

(NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

#### *J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 710

Environmental protection, Aluminum alkyl chemicals, Chemicals, Hazardous materials, Pyrophoric, Reporting and recordkeeping requirements.

Dated: November 25, 2005.

**Charles M. Auer,**

*Director, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR chapter I is amended as follows:

#### **PART 710—[AMENDED]**

■ 1. The authority citation for part 710 continues to read as follows:

**Authority:** 15 U.S.C. 2607(a).

■ 2. Section 710.46 is amended by adding the following entries in ascending order to the table in paragraph (b)(2)(iv) to read as follows:

#### **§ 710.46 Chemical substances for which information is not required.**

*	*	*	*	*
(b)	*	*	*	
(2)	*	*	*	
(iv)	*	*	*	

CAS No.	Chemical
96–10–6 .....	Aluminum, chlorodiethyl-
97–93–8 .....	Aluminum, triethyl-
100–99–2 .....	Aluminum, tris(2-methylpropyl)-
* * .....	* * *
563–43–9 .....	Aluminum, dichloroethyl-
1070–00–4 .....	Aluminum, trioctyl-
1116–70–7 .....	Aluminum, tributyl-
1116–73–0 .....	Aluminum, trihexyl-
1191–15–7 .....	Aluminum, hydrobis(2-methylpropyl)-
* * .....	* * *
12075–68–2 .....	Aluminum, di- $\mu$ -chlorochlorotriethyl-di-
12542–85–7 .....	Aluminum, trichlorotrimethyl-di-

CAS No.	Chemical
* *	* * *

[FR Doc. 05–24138 Filed 12–15–05; 8:45 am]

**BILLING CODE 6560–50–S**

#### **DEPARTMENT OF THE INTERIOR**

#### **Fish and Wildlife Service**

#### **50 CFR Part 23**

**RIN 1018–AF69**

#### **Inclusion of Alligator Snapping Turtle (*Macrochelys* [= *Macrochelys*] *temminckii*) and All Species of Map Turtle (*Graptemys* spp.) in Appendix III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora**

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

**ACTION:** Final rule.

**SUMMARY:** We, the Fish and Wildlife Service (Service), are listing the alligator snapping turtle (*Macrochelys* [= *Macrochelys*] *temminckii*) and all species of map turtle (*Graptemys* spp.) in Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention, or CITES). Appendix III of CITES includes species that a CITES Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade. International trade in alligator snapping turtles is largely focused on pet markets and meat for human consumption. Map turtles are popular in the pet trade and may also be sold for human consumption. Map and alligator snapping turtles are protected to varying degrees by State laws within the United States. Listing these native turtles in Appendix III is necessary to allow us to adequately monitor international trade in the taxa; to determine whether exports are occurring legally, with respect to State law; and to determine whether further measures under CITES or other laws are required to conserve these species. Appendix-III listings will lend additional support to State wildlife agencies in their efforts to regulate and manage these species, improve data gathering to increase our knowledge of trade in these species, and strengthen State and Federal wildlife enforcement activities to prevent poaching and illegal trade. Furthermore, listing

alligator snapping turtles and all species of map turtles in Appendix III enlists the assistance of other Parties in our efforts to monitor and control trade in these species.

**DATES:** This listing will become effective June 14, 2006.

**ADDRESSES:** You may obtain information about permits for international trade in these species by contacting Mr. Tim Van Norman, Chief, Branch of Permits—International, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; telephone: 703–358–2104, or 800–358–2104; fax: 703–358–2281; e-mail: [ManagementAuthority@fws.gov](mailto:ManagementAuthority@fws.gov); Web site: <http://international.fws.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert R. Gabel, Chief, Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 750, Arlington, Virginia 22203; telephone: 703–358–1708; fax: 703–358–2276; e-mail: [ScientificAuthority@fws.gov](mailto:ScientificAuthority@fws.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

This listing was proposed in the **Federal Register** of January 26, 2000 (65 FR 4217). Since that time, with the assistance of the International Association of Fish and Wildlife Agencies (IAFWA), we have conducted extensive discussions with the range States for alligator snapping turtle and map turtles, and have reviewed and considered all public comments received on the proposed rule. Our final decision reflects consideration of the information and opinions we have received.

#### *Alligator Snapping Turtle*

The alligator snapping turtle (*Macrochelys* [= *Macrochelys*] *temminckii*), the largest freshwater turtle in North America, is a member of the Family Chelydridae, Order Testudinata, Class Reptilia. This North American family includes two monotypic genera. The second genus is *Chelydra*, represented by the common snapping turtle (*Chelydra serpentina*). The nomenclatural history of the alligator snapping turtle is complex and continues to evolve. The species was first described in 1789 as *Testudo planitia*, but was placed in the genus *Macrochelys* by Gray in 1855. Although subsequent authors referred to the genus as *Macrochelys*, Smith (1955 in Ernst and Barbour 1972) refuted this placement and believed the alligator snapping turtle should be included in the genus *Macrochelys*. Lovich (1993)

supported this approach. In 1995, Webb demonstrated that the genus *Macrochelys* has precedence over *Macroclemys*, and the Society for the Study of Amphibians and Reptiles adopted this revision in 2000 (Reed *et al.* 2002). However, for the purpose of this listing, we have decided to use *Macroclemys* as the primary genus name because most States and individuals know the species as *Macrochelys* and continue to use this nomenclature.

The alligator snapping turtle inhabits freshwater river systems and associated fluvial habitats such as lakes, canals, oxbows, swamps, ponds, and bayous throughout the Mississippi River Valley. It also occurs in the rivers and associated habitats of several drainage basins that flow into the Gulf of Mexico, from the Suwanee River, Florida, in the east to the western limits of the species' range in eastern Texas. The current distribution of *M. temminckii* includes the following States: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas (Ernst and Barbour 1972).

Current research indicates significant range-wide genetic divergence of populations of the species among river drainages. Three genetically distinct subpopulations have been identified: the greater Mississippi River watershed, the Gulf Coastal rivers east of the Mississippi River, and the Suwanee River drainage system (Roman *et al.* 1999). Extirpation of any local population in one of the three drainage basins may lead to loss of genetic variability and vigor, the increased vulnerability of remaining populations to disease and predation, difficulties in obtaining appropriate founder stock for possible use in future recovery efforts, if needed, and loss of the species' unique function and role in the ecosystem.

Alligator snapping turtles are protected in some form by the majority of States within the species' distribution. However, levels of protection and conservation measures are not consistent from State to State. Regulatory programs for the alligator snapping turtle may include: prohibitions against take from the wild for both commercial and personal purposes; restrictions that ban only commercial harvest from the wild; regulations that prohibit possession, purchase, sale, transport, or export; inclusion on several State lists of endangered and threatened wildlife; and

regulated commercial captive production ("farming").

The alligator snapping turtle is believed to be significantly reduced in abundance throughout a substantial portion of its northern range (Roman *et al.* 1999). Previously, the species was considered for candidate status under the Endangered Species Act of 1973, as amended (Act). The World Conservation Union (IUCN) classifies the alligator snapping turtle as Vulnerable; according to IUCN criteria, this species will likely become Endangered in the future if the factors leading to its decline continue (IUCN 2000).

The alligator snapping turtle is declining throughout its range as a consequence of several known factors. Two of the leading factors contributing to loss of the species' native habitat are commercial and agricultural development of former bottomland hardwood forest and associated freshwater streams, as well as river and bankside modifications that alter or eliminate crucial nesting sites (Reed *et al.* 2002). Another major threat is over-collection of live adult turtles from the wild for human consumption and for export of live animals destined for the pet trade (Figure 1). Alligator snapping turtle hatchlings are sold in the domestic and international pet trade, whereas adult specimens are harvested for local human consumption and for use in the specialty meat trade within the United States. Based on the rapid rise in exports of alligator snapping turtles (Figure 1), we believe that a portion of the exports may be for the meat trade. Harvest and trade of mature, breeding adults can rapidly become unsustainable because of the alligator snapping turtle's life history and reproductive strategy. Intense collection over several decades has severely depleted many local populations and/or altered their demographic structure (Roman *et al.* 1999). Other threats to the alligator snapping turtle include water pollution that often results in the reduction of key prey species and bioaccumulation of industrial and agricultural toxins (Reed *et al.* 2002).

