Endangered and Threatened Wildlife and Plants; Proposed Removal of Red, Eastern Gray, and Western Gray Kangaroos From the U.S. List of Threatened and Endangered Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule. SUPPLEMENTARY INFORMATION: The red, eastern gray, and western gray kangaroos were listed under the Endangered Species Act as Threatened on December 30, 1974 (39 FR 44990). This action was taken essentially for the following reasons: (1) There was no clear evidence available to the Service at the time that overall take was being carefully regulated and monitored by the various Australian States; (2) no reliable estimates of kangaroo numbers were available to the Service from most of the Australian States and (3) the Australian government had expressed concern over kangaroo populations and imposed a ban on kangaroo exports. Because of the widespread fear that too many kangaroos were being killed to sustain viable populations, the Service considered it prudent to move to classify the three major trade species (red, eastern gray, and western gray kangaroos) as Threatened. Along with the listing action, the Service imposed a ban on the import of kangaroo products into the U.S. until such time as the Australian Government would certify at a minimum that "(1) a particular Australian State has developed an effective sustained-yield management program (for the kangaroos) and (2) the taking of the (kangaroos) will not be detrimental to the survival of the species; and (3) the Australian States had developed effective management programs for the three kangaroos since the original rule rule in 1974; (2) the Australian States had adequately shown that taking and importation of the three species of kangaroos would not be detrimental to the survival of the species; and (3) improved censusing techniques had provided an overall estimate in excess of 32,000,000 adult kangaroos in New South Wales, South Australia, Western Australia, and Queensland.

In a document dated November 10, 1982, the Australian Government has now petitioned the Service to take two actions: (1) To continue allowing commercial importation of kangaroo products into the U.S.; and (2) to remove from any classification under the Act the red, eastern gray, and western gray kangaroos. The Australian Government submitted sufficiently substantial evidence in support of the petition that the Service is hereby publishing simultaneously two documents which would carry out both petitioned actions. The present document proposes removing these kangaroos from classification under the Act. A simultaneously published proposal would continue to allow commercial importation of kangaroo products into the U.S. If the rule to delist the kangaroos is first adopted the need to issue a separate final decision regarding commercial importations would be rendered moot and would be withdrawn. If the final delisting regulation is not adopted, the Service will complete its administrative action on the commercial importation issue, and, in light of public comments received, either permit continued commercial importation or further restrict or prohibit such importation altogether. Thus, although the proposal to delist the kangaroos is the more significant of the two actions, the proposal to continue commercial importations is being submitted for public comment in order to maximize the Service's administrative options regarding kangaroos.

The following is a summary of the data presented by the Australian Government to support both proposed actions.

Data To Support Delisting and Continued Commercial Importation

In its final rule of April 29, 1981 (46 FR 23933), to remove the import ban on
kangaroos and kangaroo products, the Service presented the following reasons for maintaining their classification as Threatened: "Kangaroos are commercial commodities that are, and will continue to be, utilized in world trade. In the past, all three species under consideration have been overexploited in various areas, and in the opinion of some this condition could occur again. In addition, all three species are cyclical in nature, and may experience periods of great abundance and then decline to periods of relative scarcity. The Service feels that the Threatened classification is warranted because of the susceptibility of the animals to overexploitation and because of the difficulty of predicting the severity and duration that might be caused by natural or man-made factors affecting them." In addition, the Service felt that lack of adequate law enforcement capability in Australia contributed to the threat to the three species of kangaroos.

In its petition to delist the red, eastern gray, and western gray kangaroos, the Australian Government presented substantial data which leads the Service to believe that the above views may no longer be valid. This petition, and its extensive appendices, are available to the general public for examination at the Service's Office of Endangered Species, but a summary of the main points is as follows:

**Population Monitoring**

The Australian States have greatly improved their monitoring techniques in the past 2 years. All the States now employ aerial surveys to estimate kangaroo numbers, and the aerial surveys have demonstrated that red, eastern gray, and western gray kangaroos do indeed occur in very large numbers. The results of these surveys are presented in the following table:

<table>
<thead>
<tr>
<th>State or territory</th>
<th>Per cent of State surveyed</th>
<th>Year</th>
<th>Species</th>
<th>Estimated population in percent of State surveyed</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>62</td>
<td>1982</td>
<td>Red</td>
<td>5,700,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>E. &amp; W. Gray</td>
<td>3,700,000</td>
</tr>
<tr>
<td>Queensland</td>
<td>36</td>
<td>1980</td>
<td>Red</td>
<td>1,800,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>E. Gray</td>
<td>3,000,000</td>
</tr>
<tr>
<td>South Australia</td>
<td>24</td>
<td>1980-81</td>
<td>Red</td>
<td>1,949,800</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>E. Gray</td>
<td>350,000</td>
</tr>
<tr>
<td>Western Australia</td>
<td>60</td>
<td>1981</td>
<td>Red</td>
<td>1,000,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>W. Gray</td>
<td>500,000</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>50</td>
<td>1981</td>
<td>Red</td>
<td>3,100</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>E. &amp; W. Gray</td>
<td>25,000</td>
</tr>
<tr>
<td>Victoria</td>
<td>40</td>
<td>1980</td>
<td>Red</td>
<td>88,000</td>
</tr>
</tbody>
</table>

