed by Florida and Louisiana, where it is being considered for the status of "species of special concern." Louisiana also commented that a listing would have little impact and would hinder legitimate commercial interests.

Despite low volumes of international trade, the population status of northern forms of the timber rattlesnake is so poor that even a small demand for international trade could be detrimental to the survival of some populations. Therefore the Service has submitted a proposal to include this species in Appendix II and, if the proposal is

adopted, will consider the geographic variation in population status of this species when making export findings.

##### 6. Sawfishes (Pristiiformes spp.)

Sid F. Cook and Madeline Oetinger, of Argus-Mariner Consulting Scientists, submitted a proposal to include all species of the order Pristiiformes (sawfishes) in Appendix I. Sawfishes are a very small group of cartilaginous fishes related to sharks, rays and chimeras (class Chondrichthyes). The order consists of only one family, Pristidae, incorporating seven species (although the taxonomy of the group is debated). As generally accepted, these are: *Pristis pectinata* (smallmouth sawfish), *P. clavata* (dwarf or Queensland sawfish), *P. zijsron* (green sawfish), *P. pristis* (common sawfish), *P. microdon* (freshwater, Leichhardt's, great-tooth, largetooth sawfish), *P. perotteti* (largetooth sawfish), and *Anoxypristis cuspidata* (knifetooth, pointed or narrow sawfish). Cumulatively, sawfish species are distributed worldwide in tropical and temperate marine waters, and in some cases in freshwater habitats. Species-specific distributions are described in detail in the August 28, 1996 notice. *Pristis perotteti* and *P. pectinata* are the only species that occur in waters of the United States.

Sawfishes share with their shark relatives several life history characteristics (e.g., slow growth, low fecundity, late sexual maturity, long life-span, and long gestational period) that render them more vulnerable to overfishing than many bony fishes. Other factors increasing the vulnerability of these species are restriction to a narrow depth range, disjunct distribution patterns, and habitat degradation. Most species have exhibited either severe population declines or have an extremely localized distribution. Four species (*P. pristis*, *P. pectinata*, *P. perotteti*, and *microdon*) are considered endangered by IUCN (other species have not been evaluated). Although data on international trade and other forms of exploitation of sawfishes are sketchy, localized effects can be seen in individual populations. Quantitative trade data are very limited but sawfish are known to be targeted commercially in artisanal fisheries, taken as live specimens for public aquaria, for the curio trade (rostral saws), for traditional Asian medicines (rostral saws of *Anoxypristis cuspidata*), and for fine leather (hides).

The proposal was opposed by the Japanese Fisheries Agency, Japanese Fisheries Association, International Wildlife Management Consortium, and

European Bureau for Conservation and Development. It was supported by the National Audubon Society, Center for Marine Conservation (CMC), OWC, American Elasmobranch Society, American Society of Ichthyologists and Herpetologists, and by a petition from 21 members of the IUCN Shark Specialist Group. Arguments against were based on the need to follow through on the Resolution Conf. 9.17 process before taking any listing action for sharks; the need for more data on population status to justify listing (abuse of precautionary principle); and lack of evidence that trade has had any impact on populations. Arguments in favor of the proposal were mainly based on the intrinsic vulnerability resulting from the biological attributes described above, the population declines evidenced by declines in by-catch, and also the existence of much more evidence of past and present trade (including provision of biological supply houses with rostral saws) than suggested by those opposed. The CMC also pointed out that evidence of trade is not necessarily a prerequisite to inclusion of taxa in Appendix I (the Service strongly agrees that the criteria in Resolution Conf. 9.24 are unequivocal in this regard).

Of 72 range states to which an earlier draft of the proposal was sent for comment, six responded. The Government of the Philippines supported the proposal. The Government of the Dominican Republic took no position but provided anecdotal information that indicated similar declines there as reported in the proposal. The Government of Mexico considered existing information from that country to be insufficient to enable a determination of eligibility for Appendix I. The Government of Colombia felt that more convincing documentation of historical declines in landings needs to be presented before Colombia could support an Appendix I listing. The Government of Japan opposed the proposal on the grounds that there are not enough data to show convincingly that the sawfish are eligible for Appendix I. The Government of Cyprus indicated that no species in this group occurred in its waters.

