

of the January, 19, 1996 proposed rule. This also provides a sufficient period, well in excess of the typical 30-day notice period, from the addition of materials in the docket and the publication of the instant notice concerning such addition.

Dated: January 29, 1996.

Brian J. McLean,

Director, Acid Rain Division.

[FR Doc. 96-2238 Filed 2-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 80

[FRL-5412-2]

RIN 2060-AD55

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Clean Air Act prohibits the introduction of gasoline containing lead or lead additives into commerce for use as a motor vehicle fuel after December 31, 1995. In today's action, EPA proposes to revise its regulations regarding gasoline so as to prohibit the introduction of gasoline which is produced with the use of any lead additive, or contains more than 0.05 gram of lead per gallon, into commerce for use as motor vehicle fuel effective January 1, 1996, to remove existing regulatory provisions which will no longer be necessary as a result of this ban, and to modify other provisions to reflect the institution of this ban. In the final rules section of this Federal Register, EPA is promulgating this amendment as a direct final rule without prior proposal, because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the proposed changes is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received by March 4, 1996.

ADDRESSES: Written comments on this proposed action should be addressed to

Public Docket No. A-95-13, Waterside Mall (Room M-1500), Environmental Protection Agency, Air Docket Section, 401 M Street, S.W., Washington, D.C. 20460. Materials relevant to this rulemaking have been placed in Docket A-95-13. Documents may be inspected between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket material. Those wishing to notify EPA of their intent to submit adverse comment or request an opportunity for a public hearing on this action should contact Paulina Chen, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9031.

FOR FURTHER INFORMATION CONTACT:

Paulina Chen, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9031.

SUPPLEMENTARY INFORMATION: For addition information, see the direct final rule published in the rules section of this Federal Register.

Dated: January 29, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 96-2232 Filed 2-1-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Box Turtles From the United States in 1996

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for Information and Comment.

SUMMARY: Information is solicited to assist the Fish and Wildlife Service in (1) making an export finding for box turtles for 1996, as required under The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and (2) evaluating the feasibility of breeding of box turtles in captivity for export. International Air Transport Association (IATA) Live Animals Regulations, as they apply to shipment of box turtles, are described, and comment is invited on IATA shipping container requirements for live box turtles.

DATES: Comments and information must be received by March 4, 1996.

ADDRESSES: Please send correspondence concerning this notice to the Office of Scientific Authority; Mail Stop 725, Arlington Square; U.S. Fish and

Wildlife Service; Department of the Interior; Washington, D.C. 20240. The fax number is (703) 358-2276. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; 4401 North Fairfax Drive, Room 750; Arlington, Virginia 22203. Comments and other information received are available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority finding—Dr. Marshall A. Howe, Office of Scientific Authority, phone (703) 358-1708; fax (703) 358-2276; e-mail marshall_howe@mail.fws.gov. Management Authority finding and export permits—Mr. Scott Hicks, Office of Management Authority, phone (800) 358-2104; fax (703) 358-2281.

SUPPLEMENTARY INFORMATION:

Publication of this notice has occurred later than planned, because of the unexpected furlough of most Department of the Interior employees in December, 1995 and January, 1996. Nevertheless, the Fish and Wildlife Service (Service) believes that public input is important and has allowed for a 30-day public comment period. The Service realizes that the collecting period for turtles by commercial dealers in Louisiana is highly seasonal and will therefore issue its advice as promptly as possible after all public input has been thoroughly considered. It is the Service's intent to be able to issue export permits, if warranted, by March 15, 1996.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 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 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.

International trade in Appendix II species is permitted only if shipments are accompanied by either an export permit issued by the country-of-origin, or a re-export certificate issued by an intermediary country. Before such

export permits can be issued, the designated Scientific Authority of the country-of-origin must make a finding that the exports will not be detrimental to the survival of the species ("non-detriment finding"); and the designated Management Authority of the country-of-origin must determine that the specimens to be exported were obtained legally and, for live specimens, that they are treated and shipped so as to minimize the risk of injury, damage to health, or cruel treatment [50 CFR 23.15(d)]. The Scientific Authority is also charged with monitoring the export permits and actual exports of Appendix II species on an ongoing basis, to ensure that the export remains at a level well below that which might make the species eligible for inclusion in Appendix I.

