DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB35

Endangered and Threatened Wildlife and Plants; Emergency Determination of Endangered Status for the Mojave Population of the Desert Tortoise

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) exercises its emergency authority to determine the Mojave population of the desert tortoise (*Gopherus agassizii*) to be an endangered species pursuant to the Endangered Species Act of 1973, as amended (Act). An emergency situation, in the form of a recently documented outbreak of a virulent desert tortoise upper respiratory disease syndrome (Respiratory Disease Syndrome), has been identified and has caused significant declines to certain tortoise subpopulations and threatens to become pandemic in subpopulations already stressed as a result of habitat degradation, predation, and other factors. Because of the need to make Federal funding, protection, and other measures immediately available to combat the Respiratory Disease Syndrome, the Service finds that good cause exists to make this emergency rule effective upon publication. The emergency rule will implement Federal protection for 240 days.

The status of the Beaver Dam Slope desert tortoises, which were listed as threatened with critical habitat in 1980, will not change. The Service does not expect additional benefits would accrue to this subpopulation by changing its listing to endangered at this time. A proposed rule to list the Mojave population of the desert tortoise will be published shortly to provide for public comment, and hearings (if requested). The Service will accept comments on the status of the species at any time.

EFFECTIVE DATES: This emergency rule is effective on August 4, 1989 and expires on April 2, 1990.

ADDRESSES: The complete file for this rule is available for inspection during normal business hours at the U.S. Fish and Wildlife Service, Regional Office, Division of Endangered Species and Habitat Conservation, 1002 NE Holladay Street, Portland, Oregon 97232-4181.

FOR FURTHER INFORMATION CONTACT: Mr. Robert P. Smith—Assistant Regional Director for Fish and Wildlife Enhancement, at the above address (telephone (503) 231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

The desert tortoise is one of three species in the genus *Gopherus* found in the United States. The Berlandier's tortoise (*G. berlandieri*) is found in northeastern Mexico and southern Texas. The gopher tortoise (*G. polyphemus*) is found in the hot, humid portions of southeastern United States. *G. agassizii* is relatively large, with adults measuring up to 15 inches in shell length and inhabits the Mojave, Colorado, and Sonoran deserts in the southwestern United States and adjacent Mexico.

Recent studies based on shell shape and variations in genetic composition indicate that the species has two distinct populations, one of which is divided into two subpopulations (Spang et al. 1988). A summary of this information is as follows:

The two populations are the Mojave and the Sonoran. These are separated in the U.S. and Mexico by the Colorado River, with the former populations being found to the west and north of the river and the latter being found to the east and south. The Mojave population is further divided into two subpopulations.

The western Mojave subpopulation includes parts of the west Mojave, east Mojave, and Colorado Deserts in California and extreme southern Nevada. Tortoises occur in creosote bush, alkali sink, and tree yucca habitats in valleys, on alluvial fans, and in low rolling hills at elevations generally ranging from 2,000 to 4,000 feet above sea level. Study plot data from eight sites indicate that populations have declined at rates of 10 percent or more per year for the last six to eight years. Vandalism, collections, raven predation, and disease are a few of the many causes for population declines. Habitat is deteriorating and being lost from urban, energy, and mineral development, vehicle-oriented recreation, grazing, and other uses.

The eastern Mojave subpopulation includes tortoises in eastern California, southern Nevada, and the Beaver Dam Slope and the Virgin River Basin of southwestern Utah and extreme northwestern Arizona (north of the Grand Canyon). For the purposes of this rule, the status of Beaver Dam slope tortoises will remain unchanged. Eastern Mojave tortoises occur in creosote bush-burro bush or creosote bush-tree yucca vegetation types. Downward trends in this subpopulation and its habitat are believed to be a result of urban development, long-term livestock grazing, mining, large-scale water development, off-road vehicle use, collecting, and many other human-related uses.

The Sonoran population is found in Arizona, south and east of the Colorado River, and in Mexico. Tortoises in this area are found on steep, rocky slopes of mountain ranges, primarily in Arizona upland vegetation dominated by palo verde and saguaro cactus. The distribution of the present population and habitat is disjunct. Some habitat has been lost to expansion of urban areas. Grazing, mining, and fire have adversely affected some areas of tortoise habitat.

The Beaver Dam Slope population of desert tortoises in Utah was listed as threatened with critical habitat on August 20, 1980 (45 FR 55654). The Service received a petition on September 14, 1984, from the Environmental Defense Fund, Natural Resources Defense Council, and Defenders of Wildlife to list the desert tortoise in Arizona, California, and Nevada as endangered under the Endangered Species Act. The Service determined in September 1985 that the proposed listing of the tortoise within the three petitioned States was warranted but precluded by other listing actions of higher priority under authority of section 4(b)(3)(iii) of the Act. Annual findings of warranted but precluded have been made in each subsequent year since 1985 under authority of section 4(b)(3)(C) of the Act.

For the purpose of this rule, the Mojave population of the desert tortoise includes all desert tortoises north and west of the Colorado River, including desert tortoises in the Colorado and Mojave Deserts of California, southern Nevada, southwestern Utah, and northwestern Arizona, other than the Beaver Dam Slope population of desert tortoises, which is already listed as a threatened species under the Act.

Data collected on the Mojave population in recent months indicate that many local tortoise populations throughout the range of the species have declined precipitously. The rapid spread of Respiratory Disease Syndrome, rarely seen before in wild tortoises, has been identified as a significant contributing factor in the current high level of tortoise losses.

On May 31, 1989, the same three environmental organizations that petitioned the Service in 1984 petitioned the Service to list the desert tortoise as an endangered species throughout its United States range under the expedited

emergency provisions of the Act. This petition was received on June 2, 1989. In response to this petition, the Service conducted an extensive review of existing information on the Respiratory Disease Syndrome, other reported diseases in Arizona, and tortoise status. As a result of this and other information, the Service determines the Mojave population of the desert tortoise to be an endangered species. The Service will not take emergency action to reclassify the Beaver Dam Slope population in Utah to endangered because it is already protected by the Act. The Service does not concur with the requested action under the petition to emergency list the Sonoran population of desert tortoises. The rationale leading to this decision is as follows:

1. Historically, desert tortoises in the Sonoran population occur in numerous small groups, more or less patchy or disjunct, inhabiting steep-sided canyons.

2. The very patchiness of the distribution in the Sonoran population leads the Service to believe that the Respiratory Disease Syndrome affecting other subpopulations will not likely reach the epidemic proportions that it has in locations like the Desert Tortoise Natural Area in California. Although a few instances of a respiratory disease have been documented in the Sonoran population and are of concern to the Service, it appears that respiratory disease is: (a) Usually present in tortoise populations to varying degrees, (b) has not shown any evidence of becoming pandemic, (c) has not been shown to be Respiratory Disease Syndrome, and (d) is currently being addressed by the Service and the Arizona Game and Fish Department, who will continue to gather and evaluate data. A report on the results of these studies will be available after two field seasons.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Mojave population of the desert tortoise should be classified as endangered. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Mojave population of desert tortoise are as follows:

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

As indicated above, habitat is deteriorating and has been lost due to an accelerating rate of urban, energy, and mineral development, military activities, vehicle-oriented recreational activities, grazing, and land exchanges.

Changes in perennial vegetation, essentially the reduction in cover of small and large shrubs and perennial grasses, are believed to be the result of cattle and sheep grazing pressures. These changes have created openings and barren areas in desert landscape and have deteriorated the quality of habitat for the tortoise. Losses of plant cover may contribute to the excessive raven predation on small tortoises being recorded. Changes in annual vegetation have also affected food supplies for tortoises. Weedy plant species that have been introduced for grazing can germinate, flower, and fruit before the native plants. Native plant species are essential to meet the nutritional needs of the tortoise and are their favored forage. The exotic weedy species are outcompeting many native plant species (Berry 1988). Additional potential adverse impacts to the tortoise from cattle and sheep grazing include: damage to shrubs used for tortoise shelter, crushing of burrows and nests, and trampling of young tortoises. Cattle grazing has contributed to declines in many tortoise populations. The degree and nature of impacts from cattle grazing is dependent upon habitat, grazing history, seasons of use, stocking rates, and density of the tortoise population (Sievers et al. 1988).

The following discussions are summarized from Alden Sievers and the California Desert Tortoise Workgroup's 1988 Recommendations for Management of the Desert Tortoise in the California Desert, submitted to the Bureau of Land Management (BLM), Riverside, California, and to the California Department of Fish and Game, Long Beach, California (Sievers et al. 1988):

Vehicle free-play in tortoise habitat results in cumulative adverse impact to tortoise habitat. Impacts vary from minor habitat alteration and vehicle route proliferation to total denudation of extensive areas created by intensive vehicle play, parking, and camping. Concentrated vehicle play areas may eliminate all but the most hardy shrubs. Other impacts include soil compaction and erosion. Tortoises suffer from loss of forage, loss of vegetative cover, and loss of burrow sites and then become subject to increased mortality from crushing, collection, and vandalism.

Competitive off-highway vehicle racing events adversely impact tortoise habitat. They usually involve several hundred race participants and thousands of spectators. The camping and race start and finish areas receive intensive vehicle use and become devoid of vegetation. Tortoises are eliminated from these areas entirely due to the loss of food, cover, and burrow sites. Affected areas become enlarged with continued use.

Vehicle route proliferation has occurred in many areas and can result in a significant cumulative loss of habitat. Human access increases the incidence of tortoise mortality from collection, gunshot, and crushing by vehicles. Soil compaction results in loss of vegetation and increases in erosion.

Large surface disturbances (e.g., power plants, mining, agricultural developments, military activities, and urbanization) cause longterm, permanent loss of habitat. Both large and small developmental activities often induce further surface disturbing activities with resulting habitat loss and tortoise population reduction. Increased human activity results in increased vehicle kills, vandalism, and collecting of tortoises.

Land exchanges may result in habitat loss and increased fragmentation of populations. Even where tortoise habitat is exchanged by the Bureau of Land Management for other tortoise habitat, there is an increased likelihood of development, resulting in loss of habitat, on the new private holdings.

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

Desert tortoises have long been a popular pet in the Southwest. It is not currently known to what extent collecting has impacted wild populations. It is estimated that 100,000 desert tortoises exist in captivity. Many tortoises held in captivity, however, are known to exhibit signs of contagious Respiratory Disease Syndrome. The release of diseased captive tortoises is considered by the BLM to be the source of introduction of the currently identified Respiratory Disease Syndrome found in wild populations. The release of captive tortoises to the wild population following listing as Endangered could be considered to constitute harm to the wild population.

C. Disease of Predation

Predation of young tortoises by ravens is a growing threat to the species. Common raven populations in the southwestern deserts have increased significantly since the early 1940's, presumably in response to expanding human use of the desert. Sewage ponds, landfills, power lines, roads, and other uses have increased available foraging, roosting, and nesting opportunities for ravens. In recent years, raven predation

on juvenile desert tortoises has increased to a point where recruitment of young tortoises into the adult population has been significantly reduced or eliminated in certain localities. Ravens are highly adaptable as to their feeding patterns, and concentrate on easily available seasonal food sources such as juvenile tortoises, including live, healthy animals. In the Desert Tortoise Natural Area, a protected area of 21,320 acres in the western Mojave Desert, even though tortoise eggs are still being laid and hatched, as shown by the presence of very small tortoises, raven predation appears to have prevented the recruitment of the young into the adult population (BLM 1989).