Notwithstanding the absence of strong quantitative information on population status, the United States believes that the obvious rarity of these species, and the consistency of anecdotal evidence of population declines wherever data are available, are clear indicators of their vulnerability to any form of use, including international trade. On this basis, the Pristiformes meet the criteria

for inclusion in Appendix I, and the United States has submitted a proposal to this effect.

#### 7. Sturgeons (Order Acipenseriformes)

In a December 20, 1996 **Federal Register** notice (61 FR 67293), the Service announced that the United States was considering offering to co-sponsor a proposal by Germany to include all species of sturgeons not presently listed in the appendices in Appendix II. The Acipenseriformes are a primitive group of approximately 27 species of fish, whose biological attributes make them vulnerable to intensive fishing pressure or other agents of elevated adult mortality. Many species of sturgeons, the primary source of commercial caviar, have experienced severe population declines worldwide because of both habitat destruction and excessive take for international trade. Some are at serious risk of extinction. Three species in the United States (shortnosed sturgeon [*Acipenser brevirostrum*], pallid sturgeon [*Scaphirhynchus albus*], and the Kootenai River population of white sturgeon [*A. transmontanus*]) are listed as endangered under the ESA, and a subspecies of the Atlantic sturgeon (the Gulf sturgeon, *A. oxyrinchus desotoi*) is listed as threatened. CITES presently includes two species, the shortnosed sturgeon and Baltic sturgeon (*A. sturio*), in Appendix I and one species, the Atlantic sturgeon (*A. oxyrinchus*) in Appendix II. The American paddlefish, *Polyodon spathula*, has also been included in Appendix II since 1992.

Sturgeons of the Caspian Sea produce the highest quality caviar and are the source of more than 90 percent of the world caviar trade. Since the mid-1970's very marked declines in the populations of all six of the Caspian Sea's sturgeon species have been noted, especially populations of the most heavily exploited species: Beluga (*Huso huso*), Russian (*A. gueldenstaedtii*), and stellate (*A. stellatus*) sturgeons. Five of the six species of Caspian sturgeons are considered endangered by IUCN. The problem has become exacerbated in recent years due to deteriorating fishery management and enforcement capabilities in the region, resulting in significant levels of poaching and illegal trade. The total present take is believed to far exceed sustainable levels.

The final proposal from Germany proposes five species for inclusion in Appendix II under provisions of Article II(2)(a), i.e., because of their population status and trade levels: Beluga (*Huso huso*), Russian (*A. gueldenstaedtii*), stellate (*A. stellatus*), Siberian (*A. baerii*), and ship or spiny (*A.*

*nudiventris*) sturgeons. All other species of sturgeons not already listed are proposed for inclusion in Appendix II under provisions of Article II(2)(b), i.e., because of the similarity of appearance of their caviar to that of the Caspian species. The native species of sturgeons not listed under the ESA that would be included in the II(2)(b) category are the following: lake sturgeon (*A. fulvescens*), green sturgeon (*A. medirostris*), non-Kootenai-River populations of white sturgeon (*A. transmontanus*), shovelnose sturgeon (*S. platyrhynchus*), and Alabama sturgeon (*S. suttikusi*).

The Service participated in a meeting in November 1996 in Moscow involving the Russian Federation and several former Soviet Republics, including several that participate in the Caspian Sea sturgeon fishery: Azerbaijan, Kazakhstan, and Turkmenistan. The meeting, hosted by the Russian Federation State Committee for Environmental Protection and the German Scientific and Management Authorities, yielded an overwhelming acknowledgment of the severity of the threat to sturgeon populations in the Caspian Sea. The existence of a substantial illegal trade in caviar (estimated to constitute up to 80 percent of the trade), which has resulted in a decrease in both the quality and price of caviar in international markets, also was recognized.