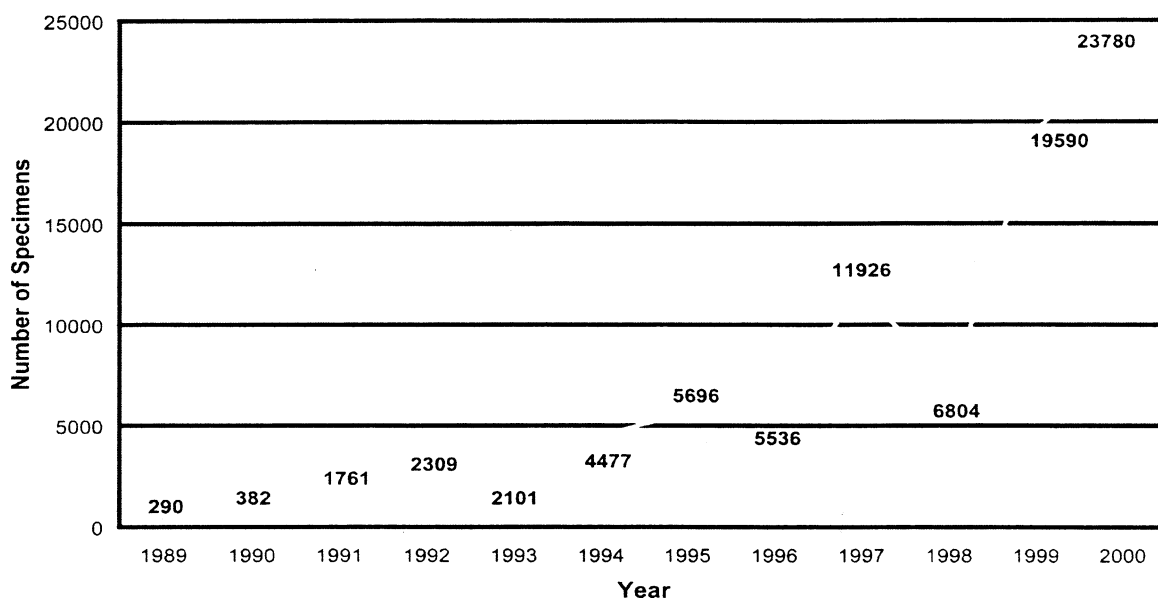
The alligator snapping turtle cannot sustain significant collection from the wild because of its life history traits (Galbraith *et al.* 1997). The species does not reach sexual maturity until 11–13 years of age in the wild, and a typical mature female only produces one clutch of eggs per year. A single clutch may comprise 8–52 eggs (Ernst and Barbour 1989). The alligator snapping turtle is

characterized by low survivorship in early life stages, and delayed maturation, but surviving individuals may live many decades once they reach maturity. Therefore, the population dynamics of this species are extremely sensitive to the harvest of adult females. An adult female harvest rate of less than 2 percent per year is considered unsustainable, and harvest of this magnitude or greater will result in significant local population declines (Reed *et al.* 2002).

As noted above, harvest controls for the species vary by State agencies. Commercial harvest and trade are prohibited in most range States, although individual turtles may be taken from the wild for personal use in many States. The State of Louisiana now prohibits commercial harvest of alligator snapping turtles and limits recreational take to one turtle per day per licensed fisher under recent changes in state harvest regulations (Louisiana Department of Wildlife and Fisheries 2004). In addition, Louisiana closely regulates all captive breeding of alligator snapping turtles for domestic and international trade. The State of Mississippi permits trade in farm-reared alligator snapping turtles. Hatchling alligator snapping turtles offered for sale in the pet trade are often advertised as "captive-bred." During the comment period, the State of Louisiana confirmed that many of the animals in trade are indeed captive-bred in the State. Louisiana turtle farms operate under strict statutes that require sanitary conditions, including testing for *Salmonella* prior to export (James H. Jenkins, Jr., Secretary, Louisiana Department of Wildlife and Fisheries, in litt. to the Service 2000).

We formerly believed that many exported hatchlings were derived from wild-collected eggs; however, recent information indicates that this practice is not as common as previously supposed (James H. Jenkins, Jr., Secretary, Louisiana Department of Wildlife and Fisheries, in litt. to the Service 2000). Prices for alligator snapping turtles vary greatly based on size, market demand, age, coloration, origin (wild-caught versus captive-bred), and condition. TRAFFIC-North America, the wildlife trade monitoring network, notes that most live adult alligator snapping turtles are exported to Japan and Hong Kong (Simon Habel, Director, TRAFFIC-North America, in litt. to the Service 2000).

**Figure 1. Minimum Number of Exports of Live Alligator Snapping Turtles from the United States, 1989 – 2000**

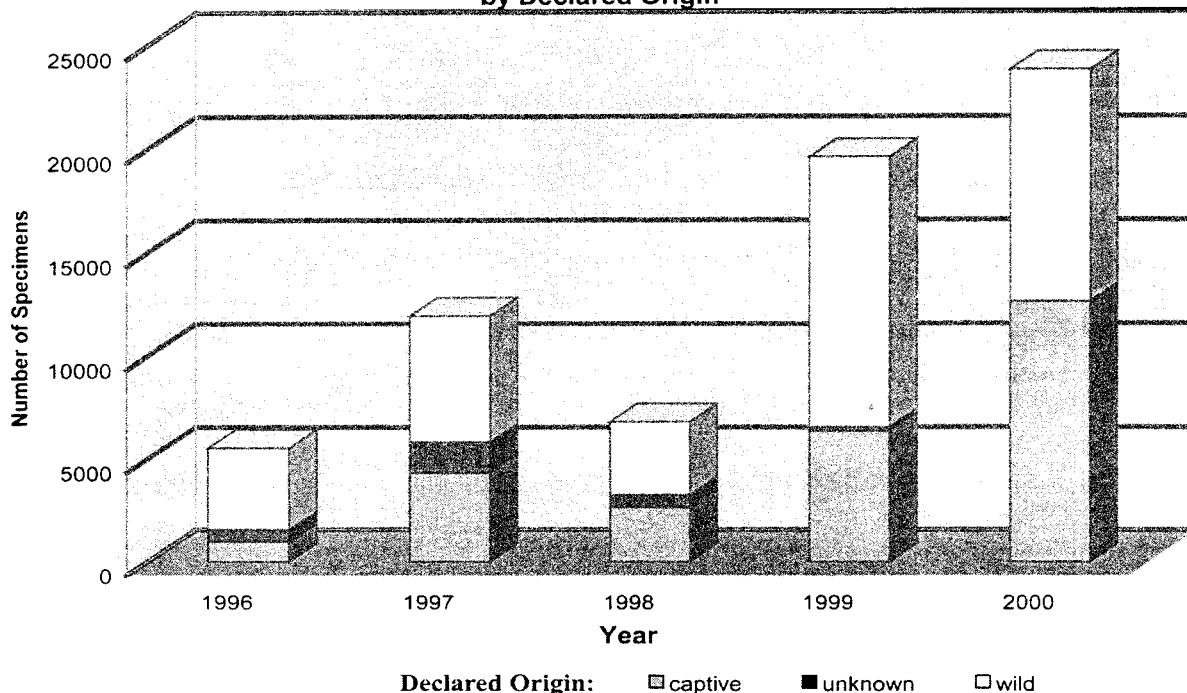


Data collected by the Service's Office of Law Enforcement (OLE) indicate that the volume of trade in alligator snapping turtles has increased substantially in the past decade, from 290 specimens in 1989 to 23,780 specimens in 2000 (Figure 1). These data were obtained from OLE's database containing Declaration Forms 3-177, a declaration that must be filed by

individuals and commercial businesses upon international importation or exportation of wildlife, including parts and products. We believe these data are minimum figures, because not all shipments that were exported were declared or recorded to the species level, particularly in the earlier years of the decade, and the data do not include illegal trade.

The declared origin of exported alligator snapping turtles began to shift during the late 1990s (Figure 2). In 1996, the majority of alligator snapping turtles presented for export were declared as having been harvested from the wild. As the turtle-farming industry has increased, so too have exports of farm-raised turtles, although dependence on wild-caught turtles has not

**Figure 2. Export of Alligator Snapping Turtles from the United States by Declared Origin**



decreased, possibly due to increased demand for the species and the resulting increased volume of trade. By 2000, the number of farm-raised alligator snapping turtles exported was nearly equal to the number of wild-caught specimens exported. The number of exported alligator snapping turtles of unknown origin decreased. However, as evident in Figure 2, the volume of trade in the species increased substantially over the years 1996–2000.