Non-Detriment Findings for Species Exported in Large Numbers

In making non-detriment export findings for Appendix II animal species traded in large numbers, Scientific Authorities consider such factors as whether take of the species or similar species in the past may have contributed to a reduction in its numbers or distribution, or whether life history traits indicate a potential vulnerability to current levels of take and export. Findings are usually based upon existing biological information derived from scientific studies and/or professionally accepted wildlife or fishery management programs. For species bred-in-captivity, a key element of the finding is an evaluation of the extent to which the captive population is self-sustaining, without need for augmentation from the wild.

Information desirable for making a non-detriment finding includes the total offtake of the species; the geographical source of the animals; an independent measure of population status (or an index to population change over time) for the species; and the presence of an enforceable program for managing take and commerce. Also desirable, and sometimes necessary, is information on recruitment potential, demographic structure of the collected population, status of the habitat base, and an assessment of market factors likely to influence commercial demand in the future.

For Appendix II species traded in large numbers, the Service, as Scientific Authority for the United States, has generally found it to be impractical to develop findings for each export application. A general finding, which defines minimum criteria that future applications must meet for approval, is the preferred approach. One type of

general finding used by the Service is a determination that all exports allowed by a program professionally managed by a State wildlife agency will be non-detrimental. This approach has been taken in certain special cases, where the primary management responsibility for heavily traded Appendix II species (e.g., alligators) rests with the States, and the State program has been determined to collect the requisite information on population status and trends and otherwise meet professionally accepted standards for wildlife management programs.

Other general findings may establish restrictive conditions, such as a quota (maximum allowable number) or other export limitation mechanism, to ensure that exports from the United States remain non-detrimental. Under a quota system, for example, all valid applications for export permits that meet Management Authority criteria for legal acquisition and humane transport would be approved, until the cumulative number of specimens exported reached the established quota level. Subsequent applications would be denied. General export findings will be conservative (zero or minimal export permitted) when the quality and comprehensiveness of biological and management information are weak, or when substantial information suggests a possible detrimental impact of take. Similarly, liberal advice (high levels of export permitted) will be issued only when comprehensive information of high quality indicates the species can likely sustain intensive collection.

International Trade in Box Turtles

At the ninth meeting of the Conference of the Parties to CITES in 1994, the Parties adopted proposals submitted by the United States and the Netherlands to add to Appendix II all species of box turtles (*Terrapene* spp.) not already listed on a CITES Appendix. Two of these species are native to the United States: the eastern box turtle (*T. carolina*) and the ornate box turtle (*T. ornata*). The listing proposals were based on several sources of information. First, long-term population declines had been documented in most well studied populations in the United States (*T. carolina*: Maryland, Indiana, Missouri; *T. ornata*: Wisconsin, Kansas). Second, analysis of Service export statistics revealed a substantial increase in export of wild *T. carolina* and *T. ornata* for the pet trade in recent years, coincident with declining availability of certain popular tortoise species. According to Service data, the number of *T. carolina* reported to be exported was approximately 26,000 in both 1992 and

1993 and 22,000 in 1994. Reported export of box turtles identified as *T. ornata* totalled approximately 10,500 in 1993 and 12,300 in 1994. Finally, population modelling of other turtle and tortoise species with similar longevity, survival, and reproductive characteristics (e.g. Blanding's turtle, *Emydoidea blandingii*) suggest that box turtle populations may be unusually vulnerable to elevated mortality of adults or juveniles. Removal of adult box turtles from the wild for commercial trade could have the effect of being an additive mortality factor.

In considering how to manage trade in these newly listed species, the Service first reviewed State laws and regulations pertaining to commerce in reptiles and discussed management capabilities with representatives of wildlife agencies in those States interested in maintaining an export market for box turtles. On the basis of these reviews and discussions, the Service determined, for 1995 only, that only the State of Louisiana was interested in export and had the regulatory and management (including enforcement) infrastructure for managing collection of reptiles in a manner that could potentially allow the appropriate CITES findings to be made.

Key elements of the Louisiana regulations included the following: (1) requirement of a collector's license for anyone collecting or selling box turtles; (2) requirement of a dealer's license for anyone buying, acquiring, or handling native reptiles for resale or shipping out of State; (3) Department of Wildlife and Fisheries (hereinafter "Department") authority to inspect the premises, holding facilities, and records of dealers, and require data from dealers on the total number of box turtles taken within each of the State's wildlife districts; (4) establishment of a standing advisory committee (the Louisiana Reptile and Amphibian Task Force) that consists of university herpetologists, State personnel, and commercial interests; and (5) provision for penalties for violations of State laws related to trade in reptiles.