Inclusion of the sturgeons in Appendix II as proposed would enable: (1) implementation of management controls necessary to stabilize sturgeon populations in the Caspian Sea and elsewhere in the world; and (2) better regulation of trade by importing countries, especially through an improved capability for distinguishing legal from illegal caviar. The United States is not only a range State for some of the most endangered sturgeon populations, but it is also a major importer of caviar products (between 50 and 60 metric tons per year from 1992 through 1995), mainly from Caspian Sea sturgeon populations. Given these facts, and recognizing the dire situation facing the Caspian Sea sturgeon fishery, the United States has agreed to co-sponsor the proposal of Germany to include five presently unlisted species of sturgeons in Appendix II under provisions of Article II(2)(a) and the remainder in Appendix II under provisions of Article II(2)(b). As with other species proposed for listing under the provisions of Article II(2)(b), findings related to export of sturgeon products from the United States will be based only upon potential impacts of export on those species listed under provisions of Article II(2)(a), or on those included in

Appendix I. Only one public comment on the December 20, 1996 notice was received: the HSUS indicated their support for United States co-sponsorship of the German proposal and stressed the importance of addressing the considerable management and enforcement concerns associated with the potential listing.

8. Freshwater Mussels: Long solid mussel (*Fusconaia subrotunda*), Ozark lamp pearlymussel (*Lampsilis brevicula*) [= *L. reeviana brevicula*], and Slabside pearlymussel (*Lexingtonia dolabelloides*)

The Service indicated its intent in the August 28, 1996 notice to develop a proposal to remove the above three species of freshwater mussels, and the edible pearlymussel (*Cyprogenia aberti*), from Appendix II. These were among several species endemic to the United States that were recommended for removal from Appendix II by the CITES Animals Committee's Periodic Review Working Group, which examines historical and recent trade levels in species included in Appendix II to determine whether their listing continues to be warranted. We have no indication of trade in any of these species in recent years.

Recognizing that as many as 20 percent of the approximately 300 species and subspecies of freshwater mussels may be threatened or endangered, the Service has been reluctant in the past to propose that any of these species be delisted, at least until enforcement difficulties were overcome. Effective August 1, 1996 (61 FR 31850), however, the Service's regulations on importation, exportation, and transportation of wildlife were revised to require that wildlife exports, including freshwater mussels, be made available for inspection and cleared for export prior to being exported from the United States. This provision will enable the Service to better ensure that endangered mussels are not exported, and therefore reduce the need for the application of CITES for non-endangered mussels, especially for those that do not appear to be traded.

The Service received no public comments about its intent to prepare a mussel de-listing proposal. The Service has proposed removal of *Fusconaia subrotunda*, *Lampsilis brevicula* (= *L. reeviana brevicula*), and *Lexingtonia dolabelloides* from Appendix II. The Service has not, however, proposed any change in the other species of mussels considered by the Periodic Review Working Group: *Epioblasma torulosa rangiana* and *Pleurobema clava*, which are listed as endangered under the ESA, or *Cyprogenia aberti*, which is

considered endangered by the IUCN, as discussed above.

#### 9. Bigleaf Mahogany (*Swietenia macrophylla*)

This proposal was submitted by the United States with the Republic of Bolivia as co-proponent, to include *Swietenia macrophylla* of the neotropics in Appendix II of CITES, to regulate the international trade in its logs, sawnwood, whole veneer sheets and plywood sheets. The listing would not regulate the finished products, such as the furniture. The United States is by far the largest importer of the wood of this species, which occurs from Brazil and Bolivia to Mexico, and Bolivia is the second largest mahogany exporter. The objective of the listing is to better manage *Swietenia macrophylla* to help ensure its conservation and its continued international trade and use.

