

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Dododo	Population segment west of 144° W. Long..	E	384E, 408, 614	226.12	NA
*	*	*	*	*	*		*

Dated: January 27, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97-14530 Filed 6-4-97; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 24

RIN 1018-AD97

Endangered and Threatened Wildlife and Plants; Designated Ports for Listed Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) hereby amends the regulations that establish designated ports for the importation, exportation, and reexportation of plants by adding the U.S. Department of Agriculture (USDA) ports at Laredo, Texas; and Fort Lauderdale (=Port Everglades), Jacksonville, and Panama City, Florida, as designated ports for the importation of logs and lumber from trees listed as endangered or threatened under the Endangered Species Act of 1973, as amended (the Act), or listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Service also amends these same regulations by adding the USDA port at Port Huron, Michigan, as a port for the importation from Canada and exportation or reexportation to Canada of plants listed as endangered or threatened under the Act, or listed under CITES. The USDA has adequate facilities and personnel at these ports to qualify the ports as designated ports for the importation, exportation, and reexportation of plants under the terms of the Act and CITES. The addition of these ports to the list of designated ports will facilitate trade and the enforcement of the Act and CITES.

Additionally, the Service amends the regulations that establish designated ports for the importation, exportation, and reexportation of plants by removing

Laredo, Texas, from the list of ports designated for the importation, exportation, or reexportation of plants listed as endangered or threatened under the Act, or listed under CITES. The USDA no longer operates Laredo as a plant inspection station and has proposed to remove it from the list of plant inspection stations in its regulations. Because the Laredo plant inspection station has closed, it no longer is used as a designated port for the importation, exportation, or reexportation of plants listed as endangered or threatened under the Act, or listed under CITES. However, the USDA has sufficient staff in place in Laredo for the Service to add it instead as a designated port for the importation of logs and lumber from trees listed as endangered or threatened under the Act, or listed under CITES, as discussed in the above paragraph.

EFFECTIVE DATE: June 5, 1997.

FOR FURTHER INFORMATION CONTACT:

Kenneth B. Stansell, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, telephone (703) 358-2093.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (the Act), requires, among other things, that plants be imported, exported, or reexported only at designated ports or, under certain limited circumstances, at nondesignated ports. Section 9(f) of the Act (16 U.S.C. 1538[f]) provides for the designation of ports. Under section 9(f)(1), the Secretary of the Interior (Secretary) has the authority to establish designated ports based on a finding that such an action would facilitate enforcement of the Act and reduce the costs of that enforcement. The United States Department of Agriculture (USDA) and the Secretary are responsible for enforcing provisions of the Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) relating to the importation, exportation, and reexportation of plants listed as endangered or threatened under the Act or listed under CITES.

The regulations in 50 CFR part 24, "Importation and Exportation of Plants," are for the purpose of establishing ports for the importation, exportation, and reexportation of plants. Plants listed as endangered or threatened in 50 CFR 17.12 or in the appendices to CITES in 50 CFR 23.23 are required to be accompanied by documentation and may be imported, exported, or reexported only at one of the USDA ports listed in section 24.12(a) of the regulations. Certain other USDA ports are designated for the importation, exportation, or reexportation of specific listed plants. Section 24.12(g) of the regulations contains a list of USDA ports that are, for the purposes of the Act and CITES, designated ports for the importation, exportation, and reexportation of plants that are not listed as endangered or threatened. (The USDA regulations in 7 CFR 319.37 contain additional prohibitions and restrictions governing the importation of plants through those ports.) In a January 16, 1997, **Federal Register** notice (62 FR 2354), the U.S. Fish and Wildlife Service (Service) proposed that the USDA ports at Laredo, Texas; and Fort Lauderdale, Jacksonville, and Panama City, Florida, be listed as designated ports for the importation of saw-logs, sawn wood, and veneers from trees listed as endangered or threatened under the Act, or listed under CITES. The Service further proposed to designate the USDA port at Port Huron, Michigan, as a port for the importation from Canada and exportation or reexportation to Canada of plants listed as endangered or threatened under the Act, or listed under CITES. Finally, the Service proposed to remove Laredo, Texas, from the list of ports designated for the importation, exportation, or reexportation of plants listed as endangered or threatened under the Act, or listed under CITES.

Comments Submitted

The Service's January 16, 1997, notice invited the submission of written comments regarding the proposal for a 60-day comment period ending on March 17, 1997. One comment was

received by that date, from the International Wood Products Association (IHPA). The IHPA suggested that it be clearly noted in the final rule that the USDA port of Fort Lauderdale, Florida and the USDA port called Port Everglades are one-in-the-same. The IHPA indicated that this notation would clarify confusion that currently exists within the lumber industry as to whether these two port names are for the same port or not. The IHPA also pointed out a possible problem with regard to the Service's proposal to replace the term "logs and lumber" in section 24.12(e) with the term "saw-logs, sawn wood, and veneers." The Service proposed this change in order to be consistent with the language used in the CITES listings and in 50 CFR part 23. The IHPA pointed out that, in the joint U.S./Bolivia CITES proposal to list certain parts and products of the neotropical populations of bigleaf mahogany (*Swietenia macrophylla*) on CITES Appendix II, the language for the listed parts and products includes plywood, in addition to saw-logs, sawn wood, and veneers. This CITES proposal was submitted for consideration at the tenth meeting of the Conference of the Parties to CITES on June 9–20, 1997, in Harare, Zimbabwe. The IHPA claimed that the inclusion of bigleaf mahogany plywood on CITES Appendix II would create a situation where, if the term "saw-logs, sawn wood, and veneers" replaced the term "logs and lumber" in section 24.12(e), then bigleaf mahogany plywood would not be among the lumber parts and products which would be allowed to be imported through the ports listed in section 24.12(e).

