

TABLE 4.—FEASIBILITY OF VOC CONTENT LIMITS—Continued

Product category	Proposed VOC content limit ^a (weight-per-cent VOC)	Percentage of products achieving recommended limit ^a	Percentage of tons sold in 1990 achieving recommended limit
Antiperspirants—aerosols	60 ^b	33	3
Deodorants—aerosols	20 ^b	40	33

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Consumer products, Consumer and commercial products, Ozone, Volatile organic compound.

Dated: March 26, 1996.

Carol M. Browner,
Administrator.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018-AD63

Export of River Otters Taken in Missouri in the 1996-97 and Subsequent Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. Exports of animals and plants listed on Appendix II of CITES require an export permit from the country of origin. As a general rule, export permits are only issued after two conditions are met. First, the exporting country's CITES Scientific Authority must advise the permit-issuing CITES Management Authority that such exports will not be detrimental to the survival of the species. This advice is known as a "no-detriment" finding. Second, the Management Authority must make a determination that the animals or plants were not obtained in violation of laws for their protection. If live specimens are being exported, the Management Authority must also determine that the specimens are being shipped in a humane manner with minimal risk of injury or damage to health.

The purpose of this proposed rule-making is to announce proposed

findings by the Scientific and Management Authorities of the United States on the export of river otters harvested in the State of Missouri, and to add Missouri to the list of States and Indian Nations for which the export of river otters is approved. The Service intends to apply these findings to harvests in Missouri during the 1996-97 season and subsequent seasons, subject to the conditions applying to approved States.

DATES: The Service will consider comments received on or before June 3, 1996 in making its final determination on this proposal.

ADDRESSES: Please send correspondence concerning this proposed rule to the Office of Scientific Authority; Room 725 (Room 750 for express and messenger-delivered mail), U. S. Fish and Wildlife Service, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington Square Building, 4401 North Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Scientific Authority Finding—Dr. Marshall A. Howe, Office of Scientific Authority; phone 703-358-1708; FAX 703-358-2276.

Management Authority Findings/State Export Programs—Ms. Carol Carson, Office of Management Authority; Mail Stop: Arlington Square, Room 420c; U.S. Fish and Wildlife Service; Washington, DC 20240 (phone 703-358-2095; FAX 703-358-2280).

SUPPLEMENTARY INFORMATION: On January 5, 1984 (49 FR 590), the Service published a rule granting export approval for river otters and certain other CITES-listed species of furbearing mammals from specified States and Indian Nations and Tribes for the 1983-84 and subsequent harvest seasons. In succeeding years, approval for export of one or more species of furbearers has been granted to other States and Indian Nations, Tribes, or Reservations through the rule-making process. These approvals were and continue to be

subject to certain population monitoring and export requirements. The purpose of this notice is to announce proposed findings by the Scientific and Management Authorities of the United States on the proposed export of river otters, *Lontra canadensis*, harvested in the State of Missouri, and to add Missouri to the list of States and Indian Nations for which the export of river otters is approved. The Service proposes these findings for the export of specimens harvested in the State of Missouri during the 1996-97 season and subsequent seasons, subject to the conditions applying to other approved entities.

CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which the trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties to control trade.

In the January 5, 1984, Federal Register (49 FR 590), the Service announced the results of a review of listed species at the Fourth Conference of the CITES Parties that certain species of furbearing mammals, including the river otter, should be regarded as listed in Appendix II of CITES because of similarity in appearance to other listed species or geographically separate populations. The January 5, 1984, document described how the Service, as Scientific Authority, planned to monitor

annually the population and trade status of each of these species and to institute restrictive export controls if prevailing export levels appeared to be contributing to a trend of long-term population decline. The document also described how the Service, as Management Authority, would require States to assure that specimens entering trade are marked with approved, serially unique tags as evidence that they had been legally acquired.

Scientific Authority Findings

Article IV of CITES requires that, before a permit to export a specimen of a species included in Appendix II can be granted by the Management Authority of an exporting country, the Scientific Authority must advise "that such export will not be detrimental to the survival of that species." The Scientific Authority for the United States must develop such advice, known as a no-detriment finding, for the export of Appendix II animals in accordance with Section 8A(c)(2) of the Endangered Species Act of 1973, as amended (the Act). The Act states that the Secretary of the Interior is required to base export determinations and advice "upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice."