In this management context, the following information was considered in determining whether a non-detriment finding could be made for export of box turtles taken in Louisiana in 1995:

1. The Department provided the following assessment with respect to population status of *T. carolina*: "After consultation with the Louisiana Reptile and Amphibian Task Force * * * there is no evidence to indicate that native (eastern) box turtles are endangered or threatened in Louisiana." (It is recognized that this statement represents a professional

opinion rather than a quantitative assessment of population status.)

2. The primary target of turtle dealers in Louisiana appeared to be the Gulf coast subspecies, *T. carolina major*, which, according to the scientific literature, may be more commonly multiple-brooded than more northern subspecies and therefore possibly less vulnerable to take than turtle/tortoise species that have been the focus of recent population modelling efforts.

3. The Department was in the process of seeking funding for initiating studies of (1) the status of box turtle populations in Louisiana and (2) a comparison of box turtle demographic characteristics in protected and unprotected areas.

4. The Department would be collecting statistically representative data on the sizes (carapace length) of animals collected for commercial purposes. Such data are important for determining whether commercial take is size-selective or negatively affecting the demographic structure of box turtle populations.

5. The Department stated its intention to develop these data collection efforts into an operational box turtle management program that will include, if necessary, such standard management protocols as quotas, seasons, and size limits. The Department provided a written commitment to the goal of assuring "a sustainable and perpetual harvest of box turtles."

On the basis of this available information, the Service's Scientific Authority made a general, non-detriment finding for 1995 establishing a precautionary export quota of 9,750 specimens of *T. carolina* taken in the State of Louisiana. This number represents 50% of the number of Louisiana-collected *T. carolina* believed, on the basis of export records, to have been exported from the United States in 1993 (the most recent year for which complete export figures were available). Based on studies of eastern box turtle population densities, this represents the adult population of approximately 4 square miles of suitable habitat. The Service believed then and continues to believe that this level of export for 1995 will not significantly affect populations, but that a much more substantial database on population status and impacts of take, and full implementation of a management program, would be necessary before any increase in the quota could be considered. The Service was unable to make a non-detriment finding for *T. ornata*, or for *T. carolina* collected in States other than Louisiana.

Given the paucity of biological information currently available, the 1995 advice is subject to the following additional conditions:

1. It is limited to those animals held in captivity at the end of 1994 or collected in 1995.

2. Studies of (a) the status of box turtle populations in Louisiana and (b) a comparison of box turtle demographic characteristics in protected and unprotected (i.e., potentially subject to collection) areas will be initiated by the Department, in cooperation with Louisiana box turtle exporters, as soon as funding is secured. A study proposal, approved by the Louisiana Amphibian and Reptile Task Force, to assess the population status of box turtles must be received before any export applications for 1996 will be considered.

3. Because the impact of exports on populations cannot be thoroughly assessed without knowledge of the total commercial offtake of turtles (domestic use + export), issuance of permits for export will be further conditional upon collection of information by the Department on (a) the total number of box turtles collected for commercial markets in Louisiana, and (b) certain physical characteristics of all turtles (or a statistically representative sample), collected.

4. Collectors will be required to record the wildlife district (as defined by the Department) in which each turtle is collected and to provide this information to the wholesaler/retailers. The wholesaler/retailer will be required to provide such information to State authorities upon request and to retain the records for 3 years. Before export permits will be issued by the Service, dealers will have to certify that box turtles for which export permits are requested were taken in the State of Louisiana. The Department will review these certifications.

5. The limited quota will remain in effect until such time as (1) either analysis of data on turtle measurements or other information suggests that a change in the quota in either direction is warranted, or (2) field studies develop baseline information sufficient for modelling parameters of a sustainable level of take.

6. Advice on export applications for 1996 will not be issued before (1) data on sizes and locations of animals collected in 1995 are analyzed and the animals appear to be representative of a demographically healthy population; (2) the State's management program and the process of initiating the required field studies is determined to be on track; and (3) the existing information and

proposed advice is made available for public review.