It should be emphasized that the above estimates do not apply to each State as a whole, but only to the percentage of the State actually surveyed. The total number of kangaroos in each State would be much larger.

**Objectives of Kangaroo Management**

Because it supplied the Service with extensive data on individual State management plans in connection with the Service's 1980 review, the Australian Government in the present petition concentrated on the management of the kangaroos in recent years. According to the petition, the objectives of kangaroo management endorsed by the Australian Council of Nature Conservation Ministers in July 1981 are: (1) To maintain populations of all species of macropodids over their natural range; (2) to contain their deleterious effects on pastoral and agricultural production; and (3) to ensure that the best possible use is made of those kangaroos which have to be taken. The aim of kangaroo management is not to utilize kangaroos as a resource on a sustained yield basis. The commercial utilization of kangaroos is a management tool used by the government wildlife authorities to achieve the above stated objectives.

**Current Situation**

In each State where they occur, the three species of kangaroos are protected and may only be taken under permits issued by the relevant State wildlife authorities. Permits to cull populations of kangaroos may be granted only by responsible wildlife authorities who are committed in both policy and practice to the conservation of all species of macropodids. The State wildlife authorities are well-trained wildlife biologists, and are competent to manage kangaroos in their own States and to determine appropriate management requirements in each instance.

**Regulation and Enforcement**

The Australian States appear to have sufficient regulatory and enforcement power. All States employ enforcement officers specifically to police wildlife laws, and the Australian Government reports that in most instances of enforcement has increased in recent years. In addition, wildlife laws are enforceable by State and Territory police stationed in country areas.

While it is true that illegal killing occurs, it is mostly by exasperated landholders who have been unable to secure the services of a professional shooter. It is not possible for kangaroos taken illegally to enter commercial trade because the tight controls exercised over it, and there are no other outlets for the products of such shooting. Furthermore, licensed shooters, who are well dispersed throughout the pastoral areas of Australia, have frequently drawn the attention of wildlife authorities to any major incidents of illegal killing which they see as a threat to their livelihoods. In the unlikely event that illegal killing reached a significant level without the relevant authorities knowing, it would almost certainly be drawn to their attention by licensed shooters.

**Control Over International Trade**

The Commonwealth Government is responsible for export and import controls and has the power to regulate exports. Under the customs regulations, kangaroos and kangaroo products are prohibited from export unless an export permit is issued. To obtain an export permit, intending exporters must demonstrate to the Government's satisfaction that the skins and/or products were derived from animals taken in accordance with State laws under approved State management programs. Export figures for kangaroo skins for the 1980-81 and 1981-82 seasons are as follows:

<table>
<thead>
<tr>
<th>Total exported to United States</th>
<th>Total exported</th>
<th>U.S. trade as percent of total trade</th>
</tr>
</thead>
<tbody>
<tr>
<td>By number</td>
<td>By value</td>
<td>By number</td>
</tr>
<tr>
<td>1980-81</td>
<td>$1,321,961</td>
<td>33</td>
</tr>
<tr>
<td>1981-82</td>
<td>$1,161,366</td>
<td>7,256</td>
</tr>
</tbody>
</table>
Kangaroo meat, suitable for human and pet consumption, shipped to the U.S. during the period 1980–1982 was negligible. It can be seen from the above figures that U.S. trade in kangaroo products over the past several years has been a very insignificant part of overall trade.

Wildlife Protection (Regulation of Exports and Imports) Bill 1982

The Australian Government informs the Service that the Commonwealth has passed a major new piece of legislation to consolidate and strengthen arrangements for the protection of Australian wildlife by improving the effectiveness of its trade controls and to allow the Commonwealth to better implement the objectives of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Wildlife Protection (Regulation of Exports and Imports) Bill 1982 was assented to by the Australian Governor General on December 31, 1982 (that is, to say it formally became effective on that day), and will come into operation on a date to be fixed by Proclamation in the near future.

With respect to Australian native fauna, the bill is based on the premise that commercial trade will only be permitted if it has been conclusively established that such trade will not adversely affect the species. Section 31 of the bill allows commercial trade in kangaroo products taken from the wild in accordance with an approved management program.

The bill places responsibility for the policy aspects of regulation of trade in wildlife with the Minister for Home Affairs and Environment. Administration of the bill will be by the Director of the Australian National Parks and Wildlife Service and enforcement will be by the Bureau of Customs and the Australian Federal Police. The Minister is able to make arrangements with the States and Territories on various aspects of the bill, including enforcement by State police forces and wildlife officers.

Research

A wide range of research on Kangaroo species has been carried out in recent years and is continuing. Much current research is aimed at improving the understanding of how kangaroos function in their environment, including studies of ecology, population dynamics, physiology, biochemistry, parasitology, and genetics. Surveys of distribution and habitat requirements leading to an improved knowledge of the ecology of both common and rare species continue in the field with particular emphasis on selection of suitable reserves and on methods of assessment of population status.

Aerial survey techniques were improved greatly in recent years. Such surveys now represent a valuable means of monitoring kangaroo population trends in the flat and undulating country which forms much of inland Australia.

Australia's Nature Conservation Reserve System

There has been in Australia the progressive development of a comprehensive national park and nature reserve system, and some 4 percent of Australia's land area was reserved for nature conservation as of June 30, 1980. A list of these reserves, showing the area of each, has been published by the Australian National Parks and Wildlife Service. Reservation of suitable areas is continuing; they now comprise about 118,000 square miles of territory. The Service had not been informed at the time of its 1980 review of the magnitude of land Australia has set aside as parks and reserves.

Australian States Management Plans

Each Australian State planning to engage in trade in kangaroo products submitted to the Service its management plans for the kangaroos during the course of the Service's 1980 review of the import ban question. In its subsequent action to allow such imports into the U.S., the Service found each of the management plans of the Australian States to be acceptable, and effective "sustained-yield" programs. The Service erred, however, in terming these programs "sustained-yield" since the Australian Government has now pointed out that none of the Australian States regard their kangaroos as renewable resources to be harvested. Instead, the Service should properly have called these plans "management programs." In the November 10, 1982, petition, the Australian States (New South Wales, Queensland, Western Australia, and South Australia) that submitted management plans for the 1980 review of the import ban situation submitted their current management plans for the kangaroos. While in 1980 some States lacked aerial surveys, all of the States have now instituted regular aerial surveys, and hence have more accurate estimates of their kangaroo numbers. The plans submitted in 1982 are in other aspects identical to those submitted in 1980, and the Service again determines that each of these plans presents an effective conservation program for the species concerned, and refers all interested parties to its April 29, 1981, rule (46 FR 23933), in which the import ban was lifted, for complete details on them.

At the time of the Service's earlier review of the States' management plans, however, the State of Victoria was not engaged in commercial trade involving kangaroos that were taken during its control operations, and hence submitted no management plan. This State has now decided to allow its kangaroos to enter international trade on a trial basis, and therefore its comments, submitted with the Australian petition, are herewith summarized.

For at least 30 years, Victoria has issued individual farmers permits to destroy kangaroos on their property when it was evident that the kangaroos were causing economic damage. Until 1980, it was the practice in this State to prohibit the removal or sale of carcasses from farms in order to discourage killing of kangaroos for any sort of commercial gain. During the 1970's, however, it became increasingly evident that changing economic conditions (high cost of labor, etc.) were making it impossible for farmers to carry out, at their own expense, the work needed to control kangaroos on their farms. In order to assist these farmers, Victoria decided in September 1980 to issue licenses on a trial basis to a small number of "Wildlife Controllers" (about 12) who are specially licensed to destroy kangaroos on behalf of farmers. So that it would not be necessary for farmers to pay for this service, which might tend to discourage its use, the "Wildlife Controllers" are allowed to remove kangaroos, up to the number permitted to be destroyed on the specific property to which they have been assigned, and to sell the skins and meat to a licensed Wildlife Processor; in mid-1982, 16 of
these Wildlife Processors were licensed in the State.

Since the provision to sell Victoria's kangaroo carcasses was introduced on a trial basis, no tagging system has been used. Both Wildlife Controllers and Wildlife Processors are required to keep standardized records of their transactions and submit quarterly returns. The results for the first year showed that less than 1,000 kangaroos were sold by all the Controllers, and it does not seem likely that any Controller could make a living from the operation. The procedure in Victoria is now under review, and if it is not shown to be serving its purpose of assisting in the control of kangaroos on farms, the State may abandon or modify the system.

According to Victoria, the changes over the past 2 years have not affected the number of kangaroos permitted to be destroyed. Permits continue to be issued only in an attempt to relieve damage on farmland, and safe culling levels are assured by restricting killing to agricultural land, while the vast majority of kangaroos are secure and protected on public lands which comprise most of their habitat in this State.

Kill Quotas

Comments have been made in the past that the Australian States set what seem to be unjustifiably high kill quotas for kangaroos. In 1982, the States set the following kill quotas: New South Wales, 550,000 red, 288,000 gray kangaroos; Queensland, 450,000 red, 900,000 eastern gray kangaroos; South Australia, 328,000 red, 84,100 western gray kangaroos; Victoria 28,500 eastern and western gray kangaroos. In addition, there have been objections raised regarding the methods used to kill kangaroos. In its petition, the Australian Government responds to these criticisms as follows:

Under State kangaroo management programs, species which require culling are taken under permit usually by professional kangaroo shooters. These shooters use rifles with telescopic sights and normally shoot the kangaroo cleanly in the head, a quick and humane method of killing. Inhumane methods of killing are not a feature of professional commercial culling where poor shooting adds to costs of taking kangaroos and further reduces returns because of waste of the damaged products.

The State wildlife authorities determine annual quotas for culling common species in their respective States. These are then forwarded to the Commonwealth Government for further consideration and national coordination. The Commonwealth Government is responsible for controlling the export of kangaroo skins and other products.

The kill quotas are not set with the idea of actually killing the number of kangaroos designated by the quota. As the State of Victoria points out, the kill quotas are not targets to be achieved. In reality, far fewer kangaroos are killed annually than the numbers specified in the kill quotas. Simply because Victoria has now set a quota of some 30,000 kangaroos, whereas the State formerly had no kill quota, does not mean that it intends to harvest 30,000 kangaroos for commercial purposes. What the quota actually means is that Victoria now has agreed to work within a limit of 30,000 kangaroos, whereas formerly it was not constrained by any such limit.

None of the Australian culling management programs aim at obtaining sustained yields from kangaroo populations, but all are concerned with reducing the impact of kangaroos on agricultural activities. The rate of annual culling rarely exceeds 10 percent of the kangaroo population. Available data indicate that a 10 percent culling level is well below the danger point for species such as the kangaroo populations where continuous breeding is possible. This point is even more cogent when it is realized that the take of kangaroos is preferentially biased towards males. Studies of the rate of increase of kangaroos and responses to culling are continuing in several States.

The development of industries based on kangaroo products is incidental to the primary aim of managing kangaroos, which is to maintain a balance between the needs of kangaroos, other species, man, and agricultural and pastoral industries. The kangaroo management programs, controlled by responsible government wildlife authorities, are designed to ensure that the killing of kangaroos is constantly monitored, and that reasonable numbers of kangaroos are present throughout their natural range.

Summary

An analysis of the specific concerns indicated by the U.S. Fish and Wildlife Service in its reasons for maintaining a Threatened listing for the red, eastern gray, and western gray kangaroos, can be reduced to the following four issues:

1. Has the lifting of the import ban by the U.S. had a detrimental effect on the status of the kangaroos?
2. Is there a likelihood of endangerment stemming from overexploitation of the three species, and a cyclical pattern of population growth and decline?
3. Is there a likelihood of endangerment by unforeseen catastrophe (such as prolonged drought, increased illegal poaching, etc.) in the absence of ability to impose ban by regulation?

4. Are the Australian regulatory and enforcement mechanisms sufficiently strong and effective to deal with any threat to prevent the likelihood of endangerment of kangaroos?

In light of the data provided by the Australian petition, the Service now feels that the above four considerations may no longer be valid justifications for threatened status for the following reasons:

1. Population monitoring programs show that the status of these kangaroos has not been affected by the lifting of the U.S. ban. Aerial surveying of kangaroo populations is now employed by all the states, and about 50 percent of the country has been surveyed. With this effective technique, it has now been demonstrated that over 18 million kangaroos occur in the surveyed areas alone, and these areas do not represent the best kangaroo habitat. Probably well over twice the number of kangaroos found in the surveyed areas occur throughout the country as a whole, which would place the total populations well over 32 million. In 1981, the Australian Government, with a much less accurate idea of the true number of kangaroos in the country, estimated a total population of 32 million. Thus, more accurate surveying has not demonstrated fewer numbers of kangaroos than were formerly believed to exist, and the lifting of the ban by the U.S. appears not to have had any detrimental effect on the status of the kangaroos.

2. The Service was mistaken in its 1981 rule in stating that kangaroo populations are cyclical in nature. Cyclical species are those that undergo regular, periodic declines and increases at specific intervals such as lemmings, snowshoe hares, and Arctic foxes. Kangaroo numbers, however, fluctuate, as do those of most other species, in good seasons and bad seasons. There is no evidence that these fluctuations are of sufficient magnitude to cause concern in relation to culling pressure. Management programs are flexible and conservative, and culling rates have been deliberately reduced when populations are depressed by drought. In addition, the kangaroos are not exploited for commercial purposes; the Australian States utilize sale of kangaroos as a management tool, and do not harvest kangaroos on a sustained yield basis. Therefore, there appears to be little or no potential for overexploitation of these kangaroos.
3. The Australian Government has assured the Service that, should some unforeseen decline in the managed kangaroo populations be detected, State wildlife authorities, backed by Commonwealth control over exports, would curtail commercial shooting before any action that the U.S. Government might contemplate would be justified. All States and Territories have established adequate monitoring programs to detect population changes long before the point of species endangerment becomes likely. In most parts of Australia commercial shooting would cease in any event before populations fall to low levels because of economic considerations.

4. The Australian Government has provided evidence that both State and Commonwealth laws are adequate to deal with any threat to kangaroos caused by man. Data demonstrate that State wildlife authorities have the power to prohibit shooting, and the Commonwealth has the authority to prohibit export and has in fact done so in the past. Should the need for a greater level of enforcement arise, the enforcement capability of all States includes not only wildlife officers appointed specifically to administer the laws but also the State police forces which maintain offices throughout rural Australia, and Commonwealth Customs officers who are available for field investigations.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 et seq.) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments set forth provisions for determining whether any species in an Endangered Species or a Threatened species due to one or more of the five factors described in Section 4(e)(1) of the Act.

These factors, and their applicability to the red, eastern gray, and western gray kangaroos, are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range.—The red kangaroo ranges practically throughout the entire interior of Australia; the eastern gray kangaroo occupies approximately the eastern third of the country, and the western gray about one fifth in the south and southwest. Altogether, more than 2,500,000 sq. miles (nearly 7,000,000 sq. km) comprise the combined ranges of the three species. Of this area, vast regions are essentially uninhabited by humans, and the kangaroos continue to exist as they have done for thousands of years, unmolested by people. Human settlement in Australia is concentrated along the eastern and southeastern coast, and in this region, people have drastically altered the environment. As a general rule, however, habitat modification has not been a threat to the kangaroos. Aerial surveys have now been conducted in parts of all the mainland Australian States. Very roughly, about 40 to 50 percent of the country has been surveyed aerially, and reliable estimates of kangaroo numbers in these surveyed areas are available. They demonstrate that over 10,000,000 red kangaroos and nearly 8,000,000 gray kangaroos (both species combined) occur in the surveyed areas. It must be remembered that vast areas of land have not been aerially surveyed so that the actual numbers of kangaroos for the country as a whole are much higher than the above figures indicate. Thus, we have a situation where literally millions of kangaroos range over a sparsely inhabited region (total population about 15,000,000 people) of more than 2,500,000 sq. miles. In addition, the Australian Government has an active program of setting aside large tracts of land for national parks and nature reserves. At present, over 118,000 sq. miles of territory is protected in this way and provides much suitable protected habitat for the three species of kangaroos under consideration.

Because the new aerial surveys demonstrate with a good degree of accuracy that kangaroo numbers are high, and that there are vast areas of habitat which have not been modified by people, as well as large areas protected as parks or reserves, the Service does not feel that present or threatened habitat destruction, modification, or curtailment is a factor affecting the survival of the kangaroos.

B. Overutilization for commercial, recreational, scientific, or educational purposes.—The kangaroo products enter heavily into commercial trade, but each State involved in this trade has recently developed a management plan which now provides, in the Service's opinion, ample protection to assure the kangaroos' survival and conservation. In addition, it should be noted that none of the States harvest kangaroos strictly for commercial gain; commercial trade is not the motive behind the control programs in which the States are involved. Since kangaroos compete directly with livestock for available food and water, they frequently come into conflict with human interests. This conflict results in antagonism on the part of ranchers and farmers who might, unless some relief is provided them, resort to illegal and dangerous control measures of their own. The Australian States utilize commercial trade as a management tool in that the funds derived from such trade support the needed kangaroo control programs. The Australian States can determine where and when kangaroos should be taken; they have the means to stop kangaroo take when evidence indicates it should be halted; and they have developed effective and uniform tagging systems to prevent illegally taken animals from entering commercial trade. The culling of excessive numbers of kangaroos as a conservation measure has been a management tool of the Australian States for many years, and the Service has no evidence now that this culling has been detrimental to any of the three species of kangaroos in question. Commercial trade is a means of providing the needed funds for carrying out the management programs. Without the culling of excessive populations, the kangaroos might be threatened through local ranchers and farmers being forced to resort to control measures of their own which in the past have included such genuinely threatening practices as poisoning of water holes. Since the primary purpose for taking kangaroos is control of excess numbers and not commercial profit, and since the Australian States have now demonstrated their ability to carefully manage and regulate take, overutilization for commercial purposes does not seem to be a factor affecting the survival of the kangaroos.

