

programs relating to vicuña conservation, in particular those laws and regulations related to harvest and use of the vicuña, and export of vicuña parts and products;

(E) A description of any changes in the number or size of natural reserves or national parks that provide protected habitat for the vicuña;

(E) A summary of law enforcement activities undertaken in the last year, and a description of any changes in programs to prevent poaching, smuggling, and illegal commercialization of the vicuña;

(F) A description of the current management and harvest (or “sustainable use”) programs for wild populations of the vicuña, including: any changes in the location and population size of wild populations being managed for sustainable use; any changes in the harvest management practices being used for each population; any changes in current harvest quotas for wild populations, if any; any changes in protocols for translocations undertaken as part of the use program; a summary of the specific financial costs of and revenues generated by the sustainable use program over the last year; and a summary of documented conservation benefits resulting from the sustainable use program over the last year;

(G) A description of current management and harvest (or “sustainable use”) programs for captive and so-called “semi-captive” populations of the vicuña, including: any changes in the number and location of all captive and “semi-captive” populations; any changes in the size (ha) of each captive enclosure and the number of vicuña maintained therein; any changes in protocols for translocations undertaken as part of the use program; a summary of the financial costs of and revenues generated by the sustainable use program over the last year; and documented conservation benefits resulting from the sustainable use program over the last year (information on captive and “semi-captive” populations must be separate from that provided for wild populations); and

(H) Export data for the last year.

(ii) The Service’s Division of Scientific Authority will conduct a review every 2 years, using information in the

annual reports, to determine whether range country management programs are effectively achieving conservation benefits for the vicuña. Failure to submit an annual report could result in a restriction on trade in specimens of vicuña as addressed in paragraph (m)(3) of this section. Based on information contained in the annual reports and any other pertinent information it has available, the Service may restrict trade from a range country, as addressed in paragraph (m)(3) of this section, if it determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised. Trade restrictions may result from one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species’ recovery.

[40 FR 44415, Sept. 26, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §17.40, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTES: 1. At 66 FR 28130, May 22, 2001, §17.40 was amended by adding paragraph (l), effective May 22, 2001 through May 22, 2004.

2. At 67 FR 61536, Oct. 1, 2002, §17.40 was amended by adding paragraphs (l)(2)(vi) and (vii), effective May 22, 2001 through May 22, 2004.

§ 17.41 Special rules—birds.

(a) Bald eagles (*Haliaeetus leucocephalus*) wherever listed as threatened under §17.11(h).

(1) *Applicable provisions.* All prohibitions and measures of §§17.31 and 17.32 shall apply to any threatened bald eagle, *except* that any permit issued

under §21.22 or part 22 of this chapter shall be deemed to satisfy all requirements of §§17.31 and 17.32 for that authorized activity, and a second permit shall not be required under §17.32. A permit is required under §17.32 for any activity not covered by any permit issued under §21.22 or part 22 of this chapter.

(2) [Reserved]

(b) Coastal California gnatcatcher (*Polioptila californica californica*). (1) Except as noted in paragraphs (b)(2) and (3) of this section, all prohibitions of §17.31(a) and (b) shall apply to the coastal California gnatcatcher.

(2) Incidental take of the coastal California gnatcatcher will not be considered a violation of section 9 of the Endangered Species Act of 1973, as amended (Act), if it results from activities conducted pursuant to the State of California's Natural Community Conservation Planning Act of 1991 (NCCP), and in accordance with a NCCP plan for the protection of coastal sage scrub habitat, prepared consistent with the State's NCCP Conservation and Process Guidelines, *provided that*:

(i) The NCCP plan has been prepared, approved, and implemented pursuant to California Fish and Game Code sections 2800–2840; and

(ii) The Fish and Wildlife Service (Service) has issued written concurrence that the NCCP plan meets the standards set forth in 50 CFR 17.32(b)(2). The Service shall issue its concurrence pursuant to the provisions of the Memorandum of Understanding (MOU), dated December 4, 1991, between the California Department of Fish and Game and the Service regarding coastal sage scrub natural community conservation planning in southern California. (Copies of the State's NCCP Conservation and Process Guidelines and the MOU are available from the U.S. Fish and Wildlife Service, Carlsbad Field Office, 2730 Loker Avenue West, Carlsbad, CA 92008.) The Service shall monitor the implementation of the NCCP plan and may revoke its concurrence under this paragraph (b)(2)(ii) if the NCCP plan, as implemented, fails to adhere to the standards set forth in 50 CFR 17.32(b)(2).

(3) During the period that a NCCP plan referred to in paragraph (b)(2) of

this section is being prepared, incidental take of the coastal California gnatcatcher will not be a violation of section 9 of the Act if such take occurs within an area under the jurisdiction of a local government agency that is enrolled and actively engaged in the preparation of such a plan and such take results from activities conducted in accordance with the NCCP Conservation Guidelines and Process Guidelines.

(4) The Service will monitor the implementation of the NCCP Conservation and Process Guidelines as a whole, and will conduct a review every 6 months to determine whether the guidelines, as implemented, are effective in progressing toward or meeting regional and subregional conservation objectives during the interim planning period. If the Service determines that the guidelines are not effecting adequate progress toward or meeting regional and subregional conservation objectives, the Service will consult with the California Department of Fish and Game pursuant to the MOU to seek appropriate modification of the guidelines or their application as defined therein. If appropriate modification of the guidelines or their application as defined therein does not occur, the Service may revoke the interim take provisions of this special rule on a subregional or subarea basis. The Service will publish the findings for revocation in the FEDERAL REGISTER and provide for a 30-day public comment period prior to the effective date for revoking the provisions of the special rule in a particular area. Revocation would result in the reinstatement of the take prohibitions set forth under 50 CFR 17.31(a) and (b) in the affected NCCP area.

[43 FR 6233, Feb. 14, 1978, as amended at 58 FR 65095, Dec. 10, 1993; 60 FR 36010, July 12, 1995]

§ 17.42 Special rules—reptiles.

(a) American alligator (*Alligator mississippiensis*)—(1) *Definitions*. For purpose of this paragraph (a): “American alligator” shall mean any member of the species *Alligator mississippiensis*, whether alive or dead, and any part, product, egg, or offspring thereof found in captivity or the wild.