ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has determined that three common species of kangaroos, the red kangaroo, the western gray kangaroo, and populations of the eastern gray kangaroo in mainland Australia, should be removed from the list of threatened species under the Endangered Species Act (Act or ESA). The Service also announces that it is denying a December 20, 1989, petition to reimpose a ban on the commercial importation of products from these three species of kangaroos from mainland Australia on procedural grounds. The Service, with this rule, also rescinds the existing special rule applicable to threatened kangaroo populations. EFFECTIVE DATE: April 10, 1995. **ADDRESSES:** The complete file for the

rule is available for public inspection by appointment, from 8 a.m. to 4 p.m., in Room 750, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Office of Scientific Authority, at the above address, or by phone (703–358–1708) or by fax (703–358–2276).

SUPPLEMENTARY INFORMATION:

Background

The term "kangaroo" in this rule refers to all populations of the red kangaroo (Macropus rufus), the western gray kangaroo (M. fuliginosus), and the eastern gray kangaroo (M. giganteus) in mainland Australia, which are being removed from the list of endangered and threatened wildlife (50 CFR 17.11) under Act (16 U.S.C. 1531-1544). The subspecies of the eastern gray kangaroo (M. g. tasmaniensis), which occurs solely in Tasmania retains its endangered classification under the Act. The red kangaroo, western gray kangaroo, and the eastern gray kangaroo in mainland Australia were listed on December 30, 1974 (39 FR 44990), as threatened species pursuant to the Act and the commercial importation of kangaroos, their parts, and products was banned. A special rule to allow such importations into the United States after development of adequate State management plans accompanied the listing. The Service accepted the management programs for four Australian States and lifted the importation ban on April 29, 1981 (46 FR 23929), after kangaroo management plans and population survey techniques had been strengthened. The Service, in two Federal Register notices of April 8, 1983, proposed to delist the three species of kangaroos (48 FR 15428) and

to continue the commercial importation of kangaroos (48 FR 15434). The final rule allowing the continuation of the importation of kangaroos was published on August 1, 1983 (48 FR 34757). The Service withdrew the proposed rule to delist the three kangaroo species on April 24, 1984 (49 FR 17555), after receiving new data from the Australian Government that the severe drought in the summer of 1982-3 had caused significant reductions in kangaroo populations. It was noted that the drought was broken in winter 1983, that kangaroos were again beginning to breed, but the ability of kangaroo populations to recover from the major 1982–3 population fluctuation was unknown. It was further noted that the delisting action could be reconsidered after the Service had a better understanding of how kangaroo populations recover from drought events.

The Service was petitioned on December 20, 1989, by Greenpeace USA, with subsequent support from other groups, "to reinstate the ban on commercial importation of kangaroos and of kangaroo products." The petitioners contended that Australia's management of kangaroos was inherently flawed and that Australian States did not have adequate and effective conservation programs that ensured the protection of the threatened species. The Service, in order to respond to the December 20, 1989, petition in a meaningful manner, sent three representatives to Australia in March 1990 to investigate the population status of the three kangaroo species (survey methods, numbers, and trends) and the implementation of management programs. In addition, the team received comments about the conservation benefit of management plans that allowed the harvest of kangaroos. The Service team spent 12 days meeting with selected members of Parliament, representatives of various nongovernmental organizations, scientists, State and federal natural resource managers, enforcement personnel, grain growers, and ranchers. The team also visited parks, open range, chillers, faunal dealers, ports and exporters. The team presented their findings in a June 5, 1990, report (Nichols et al. 1990). The Service, in a Federal Register notice of August 8, 1990 (55 FR 32276), announced the receipt of the Greenpeace petition and the availability of the June 5, 1990, Service report and requested comments on the status of the three species of kangaroos in Australia. The comment period on the status review for the

December 20, 1989, petition was extended to November 6, 1990.

The Wildlife Legislative Fund of America submitted a petition dated November 6, 1990, which was received by the Service on the following day. That petition requested that all populations of the red kangaroo (*Macropus rufus*), the western gray kangaroo (*M. fuliginosus*), and the eastern gray kangaroo (*M. giganteus*), except the subspecies *M. g. tasmaniensis*, be removed from the list of threatened species under the Endangered Species Act (Act).

The Wildlife Legislative Fund petition presented the June 5, 1990, report prepared by Service personnel as the principal basis for the petition. Among other things, the petitioners cited the conservative estimates of the 1987 kangaroo populations (red kangaroos— 7.5 million, western gray kangaroos— 1.7 million, and eastern gray kangaroos—4.7 million) and the fact that kangaroo conservation programs exist within individual range states as reasons for delisting the species.

The Service, in a **Federal Register** notice of June 12, 1991 (56 FR 26971), found that the action requested in the November 6, 1990, petition may be warranted and requested additional comments as part of a continuing status review of kangaroos and kangaroo management in Australia. The comment period was reopened until September 10, 1991. That comment period was later extended to September 24, 1991, in a **Federal Register** notice dated September 17, 1991 (56 FR 47060).

The Service published a proposed rule in the Federal Register on January 21, 1993 (58 FR 5341) proposing to remove the three species of kangaroos in mainland Australia from the list of threatened species under the Act. The Service had found that the four States that commercially harvest kangaroos (New South Wales, Queensland, South Australia, and Western Australia) had developed and implemented adequate and effective conservation programs that ensured the protection of these species. The Service additionally found that kangaroo populations were high and that the three species were protected by appropriate legislation, had their populations regularly monitored by direct and indirect procedures, and were managed by a complex licensing system which regulated the extent of the legal harvest. The Service in that Federal Register document also announced that it was deferring a decision on the December 20, 1989, petition by Greenpeace USA to reimpose the ban on the importation of kangaroo products until the final