During our review of the OLE declaration data, we discovered that the largest number of alligator snapping turtles was exported from wildlife ports in the State of California. More than 25,000 animals were shipped from California between 1996 and 2000. However, most if not all alligator snapping turtles exported from California originated from other States, since California is not a range State; therefore, these data do not reflect the true origin of all exported alligator snapping turtles. The other major exporting States, reflected by declaration data, were Arkansas, with shipments of more than 14,000 alligator snapping turtles; Missouri, with more than 6,000 specimens exported; and Louisiana, with total exports of just over 5,000 animals.

#### Map Turtles

There are 12 species of North American map turtles: the common map turtle (*Graptemys geographica*), Barbour's map turtle (*G. barbouri*), Alabama map turtle (*G. pulchra*), Escambia map turtle (*G. ernsti*), Pascagoula map turtle (*G. gibbonsi*), Cagle's map turtle (*G. caglei*), false map turtle (*G. pseudogeographica*), Ouachita map turtle (*G. ouachitensis*), Texas map turtle (*G. versa*), ringed map turtle (*G. oculifera*), yellow-blotched map turtle (*G. flavimaculata*), and black-knobbed map turtle (*G. nigrinoda*). Map turtles are subject to legal protection in one or more States where they occur, although State regulations for harvest, possession, and trade vary. In addition, the ringed map turtle and the yellow-blotched map turtle are Federally listed as threatened species under the Endangered Species Act. Cagle's map turtle is a Candidate species under the Endangered Species Candidate Conservation Program. Collection, possession, and trade in certain *Graptemys* species are prohibited in the States that include them in their endangered and threatened species lists. States that prohibit take, possession, and/or sale of map turtles include: Indiana, Kansas, Maine, Missouri, North Dakota, and South Dakota. Some States allow harvest and trade of wild map turtles

with specific provisions. Alabama allows trade in *G. geographica* and *G. pseudogeographica*, but protects *G. pulchra*, *G. barbouri*, *G. ernsti*, and *G. nigrinoda* from all commercial activity. Map turtles are not native to Colorado; however, sales are legal, provided specimens are greater than 4 inches in carapace length. Wild-caught specimens in Illinois may be taken by dip nets, hand, or hook and line, provided the collector possesses a valid State fishing license. Map turtles may be sold in licensed pet stores in Illinois, provided the dealer can document that the turtles were legally obtained. Minnesota does not allow take, possession, transport, or purchase of any turtle species without a State turtle seller's license. There are currently no controls on the sale of map turtles in Ohio. Wisconsin requires a valid State license and limits possession to five specimens of each map turtle species.

Trade in *Graptemys* species increased substantially from 1989 to 2000 (U.S. Fish and Wildlife Service, Office of Law Enforcement 2000). In 1989, fewer than 600 map turtles were exported from the United States. The volume of trade rapidly increased during the 1990s; by the year 2000, more than 200,000 map turtles were exported (U.S. Fish and Wildlife Service, Office of Law Enforcement 2000). The rise in demand for map turtles is primarily the result of the increasing popularity of reptiles for the international pet trade. Supply has kept pace with demand through the expansion of large-scale international commercial trade in many turtle species. Map turtles are produced in the United States by farms that specialize in propagating captive-bred hatchlings specifically for commercial trade, but turtles are also entering trade through collection from the wild. The closure of many countries to imports of the popular red-eared slider (*Trachemys scripta elegans*) because of invasive concerns may have led to a surge in demand for map turtles, and particularly for farm-raised hatchlings. Based on OLE's declaration data, it appears that the majority of shipments depart from the United States between the months of August and October.

#### Common Map Turtle

The common map turtle (*Graptemys geographica*) was first described by Le Sueur in 1817 (Ernst and Barbour 1989). The species occurs in the St. Lawrence River drainage, extending from southern Quebec, Canada, to Lake Ontario, and into northwest Vermont (Ernst and Barbour 1989). It also occurs in the southern portion of Ontario. The species is widely distributed in the Midwestern

United States. *G. geographica* occurs in the Great Lakes region of lower Michigan, Wisconsin, and southeastern Minnesota. The species occurs west of the Appalachian Mountains, from Ohio, Kentucky, and Tennessee west to Iowa, Kansas, and northeastern Oklahoma and south to Arkansas, Alabama (above the fall line), and northwest Georgia. Common map turtles are also found within suitable habitat in the Susquehanna River drainage of Pennsylvania and Maryland, and in the Delaware River system of Pennsylvania and New Jersey, although the Pennsylvania and New Jersey Delaware River populations are not contiguous with one another or with the larger occupied range of the species. Finally, an additional geographically isolated population exists within the Hudson River area of New York, which contains one of the world's most biologically diverse ecosystems based on numbers of species present. The common map turtle is the only species of map turtle that inhabits watersheds discharging into the Atlantic Ocean. In the past, substantial populations inhabited most waterways that harbored sufficient mollusk populations (Ernst and Barbour 1989). Common map turtles typically inhabit large rivers and lakes that offer plentiful basking sites (Ernst et al. 1994). Habitat preferences, measured by capture frequency, have been studied in the Susquehanna River system flowing through Pennsylvania. Preferred sites were found to be those that contained deep, slow-moving currents, stream riffles, and shallow bankside areas. Large common map turtles were typically captured in rivers and streams with deep, slow-moving currents, whereas smaller turtles were collected more often than expected in slow-moving, less turbulent shallows. Pluto and Bellis (1986) found that large adult common map turtles generally avoid areas of emergent vegetation and congregate in areas that can accommodate numerous downed tree limbs and branches that can be used as basking sites.

Wild common map turtles may live longer than 20 years (Ernst et al. 1994). The species generally does not acclimate well to captive conditions; however, one adult specimen survived more than 18 years in Chicago's Brookfield Zoo (Snider and Bowler 1992). Preferred prey items include freshwater snails, clams, insects (particularly immature stages), crayfish, water mites, fish, and aquatic vegetation (Ernst and Barbour 1989).

Similar to those of other turtle species, the eggs and hatchlings of *G. geographica* are preyed upon by a wide

variety of vertebrate species, including rice rats (*Oryzomys palustris*; Goodpaster and Hoffmeister 1952). Adult female common map turtles are most vulnerable to predation when they leave the water to lay their eggs on shore.

Population declines in portions of the species' range can be directly attributed to human activities. Water pollution and over-harvest have resulted in the decline or elimination of this map turtle's preferred mollusk prey base. Expanding waterfront development has increased encroachment on, and the destruction of, traditional nesting sites. Mortalities of adult map turtles are common during the nesting season, particularly when females cross roads to reach nesting sites.

#### Barbour's Map Turtle

Barbour's map turtle (*Graptemys barbouri*) was first described by Carr and Marchand in 1942 (Ernst and Barbour 1989). This species is closely related to *G. pulchra*, *G. ernsti*, and *G. gibbonsi* (discussed below). It shares characteristics of these species, including large mature female size, extreme sexual size dimorphism, morphological differences between the sexes, the presence of prominent vertebral spines, and a diploid chromosome number of 52 (Lovich and McCoy 1992).

This species' range is restricted to large tributaries of the Apalachicola River, including the Chipola, Chattahoochee, and Flint Rivers in eastern Alabama, western Georgia, and western Florida; three discontinuous populations are known to exist (Ernst et al. 1994). Barbour's map turtles prefer clear streams with a limestone substrate, and large rivers that support abundant basking sites in the form of snags, fallen trees, and limbs (Ernst and Barbour 1972). Large Barbour's map turtles, particularly females, feed primarily on freshwater mollusks, including snails and select clam species (Cagle 1952). The longest-lived captive-held *G. barbouri* survived more than 31 years in the National Zoological Park in Washington, D.C. (Snider and Bowler 1992).

Similar to those of other turtle species, the eggs and hatchlings of Barbour's map turtle are preyed upon by many vertebrate predators. This species has occasionally been harvested for human consumption. For example, Newman (1970) reported the collection of 50 Barbour's map turtles from a 1-mile section of the Chipola River by three individuals in a single afternoon, thus providing us with a small measure of species abundance in a localized area

during past decades. Such anecdotal information may serve as a baseline for determining changes in species composition or declines in abundance when compared to current stock-assessment data. Several authors note that *G. barbouri* populations are in decline as the result of water pollution and over-collecting for the pet trade (Ernst et al. 1994), whereas others cite river channelization, dredging, and pollution that affect both turtles and their molluscan prey base, combined with excessive collection for the pet trade (Buhlmann and Gibbons, in Benz and Collins, ed. 1997).