C. Disease or predation.—There is no evidence that disease or predation significantly affects the red, eastern gray, or western gray kangaroos.

D. Inadequacy of existing regulatory mechanisms.—The Service accepts the Australian Government's assurance that all Australian States employ a sufficient number of enforcement officers to police wildlife laws; the Australian Government also assures the Service that in most States, the level of enforcement has increased in recent years. In addition, wildlife laws are enforceable by State and Territory police stationed in country areas. Based upon the testimony of the Australian Government, the Service feels that while a limited amount of illegal killing undoubtedly occurs, it is probably mostly by exasperated landholders who have been unable to secure the services of professional shooters. It is not possible for kangaroos illegally taken to enter the trade because of the tight control exercised over it, and there are no other outlets for the sale of such shooting. Furthermore, licensed shooters, who are well dispersed
throughout many of the pastoral areas of Australia, have frequently informed wildlife authorities of any major incident of killing, which they see as a threat to their livelihoods.

In addition to being able to adequately police against illegal poaching, each Australian State has now developed management and conservation plans for the kangaroos that assure that commercial trade is properly regulated and controlled. Each State has introduced aerial surveys to accurately assess kangaroo numbers. This ensures that any declines will be noted long before any likelihood of endangerment. They have developed uniform tagging techniques, and have instituted regulations that assure that only legally taken animals enter the commercial trade market. Thus, the Australian management of commercial trade in kangaroos is now very comprehensive and adequate.

E. Other natural or manmade factors affecting its continued existence.—In the Service's April 29, 1981, rule removing the ban on import of kangaroo products into the United States, it listed the cyclical nature of kangaroo populations, and the possibility of unforeseen catastrophes, such as extended drought, as factors influencing the Service's decision to maintain Threatened status for the kangaroos. The Service has information now, however, which demonstrates that kangaroo populations are not cyclical, but fluctuating; just as in all animals, there are increases in populations in good seasons and declines in bad seasons. There is no indication that kangaroos undergo regular, periodic declines and increases in populations such as are found in true cyclical animals such as lemmings, snowshoe hares, or Arctic foxes. The fluctuations in kangaroo numbers are not of sufficient magnitude to cause a likelihood of endangerment when coupled with culling pressure. Management programs are flexible and conservative, and culling rates have been deliberately reduced when populations become depressed by adverse conditions. The size of the population, its wide range, and the availability of monitoring programs all indicate that unforeseen catastrophes are unlikely to endanger species' survival.

With regard to unforeseen catastrophes, such as drought, the Australian Government assures the Service that it would act to curtail commercial shooting before any action by the U.S. could be brought into effect under the U.S. Endangered Species Act.

It points out that all States have monitoring programs to detect population changes. Thus the risk of an unforeseen decline continuing unnoticed to the point of endangerment is eliminated. In most parts of Australia, shooting would cease due to economic considerations before populations fell to a low level; i.e., the price paid to shooters for each kangaroo is very small, and there must be large numbers of kangaroos available for shooters to take in order for them to make any sort of profit. Given these assurances by the Australian Government, the Service now feels that there are no natural or manmade factors which might adversely affect kangaroo populations that cannot adequately be handled by professional wildlife authorities in Australia. These factors, therefore, apparently are no longer threats to the survival of the red, eastern gray, and western gray kangaroos.

Effects of This Rule

The red, eastern gray, and western gray kangaroos were listed as Threatened species in 1974. A special regulation was published at that time pertaining to these species, which made it unlawful to import them, or their parts or products, into the United States for commercial purposes until the Australian States could assure the U.S. that they had effective management plans for the kangaroos, and that taking would not be detrimental to their survival. On April 29, 1981, the Australian States met these conditions, and a special regulation was published in the Federal Register (46 FR 23398) which made it lawful to import these species of kangaroos for commercial purposes provided they were tagged or otherwise identified as removed from the wild in accordance with the management plans of the Australian States. In addition, any listed Threatened species can be imported into the U.S. under permit for scientific purposes, enhancement of propagation or survival, educational, zoological exhibition, or special purposes consistent with the purposes of the Act. If the present proposed rule is made final, the red, eastern gray, and western gray kangaroos will be removed from any classification under the Act, and hence none of the restrictions, regulations, or prohibitions of the Act would apply to them.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia, and may be examined, by appointment, during regular business hours (7:45-4:15 p.m.). This assessment forms the basis for a decision that this will not be a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(f) of the National Environmental Policy Act of 1969 (40 CFR Parts 1500-1508).

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in carrying out the purposes of the Act. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited.

The Endangered Species Act also provides for a public hearing on this proposal. If requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing and addressed to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

The following sources have been consulted in the preparation of this rule:


Caughley, C. and C. C. Grigg. 1981. Surveys of the distribution and density of kangaroos in the pastoral zone of South Australia, and their bearing on the feasibility of aerial

Export statistics (from Australian petition).


Lists of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—AMENDED

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I Title 50 of the Code of Federal Regulations, as set forth below.

1. The authority citation for Part 17, reads as follows:


§ 17.11 [Amended]

2. It is proposed to amend § 17.11(h) by removing the entries under Mammals for the red kangaroo (Macropus rufus), the eastern gray kangaroo (M. giganteus, except subspecies M. g. tasmaniensis), and the western gray kangaroo (M. fuliginosus) from the list of endangered and threatened wildlife.

§ 17.40 [Amended]

3. It is proposed to remove and reserve for future use, § 17.40(a).


G. Ray Arnett,
Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–9169 Filed 4–7–83; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Continue Importation of Kangaroos and Kangaroo Products Into the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: On April 29, 1981, the U.S. Fish and Wildlife Service published a final rule in the Federal Register (46 FR 23929) that permitted the commercial importation of red, eastern gray, and western gray kangaroos, and products made from these kangaroos, into the United States for at least a 2-year period from the effective date of the final rule (May 29, 1981) prior to that action, these three kangaroos, which are listed as Threatened species pursuant to the Endangered Species Act of 1973 (hereinafter "the Act"), were not allowed to be commercially imported into the United States. In the preamble to the final rule, it was stated that at the close of the 2-year period the Service would again review the commercial importation situation. This proposal notifies the public that the Service has received substantial data, through a petition from the Australian Government dated November 10, 1982, that continued commercial importation of the kangaroos is warranted. The same petition also requested, in the alternative, that these kangaroos be delisted entirely and removed from protection under the Endangered Species Act. The Fish and Wildlife Service is proposing such a rule to delist the kangaroos simultaneously with this proposal regarding the continuation of commercial importation. The continued importation of red, eastern gray, and western gray kangaroos (and their parts and products) into the United States would only be the subject of a final administrative decision if final action has not first been taken on the alternative proposal (published elsewhere in this issue) to delist these kangaroos or if that proposal is rejected.

DATES: Comments from the public must be received by May 9, 1983.

ADDRESSES: Comments and materials concerning this proposal, preferably in triplicate, should be sent to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service’s Office of Endangered Species, 1000, North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia (703/235–2771).

SUPPLEMENTARY INFORMATION: The red, eastern gray, and western gray kangaroos (Macropus rufus, M. giganteus, and M. fuliginosus) were listed as Threatened species, pursuant to the Endangered Species Act of 1973, on December 30, 1974 (39 FR 44990) (except the Tasmanian forester, M. g. tasmaniensis, which was listed as Endangered in 1973 and will remain unaffected by the present proposal). By special regulation, commercial importation of these kangaroos was prohibited at that time until the Australian States could demonstrate that they had developed effective management plans, and that the take of the kangaroo would not be detrimental to their survival.

On April 29, 1981, the U.S. Fish and Wildlife Service published a final rule in the Federal Register (46 FR 23929) which found that the Australian States had met the above requirements, and that kangaroos could be imported into the U.S. beginning on May 29, 1981. The preamble to the rule stated that, at the end of the 2-year period following that date, the Service would review the commercial importation of kangaroos.

On November 10, 1982, the Australian Government petitioned the Service to 1) continue commercial importation of kangaroos beyond the 2-year period, and in the alternative, 2) to entirely remove these kangaroos from classification under the Act. The Australian Government submitted substantial information to support the petition and the Service is hereby publishing a proposal to continue the rule, in response to the first part of the petition, allowing a continuation of commercial importation.

Simultaneously, in this same proposed rules section of this issue of the Federal Register, the Service is publishing a proposed rule to remove the kangaroos from the Threatened classification of the Act. In such proposed rule, the Service presents in detail the evidence submitted by the Australian Government in support of the petitioned
action concerning delisting the kangaroos. This evidence is also the basis for the petitioned action to continue to allow commercial importation into the United States. Since the delisting proposal is being published simultaneously with this document the Service will merely summarize the essential data, and refer interested persons to the more detailed analysis presented in the delisting proposal. These data may be summarized as follows:

1. All of the Australian States have developed effective conservation programs for the kangaroos that include the authority to halt kangaroo take if necessary for conservation purposes.

2. Each State now uses aerial surveys to estimate and monitor kangaroo numbers; these surveys (covering roughly 50 percent of Australia) demonstrate that kangaroos number in the tens of millions.

