

pipeline industry, and, as appropriate, plan a more efficient and effective approach. In 1997, RSPA lowered the random drug testing rate to 25 percent. Since the positive random testing rate continues to be less than 1 percent industry-wide, the RSPA announces in accordance with § 199.11(c)(3), that the minimum random drug testing rate will be maintained at 25 percent of covered pipeline employees for the period of January 1, 1999, through December 31, 1999.

Submission of MIS reports are due to the Office of Pipeline Safety, Research and Special Programs Administration, DPS-23, Room 7128, 400 7th Street SW., Washington, DC 20590, not later than March 15 of each calendar year. Notice of statistical data will be published in the future to report results of each calendar year's MIS Data Collection results. At that time, the RSPA will also publish whether or not the random rate will be reduced or increased for the pipeline industry pursuant to § 199.11.

Issued in Washington, DC on October 23, 1998.

**Richard B. Felder,**

*Associate Administrator for Pipeline Safety.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 23

RIN 1018-AE99

#### **Amendment by Brazil to Appendix III Listing of Bigleaf Mahogany Under the Convention on International Trade in Endangered Species of Wild Fauna and Flora**

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

**ACTION:** Final rule.

**SUMMARY:** This rule announces an amendment to the Appendix III listing of bigleaf mahogany (*Swietenia macrophylla*) under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention). The species in the Americas and its logs, sawn wood, and veneer sheets have been included in Appendix III since November 1995, based on an action by the Government of Costa Rica. The Government of Brazil has supplied information to the CITES Secretariat to independently include the species in Appendix III to support its national legislation for the species and

the need for cooperation of other CITES countries in controlling the international trade.

**DATES:** *Effective Date:* This rule is effective on October 30, 1998.

*Applicability Date:* The change to the Appendix III listing for the Brazilian population of the species as set forth in this rule entered into force on July 26, 1998, under the terms of the Convention.

**ADDRESSES:** Please send correspondence concerning the amendment announced in this rule to Chief, Office of Scientific Authority, ARLSQ 750; U.S. Fish and Wildlife Service; Washington, DC 20240; fax number 703-358-2276. Express and messenger deliveries should be addressed to Chief, Office of Scientific Authority, Room 750; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Arlington, Virginia 22203.

The text of the Appendix III notification from the Convention's Secretariat is available on request, and related materials are available for public inspection by appointment from 8:00 a.m. to 4:00 p.m. Monday through Friday, at the above address in Arlington, Virginia.

Please send certificate/permit questions or any applications concerning this regulation to Chief, Office of Management Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Room 700; Arlington, Virginia 22203; fax number 703-358-2281. Express and messenger deliveries should be addressed to Chief, Office of Management Authority, at that Arlington address.

**FOR FURTHER INFORMATION CONTACT:** Dr. Susan Lieberman, Chief, Office of Scientific Authority, phone 703-358-1708, fax 703-358-2276, E-mail r9osa@mail.fws.gov; or the Office of Management Authority, telephone 800-358-2104, E-mail r9oma\_cites@mail.fws.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249) regulates international trade in certain animal and plant species. The species for which trade in particular specimens is controlled are listed in one of three appendices. Appendix III is comprised of species that any Party country has informed the CITES Secretariat are subject to regulation within its jurisdiction for purposes of restricting or preventing exploitation, and for which it needs the cooperation of other Parties to control the specimens in international trade. Resolution Conf.

9.25 (Rev.) provides guidance to assist Parties in determining individually whether a species would qualify for inclusion in Appendix III.

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 in specimens is strictly controlled. Appendix II also can include 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 traded species). Resolution Conf. 9.24 provides criteria and guidance to assist the Parties in determining together (usually at a Conference of the Parties or COP) whether a species would qualify for inclusion in Appendix I or Appendix II. Under CITES, only those species included in Appendix I are banned from international trade for primarily commercial purposes.

The present rule revises the list of CITES species that is reproduced in the U.S. Code of Federal Regulations (CFR) at 50 CFR 23.23(f). The current information following COP10 (see below) was published in the **Federal Register** of August 22, 1997 (62 FR 44627). As advanced by the Government of Brazil pursuant to Article XVI paragraph 1 of the Convention, the present rule acknowledges that now Brazil, Bolivia, and Costa Rica have added *Swietenia macrophylla* (bigleaf mahogany (also respectively called mogno, mara, or caoba)) to Appendix III in support of their domestic conservation measures and need for cooperation of other Parties. Brazil in October 1965 at an inter-American conference had put this species in the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and on April 3, 1992 (by Decree No 37-N) had included the species with other Brazilian species considered to be at risk.