Developments Subsequent to 1995 Export Decision

After export advice was issued for specimens taken in Louisiana in 1995, the Department prepared a draft study plan for assessing the population status of box turtles and the impact of box turtle collection in Louisiana. After approval by the Louisiana Amphibian and Reptile Task Force, this plan was submitted to the Service for review. The Service found that the study design was appropriate for obtaining the information necessary for development of a sound management program.

The plan describes an approach to field-sampling of box turtles that should yield comparative data on populations and demographic structure between collected and uncollected areas. It also describes procedures State personnel will use for collecting demographic data on turtles in the possession of dealers prior to export. Funding for the study has been secured. However, because study plan development was not completed until late summer, field studies will not commence until 1996. Data on physical characteristics of a sample of turtles in the possession of dealers were summarized and provided to the Service in an October 1995 interim report.

A survey of Louisiana dealers reported by the Department in December 1995 yielded a total estimated collection in Louisiana in 1995 of 11,950 box turtles, of which 9,500 were ascribed to the Gulf coast race, *T. c. major*, and 2,450 to the three-toed race, *T. c. triunguis*. Service export records up to the time of this notice show that 6,115 of these (4,365 *major* and 1,750 *triunguis*) were exported from the United States. It is not known what proportion of the 5,835 animals not exported were marketed domestically, released, or maintained in captivity.

Samples of 437 *major* and 394 *triunguis* were selected for morphological analysis. Juveniles constituted 23.3 percent of the sample of *triunguis* and 9.6 percent of the sample of *major*. (For these purposes juveniles were defined as animals in size classes smaller than the first size class that, in a frequency distribution of collected animals by size class, exhibited a sudden increase). The sex ratio (male:female, all ages included) in the sample of collected animals was 1.0:0.78 for *triunguis* and 1.0:0.52 for *major*. Sex ratio varied substantially as a function of the time of year that animals were collected. Average carapace length was 123.2 mm for adult

triunguis and 164.9 mm for adult *major*. There was no sexual size dimorphism in *triunguis*, but carapaces of *major* males averaged 7.4 mm longer than female carapaces. Although there appeared to be no deliberate selectivity on the part of collectors with respect to size class of either race, the sex ratio bias toward males may be an artifact of a market or collector preference for males, which are, on average, more brightly colored and more active than females (fide Department staff).

According to the Department, the area from which box turtles were collected commercially in Louisiana in 1995 ranged from Lafayette and Baton Rouge east to the Mississippi border and southeast to the vicinities of New Iberia, Thibodeaux, and the Mississippi River delta. The range of collected *triunguis* extends along the northern border of this zone from the neighborhood of Baton Rouge across the northern border of Lake Pontchartrain and east to Mississippi. Maps provided by the Department indicate a narrow zone of overlap between the range of this race and that of *major* to the south. The Department believes that the great majority of box turtles are being taken along the margins of extensive swampland and bottomland hardwood forests and along just a few cleared corridors within this zone. They further state that 75 percent of the habitat of *major* is inaccessible.

The Service solicits comments on the information presented above and any additional information relevant to the issuance of export advice for box turtles from Louisiana for 1996.

Captive-Bred Box Turtles

The Service has received several inquiries and five permit applications (from Arkansas) concerning export of captive-bred box turtles. The Service considers captive-bred animals to be animals that are both conceived and hatched within the confines of a controlled environment physically isolated from wild populations. Offspring hatched in captivity from eggs collected from the wild or produced from eggs laid in captivity by gravid females collected from the wild are not considered to be captive-bred. Unless a captive-breeding program meets the rigorous standards of CITES Resolution Conf. 2.12, captive-bred Appendix II animals are subject to the same CITES permit requirements and non-detriment findings as wild-caught animals, as described above. For many species, however, properly managed captive-breeding programs can provide a sustainable supply of animals with minimal impact on wild populations.

The Service is not convinced of the feasibility of breeding box turtles in captivity in commercial quantities. The Service is also concerned about the difficulty of distinguishing captive-bred turtles from wild turtles, especially when wild specimens are readily available in the vicinity of the captive-breeding operation. To substantiate that individual box turtles are captive-bred and to allow the Service to make the necessary determinations, the breeder must be able to document the source and disposition of all box turtles that enter into the breeder's possession. This necessitates physical separation of the breeding stock from wild-caught turtles or marking each turtle individually, and providing detailed records of the captive-breeding operation. Such records must include the source of the parent stock, age and sex composition of the population, annual egg production, hatching success, mortality rate of breeder stock and hatchlings, and disposition of any turtles sold. To understand more fully the potential for both sustainable and verifiable captive-breeding of box turtles, the Service solicits additional information.