Background: In response to a March 1, 1996 **Federal Register** notice (61 FR 8019), the World Wildlife Fund-U.S., Defenders of Wildlife, and individuals had requested that the United States propose this species for inclusion in Appendix II (see the **Federal Register** of August 28, 1996 [61 FR 44324]). Bigleaf mahogany from the Americas was listed in Appendix III by Costa Rica in 1995, including its saw-logs, sawn wood, and veneer sheets only—i.e., no other parts or derivatives (see **Federal Register** of February 22, 1996 [61 FR 6793]). The other two species of the genus *Swietenia*, Caribbean mahogany (*Swietenia mahagoni*) and Pacific Coast mahogany (*Swietenia humilis*) are included in Appendix II. Species listed in Appendix II or Appendix III can be traded commercially, whereas trade for primarily commercial purposes is prohibited for the species included in Appendix I.

CITES Appendix II includes species for which the inclusion in Appendix II will facilitate or encourage sustainable, non-detrimental trade in perpetuity. To export regulated Appendix II specimens, a CITES Party country must make a management finding that the specimens were legally acquired (e.g., in the case of mahogany, taken from the country's legally approved areas and logged according to accepted national standards, such as not cutting trees smaller than a legally approved minimum trunk diameter), and a scientific finding that the export is not detrimental to the survival of the species. Importing countries would become partners in this effort, through their obligation to ensure that all the mahogany imports are accompanied by appropriate CITES permits or certificates documenting that the

exports have met the standards required by the treaty. A basic goal of CITES is to maintain a species in its natural systems through its range at a level consistent with its role in the ecosystems in which it occurs. By discouraging illegal exploitation, CITES can help to avoid the loss of wild-functioning populations in natural areas such as national parks and similar reserves.

Bigleaf mahogany (*Swietenia macrophylla*) has been proposed for Appendix II, not for the much more restrictive Appendix I. The treaty is founded on two bases: both to strictly protect endangered species (cf. Appendix I), and to prevent the endangerment of species that are at increasing risk from international trade, by Appendix II regulation of commercial trade, so that stricter measures (such as an international commercial trade ban) would not have to be taken in the future. Thus consumers should have increased confidence buying products when they include the wood of CITES Appendix II specimens that have been approved under these international standards for export and accepted at import.

Proposals to include *Swietenia macrophylla* in Appendix II were separately submitted to the last two meetings of the Conference of the Parties to CITES (COP9 and COP8) by three governments, the Netherlands in 1994, and Costa Rica and the United States in 1992. At COP9 (in Florida in November 1994), 50 of 83 Parties (among them the United States and the European Union countries) voted in favor of including this species and its logs, sawn wood, and veneer sheets in Appendix II, which fell 6 votes short of the two-thirds majority of voting Parties needed for adoption (see **Federal Register** notices of November 8, 1994 [59 FR 55617] and January 3, 1995 [60 FR 73]). At COP9 as well as COP8 (in Japan in March 1992), the majority of the 13 countries where the species is native (range States) expressed support for including this species in Appendix II.

Recent Activities: In the August 28, 1996 **Federal Register** (61 FR 44324), the U.S. Fish and Wildlife Service sought new information in particular to supplement the information summarized in the COP9 and COP8 proposals (or otherwise available to the Parties at those meetings), especially in relation to the CITES listing criteria as delineated in Resolution Conf. 9.24 (cf. the **Federal Register** of March 1, 1996; 61 FR 8019). The Service also sought details on implementation of the inclusion of this species in Appendix

III, which entered into force on November 16, 1995. The text of the draft proposal was provided to interested organizations and individuals. In September 1996, the Service, which functions as the U.S. Management Authority for CITES, provided the draft proposal to the CITES Management Authorities of the 13 range States of bigleaf mahogany and requested their comments regarding a possible proposal to include the species in Appendix II.

In early October 1996 in Panama the CITES Timber Working Group held its second meeting. The Group's scope or terms of reference covered details of implementation for timber tree species (i.e., they did not include topics directly involving potential new listings). The Group reviewed the experience of the CITES Parties in implementation of the Appendix III listing of *Swietenia macrophylla*, and concluded that no particular difficulties had been encountered with the implementation of this listing.

