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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 23**

**[Docket No. FWS–HQ–ES–2013–0052]**

**RIN 1018–AZ53**

**Inclusion of Four Native U.S. Freshwater Turtle Species in Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are listing the common snapping turtle (*Chelydra serpentina*), Florida softshell turtle (*Apalone ferox*), smooth softshell turtle (*Apalone mutica*), and spiny softshell turtle (*Apalone spinifera*) in Appendix

III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention), including live and dead whole specimens, and all readily recognizable parts, products, and derivatives. Listing these four native U.S. freshwater turtle species (including their subspecies, except *Apalone spinifera atra*, which is already included in Appendix I of CITES) in Appendix III of CITES is necessary to allow us to adequately monitor international trade in these species; to determine whether exports are occurring legally, with respect to State and Federal law; and to determine whether further measures under CITES or other laws are required to conserve these species and their subspecies.

**DATES:** This listing is effective [**INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

**ADDRESSES:** You may obtain information about permits for international trade in these species and their subspecies by contacting the U.S. Fish and Wildlife Service, Division of Management Authority, Branch of Permits, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041-3803; telephone: 703-358-2104 or 800-358-2104; facsimile: 703-358-2281; e-mail: [managementauthority@fws.gov](mailto:managementauthority@fws.gov); website: <http://www.fws.gov/international>.

**FOR FURTHER INFORMATION CONTACT:** Craig Hoover, Chief, Division of Management Authority, U.S. Fish and Wildlife Service, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041-3803; telephone 703-358-2095; facsimile 703-358-2298. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Service's International Wildlife Trade Program convened a freshwater turtle workshop in St. Louis, Missouri, in September 2010, to discuss the pressing management, regulatory, scientific, and enforcement needs associated with the harvest and trade of freshwater turtles in the United States. In response to one of the recommendations put forth at the St. Louis workshop, in November 2011, the Service hosted a workshop in Baton Rouge, Louisiana, to develop best management practices for turtle farms operating in the United States. All 16 States with turtle farms attended the 2011 workshop. Information on these workshops can be found on our website at <http://www.fws.gov/international/animals/freshwater-turtles.html> or from the Service's International Wildlife Trade Program (see **FOR FURTHER INFORMATION CONTACT**).

On October 30, 2014, we published in the **Federal Register** (79 FR 64553) a document proposing listing the common snapping turtle (*Chelydra serpentina*), Florida softshell turtle (*Apalone ferox*), smooth softshell turtle (*Apalone mutica*), and spiny softshell turtle (*Apalone spinifera*), including their subspecies, except *Apalone spinifera atra*, which is already included in Appendix I of CITES, in Appendix III of CITES. We accepted public comments on that proposal for 60 days, ending December 29, 2014. We have reviewed and considered all public comments we received on the proposal (see the **Summary of Comments and Our Responses** section, below). Our final decision reflects consideration of the information and opinions we have received.

## Species Information

### *Common snapping turtle*

The common snapping turtle (*Chelydra serpentina*, Linnaeus 1758) is the second-largest freshwater turtle species native to the United States. Currently, two subspecies are widely recognized: *C. s. osceola* (Stejneger, 1918), distributed in the Florida peninsula, and *C. s. serpentina* (Linnaeus, 1758), distributed throughout the remainder of the species' range, which encompasses most of the eastern two-thirds of the United States and portions of southern Canada, including Nova Scotia. The species has been introduced into the wild outside its range both within and outside the United States, including in China and Taiwan, where it is also bred on turtle farms. The common snapping turtle is easily recognized by a roughly textured black to grey carapace (top shell), a long tail studded with large saw-toothed tubercles, large claws, and a large head with strong jaws and a sharp beak.

The species is readily distinguished from the alligator snapping turtle (*Macrochelys temminckii*) because the latter has a larger head, hooked beak, a smooth tail, and three distinct keels on the carapace. There are other morphological differences as well. The common snapping turtle inhabits a wide variety of freshwater habitats, including rivers, ponds, lakes, swamps, and marshes, although it prefers slow-moving aquatic habitats with mud or sand bottoms, abundant vegetation, and submerged tree branches, trunks, and brush. Common snapping turtles feed on a wide variety of both plants and animals (Ernst and Lovich 2009, pp. 9, 132–133).

### *Florida softshell turtle*

The Florida softshell turtle (*Apalone ferox*, Schneider 1783) is one of three species of softshell turtle native to the United States. The Florida softshell, the largest North American softshell turtle, occurs from southern South Carolina, through southern Georgia and Florida, and west into the extreme southern portions of Alabama. No subspecies are currently recognized. Females may reach a maximum carapace length (SCLmax) of 67.3 centimeters, over twice the size of males, which may reach 32.4 centimeters SCLmax. The leathery skin-covered carapace has rough, rounded tubercles (bumps) on its front edge; the limbs are grey to brown with lighter-colored mottling. The feet are webbed, and the species has an extended nose tip. In large specimens, the head can grow disproportionately large compared to the body. The Florida softshell inhabits calm waters, including rivers, swamps, marshes, lakes, and ponds. The species may spend extended periods of time submerged, buried in the silty or sandy bottom. The Florida softshell is largely carnivorous, eating a variety of aquatic and sometimes terrestrial animals, although it may also consume vegetation (Ernst and Lovich 2009, p. 611).

#### *Smooth softshell turtle*

The smooth softshell turtle (*Apalone mutica*, Le Sueur 1827) is the smallest of the three softshell species native to the United States. The species is generally found in streams, rivers, and channels. It inhabits the Ohio River drainage (Ohio, Indiana, and Illinois), the upper Mississippi River watershed (Minnesota and Wisconsin), the Missouri River in the Dakotas, south through the watershed and eventually spreading to the western Florida Panhandle, and west to Central Texas (including all States between these areas). The smooth softshell is considered extirpated in Pennsylvania, where it previously inhabited the Allegheny River. An isolated population exists in New Mexico's Canadian River drainage.

Two subspecies are recognized: the smooth softshell turtle (*A. m. mutica*; Le Sueur 1827) and the Gulf Coast smooth softshell turtle (*A. m. calvata*; Webb 1959). Females may reach 35.6 centimeters SCLmax, and males may reach 26.6 centimeters SCLmax. The carapaces of males may have blotchy dark markings, and a yellow stripe is present on each side of the head; females have darkly mottled carapaces, and the yellow head stripe may be faint or nonexistent in older animals. The smooth softshell has webbed feet and an extended nose tip. The species is fully aquatic, only leaving the water to nest or bask. Smooth softshells consume insect larvae, other aquatic invertebrates, small fish, and plant material (Ernst and Lovich 2009, pp. 619–620).

#### *Spiny softshell turtle*

The spiny softshell turtle (*Apalone spinifera*, Le Sueur 1827) is a small softshell with webbed feet and large claws. It has a leathery shell colored from brown to sand to grey, with dark black ocelli or blotches and a pair of light stripes on the side of its head. Limbs are grey and may have dark streaks or spots. The population of the spiny softshell in the United States is divided into six subspecies: the spiny softshell turtle (*A. s. spinifera*, Le Sueur 1827), Gulf Coast spiny softshell (*A. s. aspera*, Agassiz 1857), Texas spiny softshell (*A. s. emoryi*, Agassiz 1857), Guadalupe spiny softshell (*A. s. guadalupensis*, Webb 1962), western spiny softshell (*A. s. hartwegi*, Conant and Goin 1948), and pallid spiny softshell (*A. s. pallida*, Webb 1962). An additional subspecies, the Cuatro Cienegas spiny softshell (*A. s. atra* [= *Apalone atra*], Webb and Legler 1960), occurs in Mexico and is listed in Appendix I of CITES and as endangered under the U.S. Endangered Species Act (as *Trionyx ater*) (see title 50 of the Code of Federal Regulations (CFR) at §17.11(h)).

The spiny softshell inhabits the largest range of the three softshell turtles of North America, occurring from New York, south to Florida, west through Texas to New Mexico, and over most of the midwestern United States, including the States bordering the Great Lakes, and extreme southern portions of Canada, and naturally in northern portions of Mexico. It has also been introduced widely in other parts of Mexico. Disjunct populations also are found from New Mexico to California and in Montana and Wyoming. Isolated populations are found in several States. The spiny softshell inhabits creeks and rivers, but also occurs in other types of water bodies, including artificial bodies, as long as the bottom is sandy or muddy to support its burrowing behavior. The species is almost entirely aquatic and largely carnivorous; its reported list of food items is extensive and includes insects, molluscs, and other invertebrates, fish, amphibians, and small snakes. It will also consume plant material (Ernst and Lovich 2009, pp. 632–633).

For further information on these species, including their subspecies, you may refer to our proposed rule published in the **Federal Register** on October 30, 2014 (79 FR 64553).

## **CITES**

CITES, an international treaty, regulates the import, export, re-export, and introduction from the sea of certain animal and plant species. Currently 181 countries and the European Union have ratified, accepted, approved, or acceded to CITES; these 182 entities are known as Parties.

The text of the Convention and the official list of all species included in its three Appendices are available from the CITES Secretariat's website at <http://www.cites.org>

or upon request from the Division of Management Authority at the address provided in **FOR FURTHER INFORMATION CONTACT**, above.