The BLM's 1989 Environmental Assessment (BLM 1989) for the Selected Control of the Common Raven to Reduce Desert Tortoise Predation in the Mojave Desert, California, further summarizes the annual trend (percent annual change) and the change (percent) of raven numbers in the last 20 years for the following deserts:

In the Mojave Desert, raven populations have increased 15-fold between 1968 and 1988, at a rate of nearly 15 percent per year.

A new threat to certain desert tortoise populations has recently been identified. A fatal disease, currently referred to as Desert Tortoise Respiratory Disease Syndrome, is spreading and appears to target the mature, reproductively active segment of the population.

The disease has been known for some time in captive tortoises throughout the world (Shipes et al. 1980), although the exact cause, or etiological agent, has not been clearly identified. The disease is probably the result of multiple factors working in concert. It is known that the disease may be readily transmitted from an infected tortoise to a non-infected tortoise (Rosskopf 1988). A virus (herpes-like) has been observed by electron microscopic studies in other species of turtles with respiratory tract infections (Jacobson et al. 1986). A paramyxovirus is also considered as a primary pathogen capable of initiating the disease (Jacobson, personal communication, in Rosskopf 1988). Infected animals may not necessarily exhibit obvious signs of the disease.

Once the disease is initiated, bacteria may invade and become the primary pathological agent. *Pasturella testudinatus* was recently isolated from a series of sick tortoises collected for disease study from the Desert Tortoise Natural Area in California. Species of *Pasturella* Bacteria are commonly associated with disease syndromes initiated or enhanced by other predisposing factors, including poor nutrition, stress, and immune system compromise.

The disease appears to be spread via contact between infected and non-infected animals (Rosskopf 1988). Adult male tortoises may contact many females in a single breeding season and, thus, the occurrence of the disease in the adult breeding population would reinforce the conclusion that direct nose contact during courtship activities could spread the pathogen to susceptible tortoises. Once the disease is contracted, there appears to be little chance of full recovery and the affected individual eventually becomes debilitated and dies. Even individuals given extensive treatment in captivity usually succumb to the disease eventually. Furthermore, if an inidividual appears to overcome the disease, relapse may occur under stress conditions (Rosskopf 1988).

Although the transmittance of an infectious agent from one tortoise to another occurs by contact, the actual infection of the newly inoculated individual may be associated with other factors that increase its susceptibility. Some of the original information published about this disease suggested a nutritional and/or stress-related cause with a secondary bacterial infection of debilitated animals (Fowler 1977). The combination of an infectious agent along with lowered resistance is typical of these types of disease syndromes in many other animals.

Based on current knowledge of the incidence, morbidity, and the mortality rates, the disease appears to be escalating in surveyed populations in the western Mojave Desert. The disease was first recognized as a major problem in wild populations in the spring of 1988 (Fauna West Wildlife Consultants 1989). Signs of the disease were observed in up to 46 percent of adult tortoises examined during surveys of the Desert Tortoise Natural Area in the western Mojave Desert in southern California in the spring of 1988. In one portion of this range, the infection rate went from 9 percent in a 1988 survey to 52 percent of all tortoises in a 1989 survey. A loss of about 20 percent of the marked tortoise population with disease signs occurred in one year in this plot.

While not all populations surveyed have such high mortality rates, these figures demonstrate the potential impact the disease can have on any given area. Infection rates in multiple grid areas in the southern California study area range from 7 to 50 percent. The disease symptoms have also been observed in individual tortoises from a variety of populations (Berry 1989) including the Fremont Valley (50 percent infection rate), Saguaro National Monument in Arizona (2 of 12 radio tagged infected, and died), and Beaver Dam Slope, Utah-Arizona (10 to 20 percent infection rate with high mortality in radio tagged animals). Interviews of personnel at veterinary hospitals in the Las Vegas, Nevada area by Service personnel have revealed that most cases of Respiratory Disease Syndrome are found in captive tortoises, but that wild tortoises have been brought in with symptoms of respiratory disease. The potential exists for the Respiratory Disease Syndrome to reach epidemic proportions throughout the Mojave population. There appear to be no natural barriers that would prevent transfer of infectious agents from California subpopulations to Nevada, Utah, and Arizona subpopulations in the Mojave desert. In addition to the identified respiratory disease in the Beaver Dam Slope population, an apparent nutritional disease causing osteoporosis of the bones has been identified (Jarchow 1988).

D. The Inadequacy of Existing Regulatory Mechanisms

All four involved States have laws that provide varying levels of protection for the desert tortoise.

State of Nevada laws concerning fish, game, and watercraft, as amended in 1987, afford limited protection in the desert tortoise. Nevada Revised Statutes (NRS), Section 501.110.1(d) sets forth that reptiles must be classified as either protected or unprotected. NRS Section 501.110.2 states that protected wildlife may be further classified as either sensitive, threatened, or endangered. The Nevada Administrative Code (NAC), Section 503.080.1(a) classifies the desert tortoise as protected and rare outside the urban areas of Clark County (Las Vegas). NRS Section 503.597, states that it is unlawful, unless with written consent of the Nevada Department of Wildlife, to transport a desert tortoise from one portion to another portion of the State or across State lines.

The California Fish and Game Commission adopted a regulation change on June 22, 1989, to amend the California Code of Regulations, Section 670.5(b)(4) of Title 14, to add the desert tortoise as a State threatened species. Under the Fish and Game Code, Article 3, Section 2080 prohibits the import or export of endangered or threatened species. This section also indicates that no person shall take, possess, purchase, or sell within the State, any listed species, or any part or product thereof, except as otherwise provided in State

law or regulation. Violations of these provisions relating to endangered species may result in both fines (up to $5,000.) and/or imprisonment (up to one year).

The California Fish and Game Code, Article 4, Section 2090 requires that each State agency shall consult with the California Department of Fish and Game to ensure that any action authorized, funded, or carried out by that State lead agency is not likely to jeopardize the continued existence of any State listed species.

In Arizona, the collecting season has been closed on the desert tortoise since January 1, 1988, under Arizona Game and Fish Commission Order 43: Reptiles. Under Arizona Administrative Code, Title 12, Chapter 4, Article 319.3, the desert tortoise is considered "prohibited wildlife" and may not be imported, exported, possessed, transported, propagated, purchased, bartered, sold, leased, or offered for sale except as expressly authorized by State law.

In Utah, the status of the desert tortoise is considered by the State to be endangered (Utah Division of Wildlife Resources 1987). The desert tortoise is also considered a "prohibited reptile" under Utah Rule, Collection, Importation, Transportation and Subsequent Possession of Zoological Animals (R608-3). In Utah, the desert tortoise is prohibited from collection, importation, transportation, possession, sale, transfer, or release.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Vandalism, including shooting and crushing of tortoises under vehicles, has been documented by the Bureau of Land Management (Bureau) and is considered a factor in reducing the number of tortoises in their natural habitat. Bureau studies on 11 permanent study plots showed 14.3 percent of the carcasses with evidence of gunshot. The highest incidence of gunshot is found in the western Mojave Desert. At one plot, the highest frequency of carcasses with evidence of gunshot was 28.9 percent (Sievers et al. 1988).

Status of Feral Tortoises and Tortoises Currently Held in Captivity

Feral desert tortoises, which have been released inside the native habitat of the desert tortoise, are classified endangered species in the area north and west of the Colorado River and are protected under the Act. Tortoises found released outside of the known Mojave population range will be considered as captive animals.

Under section 9(b)(1) of the Act, prohibitions applicable to the Mojave population will not apply to tortoises that were held in captivity or in a controlled environment on the date of the publication of this notice, provided, that such holding and any subsequent holding or use of the tortoise was not in the course of a commercial activity.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that critical habitat for this population is not determinable.