In mid-November 1996 in Costa Rica the CITES Plants Committee held its annual meeting. The United States earlier had requested that the possible mahogany proposal be included as an information item on the agenda; the U.S. representative reported that the draft potential proposal had been sent to the 13 range States on September 25, 1996, with a request for their comments by November 15 (which was the final day of that Committee's meeting), and explained the U.S. review process. An agenda item of the Netherlands at the meeting addressed tree species in relation to the CITES listing criteria and/or IUCN (World Conservation Union) status criteria. The United States encouraged conceptual discussion on the scope of such findings, stating that it would be particularly helpful in relation to considering a possibly forthcoming proposal for *Swietenia macrophylla*. Although there was no extensive discussion of the potential mahogany proposal at this meeting, at the Committee's meeting in May 1994 in Mexico prior to COP9, there had been lengthy discussion and a conclusion in favor of a similar proposal for *Swietenia macrophylla*.

Comments and Review: International meetings on this issue were held in February 1992 (a Mahogany Workshop in Washington, D.C., hosted by the Tropical Forest Foundation on behalf of the International Wood Products Association and held at the Organization of American States); and in September 1994 (a Mahogany Symposium in London, U.K., hosted by the Linnean Society, a world-renowned scientific organization). A related

meeting largely on the forestry aspects of *Swietenia* mahoganies was held in late October 1996 (in San Juan, Puerto Rico, hosted by the U.S. Forest Service's International Institute of Tropical Forestry).

The United States has intensively reviewed and analyzed the pertinent available information related to a proposal and all comments received from range States, industry, the conservation community, and interested agencies and individuals, and the relevant information provided has been incorporated into the final 86-page proposal to include this species in Appendix II. A public meeting was held on October 3, 1996, on the potential CITES COP10 topics and issues. Decisions regarding inclusion of species in the CITES appendices are based upon their status and qualifications in relation to the requirements and criteria of the treaty.

Comments in support of a proposal were received by the October 11, 1996 deadline (which was established in the August 28, 1996 **Federal Register**; 61 FR 44324) from ten organizations (Defenders of Wildlife, EarthCulture, Environmental Investigation Agency, Friends of the Earth-U.K., Humane Society of the United States, Rainforest Action Network, Rainforest Relief, Salt Lake City Rainforest Action Group, Taiga Rescue Network [Sweden], and World Wildlife Fund-U.S.); two businesses (A & M Wood Specialty, Inc. [Ontario, Canada] and The Raintree Group [Texas]); several academics; and several dozen unaffiliated individuals. After that deadline, comments and some substantive information continued to arrive, from many individuals and organizations and several countries. Included were two letters to the Vice President and the Secretary of the Interior from over 150 non-governmental organizations supporting submittal of the proposal. All comments were reviewed, and all the substantive data were considered.

Friends of the Earth-U.K. submitted the transcript of a debate on this issue held in the British Parliament on December 4, 1996, where the U.K. Government noted that twice before it had favored the species' inclusion in Appendix II. The Fondo Mundial para la Naturaleza-Bolivia (World Wildlife Fund-Bolivia) and the World Wildlife Fund-U.S. submitted copies of a detailed study on the status of regeneration of *Swietenia macrophylla* in the Department of Santa Cruz, Bolivia, which had recently been carried out through the Centro Científico Tropical (of San José, Costa Rica).

Bolivia through MDSMA (the Ministerio de Desarrollo Sostenible y Medio Ambiente, their Ministry of Sustainable Development and Environment) wrote the United States on December 18, 1996, offering to co-propose the species with the United States, and similarly advised the CITES Secretariat. Bolivia in addition provided a review of mahogany trade data from its implementation of Appendix III. Ecuador on January 6, 1997, advised the United States that they were in support of the proposal, and Venezuela on January 9, 1997, advised the U.S. Embassy in Caracas that they were in support of the proposal. Also in January 1997, the Brazilian Embassy in Washington, D.C. emphasized Brazil's concerns.