Section 8A of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), designates the Secretary of the Interior as the U.S. Management Authority and U.S. Scientific Authority for CITES. These authorities have been delegated to the U.S. Fish and Wildlife Service. The original U.S. regulations implementing CITES took effect on May 23, 1977 (42 FR 10465, February 22, 1977), after the first meeting of the Conference of the Parties (CoP) was held. The CoP meets every 2 to 3 years to vote on proposed resolutions and decisions that interpret and implement the text of the Convention and on amendments to the list of species in the CITES Appendices. The last major revision of U.S. CITES regulations was in 2014 (79 FR 30399, May 27, 2014) and incorporated provisions from applicable resolutions and decisions adopted at meetings of the Conference of the Parties up to and including the fifteenth meeting (CoP15), which took place in 2010. The U.S. CITES implementing regulations are codified at 50 C.F.R. part 23.

### **CITES Appendices**

Species covered by the Convention are listed in one of three Appendices. Appendix I includes species threatened with extinction that are or may be affected by international trade, and are generally prohibited from commercial trade. Appendix II includes species that, although not necessarily threatened with extinction now, may become so unless the trade is strictly controlled. It also lists species that must be regulated so that trade in other listed species may be brought under effective control (e.g., because of similarity of appearance to other listed species). Appendix III includes native species, identified by any Party, that are

regulated domestically to prevent or restrict exploitation, where the Party requests the help of other Parties to monitor and control the trade of the species.

To include a species in or remove a species from Appendices I or II, a Party must propose an amendment to the Appendices for consideration at a meeting of the CoP. The adoption of such a proposal requires approval of at least two-thirds of the Parties present and voting. However, a Party may add a native species to Appendix III independently at any time, without the vote of other Parties, under Articles II and XVI of the Convention.

Likewise, if the status of an Appendix-III species improves or new information shows that it no longer needs to be listed, the listing country can remove the species from Appendix III without consulting the other CITES Parties.

Inclusion of native U.S. species in Appendix III provides the following benefits:

(1) An Appendix-III listing ensures the assistance of the other CITES Parties, through the implementation of CITES permitting requirements in controlling international trade in these species.

(2) Listing these species in Appendix III enhances the enforcement of State and Federal conservation measures enacted for the species by regulating international trade in the species. Shipments containing CITES-listed species receive greater scrutiny from border officials in both the exporting and importing countries. Many foreign countries have limited legal authority and resources to inspect shipments of non-CITES-listed wildlife. Appendix-III listings for U.S. species will give these importing countries the legal basis to inspect such shipments, and to deal with CITES and national violations when they detect them.

(3) Another practical outcome of listing a species in Appendix III is that better records are kept and international trade in the species is better monitored. We will gain and

share improved information on such trade with State fish and wildlife agencies, and others who have jurisdiction over resident populations of the Appendix-III species. They will then be able to better determine the impact of trade on the species and the effectiveness of existing State management activities, regulations, and cooperative efforts. International trade data and other relevant information gathered as a result of an Appendix-III listing will help policymakers determine whether we should propose the species for inclusion in Appendix II, or remove it from or retain it in Appendix III.

(4) When any live CITES-listed species (including an Appendix-III species) is exported (or imported), it must be packed and shipped according to the International Air Transport Association (IATA) Live Animals Regulations or the *CITES Guidelines for the non-air transport of live wild animals and plants* (available from the CITES Secretariat's website at <https://www.cites.org/eng/resources/transport/index.php>) to reduce the risk of injury and cruel treatment. This requirement helps to ensure the survival and health of the animals when they are shipped internationally.

### **Listing a Native U.S. Species in Appendix III**

Article II, paragraph 3, of CITES states that “Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade.” Article XVI, paragraph 1, of the Convention states further that “any Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3

of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific names of the species so submitted, and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of subparagraph (b) of Article I.”

At the ninth meeting of the Conference of the Parties to CITES (CoP9), held in the United States in 1994, the Parties adopted Resolution Conf. 9.25 (amended at the 10<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup> meetings of the CoP), which provides further guidance to Parties for the listing of their native species in Appendix III. The Resolution, which is the basis for our criteria for listing species in Appendix III provided in our regulations at 50 CFR 23.90(c), recommends that a Party:

(a) Ensure that (i) the species is native to its country; (ii) its national regulations are adequate to prevent or restrict exploitation and to control trade, for the conservation of the species, and include penalties for illegal taking, trade, or possession and provisions for confiscation; and (iii) its national enforcement measures are adequate to implement these regulations;

(b) Determine that, notwithstanding these regulations and measures, circumstances indicate that the cooperation of the Parties is needed to control illegal trade; and

(c) Inform the Management Authorities of other range States, the known major importing countries, the Secretariat, and the Animals Committee or the Plants Committee that it is considering the inclusion of the species in Appendix III and seek their opinion on the potential effects of such inclusion.

Therefore, we apply the following criteria in deciding to list U.S. species in Appendix III as outlined at 50 CFR 23.90(c):

(1) The species must be native to the United States.

(2) The species must be protected under State, tribal, or Federal regulations to prevent or restrict exploitation and control trade, and the laws or regulations are being implemented.

(3) The species is in international trade, and circumstances indicate that the cooperation of other Parties would help to control illegal trade.

(4) We must inform the Management Authorities of other range countries, the known major importing countries, the Secretariat, and the Animals Committee or the Plants Committee that we are considering the listing and seek their opinions on the potential effects of the listing.

We have complied with the criteria outlined at 50 CFR 23.90(c) as follows:

§ 23.90(c)(1): These four freshwater turtle species (including their subspecies, except *Apalone spinifera atra*, which is already included in Appendix I of CITES) are native to the United States.

§ 23.90(c)(2): These four native U.S. freshwater turtle species are regulated by State laws and regulations throughout their ranges to prevent or restrict exploitation and control trade, and the laws and regulations are being implemented. For further information on the conservation status of these species, including their subspecies, you may refer to our proposed rule published in the **Federal Register** on October 30, 2014 (79 FR 64553). In response to our proposed rule (October 30, 2014; 79 FR 64553), 10 of the comments we received were from State agencies (see the **Summary of Comments and Our Responses** section, below). Our final decision reflects consideration of the additional information and opinions we have received from those State agencies.

§ 23.90(c)(3): We have documented these four native U.S. freshwater turtle species

in international trade. In our proposed rule published in the **Federal Register** on October 30, 2014 (79 FR 64553), we describe recent trends in exportations of: live common snapping turtles and meat, live Florida softshell turtles and eggs, live smooth softshell turtles, and live spiny softshell turtles. We update that information as follows:

TABLE 1.—*U.S. exportations of live common snapping turtles 2009–2014.*

	2009	2010	2011	2012	2013	2014
Live common snapping turtles exported from the United States	655,549	709,869	811,717	1,081,246	1,261,426	1,352,289

TABLE 2.—*U.S. exportations of live Florida softshell turtles 2009–2014.*

	2009	2010	2011	2012	2013	2014
Live Florida softshell turtles exported from the United States	214,787	209,453	367,629	436,995	207,185	213,453

TABLE 3.—*U.S. exportations of live spiny softshell turtles 2009–2014.*

	2009	2010	2011	2012	2013	2014
Live spiny softshell turtles exported from the United States	46,117	56,056	55,713	71,740	69,581	5,487

TABLE 4.—*U.S. exportations of live smooth softshell turtles 2009–2014.*

	2009	2010	2011	2012	2013	2014
Live smooth softshell turtles exported from the United States	200	0	0	230	0	0

Although a significant proportion of the exported live specimens originated from turtle farms, the need for increased cooperation from other parties to control illegal trade is based upon the following:

- Despite varying export levels of the species from year to year, there is potential for

significant increases in export demands in the future.

- Even with extensive turtle farming operations, the harvest pressure on wild turtle populations remain high ( see *Issue 30* and *Issue 33* below).
- Increased cooperation will help the U.S. better understand temporal trends and the source of exported turtles.
- The level of wild harvest utilized to maintain turtle farm production is unknown.

§ 23.90(c)(4): We have consulted with the CITES Secretariat and the Animals Committee regarding our proposal to list these four native U.S. freshwater turtle species in Appendix III. The Secretariat and the Animals Committee have informed us that our proposal to list these four native U.S. freshwater turtle species in Appendix III is consistent with Resolution Conf. 9.25 (Rev. CoP16), and they have not raised any objections to this proposed listing. Further, we have also informed the Management Authorities of other range countries. Mainland China and Hong Kong are the major importers of these species from the United States. Accordingly, we have sought out their views on the potential effects of including these species in CITES Appendix III. Mainland China referred our request to Hong Kong and Hong Kong replied that they have “no strong view” on our proposal to list these four native U.S. freshwater turtle species in Appendix III. Hong Kong suggested that we consider that visual identification guides and protocols for genetic testing on these four native U.S. freshwater turtle species be available (and preferably shared with the Parties) in advance of the listing.

For further information about the listing process, you may refer to our proposed rule published in the **Federal Register** on October 30, 2014 (79 FR 64553).

