

List of Subjects in 47 CFR Part 73

Television broadcasting, Digital television broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018–AD67

Endangered and Threatened Wildlife and Plants; Reclassification of Yacare Caiman in South America From Endangered to Threatened, and the Listing of Two Other Caiman Species as Threatened by Reason of Similarity of Appearance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is reclassifying the yacare caiman (*Caiman yacare*; also known as *Caiman crocodilus yacare*) from its present endangered status to threatened status under the Endangered Species Act because the current endangered listing does not correctly reflect the present status of this species. The Service also is listing the common caiman (*Caiman crocodilus crocodilus*) and the brown caiman (*Caiman crocodilus fuscus*) as threatened by reason of similarity of appearance.

Caiman yacare is native to Argentina, Brazil, Paraguay, and Bolivia. *Caiman crocodilus crocodilus* and *C. c. fuscus* occur in Mexico and Central and South America. All three taxa are listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which allows for international commercial trade in these species. Listing the two taxa as threatened by reason of similarity of appearance will assist in protecting the yacare caiman by facilitating wildlife inspections of shipments at the ports of entry and detection of illegal shipments.

A special rule for these three caiman populations allows U.S. commerce in their skins, other parts, and products from individual countries of origin and countries of re-export if certain conditions are satisfied by those countries prior to exportation to the United States. These conditions largely pertain to the implementation of a

CITES Universal Tagging System Resolution for crocodilian skins (adopted at the ninth meeting of the Conference of the Parties) as well as provisions intended to support sustainable management of wild populations of the above three caiman species/subspecies. In the case where tagged caiman skins and other parts are exported to another country, usually for tanning and manufacturing purposes, and the processed skins and finished products are exported to the United States, the rule prohibits importation or re-exportation of such skins, parts, and products if we determine that either the country of origin or re-export is engaging in practices that are detrimental to the conservation of caiman populations.

The purpose of this rule is threefold. First, the rule accurately reflects the conservation status of the yacare caiman. Second, we wish to promote the conservation of the yacare caiman by ensuring proper management of the commercially harvested caiman species in the range countries and, through implementation of trade controls (as described in the CITES Universal Tagging System Resolution), to reduce commingling of caiman specimens. Third, downlisting of *C. yacare* to threatened reconciles listings of the species in the Act and CITES.

EFFECTIVE DATE: This final rule is effective on June 5, 2000.

ADDRESSES: The complete file for this rule is available for public inspection by appointment, from 8:00 a.m. to 4:30 p.m., Monday through Friday, at the Office of Scientific Authority, 4401 N. Fairfax Dr., Room 750, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dr. Javier Alvarez, Office of Scientific Authority, U.S. Fish and Wildlife Service, Mail Stop ARLSQ–750, Washington, DC 20240 (phone: 703–358–1708; fax: 703–358–2276; e-mail: r9osa@fws.gov).

SUPPLEMENTARY INFORMATION:

Note: Portions of the original proposed rule were re-written to conform to the new Federal policy on the use of “plain English” in Federal documents. However, the original intent of the text remains the same. Text in the proposed rule has also been amended in this final rule in response to comments submitted by the public (see “Comments Received” below) and to coincide with the CITES Universal Tagging System Resolution.

Background

The yacare caiman was listed as endangered throughout its entire range under the predecessor of the Endangered Species Act (Act) of 1973

on June 2, 1970 (35 FR 8495). (At the time of the original listing, Peru was incorrectly listed as one of the range countries, whereas Paraguay was excluded. In this final rule, we correct that situation.) On July 1, 1975, it was also placed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora—CITES (42 FR 10465). (The species has never been listed in CITES Appendix I, which prohibits international trade in the species if such activity is conducted for primarily commercial purposes and/or determined to be detrimental to the survival of the species.) The endangered listing under the Act prohibited imports and re-exports of the species into/from the United States. However, the Appendix II listing allows for regulated commercial trade elsewhere in the world, based on certain findings. As a result, a substantial U.S. law enforcement problem has occurred because of the different listing status under the Act and under CITES. Imports and re-exports of yacare caiman into/from the United States without an ESA permit are prohibited under the Act, including shipments originating from countries of origin with valid CITES export documents. However, imports and re-exports of products from the common and brown caimans are legal, when accompanied by appropriate CITES documents. Since products manufactured from the yacare caiman, common caiman, and the brown caiman are often indistinguishable as to species from which they are made, products from the prohibited yacare caiman are often commingled with products from non-prohibited taxa among commercial shipments into the United States. The unauthorized entry of prohibited yacare caiman products constitutes a violation of the Act, and if the yacare is legally protected in individual range countries, then Lacey Act violations may also have occurred.

Until relatively recently, Argentina, Bolivia, Brazil, and Paraguay prohibited the export of caiman products (Brazaitis in comments on the October 29, 1990, Federal Register notice [55 FR 43389]). However, CITES Notification to the Parties No. 781, issued on March 10, 1994, indicated that Brazil’s CITES Management Authority had registered 75 ranching operations for producing skins of *C. c. crocodilus* and *C. yacare*. These ranching operations were established under provisions of Article 6 B of Brazilian Wildlife Law No. 5.197, of November 3, 1967. *Caiman yacare* from these Brazilian ranches were being legally traded in the international

marketplace, except into the United States. Paraguay and Bolivia have also expressed an interest in the legal international marketing of *C. yacare* skins, and restricted legal hunts are currently allowed (see below).

The U.S. Fish and Wildlife Service (Service) recognizes that substantial populations of crocodilians that are managed as a sustainable resource can be utilized for commercial purposes while not adversely affecting the survival of individual populations of the species, when scientifically based management plans are implemented. When certain positive conservation conditions have been met, the Service has acted to allow utilization and trade from managed populations of the American alligator (*Alligator mississippiensis*), the importation of commercial shipments of Nile crocodile (*Crocodylus niloticus*) from several southern and eastern African countries, and similar shipments of saltwater crocodile (*Crocodylus porosus*) specimens from Australia (61 FR 32356; June 24, 1996). The CITES Parties reviewed management activities prior to transferring certain populations from CITES Appendix I to Appendix II (thereby allowing commercial trade) and included assessments of population status, determination of sustainable harvest quotas (or approval of ranching programs), and the control of the illegal harvest. Management regulations imposed after harvest included the tagging of skins and issuance of permits to satisfy the requirements for CITES Appendix II species.

This final rule and its accompanying special rule allow U.S. commerce in skins, other parts, and products from *Caiman yacare*, *Caiman crocodilus*, and *C. c. fuscus* into the United States. These three *Caiman* populations are widespread in Mexico and Central and South America, and have high reproductive potential (Thorbjarnarson 1992, Thorbjarnarson 1994). In fact, they have survived in spite of substantial legal and illegal harvests in the past (Mourao *et al.* 1996, Da Silveria and Thorbjarnarson 1999). As in the case of the final rules involving *Alligator mississippiensis*, *Crocodylus niloticus*, and *Crocodylus porosus* (50 CFR part 17), this final rule will allow commerce in *Caiman yacare*, *Caiman c. crocodilus*, and *C. c. fuscus* into the United States only from range countries that regulate the legal harvest and control illegal trade of these three populations, so as to ensure that they are being sustained at biologically sound levels. Furthermore, the Service does not intend to allow importation or re-exportation of *Caiman yacare*, *C.*

crocodilus crocodilus, or *C. c. fuscus* specimens from intermediary countries that do not properly control trade in crocodilian skins, other parts, and products.

This rule reclassifies the yacare caiman (*Caiman yacare* = *C. crocodilus yacare*) from endangered to threatened status under the Act and lists two additional taxa, the common caiman (*C. c. crocodilus*) and the brown caiman (*C. c. fuscus* including *C. crocodilus chiapasius*), as threatened by reason of similarity of appearance. When traded as skin pieces and products, the yacare caiman is similar in appearance to the common caiman and the brown caiman, which are listed as CITES Appendix II species but are not listed in the Act. Other caiman species will be retained as endangered under the Act, including the black caiman (*Melanosuchus niger*) and the broad-snouted caiman (*Caiman latirostris*). This rule does not affect the endangered or threatened status, under the Act, of any other crocodilian species in the Western Hemisphere.

The original listing for the yacare caiman (under the provisions of the Endangered Species Conservation Act of 1969) was *C. yacare*, which is the presently accepted taxonomic name for the species (King and Burke 1989) and the name used throughout this rule. Some authors treat the taxon as a subspecies, *C. c. yacare*, and this is the taxonomic name presently included in the List of Endangered and Threatened Wildlife (50 CFR part 17.11). King believes (in litt.) that *C. yacare* should be considered biologically as a subspecies or at the end of a morphological cline, but indicates that, nomenclaturally, it is recognized as a full species. A recent study, including an analysis of mitochondrial DNA variation, indicates that the *C. yacare* of Argentina, Bolivia, Brazil, and Paraguay comprise a single taxonomic unit with substantial genetic, morphological, and zoogeographical similarities (Brazaitis *et al.* 1993). Those authors indicate that *C. yacare* populations are effectively separated from *C. c. crocodilus* populations by mountains and highlands that limit nesting habitat and the migration of individual animals between southern and northern river systems. *Caiman yacare*, *C. c. crocodilus*, and *C. c. fuscus* are considered, on the basis of their DNA sequences, to be distinct populations of a widespread and related taxon (Amato 1992) with *C. yacare* apparently having greater genetic differences from *C. c. crocodilus* than *C. c. crocodilus* has in relationship to *C. c. fuscus* (Brazaitis *et al.* 1993). Additional DNA analyses by Brazaitis and others support the

interpretation that “*Caiman yacare*, *C. c. crocodilus*, and *C. c. chiapasius* (probably *C. c. fuscus*) are each phylogenetic species, as per the criteria of Davis and Nixon (1992)” (Brazaitis *et al.* 1997a, Brazaitis *et al.* 1997b). However, recent work by Busack and Pandya (1996) suggests that *C. c. crocodilus* and *C. c. fuscus* comprise a single genetic population at the subspecies level, while confirming that the yacare caiman is a distinct subspecies, *C. c. yacare*. Currently, no biochemical evidence indicates that recognizable subgroups of *C. yacare* occur within its distributional limits in the river systems of Argentina, Bolivia, Brazil, or Paraguay (Brazaitis *et al.* 1993), and, therefore, no such subgroups are recognized in this rule.