The species continues to be included in CITES Appendix III in the Americas (i.e., South America, Central America, the Caribbean, and North America), including only its logs, sawn wood, and veneer sheets as the parts or derivatives covered by the provisions of the Convention. Thus, products such as finished furniture are excluded. Moreover, export of specimens from plantations located outside the Americas is not regulated. (At COP10 in

June 1997, the categories saw-logs, sawn wood, and veneers were revised slightly to the above for several such listings; cf. 62 FR 44627.)

The CITES Secretariat notified all Party countries on April 27, 1998 (in an unnumbered Notification), of this addition to Appendix III by Brazil of this species. In accordance with Article XVI paragraph 2, such an amendment becomes effective 90 days after notification, in this case on July 26, 1998. All the shipments of bigleaf mahogany originating from Brazil that are exported on or after that date must be accompanied by the appropriate documentation as required by CITES (usually an export permit), which is to be presented upon import to the Party countries.

International trade in Appendix III species and their parts and derivatives that are specified as being included requires the issuance of either an export permit, a certificate of origin, a re-export certificate, or a pre-Convention certificate, by the exporting or the re-exporting Party. An export permit, which signifies that the specimens were not obtained in contravention of the laws of that country for conservation, is required if the shipment originates from the Party that added the species to Appendix III, in this case Brazil, as well as Bolivia, which independently included its population in Appendix III, effective March 19, 1998 (see **Federal Register** of May 14, 1998, 63 FR 26739–26741); and Costa Rica, which had earlier added the species to Appendix III, effective November 16, 1995 (see **Federal Register** of February 22, 1996, 61 FR 6793–6795).

Export from the other countries in the Americas requires the issuance of either a certificate from the country of origin, a certificate from the country of re-export, or a pre-Convention certificate (from the country of export). (The species is native from Bolivia and Brazil to Mexico.) These documents legally verify either: (1) that the specimens originated in a non-listing country; (2) that they are being re-exported after a legal importation in accordance with CITES; or (3) that they were acquired before the provisions of the Convention applied to them. All the countries of South America, Central America, and North America and some countries in the Caribbean are Parties to the Convention. Article X of CITES and Resolution Conf. 9.5 specify the requirements for comparable documentation from countries not party to the treaty. The pre-Convention date for *Swietenia macrophylla* (bigleaf mahogany) remains November 16, 1995.

The Convention's Secretariat and U.S. Office of Management Authority in 1995 (and sometimes since) have inquired regarding certificates of origin or permits that exporting range countries issue for shipments of the specimens of this species (i.e., logs, sawn wood, and veneer sheets). Responses have been received from Mexico, Guatemala, Belize, Honduras, Nicaragua, Venezuela, and Peru (cf. Secretariat's April 27, 1998, Notification No. 1998/15). Costa Rica, Bolivia, and Brazil, as Parties listing the species in Appendix III, use their regular documents (e.g., permits). Importation or exportation of CITES-regulated plant specimens must be through particular designated U.S. Department of Agriculture ports (50 CFR 24.12), which includes additional ports designated for logs and lumber. For information on the types of documents required for such mahogany importation into the United States, as well as requests for any documents needed for such re-export or export from the United States, contact the Service's Office of Management Authority (address and phone number above).

Any Party at any time may enter a reservation on a species (or pertinent population) added to Appendix III. A Party that has entered a reservation is treated as a country that is not party to the Convention with respect to the trade in the species concerned (until such time as that Party withdraws its reservation). The limited effects of a reservation in alleviating importers and exporters from documentation requirements with the other CITES Parties were thoroughly discussed in a **Federal Register** notice on November 17, 1987 (52 FR 43924). In a subsequent **Federal Register** notice of March 28, 1988 (53 FR 9945; see also 53 FR 12497, April 14, 1988), the Service made a procedural change in requesting comments about such reservations for species added to Appendix III. Because the effects of such a reservation are limited, and there is also no time limit for reserving on a species or a population added to Appendix III, a proposed rule is not published at the time the list in § 23.23 is amended. Regardless of any U.S. decision to enter a reservation, this particular amendment to Appendix III enters into force on July 26, 1998, under terms of the Convention. Publishing this rule informs the public of this international action while still affording those interested the opportunity and time to assess the merits of entering a reservation. Therefore, good cause exists to omit a proposed-rule notice and public-comment process, since it is

unnecessary and contrary to the public interest (5 U.S.C. 553(b)). Because bigleaf mahogany in the Americas was added to Appendix III of the Convention effective on November 16, 1995, and because of the other reasons stated herein, the Service finds that good cause exists for making this rule effective upon its date of publication (5 U.S.C. 553(d)). Accordingly, 50 CFR 23.23(f) is amended at the conclusion of this document.