## **Permits and Other Requirements**

The export of an Appendix-III species listed by the United States requires an export permit issued by the Service's Division of Management Authority (DMA). DMA will issue a permit only if: the applicant obtained the specimen(s) legally, in compliance with applicable U.S. laws, including relevant State and tribal wildlife laws and regulations; and live specimens are packed and shipped in accordance with the IATA Live Animals Regulations or the *CITES Guidelines for the non-air transport of live wild animals and plants* (available from the CITES Secretariat's website at <https://www.cites.org/eng/resources/transport/index.php>) to reduce the risk of injury, damage to health, or cruel treatment. DMA, in determining if an applicant legally obtained a specimen, may consult relevant State, tribal, and Federal agencies. Because the conservation and management of these species is primarily under the jurisdiction of State and tribal agencies, we may consult those agencies to ensure that specimens destined for export were obtained in compliance with State and tribal laws and regulations. Unlike species listed in Appendices I and II, no non-detriment finding is required from the Service's Division of Scientific Authority (DSA) for export of an Appendix-III species. However, DSA will monitor and evaluate the trade, to decide if there is a conservation concern that would require any further action on our part. With a few exceptions, any shipment containing wildlife must enter or exit the United States at a designated port for wildlife, must be declared to a Service Office of Law Enforcement (OLE) Wildlife Inspector upon import, export, or re-export, and must comply with all applicable regulations.

## **Permits, Findings, and Fees**

To apply for a CITES permit, an individual or business is required to submit a completed CITES export permit application to DMA (with check or money order to cover the application fee). You may obtain information about CITES permits from our website at <http://www.fws.gov/international/> or from DMA (see **ADDRESSES**, above). We will review the application to decide if the export meets the applicable criteria at 50 CFR 23.60.

In addition, live animals must be shipped to reduce the risk of injury, damage to health, or cruel treatment. We carry out this CITES requirement by stating clearly on all CITES permits that shipments must comply with the IATA Live Animals Regulations or the *CITES Guidelines for the non-air transport of live wild animals and plants* (available from the CITES Secretariat's website at <https://www.cites.org/eng/resources/transport/index.php>). The Service's Office of Law Enforcement (OLE) is authorized to inspect shipments of CITES-listed species at the time of export to ensure that they comply with these regulations. Additional information on permit requirements is available from DMA (see **ADDRESSES**, above). Additional information on designated ports for wildlife, declaration of shipments, inspection, and clearance of shipments is available upon request from OLE; contact the port in which shipment will obtain clearance (<http://www.fws.gov/le/inspection-offices.html>); e-mail: [lawenforcement@fws.gov](mailto:lawenforcement@fws.gov); website: <http://www.fws.gov/le>.

### **Lacey Act**

Under section 3372(a)(1) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371–3378), it is unlawful to import, export, transport, sell, receive, acquire, or purchase any wildlife taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law. This prohibition applies, for

example, in instances where these four native U.S. freshwater turtle species were unlawfully collected from Federal lands, such as those Federal lands within the range of these four native U.S. freshwater turtle species that are managed by the U.S. Forest Service, the National Park Service, the U.S. Fish and Wildlife Service, or another Federal agency.

It is unlawful under section 3372(a)(2)(A) of the Lacey Act to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State or in violation of any foreign law.

These four native U.S. freshwater turtle species are protected to varying degrees by State and Tribal laws within the United States, with significant differences in levels and types of protection which we summarized in our proposed rule (79 FR 64553) and clarified in some instances with this final rule (see the **Summary of Comments and Our Responses** section, below). Because many State laws and regulations regulate the take of these four native U.S. freshwater turtle species, certain acts (import, export, transport, sell, receive, acquire, purchase) with these four native U.S. freshwater turtle species taken unlawfully under State law could result in a violation of the Lacey Act Amendments of 1981 and thus provide for Federal enforcement action due to a violation of State law.

### **Summary of Comments and Our Responses**

We requested comments on our October 30, 2014, proposed rule (79 FR 64553) for 60 days, ending December 29, 2014. We received a total of 26,343 comments during the comment period. Of these, 26,271 were form letters that voiced support for the proposed action, but did not provide significant supporting information for the proposed CITES

Appendix-III listing of these four native U.S. freshwater turtle species.

For the 72 comments we received that were not form letters, 10 of the comments were from State agencies, 9 were from nongovernmental organizations, and 53 were from private individuals. These comments are summarized and responded to below.

Regarding the State agency comments, five State agencies generally supported listing all four of these native U.S. freshwater turtle species in Appendix III, and one State agency generally supported listing the common snapping turtle, smooth softshell turtle, and spiny softshell turtle species in Appendix III, while having no opinion of including the Florida softshell turtle. One State agency generally supported listing the common snapping turtle and spiny softshell turtle species in Appendix III, while having no opinion of including the smooth softshell turtle and the Florida softshell turtle. One State agency generally supported listing the common snapping turtle in Appendix III, but was opposed to including all three softshell turtle species in Appendix III. One State agency was opposed to listing all four of these native U.S. freshwater turtle species in Appendix III, and one State agency did not explicitly express support or opposition for the proposal, but rather concern about how the listing would create additional permitting requirements, expenses, potential loss of revenue, and export processing time.

Regarding the comments from nongovernmental organizations and private individuals, 44 generally supported the proposal to list all four of these native U.S. freshwater turtle species in Appendix III, and 18 generally opposed the proposal to list these four native U.S. freshwater turtle species in Appendix III.

We have considered all substantive information specifically related to the proposed rule that was provided to us during the open comment period. Several of the comments

included opinions or information not directly related to the proposed rule, such as views expressing interest in increasing habitat for these species. We have not addressed those comments, as they do not have direct bearing on the Appendix-III listing of these turtles and their subspecies. We have summarized the relevant comments, grouped them into general issues, and provided our responses to these issues below. Public comments and comments from State agencies regarding these issues are grouped separately. Some commenters submitted additional reports and references for our consideration, which we reviewed and considered as appropriate.

#### *Public Comments*

*Issue 1:* Several commenters provided supporting data and information regarding the biology, range, distribution, life history, threats, and current conservation efforts affecting these four native U.S. freshwater turtle species.

*Our Response:* We thank all the commenters for their interest in the conservation of these four native U.S. freshwater turtle species and thank those commenters who provided information for our consideration in making this CITES Appendix-III listing determination. Some information submitted was duplicative of the information contained in the proposed rule; some comments contained information that provided additional clarity or support for information contained in the proposed rule.

*Issue 2:* Because these species are not endangered or threatened, the proposed rule is an unnecessary tax on turtle farmers. This proposed rule appears to be an attempt to regulate a legitimate business rather than to help a species in peril. Listing these animals should not adversely affect breeders using captive-bred turtles that have millions of dollars invested in

their farms and earn a living producing these animals. Captive breeding of these species is sustainable and economically important. The cost of permits could be prohibitive to small businesses. Delays in permitting could have serious economic consequences. Increased Federal regulation will only increase government presence and be an undue tax burden.

*Our Response:* Our intent is to implement an Appendix-III permitting system for these species that will not be burdensome to U.S. turtle farmers or exporters, while ensuring that persons engaging in illegal trade are stopped. We will also use the listing to gather data on trade in these species, to better quantify the level of trade and the impact of trade on these species. These data will be made available to State wildlife management agencies, to improve management programs and further the conservation of these species.

*Issue 3:* The proposed listing is an example of over-regulation and has no purpose other than to determine if it is even necessary. The government has to justify it as a fact-finding regulation. The Service fails to address why the current Declaration of Wildlife Export Form (FWS Form 3-177) is insufficient to monitor international trade and whether exports are occurring legally with respect to State law. The proposed rule does not distinguish export of these species as captive-bred or wild-caught when this information is required by FWS Form 3-177. If monitoring these species is what the Service needs to improve, there are other ways available other than adding these species to protected lists. It is not clear what additional information the Service will gain by listing these species in Appendix III.

*Our Response:* Many importing and re-exporting countries do not have national legislation that requires inspection of all wildlife, particularly if the species in question is not listed under CITES. One reason for listing these species is to improve enforcement of

Federal and State laws by enlisting the support of other CITES Parties. An Appendix-III listing will increase inspection and reporting of imports, exports, and re-exports of these four native U.S. freshwater turtle species by all CITES Parties, not just the United States. The listing will also improve the quantity of turtle export data. It will help us detect trade trends and, in consultation with the States, implement pro-active conservation or trade management measures that better control exports and detect illegal trade.

*Issue 4:* Protecting these species may be more successful if international trade was banned completely by listing them in Appendix I of CITES.

*Our Response:* The CITES Parties meet periodically to review what species in international trade should be regulated and to consider other aspects of the implementation of CITES. To include a species in or remove a species from Appendices I or II, a Party must propose an amendment to the Appendices for consideration at a meeting of the CoP. The adoption of such a proposal requires approval of at least two-thirds of the Parties present and voting. However, a Party may add a native species to Appendix III independently at any time, without the approval of the Parties, under Articles II and XVI of the Convention. Prior to a CoP, we solicit recommendations for amending Appendices I and II, as well as recommendations for resolutions, decisions, and agenda items for discussion at the CoP. We invite such recommendations via a notice published in the **Federal Register** that includes a public comment period. The appropriate time to request inclusion of the species in Appendix I or II is during that public comment period. Our regulations governing this public process are found at 50 CFR 23.87. CoP17 is scheduled to be held in Johannesburg, South Africa, from September 24, 2016, to October 5, 2016. In the interim, international trade data and other relevant information gathered as a result of a CITES Appendix-III listing will help us

determine whether we should propose the species for inclusion in Appendix I or II, remove it from Appendix III, or retain it in Appendix III. If, after monitoring the trade of any U.S. CITES Appendix-III species and evaluating its status, we determine that the species meets the CITES criteria for listing in Appendix I or II, based on the criteria set forth at 50 CFR 23.89, we will consider whether to propose the species for inclusion in Appendix I or II.