Comments Received

On March 15, 1988, the Service received a petition from Mr. Armand S. Bennett, President of Columbia Impex Corporation, requesting the reclassification of the yacare caiman from endangered to threatened status. The Service reviewed the petition and concluded that it did not present sufficient scientific or commercial information to indicate that a reclassification was warranted (55 FR 43387, published October 29, 1990). However, the Service, in the October 29, 1990, **Federal Register** notice, also solicited relevant data, comments, and publications dealing with the current status and distribution, biological information, and conservation measures pertaining to the yacare caiman. The Service also requested comments about the advisability and necessity of treating the subspecies *C. c. crocodilus* and *C. c. fuscus* as endangered or threatened due to similarity of appearance to the listed *C. yacare*. Based on the information received in response to the **Federal Register** notice and other available information, the Service published on September 23, 1998, a proposed rule for the reclassification of the yacare caiman from endangered to threatened, with a special rule allowing U.S. commerce in skins, other parts, and products of this species. The Service also proposed listing the common caiman (*C. c. crocodilus*) and the brown caiman (*C. c. fuscus*) as threatened by reason of similarity of appearance.

We received a total of 26 comments in response to the September 23, 1998, proposed rule: 6 were from crocodilian experts, 11 from foreign governments and institutions (Argentina, Bolivia, Brazil, Colombia, Paraguay, and Singapore), 1 from a State government (Louisiana), 6 from the crocodile trade industry (2 based in the United States

and 4 foreign), and 2 from non-governmental organizations (World Wildlife Fund and The Humane Society of the United States).

In summary, the majority of foreign government correspondents (Argentina, Bolivia, Brazil, and Colombia) and World Wildlife Fund supported the downlisting of yacare caiman. Likewise, five of the six correspondents from the crocodile trade industry in the United States (Columbia Impex Corporation, Florida) and overseas (Tecno—Caiman Ltd., Argentina; Cooperative of Caiman Breeders from the Pantanal of Mato Grosso, Brazil; Colombian Association of Animal Ranchers; and Singapore Reptile Skin Trade Association) supported the proposed downlisting. However, the Humane Society of the United States opposed it. The Government of Paraguay considered that the original listing of yacare caiman as endangered was unwarranted, and, therefore, commented that the species should be removed from the Act.

Comments from various crocodilian experts, including five members of The World Conservation Union/Species Survival Commission (IUCN/SSC) Crocodile Specialist Group (CSG), were mixed. Dr. James Perran Ross (CSG Executive Officer), Mr. Alejandro Larriera (CSG Regional Vice Chairman for Latin America and Caribbean), and Mr. Tomas Waller (CSG member from Argentina), supported the proposed downlisting of yacare caiman to threatened. Mr. Ted Joanen (CSG Vice Chairman for North America) and Mr. Peter Brazaitis (Forensic Specialist in Herpetology) opposed the proposed downlisting, whereas Prof. F. Wayne King (CSG Deputy Chairman) considered that the original listing of yacare caiman as endangered was unwarranted. The Department of Wildlife and Fisheries of Louisiana partially supported the proposed downlisting.

Comments: The Governments of Argentina (Secretaria de Recursos Naturales y Desarrollo Sustentable—Secretary of Natural Resources and Sustainable Development), Bolivia (Vice-Ministerio de Medio Ambiente, Recursos Naturales y Desarrollo Forestal, Ministerio de Desarrollo Sostenible y Planificación—Vice-Ministry of the Environment, Natural Resources and Forestry Development, Ministry of Sustainable Development and Planning; Unidad de Recursos Naturales y Medio Ambiente, Prefectura y Comandancia General del Beni—Natural Resources and Environment Unit, Government of the Department of Beni; Museo Nacional de Historia Nacional—National Museum of Natural

History; Museo de Historia Natural, Universidad Autónoma Gabriel René Moreno—Museum of Natural History, Gabriel René Moreno Autonomous University), Brazil (Instituto Brasileiro de Meio Ambiente e dos Recursos Naturais Renováveis—Institute of the Environment and Renewable Natural Resources; and Brazilian Embassy in Washington, DC), and Colombia (Ministerio del Medio Ambiente—Ministry of the Environment) commented that yacare caiman is abundant or has recovered in their respective countries, and, therefore, supported the proposed downlisting of yacare caiman. Argentina supports downlisting of *C. yacare*, even though it bans export of the species. All four countries (three of which are yacare caiman range countries) believe that the opening of commerce in *C. yacare* products, through a special rule allowing commercial importation and re-exportation of yacare caiman specimens into/from the United States, will provide an economic incentive for the protection of the species throughout its range.

Prof. F. Wayne King, Dr. James Perran Ross, and Mr. Tomas Waller (all members of CSG) also considered the yacare caiman to be abundant throughout most of its range. Furthermore, they argued that enough national and international regulatory and management mechanisms (such as CITES) are in place in the range countries, so that illegal harvest no longer constitutes a major threat to the species.

Finally, based on recent field surveys, World Wildlife Fund also did not consider *C. yacare* to be threatened. Furthermore, they recognized that the proposed downlisting and special rule will help reconcile listings of yacare caiman in the Act and CITES.

Response: We continue to believe that the downlisting of yacare caiman from endangered to threatened, with a special rule allowing U.S. commerce in caiman skins, other parts, and products, is warranted (See “Summary of Factors Affecting *Caiman yacare*” below).

Comment: Prof. F. Wayne King, Dr. John Perran Ross, and the Government of Paraguay (Ministry of Agriculture and Cattle Ranching) considered *C. yacare* to be abundant enough in the wild to prompt its complete removal from the Act.

Response: Although wild populations of yacare caiman have recovered in portions of the species’ range, we note that some populations have not fully recovered, and, therefore, we continue to believe the threatened classification

is appropriate (See “Summary of Factors Affecting *Caiman yacare*” below).

Comments: Mr. Ted Joanen, Mr. Peter Brazaitis, the Department of Wildlife and Fisheries of Louisiana, and The Humane Society of the United States opposed the proposed special rule allowing U.S. commerce in skins, parts, and products of yacare caiman because of concerns about current management of the species in some range countries. They argued that some range countries lack protected habitats, long-term monitoring programs, effective national legislation, or effective national law enforcement to prevent uncontrolled harvest of the species.

To address those concerns, Mr. Joanen and Dr. John Perran Ross suggested that importation of *C. yacare* specimens from individual range countries not be allowed until these countries provide the Service with detailed written descriptions of their respective management plans, regulations, and ongoing studies for the species, as was requested in previous rules involving Australian saltwater crocodile, American alligator, and Nile crocodile. Likewise, the National Museum of Natural History of Bolivia recommended amending the special rule, so as to require that all skins allowed for import into the United States originate from populations under a sustainable use management plan, such as the one developed in Bolivia. Bolivia believes that this requirement will prevent the sale of illegally hunted crocodilian skins that are seized by government agencies, but legalized through government-sponsored auctions.

Response: We note that enforcement of domestic regulations pertaining to harvest of wild yacare caimans is a domestic issue. No government or agency provides perfect management, but many governments and agencies provide sufficient management to permit sustainable use of certain individual species. A reasonable standard for the Service to use to determine sufficiency of a wildlife management program in any country is to compare management of a foreign species with management in the United States. In the United States, poaching of white-tailed deer still occurs, despite strict State laws regulating hunting of the species. However, State enforcement of deer hunting laws is sufficient to continue allowing sustainable harvest of the species.

Similarly, although all range countries of yacare caiman regulate the harvest of the species, they are not always capable of enforcing such regulations, particularly in isolated areas. Although we acknowledge that illegal hunting of

yacare caiman for local trade still occurs in many of the species' range countries, international illegal trade in crocodilian skins has been reduced significantly since the adoption by CITES Parties of Resolution Conf. 9.22 on the Universal Tagging System Resolution for crocodilians in November 1994 (see "Inadequacy of existing regulatory mechanisms" below). Given that all four range countries (Argentina, Bolivia, Brazil, and Paraguay) are CITES Parties, we believe that international trade in yacare caiman is adequately regulated to allow commercial importation and re-exportation of yacare caiman into/from the United States.

Furthermore, *C. yacare* and other species of caiman appear to be resilient to hunting. In Brazil, the impact of hunting on caiman populations is reduced by strong bias for males among hunted animals (Mourao *et al.* 1996, Da Silveria and Thorbjarnarson 1999). In *C. yacare* and *C. crocodilus*, this bias is largely due to the fact that hunters target mostly the largest animals, which are almost exclusively males. In the case of black caiman (*Melanosuchus niger*; a species listed as endangered in the Act), male-biased sex ratios among harvested animals appear to be caused by preference of adult females for more protected and difficult to reach areas. Since a single male can fertilize several females, this male-biased harvest is less likely to have a negative impact on the reproductive potential of caiman populations. Impact of hunting on caiman is also reduced by propensity of hunters to concentrate their harvest in areas easily accessible (Mourao *et al.* 1996).

In anticipation to a possible increase in illegal harvest of yacare caiman, this rule contains language prohibiting importation or re-exportation of yacare caiman skins, other parts, or products, if we obtain reliable information indicating that the countries of origin or re-export are engaging in practices that are detrimental to the conservation of yacare caiman populations in the wild.

Nevertheless, we agree with the suggestion made by several correspondents of requesting updated information from the yacare caiman range countries regarding their respective management plans, regulations, and ongoing studies for the species. Maintenance of such information in our files would permit us and other interested parties to better understand the measures being taken by range countries to ensure that harvest of yacare caiman is done in a sustainable manner. Furthermore, submission of such information by range countries on a regular basis would allow us to

monitor the status of yacare caiman in the wild, as required under the Act. Therefore, we have added language in this final rule requesting that the range countries of *C. yacare* (Argentina, Bolivia, Brazil, Paraguay) provide to the Service every 2 years current information on the status of these taxa in their countries (see "The Monitoring of Yacare Caiman" below). We will also monitor trade in the species by requesting import and export data on *C. yacare* from the World Conservation Monitoring Centre (WCMC), a repository of the annual CITES reports prepared and submitted to the Secretariat by CITES Parties.

Comments: Mr. Alejandro Larriera and the Colombian Association of Animal Ranchers (AZOOCOL) supported the right of the United States to prohibit imports from countries not in compliance with the CITES Universal Tagging System Resolution or engaging in practices detrimental to the survival of the species. However, the Singapore Reptile Skin Trade Association expressed concerns about unilateral U.S. prohibition of crocodilian imports from countries not in compliance with CITES requirements. Columbia Impex Corporation also commented that the United States should never have regulations different than those set by other countries.

