Headquarters before initiating any foreign contract acquisition if the acquisition is valued above $100,000 or involves export control issues. An acquisition involves export control issues if it entails—

(1) Importing or exporting goods or technical data from or to a country listed in 22 CFR 126.1(a) or 126.1(d) (Subchapter M, the International Traffic in Arms Regulations) (http://www.pmdtc.org/itar2.htm);

(2) Importing or exporting Defense Articles or Defense Services on the United States Munitions List at 22 CFR part 121 which would require NASA to obtain a license from the State Department's Office of Defense Trade Controls;

(3) Exporting goods or technical data on the Commerce Control List at 15 CFR part 774 and that require NASA to obtain either a Special or an Individual Validated License;

(4) Importing and/or exporting goods or technical data from or to an entity listed in 15 CFR part 740, Supplement 1, Country Group D; or

(5) Exporting and/or importing of goods, technology, or services to or from any entity subject to transaction control, embargo, or sanctions pursuant to 31 CFR Chapter V.

(b) *Procedure.*

(1) The Headquarters or field installation technical office requiring a foreign contract acquisition meeting any of the criteria listed in paragraph (a) of this section must submit the following information to the Headquarters Office of External Relations (Code I) through the contracting officer and the Headquarters Office of Procurement (Code HS)—

(i) The name of the foreign entity, the country or countries involved, and the purpose of the contract;

(ii) The Space Act agreement(s) involved, if any;

(iii) A description of the goods or technical data requiring prior written approval or the issuance of the license for their import or export from the Departments of Commerce, State, or Treasury; and

(iv) The reason why the acquisition is being placed with a foreign entity.

(2) All coordination required between NASA and the Departments of Commerce, State, and Treasury regarding foreign contract acquisitions shall be accomplished through the Headquarters Office of External Relations (Code I).

(3) The lead-time for obtaining an export license is 60 to 90 days. Requests for Headquarters clearance should be initiated as early as possible.

1825.7003 International agreements.

Office of Procurement (Code HS) concurrence is required for all Memoranda of Understanding with foreign entities and for other types of international agreements which contemplate the procurement of goods or services using U.S. appropriated funds. No Code H concurrence is required for agreements which are done solely on a cooperative basis.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Add section 1852.225–8 to read as follows:

1852.225–8 Duty-free entry of space articles.

As prescribed in 1825.1101(e), add the following paragraph (k) to the basic clause at FAR 52.225–8:

(k) The following supplies will be given duty-free entry:
[Insert the supplies that are to be accorded duty-free entry.]
(End of addition)

5. Amend the introductory text of section 1852.225–70 and Alternate I to section 1852.225–70 by deleting ''1825.970–2'' and adding ''1825.1103–70(b)'' in its place.

1852.225–71 and 1852.225–7 [Removed]

6. Remove sections 1852.225–71 and 1852.225–73.

PART 1853—FORMS

7. Add Section 1853.225 to read as follows:

1853.225 Foreign Acquisition (Customs Form 7501).

Customs Form 7501, Entry Summary. Prescribed in 1825.903 and 14 CFR 1217.104.

[FR Doc. 00–4387 Filed 2–24–00; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF29

Endangered and Threatened Wildlife and Plants; Endangered Status for the Armored Snail and Slender Campeloma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, determine the armored snail (*Pyrgulopsis* (=*Marstonia*) *pachyta*) and slender campeloma (*Campeloma decampi*) to be endangered species under the Endangered Species Act of 1973, as amended (Act). The armored snail occurs only in Piney and Limestone Creeks, Limestone County, Alabama. The range of the slender campeloma has been reduced (Aquatic Resources Center (ARC) 1997) by at least three-quarters from its historical distribution and the species now occurs only in Round Island, Piney, and Limestone Creeks, Limestone County, Alabama. These species are now in a particularly precarious position, being restricted to a few isolated sites along two or three short river reaches. Siltation and other pollutants from poor land-use practices and waste discharges are contributing to the general deterioration of water quality, likely affecting these species. This action implements the protection of the Act for these two snails.

EFFECTIVE DATE: March 27, 2000.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Field Office, U.S. Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. J. Allen Ratzlaff (see **ADDRESSES** section), telephone 828/258–3939, Ext. 229; or Mr. Larry Goldman, Field Supervisor, P.O. Box 1190, 1208–B Main Street, Daphne, Alabama 36526, telephone 334/441–5181.

