

Field Office (see ADDRESSES section) or telephone 619-431-9440.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend Part 17, subchapter

B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical

order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants, to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
* <i>Arabis johnstonii</i>	* Johnston's rock-cress.	* U.S.A. (CA)	* Brassicaceae	* T	*	* NA	* NA
* <i>Arenaria ursina</i>	* Bear Valley sandwort	* U.S.A. (CA)	* Caryophyllaceae	* T	*	* NA	* NA
* <i>Castilleja cinerea</i>	* Ash-grey Indian paintbrush.	* U.S.A. (CA)	* Scrophulariaceae	* T	*	* NA	* NA
* <i>Eriogonum kennedyi</i> var. <i>austromontanum</i> .	* southern mountain wild buckwheat.	* U.S.A. (CA)	* Polygonaceae	* T	*	* NA	* NA
* <i>Poa atropurpurea</i>	* San Bernardino bluegrass.	* U.S.A. (CA)	* Poaceae	* E	*	* NA	* NA
* <i>Taraxacum californicum</i> .	* California dandelion	* U.S.A. (CA)	* Asteraceae	* E	*	* NA	* NA
* <i>Trichostema austromontanum</i> ssp. <i>compactum</i> .	* Hidden Lake bluecurls.	* U.S.A. (CA)	* Lamiaceae	* T	*	* NA	* NA
*	*	*	*	*	*	*	*

Dated: July 5, 1995.
Mollie H. Beattie,
 Director, Fish and Wildlife Service.
 [FR Doc. 95-18975 Filed 8-1-95; 8:45 am]
 BILLING CODE 4310-55-P

50 CFR Part 23
RIN 1018-AC70
Export of River Otters Taken in Tennessee in the 1995-96 and Subsequent Seasons
AGENCY: Fish and Wildlife Service, Interior.
ACTION: Proposed rule.
SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora

(CITES) regulates international trade in certain animal and plant species. Exports of animals and plants listed on Appendix II of CITES require an export permit from the country of origin. As a general rule, export permits are only issued after two conditions are met. First, the exporting country's CITES Scientific Authority must advise the permit-issuing CITES Management Authority that such exports will not be detrimental to the survival of the species. This advice is known as a "no-detriment" finding. Second, the Management Authority must make a determination that the animals or plants were not obtained in violation of laws for their protection. If live specimens are being exported, the Management Authority must also determine that the specimens are being shipped in a

humane manner with minimal risk of injury or damage to health. The purpose of this proposed rulemaking is to announce proposed findings by the Scientific and Management Authorities of the United States on the proposed export of river otters harvested in the State of Tennessee, and to propose the addition of Tennessee to the list of States and Indian Nations for which the export of river otters is approved. The Service intends to apply these findings to harvests in Tennessee during the 1995-96 season and subsequent seasons, subject to the conditions applying to approved States. **DATES:** The Service will consider comments received on or before October 2, 1995 in making its final determination on this proposal.

ADDRESSES: Please send correspondence concerning this proposed rule to the Office of Scientific Authority; Mail Stop: 725 Arlington Square; U.S. Fish and Wildlife Service; 1849 C St. NW, Washington, DC 20240 (FAX number 703-358-2276). Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; Room 750, 4401 North Fairfax Drive; Arlington, Virginia, 22203. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington Square Building, 4401 North Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority Finding—Dr. Marshall A. Howe, Office of Scientific Authority; phone 703-358-1708; FAX 703-358-2276.

Management Authority Findings/State Export Programs—Ms. Carol Carson, Office of Management Authority; Mail Stop: Arlington Square, Room 420c; U.S. Fish and Wildlife Service; Washington, DC 20240 (phone 703-358-2095; FAX 703-358-2280).