The river otter is managed by the wildlife agencies of individual States or Indian Nations. Most States and Indian Nations from which the Service has approved the export of river otters in 1983–84 and subsequent seasons were identified in the January 5, 1984, Federal Register (49 FR 590) and listed in 50 CFR 23.53. The State of Tennessee was approved administratively for the 1994–95 season and through a rulemaking for 1995–96 and subsequent seasons (61 FR 2454, January 26, 1996). Each export-approved State or Indian Nation in which this animal is harvested has a program to regulate the harvest. Based on information received from the State of Missouri, the Service proposes adding that State to the list of States and Indian Nations approved for export of river otters.

Given that the river otter is listed on Appendix II of CITES primarily because of similarity of appearance to other listed species in need of rigorous trade controls, an important component of the no-detriment finding by the Scientific Authority is consideration of the impact of river otter trade on the status of these other species. The Scientific Authority has determined that the dual practice of

(1) issuing export permits naming the species being traded and (2) marking pelts with tags bearing the name of the species, country and State of origin, year of harvest, and a unique serial number, is sufficient to eliminate potential problems of confusion with, and therefore risk to, other listed species (see Management Authority Findings for tag specifications).

In addition to considering the effect of trade on species or populations other than those being exported from the United States, the Service will regularly examine information on river otters in the State of Missouri to determine if there is a population decline that might warrant more restrictive export controls. This monitoring and assessment will follow the same procedures adopted for other States and Indian Nations. As part of this monitoring program, the States and Indian Nations that have been approved for export of river otters are requested annually to certify that the best available biological information derived from professionally accepted wildlife management practices indicates that harvest of river otters during the forthcoming season will not be detrimental to the survival of the species.

Whenever available information from the States or other sources indicates a possible problem in a particular State, the Scientific Authority will conduct a comprehensive review of accumulated information to determine whether conclusions about the treatment of these species as listed for similarity of appearance need to be adjusted in the State.

Originally a common resident of Missouri, river otters were nearly extirpated from the State between 1860 and 1910. Seventy animals were estimated to survive in the southeastern part of Missouri by the mid-1930's. Because most significant habitat change has occurred more recently, it is believed that this early population decline was a consequence of unregulated harvest. Although legal protection for the species was established in 1937, the species did not begin to stage a recovery until a reintroduction program was initiated in 1982. Between 1982 and 1993, 845 river otters obtained from Louisiana, Arkansas, and Ontario were released in 13 of 14 major watersheds in Missouri. All otters were marked with ear and web tags to maximize reporting rate of encounters and to facilitate monitoring of reproductive success.

During the experimental release program, the following management procedures were implemented: (a) restrictive beaver-trapping regulations to

reduce incidental catch of otters in the vicinity of release sites, (b) routine examination of carcasses recovered, (c) winter aerial surveys for otter sign (tracks, slides), (d) distribution of forms for reporting incidental sightings of otters for use statewide, and (e) a radiotelemetry study to monitor movements and survival of released animals.

In the population of 31 radio-tagged animals released at two sites between 1982 and 1984, annual survival rate was determined to be 81 percent. Since 1987, 255 (96 percent) of 266 otters reported trapped incidental to other trapping operations were untagged, suggesting that animals tagged and released were also reproducing successfully. Examination of female carcasses recovered during this program indicated an average litter size of 2.5, comparable to average litter sizes in other studies. Using this information, supplemented by estimates of age-specific pregnancy rates based on studies of other populations, a population modelling exercise was conducted for each watershed in which otters were released. Application of the model yielded a statewide population estimate of 2,500 river otters in watersheds where releases were made (3,000 to 3,200 for the entire State, including the southeastern sector) in the spring of 1995. Using the same model and assuming a harvest rate of 10 percent and a constant rate of population growth, populations in the release areas in year 2000 were projected based on two competing scenarios: (a) That all trapping mortality is offset by declines in other mortality sources (compensatory mortality) and (b) that all trapping mortality is additive to other mortality sources (additive mortality). In scenario (a) the population increases from 2,500 to 5,900 by the year 2000 and in scenario (b), after a brief decline, it increases from 2,500 to 3,300. The true population trajectory is likely to lie between these two model projections.