Transport Requirements

CITES requires that "any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment." Specifically, to export species listed in Appendix II, such as the box turtle, Article IV, paragraph (c) of the treaty requires that, to issue an export permit, the Management Authority of the exporting country must be satisfied that the animals in the shipment will be "so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment." The CITES party countries have agreed that compliance with the International Air Transport Association (IATA) Live Animal Regulations is the standard for meeting the treaty's humane transport requirements for air transport. The CITES party countries have also agreed that all CITES permits should state that for live animal shipments a permit is only valid if the shipment complies with the IATA Live Animal Regulations (Resolution Conf. 9.3). All U.S. CITES permits contain this provision as a permit condition to comply with this CITES requirement. If a shipment of box turtles is transported that is not in compliance with the IATA Live Animals Regulations, the export permit being used is not valid, and may not be accepted by the importing country.

All U.S. exporters who obtain CITES export permits for live box turtles are

informed of the requirement to comply with the IATA Live Animals Regulations. Prior to export, CITES export permits must be endorsed by the Service's Division of Law Enforcement. If the shipment is not in compliance with IATA, Law Enforcement officials can refuse to endorse the export permit. Such shipments are also subject to refusal of clearance on import.

Improperly transported containers, in addition to being subject to seizure or enforcement actions upon import, also increase the risk of disease or mortality to the animals contained therein.

It is therefore obligatory that all exports of box turtles from the United States comply with the IATA Live Animal Regulations, for air transport. Shipments may comply with either the 21st or 22nd Edition of the Live Animals Regulations, copies of which may be ordered directly from IATA, at 2000 Peel Street, Montreal, Quebec, Canada H3A 2R4.

These shipping standards are internationally accepted by all airlines that are members of IATA (the majority of all U.S. and world carriers, and all carriers shipping turtles internationally from the United States), and by the CITES party governments. The IATA Live Animals Regulations are multilateral and internationally accepted.

In addition to complying with the general requirements of the IATA Live Animals Regulations, shipments of box turtles are also required to comply with the specific container requirement applicable to box turtles, which is Container Requirement 43 in the 22nd Edition of the IATA Live Animals Regulations.

The Service notes the mandatory nature of the requirements that turtles not be overcrowded in the containers, that sufficient ventilation must be provided, and that the containers be sufficiently strong. For all shipments of live animals, the IATA Live Animals Regulations state that the container "must be able to withstand other freight potentially damaging it or causing the structure to buckle or bend." A container used for box turtles must be manufactured from fibreboard, hardboard, plywood, or rigid plastics that can withstand crushing if other freight falls upon it. Containers must also have ventilation holes that are large enough to allow for air circulation. In some cases during very cold weather, styrofoam can be used to line the container as an insulating layer, as long as ventilation is not impeded. Fine wire or nylon mesh should be used to screen the ventilation openings, but should not have jagged edges that may injure the

animals or loose pieces that may be ingested. Box turtles should not under any circumstances be stacked or be shipped in containers that are deep enough to allow them to clamber on top of one another.

The Service also notes the requirement to comply with other aspects of Container Requirement 43 and the general IATA Live Animals Regulations, which are industry standards accepted internationally by air carriers and governments. The Service attends the IATA Live Animals Board meetings, which are also attended

by air carriers, the CITES Secretariat, veterinary experts, and non-governmental organizations. The Service welcomes comments from industry, veterinary, and conservation experts on whether or not the IATA Container Requirement for box turtles could be refined in any way in order to facilitate more healthful or more humane transport of box turtles.

Future Actions

If possible, advice will be issued within a week of the closing period for comment and published in the Federal Register.

The primary authors of this request for information were Dr. Marshall A. Howe and Mr. Tim Van Norman, Office of Scientific Authority, and Mr. Scott Hicks and Dr. Susan Lieberman, Office of Management Authority, under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: January 25, 1996.

John G. Rogers,

Director.

[FR Doc. 96-2208 Filed 2-1-96; 8:45 am]

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