*Issue 5:* We support adding these turtle species to CITES Appendix III. However, we encourage the Service to add these turtle species to CITES Appendix II.

*Our Response:* See our response to Issue 4.

*Issue 6:* There are large numbers of Americans who enjoy eating turtles; legitimate turtle farms should not be over-regulated.

*Our Response:* This listing will allow us to monitor and evaluate the export of these species from the United States. The goal is to insure that the trade is legal, which we hope will minimize adverse impacts on wild populations. These listings are intended to support implementation of existing laws and control illegal trade. These listings will assist State and tribal agencies by ensuring that only those specimens that were collected or produced legally are permitted for export.

*Issue 7:* CITES is not the proper avenue for taking action on these species at this time. The International Union for Conservation of Nature (IUCN) considered these species to be of “Least Concern.”

*Our Response:* The criteria for listing species in CITES Appendix III are different from the criteria used by the IUCN in evaluating species for the Red List. The criteria for deciding to list U.S. species in Appendix III are provided at 50 CFR 23.90. As detailed above, we have applied these criteria in deciding to list these four species in Appendix III.

*Issue 8:* Population harvest control of the common snapping turtle should be regulated by the States. Each State is able to protect its interests by adopting appropriate regulations to protect these turtle species and ensure trade is legal and sustainable.

*Our Response:* The conservation and management of these species is primarily under the jurisdiction of State and tribal agencies. However, we will monitor and evaluate the international trade in these species, to decide if there is a conservation concern that would require any further action on our part. These listings will assist State and tribal agencies by ensuring that only those specimens that were collected or produced legally are permitted for export.

*Issue 9:* The proposal presents no scientific evidence that this action is warranted, but rather is using the CITES listing as a means to gather information. The science used to make a determination of the effects of exports on the wild population should be obtained by less draconian measures. Adding these turtles and their subspecies to CITES Appendix III would only hurt the already struggling turtle farmers. A study to collect and assess the current status and practices should be conducted before this action is taken.

*Our Response:* We refer the commenter to the discussion under **Listing a Native U.S. Species in Appendix III**, above which includes new information on exportation of these species for 2012-2014. We have carefully considered the threats facing these species (described in our October 30, 2014, proposed rule) and the criteria for listing a species in Appendix III, and determined that the listing is appropriate. As required by the Convention, we will monitor trade in these species. We will periodically consult with the States and review the effectiveness of the listing, documented levels of illegal trade, and the volume of legal trade in the species, particularly trade in those specimens harvested from the wild.

After these consultations, we will determine if further action is needed.

*Issue 10:* Understanding the domestic origin of freshwater turtle shipments or the domestic origin of the turtles themselves is essential to understanding the commercial trade of freshwater turtles in the United States. The current gap in information is of concern.

*Our Response:* We agree. These listings will help close that information gap and inform management decisions by State and tribal agencies and the Service.

*Issue 11:* Captive breeding turtle farm operations for human consumption and the pet trade reduce pressure from harvest of wild populations.

*Our Response:* It is unknown at this time if captive turtle breeding operations reduce harvest pressure on wild populations of these species. Turtles are produced in the United States by farms that specialize in propagating captive-bred hatchlings to meet demand for commercial trade, but turtles are also entering trade through collection from the wild. Listing these species in CITES Appendix III is necessary to allow us to adequately monitor international trade in these taxa; to determine whether exports are occurring legally, with respect to State law; and to determine whether further measures under CITES or other laws are required to conserve these species.

*Issue 12:* The number of snapping turtles reportedly collected under Pennsylvania's commercial permit has more than doubled during the past decade. Although declines in Pennsylvania's snapping turtle populations are not apparent at the present time, there is concern that continuation of this trend is not sustainable.

*Our Response:* Although snapping turtle populations are known to be vigorous throughout much of the species' range, long-term persistent take makes the species vulnerable to decline.

*Issue 13:* The improved reporting of traded animals resulting from an Appendix-III listing would be highly valuable in understanding the trade trends and the likely impacts of trade on wild populations.

*Our Response:* We agree.

*Issue 14:* The vast majority of published peer-reviewed research papers on these species concern basic biology, ecology, and toxicology in the case of *Chelydra*; the number of papers examining the effects of offtake are minimal.

*Our Response:* We agree. An Appendix-III listing will lend additional support to State wildlife agencies in their efforts to regulate and manage these species, improve data gathering to increase our knowledge of trade in these species, and strengthen State and Federal wildlife enforcement activities to prevent poaching and illegal trade.

*Issue 15:* With regard to the taxonomy used in your **Federal Register** publication, it is worth noting that it corresponds to the CITES Standard reference for turtles (Fritz & Havas 2007; Vertebrate Zoology 57(2):149-368) in recognizing the subspecies *osceola* as valid. However, following a thorough molecular phylogenetic evaluation by Shaffer *et al.* (2008, in the Biology of the Snapping Turtle volume cited above), this subspecies is no longer recognized as taxonomically valid by the Committee on Standard English and Scientific Names of the American Society of Ichthyologists and Herpetologists, the Canadian Association of Herpetologists, the Canadian Amphibian and Reptile Conservation Network, Partners in Amphibian and Reptile Conservation, the Society for the Study of Amphibians and Reptiles and the Herpetologists' League (Crother 2012; ISBN 978-0-916984-85-4) or the Turtle Taxonomy Working Group (TTWG 2014: <http://www.iucn-tftsg.org/checklist/>). Should these species indeed be included in Appendix III, then this would be a matter to bring

to the attention of the Nomenclature Specialist–Zoology of the CITES Animals Committee.

*Our Response:* We appreciate this comment and will bring this to the attention of the Nomenclature Specialist. Irrespective of the taxonomic differentiation of the common snapping turtle, all recognized common snapping turtle subspecies will be included in the CITES Appendix-III listing.

*Issue 16:* We surveyed the 36 range States for the common snapping turtle, 30 range States for the spiny softshell turtle, 23 range States for the smooth softshell turtle, and 4 range States for the Florida softshell turtle to determine the regulations currently in place to conserve the species. We have found that each of the States has instituted protections, if not outright harvest prohibitions. In particular, 14 of 36 range States representing approximately 35 percent of the common snapping turtle's natural range prohibit commercial harvest, with 19 of the remaining 22 range States allowing licensed, commercial harvest and 9 of the 22 requiring a minimum size of at least 11 inches, which provides for natural reproduction. Relative to the spiny softshell turtle, 18 of 30 range States, representing approximately 50 percent of its natural range, prohibit commercial harvest, with 11 of the remaining 12 States requiring a harvest license and 6 of the 12 States either requiring a minimum size or a harvest season that avoids affecting natural reproduction. Concerning the smooth softshell turtle, 14 of 23 range States, representing approximately 40 percent of its natural range, prohibit commercial harvest, with 8 of the remaining 9 range States requiring a harvest license and 4 of the 9 States requiring a minimum size or harvest season that avoids affecting reproduction. The Florida softshell occurs in four States and, of those four States, two States (Florida and South Carolina) that represent 90 percent of its natural range prohibit harvest, and the other two require a commercial license, with one State requiring a minimum size to avoid effecting

reproduction.

*Our Response:* We note that one of the criteria for listing a species in CITES Appendix III is that there are domestic regulations in place to prevent or restrict exploitation and to control trade (see discussion under **Listing a Native U.S. Species in Appendix III**, above). Existing laws have not been completely successful in preventing the unauthorized collection and trade of these four native U.S. freshwater turtle species. Listing these species, including their subspecies (except the Cuatro Cienegas spiny softshell turtle, which is already listed in Appendix I), in Appendix III is necessary to allow us to adequately monitor international trade in these taxa; to determine whether exports are occurring legally, with respect to State law; and to determine whether further measures under CITES or other laws are required to conserve these species and subspecies.

*Issue 17:* Recently acquired export data for 2012 and 2013 for just the wild-caught cohorts of these four native U.S. freshwater turtle species indicate that 295,373 common snapping turtles, 63,986 Florida soft-shelled turtles, 230 smooth soft-shelled turtles, and 25,495 spiny soft-shelled turtles were exported over that 2-year period. Reviewing all of the data, we would also strongly support adding to the CITES Appendix-III listing razor-backed musk turtles (*Sternotherus carinatus*), of which 72,526 wild-caught turtles were exported, and common musk turtles (*Sternotherus odoratus*), of which 100,361 wild-caught turtles were exported during that same 2-year time period. *Sternotherus* species are particularly vulnerable to over-collection, as females produce a very small numbers of eggs each year.

*Our Response:* These two species were discussed at the Service's freshwater turtle workshop in St. Louis in September 2010. Although the Working Group at the meeting recommended no wild-caught commercial off-take of these two species, it did not

recommend including these two species in CITES Appendix III. We evaluate the need for CITES species listings or proposals on a regular, ongoing basis, and we will continue to consider the appropriateness of an Appendix-III listing for these two species.

