

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: