

day public comment period. All public comments received on or before August 8, 1997, were reviewed and considered as part of EPA's evaluation of the CCA. ANPRM comments received on or before August 8, 1997, were responded to in the Compliance Application Review Documents (CARDs), which are part of the proposed certification decision. Comments received from August 8, 1997, to October 30, 1997, will be responded to with comments on the proposed rule.

DOE is developing the Waste Isolation Pilot Plant (WIPP) near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of transuranic (TRU) radioactive waste. As defined by the WIPP LWA, as amended, TRU wastes are materials containing elements having atomic numbers greater than 92, in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste, with half-lives greater than twenty years. Most TRU wastes are items contaminated during the production of nuclear weapons, e.g., rags, equipment, tools, and organic and inorganic sludges.

The WIPP LWA, as amended, specifies the terms and conditions for DOE's activities at the WIPP and the regulatory requirements which apply throughout various stages of the repository's development including the requirement that before beginning disposal of radioactive wastes at the WIPP, DOE must demonstrate that the WIPP will comply with the EPA's radioactive wastes disposal standards, "Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes" (40 CFR Part 191).

Under the WIPP LWA, as amended, EPA is required to develop criteria for the Administrator's certification of compliance with the 40 CFR Part 191 disposal standards. EPA's final rule for the compliance criteria was published in the **Federal Register** on February 9, 1996, at 61 FR 5224-5245, approximately one year after proposal. On March 29, 1996, EPA issued the Compliance Application Guidance (CAG) which provided DOE with specific guidelines regarding the format and content of the compliance certification application and a clear description of the information that EPA would need to make its certification decision. The guidance provided in the CAG is within the framework established by 40 CFR Parts 194 and 191. On November 15, 1996, EPA published an ANPRM in the **Federal Register** at 61 FR 58499-58500, entitled "Decision to Certify Whether the Waste

Isolation Pilot Plant Complies With the 40 CFR Part 191 Disposal Regulations and the 40 CFR Part 194 Compliance Criteria."

If EPA finalizes the decision that the WIPP meets its radioactive waste disposal standards, then DOE may continue to take necessary steps required prior to emplacement of TRU wastes in the repository. Following the initial emplacement of TRU wastes in the facility and throughout its operational phase, DOE will be required to submit a re-certification application to EPA every five years throughout the operational phase of the disposal system. The Agency will review the applications and determine whether the WIPP remains in compliance with the disposal standards.

### Hearing Procedures

Those persons wishing to present testimony at the public hearings are requested to pre-register by calling EPA's toll-free WIPP Information Line at 1-800-331-WIPP between the hours of 11:00 a.m. and 7:00 p.m. Eastern Standard Time (EST) with the following information: Name/Organizational Affiliation (if any)/address/hearing date, location, time(s) available to testify, and a daytime telephone number. In order to be guaranteed an opportunity to testify, requests must be received by EPA no later than 12:00 p.m. EST on December 30, 1997. Speakers not registered in advance may register at the door, if time slots are available. Individuals testifying on their own behalf will be allowed 5 minutes. One individual may testify as the official representative or spokesperson on behalf of groups and organizations and will be allocated 10 minutes for an oral presentation. Time allowed is exclusive of any time consumed by questions from the government panel and answers to these questions. Requests to testify at a second or possibly third location will be accommodated, to the extent possible, once pre-registration has been completed. Written comments will be considered to the same extent as oral testimony and will be included as part of the official hearings transcripts. The hearing transcript will constitute the official record of the hearing. All written comments which are submitted outside of the public hearings must be received by the HQ EPA Air Docket by February 27, 1998. These comments will also be given EPA's full consideration. Thus, all comments received by EPA, whether written or oral, will be given equal consideration in development of the final rule.

The public will be permitted to inspect and comment on any re-certification application.

Dated: December 3, 1997.