SUPPLEMENTARY INFORMATION: On January 5, 1984 (49 FR 590), the Service published a rule granting export approval for river otters and certain other CITES-listed species of furbearing mammals from specified States and Indian Nations and Tribes for the 1983-84 and subsequent harvest seasons. In succeeding years, approval for export of one or more species of furbearers has been granted to other States and Indian Nations, Tribes, or Reservations through the rulemaking process. These approvals were and continue to be subject to certain population monitoring and export requirements. The purpose of this notice is to announce proposed findings by the Scientific and Management Authorities of the United States on the proposed export of river otters, *Lontra* (= *Lutra*) *canadensis*, harvested in the State of Tennessee, and to add Tennessee to the list of States and Indian Nations for which the export of river otters is approved. The Service proposes these findings for the export of specimens harvested in the State of Tennessee during the 1995-96 season and subsequent seasons, subject to the conditions applying to other approved entities.

CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which the trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes

species that, although not necessarily now threatened with extinction, may become so unless trade in them is strictly controlled. It 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 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 the January 5, 1984, **Federal Register** (49 FR 590), the Service announced the results of a review of listed species at the Fourth Conference of the CITES Parties that certain species of furbearing mammals, including the river otter, should be regarded as listed in Appendix II of CITES because of similarity in appearance to other listed species or geographically separate populations. The January 5, 1984, document described how the Service, as Scientific Authority, planned to monitor annually the population and trade status of each of these species and to institute restrictive export controls if prevailing export levels appeared to be contributing to a trend of long-term population decline. The document also described how the Service, as Management Authority, would require States to assure that specimens entering trade are marked with approved, serially unique tags as evidence that they had been legally acquired.

Scientific Authority Findings

Article IV of CITES requires that, before a permit to export a specimen of a species included in Appendix II can be granted by the Management Authority of an exporting country, the Scientific Authority must advise "that such export will not be detrimental to the survival of that species." The Scientific Authority for the United States must develop such advice, known as a no-detriment finding, for the export of Appendix II animals in accordance with Section 8A(c)(2) of the Endangered Species Act of 1973, as amended (the Act). The Act states that the Secretary of the Interior is required to base export determinations and advice "upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice."

The river otter is managed by the wildlife agencies of individual States or Indian Nations. Those States and Indian Nations from which the Service has approved the export of river otters in 1983-84 and subsequent seasons were identified in the January 5, 1984, **Federal Register** (49 FR 590) and listed in 50 CFR 23.53. Each export-approved State or Indian Nation in which this animal is harvested has a program to regulate the harvest. Based on information received from the State of Tennessee, the Service proposes adding that State to the list of States and Indian Nations approved for export of river otters.

Given that the river otter is listed on Appendix II of CITES primarily because of similarity of appearance to other listed species in need of rigorous trade controls, an important component of the no-detriment finding by the Scientific Authority is consideration of the impact of river otter trade on the status of these other species. The Scientific Authority has determined that the dual practice of (1) issuing export permits naming the species being traded and (2) marking pelts with tags bearing the name of the species, country and State of origin, year of harvest, and a unique serial number, is sufficient to eliminate potential problems of confusion with, and therefore risk to, other listed species (see Management Authority Findings for tag specifications).

In addition to considering the effect of trade on species or populations other than those being exported from the United States, the Service will regularly examine information provided by the State of Tennessee to determine if there is a population decline in river otters that might warrant more restrictive export controls. This monitoring and assessment will follow the same procedures adopted for other States and Indian Nations. As part of this monitoring program, the States and Indian Nations that have been approved for export of river otters are requested annually to certify that the best available biological information derived from professionally accepted wildlife management practices indicates that harvest of river otters during the forthcoming season will not be detrimental to the survival of the species.

Whenever available information from the States or other sources indicates a possible problem in a particular State, the Scientific Authority will conduct a comprehensive review of accumulated information to determine whether conclusions about the treatment of these species as listed for similarity of

appearance need to be adjusted in the State.