Opposition to a proposal was submitted by the U.S.-based International Wood Products Association (IHPA), and by Brazil through IBAMA (the Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis or Brazilian Environment and Renewable Natural Resources Agency), and Peru through INRENA (the Instituto Nacional de Recursos Naturales, their National Natural Resources Agency). Comments questioned the appropriateness and adequacy of the CITES system for regulating such a trade; the process toward developing and considering a proposal; the threshold at which species should qualify for Appendix II; whether the species was not sufficiently protected in enough designated or remote areas; and the adequacy of the scientific and technical information on biology (including ecology and genetics), regrowth (regeneration) after selective logging or land abandonment, and national and international trade (legal and illegal).

The United States has made a rigorous analysis of the qualification of this species for Appendix II, considering the text of the treaty, the listing criteria of Resolution Conf. 9.24, and the species that have been included by the Parties in the appendices since the Convention was developed in 1973. The potential proposal was subjected to an intensive Federal interagency analysis and review process, including departments or agencies of State, Interior, Agriculture (U.S. Forest Service and Animal and Plant Health Inspection Service), U.S. Trade Representative's Office, Commerce, Justice, and the U.S. Agency for International Development. The U.S. Government concluded by consensus that *Swietenia macrophylla* qualifies for inclusion in Appendix II, and to submit the proposal, with the Republic of Bolivia as co-sponsor. The proposal was

transmitted to the CITES Secretariat on January 10, 1997, which was the deadline for proposals to be considered at the Tenth Meeting of the Conference of the Parties to CITES (COP10), to be held in Zimbabwe in mid-June 1997.

Preparations: The final proposal has been provided to all the CITES Parties (soon to be 135 countries), and to interested organizations and individuals. A thorough review and analysis to prepare for the decision of the Parties at COP10 is ongoing by range States and importing countries, industry, the conservation community, and interested individuals. The United States intends to continue to communicate and work with range States and interested organizations and individuals so that the treaty and this proposal for *Swietenia macrophylla* are accurately understood and its inclusion under CITES can be effectively implemented, which would come into force in Appendix II (if the proposal is adopted) 90 days after the conclusion of COP10, on September 18, 1997. The United States believes that the effective implementation of this listing will help ensure the conservation of the species, so that it never becomes threatened with extinction in the wild, and the maintenance of a sustainable supply of mahogany wood and products for the long-term future.

#### 10. Goldenseal (*Hydrastis canadensis*)

This plant species has been proposed for inclusion in Appendix II, without excluding any parts or derivatives such as the finished pharmaceutical products in order to maintain the full legal option to regulate such end-product medicinals if necessary. Further evaluation of whether that would be necessary is ongoing, and if it is found to be unnecessary, the proposal can be modified at COP10 by for example excluding the finished pharmaceutical products.

This is a herbaceous species of the eastern deciduous forest of the United States and nearby Canada (in southern Ontario). Before European settlement and ensuing medicinal interest in this species, it was thought to be abundant only in the central part of its range (Indiana to West Virginia and Kentucky), and it is now considered uncommon to critically imperilled in at least 16 of the 27 States where it is found.

Goldenseal is a well-known medicinal in the herbal products industry, with a wholesale price in 1995 frequently over \$50 but less than \$100 per pound dry weight, mostly for rhizomes or roots (with about 200–300 roots per pound). It has been estimated that 150,000

pounds of goldenseal root are collected annually from the wild. The species is cultivated to a limited but unknown extent. Both the internal U.S. trade and export are believed to be escalating, with the international trade (primarily to Canada and Europe) considered to be less than a fifth of the market.

The World Wildlife Fund-U.S. had recommended that the United States propose this species for inclusion in Appendix II. The Service sought information especially regarding: (1) the biological status and life history of this species; (2) the extent to which it is cultivated (i.e., artificially propagated without use of seeds or other parts from the wild); and (3) the extent to which it is collected for trade, and in particular, the extent to which it is exported and the forms in which it is exported.

Comments were received from 22 organizations, and pertinent information provided has been incorporated in the CITES proposal to include this species in Appendix II. Comments in support of a proposal or tending to be favorable were received from Canada, the Province of Ontario, seven States (Illinois, Indiana, Maryland, Massachusetts, Minnesota, New York, and Oklahoma), the U.S. Department of Agriculture Forest Service, the U.S. Fish and Wildlife Service Region 5 (which includes the Northeast region), the Institute of Conservation & Culture, the Humane Society of the United States, and the World Wildlife Fund-U.S. Comments in opposition or tending to be unfavorable were received from seven States (Missouri, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin), and Ohio River Ginseng & Fur, Inc.