SUPPLEMENTARY INFORMATION:

Background

Thompson (1977) described the armored snail (*Marstonia pachyta*), and Hershler and Thompson (1987) later reassigned it to the genus *Pyrgulopsis.* The armored snail is a small, presumably annual, species (usually less than 4 millimeters (mm) (0.16 inch (in)) in length) (Thompson 1984). It is distinguished from other closely related species by the characteristics of both its verge (male reproductive organ) and shell. The armored snail has a small raised gland on the ventral surface of the verge (a trait common only with the beaverpond snail (*P. castor*) of this genus) and two small glands along the left margin of the apical (tip) lobe. The apical lobe is smaller than in most species of *Pyrgulopsis* (Thompson 1977). Garner (1993) noted some variation in verge characteristics (more developed apical lobes), but attributed the differences to temporal changes in verge morphology throughout the

annual life cycle. The shell is easily identified by its ovate-conical shape, its pronounced thickness, and its complete peristome (edge of the opening). Other *Pyrgulopsis* species with ovate-conical shells have much thinner, almost transparent shells, and the peristome is seldom complete across the parietal margin (area along the opening abutting the main body of the shell) of the aperture (opening) (Thompson 1977).

The armored snail occurs only in Piney and Limestone Creeks, Limestone County, Alabama (Garner 1993, Hershler 1994, ARC 1997), and has never been noted outside this area. Piney Creek was a tributary to Limestone Creek prior to the construction of Wheeler Lake on the Tennessee River. Thus, the two populations of the armored snail are likely remnants of a once larger population. No entire population of the armored snail is known to have been lost. Armored snails are generally found among submerged tree roots and bryophytes (nonflowering plants comprising mosses and liverworts) along stream margins in areas of slow to moderate flow. Occasionally they are found in the submerged detritus (organic matter and rock fragments) along pool edges.

The armored snail is in a particularly precarious position because it is restricted to a few isolated sites along two short river reaches. Inhabited sites appear to be rather small, covering only a few square meters.

The slender campeloma belongs to the ovoviviparous family Viviparidae. All species in this family give birth to young crawling snails rather than laying eggs that hatch in an external environment. The sexes are separate in the Viviparidae, with males being distinguishable by their modified right tentacle that serves as a copulatory organ. This modified tentacle in males is shorter and thicker than the left tentacle or either of the bilaterally symmetrical tentacles of the females (Burch and Vail 1982).

Burch and Vail (1982) describe the slender campeloma (*Campeloma decampi*) (''Currier'' Binney 1865) as follows: Shell medium to large but generally less than 35 mm (1.40 in) in length; shell without spiral nodules; outer margin of shell aperture not concave and its oblique angle to the shell axis not exaggerated; columellar margin of operculum (plate that closes the shell when the snail is retracted) not reflected inward; operculum entirely concentric, including its nucleus; whorls without spiral angles, ridges, or sulci (grooves); shells without spiral color bands; length of aperture noticeably greater than width; lateral and marginal teeth simple with very fine, difficult-to-distinguish cusps (points); shell narrow, relatively thin, generally with prominent raised spiral lines.

The slender campeloma is easily distinguished from the sympatric (two or more closely related species occupying identical or overlapping territories) *Campeloma decisum* (a widespread and common species in northern Alabama) by the presence of fine sculpture in the form of faint striations and a relatively higher spire on the shell of *C. decampi.* Many *C. decampi* specimens have strongly developed ridges, referred to as axial growth ridges by Clench and Turner (1955). All whorls in juveniles and early whorls in adults are carinate (keel-shaped). The shell of *C. decisum* is smooth, without carination.