Except for the immediate vicinities of the Missouri and Mississippi Rivers, and the largely cleared bottomland hardwood forest habitats of the southeastern sector, there appears to be adequate aquatic habitat in Missouri to support a growing river otter population. There are 15,700 miles of smaller permanent streams and an additional 39,600 miles of intermittent streams. There are also hundreds of thousands of acres of natural and impounded wetlands of various sizes.

When harvest is legalized, all otters taken by trappers in Missouri will be subject to mandatory pelt registration,

and the Department of Conservation will tag all commercial pelts with CITES export tags. Skulls and carcasses will be obtained from willing fur buyers and dealers and cooperating trappers. These procedures will allow the size, demography, and geographic sources of the river otter harvest to be monitored. The State also intends to continue winter aerial surveys and compare results of population modelling with population indices derived from the surveys and from harvest patterns and sighting reports. Analysis of these data should detect population declines symptomatic of either an unhealthy population or overharvest in time to take corrective action through regulatory adjustments or other means.

Based upon (a) the above biological information provided by the Missouri Department of Conservation, (b) the existence of a harvest management infrastructure for managing and enforcing harvest regulations, and (c) the determination that permitting and tagging requirements will eliminate the possibility that other similar-appearing, CITES-listed species in trade will be misrepresented as river otters, the Service proposes to issue Scientific Authority advice in favor of export of river otters harvested in 1996–97 and subsequent seasons from Missouri.

Management Authority Findings

Exports of Appendix II species are allowed under CITES only if the Management Authority is satisfied that the specimens were not obtained in contravention of laws for the protection of the involved species. The Service, therefore, must be satisfied that the river otter pelts, hides, or products being exported were not obtained in violation of State, Indian Nation, Tribal, Reservation, or Federal law in order to allow export. Evidence of legal taking for Alaskan gray wolf, Alaskan brown or grizzly bear, American alligator, bobcat, lynx, and river otter is provided by State or tribal tagging programs. The Service annually contracts for the manufacture and delivery of special CITES animal-hide tags for export-qualified States and Indian Nations, Tribes, and Reservations. The Service has adopted the following export requirements for the 1983–84 and subsequent seasons:

(1) Current State or Indian Nation, Tribe, or Reservation hunting, trapping, and tagging regulations and sample tags must be on file with the Office of Management Authority;

(2) The tags must be durable and permanently locking and must show

U.S.-CITES logo, State or Indian Nation, Tribe, or Reservation of origin, year of take, species, and a unique serial number;

(3) The tag must be attached to all pelts taken within a minimum time after take, as specified by the State and Indian regulation, and such time should be as short as possible to minimize movement of untagged pelts;

(4) The tag must be permanently attached as authorized and prescribed by the State or Indian regulation;

(5) Takers/dealers who are licensed/registered by States or Indian Nations, Tribes, or Reservations must account for tags received and must return unused tags to the State or Indian Nation, Tribe, or Reservation within a specified time after the taking season closes; and,

(6) Fully manufactured fur (or hide) products may be exported from the United States only when the CITES export tags, removed from the hides used to make the product being exported, are surrendered to the Service prior to export.

Proposed Export Decision

The Service proposes to approve exports of Missouri river otters harvested during the 1996–97 or subsequent harvest seasons on the grounds that both Scientific Authority and Management Authority criteria have been satisfied.

Comments Solicited

The Service requests comments on these proposed findings and the proposed rulemaking adding Missouri to the list of States approved for export of river otters. The final decision on this proposed rule will take into account comments received and any additional information received. Such consideration may lead to findings different from those presented in this proposal.

Effects of the Rule and Required Determinations

The Department has previously determined (48 FR 37494, August 18, 1983) that the export of river otters of various States and Indian Tribes or Nations, taken in the 1983–84 and subsequent harvest seasons, is not a major Federal action that would significantly affect the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321–4347). This action is covered under an existing Departmental categorical exclusion for amendments to approved actions when such changes

have no potential for causing substantial environmental impact.

This proposed rule was not subject to Office of Management and Budget review under Executive Order 12866 and will not have significant economic effects on a substantial number of small entities as outlined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the existing rule treats exports on a State-by-State and Indian Nation-by-Indian Nation basis and proposes to approve export in accordance with a State or Indian Nation, Tribe, or Reservation management program, the proposed rule will have little effect on small entities in and of itself. The proposed rule will allow continued international trade in river otters from the United States in accordance with CITES, and it does not contain any Federalism impacts as described in Executive Order 12612.

This proposed rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain no information collection requirements.

This proposed rule is issued under authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*). The authors are Marshall A. Howe, Office of Scientific Authority, and Carol Carson, Office of Management Authority.

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 1087; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

2. In Subpart F—Export of Certain Species, revise § 23.53 to read as follows:

§ 23.53 River otter (*Lontra canadensis*).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) States and Harvest Seasons Approved for Export of River Otter From the United States.

	1977-78 ¹	1978-79 ²	1979-80 ³	1980-81	1981-82	1982-83	1983-84 and future	1995-96 and future	1996-97 and future
Alabama	Q	+	+	+	+	+	+	+	+
Alaska	+	+	+	+	+	+	+	+	+
Arkansas	Q	+	+	+	+	+	+	+	+
Connecticut	Q	+	+	+	+	+	+	+	+
Delaware	Q	+	+	+	+	+	+	+	+
Florida	Q	+	+	+	+	+	+	+	+
Georgia	Q	+	+	+	+	+	+	+	+
Louisiana	Q	+	+	+	+	+	+	+	+
Maine	Q	+	+	+	+	+	+	+	+
Maryland	Q	+	+	+	+	+	+	+	+
Massachusetts	Q	+	+	+	+	+	+	+	+
Michigan	Q	+	+	+	+	+	+	+	+
Minnesota	Q	+	+	+	+	+	+	+	+
Mississippi	Q	+	+	+	+	+	+	+	+
Missouri	Q	+	+	+	+	+	+	+	+
Montana	-	-	-	-	-	-	-	-	-
New Hampshire	Q	+	+	+	+	+	+	+	+
New Jersey	Q	+	+	+	+	+	+	+	+
New York	-	-	-	-	-	-	-	-	-
North Carolina	Q	+	+	+	+	+	+	+	+
Oregon	Q	+	+	+	+	+	+	+	+
Penobscot Nation	-	-	-	-	-	-	-	-	-
Rhode Island	Q	+	+	+	+	+	+	+	+
South Carolina	Q	+	+	+	+	+	+	+	+
Tennessee	-	-	-	-	-	-	-	-	-
Vermont	Q	+	+	+	+	+	+	+	+
Virginia	Q	+	+	+	+	+	+	+	+
Washington	Q	+	+	+	+	+	+	+	+
Wisconsin	Q	+	+	+	+	+	+	+	+

¹ For further information see 42 FR 43729, Aug. 30, 1977; 43 FR 11081, Mar. 16, 1978; and 43 FR 29469, July 7, 1978.

² For further information see 43 FR 11096, Mar. 16, 1978; 43 FR 13913, Apr. 3, 1978; 43 FR 15097, Apr. 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, Aug. 7, 1978; 43 FR 36293, Aug. 16, 1978; and 43 FR 39305, Sept. 1, 1978.

³ For further information see 44 FR 25383, Apr. 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979.

Q Export approved with quota.

+ Export approved.

- Export not approved.

* Export for 1994-95 approved administratively.

(b) Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: finished furs and fully manufactured fur products may be exported from the U.S. when the State export tags, removed from the pelts used to manufacture the product being exported, are surrendered to the Service before export. Such tags must be removed by cutting the tag straps on the female side next to the locking socket of the tag, so that the locking socket and locking tip remain joined.

Dated: February 21, 1996.