Five of the 15 States that are geographically more or less peripheral or less significant in the distribution of *Hydrastis canadensis* provided comments. The responses were favorable from four of them, whereas North Carolina (where the species is considered endangered) raised concerns about the potential regulatory burden. Nine of the 12 States that are more geographically significant in the range of the species commented; 3 were favorable to a proposal, and 6 opposed. In four of those six States, the species is considered uncommon, of special concern, vulnerable or threatened; however, Missouri considered it relatively common, and West Virginia believed it to be increasing along with the increase of forested land in the State. Three of those six opposing States were concerned with the potential regulatory burden.

*Panax quinquefolius* (American ginseng) has been included in Appendix

II of CITES since 1973, and those 4 of the 14 commenting States that noted particular concerns about the regulatory effects of listing *Hydrastis canadensis* tended to assume that goldenseal would be regulated by a similar Federal-State system (see 59 FR 49046). However, this may or may not be the case, since ginseng is primarily exported, whereas goldenseal is involved in considerably less export, being primarily consumed within the United States. The Service intends to work with those States that may become involved in goldenseal export and the industry to develop efficient methods that require the minimum system necessary to meet the CITES requirements for legal and non-detrimental (and thus sustainable) international trade in this species.

#### 11. Tweedy's Bitterroot (*Lewisia tweedyi* or *Cistanthe tweedyi*)

Proposed for delisting from Appendix II. The recommendation to remove this species from Appendix II was initiated by the CITES Plants Committee, as part of the periodic ongoing process of reviewing listed taxa. This herbaceous mountain species is native in the State of Washington and nearby in the Province of British Columbia, Canada. Because it was found to be sufficiently secure within its range, this species was removed from consideration for the U.S. Endangered Species Act in a 1985 **Federal Register** notice on various taxa (50 FR 39526). Moreover, this species is considered sufficiently easy to propagate and available in cultivation to supply rock-garden enthusiasts.

Comments were received from the Humane Society of the United States in opposition to submitting the proposal, and from Canada in support of the proposal. As the biological status of the species is considered markedly less vulnerable than when it was listed in 1983, and there have been no applications to export it from the wild since then and little reported export and import of artificially propagated specimens, removal of the species from Appendix II is considered appropriate.

#### Continuing Actions

In early February, the Service received proposals made by other CITES Parties to amend the appendices. A list and copies of these proposals can be obtained from the Office of Scientific Authority (see **ADDRESSES** above). The Service's tentative negotiating positions on these proposals submitted by the other countries, along with a solicitation for public comment, will be announced in a **Federal Register** notice later this month. Further opportunity for public input will be afforded by a public

meeting planned for April 25. The Service will consider all comments received during the comment period, as well as all other available information, in developing a negotiating position on each of the species proposals. These positions will be announced in the **Federal Register** in early June just prior to COP10. Also, in this pre-COP10 notice the Service plans to request comments on any reservations that should be taken on any species amendments (i.e., species changes to the CITES appendices) adopted by the Parties. Immediately after COP10, the Service will announce the species amendments to the appendices adopted by the Parties; in accordance with CITES, all such amendments will become effective on September 18, 1997 (90 days after their adoption by the Parties).

The primary authors of this notice are Dr. Marshall A. Howe, Zoologist, Dr. Bruce MacBryde, Botanist, and Dr. Charles W. Dane, Chief, Office of Scientific Authority.

This document is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; 87 Stat. 884, as amended).

#### **Lists of Subjects in 50 CFR Part 23**

Endangered and threatened species, Exports, Imports, Treaties.

Dated: April 8, 1997.