#### Alabama Map Turtle

The Alabama map turtle (*Graptemys pulchra*), Escambia map turtle (*G. ernsti*), and Pascagoula map turtle (*G. gibbonsi*) were first described as *G. pulchra* by Baur in 1893 (Ernst and Barbour 1989). Lovich and McCoy (1992) examined morphological variation in the *G. pulchra* species complex in three separate drainage basins and determined that each drainage basin supports a separate and distinct species. Populations of the species from the Escambia-Concuh River system and the Pascagoula and Pearl river systems represent distinct species, *G. ernsti* and *G. gibbonsi*, respectively (NatureServe 2003), whereas the Alabama map turtle, *G. pulchra*, inhabits the Mobile Bay drainage basin. MtDNA studies have verified differences among these taxa (Lamb et al. 1994).

The range of *G. pulchra* is restricted to those rivers in Alabama and Georgia that flow into Alabama's Mobile Bay (Ernst et al. 1994). Individuals have been collected in the Alabama, Cahaba, Tombigbee, Coosa, and Black Warrior Rivers; however, the species has not been detected in the Tallapoosa River above the fall line in Alabama (Mount 1975). The Alabama map turtle likely inhabits the Tombigbee River system in the State of Mississippi, because the range of *G. nigrinoda* generally overlaps that of *G. pulchra*, and *G. nigrinoda* has been collected within this system. However, the presence of *G. pulchra* has not been verified (Shoop 1967; NatureServe 2003).

The Alabama map turtle inhabits large, swiftly flowing creeks and rivers that can accommodate plentiful basking sites comprised of fallen trees, limbs, and brush. In rocky Piedmont habitats, males are often found in shallow stream reaches, but females appear to favor deep pools and impoundments (Ernst et al. 1994).

The introduced Asian mussel *Corbicula* sp. is believed to have become

an important food source for *G. pulchra*; female Alabama map turtles are particularly partial to this prey item (Marion 1986; Ernst et al. 1994). Longevity records are based on captive-held specimens, which have survived in captivity more than 15 years (Snider and Bowler 1992).

The eggs and hatchlings of the Alabama map turtle, consistent with those of other turtle species, are preyed upon by a wide variety of vertebrate species. Water pollution adversely affects the species' molluscan prey base; in addition, waterway modification projects and associated habitat degradation are all considered factors in the decline of *G. pulchra* populations (Ernst et al. 1994).

#### Escambia Map Turtle

The Escambia map turtle (*Graptemys ernsti*) was first described in 1992 by Lovich and McCoy. This species was formerly considered a variant of *G. pulchra*. However, Lovich and McCoy demonstrated that map turtles that were previously considered to be *G. pulchra* actually comprise three distinct species, as previously noted.

The species' range is limited to rivers in Alabama and Florida that flow into Pensacola Bay, Florida (Lovich and McCoy 1992). These drainage systems include the Yellow, Escambia, Concuh, and Shoal Rivers. The Escambia map turtle prefers large, rapidly flowing streams and rivers with sand or gravel substrates (NatureServe 2003). Similar to those of most turtle species, favored basking sites include streamside locations with profuse snags, fallen trees, limbs, and other brush. The species is absent from streams that lack freshwater mollusks (Buhlman and Gibbons 1997).

The diet of *G. ernsti* is varied and opportunistic. Female Escambia map turtles prefer mollusks, including gastropods and the introduced Asian *Corbicula* mussel, but also consume native mussels, aquatic snails, and occasional crayfish. The prey base for this species is largely molluscan; however, *G. ernsti* (particularly adult males and juveniles) are opportunistic feeders, and insects and small fish are often included in the species' diet.

Nest predation by an array of vertebrate species can exceed 90 percent in a given year (NatureServe 2003). Fish crows (*Corvus ossifragus*) prey on map turtle nests by day. Raccoons (*Procyon lotor*) feed on eggs nocturnally, and also prey on nesting females (Shealy 1976). Humans have the greatest impact on the continued survival of this species. Collection of adults, which are slow to mature, and eggs, which are also

vulnerable to extremely high rates of nest predation by other vertebrate species, decreases the survival potential of wild populations. Incidences of hunters using basking Escambia map turtles for target practice have also been documented (Shealy 1976; NatureServe 2003). The species, similar to other aquatic species, is believed to be threatened by water pollution, including heavy metal contamination, and river channelization (Florida Natural Areas Investigation, unpub., as cited in Bulmann and Gibbons 1997).

#### Pascagoula Map Turtle

The Pascagoula map turtle (*Graptemys gibbonsi*) was formerly considered a variant of *G. pulchra*. Lovich and McCoy determined that *G. gibbonsi* was a separate, distinct species in 1992. This species is found in the deep, swift main channels and associated tributaries of the Pascagoula and Pearl Rivers, including the Chickasawhay, Leaf, and Bouge Chitto rivers in Mississippi and Louisiana (Ernst *et al.* 1994). Sand or gravel substrates and an abundance of basking sites consisting of fallen logs and brush are considered ideal habitat for the Pascagoula map turtle. Similar to other map turtles, the Pascagoula map turtle eats insects, snails, and clams (Ernst *et al.* 1994).

Raccoons and other vertebrate predators prey on the eggs and hatchlings of *G. gibbonsi*, as they do those of other turtle species. Habitat destruction, however, is considered the greatest threat to the survival of the species (NatureServe 2003). Sections of the species' range, including the Pearl River and portions of the Pascagoula River, have been degraded by channelization for navigation and inflows of industrial pollutants. The decline of Pearl River populations was documented in 1989 by Dundee and Rossman (as cited in Bulmann and Gibbons 1997). In 1986, an extended section of Mississippi's Leaf River, downstream from a pulp-processing plant, was found to be devoid of *G. gibbonsi*, although it was previously known to occur there. In contrast, upstream waters contained healthy map turtle populations (Ernst *et al.* 1994).

#### Cagle's Map Turtle

The Cagle's map turtle (*Graptemys caglei*) was first classified by Haynes and McKown in 1974. *G. caglei* is morphologically intermediate between *G. versa* and *G. pseudogeographica kohnii* (Haynes and McKown 1974). Bertl and Killebrew (1983) concluded that *G. ouachitensis*, *G. p. pseudogeographica*, and *G. p. kohnii* are its

closest biogeographical relatives. Cagle's map turtle was designated as a Candidate Species under the Service's Endangered Species Candidate Conservation Program in 1993 (58 FR 5701).

This species' range formerly encompassed the watersheds of the Guadalupe and San Antonio Rivers of south-central Texas (Dixon 1987; Conant and Collins 1991). Historical population status and abundance data are not available. Vermersch (1992) found that the Cagle's map turtle was considered the dominant turtle species in certain sections of the Guadalupe River watershed; however, the species is probably extirpated from the San Antonio River drainage system. Recent mark-recapture studies estimate that no more than 400 individuals remain in the upper Guadalupe river system. Downstream estimates based on 10 years of data collection indicate abundance levels of 1,354–2,184 individuals. Below Canyon Dam, a large population of some 11,300 individuals inhabits the middle Guadalupe River and lower San Marco River (U.S. Fish and Wildlife Service, Endangered Species Program 2002).

Cagle's map turtle habitat in the Guadalupe River drainage consists of streams with a moderate flow and a limestone or mud substrate. These streams include reaches containing numerous pools of varying depths. The Cagle's map turtle also resides in sluggish waters behind stream impoundments that vary in depth from 1 to 3 meters (Vermersch 1992).

This species prefers a diet of fallen bark, algae, grass, insects, and aquatic snails (Ernst and Barbour 1989). Longevity records for the species have been compiled from captive-held individuals and indicate that an adult male *G. caglei* survived more than 14 years in captivity (Snider and Bowler 1992).

The primary threat to Cagle's map turtle is loss and degradation of riverine habitat resulting from construction of dams and reservoirs (Killebrew 1991 in U.S. Fish and Wildlife Service, Endangered Species Program 2002). Recently described as a Texas endemic, the species is of interest to collectors and is vulnerable to over-collecting for the pet trade, zoos, museums, and scientific research (Killebrew 1991 in U.S. Fish and Wildlife Service, Endangered Species Program 2002). Even modest levels of collecting would severely impact populations, reducing numbers to unsustainable levels (Warwick *et al.* 1990). The naturally limited distribution of Cagle's map turtle makes the species more

vulnerable to extinction than other wider-ranging species. Location and suitability of nesting sites may be affected by alteration of a single river system and, consequently, affect hatch rates and sex ratios (Wibbels *et al.* 1991).