Natural repopulation of river otters has been occurring in western Tennessee since the 1950's. This increase is consistent with a widespread pattern in the United States and is believed, in part, to reflect colonization of suitable habitat created recently by a rapidly expanding beaver population. Tennessee has supported a study of the demography, food habits, and habitat use of river otters in the State. The results of these studies show that age and sex ratios of river otters in western Tennessee are similar to those of healthy river otter populations elsewhere, including populations experiencing harvest.

The Tennessee Wildlife Resources Agency has conducted experimental river otter trapping seasons annually since 1989 in the western part of the State. Total annual harvest has ranged from 71 (1990-91) to 176 (1992-93). In the central and eastern parts of Tennessee, this species is still classified under State law as threatened and is not legally harvested at this time. The available biological and harvest information leads the Service to conclude that export of river otters legally harvested in Tennessee will not be detrimental to the survival of the species.

All otters taken by trappers are required to be marked with special tags approved by the Wildlife Resources Agency. The State also conducts a questionnaire survey of licensed trappers annually. These surveys identify the size and geographic derivation of the river otter harvest and will provide insight into State river otter population trends over time. Analysis of these data should detect population declines symptomatic of either an unhealthy population or overharvest in time to take corrective action through regulatory adjustments or other means.

Based upon (a) the information presented by the Tennessee Wildlife Resources Agency, including river otter harvest regulations, and (b) the determination that permitting and tagging requirements will eliminate the possibility that other similar-appearing, CITES-listed species in trade will be misrepresented as river otters, the Service proposes to issue Scientific Authority advice in favor of export of river otters harvested in 1995-96 and subsequent seasons from Tennessee.

Management Authority Findings

Exports of Appendix II species are allowed under CITES only if the Management Authority is satisfied that the specimens were not obtained in

contravention of laws for the protection of the involved species. The Service, therefore, must be satisfied that the river otter pelts, hides, or products being exported were not obtained in violation of State, Indian Nation, Tribal, Reservation, or Federal law in order to allow export. Evidence of legal taking for Alaskan gray wolf, Alaskan brown or grizzly bear, American alligator, bobcat, lynx, and river otter is provided by State or tribal tagging programs. The Service annually contracts for the manufacture and delivery of special CITES animal-hide tags for export-qualified States and Indian Nations, Tribes, and Reservations. The Service has adopted the following export requirements for the 1983-84 and subsequent seasons:

(1) Current State or Indian Nation, Tribe, or Reservation hunting, trapping, and tagging regulations and sample tags must be on file with the Office of Management Authority;

(2) The tags must be durable and permanently locking and must show U.S.-CITES logo, State or Indian Nation, Tribe, or Reservation of origin, year of take, species, and a unique serial number;

(3) The tag must be attached to all pelts taken within a minimum time after take, as specified by the State and Indian regulation, and such time should be as short as possible to minimize movement of untagged pelts;

(4) The tag must be permanently attached as authorized and prescribed by the State or Indian regulation;

(5) Takers/dealers who are licensed/registered by States or Indian Nations, Tribes, or Reservations must account for tags received and must return unused tags to the State or Indian Nation, Tribe, or Reservation within a specified time after the taking season closes; and,

(6) Fully manufactured fur (or hide) products may be exported from the United States only when the CITES export tags, removed from the hides used to make the product being exported, are surrendered to the Service prior to export.

Proposed Export Decision

The Service proposes to approve exports of Tennessee river otters harvested during the 1995-96 or subsequent harvest seasons on the grounds that both Scientific Authority and Management Authority criteria have been satisfied.

Comments Solicited

The Service requests comments on these proposed findings and the proposed rulemaking adding Tennessee to the list of States approved for export of river otters. The final decision on this

proposed rule will take into account comments received and any additional information received. Such consideration may lead to findings different from those presented in this proposal.