*Issue 18:* The trade in turtles, particularly for the markets in Asia, has decimated turtle populations worldwide. What was once known as the Asian turtle crisis has become a worldwide turtle crisis because of the lengths these markets will go to acquire turtles for food and medicinal purposes.

*Our Response:* We agree that there is a substantial large-scale international commercial trade in many turtle species. Turtles are produced in the United States by farms that specialize in propagating captive-bred hatchlings specifically to meet this demand for commercial trade, but turtles are also entering trade through collection from the wild. Listing these species in CITES Appendix III is necessary to allow us to adequately monitor international trade in these taxa; to determine whether exports are occurring legally, with respect to State law; and to determine whether further measures under CITES or other laws are required to conserve these species.

*Issue 19:* The aquaculture industry in China preferentially imports wild-caught adult turtles as breeders.

*Our Response:* We are aware that there is a demand for large, wild-caught turtles both for food and as breeding adults. Long-term persistent take of wild-caught turtles makes these species vulnerable to decline. We acknowledge that more study is needed to determine what levels of harvest of mature adults of these species are sustainable.

*Issue 20:* The Service does not provide any specific evidence or recent cases to support their assertions that State laws are not effectively regulating turtle harvest and that

illegal trade and unauthorized collection (poaching) of these species is occurring in the United States.

*Our Response:* In our October 30, 2014, proposed rule (79 FR 64553), we stated that existing laws have not been completely successful in preventing the unauthorized collection and trade of these four native U.S. freshwater turtle species. Existing regulatory mechanisms detailed in the proposed rule in this regard, as well as comments we received on the proposed rule, support our initial determination. For example, the State of Virginia, Department of Game and Inland Fisheries, commented that “We have cross-referenced annual reports from harvesters with processors and have seen as much as 30,000 pounds unreported in a single season. This discrepancy between harvester reports and processor reports appears to be an issue in other [S]tates as well.”

*Issue 21:* This proposed rule was initiated by economically powerful and litigious environmental groups with campaigns that seek to criminalize pet turtle ownership.

*Our Response:* The commenter did not provide any evidence of this assertion. In fact, the Service’s International Wildlife Trade Program convened a freshwater turtle workshop in St. Louis, Missouri, in September 2010, to discuss the pressing management, regulatory, scientific, and enforcement needs associated with the harvest and trade of freshwater turtles in the United States (see **Background**, above). The Conservation, Status & Monitoring Working Group at the workshop recommended that listing these species in CITES Appendix III be considered. Based on the recommendations contained in Resolution Conf. 9.25 (Rev. CoP16) and the listing criteria provided in our regulations at 50 CFR 23.90, these four native U.S. freshwater turtle species, including all subspecies, qualify for listing in CITES Appendix III.

*Issue 22:* The proposed rule cites Congdon *et al.* that snapping turtles are late maturing. However, the Congdon *et al.* study took place in a cold climate State. In the warm southeastern United States, where most turtle farming occurs, turtles may reach maturity in as little as 2 to 3 years.

*Our Response:* We agree that under controlled conditions, turtles may reach maturity earlier than would normally occur in the wild. However, maturity rates of captive-bred turtles are not relevant to this listing action.

*Issue 23:* There is no information that the Service consulted Native American Tribes as required at 50 CFR 23.90.

*Our Response:* Pursuant to 50 CFR 23.90(e)(1), we are required to consult with and solicit comments from all States and Tribes where the species occurs and all other range countries. We met this requirement when we solicited comments during a 60-day comment period from all interested parties in our October 30, 2014, proposed rule (79 FR 64553) and by also directly reaching out to tribal entities to notify them of our proposed rule and to solicit comments from Tribes on our proposed rule. U.S. Fish and Wildlife Service Regional Native American Liaison's serve as the point of contact between the Service and Tribes. We worked collaboratively with U.S. Fish and Wildlife Service Regional Native American Liaison's to contact Tribes where these species occur within their respective regions for the purpose of informing them of our proposed rule and to solicit comments on the proposed rule. We did not receive any tribal comments to the proposed rule.

*Issue 24:* The Association of Fish and Wildlife Agencies does not represent individual recommendations from directors of State wildlife agencies. The proposed rule suggests that State wildlife agencies have approved the Appendix -III listing of these turtle

species.

*Our Response:* We did not intend to imply or assume that State wildlife directors have approved the Appendix -III listing of these turtle species. In fact, we made clear in our October 30, 2014, proposed rule that we have consulted the States, through the Association of Fish and Wildlife Agencies, on this proposed action. Further, the Conservation, Status & Monitoring Working Group at the freshwater turtle workshop in St. Louis, Missouri, in September 2010, recommended that listing these species in CITES Appendix III be considered (see **Background**, above). Our 60-day comment period for the proposed rule allowed all interested parties an opportunity to comment on our proposal to list these four native U.S. freshwater turtle species in CITES Appendix III, and we received comments from 10 State agencies, as described below.

*Issue 25:* Restricting State possession of these species and enacting breeding laws are restrictive domestic measures that are contrary to Article XIV of CITES.

*Our Response:* The commenter is in error regarding the interpretation of Article XIV of the Convention and regarding the effect of this Appendix-III listing. An Appendix-III listing is not a stricter domestic measure, nor does it restrict State possession of these four native U.S. freshwater turtle species or enact breeding laws for these species. Article XIV of the Convention explicitly recognizes the rights of Parties to adopt stricter domestic measures to restrict or prohibit trade, taking, possession, or transport of any wildlife or plant species. Resolution Conf. 11.3 (Rev. CoP16) further recommends that Parties make use of stricter domestic measures if they have determined “that an Appendix-II or -III species is being traded . . . in a manner detrimental to the survival of that species” or is being “traded in contravention of the laws of any country involved in the transaction.” When necessary, the

United States has utilized stricter domestic measures, such as the ESA, Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and Lacey Act Amendments of 1981 (16 U.S.C. 3371-3378), to implement CITES.

*Issue 26:* Concerns by citizens who possess and breed common snapping turtles and softshell turtles should be publicly addressed first in an amended proposed rule, before publishing any final rule adding these species to Appendix III of CITES.

*Our Response:* The rulemaking process is designed to allow for public input through the public comment period on the proposed rule, and agency response to those comments in the preamble to the final rule, as we have done here. We decline to accept this suggestion.

#### *Comments from States*

State of Arkansas, Arkansas Game and Fish Commission (AGFC)

*Issue 27:* AGFC supports this proposed action. The commercial harvest of aquatic turtles has been a component of wildlife resource use by Arkansans for many decades. Three of the four proposed species are commercially harvested in Arkansas: the common snapping turtle, spiny softshell, and smooth softshell. AGFC regulatory changes in 2006 initiated reporting requirements of all turtles harvested from the wild. A quick summary of these harvest data show that between 2004-2014 a total of 46,274 snapping turtles and 70,894 softshell turtles (both species of soft-shelled turtles combined) were harvested from Arkansas waters. It should be noted that these data are incomplete due to either incorrect (listed in pounds of turtle instead of number of individuals) or unreported harvests. Also, these numbers do not reflect whether the animals were exported or retained as captive brood stock. However, it is most likely that the majority of these turtles were exported from the State,

destined for the Asian market. Current AGFC regulations impose no limits on the harvest of these species, in terms of season, size class, or numbers, within those areas designated as open to commercial aquatic turtle harvest, which covers approximately one half of the State.

The only foreseeable impact this CITES listing would have would be on those Arkansas harvesters and dealers that wished to ship turtles directly overseas to foreign buyers. The vast majority of Arkansas turtle sales (including the species in question here) are made to buyers and brokers in California who then ship the turtles overseas, and the onus falls on the broker to obtain all required export permits and fulfill any reporting requirements. The proposed CITES Appendix-III listing of these three commercial aquatic turtle species would appear to have no adverse impacts or place any undue regulatory burden on the current commercial aquatic turtle harvester and dealer community in Arkansas. Therefore, the AGFC supports the proposed CITES Appendix-III listing of these species as it would allow better tracking of international exports of these commercially viable turtle species.

*Our Response:* We thank the State of Arkansas for its comments.

State of Colorado, Colorado Parks and Wildlife (CPW)

*Issue 28:* CPW staff members have reviewed the proposal and generally support the inclusion of the common snapping turtle and spiny softshell turtle in Appendix III of CITES. CPW has no comment on the other two species proposed for inclusion as they are not found in Colorado. Both of these native species (common snapping turtle and spiny softshell turtle) are regulated in Colorado, and we agree that their inclusion in CITES Appendix III will increase our ability to monitor their take from the State and allow for better enforcement of

their international trade. One specific point we would like to clarify from the **Federal Register** publication is the State regulations as they apply to the spiny softshell. The **Federal Register** publication states that collection for personal use is permitted in Colorado. It should be noted that Colorado does not allow possession or collection of the spiny softshell turtle, except by special permit/license.

*Our Response:* We thank the State of Colorado for its comments and for correcting the record regarding the regulation for possession and collection of spiny softshell turtles in Colorado.

State of Florida, Florida Department of Agriculture and Consumer Services (FDACS)

*Issue 29:* FDACS is the lead agency for the State of Florida for aquaculture. The department is charged by State law with enhancing the growth of aquaculture while protecting Florida's environment.

Currently, the department has 56 certified aquaculture facilities that are growing and marketing freshwater turtles, the majority of which include one or several of the species proposed for CITES Appendix-III listing. Turtles are marketed domestically and internationally to the pet trade and for food consumption. Florida aquaculture turtle producers reported sales in 2012 of approximately \$1.2 million based upon a survey conducted for the FDACS by the Florida Agricultural Statistics Service. Aquaculture farms certified by FDACS are subject to on-farm inspections for compliance with chapter 597, Florida Aquaculture Policy Act, Florida Statutes and with chapter 5L-3, Aquaculture Best Management Practices, Florida Administrative Code. Each farm must include their unique identification number on all business-related paper trails (receipts, bills of lading, bills of

sale), and we encourage including this identification number on packaging. FDACS conducts unannounced farm inspections for compliance with State laws, which includes regulations relative to the possession, transportation, and sale of native species.

Since 2009, Florida law has prohibited all commercial harvest and trade of native freshwater turtles and eggs from the wild. Existing farms were able to obtain brood stock under a special permit from Florida Fish and Wildlife Conservation Commission; however, the permit is no longer available. Farms must be self-sustaining or obtain stock from other licensed farms or from other States that allow legal commercial harvest and sale of these species. Documentation of stock sources must be maintained by Florida turtle aquaculturists. Wild populations are further protected by these regulations required of all certified Florida turtle farms. Addition of the proposed turtle species in CITES Appendix III will create additional permitting requirements for certified turtle farms exporting products. A Service Import/Export License and filing of the declaration form (FWS Form 3-177) are required for aquaculture turtle shipments along with associated inspection fees. If these species are added to CITES Appendix III, a CITES export permit and potentially a Designated Port Exception Permit will be required for aquaculture shipments. A majority of the Florida turtle farms export hatchlings or market size adults, so a quick turnaround on export applications is critical. Additional permitting requirements increase export time and expenses for farms and potentially result in a loss of revenue if permits cannot be obtained in a timely manner.

*Our Response:* We will continue to work with State and tribal agencies and the regulated industry to ensure that our permitting process is as streamlined and efficient as possible, while still meeting our legal obligations.

State of Iowa, Iowa Department of Natural Resources (IDNR)

*Issue 30:* The State of Iowa's regulations on the commercial harvest of wild turtles are among the least restrictive in the United States. This harvest is limited to the common snapping turtle, smooth softshell turtle, spiny softshell turtle, and painted turtle. Twenty-six years of recorded harvest statistics show the annual total harvest of common snapping turtles and both species of softshell turtles has steadily increased from 1987 to 2012. A steady increase in the number of licensed turtle harvesters has been associated with this increase. Much of these increases have been attributed to the demand for turtles in Asia. Lack of stringent reporting requirements prevents IDNR from knowing where many harvested turtles are marketed. However, it is believed many of the adults are exported to other States for use in turtle aquaculture facilities. Statistical harvest data, turtle life-history information, and available research lead the IDNR to believe harvest is exceeding the capability for wild turtles to sustain their populations.

An IDNR committee charged with determining the status of wild turtle populations found that the commercial harvest of common snapping turtles, smooth softshell turtles, and spiny softshell turtles is threatening these species due to overharvest and that it is inevitable that these populations will be on a decline if more restrictive harvest regulations are not enacted. However, it should be mentioned that loss of habitat quality and quantity, predation, and water quality are other probable factors influencing turtle populations.

IDNR tentatively supports the Service's efforts to include the four native U.S. freshwater turtle species in Appendix III of CITES. However, there is concern for the IDNR's role in meeting CITES Appendix-III requirements. Undoubtedly more staff time will be needed to administer, coordinate, and enforce Federal CITES regulations. Iowa may

also need to promulgate rules for regulatory purposes. Before full support can be given, the Service must clearly communicate with all States the processes involved in issuing CITES tags, and those processes must not be overly burdensome to the States.

*Our Response:* A CITES Appendix-III listing only applies to import, export, and re-export of specimens covered by the listing. In June 2006, the United States listed the alligator snapping turtle (*Macrocllemys temminckii*) and all species of map turtle (*Graptemys* spp.) in Appendix III of CITES. There are no U.S. CITES tagging requirements for any turtle species, and we do not foresee any regulatory or administrative burdens that will fall to the States. Export permits will be the responsibility of the exporter.

State of Louisiana, Louisiana Department of Agriculture and Forestry (LDAF)

*Issue 31:* LDAF is opposed to this proposed rule for the following reasons:

- Additional expenses will be incurred by turtle farmers for more CITES permits and inspections. All shipments containing a CITES species must be inspected at the airport prior to shipment. The Service charges an inspection fee, as does the shipping agent responsible for correctly packing and handling the shipment.

- Legitimate farmers are being punished due to the actions of illegal traders that may be collecting turtles from the wild, while Louisiana turtles are captive-raised.

- The Service has no way to determine if exported turtles are wild-caught or captive-raised from export documents because they have no source code for captive-raised turtles. On the export form (FWS Form 3-177), all turtles are required to be listed as “LIV” and “W” for live, wild-caught, and this is not a true reflection of Louisiana exports, which are farm-raised.

- The Service cites export statistics when demand was high but due to the cyclical nature of the turtle market, demand for softshells has dramatically fallen in the last few years and demand for snappers is slowing down, especially in the Asian market.

Therefore, we oppose the listing of these four species of turtles under CITES Appendix III. However, if they are to be listed, we ask that they be added to the Master File that is approved by the Service every year.

*Our Response:* The trade information presented in our October 30, 2014, proposed rule (79 FR 64553) was the best available data at the time. We have updated that information above (see **Listing a Native U.S. Species in Appendix III**) which shows that exportation of live snapping turtles from the United States increased by 69.7% during 2012-2014 as compared to 2009-2011. Also during 2012-2014 as compared to 2009-2011, live softshell turtles exported from the United States increased by 5.7%.

Personal collection and commercial harvest of these species is permitted in Louisiana. In our proposed rule, we acknowledge that export levels vary from year to year. We also believe that the potential remains for significant exports in the future based on overseas demand. It is not the case, as a matter of law, that all CITES shipments must be inspected. The requirement to declare these species at the time of export and make them available for inspection already applies. Subsequent to this listing, we expect that we will be working with interested parties to explore the feasibility of a Master File system for these species as well as an assessment of how our reporting forms can accurately discriminate between wild-caught and farm-raised turtles.

State of Louisiana, Louisiana Department of Wildlife and Fisheries (LDWF)

*Issue 32:* Exports of the common snapping turtle have increased steadily during the past 10 years, from about 130,000 turtles in 2003, to 3,157,000 turtles in 2013. In 2013, Louisiana turtle farmers exported less than 2 percent of the national total. We have been able to determine that the majority of exported snapping turtles are farmed hatchlings that originate from sources and operations in the Midwest. At this time, we do not oppose a CITES Appendix-III listing for the common snapping turtle.

Of the three softshell turtle species proposed for listing in CITES Appendix III, the smooth softshell rarely enters into commerce, and exports have declined from about 10,000 in 2003, to about 75 per year in the past 3 years. The spiny softshell has shown no substantial increase: average of 36,000 per year (2003-2006) to an average of 62,000 per year (2010-2013). Hatchlings that were raised on Louisiana turtle farms accounted for 15 percent of spiny softshell exports in 2013. The IUCN considers the conservation status of the smooth and spiny softshells as “Least Concern.” Based on this status, the relatively low export numbers, a relatively inactive market, and the fact that many to most of the exported turtles are farm-raised hatchlings, we see no justification for the action, and therefore recommend against a CITES Appendix-III listing for the smooth and spiny softshells.

The Florida softshell has shown an increase in exports during the past 10 years, from an average of about 44,000 per year (2003-2006) to an average of about 428,000 per year (2010-2013). The proposed rule makes outdated claims relative to this species (e.g., “It is the most intensively harvested freshwater turtle in Florida” and “The level of wild harvest necessary to maintain farm production is unknown”). Florida banned all commercial take of freshwater turtles in 2009, and limited personal take to one turtle per day. Licensed turtle farms were given until 2011 to collect turtles for breeding stock. Thus, there is no longer a

threat of harvest of Florida softshell in Florida, as wild harvest has been illegal for 3 years, and remains so. The other three range States for the Florida softshell have very limited population sizes (Alabama), or regulate the number that may be removed for commerce (Georgia and South Carolina). One Florida turtle farm accounted for about one-third of all Florida softshell hatchlings that were exported in 2013. Because commerce and exports of Florida softshell are almost completely limited to farm-raised hatchlings, and because its status is also considered "Least Concern" by IUCN, we see no justification for the action and therefore recommend against a CITES Appendix-III listing for the Florida softshell.

*Our Response:* We thank the LDWF for its comments. The criteria for listing species in CITES Appendix III are different from the criteria used by the IUCN in evaluating the conservation status of a species. The criteria for deciding to list U.S. species in Appendix III are outlined at 50 CFR 23.90. As detailed above (see **Listing a Native U.S. Species in Appendix III**), we have complied with these criteria in deciding to list these four species in CITES Appendix III.