Campeloma decampi is typically found burrowing in soft sediment (sand and/or mud) or detritus. It does not appear abundant at any site, and the spotty distribution appears consistent with other *Campeloma* species (Bovbjerg 1952; Medcof 1940; van der Schalie 1965). Several size classes were found in 1996, ranging from 5 to 31 mm (0.2 to 1.24 in) in shell height, indicating reproducing populations (ARC 1997). Biologists have not studied the life history of *C. decampi.* Based on other studies of species in the genus *Campeloma,* a genus exclusive to North America, we can infer a few generalities. Van Cleave and Altringer (1937), in their study of *C. rufum* in Illinois, found gravid females year-round, peaking in May, and with the most barren females in June. Parturition (giving birth) was also most active in May but extended until September first. Chamberlain (1958) found similar results with *C. decisum* in North Carolina (parturition extending from mid-March until the end of June), as did Medcof (1940) in his study of *C. decisum* in Ontario (parturition extending from March to September). Van Cleave and Altringer (1937) and van der Schalie (1965), in their work with *C. ponderosum coarctatum,* both found females carrying young in the uterus over winter. Given the wide range of sizes found by ARC (1997), the timing of parturition and the ability of females to overwinter young in the uterus are likely similar for *C. decampi.* However, it should be noted that *C. rufum* and *C. decisum* are parthenogenic (production of young by females without fertilization by males), as several of the northern *Campeloma* species appear to be. The food habits of the slender campeloma are not known, but they likely feed on detritus.

Burch (1989) described the range for *Campeloma decampi* as Jackson, Limestone, and Madison Counties, Alabama. These counties all lie along the north side of the Tennessee River. However, the type locality of *C. decampi* is Decatur, Alabama, in Morgan County, across the river from Limestone County (Clench 1962).

Clench and Turner (1955) identified museum specimens of several *Campeloma decampi* from several localities in northern Alabama. These sites were located primarily on stream impoundments and included Swan and Bass Lakes, Limestone County, Brim (=Braham) and Byrd Lakes, Madison County, and an unspecified locality in Jackson County. Surveys conducted in 1996 (ARC 1997) found no Swan Lake in North Alabama. A lake by that name was apparently located in Limestone County, across the river from Decatur, but was inundated by Wheeler Reservoir. This was likely the ''Decatur'' locality (type) mentioned in Clench (1962). Brim (=Braham) Lake was surveyed, but no *C. decampi* were found, though another viviparid (*Viviparus georgianus*) was abundant at the site. Byrd Spring, on Redstone Arsenal, was not accessible.

Based on the 1996 surveys (ARC 1997), the range of *Campeloma decampi* has been reduced by at least three-quarters from its historical distribution, and existing populations are now isolated by Wheeler Reservoir. The species is now in a particularly precarious position, being restricted to a few isolated sites along three short stream reaches—Limestone, Piney, and Round Island Creeks.

Previous Federal Action

In notices of review published in the **Federal Register** on January 6, 1989 (54 FR 554), November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982), we identified the armored snail as a category 2 candidate species. We identified the slender campeloma as a category 2 species in the notice of review published in the **Federal Register** on November 15, 1994 (59 FR 58982). At that time a category 2 species was one that was being considered for possible addition to the Federal List of Endangered and Threatened Wildlife and Plants, but for which conclusive data on biological vulnerability and threats were not available to support a proposed rule. We discontinued designation of category 2 status in our February 28, 1996, notice of review (61 FR 7956). We approved the two snails in this final rule as candidate species on August 29, 1997. A candidate species is defined as a species for which we have

on file sufficient information on biological vulnerability and threats to support the issuance of a proposed rule.

On October 20, 1993, we notified potentially affected Federal and State agencies, local governments, and interested individuals within the species' present range that a status review was being conducted for the armored snail. We did not receive any objections to the potential listing of the armored snail. We did not send notification letters regarding the slender campeloma because the species' distribution is so similar to that of the armored snail.

On October 28, 1998, we published a proposed rule (63 FR 57642) to list *Campeloma decampi* and *Pyrgulopsis pachyta* as endangered.

The processing of this final rule conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. The processing of this final rule is a Priority 2. We have updated this rule to reflect any changes in information concerning distribution, status and threats since the publication of the proposed rule.

Summary of Comments and Recommendations

In the October 28, 1998, proposed rule (63 FR 57642) and associated notifications, we requested that all interested parties submit information that might assist us in determining whether these taxa warranted listing. We placed a legal notice in the *Decatur Daily* announcing the proposal and inviting public comment. The comment period closed on December 28, 1998.

During the comment period, we received one letter of support, three letters informing us of a proposed rock quarry on a tributary to Limestone Creek in Limestone County, Alabama, and one phone call questioning two of the threats (toxic chemical spills and chip mills) identified for the two snails but not opposing the listing. We received one letter in opposition to the listing stating that listing the two snails is unconstitutional because ''Limitations imposed by the Commerce clause require the Fish and Wildlife Service to demonstrate that species regulation has a substantial effect on interstate commerce,'' and because ''Protection of the species in the proposed rule bears no relation to interstate commerce.'' Below, we discuss these issues and our response to each.