The Service has consulted with the USDA regarding the comments and suggestions provided by the IHPA. As a result of those consultations, the Service has made the following changes to the language from the proposed rule (in the January 16, 1997, notice) in this final rule: reference to the USDA port of Fort Lauderdale, Florida, in the proposed rule has been changed to the USDA port of Fort Lauderdale (=Port Everglades), Florida; and the Service's proposal to amend section 24.12(e) of the regulations by replacing the term "logs and lumber" with the term "saw-logs, sawn wood, and veneers" has been removed. The original language of "logs and lumber" is retained in this final rule. This will facilitate imports of lumber products of any future CITES listed species without pre-supposing any future specific annotations. The term "logs and lumber" encompasses saw-logs, sawn wood, veneer sheets, plywood and other types of lumber.

Requests for Public Hearing

Section 9(f)(1) of the Act provides that any person may request an opportunity to comment at a public hearing before the Secretary of the Interior confers designated port status on any port. Accordingly, the Service's January 16, 1997, notice invited public hearing requests, which were required to be received by the Service on or before March 3, 1997. No such requests were received.

Treasury Department Approval To Designate Proposed Ports

Section 9(f)(1) of the Act also provides, in part, that:

For the purpose of facilitating enforcement of this chapter and reducing costs thereof, the Secretary of the Interior, with approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations.

Approval from the Secretary of the Treasury was obtained in accordance with these provisions.

Therefore, based on the rationale set forth in the proposed rule, the Service is adopting the provisions of the proposal as a final rule.

Effective Date

The principal effect of this rule is to grant an exemption from 16 U.S.C. 1538(f), which generally prohibits importation of wildlife and plants except at such ports as may be designated. Accordingly, it may be given immediate effect under 5 U.S.C. 553(d)(1), which permits a rule that "grants or recognizes an exemption or relieves a restriction" to be given immediate effect. Furthermore, good cause exists to give immediate effect to that part of the final rule that deletes Laredo, Texas from the list of designated ports in section 24.12(a) because the USDA no longer maintains a plant inspection station in Laredo and an immediate correction to the codified list is needed to eliminate confusion for the general public.

Economic Effects

The USDA ports at Laredo, Texas; and Fort Lauderdale (=Port Everglades), Jacksonville, and Panama City, Florida, are established primary ports of entry for bigleaf mahogany logs and lumber imported into the United States. Since saw-logs, sawn wood, and veneers of bigleaf mahogany now are listed in the appendices to CITES, the addition of these four ports to the list of ports designated for the importation of logs and lumber from trees listed as endangered or threatened under the Act,

or listed under CITES, will avoid disrupting an established pattern of legitimate trade by allowing operations at those ports related to the importation of bigleaf mahogany saw-logs, sawn wood, and veneers to continue with only minor procedural changes. Adding these ports will not have a significant economic impact on any private entities, nor on local or State governments. Also, adding these ports will not have a significant economic impact on the Federal Government, since the USDA already has adequate facilities and personnel at these ports to qualify them as designated ports.

However, without these ports being designated, the established legitimate trade in bigleaf mahogany saw-logs, sawn wood, and veneers through these ports would cease. This would increase shipping costs on importers in the United States who have been using Laredo, Fort Lauderdale (=Port Everglades), Jacksonville, and Panama City as ports of import for bigleaf mahogany saw-logs, sawn wood, and veneers, by forcing these importers to travel out of their way to one of the current designated ports in order to legally import their bigleaf mahogany. The closest designated Mexican border port to the port of Laredo is Brownsville, Texas, about 150 miles away; the closest designated port to the port of Fort Lauderdale is Miami, Florida, about 30 miles away; the closest designated port to the port of Jacksonville is Orlando, Florida, about 125 miles away; and the closest designated port to the port of Panama City is Mobile, Alabama, about 150 miles away.

Adding the USDA port at Port Huron, Michigan, as a designated port for the importation from Canada and exportation or reexportation to Canada of plants listed as endangered or threatened under the Act, or listed under CITES, likewise will not have a significant economic impact on any private entities, nor on local or State governments. Also, adding this port will not have a significant economic impact on the Federal Government, since the USDA already has adequate facilities and personnel at the port to qualify it as a designated port. Adding Port Huron as a designated port will facilitate trade by making an additional port of entry available to importers of artificially propagated plants listed as endangered or threatened under the Act, or listed under CITES, from Canada. Currently, the USDA ports at Detroit, Michigan; Buffalo and Rouses Point, New York; and Blaine, Washington, are the only ports specifically designated for those purposes. However, Port Huron's

designation is not expected to result in a significant increase in the importation of such plants from Canada.