State of Minnesota, Minnesota Department of Natural Resources (MDNR)

*Issue 33:* MDNR has reviewed the proposed rule and supports the Service's proposal. The common snapping turtle occurs throughout most of Minnesota, and commercial harvest of this species has been widely practiced for many years. Because monitoring and regulation of this harvest was believed to be inadequate, the common snapping turtle was designated a Species of Special Concern under Minnesota's Endangered Species Act (Minnesota Statutes, Chapter 84.08 95) in 1984. While no formal population monitoring data were available, abundant anecdotal accounts of declining populations

supported this concern. In response to the considerable scientific evidence that the commercial harvest of wild turtle populations is not sustainable in northern latitudes, in 2004, the MDNR undertook a major revision of the State's statutes and rules governing turtle harvest. Among many changes was a phase-out of commercial harvest by placing a moratorium on the sale of new harvest licenses and implementing several improvements in reporting and recordkeeping. While a complete elimination of commercial harvest is still many years off, regulation and monitoring of harvest has been improved, and in 2013, the MDNR removed the common snapping turtle's designation under the Minnesota's Endangered Species Act. Although the enclosed report indicates that the number of commercial licenses issued has declined since 2002, the harvest of common snapping turtles remains substantial, and shows little evidence of a decline in the near term. Consequently, the MDNR supports the Service's proposal to list the common snapping turtle in CITES Appendix III.

The smooth softshell turtle is restricted to the lower reaches of the St. Croix, Minnesota, and Mississippi Rivers in Minnesota. Due to its vulnerability to channelization, siltation, water pollution, and disturbance of nesting sites by humans and predators, the smooth softshell turtle was designated a Species of Special Concern under Minnesota's Endangered Species Act in 1984, and retains that designation to this date. Research into the habitat use of this species is ongoing within the MDNR. Harvest of the smooth softshell turtle is not permitted in Minnesota. Given the species vulnerable status within the State, MDNR supports the Service's proposal to list the smooth softshell turtle in CITES Appendix III.

The spiny softshell turtle is found throughout the central and southern portions of

Minnesota, and commercial harvest is permitted. Because harvest pressure on this species has historically not been as great as the pressure placed upon the common snapping turtle, this species has not received the concern given to the common snapping turtle. The enclosed report provides evidence that the harvest of this species is small and continuing to decline. While improvements in commercial harvest regulations have benefitted this species, concerns that commercial turtle harvest at any scale from wild populations is not sustainable in Minnesota leads the MDNR to support the Service's proposal to include the spiny softshell turtle in Appendix III of CITES.

An additional change made to Minnesota's laws in 2004 created the regulatory framework for turtle farming in the State. While there has been relatively little activity in this area to date, there is evidence that turtle farming will become an increasingly popular activity in Minnesota in the future, and listing of these three turtles in CITES Appendix III would aid the MDNR in monitoring that activity and its relationship to harvest from the wild.

*Our Response:* We thank the MDNR for its comments, including additional clarity on the status of these species in Minnesota.

State of North Carolina, North Carolina Wildlife Resources Commission (NCWRC)

*Issue 34:* NCWRC supports the proposal to include the common snapping turtle, Florida softshell turtle, smooth softshell turtle, and spiny softshell turtle in CITES Appendix III so that they are monitored in international trade. Although only two of the species (common snapping turtle and spiny softshell turtle) occur in North Carolina, the listing of all four North American turtles is warranted to prevent any common snapping turtle or U.S. softshell turtle from being illegally exported in international trade. As these turtles are not

being monitored in international trade at this time, it is important to begin monitoring these turtles to determine the exportation rate to overseas markets and how these markets may expand in the future. This export monitoring could have an impact on how these turtles are managed within their current native ranges to ensure stable populations.

Current North Carolina wildlife regulations allow the common snapping turtle to be collected for personal consumption and trade, while the spiny softshell turtle may not be commercially collected. North Carolina regulations currently allow 10 snapping turtles to be collected per day, and 100 per year, by each collector. These limits were put in place due to high harvest numbers (thousands for some individual collectors) occurring for snapping turtles and other species prior to 2003. At the State level, we increased monitoring efforts and took regulatory action over a decade ago, and efforts should be increased at the Federal level to do the same. International trade in these species to meet the growing demand from other regions of the world could result in population declines within North Carolina and other States.

The apparent increase in exports of the common snapping turtle (as shown in the 2009-2011 data in the October 30, 2014, proposed rule at 79 FR 64557), coupled with declining turtle populations in Asia (see van Dijk, P.P., B.L.Stuart, and A.G.J. Rhodin, Editors. 2000. Asian Turtle Trade: Proceedings of a Workshop on Conservation and Trade of Freshwater Turtles and Tortoises in Asia, Chelonian Research Monographs, Number 2: pp. 1-164), could lead to increasing numbers of common snapping turtles and softshell turtles impacted in the United States. The findings of Congdon, Dunham, and Sels (1994. Demographics of Common Snapping Turtle, (*Chelydra serpentina*): Implications for Conservation and Management of Long-lived Organisms. American Zoologists, Volume 34:

pp. 397-408) on snapping turtle survivorship and possible impacts from commercial harvesting suggest that long-lived vertebrates have more difficulty recovering from commercial harvest, and that because of long generation times, detection of population recovery may be delayed.

Export monitoring of common snapping turtles and the three softshell turtles that are the subjects of the proposed rule is warranted to determine if their trade increases over time. At present, declines are not apparent in populations of these turtle species, but as fewer turtles are available from other countries, North American turtle populations are at risk from unregulated export.

*Our Response:* We thank the NCWRC for its comments, including current North Carolina regulatory information regarding the common snapping turtle and spiny softshell turtle.

State of Texas, Texas Parks & Wildlife Department (TPWD)

*Issue 35:* TPWD currently permits commercial collection (from private water bodies) of three of the four freshwater turtle species listed in the Service's proposal to amend CITES Appendix III. Those species are the smooth softshell turtle, spiny softshell turtle, and common snapping turtle. The Florida softshell turtle does not occur in Texas. Collection of any freshwater turtle species from public water bodies is not allowed in Texas. Export to international markets has historically been the primary driver of freshwater turtle commercial collection in Texas. Assessing the impact of this practice has been challenging. Detection of illegal collection and trade by State law enforcement officials is difficult. Therefore, TPWD supports including the above-mentioned turtles in Appendix III of CITES. TPWD believes

this inclusion will provide valuable data regarding freshwater turtle trade and will better inform management efforts and harvest guidelines.

*Our Response:* We thank the TPWD for its comments, including current regulatory information regarding the collection of freshwater turtles in Texas.

State of Virginia, Virginia Department of Game and Inland Fisheries (DGIF)

*Issue 36:* DGIF supports the proposed action to include the snapping turtle, Florida softshell, smooth softshell, and spiny softshell in CITES Appendix III so that they can be monitored in international trade. Of the four species that are the subjects of the proposed rule, the snapping turtle and spiny softshell both occur in Virginia, and only the snapping turtle is permitted for commercial harvest. During 2002-2013, the harvest of snapping turtles in Virginia increased 12-fold (1,200 percent), with 2013 reports documenting the highest single-year harvest (7,926 individual turtles). These harvest numbers should be considered conservative estimates, given the inaccuracies often found in harvest reports. We have cross-referenced annual reports from harvesters with processors and have seen as much as 30,000 pounds unreported in a single season. This discrepancy between harvester reports and processor reports appears to be an issue in other States as well. Although it is one of the fastest growing commercial harvests in many States, the commercial harvest of snapping turtles is also one of the poorest managed and monitored commercial harvests.

*Our Response:* We thank the DGIF for its comments, including important information regarding the commercial harvest of the common snapping turtle.

*Issue 37:* According to Crother (2012), the common name for “snapping turtle” does not include the word “common.” According to Crother (2012), the common names for

“Florida softshell” and “spiny softshell” do not include “turtle.”

*Our Response:* Although we use common names where appropriate, they cannot be relied upon for identification of any specimen, as they may vary greatly in local usage. Our use of a common name is based on current wider usage. In addition, the Integrated Taxonomic Information System (ITIS), a database representing a partnership of U.S., Canadian, and Mexican agencies, other organizations, and taxonomic specialists designed to provide scientifically credible taxonomic information, includes the common names “common snapping turtle,” “Florida softshell turtle,” and “spiny softshell turtle”; therefore, we accept the use of these common names where appropriate. Because of the potential for confusion with common names, specimens must be identified on CITES permits using the scientific (Latin) name.

*Issue 38:* We recommend not including or highlighting harvest reports from those States where the snapping turtle is considered invasive. These few States are irrelevant to the overall conservation of the species.

*Our Response:* A CITES Appendix-III listing of the common snapping turtle applies to specimens destined for export that are derived from throughout the United States. On February 3, 1999, Executive Order 13112 was signed, which directed Federal agencies to address invasive species issues to not authorize, fund, or carry out actions likely to cause or promote the introduction or spread of invasive species, and also established the National Invasive Species Council. Executive Order 13112 requires monitoring invasive species populations accurately and reliably. Requiring harvest reports from those States where the snapping turtle is considered invasive could preclude additional introductions and potential ‘laundering’ of illegal specimens and will contribute to compliance with Executive Order

13112.