Issue 1: Toxic chemicals spills due to the numerous road crossings are not a significant threat to the snails.

Response: We do not consider toxic chemical spills to be imminent threats to these two species; however, the impacts of such an event on any of the three creeks involved could eliminate one-third to one-half of the populations of one or both of these species. Therefore, toxic spills are considered a potential threat.

Issue 2: Chip mills were specifically pointed out as a threat because they act as a ''lightning rod to incite environmental organization.''

Response: We specifically pointed out chip mills as a threat because they have the potential to harvest a larger area of land as compared to typical logging operations. However, if areas harvested for chip mills observe best management practices, it is unlikely they will have any more effect than other land-clearing activities.

Issue 3: ''Piney and Limestone Creeks are in the path of a proposed rock quarry. * * * If these species are endangered, the quarry could only help to speed along the extinction of the snails.''

Response: We agree that a rock quarry could pose a threat to the species, and we will consult with the appropriate agencies or individuals when the action is under our purview. For more details on the section 7 consultation process see the ''Available Conservation Measures'' section of this final rule.

Issue 4: ''Limitations imposed by the Commerce clause require the Fish and Wildlife Service to demonstrate that species regulation has a substantial effect on interstate commerce,'' and ''Protection of the species in the proposed rule bears no relation to interstate commerce.''

Response: The Federal government has the authority under the commerce clause of the U.S. Constitution to protect these species, for the reasons given in Judge Wald's opinion and Judge Henderson's concurring opinion in *National Association of Home Builders* v. *Babbitt,* 130 F.3d 1041 (D.C. Cir. 1997), *cert. denied,* 1185 S. Ct. 2340 (1998). That case involved a challenge to application of the Act's prohibitions to protect the listed Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*). As with these species, the Delhi Sands flower-loving fly is endemic to only one state. Judge Wald held that application of the Act's prohibition against taking of endangered species to this fly was a proper exercise of Commerce Clause power to regulate—(1) use of channels of interstate commerce; and (2) activities substantially affecting interstate commerce, because it prevented loss of biodiversity and destructive interstate competition. Judge Henderson upheld protection of the fly because doing so prevents harm to the ecosystem upon which interstate commerce depends, and regulates commercial development that is part of interstate commerce.

Peer Review

In conformance with our policy on peer review, published on July 1, 1994 (59 FR 34270), we solicited the expert opinions of independent specialists regarding pertinent scientific or commercial data and assumptions relating to the supportive biological and ecological information for the armored snail and slender campeloma. The purpose of such review is to ensure that the listing decision is based on the best scientific and commercial information available, as well as to ensure that reviews by appropriate experts and specialists are included into the review process of rulemakings.

We solicited information and opinions from State and Federal resource agencies, as well as academic institutions. We asked them to provide any relevant scientific data relating to taxonomy, distribution, or supporting biological and ecological data used in the analysis of the factors for listing. None of the reviewers objected to the proposed rule or to the biological information supporting the rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we have determined that we should classify the armored snail (*Pyrgulopsis* (=*Marstonia*) *pachyta*) and slender campeloma (*Campeloma decampi*) as endangered species. We followed procedures found at section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424). We may determine a species to be an endangered

or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the armored snail and slender campeloma are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range. The armored snail occurs only in Limestone and Piney Creeks, Limestone County, Alabama, and has never been noted outside this area. The slender campeloma is currently known from Round Island, Piney, and Limestone Creeks, Limestone County, Alabama, a reduction of about three-quarters from its historical range. Both of these species are extremely vulnerable to extirpation because of their very limited distribution, limited occupied habitat, and annual life cycle (in the case of the armored snail). Threats to these species include siltation, direct loss of habitat, altered water chemistry, and chemical pollution.

Piney Creek was a tributary to Limestone Creek prior to the construction of Wheeler Lake on the Tennessee River. Thus, populations of both the armored snail and slender campeloma inhabiting these two creeks are likely remnants of once larger populations. In addition to directly altering snail habitat, dams and their impounded waters form barriers to the movement of snails. Sediment accumulation and changes in flow and water chemistry in impounded stream and river reaches reduce food and oxygen availability and eliminate essential breeding habitat for riverine snails. It is suspected that isolated colonies gradually disappear as a result of local water and habitat quality changes. Unable to emigrate (move out of the area), isolated snail populations are vulnerable to local discharges and any surface run-off within their watersheds. Although many watershed impacts have been temporary, eventually improving or even disappearing with the advent of new technology, practices, or laws, dams and their impoundments prevent natural recolonization by surviving snail populations.

Sedimentation of rivers and streams may affect the reproductive success of aquatic snails by eliminating breeding habitat and interfering with their feeding activity by reducing or eliminating periphyton (plankton which live attached to rooted aquatic plants) food sources. Sources of sediments likely affecting these species include channel modification, agriculture, cattle grazing, unpaved road drainage, and industrial and residential development.

Other types of water quality degradation from both point and nonpoint sources currently affect these species. Stream discharges from these sources may result in eutrophication (nutrient enrichment), decreased dissolved oxygen concentration, increased acidity and conductivity, and other changes in water chemistry. Nutrients, usually phosphorus and nitrogen, may emanate from agricultural fields, residential lawns, livestock operations, and leaking septic tanks at levels that result in eutrophication and reduced oxygen levels in small streams. The Round Island, Limestone, and Piney Creek drainages are dominated by agricultural use, primarily cotton (a high pesticide use crop), which makes these creeks susceptible to pesticide contamination. Pesticide containers were found in Limestone and Piney Creeks during site visits in 1997 (J. Allen Ratzlaff, personal observation). Timber harvesting could also impact these species if riparian vegetation is removed or siltation from run-off increases.

Many bridge crossings occur within these species' range. Highway and bridge construction and widening could impact these species through sedimentation or the physical destruction of their habitat unless appropriate precautions are implemented.

Limestone Creek currently supports one endangered snail species, *Athearnia anthonyi* (Anthony's riversnail), and most of its mussel fauna has been extirpated (17 species), including five species currently listed as endangered. We do not know the specific reasons for the loss of these species, but they are likely a combination of the above-listed impacts.

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

The two snail species addressed in this final rule are currently not of commercial value, and overutilization has not been a problem. However, as their rarity becomes known, they may become more attractive to collectors. Although scientific collecting is not presently identified as a threat, unregulated collecting by private and institutional collectors could pose a threat to these locally restricted populations.

C. Disease or Predation

Diseases of aquatic snails are unknown. Although various vertebrate predators, including fishes, mammals, and possibly birds, undoubtedly consume both the armored snail and slender campeloma, predation by naturally occurring predators is a normal aspect of the population dynamics of a species and we do not consider it a threat to these species at this time.

Chamberlain (1958) found the uterus of some specimens of *Campeloma decisum* infected by the trematode *Leucochloridomorpha constantiae,* a black duck (*Anas rubripes*) parasite, with the snail evidently being an intermediate host. We do not know whether the slender campeloma is parasitized or to what degree any parasitism inhibits its life cycle.

D. The Inadequacy of Existing Regulatory Mechanisms

The State of Alabama's prohibitions against taking fish and wildlife for scientific purposes without State collecting permits provide some protection for these snails. However, these species are generally not protected from other threats. These snails do not receive any special consideration under other environmental laws when project impacts are reviewed. Existing authorities available to protect aquatic systems, such as the Clean Water Act (CWA), administered by the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps), have not been adequate to prevent the degradation of these species' aquatic habitat. Federal listing will provide increased protection through existing authorities such as the CWA by requiring Federal agencies to consult with us when projects they fund, authorize, or carry out may adversely affect these species. Federal listing also will provide additional protection under the Act by requiring Federal permits to take these species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Both species inhabit short creek reaches; thus, they are vulnerable to extirpation from random, catastrophic events, such as toxic chemical spills. All three creeks are crossed by a number of roads, railroads, and power lines that pose direct threats (*e.g.,* loss of riparian vegetation) and indirect threats from potential toxic run-off. Additionally, because these populations are isolated, their long-term genetic viability is questionable. Because all three creeks are isolated by an impoundment, recolonization of an extirpated population is not likely without human intervention.

Further, the loss of 17 species of mussels from Limestone Creek, including 5 species now listed as endangered, indicates a severely

impacted ecosystem that has undergone significant degradation. Because the life history and biology of these species are virtually unknown, it is likely they may continue to decline due to currently unrecognizable impacts and stresses to their populations.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list the armored snail and slender campeloma as endangered species. The Act defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range. A threatened species is one that is likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range. The armored snail is currently known only from Piney and Limestone Creeks, Limestone County, Alabama, and the slender campeloma is known only from Piney, Limestone, and Round Island Creeks, Limestone County, Alabama. These snails and their habitat have been and continue to be threatened. Their limited distribution also makes them vulnerable to toxic chemical spills. Because of their restricted distribution and vulnerability to extinction, endangered status is the most appropriate classification for these species.

Critical Habitat

Section 3 of the Act defines critical habitat as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(i) the species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (ii) such designation of critical habitat would not be beneficial to the species. We find that designation of critical habitat is prudent for the armored snail and slender campeloma.

In the proposed rule, we indicated that designation of critical habitat was not prudent because of a concern that publication of precise maps and descriptions of critical habitat in the **Federal Register** could increase the vulnerability of these species to incidents of collection and vandalism. We also indicated that designation of critical habitat was not prudent because we believed it would not provide any additional benefit beyond that provided through listing as endangered.

In the last few years, a series of court decisions have overturned Service determinations regarding a variety of species that designation of critical habitat would not be prudent (*e.g., Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)). Based on the standards applied in those judicial opinions, we have reexamined the question of whether critical habitat for the armored snail and slender campeloma would be prudent.

Due to the small number of populations, the armored snail and slender campeloma are vulnerable to unrestricted collection, vandalism, or other disturbance. We remain concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of locational information. However, we have examined the evidence available for the armored snail and slender campeloma and have not found specific evidence of taking, vandalism, collection, or trade of these species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we do not expect that the identification of critical habitat will increase the degree of threat to this species of taking or other human activity.

In the absence of a finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. In the case of this species, there may be some benefits to designation of critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that destroys or adversely modifies critical habitat. While a critical habitat designation for habitat currently occupied by this species would not be likely to change the section 7 consultation outcome because an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat is designated. Examples could include unoccupied habitat or occupied habitat that may become unoccupied in the future. There may also be some educational or informational benefits to designating critical habitat. Therefore, we find that critical habitat is prudent for the armored snail and slender campeloma.

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states, ''The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 as allowed by our funding allocation for that year.'' As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Deferral of the critical habitat designation for the armored snail and slender campeloma will allow us to concentrate our limited resources on higher priority critical habitat (including court order designations) and other listing actions, while allowing us to put in place protections needed for the conservation of armored snail and slender campeloma without further delay. However, because we have successfully reduced, although not eliminated, the backlog of other listing actions, we anticipate in FY 2000 and beyond giving higher priority to critical habitat designation, including designations deferred pursuant to the Listing Priority Guidance, such as the designation for this species, than we have in recent fiscal years.

We plan to employ a priority system for deciding which outstanding critical habitat designations should be

addressed first. We will focus our efforts on those designations that will provide the most conservation benefit, taking into consideration the efficacy of critical habitat designation in addressing the threats to the species, and the magnitude and immediacy of those threats. We will develop a proposal to designate critical habitat for the armored snail and slender campeloma as soon as feasible, considering our workload priorities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

We notified Federal agencies that may have programs or projects affecting the armored snail and requested information on Federal activities that might adversely affect the species. We did not give notification about the slender campeloma because its range is so similar and because no controversy arose from the notification of the potential listing of the armored snail. No Federal agencies identified specific proposed actions that would likely affect the species. Federal activities that could occur and impact the species include, but are not limited to, reservoir construction or issuance of permits for reservoir construction, stream alterations, wastewater facility development, pesticide registration, and road and bridge construction. Activities affecting water quality may also impact these species and are subject to the Corps' and EPA's regulations and permit requirements under authority of the CWA and the National Pollutant Discharge Elimination System (NPDES). It has been our experience, however, that nearly all section 7 consultations can be resolved so that the species is protected and the project objectives are met.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and agents of State conservation agencies.

Under certain circumstances, we may issue permits to carry out otherwise prohibited activities involving endangered wildlife species. Regulations governing permits are at 50 CFR 17.22 for endangered wildlife. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify, to the maximum extent practicable, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness as to the effects of this listing on future and ongoing activities within the species' range.