#### False Map Turtle

The false map turtle (*Graptemys pseudogeographica*) was first identified by Gray in 1831 (Ernst and Barbour 1989). *G. pseudogeographica* inhabits large tributaries of the Missouri and Mississippi rivers that flow within the States of Illinois, Indiana, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin (Ernst and Barbour 1989). The species' southern range may extend as far as southwest Alabama, southern and western Mississippi, Louisiana, and eastern Texas. Cagle (1953) originally described *G. ouachitensis ouachitensis* and *G. o. sabinensis* as subspecies of *G. pseudogeographica*. However, studies by Vogt (1993) demonstrated that *G. ouachitensis* and *G. pseudogeographica* are separate species. Differentiation of these species is based largely on differing head stripe patterns. However, Ewert (1979) and Vogt (1980) noted that contrasting head patterns may be the result of different incubation temperatures, and a single clutch may exhibit variations among clutch mates. Recent molecular studies, however, confirm the arrangement of *G. pseudogeographica*, with subspecific forms *G. p. pseudogeographica* and *G. p. kohnii* (Lamb *et al.* 1994).

Two subspecies of the false map turtle are currently recognized (Vogt 1993), as discussed above. *G. p. pseudogeographica*, the false map turtle first noted by Gray in 1831 (Ernst and Barbour 1989), occurs from Ohio through Indiana, Illinois, Wisconsin, Minnesota, and the Dakotas, and continues south to western Kentucky, Tennessee, and Missouri. *G. p. kohnii*, the Mississippi map turtle described by Baur in 1890 (Ernst and Barbour 1989), differs morphologically from the nominate race. This species is found in the Mississippi River watershed, from west Tennessee, central Missouri, and possibly southeast Nebraska, and extends south to eastern Texas, Louisiana, and southern and western Mississippi. Although most of the subspecies' range lies west of the Mississippi River, there is an unsubstantiated record of an individual *G. p. kohnii* from the vicinity of Mobile, Alabama (Mount 1975). Specimens of *G. p. kohnii* recently discovered in the Pearl River, Mississippi, are believed to have been captive-held individuals that were later released. McCoy and Vogt

(1992), however, suggested these individuals may have been introduced into the Pearl River during the Mississippi River floods of 1979.

Although *G. pseudogeographica* primarily lives in large rivers and associated backwaters, the species is also found in lakes, ponds, sloughs, bayous, oxbows, and occasionally freshwater marshes (Ernst and Barbour 1989). Habitats containing abundant aquatic vegetation, adequate basking sites, and slow-moving currents are preferred by the false map turtle, although Ernst and Barbour (1989) noted the species occasionally inhabits the swiftly flowing main channel of the Mississippi River. Throughout the northern portion of the species' range, the false map turtle is considered an opportunistic omnivore due to overlapping ranges and habitat shared with other *Graptemys* species that consume similar prey items (Ernst *et al.* 1994). The false map turtle consumes most available plant and animal materials in the species' northern range (Ernst and Barbour 1989). *G. geographica* and *G. ouachitensis* are absent in the southern portion of *G. pseudogeographica*'s range, where the false map turtle feeds primarily on mollusks due to the lack of competitors (Ernst *et al.* 1994). Juvenile and male *G. p. kohnii* are considered omnivorous, whereas adult females prefer a diet largely composed of mollusks.

Predators of false map turtle nests and eggs include the red fox (*Vulpes vulpes*), raccoon, and river otter (*Lontra canadensis*) (Ernst *et al.* 1994). Destruction of new nests often occurs within the first 24 hours after laying; over 90 percent of newly laid nests may be vulnerable to predation (Ernst *et al.* 1994). Emerging hatchlings are subject to a wide range of avian predators (Vogt 1980). Largemouth bass (*Micropterus salmoides*), catfish (*Ictalurus* spp.), pickerel (*Esox* spp.), and other game fish are potential predators of hatchlings after they reach water bodies (Thompson 1985). Human-related mortality of adult false map turtles is often attributed to drowning in gill nets, shooting, and set lines for commercial fishing (Vogt 1980).

Commercial fishermen noted that the species was abundant at least 25 years earlier in the Missouri and Mississippi rivers, but had become uncommon. The subspecies *G. p. kohnii* is known to be declining in Missouri (Ernst *et al.* 1994; NatureServe 2003). Threats to survival include destruction of nesting habitat and nests, agricultural practices, and pollution. In Missouri and South Dakota, numbers are decreasing, possibly due to several factors including

water pollution, river channelization, impoundments, reduction of suitable nesting sites, siltation, and unlawful shooting (Ernst *et al.* 1994; CITES Proposal 1996).

Anderson (1965) asserted that the increasing amount of pollutants discharged throughout the Mississippi River drainage basin had virtually eradicated turtles for many miles below St. Louis.

#### Ouachita Map Turtle

The Ouachita map turtle (*Graptemys ouachitensis*) inhabits a range extending from Texas, Louisiana, and western and northern Alabama in the south, through eastern Iowa and Kansas, and the States of Illinois, Indiana, Kentucky, Minnesota, Tennessee, and Wisconsin (Ernst and Barbour 1989). Additionally, in an area more than 200 km west of the normal range of the species, disjunct populations of Ouachita map turtles have been found in Mitchell and Pawnee Counties, Kansas (Taggart 1992). Another separate, distinct population also exists in south-central Ohio (Ernst *et al.* 1994).

The two subspecies of *G. ouachitensis* were initially believed to be subspecies of *G. pseudogeographica* (Cagle 1953); however, Vogt (1980, 1993) demonstrated that the northern subspecies, *G. o. ouachitensis*, was taxonomically distinct from *G. pseudogeographica*. The range of *G. o. ouachitensis* extends from the Ouachita River system in Louisiana west to Oklahoma, and north through the States of Illinois, Indiana, Iowa, Kansas, Minnesota, Ohio, and Wisconsin. The range of the Sabine map turtle, *G. o. sabinensis*, is restricted to Texas and Louisiana's Sabine River system (Vogt 1993, 1995; Ernst *et al.* 1994).

Primarily a riverine species, the Ouachita map turtle inhabits freshwater streams characterized by swift currents, sand and silt substrates, and plentiful submerged aquatic vegetation (Ewert 1979; Vogt 1980). However, similar to other map turtle species, this species also resides in man-made impoundments, such as farm ponds, and natural stream features, such as lakes, oxbows, and river-bottom wetlands (Ernst and Barbour 1989). Comparable to other map turtle species, *G. ouachitensis* is considered omnivorous, although the species' diet is believed to be somewhat restricted due to the narrow crushing surfaces of its jaws (Ernst *et al.* 1994). Very little information is currently available regarding the ecology and behavior of the species throughout the southern portion of its range.

Threats to the species include bycatch and tangling in nets of commercial fisheries, human consumption (NatureServe 2003), and collection for the pet trade (Dundee and Rossman 1989). Human activity and intrusion may interfere with nesting and normal basking behavior.

#### Texas Map Turtle

The Texas map turtle (*Graptemys versa*) was first described by Stejneger in 1925 (Ernst and Barbour 1989). *G. versa*'s range is restricted to a small section of the Edwards Plateau region in central Texas, which occurs within the Colorado River drainage basin (Dixon 1987). Although limited life-history information is available for this endemic species, the restricted range of the species likely increases its value for collectors, zoos, museums, and scientific researchers.

#### Ringed Map Turtle

Distribution of the ringed map turtle (*Graptemys oculifera*) is restricted to a small range within the Pearl River system of Mississippi and Louisiana (Ernst and Barbour 1989). The habitat preferred by this species includes rapidly flowing rivers with a clay or sand substrate and plentiful basking sites (Ernst *et al.* 1994). The ringed map turtle basks on logs, brush, and other woody debris, but will quickly disappear when disturbed. *G. oculifera* favors a diet of insects and mollusks that are easily consumed with the animal's strong, scissor-like jaws (Ernst and Barbour 1989).

*G. oculifera* population declines were confirmed during the 1980s, leading to Federal protection in 1986, when the species was listed as threatened under the Act (51 FR 45907). The decline of the ringed map turtle is attributed primarily to habitat modification, such as stream channelization for flood control and navigational purposes. Within the Pearl River System, 21 percent of the turtle's range has been modified. Human alteration of stream flow eliminates basking and nesting sites, adversely impacts the species' prey base, and increases turbidity and siltation (Matthews and Moseley 1990). Impoundments inundate the turtle's shallow water habitat. Shooting basking turtles and collecting also pose serious threats, particularly as populations decline from other factors. Collection of ringed map turtles poses a serious threat to species abundance and composition, because local populations can be extirpated rapidly when collectors target a specific site within the species' limited range.