At the tenth meeting of the Conference of the Parties to the Convention (COP10) in June 1997, the United States was among 67 of 112 Parties that voted to include this species in Appendix II; this 60 percent of the Parties in favor, however, fell short of the two-thirds majority needed for adoption of the proposal (see the **Federal Register** notice of August 22, 1997 (62 FR 44627)). After the vote, Brazil in plenary stated its intention to include the species in Appendix III. On September 24, 1997, the Brazilian Ambassador to the United States sent a letter to the U.S. Fish and Wildlife Service soliciting comments on their contemplated listing of bigleaf mahogany in Appendix III (cf. Resolution Conf. 9.25 (Rev.)). The Service replied in a letter of October 10, 1997, to the Brazilian Ambassador in Washington, D.C., providing U.S. interagency-approved comments that supported Brazil's consideration of the Appendix III listing, expressed hope for a prompt conclusion of the consultations and listing, and offered cooperation and partnership to help convey the meaning of the action (e.g., to U.S. consumers). This Appendix III listing thus can assist in curtailing illegal international trade (see Resolution Conf. 9.25 (Rev.) first paragraph b)), which may help prevent severe decline so that the species does not become endangered in the wild.

The Service has not recommended entering a reservation on the enhanced status in Appendix III for the Brazilian population of the species. Consideration for doing so would be given if valid and compelling reasons are shown that implementation of this listing would be contrary to the interests or laws of the United States. The Service now solicits comments on whether to enter a reservation, and particularly seeks any new information that becomes available. The Service will consider all comments received, and if appropriate, will consider recommending that the United States submit a reservation to the depositary government (which is Switzerland).

**Note**

The Department has determined that changes to the Convention Appendices, which result from actions of the Parties to the treaty, do not require preparation of Environmental Assessments as defined under authority of the National Environmental Policy Act (42 U.S.C. 4321-4347). This document recognizes Brazil's decision to include one of their native species in CITES Appendix III and serves as public notice of their decision to potential importers and exporters, as well as other persons who may have a need to know of this Appendix III amendment. Because this amendment to 50 CFR 23.23 is simply a notification to the public on an action that has been taken by Brazil under the terms of CITES, this document does not constitute a "rule" for purposes of the Administrative Procedure Act (5 U.S.C. 551 (4)). Accordingly, the provisions of Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*),

and the Small Business Regulatory Enforcement Fairness Act of 1996 do not apply to this notice.

No new information collection is required as a result of this rulemaking action. For any permits or certificates required for re-export from the United States of this or any other CITES-listed species, the Office of Management and Budget has approved the collection of information under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1018-0093 and 1018-0012.

This document was prepared by Dr. Bruce MacBryde and Dr. Susan Lieberman, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*, 87 Stat. 884, as amended).

**List of Subjects in 50 CFR Part 23**

Endangered and threatened species, Exports, Imports, Treaties.

**Regulation Promulgation**

Accordingly, for the reasons set out above in this document, the Service amends Part 23 of Title 50, chapter I, subchapter B, of the Code of Federal Regulations as set forth below:

**PART 23—ENDANGERED SPECIES CONVENTION**

1. The authority citation for Part 23 continues to read as follows:

**Authority:** Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 1087; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

2. Section 23.23(f) is amended in the table by revising the entry for *Swietenia macrophylla* under the plant family Meliaceae to read as follows:

**§ 23.23 Species listed in Appendices I, II, and III.**

\* \* \* \* \*

(f) \* \* \*

Species	Common name	Appendix	First listing date (month/day/year)
PLANT KINGDOM.	PLANTS.		
Family Meliaceae	Mahogany family		
<i>Swietenia macrophylla</i> populations in the Americas (including logs, sawn wood, and veneer sheets, but no other parts or derivatives, <i>e.g.</i> , products).	Bigleaf mahogany	III (Bolivia, Brazil, Costa Rica)	11/16/95

Dated: October 13, 1998.

**Donald J. Barry,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[I.D.102698A]

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component**

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

**ACTION:** Closure.

**SUMMARY:** NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the

annual commercial quota for red snapper was reached on October 15, 1998. This closure is necessary to protect the red snapper resource.

**DATES:** Closure is effective 12:01 a.m., local time, November 1, 1998, until noon, local time, February 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Robert Sadler, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622. Those regulations set the commercial quota for