Response: We note that Article XV of CITES allows CITES Parties to "adopt stricter domestic measures" regulating trade, taking, possession, or transport of specimens of any species, regardless of whether the species is listed in the CITES Appendices or not. For example, some CITES Parties currently prohibit the export of all their native species (Australia) or require permits for the export of any of their native wildlife (Mexico and Brazil), even though many of the species are not listed in the CITES Appendices. In the United States, Congress has enacted several laws for the protection of native and foreign wildlife (including the African Elephant Conservation Act, Eagle Protection Act, Marine Mammal Protection Act, Migratory Bird Treat Act, Wild Bird Conservation Act, Rhinoceros and Tiger Conservation Act, and the Endangered Species Act), many of which impose stricter restrictions on trade of certain species compared to CITES. Thus, adoption of this rule is in no way contrary to the CITES treaty.

Comment: Prof. King and Dr. Ross expressed concern about unilateral prohibition of yacare caiman imports from countries not in compliance with the CITES Universal Tagging System Resolution based on "information from * * * other reliable resources".

Response: We agree that any decision regarding possible U.S. unilateral prohibition of yacare caiman imports or re-exports from countries not in compliance with the CITES Universal Tagging System Resolution should be based on the best available information. As recommended by Dr. Ross, we intend to consult with experts within and outside our agency (such as the Service's National Fish and Wildlife Forensics Laboratory, university and natural history museum researchers, and IUCN Crocodile Specialist Group), the Management and Scientific Authorities of other countries, and any other qualified persons prior to making a final determination related to the possible prohibition of yacare caiman imports from any country.

Comments: Mr. Ted Joanen and Mr. Peter Brazaitis expressed concern about implementation of the proposed rule by the Service, particularly since most caiman skins imported into the United States arrive in the form of manufactured products, which are not marked, and, therefore, difficult to identify. Mr. Brazaitis also commented that Federal regulations do not require tamper-proof identification tags on crocodile skins for importation.

Response: We consider that international illegal trade in crocodilian skins has been reduced significantly since the adoption of Resolution Conf. 9.22 (Universal Tagging System Resolution) by CITES Parties. Therefore, requiring that yacare caiman shipments imported into the United States be accompanied by proper CITES documentation, as described in this rule, diminishes the likelihood of importing yacare caiman specimens obtained in a manner detrimental to the species. Furthermore, by allowing U.S. commerce in yacare caiman, we eliminate the incentive to intentionally misidentify yacare caiman specimens for importation into the United States. Consequently, we will be able to gather more accurate trade data on the species. At this time, the CITES Universal Tagging System Resolution is codified in the Federal regulations just for *Alligator mississippiensis*, *Crocodylus niloticus*, and *Crocodylus porosus*. However, we are currently in the process of updating the U.S. Code of Federal Regulations to include language codifying the CITES Universal Tagging System Resolution for all crocodilians (see **Federal Register** notice 62 FR 42093, published on August 5, 1997). In the meantime, the language contained in this rule implements the CITES Universal Tagging System Resolution for shipments involving *C. yacare*, *C. crocodilus fuscus*, and *C. c. crocodilus*.

Comment: The Humane Society of the United States supported the listing of *C. crocodilus fuscus* and *C. c. crocodilus* as threatened because of similarity of appearance, as well as the conditions in the special rule. However, Strictly Reptiles, Inc., opposed listing of *C. c. fuscus* and *C. c. crocodilus* because of similarity of appearance, since it believes that *C. yacare*, *C. c. fuscus*, and *C. c. crocodilus* are easily distinguishable. Columbia Impex Corporation also commented that *C. c. fuscus* and *C. c. crocodilus* are easily distinguishable once skins are tanned, whereas the Government of Paraguay commented that as long as skins are properly tagged and accompanied by CITES permits, there is no chance for misidentification of shipments involving *C. yacare*, *C. c. fuscus*, and *C. c. crocodilus*.

Response: Controversy still exists as to whether *C. yacare*, *C. c. fuscus* and *C. c. crocodilus* can be distinguished using morphological characters. Listing of *C. c. fuscus*, and *C. c. crocodilus* because of similarity of appearance will bring *C. yacare* and all known subspecies of *C. crocodilus* under the Act (*C. c. apaporiensis* is already listed as endangered) and, therefore, will facilitate and expedite inspection of *C. crocodilus* and *C. yacare* shipments into the United States. Wildlife inspectors at the ports will no longer face the time-consuming and difficult task of examining individual *C. crocodilus* and *C. yacare* shipments to determine whether or not they involve protected species and/or subspecies, as all shipments involving these two taxa will be treated equally.

Comment: The Government of Colombia and the Singapore Reptile Skin Trade Association commented that listing of *C. c. fuscus* and *C. c. crocodilus* will make trade in these two subspecies more difficult because of the need for permits and inspections. Likewise, the Colombian Association of Animal Ranchers (AZOOCOL) opposed listing of *C. c. fuscus* and *C. c. crocodilus* because of similarity of appearance because they believe that such listing will punish sustainable use of *C. crocodilus* in Colombia.

Response: As noted by the IUCN Crocodile Specialist Group in their October 1998—December 1998 newsletter (Volume 17, Number 4, pages 15–18), the listing of *C. c. fuscus* and *C. c. crocodilus* as threatened by similarity of appearance does not add any new requirements to those already in place for the importation and re-exportation of skins, other parts, and products of these two subspecies into/from the United States. Since *C. c. fuscus* and *C. c.*

crocodilus are currently listed in Appendix II of CITES, a CITES permit issued by the exporting country is already required for importation of skins, parts, and products of these two subspecies into another country. This rule only requires that shipments involving skins and other parts of *C. c. fuscus* and *C. c. crocodilus* be tagged in accordance with the CITES Universal Tagging System Resolution and accompanied by valid CITES documents, as is currently required. Furthermore, inclusion of these two subspecies just codifies in the U.S. Federal regulations an existing international requirement.

However, this special rule does not cover the importation of viable caiman eggs or live caimans into the United States. In addition to a valid CITES export permit (already required), importation of these two types of specimens of *C. c. fuscus* and *C. c. crocodilus* will require an Endangered Species Act import permit. This requirement will allow scrutiny of individual applications for importation of live caimans or eggs so as to prevent accidental introduction of these exotic species into the United States (in accordance with Executive Order 13112 on Invasive Species issued by President Bill Clinton on February 3, 1999), an event that may have negative economic and ecological impacts on humans, native wildlife, and ecosystems in the United States.

Comments: Dr. John Perran Ross, the Singapore Reptile Skin Trade Association, and the Governments of Colombia and Singapore commented on the 25 percent restriction on replacement tags and opposed the measure. Dr. Ross and the Singapore Reptile Skin Trade Association noted that the special rule goes beyond CITES restrictions on replacement tags (Resolution Conf. 9.22), which the United States helped draft. The Government of Colombia considered this restriction an indication of mistrust of range and re-exporting countries. The Government of Singapore and the Singapore Reptile Skin Trade Association commented that, since tanneries regularly removed tags from raw skins before processing them, the 25 percent restriction will create problems for skin traders in their country. Singapore made two suggestions to resolve this issue: (1) shipments involving re-tagged skins must include all tags from the country of origin, and (2) re-exporting countries should fax copies of their re-export CITES permits as well as the CITES permits from the country of origin.

Response: As noted above, Article XV of CITES allows for CITES Parties to adopt stricter domestic regulations for the protection of wildlife, whether the species is listed in the CITES Appendices or not. Therefore, adoption of this rule is not contrary to CITES. Moreover, this 25 percent restriction on replacement tags is consistent with the requirements for importation of saltwater crocodile (*Crocodylus porosus*) and Nile crocodile (*Crocodylus niloticus*) published in the **Federal Register** on June 24, 1996 (61 FR 32356—“Endangered and Threatened Wildlife and Plants; Reclassification of Saltwater Crocodile Population in Australia From Endangered to Threatened With Special Rule for the Saltwater and Nile Crocodiles”).

Summary of Factors Affecting Caiman yacare

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth five criteria to be used in determining whether to add, reclassify, or remove a species from the list of endangered and threatened species. These factors and their applicability to populations of the yacare caiman in South America are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Since the initial listing of the yacare caiman, controversy has been associated with defining the ranges of caiman species, especially that of *C. yacare* in southern South America. To assist in the clarification of the distribution and status of *C. yacare*, the CITES Secretariat, in conjunction with the World Conservation Union/Species Survival Commission (IUCN/SSC) Crocodile Specialist Group (CSG), undertook a survey (starting in late 1986 and early 1987) to develop a conservation program for crocodilians of the genus *Caiman*. These surveys were conducted under the auspices of CITES and were carried out by the CSG and the Governments of Brazil, Bolivia, and Paraguay. We review the available data from these studies (Brazaitis 1989a; Brazaitis *et al.* 1990; King and Videz Roca 1989; and Scott *et al.* 1988 and 1990) on the distribution, ecology, and status of *C. yacare* in this and following sections assessing factors affecting the species.

Caiman yacare is widely distributed throughout the lowland areas and river systems of northeastern Argentina, southeastern and northern Bolivia, Paraguay, and the western regions of the

Brazilian States of Rondonia, Mato Grosso, and Mato Grosso do Sul (Thorbjarnarson, J. B. 1992). The range includes the entire Guapore River (= Itenes River) drainage, including its headwaters in the Brazilian State of Mato Grosso and its tributaries in northeastern Bolivia; eastern Bolivia and western Brazil throughout the drainage of the Paraguay River and the Pantanal of Brazil; Paraguay River and southern Pilcomayo River in Paraguay; and the lower Salado River, the Parana River east to the Uruguay River, and south to the mouth of the Parana River in Argentina (Brazaitis *et al.* 1993). The yacare caiman is found in a wide variety of habitats, including those that are altered by humans. The species occurs in vegetated and non-vegetated large open rivers, secondary rivers and streams, flooded lowlands and forests, roadside ditches and canals, oxbows, large and small lakes and ponds, cattle ponds, and streams (Brazaitis *et al.* 1988).

The common caiman, *Caiman crocodilus crocodilus*, occurs in the drainage basins of the Amazon and Orinoco Rivers in French Guiana, Surinam, Guyana, Venezuela, eastern Ecuador, Colombia, Peru, and Brazil (Thorbjarnarson 1992). A narrow zone of intergradation exists between *C. yacare* and *C. c. crocodilus* along the northern border of Bolivia and Brazil in the State of Acre in the Acre River and Abuna drainages, northward to approximately Humaita on the Madeira River in the Brazilian State of Amazonas (Brazaitis *et al.* 1990).