**John G. Rogers,**

*Acting Director, U.S. Fish and Wildlife Service.*

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#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

##### **50 CFR Part 660**

[Docket No. 970403076-7076-0; I.D. 030397B]

RIN 0648-A180

##### **Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Allocation Among Nontribal Sectors**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This rule proposes: Allocation of the commercial harvest guideline of Pacific whiting (whiting) among

nontribal sectors; a framework procedure for annually choosing the starting dates of the primary whiting seasons for the nontribal sectors; and allowing the processing of fish waste at sea when at-sea processing of whiting is otherwise prohibited. This rule also proposes starting dates for the 1997 primary seasons under the proposed framework. These actions are intended to provide equitable allocation of the whiting resource and to provide flexibility in harvesting and processing opportunities.

**DATES:** Comments will be accepted on or before April 30, 1997.

**ADDRESSES:** Comments may be mailed to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115. Comments on the information collection requirements that would be imposed by this rule should be sent to Mr. William Stelle at the address above, and to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Washington DC, 20503. Other information relevant to this proposed rule is available for public review during business hours at the Office of the Administrator, Northwest Region, NMFS. Copies of the environmental assessment/regulatory impact review also are available from that address.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at 206-526-6140.

**SUPPLEMENTARY INFORMATION:** NMFS is issuing a proposed rule, based on the agency's authority under the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). At the same time, NMFS is seeking public comment on the starting dates for the primary whiting seasons in 1997 and on several housekeeping measures. These actions were recommended by the Pacific Fishery Management Council (Council) at its October 1996 meeting in San Francisco, CA and at meetings of its ad hoc whiting allocation subcommittee that were held in 1996.

#### **Background**

##### *Whiting allocation*

Whiting is the largest groundfish resource managed by the Council, and makes up over 50 percent of the potential annual groundfish harvest. Until the early 1980's, whiting off Washington, Oregon, and California were harvested predominantly by foreign fisheries. Between 1982-88, foreign fishing was displaced by joint venture operations in which U.S. vessels fished for whiting and delivered

it to foreign processing vessels at sea. By 1989, joint ventures were displaced by domestic harvesting and processing operations, as contemplated by the Magnuson-Stevens Act. (The Magnuson-Stevens Act established priorities for allocating fish in the EEZ, giving domestic fishing and processing operations first priority, joint ventures second priority, and foreign fishing lowest priority.) The shift away from joint ventures occurred abruptly with the introduction of domestic at-sea processing vessels: Catcher/processors (also called factory trawlers) that both harvest and process fish; and motherships that process fish delivered from other catcher vessels. Consequently, the joint venture catcher vessels that had harvested and delivered almost all of the whiting harvest guidelines in 1989-90 to foreign processing vessels lost their foreign markets in 1991. The joint venture markets were only partly replaced by new markets with mothership and shore-based processors. Generally, the shore-based fishery operates at a slower pace and has a more limited fishing range, and catcher vessels are smaller than catcher/processors and can take a much smaller amount of whiting in the same amount of time. Therefore, to avoid extensive preemption of shore-based operations by the high-capacity at-sea processing fleet, whiting has been allocated among domestic sectors since 1991.

The most recent allocation, which was in effect from 1994-96, was based on a 3-year industry agreement to provide 40 percent of the whiting harvest guideline to catcher vessels delivering to shore-based processors, plus any additional whiting taken while all sectors competed for the first 60 percent. In 1994 and 1995, the 40-percent reserve was applied to the entire whiting harvest guideline (50 CFR 663.23(b)(4), subsequently changed to 660.323(a)(4). In 1996, whiting was allocated to the Makah treaty Indian tribe for the first time (50 CFR 660.324). Thereafter, any allocation among domestic sectors was to be based on the "commercial harvest guideline," the harvest guideline minus any tribal allocation. Provisions were made for reapportioning the unused portion of the shorebased reserve later in the year, but this occurred only in 1994.

The allocations for 1997 and beyond were derived by industry agreement in a series of public meetings sponsored by the Council. The proposed allocations, which are within a few percent of the proportions harvested in 1994-96, are: 42 percent for the shoreside sector (catcher vessels delivering to shoreside