**Richard D. Wilson,**

*Acting Assistant Administrator for Air and Radiation.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 14

RIN 1018-AD98

#### **Humane and Healthful Transport of Wild Mammals, Birds, Reptiles and Amphibians to the United States; Notice of Reopening of Comment Period and Scheduling of Public Meetings**

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

**ACTION:** Proposed rule; notice of public meetings and reopening of comment period.

**SUMMARY:** The Fish and Wildlife Service (Service), pursuant to the Lacey Act Amendments of 1981, provides notice of the reopening of the comment period and the scheduling of two public meetings to receive input from the general public for the proposed amendment of 50 CFR part 14, covering the humane and healthful transport of wild mammals, birds, reptiles and amphibians to the United States. The comment period was extended to October 6, 1997 for this proposed rule and has, thus, closed. However, based on requests received, and in order to receive further input from the general public, the Service will reopen the comment period for a period of 30 days and hold two public meetings during that time. Therefore, additional written comments will be accepted during that time, and oral and written comments will be accepted at the public meetings.

**DATES:** A public meeting in New York City (Queens) will be held on January 17, 1998, from 1:00 pm-5:00 pm, and a public meeting in Los Angeles will be held on January 27, 1998, from 1:00 pm-5:00 pm. Comments in writing will be accepted by the Service beginning January 17, 1998, through February 17, 1998.

**ADDRESSES:** The public meeting in New York City will be held at St. John's University, Bent Hall Seminar Room, 8000 Utopia Parkway, Jamaica, NY 11439. The public meeting in Los

Angeles will be held at The Westin Hotel (Los Angeles Airport), 5400 West Century Boulevard, Los Angeles, CA 90045. Please note that the rooms for these meetings are accessible to the handicapped. Written comments can be presented to the Service at either of the public meetings or can be sent to: Director, U.S. Fish and Wildlife Service, Office of Management Authority either by mail, 4401 North Fairfax Drive, Room 700, Arlington, VA 22203, or by fax (703) 358-2298.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bruce J. Weissgold or Dr. Susan S. Lieberman, Office of Management Authority, U.S. Fish and Wildlife Service, telephone (703) 358-2095, fax (703) 358-2298.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On Friday, June 6, 1997, the Service published in the **Federal Register** (62 FR 31044) a proposed rule announcing the Service's intention to amend 50 CFR part 14 subpart J to further implement the requirements of the Lacey Act (18 U.S.C. 42 (c)) for reptiles and amphibians. On August 5, 1997, at the request of two commercial reptile importers, Underground Reptiles and the Reptile Service, the Service published a notice in the **Federal Register** (62 FR 42091) extending the comment period until September 6, 1997. The Lacey Act Amendments of 1981 (Pub. L. 87-79, 95 Stat. 1073) prohibit the importation into the United States of all wild animals and birds under inhumane or unhealthful conditions, and require that the United States Government promulgate regulations governing the importation of wildlife. The purpose of this rulemaking is to ensure the Lacey Act Amendments' consistency and enforceability extend across all species of wildlife, as described by Congress. On June 17, 1992, the Service finalized (57 FR 27094) the rules contained in 50 CFR part 14 subpart J, establishing rules for the humane and healthful transport of wild mammals and birds to the United States. This proposed rule, once finalized, will enable the Secretary of the Interior to meet the responsibilities of the Lacey Act for reptiles and amphibians.

Thus, to more fully implement the amendments of the Lacey Act, which requires the humane and healthful transport of all classes of wild animals and birds and the promulgation of regulations necessary to that end, the Service proposes to extend 50 CFR part 14 subpart J to include rules for the healthful and humane transport of

reptiles and amphibians. Furthermore, many reptiles and amphibians are species included in the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Parties to CITES have adopted a resolution that calls for all CITES-listed species to be packed and shipped in accordance with the International Air Transport Association (IATA) Live Animals Regulations. Therefore, the proposed rule would place these internationally accepted standards into the Code of Federal Regulations for reptiles and amphibians.

For this, and other reasons discussed in the June 6, 1997 **Federal Register** notice, the Service is proposing amendments to 50 CFR part 14 concerning humane and healthful transport of reptiles and amphibians into the United States.