The brown caiman, *Caiman crocodilus fuscus* (including *C. c. chiapasius*), occurs from Mexico through Central America to Colombia (west of the Andes), along the coastal and western regions of Venezuela, and south through Ecuador to the northwestern border of Peru. The CITES Secretariat and several authors consider *C. c. chiapasius* a synonym of *C. c. fuscus*, and we consider it so for the purposes of this rule.

The expansion of cattle grazing and the concurrent construction of permanent water sources for cattle has increased the dry season freshwater habitats available to yacare caiman in some areas. However, cattle grazing has also diminished habitat in other areas by increasing the salinity of waterways (King *et al.* 1994). Habitat destruction and deterioration has taken place and continues to occur in parts of the species' range. Deforestation for road construction and mining not only destroys habitat, but also increases access of poachers to some yacare habitats (Brazaitis *et al.* 1996).

Increasing human populations, development of hydroelectric projects, draining of wetlands, and deteriorating water quality due to siltation or the extensive dumping of pollutants (particularly as a result of mining and industry) also have caused habitat degradation. However, yacare caiman habitat is very extensive and the species is so widespread that it is very unlikely that the species is presently endangered or threatened because of the destruction, modification, or curtailment of its habitat or range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

In the past, large numbers of *C. yacare* were taken from South America, particularly from Brazil, in violation of domestic laws protecting the species (Brazaitis *et al.* 1988, Brazaitis *et al.* 1996). Although yacare caiman populations declined in many areas, the species still could be found in varying population densities in most areas where suitable habitat remained (Brazaitis *et al.* 1988). Yacare caiman found in some surveys almost a decade ago also were small, extremely wary, and exhibited a high male-biased sex ratio. One hypothesis suggested that females might be more heavily harvested at a time when they might be very vulnerable while protecting their nests (Brazaitis 1989a).

In spite of substantial legal and illegal harvests in the past, many caiman populations have been able to survive and recover after being protected or properly managed (Mourao *et al.* 1996, Da Silveria and Thorbjarnarson 1999). Recent research also suggests that *C. yacare* and other species of caiman in Brazil, and most likely other parts of the species' range, are resilient to hunting. Recent estimates of *C. yacare* in the Brazilian Pantanal show densities as high as 147 individuals/square kilometer, far larger than those reported for other crocodilians (Coutinho and Campos 1996). In Brazil, the impact of hunting on caiman populations is reduced by strong bias for males among hunted animals (Mourao *et al.* 1996, Da Silveria and Thorbjarnarson 1999). In *C. yacare* and *C. crocodilus*, this bias appears to be largely due to the fact that hunters target mostly the largest animals, which are almost exclusively males. In the case of black caiman (*Melanosuchus niger*; a species listed as endangered under the Act), male-biased sex ratios among harvested animals appear to be caused by preference of adult females for more protected and difficult to reach areas. Since a single male can fertilize several females, this

male-biased harvest is less likely to have a negative impact on the reproductive potential of caiman populations. Impact of hunting is also reduced by propensity of hunters to concentrate their harvest on areas that are easily accessible (Mourao *et al.* 1996).

To ensure sustainable management of *C. yacare* in Brazil, the Instituto Brasileiro de Meio Ambiente e dos Recursos Naturais Renovaveis (IBAMA—Brazilian Institute for Environment and Renewable Natural Resources) regulates commerce of *C. yacare*. To date, IBAMA has approved and registered 65 yacare breeding facilities, with a production of over 80,000 skins (communication from the Embassy of Brazil, Washington, DC). In recent months, IBAMA has also teamed up with other Brazilian Federal and State government agencies to help enforce Brazilian laws for the protection of wildlife, thus reducing illegal trade of all native wildlife in Brazil.

The yacare caiman remains widely distributed in Bolivia (communications from Unidad de Recursos Naturales y Medio Ambiente, Prefectura y Comandancia General del Beni, Bolivia—Natural Resources and Environment Unit of the Department of Beni; Museo Nacional de Historia Nacional, La Paz, Bolivia—National Museum of Natural History; Museo de Historia Natural, Universidad Autonoma Gabriel Rene Moreno, Santa Cruz, Bolivia—Natural History Museum, Gabriel Rene Moreno Autonomous University; and Viceministro de Medio Ambiente, Recursos Naturales y Desarrollo Forestal, Ministerio de Desarrollo Sostenible y Planificacion, La Paz, Bolivia—Vice-Minister of the Environment, Natural Resources and Forestry Development, Ministry of Sustainable Development and Planning). Although caiman populations in some rivers were extirpated, caimans still survive in Bolivia due to abundant habitat and their rapid growth to sexual maturity. Where protected, populations have recovered, including those in the extensive wetlands of "El Pantanal". In fact, the Bolivian Red Book lists *C. yacare* as a low-risk species (communication with Dr. Mario Suarez, Director of the Museo de Historia Natural, Universidad Autonoma Gabriel Rene Moreno, Santa Cruz, Bolivia—Natural History Museum, Gabriel Rene Moreno Autonomous University). Consequently, Bolivia has recently approved conservation and sustainable use plans for *C. yacare* in the Departments of Beni and Santa Cruz. Although a decade ago it was reported that the long-term continuation of the

status quo could lead to the endangerment of the species in Bolivia (King and Videz Roca 1989), we believe that situation has improved considerably, with effective management of the species by Bolivian authorities.

In Paraguay, King *et al.* (1994) reported that large populations of yacare could still be found in suitable habitats. *Caiman yacare* populations in Paraguay are currently being monitored annually (communications with Ministerio de Agricultura y Ganadería—Ministry of Agriculture and Cattle Ranching, Paraguay's CITES Authority). Recent surveys show that populations are either stable or increasing. Based on survey data, hunting quotas are established accordingly.

The CSG did not conduct a survey and status assessment in Argentina. However, Argentina currently bans export of the species (communication with Secretaria de Recursos Naturales y Desarrollo Sustentable—Ministry of Natural Resources and Sustainable Development).

In summary, hunting for hides, both legal and illegal, has in the past been the major threat to the survival of populations of yacare caiman. However, the species has recovered in many parts of its range, and the four range countries either provide protection to the species by domestic legislation and/or regulate harvest by established hunting seasons and limits on the size of animals that can be legally killed for commercial trade. In spite of these actions, we believe sufficient cause exists to find, at this time, that some populations of the yacare caiman still may be threatened by illegal hunting for domestic trade in portions of its extensive range (see "Inadequacy of existing regulatory mechanisms" below).

C. Disease or Predation

The eggs of *C. yacare* are eaten by a variety of predators, which in some localities include humans, and hatchlings are consumed by a variety of predators including other crocodilians. However, we have no evidence, at this time, that disease or predation are significant factors affecting *C. yacare* populations.

D. The Inadequacy of Existing Regulatory Mechanisms

The yacare caiman is protected in Argentina by a total ban on commercial hunting and on the export of raw and tanned hides and other products. Brazil bans the export of wildlife and wildlife products from native species (Article 6 B of Brazilian Wildlife Law No. 5.197, of November 3, 1967), except from

approved ranching programs. In Paraguay, the yacare caiman was nominally protected by a 1961 Presidential decree that prohibits hunting, commerce, and import and export of all native wildlife, their parts, and products. However, a limited harvest of yacare caiman is currently allowed, with quotas being determined based on annual surveys of the species. Bolivia permits the hunting of yacare from January 1 to June 30, and imposes a 1.5 m size limit on all harvested caiman. The yacare was additionally listed as endangered under the U.S. Endangered Species Conservation Act of 1969 and was added to Appendix II of CITES in 1975.

In the past, existing legislation and decrees protecting the yacare caiman or regulating its harvest have been inadequately or unevenly enforced. Many yacare caiman were apparently illegally killed in Argentina, Bolivia, Brazil, and Paraguay, and their skins were illegally exported with real or forged CITES export permits from some South American countries. The CITES Secretariat, in conjunction with the CSG, and with the permission and cooperation of the range countries, conducted a series of surveys of the status of the yacare caiman during the 1980s and found major inadequacies associated with the existing regulatory mechanisms. For example, Bolivia did not effectively enforce either the hunting season restriction or the minimum size limit restrictions on harvested animals. In the mid-1980s, large numbers of poached yacare caiman skins were illegally exported to Paraguay, encouraging the transnational movement of illegal wildlife products through that country in violation of CITES. As a result, in June 1986 and to November 1987, the Bolivian Government imposed a ban on the export of wildlife specimens (Decreto Supremo 21312 and Decreto Supremo 21774, respectively) and, through the CITES Secretariat, asked that the Parties to the Convention no longer accept certain CITES export permits issued illegally by the former Bolivian Government (Notice of Information No. 3–50 FR 34016; Notice of Information No. 4–50 FR 34016; Notice of Information No. 8–50 FR 50965; Notice of Information No. 11–51 FR 43978).

Some countries of manufacture, knowingly or unknowingly, have also apparently accepted illegally killed and illegally exported yacare caiman, used these materials in the production of leather goods, and shipped the resulting finished products to the United States. Although a live or whole yacare caiman can be distinguished from other caiman

species, the products from tanned or processed skins are often very difficult to distinguish from other caiman species. U.S. Fish and Wildlife Service Wildlife Inspectors, by clearing crocodilian products from these leather good manufacturing countries, could have inadvertently allowed the import of parts and products from illegally harvested yacare caiman. Such imports would constitute violations of the U.S. Lacey Act and the Endangered Species Act, and would be detrimental to the conservation of the yacare caiman by not effectively promoting the sustainable management of the species.

However, currently available information indicates that many of the irregularities have been corrected since the CITES survey in the 1980s. A combination of increased awareness of conservation needs, reduced crocodilian hide prices, increased action by government and international agencies, and increased difficulty in marketing illegally harvested crocodilian skins have relieved some of the hunting pressure on wild caiman populations (Scott *et al.* 1990, King *et al.* 1994).