Geroge T. Frampton, Jr.,
Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 676

[Docket No. 960321089-6089-01; I.D. 031396B]

RIN 0648-AG41

Limited Access Management of Federal Fisheries In and Off of Alaska; Allow Processing of Non-Individual Fishing Quota Species

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 33 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 37 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA). These amendments are necessary to allow fuller use of the fishery resources in and off of Alaska. This action is intended to allow persons that are authorized to harvest individual fishing quota (IFQ) sablefish based on an annual allocation of IFQ resulting from sablefish quota share (QS) assigned to categories of catcher vessels equal or greater than 60 ft (18.3 m) in length overall to process species other than IFQ halibut and IFQ sablefish.

DATES: Comments must be received by May 17, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 W. 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) for this action may be obtained from the above address.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Beginning with the 1995 fishing season, the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in the IFQ regulatory areas defined in 50 CFR 676.11 have been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding QS, which represents a transferable harvest privilege, receive an annual allocation of IFQ. These persons are authorized to harvest, within specified limitations, IFQ species. Further information on the implementation of the IFQ Program, and the rationale supporting it, is contained in the preamble to the final rule implementing the IFQ Program published in the Federal Register, November 9, 1993 (58 FR 59375). Additions and/or changes to the final rule implementing the IFQ Program were published June 1, 1994 (59 FR 28281); August 24, 1994 (59 FR 43502), corrected October 13, 1994 (59 FR 51874); October 7, 1994 (59 FR 51135); February 2, 1995 (60 FR 6448); March 3, 1995 (60 FR 11916); March 6, 1995 (60 FR 12152); May 5, 1995 (60 FR 22307); August 8, 1995 (60 FR 40304); August 31, 1995 (60 FR 45378); and November 28, 1995 (60 FR 58528).

Amendments 33 and 37 would allow persons who are authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C to process species other than IFQ halibut and IFQ sablefish. Changes to the regulatory text of the IFQ Program would be necessary to implement this new policy, if it is approved. The definitions of "freezer vessel" and "catcher vessel" would be removed and a definition of "processing" would be added.

References to the removed definitions would be replaced with alternative language. A provision would be added to allow the processing of fish, other than IFQ halibut and IFQ sablefish, onboard vessels on which persons are harvesting IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B and C (catcher vessels that are greater than 60 ft (18.3 m) length overall). A detailed explanation of the proposed changes follows:

Removal of the "Freezer Vessel" and "Catcher Vessel" Definitions

After evaluating the effects that Amendments 33 and 37 would have on the IFQ Program, NMFS determined that the definitions of "freezer vessel" and "catcher vessel" at § 676 subparts B and C are unnecessary and now proposes their removal. NMFS proposes to replace these definitions with the same definition of "processing" found at §§ 672.2 and 675.2.

This proposed definition would be important to the revised specifications of vessel categories at § 676.20(a)(2). Vessel category A, currently described as "freezer vessels of any length," would be changed to vessels of any length authorized to process IFQ species. QS and the resulting IFQ is designated by IFQ species; therefore, a person could only process the IFQ species designated on the IFQ permit (i.e., IFQ halibut or IFQ sablefish). The authorization to process IFQ species is an inherent characteristic of QS assigned to vessel category A. This determination was made at initial issuance based on criteria found at § 676.20(c). The other vessel categories (B, C, and D) found at § 676.20(a)(2) also would not refer to the removed definitions.

Other Changes to the Regulations Due to the Removal of the "Freezer Vessel" and "Catcher Vessel" Definitions

As explained above, § 676.20(a)(2) would no longer refer to freezer vessels or catcher vessels, but rather would describe vessel categories in terms of: (1) Vessel length; (2) specific species designations (i.e., vessel category D for IFQ halibut only); and (3) authorization to process IFQ species. Similarly, any other references in § 676 subparts B and C to freezer vessels or catcher vessels would be removed.

For example, § 676.16(o) would prohibit persons from having processed and unprocessed IFQ species on board a vessel during the same trip. This would replace the current prohibition on operating as a catcher vessel and a freezer vessel during the same trip. This