#### Yellow-blotched Map Turtle

The yellow-blotched map turtle (*Graptemys flavimaculata*) is restricted to the Pascagoula River drainage, which includes the Pascagoula, Leaf, and Chickasawhay rivers (Ernst and Barbour 1989). It may also occur in the lower stretches of larger tributary streams within the drainage basin. The species' range in the Pascagoula River extends downstream to tidal-influenced, brackish marshes in southern Jackson County, Mississippi. The species has also been located in major tributaries of the Leaf and Chickasawhay rivers. Similar to other map turtle species, this species prefers riverine habitats with a moderate to rapid current, and sand and clay substrates. *G. flavimaculata* spends a large amount of time basking on brush piles and other woody debris, and uses tangled riverbank roots for shelter from predators (Ernst et al. 1994).

The yellow-blotched map turtle was once regarded as the dominant turtle species of the Pascagoula River system (Ernst and Barbour 1989), but due to population declines documented during the 1980s, received protected status over a decade ago in the State of Mississippi (U.S. Fish and Wildlife Service 1992). *G. flavimaculata* has been Federally protected since 1991, when the species was listed as threatened under the Act (56 FR 1459). Similar to other map turtle species, the decline of yellow-blotched map turtle populations was attributed to habitat modification, water pollution, and unsustainable collection for commercial trade. Channel dredging and alteration for flood control and navigation purposes eliminates shallow water and bankside basking and nesting sites, alters water flow regimes, negatively impacts the species' prey base, and increases turbidity and siltation, thus resulting in water quality degradation (U.S. Fish and Wildlife Service 1990). Currently authorized and planned river control and modification projects, sand and gravel dredging, and the implementation of flood control studies could modify most, if not all, of the species' remaining habitat. Collection for commercial purposes, prior to listing of the species under the Act, also contributed to declines in its abundance. Because of the species' diminished population status, local *G. flavimaculata* populations could be extirpated within a short period of time if targeted for collection.

#### Black-knobbed Map Turtle

The black-knobbed map turtle (*Graptemys nigrinoda*) is generally found in river habitats below the fall line in the Alabama, Tombigbee, and

Black Warrior rivers in Alabama and Mississippi (Ernst et al. 1994). There are two recognized subspecies: *Graptemys nigrinoda nigrinoda* is found in the upper Tombigbee and Alabama river systems in Alabama and Mississippi, and *G. n. delticola* is restricted to the streams and lakes of the Mobile Bay delta drainage in Alabama's Baldwin and Mobile counties (Ernst et al. 1994). Both subspecies prefer streams with a fairly rapid current and sand and/or clay substrates. Similar to other *Graptemys* species, black-knobbed map turtles favor abundant basking sites that include areas where brush, woody debris, and logs accumulate (Ernst and Barbour 1989). *G. nigrinoda* prefers deeper water than *G. oculifera* and *G. flavimaculata* (Ernst et al. 1994).

Human activities present the most serious risks to *G. nigrinoda* populations. Large numbers of turtle eggs were previously collected and eaten by delta residents. Additionally, a thriving market in live adult turtles intended for human consumption was sustained well into the early 1980s (Lahanas 1982, in Ernst et al. 1994). Collection for the pet trade poses a serious threat to the survival of the species because it occupies such a limited range (NatureServe 2003). Habitat modifications that include removal of logs and snags, stream channelization for navigational improvements, and water impoundment for flood control purposes, impact the species by eliminating essential habitats, such as basking sites and nesting beaches (McCoy and Lovich 1993). Adult black-knobbed map turtles are often found drowned in gill nets set for commercial fisheries, and picnickers and hikers have been known to disrupt and destroy nests (Ernst et al. 1994).

#### Description and Application of CITES Appendix III

CITES is an international treaty to which the United States is a signatory country, or Party. CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species listed in one of the Convention's three Appendices. Appendix I includes species threatened with extinction that are or may be affected by international trade. Commercial trade in Appendix-I species is prohibited. Appendix II includes species that, although not necessarily threatened with extinction at the present time, may become so unless their trade is strictly controlled through a system of export permits. Appendix II also includes species that CITES must regulate so that trade in other listed species may be brought under effective

control (i.e., because of similarity of appearance between listed species and other species).

Appendix III includes species that any Party may identify as subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and for which the listing Party is seeking the cooperation of other Parties in the control of trade. Any country may unilaterally list a species in Appendix III if it is a species native to that country. When a Party requests the CITES Secretariat to include a species in Appendix III, the Secretariat notifies all of the Parties, who are then required to monitor and control trade in the species. An Appendix-III listing becomes effective 90 days after the Secretariat notifies the CITES Parties of the listing. The effective date of this rule has been extended by 30 days, to give the CITES Secretariat sufficient time to notify all Parties of the listing. For further information about CITES, the listing process, and the advantages of an Appendix-III listing, you may refer to our proposed rule published in the **Federal Register** on January 26, 2000 (65 FR 4217).

When a species is listed in Appendix III, the Management Authority of the listing country must issue a CITES export permit for the export of specimens of that species, or a CITES re-export certificate for re-exports. Any other country must issue a CITES certificate of origin for the export of specimens of that species. In the United States, the Service's Division of Management Authority (DMA) issues permits and certificates for Appendix-III species. To issue a permit or certificate, DMA must be satisfied that: (1) specimens were legally acquired (i.e., not obtained in contravention of any Federal, State, Tribal, or local laws), and (2) any living specimen will be prepared and shipped so as to minimize the risk of injury, damage to health, or cruel treatment. Export may take place at any of the Service's Authorized Ports for export of wildlife and wildlife products, during normal business hours, when accompanied by an export permit and a completed Office of Law Enforcement Form 3-177, Declaration for Importation or Exportation of Fish or Wildlife (available for download at: <http://www.le.fws.gov/>).

Individuals that transport or sell map turtles, or alligator snapping turtles, across State lines in contravention of State laws may be subject to Federal Lacey Act violations. The Lacey Act is a Federal statute that makes it unlawful to sell, receive, or purchase in interstate or foreign commerce any wildlife taken, possessed, transported, or sold in



violation of any law or regulation of any State. A CITES Appendix-III listing will complement existing Federal and State laws enacted for the conservation of map turtles and alligator snapping turtles by authorizing all CITES party members to enforce Appendix-III requirements for international trade of listed species. These requirements involve presentation of an export permit, or Certificate of origin, upon import, to ensure that all specimens were legally acquired.

An Appendix-III listing will also allow the Service to collect valuable trade data that can be used by the States for development and revision of species management plans for these turtles. For example, an Appendix-III listing will require identification of every specimen to the species level on each export permit, or Certificate of origin, rather than continuing the current practice of combining different map turtle species intended for international trade into one category, denoted as *Graptemys* spp., on export documents. Species-level identification will provide us with specific data that can be used to illustrate which species are preferred in trade, thereby allowing us to determine if local wild populations are being over-harvested. This sort of information will prove invaluable to State wildlife conservation agencies for management purposes. Finally, listing will afford additional protection to turtle farmers and dealers engaged in legitimate business, by ensuring that all animals in international trade are legally acquired.

#### Summary of Comments

In our proposed rule (January 26, 2000; 65 FR 4217), we asked all interested parties to submit factual reports or information that could assist us in the decision-making process for development of a final rule. The comment period ended on March 13, 2000. State agencies, scientific organizations, and other parties known to have a particular interest in or knowledge of the alligator snapping turtle or map turtles were contacted and requested to comment. We received a total of 106 comments during the comment period. Of these comments, 99 supported the proposal, 6 were opposed, and 1 comment was neutral. Comments pertained to several key issues. These issues, and our responses, are discussed below.

*Issue 1:* Several comments pertained to farm rearing or captive breeding of alligator snapping turtles and map turtles. Some turtle farmers requested an exemption to the Appendix-III listing for farm-raised hatchlings. They believed that additional regulation was

unnecessary because the State of Louisiana already regulates the turtle-farming industry.

*Response:* Our intent is to implement a permitting system that will not prove burdensome to U.S. turtle farmers or exporters while ensuring that persons engaging in illegal trafficking are stopped. This listing will not impact the States' current management and regulatory programs for the turtle-farming industry. Rather, the purpose of the listing is to support State management and conservation of the species by ensuring that exports occur in a manner consistent with State law. We will also use the listing to gather data on trade in these species, to better quantify the level of trade in these species and the impact of trade on these species. These data will be made available to State wildlife management agencies, to improve management programs and further the conservation of these species.