International illegal trade in crocodilian skins has been reduced significantly since the adoption by the CITES Parties of Resolution Conf. 9.22 (Universal Tagging System Resolution for the Identification of Crocodilian Skins) in November 1994. This resolution establishes a universal tagging system for the tracking of international trade in crocodilian skins, other parts, and products, which includes: (1) Universal tagging of raw and processed crocodilian skins with non-reusable tags for all crocodilian skins entering international trade, unless they have been further processed and cut into smaller pieces; (2) tagging of transparent containers for crocodilian parts; (3) use of non-reusable tags that include as a minimum the International Organization for Standardization two-letter code for the country of origin, a unique serial identification number, a standard species code, and the year of production or harvest; (4) registration of such non-reusable tags with the CITES Secretariat; (5) recording of the same information that appears on the tags on the export permit, re-export certificate, or other Convention document; and (6) implementation by the re-exporting countries of an administrative system that allows for effective matching of imports and re-exports, and ensures that the original tags are intact upon re-export, and, if tags are broken, the re-tagging of skins is performed as described in CITES Resolution Conf. 9.22. Given that all four range countries are Parties to CITES (Argentina acceded

on April 8, 1981; Bolivia on October 4, 1979; Brazil on November 14, 1975; Paraguay on February 13, 1977), we believe that international trade in yacare caiman is adequately regulated.

To improve implementation of CITES, at the invitation of the Bolivian Government and with the financial support of the U.S. Agency for International Development's Partnership for Biodiversity, the Service's Office of Scientific Authority and Division of Law Enforcement visited Bolivia in the summer of 1998 to conduct CITES training. The participants included not only staff from the Bolivian CITES Management and Scientific Authorities, but also representatives from other Bolivian governmental agencies involved in the implementation of CITES, including the Bolivian National Police and Defense Ministry. During the one-week training, the Service also discussed with the participants how to improve collaboration between the United States and Bolivia in the protection and conservation of wildlife. The training participants also took this unique opportunity to develop a plan to implement and coordinate CITES as well as other fish and wildlife enforcement activities in Bolivia.

Although all four range countries have taken steps to curtail illegal international trade in yacare caiman and other crocodilians, enforcement of already existing laws regulating domestic trade in crocodilians may still be insufficient in some areas (Brazaitis *et al.* 1996, Mourao *et al.* 1996), due mostly to the limited resources available to local enforcement agencies as well as the remoteness and inaccessibility of many of the areas. Therefore, we believe that sufficient cause exists to find that the yacare caiman is presently threatened, but no longer endangered, in some parts of its range by the inadequacy of the existing regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

A recent new possible threat to yacare caimans and their habitats is chemical pollution, primarily from mineral mining and industry (Brazaitis *et al.* 1996). However, short- and long-term effects of chemical contamination on yacare caiman populations are unknown.

Summary of Findings

Wildlife, such as the yacare caiman, can be advantageously utilized in commerce if management is sufficient to maintain satisfactory habitats and harvest is at levels that allow maintenance of healthy and sustainable

populations. The yacare, under such conditions, can provide revenue to pay for its own management.

In developing this rule, we have carefully assessed the best available biological and conservation status information regarding the past, present, and future threats faced by the yacare caiman. The available data from these studies on the distribution, ecology, and status of *C. yacare* indicate that this species is not endangered or in danger of extinction in any significant portion of its range. The Service has concluded that an extensive population of yacare caiman still exists over large and seasonally inaccessible areas within the four South American range countries.

The Service recognizes that yacare caimans near human populations may be illegally taken. However, the best available information indicates that this and many other species of crocodilians are capable of surviving despite unregulated harvests and that new international requirements are being implemented to curtail international trade in illegally harvested crocodile skins.

Criteria for reclassification of a threatened or endangered species, found in 50 CFR part 424.11(d), include extinction, recovery of the species, or error in the original data for classification. The original listing did not encompass the survey information, such as Medem's 1973 work, which documented an extensive range for this species. Given the reproductive capabilities and current status of the yacare caiman, this species is more properly considered not as in danger of extinction throughout all or a significant portion of its vast range, but as threatened due to inadequately regulated domestic commercialization in some portions of its range. Therefore, if range countries continue to successfully implement measures to regulate its harvest and domestic commercialization, the yacare caiman should be able to maintain stable and sustainable population levels.

Similarity of Appearance

In determining whether to treat a species as endangered or threatened due to similarity of appearance, the Director shall consider the criteria in section 4(e) of the Endangered Species Act. Section 4(e) of the Act and criteria of 50 CFR 17.50 set forth three criteria in determining whether to list a species for reasons of similarity of appearance. These criteria apply to populations of common caiman (*C. c. crocodilus*) in South America and the brown caiman (*C. c. fuscus*) in Mexico and Central and South America.

The Service has intercepted numerous shipments of manufactured items with documents identifying them as a lawfully tradeable Appendix II species (most often *C. c. crocodilus* and *C. c. fuscus*) and have determined that they are, in fact, made from yacare caiman. In other instances, products from other endangered species, such as *Melanosuchus niger*, have been declared as *C. c. fuscus*. One reason for this situation is that many vendors, buyers, and traders in South and Central America have deliberately misidentified yacare caiman by obtaining documents purporting to permit export of other Appendix II species. In addition, representatives of the manufacturing industry and others have indicated that a common practice in the trade is to commingle skins at the tanning, cutting, and assembly stages of the manufacturing process so that inadvertent commingling frequently occurs. While some affirmative yacare caiman identifications can be made in manufactured products, in numerous instances, proper identifications are not made and significant quantities of yacare caiman are probably being imported unlawfully. This situation occurs because a positive identification of yacare caiman depends upon whether certain indicator patterns are present on a piece of skin. However, a large proportion of commercially useful pieces of skins do not bear these identification patterns.

In his comments submitted in response to the October 29, 1990, **Federal Register** notice, Mr. Peter Brazaitis provided extensive information on the similarity of appearance among six caiman and crocodilian species or subspecies as they occur in manufactured products and some hides. He discussed in detail the indicator characteristics for *C. yacare*, *C. c. crocodilus*, *C. c. fuscus*, *C. c. apaporiensis*, *C. latirostris*, and *M. niger* for live animals, whole skins, and untanned skins that remain after tanning and cutting, and how frequently similar characteristics found on pieces of skin prevent positive identification.

The three criteria for listing of other caiman by similarity of appearance are discussed below:

(1) The degree of difficulty enforcement personnel would have in distinguishing the species, at the point in question, from an endangered or threatened species (including those cases where the criteria for recognition of a species are based on geographical boundaries).

Caiman yacare, *C. c. crocodilus*, and *C. c. fuscus* are distinguishable as live animals because of different markings

and coloration in the head region. However, manufactured products (shoes, purses, belts, or watchbands, etc.) are extremely difficult even for an expert to identify as to the species of origin (Brazaitis 1989b). Products from the three crocodilians often cannot readily be distinguished by law enforcement personnel, which means that under present conditions mixed products from U.S. listed and unlisted species may occur in U.S. commerce.

(2) The additional threat posed to the endangered or threatened species by loss of control occasioned because of the similarity of appearance.

The inability to adequately control commerce in caiman products has likely allowed losses to occur to other endangered species such as *C. latirostris* and *M. niger*. For example, the Service has records of leather goods manufactured from *M. niger* being included in product shipments declared as *C. c. fuscus*.

Another problem occurs when unlawfully harvested yacare caiman skins enter commerce in non-range South American countries and then are re-exported with documents describing the export as native caiman. The Service has intercepted a number of shipments of yacare caiman from Colombia despite domestic laws that permit only the export of caimans from captive breeding programs, and despite the fact that the yacare caiman does not occur naturally in Colombia.

This rule allows for cessation of commercial trade to the United States if CITES bans are imposed for failure to implement appropriate trade control measures, including the use of non-reusable tags for species identification. A secondary effect of this rule may be to enhance the management of *C. yacare*, *C. c. crocodilus*, and *C. c. fuscus* to facilitate commerce in products of caiman species that can tolerate a managed commercial harvest, and to more effectively protect the endangered species of caiman or of other taxa that cannot sustain a managed commercial harvest.

(3) The probability that so designating a similar species will substantially facilitate enforcement and further the purposes and policy of the Act.

The Division of Law Enforcement presently inspects caiman shipments to determine the validity of the proffered Appendix II CITES documents and consults herpetologists to evaluate specimens when warranted. Due to the problems of commingling and identification, a substantial number of seizures, forfeitures, and penalty assessments have been contested. Judicial decisions have affirmed the

validity of the Service's identifications, but the expenditure of funds and resources is disproportionate to that devoted to other species. An earlier judicial forfeiture action was concluded after 6 years, a full trial, and the employment, by both parties, of several expert witnesses. One of the purposes of this similarity-or-appearance listing is to shift the inquiry from one of evaluating a particular shipment to one of supporting the effectiveness of the CITES crocodilian skin control system as well as the effectiveness of yacare caiman management programs in countries of origin and re-export, thereby enhancing the management of the species while permitting other allocations of enforcement resources.

The improved management of trade should enhance the conservation status of each species, and this listing action and special rule should assist CITES Parties to control the illegal trade in caiman skins, products, and parts.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition of conservation status, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies and groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed to be listed or is listed as endangered or threatened and with respect to its proposed or designated critical habitat, if any is being designated. However, given that *C. yacare* is not native to the United States, no critical habitat is being proposed for designation with this rule.

Currently, with respect to *C. yacare*, no Federal activities, other than the issuance of CITES export permits, are known that would require conferral or consultation. According to the CITES treaty, Appendix-II species need only a CITES export permit issued by the exporting country for their importation into another country. However, because of its listing as endangered under the Act, the importation and exportation of specimens from *C. yacare* presently require an Endangered Species Act permit issued by the Office of Management Authority. Consequently, a consultation with our Office of Scientific Authority is currently required before our Office of

Management Authority can issue any import or export permit for *C. yacare*.

The listing of *C. c. fuscus* and *C. c. crocodilus* as threatened by similarity of appearance does not add any new requirements to those already in place for the importation or re-exportation of skins, other parts, and products of these two subspecies into/from the United States. This rule just requires that shipments involving skins and other parts of *C. c. fuscus* and *C. c. crocodilus* be tagged in accordance with the CITES Universal Tagging System Resolution and accompanied by valid CITES export documents, as is currently required. No U.S. import permits will be required for these specimens. However, this special rule does not cover the importation of viable caiman eggs or live caimans into the United States. In addition to a valid CITES export permit (already required), importation of viable eggs or live specimens of *C. c. fuscus* and *C. c. crocodilus* will require an Endangered Species Act import permit.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Sections 4(d) and 9 of the Act, and implementing regulations found at 50 CFR part 17.31, (which incorporate certain provisions of 50 CFR part 17.21), set forth a series of prohibitions and exceptions that generally apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (within U.S. territory or on the high seas), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees or agents of the Service, other Federal land management agencies, the National Marine Fisheries Service, and State conservation agencies (50 CFR part 17.21(c)(3) and part 17.31(b)).