The Service received numerous letters which indicated that there is a great deal of misunderstanding in the commercial reptile and amphibian community regarding the content of the proposed rule and the process followed by the Service while promulgating these regulations under the requirements of the Administrative Procedures Act. Basic confusion partially appears to be present as a result of misrepresentations of the Service's intent and scope of authority to regulate the transport of live reptiles and amphibians. Among the misrepresentations was the suggestion that the Service was moving towards the regulation of the domestic shipping of live reptiles and amphibians and their export, which the Service has neither the intent nor the statutory authority to address, as well as a misrepresentation about the current packing standards of IATA.

The Service received numerous comments on the proposed rule during the extended comment period, which closed October 6, 1997. Many of the comments received were form letters and reiterated the concerns that the proposed rule did not include sufficient "quantifying information" to justify its necessity, would not contribute to improving the humane and healthful transport of live reptiles and amphibians, and would substantially increase shipping costs for commercial traders. Other criticisms included complaints that the Service relied too heavily in drafting the proposed rule on input from "Animal Rights Activists," technical aspects of the proposed rule were burdensome and unnecessary, including the Service's proposals regarding the numbers of animals which could be packed in primary enclosures, temperature requirements, venomous/poisonous species shipping

requirements, packing materials/techniques restrictions, and other related issues. The Service also received many individual letters expressing similar concerns. Conversely, the Service received many comments critical of the proposal to increase the numbers of small animals which can be packed per primary enclosure, relative to the current IATA standards. (The Service has proposed that five small snakes and lizards can be packed per primary enclosure, while IATA standards limit such packing configurations to one animal). In addition, the numerous criticisms were received regarding the Service's findings in the proposed rule which were made pursuant to Executive Order 12988. The Service will evaluate this in the development of the final rule.

The Service also received many comments supportive of the proposals related to several of the issues discussed above. Many letters generally supportive of the Service's proposed rule cited the Service's draft regulations on the numbers of animals which would be packed per primary enclosure, temperature requirements, and packing materials/techniques restrictions. Comments supportive of the proposed rule also cited the Service's proposal to bar the importation of reptiles and amphibians which have visible external parasites, and to require veterinary examination prior to dispatch, and veterinary certificates with shipments of live reptiles and amphibians entering the United States. Other letters generally supportive of the Service's proposed regulations cited importers' desire to cut costs in shipping animals, while others noted that the proposed prohibition on external parasites would help protect human and wildlife health by reducing the risks of the importation of pests with zoonotic or other transmittable diseases. Another supportive letter stated that the new regulations would keep species poorly suited for international transit from being shipped for the "pet trade," while another cited that it was incumbent on the government to "step in" and regulate the trade in common green iguanas (*Iguana iguana*) and other live reptiles because pet purchasers in the United States are unable to "make human, sensible and logical decisions on their own."

The Service also received numerous letters which indicated neither support nor opposition to the proposed rule, but instead offered constructive suggestions on making technical changes to the proposed regulations. Many of the technical changes suggested in the letters addressed the issues discussed above, such as temperature

requirements, packing densities, materials requirements, venomous species shipping requirements, and other related issues.

In addition the Service has received numerous criticisms of the proposed rule from the commercial trade community involved in exporting hatchling farm raised turtles. The Service notes that this proposed rule does not affect the export of live reptiles and amphibians from the United States or their interstate (domestic) commerce. Under the Lacey Act Amendments of 1981, the Service does not have the statutory authority to regulate humane and healthful transport of live reptiles and amphibians being exported from the United States. Therefore, the only humane and healthful transport rules applicable to the export of non-CITES reptiles and amphibians from the United States are the IATA Live Animals Regulations, which are enforced privately by participating airlines. Exports of live CITES-listed reptiles and amphibians are still required to be shipped in accordance with IATA packing requirements, but that requirement is independent, and not related to, this proposed rulemaking. This proposed rule applies only to live reptiles and amphibians being imported into the United States.