*Issue 2:* Some individuals also expressed the concern that Appendix-III permitting requirements would impede trade in farm-raised turtle hatchlings, because any delays in receiving export permits would negatively impact this segment of the trade by making captive propagation economically unfeasible. With this in mind, several individuals suggested that we exempt State-certified farm-raised turtles from the Appendix-III permit requirements.

*Response:* The provisions of CITES require that a listing include all live specimens. Therefore, we cannot exempt live farm-raised turtle hatchlings from the Appendix-III listing. The Appendix-III listing will cover trade in all types of specimens of these species, including meat.

To address the concern about delay in permit issuance, DMA has developed a two-tiered plan for review of export applications, with the goal of streamlining permit review and issuance for exporters of turtle hatchlings from certified farms. As with all CITES-listed species, DMA must determine that the Appendix-III specimens were legally acquired. After consultation with State authorities, we have concluded that the export of hatchlings raised on State-certified farms, if 2 inches or less in straight-line carapace length for map turtles and 3 inches or less in straight-line carapace length for alligator snapping turtles, pose little or no risk to wild populations, since it is unlikely they were collected from the wild. However, specimens larger than the 2- or 3-inch length limits, as described above, will require greater scrutiny due to the greater potential that these specimens

have originated directly from the wild. For turtles that exceed the length limits, or for dealers that do not exclusively export farm-raised turtles within the size limits (*e.g.*, those farms that hold both farm-raised and wild-collected specimens, or specimens of multiple size-classes), we will use our standard data-collection and review process to make legal acquisition findings. The applicant must provide all the information required on the application form, and will be subject to the same permitting process established for all other CITES specimens.

All data and information provided by permit applicants will be provided to the States on an annual basis. Likewise, as required by the Convention, we will monitor trade in these species. Approximately every 2 years, we will consult with the States and review the effectiveness of the listing, documented levels of illegal trade, and the volume of legal trade in the species, particularly trade in those specimens harvested from the wild. After these consultations, we will determine if further action is needed.

*Issue 3:* Several individuals suggested development of reintroduction programs for alligator snapping turtles and map turtles using farm-raised hatchlings to replace eggs and adults that are removed from wild populations for farming purposes and/or trade. Commenters stated that it is important to release sufficient numbers of turtles in reintroduction programs, that releases should include a 1:1 sex ratio, and that turtles must be released in appropriate habitat. They advised us that the State of Louisiana has a restocking program for alligator snapping turtles; each turtle farmer is required to provide a specified number of hatchlings each year for release. Another commenter noted that the number of turtles returned to the wild far exceeds the number of wild-caught turtles taken each year.

*Response:* The Federal Government has responsibility only for recovery and/or reintroduction of species listed under the Act. Reintroduction programs for alligator snapping turtles and map turtles that are not listed under the Act are the sole responsibility of State wildlife management agencies. The Service encourages those individuals who are interested in such programs to contact their local State wildlife management agency for information on regulations and management plans for the reintroduction of native species.

*Issue 4:* Several individuals noted that the Service currently requires an Office of Law Enforcement Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) for the export of

wildlife specimens, including their parts or products. They questioned the need for an Appendix-III listing to collect trade data on alligator snapping turtles and map turtles when Form 3-177 is an existing tool for collecting export data.

*Response:* Many importing and re-exporting countries do not have national legislation that requires inspection of all wildlife, particularly if the species in question is not listed under CITES. One reason for listing these species is to improve enforcement of Federal and State laws by enlisting the support of other CITES Parties. An Appendix-III listing will require inspection and documentation of imports, exports, and re-exports of alligator snapping turtles and map turtles by all CITES Parties, not just the United States.

The listing will also close some export loopholes and improve the quality and quantity of turtle export data. The U.S. Food and Drug Administration (FDA) defines turtles as fish and/or fisheries products when intended for human consumption. In addition, Service regulations found at 50 CFR 14.55 exempt fishery products for human or animal consumption from declaration and Service clearance requirements when the products do not require a permit under 50 CFR Part 17 or 23. Since the FDA defines turtles as fish, exporters may be interpreting the regulations found at 50 CFR 14.55 as not applying to turtles that are being exported for human consumption, and thereby bypassing the Service's requirements for the export of wildlife. There is the probability that, due to differing interpretations of these regulations, a number of turtle specimens, in particular meat and meat products, leave the United States without completion of the Service's Declaration Form 3-177. The absence of this information may be a limiting factor when States are developing management programs for these species. Listing of these species in Appendix III will give us the ability to capture this information and better quantify the volume of all exports. It will help us detect trade trends and, in consultation with the States, implement pro-active conservation or trade management measures that better control exports and detect illegal trade.

*Issue 5:* One individual noted that an Appendix-III listing might discourage exporters from putting resources into captive breeding, resulting in increased take from the wild.

*Response:* We believe an Appendix-III listing will afford additional protection to wild alligator snapping turtle and map turtle populations, and it will not

deter captive breeding of these turtle species, whether for commercial or conservation purposes. A higher degree of scrutiny will be applied to applications for the export of animals that are or may have been harvested from the wild than for those turtles that are legitimately raised on State-certified turtle farms. Documentation that larger animals, or those exceeding the size limits, were legally acquired will require consultation with the State of origin. Therefore, we believe that this listing will provide us with more accurate information on the harvest of wild turtles, and because permit processing will be streamlined for State-certified turtle farms, this listing is unlikely to discourage the production of farm-raised turtles.

*Issue 6:* Several individuals noted that some exported turtles are not transported in a humane manner. Many turtles are dying in transport containers or shortly after arrival at foreign destinations. However, one commenter stated that the use of standard International Air Transport Association (IATA) Live Animal Regulations (LAR) for the humane transport of turtles is unnecessary because, in an effort to protect their business, some turtle farmers have developed packing containers that minimize stress and mortality for exported turtles.

*Response:* Any international air cargo shipments of live turtles are required by the airlines to comply with the IATA LAR. An Appendix-III listing, however, requires the humane transport of all live specimens in international trade in order for the CITES documents to be valid. Currently, the Service has no authority to enforce humane transport requirements for the import or export of alligator snapping turtles or map turtles. Although humane transport requirements for the import of mammals and birds exist, and the Service is developing transport regulations for the import of reptiles and amphibians, the Service can only enforce humane transport requirements for export when a species is listed in the CITES appendices. The CITES Appendix-III listing will, therefore, strengthen the Service's legal authority to enforce these regulations and penalize exporters if adequate primary containers are not used for shipment of live specimens of these species. In comments we received from the State of Louisiana's Department of Wildlife and Fisheries (James H. Jenkins, Jr., Secretary, Louisiana Department of Wildlife and Fisheries, in litt. to the Service 2000), they noted that several Louisiana turtle farmers have already developed packing containers that minimize stress and

mortality of live turtles in transit. We support all efforts to ensure humane transport of live animals, and the Service will enforce the IATA LAR for all map and alligator snapping turtle shipments entering or leaving the United States via air cargo once this rule becomes effective.

*Issue 7:* Our original proposal to list the alligator snapping turtle and map turtles in Appendix III indicated that female alligator snapping turtles were routinely held to obtain hatchlings and then butchered for the meat trade. Comments we received from the State of Louisiana's Department of Wildlife and Fisheries (James H. Jenkins, Jr., Secretary, Louisiana Department of Wildlife and Fisheries, in litt. to the Service 2000) indicated that, in the State of Louisiana, "few turtle farmers (<5) deal in alligator snapping turtles," and the farmers maintain their breeding stock from year to year. Furthermore, breeding stock is not butchered as suggested in our earlier proposal. The price for live alligator snapping turtles (in 2000) was about \$1.50 per pound when exported for the meat market (at least \$50 per female), yet the average female annually produces hatchlings that yield a total value of about \$250.00. On the basis of these figures, it was suggested that slaughtering breeding stock for meat was not a sound business practice, and would require paying about \$50.00 per turtle to acquire new female breeding stock for the next season.