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are

codified at 50 CFR part 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: Scientific research, enhancement of propagation or survival, zoological exhibition or education, incidental taking, or special purposes consistent with the Act. All such permits must also be consistent with the purposes and policy of the Act as required by section 10(d). Such a permit will be governed by the provisions of § 17.32 unless a special rule applicable to the wildlife (appearing in § 17.40 to § 17.48) provides otherwise.

Threatened species are generally covered by all prohibitions applicable to endangered species, under section 4(d) of the Act. The Secretary, however, may propose special rules if deemed necessary and advisable to provide for the conservation of the species. The special rule described here for § 17.42 allows commercial importation and re-exportation into/from the United States of certain farm-reared, ranch-reared, and wild-collected specimens of threatened caiman species, which are listed in CITES Appendix II. Importation could be restricted from a particular country of origin or re-export if that country is not complying with the CITES Universal Tagging System Resolution, or if that country has been identified as a subject to a recommended suspension of trade by the CITES Standing Committee or at a CITES Conference of the Parties. Interstate commerce within the United States and re-export of *C. yacare*, *C. c. crocodilus*, and *C. c. fuscus* parts will not require additional U.S. threatened species permits.

Effects of This Rule

This rule revises § 17.11(h) to reclassify the *C. yacare* from endangered to threatened to reflect more accurately the present status of this species. The Apaporis River caiman (*C. c. apaporiensis*), the black caiman (*M. niger*), and the broad-snouted caiman (*C. latirostris*) retain their endangered status under the Act. *Crocodylus crocodilus crocodilus* and *C. c. fuscus* (including *C. c. chiapasius*) are listed as threatened by reason of similarity in appearance. /-

Description of the Special Rule

Currently, listing of *C. yacare* in Appendix II of CITES allows commercial trade in the species. This special rule allows commercial importation and re-exportation into/from the United States of *C. yacare* skins, other parts, and products originating from countries effectively implementing the crocodilian CITES Universal Tagging System Resolution,

and only from countries that have not been identified by the CITES Parties for inadequate implementation of CITES. The intent of this special rule is to enhance the conservation of the yacare caiman and the other endangered and threatened caiman populations by supporting those countries properly managing their caiman populations through the opening of commercial markets in the United States.

The degree of endangerment of crocodilian species varies by species and specific populations. Some caiman species are listed on Appendix I of CITES. Such listing prohibits international trade in the species if such activity is conducted for primarily commercial purposes and/or determined to be detrimental to the survival of the species. The remaining species and populations of caiman are included in Appendix II, thereby allowing commercial trade if certain scientific and management findings are made. Some caiman species are also listed as endangered in the U.S. List of Endangered and Threatened Wildlife, while other species are not included. In addition to the United States, several countries have taken domestic actions to protect wild caiman populations, but allow trade in specimens bred or raised in captivity under appropriate management programs.

We agree that yacare caiman populations in some range countries are being sufficiently managed through ranching or captive breeding programs to support controlled commercial use. However, the Service is concerned about: (1) The illegal harvest and inadequate trade controls for caiman species in Appendix II of CITES; (2) the commingling and misidentification of legal and illegal skins in intermediary trading, processing, and manufacturing countries; and (3) the sustainable management of the yacare caiman in those countries allowing a legal harvest of wild specimens.

The CITES Parties adopted at the 1994 Fort Lauderdale meeting (COP9) and are currently implementing provisions of the Universal Tagging System Resolution for crocodilian skins (Resolution Conf. 9.22). The Service supports these efforts, including the most recent clarifications of the resolution resulting from the Animals Committee meeting held in September 1996. At the CITES meeting of the Conference of the Parties in Zimbabwe in 1997, the CITES Secretariat reported that, to its knowledge, all range countries were effectively implementing the Universal Tagging System Resolution. Adherence to the CITES tagging requirements has reduced the potential for substitution of

illegal skins and reduced the trade control problems with the similarity of appearance of skins and products among different species of crocodilians.

In addition to the measures established by CITES in the Universal Tagging System Resolution, this special rule contains other steps designed to restrict or prohibit trade from countries that are not effectively implementing the CITES Universal Tagging System Resolution and, thus, to ensure that the United States does not become a market for illegal trade in crocodilian species and to encourage other nations to control illegal trade.

Effects of the Special Rule

Consistent with the requirements of sections 3(3) and 4(d) of the Act, this rule also contains a special rule that amends 50 CFR 17.42 to allow commercial importation and re-exportation, under certain conditions, of whole and partial skins, other parts, and finished products from yacare caiman without a threatened species import permit otherwise required by 50 CFR part 17, if all requirements of the special rule and 50 CFR parts 13 (General Permits Procedures), 14 (Importation, Exportation, and Transportation of Wildlife), and 23 (Endangered Species Convention—CITES) are met.

The reclassification of *C. yacare* to “threatened” and the accompanying special rule allowing commercial trade into the United States without endangered species import permits does not end protection for this species, which remains on Appendix II of CITES. To the contrary, the special rule complements the CITES Universal Tagging System Resolution for crocodilian skins by allowing imports and re-exports only from those range countries properly managing this species and controlling exports, and only from those intermediary countries properly implementing the CITES Universal Tagging System Resolution. Thus, this special rule simply reconciles ESA requirements for the importation and exportation of *C. yacare* shipments into and from the United States with CITES ones.

The listing of *C. c. fuscus* and *C. c. crocodilus* as threatened by similarity of appearance, and the accompanying special rule allowing commercial trade into the United States, also will have no effect on the issuance of permits for the commercial importation and exportation of skins, other parts, and products of these two caiman subspecies into and from the United States. Since *C. c. fuscus* and *C. c. crocodilus* are currently listed in Appendix II of CITES, a CITES permit issued by the exporting or re-

exporting country is already required for importation of shipments of these two subspecies into another country. This rule requires only that shipments involving skins and other parts of *C. c. fuscus* and *C. c. crocodilus* be tagged in accordance with the CITES Universal Tagging System Resolution and accompanied by valid CITES export documents, as is currently done. No U.S. import permits are required for these specimens. However, in the case of viable eggs or live specimens of *C. c. fuscus* and *C. c. crocodilus* into the United States, an Endangered Species Act import permit will be required in addition to the already required CITES export permit.

In summary, this special rule prohibits the importation and re-exportation of specimens (skins, other parts, or products) of *C. caiman*, *C. c. crocodilus*, and *C. c. fuscus* originating from any country (range country or a country of manufacture or re-export) that: (1) Is not effectively implementing the CITES Universal Tagging System Resolution including (but not limited to) the use of properly marked tamper-proof tags on all skins, the package of other crocodile parts in transparent sealed containers clearly marked with parts tags, the recording of the same information on the tags on the CITES documents, and maintenance of records accounting for transactions of skins, parts, and products; or (2) has failed to designate a Management Authority or Scientific Authority; or (3) have been identified by the Conference of the Parties to the Convention, the Convention's Standing Committee, or in a Notification from the Secretariat as a country from which Parties should not accept permits.

In a limited number of situations where the original tags from the country of export have been lost in processing the skins, we will allow whole skins, flanks, and chalecos into the United States if CITES-approved re-export tags have been attached in the same manner as the original tags and proper re-export certificates accompany the shipment. If a shipment contains more than 25 percent replacement tags, the re-exporting country must consult with the U.S. Office of Management Authority prior to clearance of the shipment, and such shipments may be seized, if the Service cannot determine that the requirements of the CITES Universal Tagging System Resolution have been observed.

In the case where tagged caiman skins are exported to another country for manufacturing purposes, and the finished products are re-exported to the United States, then neither the country

of origin nor the country of re-export can be subject to a Notice of Information based on the criteria described in the special rule if imports are to be allowed. The Service will initially presume that intermediary countries are effectively implementing the CITES Universal Tagging System Resolution, but the special rule has provisions to impose bans if persuasive evidence to the contrary is presented.

Our Office of Management Authority will provide on request the list of those countries subject to a Schedule III Notice of Information to manufacturers in the country of re-export and to importers so that they may be advised of restrictions on caiman skins, products, and parts that can be utilized in products intended for U.S. commerce. The Management Authority of the country of manufacture should ensure that re-export certificates provided for manufactured goods intended for the United States are not for products and re-exports derived from countries subject to a Schedule III Notice of Information. In compliance with these rules, commerce in finished products from a re-export country would be allowed only with the required CITES documentation and without an endangered or threatened species permit for individual shipments otherwise required under 50 CFR part 17.

Finally, this special rule does not cover the importation of viable caiman eggs or live caimans into the United States. Importation of these two types of specimens will require an Endangered Species Act import permit and the appropriate CITES permit. This requirement will allow scrutiny of individual applications for importation of live caimans or eggs so as to prevent accidental introduction of these exotic species into the United States, which may have detrimental effects on U.S. native wildlife or ecosystems. Re-exportation from the United States of caiman skins, other parts, and products will continue to require CITES documents. Interstate commerce within the United States in legally imported caiman skins, other parts, and products will not require U.S. threatened species permits.

This special rule allows trade through intermediary countries. Countries are not considered as intermediary countries or countries of re-export if the specimens remain in Customs control while transiting or being transshipped through the country and provided those specimens have not entered into the commerce of that country. However, the CITES Universal Tagging System Resolution presupposes that countries

of re-export have implemented a system for monitoring skins.

We wrote this special rule to allow the Service to respond quickly to changing situations that may result in lessened protection to crocodilians. The criteria described in the special rule establish specific, non-discretionary bases for determining whether CITES provisions are being effectively implemented. Therefore, by the publication of such notice in the **Federal Register**, we can deny approval of permits, and imports into the United States can be prohibited from any country that fails to comply with the requirements of the special rule.

In a separate rule-making proposal, amending 50 CFR part 23, the Service will propose implementation of the CITES Universal Tagging System Resolution for all crocodilians. That rulemaking will adopt CITES tags as the required tag for all crocodilian skins, including caiman chalecos and flanks, being imported into or exported from any country if the skin is eventually imported into the United States. For the reasons noted above, the Service finds that the special rule for caiman species, including the yacare caiman, includes all of the protection that is necessary and advisable to provide for the conservation of such species.