Therefore, the Service has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rulemaking will not have a significant effect on a substantial number of small entities, which include certain businesses, organizations, or governmental jurisdictions. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

This rulemaking will not have any direct effects on the States, in their relationship with the Federal Government, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rulemaking will not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The Service has determined and certifies pursuant to the Unfunded Mandates Act (2 U.S.C. 1502 *et seq.*) that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities.

The Department of the Interior has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

The Service has determined that this rule is categorically excluded from further National Environmental Policy Act requirements. Part 516 of the Departmental Manual, Chapter 6, Appendix I, section 1.4(A)(1), categorically excludes changes or amendments to an approved action when such changes have no potential for causing substantial environmental impact.

Paperwork Reduction Act

The Service has examined this final rule under the Paperwork Reduction Act of 1995, and found it to contain no information collection requirements.

List of Subjects in 50 CFR Part 24

Endangered and threatened species, Exports, Harbors, Imports, Plants.

Accordingly, the Department of the Interior amends Title 50, part 24 of the Code of Federal Regulations as follows:

PART 24—[AMENDED]

1. The authority citation for part 24 continues to read as follows:

Authority: Secs. 9(f)(1), 11(f), Pub. L. 93-205, 87 Stat. 893, 897 (16 U.S.C. 1538(f)(1), 1540(f)).

2. Section 24.12 is amended by:

- a. Removing "Laredo, Texas" from paragraph (a),
- b. Adding the words "and Port Huron" immediately following "Detroit" in paragraph (d), and
- c. Revising paragraph (e) to read as follows:

§ 24.12 Designated ports.

* * * * *

(e) The U.S. Department of Agriculture ports at Mobile, Alabama; Fort Lauderdale (=Port Everglades), Jacksonville, and Panama City, Florida; Savannah, Georgia; Baltimore, Maryland; Gulfport, Mississippi; Wilmington and Morehead City, North Carolina; Portland, Oregon; Philadelphia, Pennsylvania; Charleston, South Carolina; Laredo, Texas; Norfolk, Virginia; and Vancouver, Washington, are designated ports for the importation of logs and lumber from trees which are listed in the appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or in 50 CFR 17.12 or 23.23 and which are required to be accompanied by documentation under 50 CFR part 17 or 23.

* * * * *

Dated: May 24, 1997.

Donald J. Barry,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 97-14633 Filed 6-4-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 960314073-7129-04; I.D. 112696C]

RIN 0648-AI23

Atlantic Swordfish Fishery; Extension of Drift Gillnet Emergency Closure

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

ACTION: Correction and extension of fishery closure.

SUMMARY: On December 5, 1996, NMFS published an emergency rule that closed the drift gillnet fishery for swordfish in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, from December 1, 1996, through May 29, 1997, and announced that it had reinitiated consultation under the Endangered Species Act (ESA) for Atlantic swordfish fisheries. On May 29, 1997, NMFS issued a biological opinion

(BO) that concluded that the swordfish, shark, and tuna driftnet fishery segments of the Atlantic pelagic fishery are likely to jeopardize the continued existence of the North Atlantic right whale. Two alternatives that would avoid the likelihood of jeopardy were set forth in the BO, although NMFS has not identified a preferred alternative at this time. This action extends the emergency closure for the swordfish drift gillnet fishery for a second period of 180 days until November 26, 1997, or until a preferred option to avoid the likelihood of jeopardy is identified and implemented. This action also corrects the effective date language of the initial emergency closure that was published on December 5, 1996, because it inadvertently added the codified text of the temporary rule on a permanent basis.

DATES: The correction is effective December 1, 1996. The emergency closure extension and the amendment to part 630 are effective from May 30, 1997, through 2400 hours local time November 26, 1997.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301-713-2347 or Mark Murray-Brown, 508-281-9260.

SUPPLEMENTARY INFORMATION: On September 25, 1996, NMFS reinitiated consultation under section 7(a) of the ESA on the Atlantic swordfish fisheries. While this consultation was underway, an emergency fishery closure covering the semiannual subquota period of December 1, 1996, through May 29, 1997, was published on December 5, 1996 (61 FR 64486), to ensure that no irreversible and irretrievable commitment of resources was made that would have the effect of foreclosing the formulation or implementation of any prudent and reasonable alternative measures while the consultation was pending.

On May 29, 1997, NMFS issued the BO that concluded that the swordfish, tunas, and shark driftnet fishery segments of the Atlantic pelagic fishery are likely to jeopardize the continued existence of the North Atlantic right whale. NMFS has identified two alternatives for these segments of the fishery that would avoid the likelihood of jeopardy:

1. Prohibit the use of driftnet gear in Highly Migratory Species (HMS) fisheries, and

2. Implement actions to allow the restricted use of driftnet gear, including general gear restrictions and/or implementation of the Atlantic large whale and offshore cetacean take reduction plans.