*Response:* We appreciate this additional information from the State of Louisiana's Department of Wildlife and Fisheries, and note that the purpose of the proposed rule was to obtain additional information that may be used to make a final decision based on the best available scientific data and other relevant information. We do, however, remain concerned that some portion of the international trade in these species is turtle meat, or processed turtle meat products, such as canned soup, that is being exported without being declared and cleared by the Service. An Appendix-III listing will require prior issuance of permits and clearance of all alligator snapping turtles and map turtles and their parts and products, including processed food products for human consumption, at a designated port (or a non-designated port if the exporter holds a valid designated port exemption permit issued by the Service's OLE.) This should substantiate or refute the assumption that this is an unknown segment of the international trade in turtles, and allow us to quantify the international trade in these species.

Except for the State of Louisiana, States that allow commercial trade in alligator snapping turtles and map turtles did not provide us with trade data for these species. Therefore, we believe that an Appendix-III listing is the best method available to further understand the international trade in alligator snapping turtles and map turtles.

**Issue 8:** The State of Louisiana's Department of Wildlife and Fisheries opposed inclusion of alligator snapping turtles and map turtles in CITES Appendix III. State officials contended that the proposed listing was unnecessary because strict statutes are already in place within Louisiana that govern turtle-farming operations.

**Response:** We have discussed this proposal with IAFWA, an organization that represents State wildlife management agencies. Through IAFWA, a consensus was reached among the States that these species would benefit from an Appendix-III listing.

**Issue 9:** In our original proposal, we noted that "some [alligator snapping turtle] hatchlings offered by dealers are said to have been captive-bred, although these are likely to have been hatched from eggs collected from nests in the wild." Regarding map turtles, we stated, "[t]urtle farmers in recent years in the Southeast have apparently achieved considerable success with captive-breeding operations, but we believe all such operations draw upon the wild to replace breeding stock. The degree of wild harvest is unknown but could be very substantial \* \* \*. The majority of these [turtles] may represent farm-raised animals that may or may not [have] been taken directly from the wild." In response to these statements in our proposed rule, Jeff Boundy, a herpetologist for the State of Louisiana's Department of Wildlife and Fisheries, observed that the map turtles are farm-raised hatchlings, and furthermore, the hatchlings were not taken from the wild due to difficulties in collecting hatchling map turtles from aquatic habitats (Boundy in James H. Jenkins, Jr., Secretary, Louisiana Department of Wildlife and Fisheries, in litt. to the Service 2000). Mr. Boundy further acknowledged that most turtle farmers originally obtain breeding stock from the wild, although "family-based branch operations" acquire stock from captive turtle breeding ponds already in existence. Mr. Boundy stated that, after initial stocking, most farmers do not restock their ponds. However, he noted that, over an unspecified amount of time, there are records of a single operation in Louisiana purchasing 6,500 map turtles, and an unknown number of

farms within the State that purchased new stock of "fewer than 1,200" turtles.

**Response:** The Service's analysis of export data from 1996 to 2000 confirms that many of the alligator snapping turtles and map turtles exported from the United States were declared as captive-bred animals. However, a portion of each year's exports is declared as wild, and as stated previously, not all trade is being recorded under the wildlife declaration program. An Appendix-III listing will help quantify the actual trade of wild and captive-bred specimens.

#### Required Determinations

The Office of Management and Budget has not reviewed this document under Executive Order 12866.

The Department of the Interior certifies that this document will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 60 *et seq.*). This final rule establishes the means to monitor international trade in several native U.S. species and does not impose any new or changed restriction on the trade of legally acquired specimens. This final rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- Does not have an annual effect on the economy of \$100 million or more.
- Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions.
- Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This final rule does not impose an unfunded mandate or have a significant or unique effect on State, local, or Tribal governments, or the private sector under the Unfunded Mandates Reform Act (2 U.S.C. 501 *et seq.*) because we, as the lead agency for CITES implementation in the United States, are responsible for the authorization of shipments of live wildlife, or their parts or products, that are subject to the requirements of CITES.

Under Executive Order 12630, this final rule does not have significant takings implications since there are no changes in what may be exported. The permit requirement will not alter the current criteria for exports of these specimens.

Under Executive Order 13132, this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment

because it will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Although this final rule will generate information that will be beneficial to State wildlife agencies, it is not anticipated that any State monitoring or control programs will need to be developed to fulfill the purpose of this final rule. We have consulted the States, through the IAFWA, on this final rule. Under Executive Order 12988, the Office of the Solicitor has determined that this final rule does not unduly burden the judicial system and meets the requirements of Sections 3(a) and 3(b)(2) of the Order.

The information collections referenced in this final rule are already approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. They have been assigned control numbers 1018-0093 (for CITES export permits and CITES re-export certificates) and 1018-0012 (for Form 3-177). Implementing regulations for the CITES documentation appear at 50 CFR 23. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

This final rule does not constitute a major Federal action significantly affecting the quality of the human environment. The action is categorically excluded under 516 DM 2, Appendix 1.10 in the Departmental Manual. Therefore, a detailed statement under the National Environmental Policy Act of 1969 is not required.

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## Author

This final rule was prepared by Marie T. Maltese, Division of Scientific Authority, under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

## List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Fish, Imports, Plants, Reporting and record keeping requirements, Treaties.

## Regulation Promulgation

■ For the reasons set forth in the preamble, the Service amends title 50, chapter I, subchapter B, part 23 of the Code of Federal Regulations as follows:

## 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. In § 23.23, amend the table in paragraph (f) to add the new entries set forth below:

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

(f) \* \* \*

Species	Common name	Appendix	First listing date (month/day/year)
CLASS REPTILIA:	REPTILES:		
Order Testudinata:			
<i>Graptemys</i> spp. ....	Map turtles .....	III .....	(6/14/06)
<i>Macrochelys (=Macrochelys) temminckii</i> .....	Alligator snapping turtle .....	III .....	(6/14/06)

Dated: July 13, 2005.

**Marshall P. Jones, Jr.**

*Director, Fish and Wildlife Service*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[I.D. 121205F]

#### Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

**ACTION:** Temporary rule; inseason retention limit adjustment.

**SUMMARY:** NMFS has determined that the Atlantic bluefin tuna (BFT) General category daily retention limit for three of the previously designated restricted fishing days (RFD) for December should be adjusted. These General category RFDs are being waived to provide reasonable opportunity for utilization of the coastwide General category BFT quota. Therefore, NMFS waives three RFDs in December and increases the daily retention limit from zero to two large medium or giant BFT on these previously designated RFDs.

**DATES:** Effective dates for BFT daily retention limits are provided in Table 1 under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Brad McHale, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas

Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. The 2005 BFT fishing year began on June 1, 2005, and ends May 31, 2006. The final initial 2005 BFT specifications and General category effort controls (June 7, 2005; 70 FR 33033) established the following RFD schedule for the 2005 fishing year: All Fridays, Saturdays, and Sundays from November 18, 2005, through January 31, 2006, and Thursday, November 24, 2005, inclusive, provided quota remained available and the fishery was open. RFDs are intended to extend the General category BFT fishery late into the season and provide for a winter fishery in the southern Atlantic region.

TABLE 1. EFFECTIVE DATES FOR RETENTION LIMIT ADJUSTMENTS

Permit Category	Effective Dates	Area	BFT Size Class Limit
Atlantic tunas General and HMS Charter/Headboat (while fishing commercially)	December 16 through 18, 2005, inclusive.	All	Two BFT per vessel per day/trip, measuring 73 inches (185 cm) CFL or larger.

#### Adjustment of General Category Daily Retention Limits

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the General category daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. NMFS has taken multiple actions during the 2005 fishing year in an attempt to allow for maximum utilization of the General category BFT quota. On September 28, 2005 (70 FR 56595), NMFS adjusted the commercial daily BFT retention limit

(on non-RFDs), in all areas, for those vessels fishing under the General category quota, to two large medium or giant BFT, measuring 73 inches (185 cm) or greater curved fork length (CFL), per vessel per day/trip, effective through January 31, 2006, inclusive, provided quota remained available and the fishery remained open. On November 9, 2005 (70 FR 67929), NMFS waived the previously designated RFDs for the month of November and adjusted the daily retention limit on those RFDs to two large medium or giant BFT.

On December 7, 2005 (70 FR 72724), NMFS adjusted the General category

quota by conducting a 200 mt inseason quota transfer to the Reserve category, resulting in an adjusted General category quota of 708.3 mt. This action was taken to account for any potential overharvests that may occur in the Angling category during the 2005 fishing year (June 1, 2005 through May 31, 2006) and to ensure that U.S. BFT harvest is consistent with international and domestic mandates.

Based on a review of dealer reports, daily landing trends, available quota, weather conditions, and the availability of BFT on the fishing grounds, NMFS has determined that waiving three RFDs