The Monitoring of Yacare Caiman

Requirements of the Act for the monitoring of species also apply to foreign species (see final rule "Endangered and Threatened Wildlife and Plants; Removal of Three Kangaroos From the List of Endangered and Threatened Wildlife" published in the **Federal Register** on March 9, 1995; 60 FR 12887). Monitoring programs are conducted to ensure that species continue to fare well after delisting or downlisting occurs. These monitoring programs frequently include population and species distribution surveys, assessment of the condition of important habitats for the species, and assessment of threats identified as relevant to the species.

The Service depends primarily on range countries to monitor *C. yacare*. To monitor the status of *C. yacare*, we will request the governments of the range countries (Argentina, Brazil, Paraguay, and Bolivia) wishing to export specimens of *C. yacare* to the United States for commercial purposes to provide us every two years, for the following 10 years, with the most recent information available on the status of the species, gathered by the respective range countries to fulfill their CITES scientific and management requirements. The first submission of

status information is due on December 31, 2001. All information provided by the range countries will be available for public review.

For each country, the following information should be provided on the status of *C. yacare*:

(1) Recent distribution and population data, and a description of the methodology used to obtain such estimates;

(2) Description of research projects currently being conducted related to the biology of the above species in the wild, particularly their reproductive biology (for example, age or size when animals become sexually mature, number of clutches per season, number of eggs per clutch, survival of eggs, survival of hatchlings);

(3) Description of laws and programs regulating harvest of the above species, including approximate acreage of land set aside as natural reserves or national parks that provide protected habitat for the above species;

(4) Description of current sustainable harvest programs for the above species, including ranching (*i.e.*, captive-rearing of crocodiles collected from the wild as eggs or juveniles) and farming (captive-breeding of animals) programs;

(5) Current harvest quotas for wild populations; and

(6) Export data for the last 10 years (preferably organized according to origin of animals: wild-caught, captive-reared, and captive-bred).

Regulatory Planning and Review

This rule is not subject to review by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Department of the Interior certifies that the special rule in § 17.42(g) will not have a significant economic effect on a substantial number of small entities, as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) Most or all of the potential applicants who might take advantage of the procedures implemented through this special rule are individuals or small entities.

Unfunded Mandates Reform Act

The special rule in § 17.42(g) does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million a year.

Takings

In accordance with Executive Order 12630, the special rule in § 17.42(g) does not have significant takings implications.

Federalism

In accordance with Executive Order 13132, the special rule in § 17.42(g) does not have significant Federalism effects to warrant the preparation of a Federalism assessment.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this special rule in § 17.42(g) does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

The special rule in § 17.42(g) does require an information collection from 10 or more parties and, therefore, a submission under the Paperwork Reduction Act is required. The Office of Management and Budget approved the information collection requirements contained in this special rule under the Paperwork Reduction Act and assigned clearance number 1018-0093 as part of the permit requirements contained in Part 23 of Title 50.

National Environmental Policy Act

The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

- Amato, G. D. 1992. Expert Report. Yale University, New Haven, CT. 6 pp. Unpublished report.
- Brazaitis, P. 1989a. The caiman of the Pantanal: Past, present, and future, pp. 119-124, in *Crocodiles*. Proceedings of the 8th Working Meeting of the Crocodile Specialist Group. IUCN, Gland, Switzerland. 204 pp.
- Brazaitis, P. 1989b. The forensic identification of crocodilian hides and products, pp. 17-43, in *Crocodiles: Their ecology, management and conservation*. IUCN, Gland, Switzerland.
- Brazaitis, P., C. Yamashita, and G. Rebelo. 1988. CITES central South American caiman study: Phase I-central and southern Brazil. 62 pp.
- Brazaitis, P., C. Yamashita, and G. Rebelo. 1990. A summary report of the CITES central South American caiman study: Phase I: Brazil, pp. 100-115, in *Crocodiles*. Proceedings of the 9th Working Meeting of the Crocodile Specialist Group. Vol. I. IUCN, Gland, Switzerland. 300 pp.
- Brazaitis, P., G. Amato, G. Rebelo, C. Yamashita, and J. Gatesy. 1993. Report to CITES on the biochemical systematics study of *Yacare caiman*, *Caiman yacare*, of central South America. Unpublished report. 43 pp.
- Brazaitis, P., R. Madden, G. Amato, and M. Watanabe. 1997a. The South American and Central American caiman (*Caiman*) complex. Systematics of the *Caiman*: Results of morphological, statistical, molecular genetics, and species discrimination studies. Special report to the U.S. Fish and Wildlife Service. 62 pp. Unpublished.
- Brazaitis, P., R. Madden, G. Amato, and M. Watanabe. 1997b. Morphological characteristics, statistics, and DNA evidence used to identify closely related crocodilian species for wildlife law enforcement. Proceedings of the American Academy of Forensic Sciences. Annual Meeting, New York City, February 17-22, 1997. D28: 92-93. Published abstract.
- Brazaitis, P., G. H. Rebelo, C. Yamashita, E. A. Odierna, and M. E. Watanabe. 1996. Threats to Brazilian crocodilian populations. *Oryx*, 30:275-284.
- Busack, S. D., and S. S. Pandya. 1996. Presented at 76th annual meeting of the American Society of Ichthyologists and Herpetologists. New Orleans, LA. Abstract.
- Coutinho, M., and Z. Campos. 1996. Effect of habitat and seasonality on the densities of caiman in southern Pantanal, Brazil. *Journal of Tropical Ecology*, 12:741-747.
- Da Silveria, R., and J. B. Thorbjarnarson. 1999. Conservation implications of commercial hunting of black and spectacled caiman in the Mamiraua Sustainable Development Reserve, Brazil.
- Fitch, H., and M. Nadeau. 1979. An assessment of *Caiman latirostris* and *Caiman crocodilus yacare* in northern Argentina. Unpublished progress report to World Wildlife Fund—U.S., U.S. Fish and Wildlife Service, and New York Zoological Society. 7 pp.
- Groombridge, B. 1982. The IUCN Amphibia-Reptilia red data book. Part I: Testudines, Crocodylia, Rhynchocephalia. IUCN, Gland, Switzerland. 426 pp.
- King, F. W., and Burke, R. L. 1989. Crocodilian, tuatara, and turtle species of the world: A taxonomic and geographic reference. Association of Systematic Collections, Washington, D.C.
- King, F. W., and D. H. Vides-Roca. 1989. The caimans of Bolivia: A preliminary report on a CITES and Centro Desarrollo Forestal sponsored survey of species distribution and status, pp. 128-155, in *Crocodiles*. Proceedings of the 8th Working Meeting of the Crocodile Specialist Group. IUCN, Gland, Switzerland. 204 pp.
- King, F. W., A. L. Aquino, N. J. Scott, Jr., and R. Palacios. 1994. Status of the crocodiles of Paraguay: Results of the 1993 monitoring surveys. Report from Biodiversity Services, Inc., to Paraguay's Ministerio de Agricultura y Ganaderia and the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). 39 pp.
- Mourao, G., Z. Campos, and M. Coutinho. 1996. Size structure of illegally harvested

and surviving caiman *Caiman crocodilus* yacare in Pantanal, Brazil. *Biological Conservation*, 75:261–265.

Scott, N. J., A. L. Aquino, and L. A. Fitzgerald. 1988. Distribution, habitats, and conservation of the caiman (*Alligatoridae*) of Paraguay. Unpublished report to the CITES Secretariat, Lausanne, Switzerland. 30 pp.

Scott, N. J., A. L. Aquino, and L. A. Fitzgerald. 1990. Distribution, habitats and conservation of the caimans (*Alligatoridae*) of Paraguay. *Vida Silvestre Neotropical*, 43–51.

Thorbjarnarson, J. B. 1992. Crocodiles: An action plan for their conservation. IUCN, Gland, Switzerland. 136 pp.

Thorbjarnarson, J. B. 1994. Reproductive ecology of the spectacled caiman (*Caiman crocodilus*) in the Venezuelan Llanos. *Copeia*, 1994:907–919.

Authors

The primary author of this rule is Dr. Javier Alvarez, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703–358–1708 or FTS 921–1708).

List of Subjects in 50 CFR Part 17

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

Regulations Promulgation

Accordingly, the Service hereby amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

2. Amend § 17.11(h) by revising the current entry for the yacare caiman and by adding entries for the brown and the common caimans in alphabetic order under “Reptiles” on the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * * * *							
REPTILES							
* * * * *							
Caiman, brown	Caiman crocodilus fuscus (includes Caiman crocodilus chiapasius).	Mexico, Central America, Colombia, Ecuador, Venezuela, Peru.	Entire	T(S/A)	695	NA	17.42(g)
Caiman, common	Caiman crocodilus crocodilus	Brazil, Colombia, Ecuador, French Guiana, Guyana, Surinam, Venezuela, Bolivia, Peru.	Entire	T(S/A)	695	NA	17.42(g)
Caiman, yacare	Caiman yacare	Argentina, Bolivia, Brazil, Paraguay.	Entire	T	3,695	N/A	17.42(g)
* * * * *							

3. Section 17.42 is amended by adding a new paragraph (g) as follows:

§ 17.42 Special rules—reptiles.

* * * * *

(g) *Threatened caiman*. This paragraph applies to the following species: Yacare caiman (*Caiman yacare*), the common caiman (*Caiman crocodilus crocodilus*), and the brown caiman (*Caiman crocodilus fuscus* including *Caiman crocodilus chiapasius*). These taxa will be collectively referred to as “caiman.”

(1) *What are the definitions of terms used in this paragraph (g)?* (i) *Caiman skins* means whole or partial skins, flanks, chalecos, and bellies (whether these are salted, crusted, tanned, partially tanned, or otherwise processed).

(ii) *Caiman parts* means body parts with or without skin attached (including tails, throats, feet, and other parts, but excluding meat and skulls) and small cut skins pieces.

(iii) *Caiman product* means any processed or manufactured product items (including curios and souvenirs) that are ready for retail sale, and composed, totally or in part, of yacare caiman, brown caiman, or common caiman.

(iv) *Country of re-export* means those intermediary countries that import and re-export caiman skins, parts, and/or products. However, we will not consider intermediary countries those through which caiman skins, parts, and/or products are shipped while remaining under Customs control.

(v) *Universal Tagging System*

Resolution means the CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) resolution entitled “Universal Tagging System for the Identification of Crocodilian Skins” and numbered Conf. 9.22, and any subsequent revisions.