*Issue 39:* The Service's export database (LEMIS) only reports what is exported, not those animals processed for domestic sale. Considering the typical sex ratio of snapping turtles is about 1:1 and mostly females are being exported, the summary in the proposed rule may grossly underestimate the actual harvest amounts. This situation is exacerbated by inaccurate commercial harvest reporting and by unreported recreational harvest. Therefore, the actual number of snapping turtles being harvested could be potentially twice the numbers summarized by the Service. In the proposed rule's summary of total harvest figures, "farm-raised" turtles include the offspring of wild-caught, gravid snapping turtles. We contend that those animals are being taken from the wild and should be reported as such.

*Our Response:* We acknowledge the need to improve reporting of harvest levels of these species. A CITES Appendix-III listing of these species will assist us in this effort.

*Issue 40:* The snapping turtle harvest size limits are often focused on larger individuals, which is contrary to the life history of a long-lived species with low nest and hatchling survivorship and high adult survivorship. In such reproductive strategies, we want to protect the larger reproductive adults, but we have found that harvesters do not want smaller turtles.

*Our Response:* Long-term persistent take of wild-caught turtles makes these species vulnerable to decline. We acknowledge that more study is needed to determine what levels of harvest of mature adults of these species are sustainable.

### **Decision to List Four Native U.S. Freshwater Turtle Species**

Based on the recommendations contained in Resolution Conf. 9.25 (Rev. CoP16) and

the listing criteria provided in our regulations at 50 CFR 23.90, these four native U.S. freshwater turtle species, including all subspecies, qualify for listing in CITES Appendix III. Declines have been documented or locally severe declines may be possible in at least some portions of the range of these four native U.S. freshwater turtle species, although the Florida softshell seems to be resistant to high levels of commercial harvest. Take of Florida softshells in Florida is regulated, and it is a species of special concern in South Carolina. Although snapping turtle populations are known to be vigorous throughout much of the species' range, long-term persistent take makes the species vulnerable to decline. Existing laws have not been completely successful in preventing the unauthorized collection and trade of these four native U.S. freshwater turtle species. Listing these four native U.S. freshwater turtle species, including their subspecies, except the Cuatro Ciénegas spiny softshell turtle (*A. s. atra* [= *Apalone atra*], Webb and Legler 1960), which is already listed in CITES Appendix I, in CITES Appendix III is necessary to allow us to adequately monitor international trade in these taxa; to determine whether exports are occurring legally, with respect to State law; and to determine whether further measures under CITES or other laws are required to conserve these species and subspecies. An Appendix-III listing will lend additional support to State wildlife agencies in their efforts to regulate and manage these species, improve data gathering to increase our knowledge of trade in these species, and strengthen State and Federal wildlife enforcement activities to prevent poaching and illegal trade. Furthermore, listing these species in Appendix III will enlist the assistance of other countries in our efforts to monitor and control trade in these species and subspecies.

Accordingly, we are listing the common snapping turtle (*Chelydra serpentina*), Florida softshell turtle (*Apalone ferox*), smooth softshell turtle (*Apalone mutica*), and spiny

softshell turtle (*Apalone spinifera*) in Appendix III of CITES. The listing includes live and dead whole specimens, and all readily recognizable parts, products, and derivatives, of these species and their subspecies, except *Apalone spinifera atra*, which is already included in Appendix I of CITES. The term “readily recognizable” is defined in our regulations at 50 CFR 23.5 and means any specimen that appears from a visual, physical, scientific, or forensic examination or test; an accompanying document, packaging, mark, or label; or any other circumstances to be a part, product, or derivative of any CITES wildlife or plant, unless such part, product, or derivative is specifically exempt from the provisions of CITES or 50 CFR part 23.

Our regulations at 50 CFR 23.90 require us to publish a proposed rule and a final rule for a CITES Appendix-III listing even though, if a proposed rule is adopted, the final rule will not result in any changes to the Code of Federal Regulations. Instead, this final rule will result in DMA notifying the CITES Secretariat to amend Appendix III by including these four native U.S. freshwater turtle species (including their subspecies, except *Apalone spinifera atra*, which is already included in Appendix I of CITES), in Appendix III of CITES for the United States.

Subsequent to today’s publication in the **Federal Register** of this final rule to list these species and their subspecies in CITES Appendix III, we will notify the CITES Secretariat. An Appendix-III listing becomes effective 90 days after the Secretariat notifies the CITES Parties of the listing. The effective date of this rule (see **DATES**, above) has been extended to give the CITES Secretariat sufficient time to notify all Parties of the listing.

### **Required Determinations**

*Regulatory Planning and Review—Executive Orders 12866 and 13563*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that the regulatory system must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and Small Business Regulatory Enforcement Fairness Act*

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 802(2)), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head

of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The Department of the Interior certifies that this action will not have a significant effect on a substantial number of small entities for the reasons discussed below.

This final rule establishes the means to monitor the international trade in species native to the United States and does not impose any new or changed restriction on the trade of legally acquired specimens. Based on current exports of these four native U.S. freshwater turtle species, we estimate that the costs to implement this rule will be less than \$100,000 annually due to the costs associated with obtaining permits.

According to the Small Business Administration, small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include aquaculture businesses with less than \$750,000.00 in annual sales. This final rule:

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

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service

has determined that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments. This rule will not have a significant or unique effect on State, local, or tribal governments or the private sector because the Service, as the lead agency for CITES implementation in the United States, is responsible for the issuance of permits and the authorization of shipments of live wildlife, and wildlife parts and products, for CITES-listed species.

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This final rule does not contain any new collections of information that require approval by Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. Information that we will collect under this final rule on FWS Form 3–200–27 is covered by an existing OMB approval and has been assigned OMB control number 1018-0093, which expires on May 31, 2017. We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.)*

This final rule has been analyzed under the criteria of the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Department of the Interior procedures for compliance with NEPA (Departmental Manual (DM) and 43 CFR part 46), and Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40

CFR 1500-1508). This final rule does not amount to a major Federal action significantly affecting the quality of the human environment. An environmental impact statement or evaluation is not required. This final rule is a regulation that is of an administrative, legal, technical, or procedural nature, and its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis under NEPA. The FWS has determined that this final rule is categorically excluded from further NEPA review as provided by 516 DM 2, Appendix 1.9, of the Department of the Interior National Environmental Policy Act Revised Implementing Procedures and 43 CFR 46.210(i). No further documentation will be made.

*Takings (Executive Order 12630)*

In accordance with Executive Order (E.O.) 12630 (“Government Actions and Interference with Constitutionally Protected Private Property Rights”), we have determined that this final rule will not have significant takings implications. While export, which was previously unregulated, will now be regulated, export will still be allowed.

*Federalism (Executive Order 13132)*

In accordance with E.O. 13132 (Federalism), this final rule will not have significant Federalism effects. A federalism summary impact statement is not required because this final rule will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Although this final rule will generate information that will be beneficial to State wildlife agencies, we do not anticipate that any State monitoring or control programs will need to be developed to fulfill the purpose of this final

rule. We have consulted the States, through the Association of Fish and Wildlife Agencies, on this action. In addition, 10 of the comments we received to our proposed rule (October 30, 2014; 79 FR 64553) were from State agencies, and our final decision reflects consideration of the information and opinions we have received from those State agencies. This final rule will help us more effectively conserve these species and will help those affected by CITES to understand how to conduct lawful international trade in wildlife and wildlife products.

*Civil Justice Reform (Executive Order 12988)*

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

*Government-to-Government Relationship with Tribes*

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we have a responsibility to communicate meaningfully with Federally recognized Indian Tribes on a government-to-government basis. U.S. Fish and Wildlife Service Regional Native American Liaison's serve as the point of contact between the Service and Tribes. We worked collaboratively with U.S. Fish and Wildlife Service Regional Native American Liaison's to contact Tribes where these species occur within their respective regions for the purpose of informing them of our proposed rule and to solicit comments on the proposed rule. In accordance with Secretarial

Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We determined that this final rule will not interfere with the Tribes' ability to manage themselves or their funds or to regulate these turtle species on tribal lands.

*Energy Supply, Distribution, or Use (Executive Order 13211)*

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking actions that significantly affect energy supply, distribution, or use. This final rule will not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

**References Cited**

A complete list of all references cited in this final rule is available upon request from the Division of Management Authority, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

**Author**

The primary author of this final rule is Clifton A. Horton, Division of Management Authority, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

### **Amendment to CITES Appendix III**

Our regulations at 50 CFR 23.90 require us to publish a proposed rule and, if appropriate, a final rule for a CITES Appendix-III listing, even though the final rule will not result in any changes to the Code of Federal Regulations. Accordingly, for the reasons provided in this final rule, we will ask the CITES Secretariat to amend Appendix III of CITES to include for the United States these four native U.S. freshwater turtle species: the common snapping turtle (*Chelydra serpentina*), Florida softshell turtle (*Apalone ferox*), smooth softshell turtle (*Apalone mutica*), and spiny softshell turtle (*Apalone spinifera*). This listing includes live and dead whole specimens, and all readily recognizable parts, products, and derivatives of these species and their subspecies, except *Apalone spinifera atra*, which is already included in Appendix I of CITES.

As a result of this action, exporters must obtain an export permit issued by the Service's Division of Management Authority; pack and ship live specimens according to the IATA Live Animals Regulations or the *CITES Guidelines for the non-air transport of live wild animals and plants*; and follow all applicable regulations pertaining to the export of wildlife, including declaration of the shipment to the Service prior to export.

Dated: April 1, 2016

Stephen Guertin,  
Acting Director, Fish and Wildlife Service.

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