Available Conservation Measures

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

Such increased recognition and an active recovery program would provide a means to ensure survival for the desert tortoise. Available funding would be used on research to determine the causes of and possible treatments for the disease currently infecting tortoise populations and to determine whether the disease can be passed on to hatchlings by infected females. Available funding would also be used for, but would not necessarily be limited to, the identification of and isolation of healthy populations, carrying out raven control to reduce loss of immature tortoises, and public education to discourage further releases of diseased captive tortoises.

The protection required of Federal agencies and the applicable prohibitions are discussed, in part, below:

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

Over 63 percent of occupied desert tortoise habitat is managed by the BLM. Other Federal Managers of tortoise habitat include the Department of Defense, National Park Service, Fish and Wildlife Service, and lands managed by Indian tribes. All current and proposed actions and plans for management of the habitat will require considerations for the protection of the tortoise, as required by the Act. Such activities may include, but may not be limited to, grazing, off-highway-vehicle use, mining, construction of developments and rights-of-way, and activities in tortoise habitat that kill tortoises and fragment their habitat.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale any desert tortoise in interstate or foreign commerce. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been illegally taken. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

All *Gopherus* tortoises, including the desert tortoise, were listed on July 1, 1975, as Appendix II species under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The only exception within the genus is *G. flavomarginatus*, which was listed as an Appendix I species.

Emergency Determination

Under section 4(b)(7) of the Act and 50 CFR 424.20, the Secretary may

determine a species to be endangered or threatened by an emergency rule that shall cease 240 days following publication in the **Federal Register**. The reasons for taking this action with respect to the desert tortoise are discussed below. If at any time after this rule has been issued, the Secretary determines that substantial evidence does not exist to warrant such a rule, it shall be withdrawn.

As noted above, an emergency posing a significant risk to the well-being of the desert tortoise exists as a result of the outbreak and rampant spread of a contagious disease that is often, and may always be, fatal and for which no known cure currently exists. Even before the recent outbreak of a virulent respiratory disease, the desert tortoise was in serious peril for the many reasons already noted.

In 1985, when the Service found that the listing of the remaining populations of the desert tortoise as endangered was warranted, disease was not known to be a major factor affecting the species' survival. Today, however, a highly contagious and often fatal Respiratory Disease Syndrome is known to exist in tortoise populations in California, Utah, Arizona, and Nevada. Tortoises in some of these areas have experienced extraordinary population collapses within the very recent past and infection rates of surviving animals often exceed 50 percent. The outbreak of this disease syndrome, particularly when viewed against the background of the many other serious factors detrimentally affecting wild tortoise populations, poses a significant risk to the immediate well-being and survival of the species.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with listing species under the Endangered Species Act of 1973, as amended.

References Cited

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Sievers, A., J.B. Aardahl, K.H. Berry, B.L. Burge, L.D. Foreman, G.E. Monesko, and J.A. St. Amant. 1988. Recommendations for management of the desert tortoise in the California desert. Submitted to the U.S. Bureau of Land Management, Riverside, CA. 54 pp.

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Author

The primary author of this emergency rule is Miss Jackie Campbell, Division of Endangered Species and Habitat Conservation, Regional Office, U.S. Fish and Wildlife Service, 1002 NE Holladay Street, Portland, Oregon 97232–4181, (503) 231–6131 or FTS 429–6131.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, until April 2, 1990, Part 17, Subchapter B of Chapter I. Title 50 of the Code of Federal Regulations, is amended as set forth below:

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

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3835 (16 U.S.C. 1531 *et seq.*), Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by revising the entry of the "Tortoise, desert * * *" under REPTILES to read as follows:

§ 17.11 Endangered and Threatened Wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
Tortoise, desert	*Gopherus* (=*Xerobates*, =*Scaptochelys*) *agassizii*.	U.S.A. (AZ, CA, NV, UT), Mexico.	Entire, except AZ south and east of Colorado R., Mexico, and where listed as threatened below.	E	357E	NA	NA
Do	do	do	Beaver Dam Slope, UT.	T	103, 357E	17.95(c)	NA

Dated: August 2, 1989.

Susan Recce Lamson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-18459 Filed 8-3-89; 9:07 am]

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