(2) *What activities involving yacare caiman (Caiman yacare), the common caiman (Caiman crocodilus crocodilus), and the brown caiman (Caiman crocodilus fuscus) are prohibited by this rule?* (i) *Import, export, and re-export*. Except for the activities described in paragraph (g)(3) of this section, it is unlawful to import, export, re-export, or present for export or re-export without valid permits (as required under 50 CFR parts 17 and 23) any caiman or their skins, other parts or products.

(ii) *Commercial activity.* Except as described in paragraph (g)(3) of this section, it is unlawful to sell or offer for sale, deliver, receive, carry, transport, or ship in interstate or foreign commerce any caiman or their skins, other parts, or products.

(iii) It is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, solicit to commit, or cause to be committed any acts described in paragraphs (g)(2) (i) and (ii) of this section.

(3) *What activities involving yacare caiman (Caiman yacare), the common caiman (Caiman crocodilus crocodilus), and the brown caiman (Caiman crocodilus fuscus) are allowed by this rule?* The import/export/re-export of, or the interstate/foreign commerce in caiman skins, other parts, or products may be allowed without a threatened species permit (issued according to 50 CFR 17.32) only when the provisions in 50 CFR parts 13, 14, and 23, and the requirements of the applicable paragraphs below have been met.

(i) *Import, export, or re-export.* The import, export, or re-export into/from the United States of caiman skins, parts, or products may be allowed provided the following conditions are met:

(A) Each caiman skin imported into or exported or re-exported from the United States after the effective date of the final rule must bear *either*:

(1) An intact, uncut tag from the country of origin meeting all the requirements of the CITES Universal Tagging System Resolution, *or*

(2) An intact, uncut replacement tag from the country of re-export where the original tags were lost or removed from raw, tanned, and/or processed skins. These replacement tags must meet all the requirements of the CITES Universal Tagging System Resolution, except showing the country of re-export instead of the country of origin, provided those re-exporting countries have implemented an administrative system for the effective matching of imports and re-exports consistent with the CITES Universal Tagging System Resolution. If a shipment contains more than 25 percent replacement tags, the Management Authority of the re-exporting country must consult with the U.S. Office of Management Authority before clearance of the shipment. Such shipments may be seized if we determine that the requirements of the CITES Universal Tagging System Resolution have not been met.

(B) In accordance with the CITES Universal Tagging System Resolution, all caiman parts must be placed in a transparent, sealed container. Each

container imported, exported, or re-exported into/from the United States after the effective date of the rule:

(1) Must have a parts tag attached in such a way that opening of the container will prevent later reuse of such tag; and

(2) The parts tag must contain a description of the contents plus total weight of the container and its contents.

(C) The information on the export permit or re-export certificate must be the same as that on the skin and part tags, carry the same permit or certificate number, and be validated by the government authority designated as the CITES document-issuing authority.

(D) The CITES permit or certificate accompanying shipments of caiman skins, parts, or products must contain the following information:

(1) The country of origin, its export permit number, and date of issuance;

(2) If re-export, the country of re-export, its certificate number, and date of issuance; and

(3) If applicable, the country of previous re-export, its certificate number, and date of issuance.

(E) The country of origin and any intermediary country(s) must be effectively implementing the CITES Universal Tagging System Resolution. If we receive persuasive information from the CITES Secretariat or other reliable sources that a specific country is not effectively implementing the CITES Universal Tagging System Resolution, we will prohibit or restrict imports from such country(s) as appropriate for the conservation of the species.

(F) At the time of import, for each shipment covered by this exception, the country of origin and each country of re-export involved in the trade of a particular shipment must not be subject to a Schedule III Notice of Information (see paragraph (g)(4) of this section) prohibiting or restricting imports of all wildlife or any members of the Order Crocodylia. A listing of all countries subject to such a Schedule III Notice of Information is available by writing to: Office of Management Authority, U.S. Fish and Wildlife Service, Mail Stop ARLSQ-700, Washington, DC 20240, or via e-mail at r9oma@fws.gov.

(ii) *Shipment of skulls, processed meat, and scientific specimens.* The import, export, and re-export into/from the United States of skulls, processed meat, and scientific specimens of caiman is allowed without permits otherwise required by 50 CFR part 17, provided the requirements of part 23 are met.

(iii) *Noncommercial accompanying baggage.* The conditions described in paragraphs (g)(3)(i) and (ii) for skins, skulls, meat, other parts, and products

made of specimens of caiman do not apply to non-commercial personal effects in accompanying baggage or household effects.

(iv) *Eggs and live specimens.* This special rule does not apply to live specimens or eggs of caiman. Import of such specimens requires an import permit as described in 50 CFR 17.32.

(4) *When and how will we inform you of additional restrictions in trade of yacare caiman (Caiman yacare), the common caiman (Caiman crocodilus crocodilus), and the brown caiman (Caiman crocodilus fuscus)?* Except in rare cases involving extenuating circumstances that do not adversely affect the conservation of the species, the Service will issue a Notice of Information announcing additional CITES restrictions in trade in specimens of caiman dealt with in this paragraph (g) if any of the following criteria are met:

(i) The country is listed in a Notification to the Parties by the CITES Secretariat as not having designated Management and Scientific Authorities that issue CITES documents or their equivalent.

(ii) The country is identified in any action adopted by the Conference of the Parties to the Convention, the Convention's Standing Committee, or in a Notification issued by the CITES Secretariat, whereby Parties are asked not to accept shipments of specimens of any CITES-listed species from the country in question or of any crocodilian species listed in the CITES appendices.

(iii) We determine, based on information from the CITES Secretariat or other reliable sources, that the country is not effectively implementing the CITES Universal Tagging System Resolution.

(5) *What are the approved information collection requirements in this rule?* The Office of Management and Budget approved the information collection requirements contained in this special rule under the Paperwork Reduction Act and assigned clearance number 1018-0093 as part of the permit requirements contained in Part 23 of Title 50. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. The collection of information under this rule is done to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the

issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit. We estimate the public reporting burden for these reporting requirements to vary from 20 minutes to 2 hours per response, with an average of 1 hour per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms.

Dated: April 7, 2000.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00-11055 Filed 5-3-00; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 991223347-9347; I.D. 042600B]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustments

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces changes to trip limits in the Pacific Coast groundfish fishery. These actions, which are authorized by the Pacific Coast groundfish fishery management plan (FMP), are intended to help the fisheries achieve optimum yield (OY).

DATES: Effective 0001 hours local time May 1, 2000 (May 16, 2000 for the "B" platoon), unless modified, superseded or rescinded, until the effective date of the 2001 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments on this rule will be accepted through May 19, 2000.

ADDRESSES: Submit comments to William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070; or Rodney McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Katherine King or Yvonne deReynier,

Northwest Region, NMFS, 206-526-6140.

SUPPLEMENTARY INFORMATION: The following changes to current management measures were recommended by the Pacific Fishery Management Council (Council), in consultation with the States of Washington, Oregon, and California, at its April 3-7, 2000, meeting in Portland, OR. Pacific coast groundfish landings will be monitored throughout the year, and further adjustments to the trip limits will be made as necessary to stay within the OYs and allocations announced in the annual specifications and management measures for the groundfish fishery, published in the **Federal Register** at 65 FR 221 (January 4, 2000), as amended at 65 FR 17805 (April 5, 2000).

Housekeeping

The Council made a number of housekeeping recommendations that would remedy minor problems in the management measures that were implemented at the beginning of the year. (1) The trip limits for Pacific ocean perch (POP) were inadvertently applied coastwide even though POP south of 40°10' N. lat. were already included in the trip limits for minor slope rockfish. This document clarifies that the trip limits for POP (line 5 in Tables 3, 4, and 5) apply only north of 40°10' N. lat., South of 40°10' N. lat., POP remains in the minor slope rockfish category. (2) Flag rockfish are not found north of 40°10' N. lat., and in Table 2 are removed from the minor shelf rockfish category in that area. (3) New testimony from fishers revealed that red-banded rockfish are not caught on the continental shelf, but are taken in deeper waters. Consequently, red-banded rockfish, which is one of the minor rockfish species that occurs both north and south of 40°10' N. lat., is moved from the shelf to the slope category in Table 2. These reassignments result in no change to the OYs or trip limits for any species or species group. Other provisions remain the same except as explained below.

Flatfish

The Council heard testimony that limited entry trawl fishers were encountering small amounts of flatfish, particularly English sole, when fishing with large footropes in deeper water on the continental slope. Current restrictions would have required the use of small footrope gear for landings of any flatfish except Dover and rex soles between May 1-October 31, 2000. (This provision also applies to petrale sole

from March 1-April 30, 2000.) The Council recommended an incidental trip limit for other flatfish of 400 lb (181 kg) per trip for large footrope trawls between May and October so that unavoidable incidental catch would not have to be discarded. This amount is believed to be too small to encourage any target fishing for flatfish on the shelf with large footrope gear, which is discouraged due to the potential interception of depleted species. Dover and rex soles remain in the only flatfish species in the FMP that are not managed according to the size of the trawl footrope onboard; there continues to be no poundage limit on arrowtooth flounder, petrale sole, and other flatfish taken with small footrope trawls.

Nearshore Minor Rockfish

A new strategy for managing rockfish was implemented on January 1, 2000, which reduced the amount of rockfish available to nearshore commercial fisheries (65 FR 221, January 4, 2000, as amended). When the current limits were recommended by the Council in November 1999, there was a clear need to reduce landings significantly, but there was no way to anticipate reductions in participation. The best available information at the April Council meeting indicated that landings of rockfish through February 2000 were minimal. Although the commercial nontrawl fisheries are subject to a high degree of seasonality, it appears unlikely that the current limits would allow achievement of the nearshore rockfish limited entry and open access allocations. The Council recommended that cautious increases to the nearshore rockfish limits begin May 1, with further adjustments to be made later in the year as needed. Any increase runs some risk of accelerating the fisheries to the point where they would need to be closed before the end of the year, but the Council believed the risk to be preferable to continuing with limits that provide very little opportunity for profitable trips. Even with these increases, the trip limits for nearshore rockfish remain significantly lower than in recent years, and will not accommodate the needs of the entire open access fleet. The Council made the following recommendations:

For the limited entry nontrawl fishery north of 40°10' N. lat., the nearshore minor rockfish trip limit is changed from 2,400 lb (1,089 kg) per 2 months, of which no more than 1,200 lb (544 kg) may be species other than black or blue rockfish, to 3,000 lb (1,361 kg) per 2 months, of which no more than 1,400 lb (635 kg) may be species other than black or blue rockfish.