Activities that we believe are not likely to result in a violation of section 9 for these two snails include:

(1) Existing discharges into waters supporting these species, provided these activities are carried out in accordance with existing regulations and permit requirements (*e.g.,* activities subject to sections 404 and 405 of the CWA including discharges regulated under the NPDES);

(2) Actions that may affect these two snail species and are authorized, funded, or carried out by a Federal agency when the action is conducted in accordance with any reasonable and prudent measures given by us in accordance with section 7 of the Act;

(3) Typical agricultural and silvicultural practices carried out in compliance with existing State and Federal regulations and best management practices;

(4) Development and construction activities designed and implemented according to State and local water quality regulations;

(5) Existing recreational activities, such as swimming, wading, canoeing, and fishing; and

(6) Use of pesticides and herbicides in accordance with the label restrictions within the species' watersheds.

Activities that we believe could result in ''take'' of these snails include:

(1) Unauthorized collection or capture of these species;

(2) Unauthorized destruction or alteration of the species' habitat (e.g., in-stream dredging, channelization, water withdrawal, and discharge of fill material);

(3) Violation of any discharge or water withdrawal permit; and

(4) Illegal discharge or dumping of toxic chemicals or other pollutants into waters supporting these two species.

We will review other activities not identified above on a case-by-case basis to determine if a violation of section 9 of the Act may be likely to result from such activity. We do not consider these lists to be exhaustive and provide them simply as information to the public.

You should direct questions regarding whether specific activities may constitute a future violation of section 9 to our Asheville or Daphne Field Offices (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections). You may request copies of regulations regarding listed species and address questions about prohibitions and permits to the U.S. Fish and Wildlife Service, Ecological Services Division, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Phone 404/679–7313; Fax 404/679–7081).

National Environmental Policy Act

We have determined that we do not need to prepare an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the

Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid control number. For additional information concerning permit and associated requirements for endangered wildlife species, see 50 CFR 17.22.

References Cited

You may request a complete list of all references cited herein, as well as others, from the Asheville Field Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Mr. J. Allen Ratzlaff (see **ADDRESSES** section) (828/258–3939, Ext. 229).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

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 adding the following, in alphabetical order under SNAILS, to the List of Endangered and Threatened Wildlife:

§ 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						
*	*	*	*	*	*	*	
SNAILS							
*	*	*	*	*	*	*	
Campeloma, slender	*Campeloma decampi.*	U.S.A. (AL)	NA	E	688	NA	NA
*	*	*	*	*	*	*	
Snail, armored	*Pyrgulopsis* (=*Marstonia*) *pachyta.*	U.S.A. (AL)	NA	E	688	NA	NA
*	*	*	*	*	*	*	

Dated: December 22, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 00–4373 Filed 2–24–00; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990823235–9235–01; I.D. 061699F]

RIN 0648–AM55

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Extension of Effective Date of Closure of the Red Porgy Fishery

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

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: An emergency interim rule is in effect through March 1, 2000, that prohibits the harvest and possession of red porgy in or from the exclusive economic zone (EEZ) off the southern Atlantic states. NMFS extends the emergency interim rule for an additional 180 days. The intended effect of this rule is to protect the red porgy resource, which is currently overfished.

DATES: The effective date for the emergency interim rule published at 64 FR 48324, September 3, 1999, is extended from March 1, 2000, through August 28, 2000.

ADDRESSES: Copies of documents supporting this action may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, telephone: 727–570–5305, fax: 727–570–5583.

FOR FURTHER INFORMATION CONTACT: Dr. Peter J. Eldridge, telephone: 727–570–5305, fax: 727–570–5583, email: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

In response to a request from the Council, NMFS published an emergency interim rule (64 FR 48324, September 3, 1999), under section 305(c)(1) of the Magnuson-Stevens Act, that prohibited the harvest and possession of red porgy in or from the EEZ off the southern Atlantic states. This action was required because of the overfished status of red porgy. Red porgy remains overfished.

Under section 305(c)(3)(B) of the Magnuson-Stevens Act, NMFS may extend the effectiveness of an emergency interim rule for one additional period of 180 days, provided the public has had an opportunity to comment on the emergency interim rule and the Council is actively preparing an amendment to the FMP to address the overfishing on a permanent basis. NMFS solicited comments on the initial emergency interim rule and received four comments. The responses are provided in this emergency interim rule. The Council is preparing Amendment