3. Australia is a country nearly the size of the U.S., yet has a population of only some 15,000,000 people, mainly settled along the eastern and southern coast; thus, vast areas of the country contain virtually undisturbed habitat for the kangaroos.

4. The Australian Government has a continuing policy of setting up large tracts of land for national parks and reserves. At present over 118,000 square miles of territory is protected in these parks and preserves, and these protected areas provide much suitable, unmolested habitat for the kangaroos.

5. The Australian States do not manage kangaroos as a renewable resource and do not seek a sustained yield harvest of the species. Rather, the take of kangaroos is directly related to relieving population pressures in certain area in which kangaroos and human interests conflict. By taking this action, the Australian States reduce the probability that ranches and farmers will resort to illegal killing of the kangaroos.

6. The U.S. removal of the ban on kangaroo imports has had no adverse effects on kangaroo populations. In fact, the number of kangaroo products (skins, pickled hides, and meat) exported to the U.S. has been a relatively insignificant percentage of the number of such products exported worldwide. In the 1981-82 season, the U.S. market consumed less than 4 percent of the furskins exported; less than 5 percent of the pickled hides; and very little meat for animal or human consumption.

Even if the Australian States were managing their kangaroos as a commercial resource, the U.S. import of kangaroo products has been so small that it would have had minimal effect on the take of kangaroos.

7. In brief, there is no evidence at this time that these species of kangaroos are worse off than they were on April 29, 1981, or that lifting of import prohibition has worsened their lot. There is evidence that their protections have, on the contrary, improved.

For the above reasons (which are discussed in greater detail in the proposal to delist these kangaroos published simultaneously with the present proposal), the Service proposes to continue to permit the commercial importation of kangaroos and kangaroo products into the U.S. beyond May 29, 1983. To the extent that a final administrative decision to delist the kangaroos entirely would render moot the issue of commercial importations, the Service may do one of three things in light of public comments received on both proposals. First, if a final rule delisting the kangaroos is ultimately adopted prior to final disposition of this rulemaking, the present proposal regarding commercial importation would be rendered moot and withdrawn. In the alternative, if such a final delisting regulation is not adopted the Service will then proceed with this administrative action on the commercial importation. In light of public comments received, the Service will either allow a continuation of commercial importation, further restrict it, or prohibit it altogether.

Thus, although the delisting proposal is the more significant of the two proposals, the present proposal on commercial importation is being submitted for public comment in order to give the Service the greatest possible administrative latitude regarding kangaroo import.

National Environmental Policy Act
An environmental assessment has been prepared in conjunction with this proposal. This assessment addresses all of the points relevant to continuation of importation, and is on file in the Service's Office of Endangered Species, 1000 North Cleve Road, Arlington, Virginia; it may be examined, by appointment, during regular business hours (7:45 a.m. to 4:15 p.m.). This assessment leads tentatively to a decision that this will not be a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR parts 1500-1508).

Public Comments Solicited
The Service intends that the decision finally adopted will be as accurate and effective as possible in carrying out the purposes of the Act. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposal is hereby solicited.

Statement of Effects and Certification of Effects on Small Entities
The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). It will continue to permit activities now engaged in, and thus will have no effect on small entities nor on the economy in general.

Information Collection Requirements
This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. et seq.

Author

References
The sources used in preparing the proposal are the same as those used to prepare the proposed rule to delist the kangaroos that is being published simultaneously with this document. Interested persons should consult that document for a list of these references.

List of Subjects in 50 CFR Part 17
Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposal To Continue Rule
PART 17—[AMENDED]
Accordingly, it is hereby proposed to continue importation of kangaroos under 50 CFR 17.40(a)(1)(i)(B) as set forth below.

1. The authority citation for Part 17, reads as follows:

2. It is hereby proposed to continue allowing commercial importation of eastern gray, red, and western gray kangaroos under rules contained in 50 CFR 17.40(a)(1)(i)(B) which reads as follows:

§ 17.40 Special rules—mammals.
   (a) * * *
   (1) * * *
   (i) * * *
   (B) Eastern gray, red, and western gray kangaroos—including parts and products of such wildlife—which have been tagged or otherwise identified as removed from the wild in accordance with the management plans of Australian States may continue to be imported into the United States without permits for individual shipments otherwise required by 50 CFR Part 17. Continued importation into the United States must comply with the requirements of 50 CFR Part 14. Service forms 3–177, Declaration for Importation or Exportation of Fish and Wildlife, filed with the U.S. Customs Service upon import shall satisfy the reporting requirements of 50 CFR Part 14, Subpart C.

G. Ray Arnett,
Assistant Secretary for Fish and Wildlife and Parks.

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