In order to provide the public with additional opportunities to communicate with the Service regarding these proposed regulations, and to provide an opportunity to clarify misunderstandings in the public sector regarding this proposed rule, including its content and the process of Federal rulemaking, the Service will reopen the comment period from January 17–February 17, and hold two public meetings during that time, one in New York, NY, and one in Los Angeles, CA, as discussed above (see **DATES** and **ADDRESSES**). These two cities were selected by the Service because of the high volume of live reptiles and amphibians which are imported into the United States through local Fish and Wildlife Service designated ports, and the corresponding concentration of affected members of the general public. Interested members of the general public are encouraged to attend these meetings to communicate their opinions and pertinent factual information to the Service regarding the proposed regulations which can be utilized by the Service in preparation of a final rule.

#### Authority

The authority for this action is the Lacey Act, as amended (18 U.S.C. 42 (c)).

Dated: November 26, 1997.

**Jamie Rappaport Clark,**

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

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018–AC62

#### Endangered and Threatened Wildlife and Plants; Reopening of Public Comment Period on the Proposed Rule to List the Arkansas River Basin Population of the Arkansas River Shiner as Endangered

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

**ACTION:** Proposed rule; Notice reopening the public comment period.

**SUMMARY:** On August 3, 1994, the U.S. Fish and Wildlife Service (Service) proposed to list the Arkansas River basin population of the Arkansas (AR) River shiner (*Notropis girardi*) as an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act)(59 FR 39532). Public comments were solicited, three public hearings were held, and the last comment period expired on February 3, 1995 (60 FR 2070).

The enactment of Pub. L. 104–6 in April 1995, and a series of continuing resolutions from October 1, 1995, through April 26, 1996, established a moratorium against issuing final listings or critical habitat designations. The Service's listing program was essentially shut down and listing program personnel were reassigned to other duties. When the moratorium was lifted, the Service published guidance for assigning relative priorities to listing actions conducted under section 4 of the Act during Fiscal Year 1997 (61 FR 64475).

This species was proposed for endangered status in 1994. New information concerning the AR River shiner's status has since become available.

This notice identifies possible issues the public should be aware of and provides the public opportunity to comment on these issues. All previous comments submitted in response to the August 3, 1994, proposal, including comments that were received after the expiration of the previous comment periods, will be entered into the public record for the AR River shiner.

**DATES:** Comments from all interested parties must be received by January 5, 1998.

**ADDRESSES:** Written comments and materials should be sent to: Supervisor, Ecological Services Field Office, 222 South Houston, Suite A, Tulsa, Oklahoma 74127–8909. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ken Collins at the above address (telephone 918/581–7458 ext. 230).

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 3, 1994 (59 FR 39532), the Service proposed to list the Arkansas River basin population of the AR River shiner (*Notropis girardi*) as an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act)(16 U.S.C. 1531 *et seq.*). The introduced population which occurs in the Pecos River basin is not under consideration for protection under the Act because it is not native to the area.

Two public comment periods were established, with the last comment period expiring on February 3, 1995 (60 FR 2070). During the second comment period, the Service held three public hearings, one each in Kansas, Oklahoma, and Texas. The Service received 602 comments (letters and oral testimony) from 567 individuals or agencies, including a petition containing the names of 36 individuals. Contents of the written comments and oral statements obtained during the public hearings and comment periods were being evaluated at the time Public Law 104–6 was enacted.

The enactment of Pub. L. 104–6 in April 1995, and a series of continuing resolutions from October 1, 1995, through April 26, 1996, established a moratorium against issuing final listings or critical habitat designations. Funding for the Service's listing program was severely reduced or eliminated and listing personnel were reassigned to other duties, essentially shutting down the listing program.

On April 26, 1996, President Clinton approved the Omnibus Budget Reconciliation Act of 1996 and exercised the authority granted under this Act to waive the listing moratorium. When the moratorium was lifted, the Service published guidance for assigning relative priorities to listing actions conducted under section 4 of the Act during Fiscal Year 1997 (61 FR 64475). Based on this priority system,