Effects of the Rule and Required Determinations

The Department has previously (48 FR 37494) determined that the export of river otters of various States and Indian Tribes or Nations, taken in the 1983-84 and subsequent harvest seasons, was not a major Federal action that would significantly affect the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321-4347). This action is covered under an existing Departmental categorical exclusion for amendments to approved actions when such changes have no potential for causing substantial environmental impact.

This rule was not subject to Office of Management and Budget review under Executive Order 12866 and will not have significant economic effects on a substantial number of small entities as outlined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the existing rule treats exports on a State-by-State and Indian Nation-by-Indian Nation basis and proposes to approve export in accordance with a State or Indian Nation, Tribe, or Reservation management program, the rule will have little effect on small entities in and of itself. The proposed rule would allow continued international trade in river otters from the United States in accordance with CITES, and it does not contain any Federalism impacts as described in Executive Order 12612.

This proposed rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

This proposal is issued under authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*). The authors are Marshall A. Howe, Office of Scientific Authority, and Carol Carson, Office of Management Authority.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Imports, Transportation, Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

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.C. 1087; and Endangered

Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

2. In Subpart F—Export of Certain Species, revise § 23.53 to read as follows:

§ 23.53 River otter (*Lontra canadensis*).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) *States and Harvest Seasons Approved for Export of River Otter From the United States.*

	1977-78 ¹	1978-79 ²	1979-80 ³	1980-81	1981-82	1982-83	1983-84 and subsequent	1995-96 and subsequent
Alabama	Q	+	+	+	+	+	+	+
Alaska	+	+	+	+	+	+	+	+
Arkansas	Q	+	+	+	+	+	+	+
Connecticut	Q	+	+	+	+	+	+	+
Delaware	Q	+	+	+	+	+	+	+
Florida	Q	+	+	+	+	+	+	+
Georgia	Q	+	+	+	+	+	+	+
Louisiana	Q	+	+	+	+	+	+	+
Maine	Q	+	+	+	+	+	+	+
Maryland	Q	+	+	+	+	+	+	+
Massachusetts	Q	+	+	+	+	+	+	+
Michigan	Q	+	+	+	+	+	+	+
Minnesota	Q	+	+	+	+	+	+	+
Mississippi	Q	+	+	+	+	+	+	+
Montana	Q	+	+	+	+	+	+	+
New Hampshire	Q	+	+	+	+	+	+	+
New Jersey	-	-	-	-	-	+	+	+
New York	Q	+	+	+	+	+	+	+
North Carolina	Q	+	+	+	+	+	+	+
Oregon	Q	+	+	+	+	+	+	+
Penobscot Nation	-	-	-	-	-	-	+	+
Rhode Island	Q	+	-	-	-	-	-	-
South Carolina	Q	+	+	+	+	+	+	+
Tennessee	-	-	-	-	-	-	-	+
Vermont	Q	+	+	+	+	+	+	+
Virginia	Q	+	+	+	+	+	+	+
Washington	Q	+	+	+	+	+	+	+
Wisconsin	Q	+	+	+	+	+	+	+

¹ For further information see 42 FR 43729, Aug. 30, 1977; 43 FR 11081, Mar. 16, 1978; and 43 FR 29469, July 7, 1978.

² For further information see 43 FR 11096, Mar. 16, 1978; 43 FR 13913, Apr. 3, 1978; 43 FR 15097, Apr. 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, Aug. 7, 1978; 43 FR 36293, Aug. 16, 1978; and 43 FR 39305, Sept. 1, 1978.

³ For further information see 44 FR 25383, Apr. 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979.

Q Export approved with quota.

+ Export approved.

- Export not approved.

* Export for 1994-95 approved administratively.

(b) *Condition on export:* Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: finished furs and

fully manufactured fur products may be exported from the U.S. when the State export tags, removed from the pelts used to manufacture the product being exported, are surrendered to the Service before export. Such tags must be removed by cutting the tag straps on the female side next to the locking socket of

the tag, so that the locking socket and locking tip remain joined.

Dated: July 14, 1995.

Robert P. Davison,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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