

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.

(2) *Taking*. No person may take any American alligator, except:

(i) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an American alligator.

(ii) Any person may take an American alligator in the wild, or one which was born in captivity or lawfully placed in captivity, and may deliver, receive, carry, transport, ship, sell, offer to sell, purchase, or offer to purchase such alligator in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity in accordance with the laws and regulations of the State of taking subject to the following conditions:

(A) Any hide of such alligator may be sold or otherwise transferred only in compliance with paragraph (a)(2)(ii)(C) of this section;

(B) Any hide, meat or other part may be sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(C) The State of taking requires hides to be tagged by State officials, or under State supervision, with a Service approved tag, a sample of which must be on file in the Federal Wildlife Permit Office (FWPO), that:

(1) Is made of permanent material,

(2) Shows State of origin, year of take, species, and is serially unique, and

(3) Cannot be opened and reused once attached to the hide.

(iii) *Import/Export*. Any person may import or export hides, manufactured products, meat or other parts in accordance with part 23 of this chapter.

(iv) *Recordkeeping*

(A) Any person not holding an import/export license issued by the Service under §14.91 and who imports, exports, or obtains permits under part 23 for the import or export of American alligator shall keep such records as are otherwise required to be maintained by all import/export licensees under §14.93(d). Such records shall be maintained as in the normal course of busi-

ness, reproducible in the English language, and retained available for Service inspection for 5 years from the date of each transaction.

(B) Subject to applicable limitations of law, duly authorized Service officers at all reasonable time shall, upon notice, be afforded access to examine such records required to be kept under paragraph (a)(2)(iv)(A)(1) of this section, and an opportunity to copy such records.

(b) Green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*), olive ridley sea turtle (*Lepidochelys olivacea*) (these do not include the populations listed as endangered in §17.11).

(1) *Prohibitions*. Subject to the permits allowable under the following paragraph (b)(2) of this section, all of the provisions set forth in §17.31 (which incorporate portions of §17.21) shall apply to this wildlife with the following exceptions:

(i) Section 17.21(c)(2) (self-defense) is not applicable.

(ii) In §17.21(c)(3)(i), the word “orphaned” is replaced by the word “stranded.”

(iii) Delete §17.21(c)(3)(iv) (Wildlife threatening human safety).

(iv) [Reserved]

(v) The prohibition against taking shall not apply to incidental catches, as specified in 50 CFR 227.72(e).

(vi) The prohibition against taking within the United States or the territorial sea of the United States shall not apply to subsistence taking, as specified in 50 CFR 227.72(f).

(2) *Permits*. (i) For those activities which come under the jurisdiction of the Service, only permits for scientific purposes, enhancement of propagation or survival, zoological exhibition or educational purposes, are available under §17.32. Procedures for issuance of permits are found in §17.32 and, for those activities which come under the jurisdiction of the National Marine Fisheries Service, subpart E of part 220. All the provisions of §17.32 apply to permits issued by the Service.

(c) *Threatened crocodilians*. This paragraph applies to the following species: Saltwater crocodile (*Crocodylus porosus*) originating in Australia (also referred to as Australian saltwater crocodile) and Nile crocodile

(*Crocodylus niloticus*) populations listed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention).

(1) *Definitions of terms for purposes of this paragraph (c)*—(i) *Crocodilian skins* means whole or partial skins, flanks, and bellies (whether salted, crusted, tanned, partially tanned, or otherwise processed).

(ii) *Crocodilian parts* means meat and body parts with or without skin attached (including tails, throats, feet, and backstrips and other parts), except skulls.

(iii) *Country of re-export* means those intermediary countries that import and re-export crocodilian skins, parts, and/or products, except that those countries through which crocodilian skins, parts, and/or products are transhipped while remaining under Customs control will not be considered to be a country of re-export.

(iv) *Tagging resolution* shall mean the CITES resolution entitled “Universal Tagging System for the Identification of Crocodilian Skins” and numbered Conf. 9.22 and any subsequent revisions.

(2) *Prohibitions.* All provisions of §17.31 (a) and (b) and §17.32 apply to Nile crocodile populations listed in Appendix I of CITES. The following prohibitions apply to saltwater crocodiles (*Crocodylus porosus*) originating in Australia and to all Nile crocodile (*Crocodylus niloticus*) populations in Appendix II of CITES:

(i) *Import, export, and re-export.* Except as provided in paragraph (c)(3) of this section, it is unlawful to import, export, re-export, or present for export or re-export any Nile crocodile (*Crocodylus niloticus*) or Australian saltwater crocodile (*Crocodylus porosus*) or their skins, other parts or products, without valid permits required under 50 CFR parts 17 and 23.

(ii) *Commercial activity.* Except as provided in paragraph (c)(3) of this section, it is unlawful, in the course of a commercial activity, to sell or offer for sale, deliver, receive, carry, transport, or ship in interstate or foreign commerce any Nile or saltwater crocodile, crocodilian skins, or other parts or products.

(iii) It is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, solicit to commit, or cause to be committed any acts described in paragraphs (c)(2)(i)–(iii) of this section.

(3) *Exceptions.* The import, export, or re-export of, or interstate or foreign commerce in live crocodiles, crocodilian skins, meat, skulls, and other parts or products may be allowed without a threatened species permit issued pursuant to 50 CFR 17.32 when the provisions in 50 CFR parts 13, 14, and 23, and the applicable paragraphs set out below have been met.

(i) *Import, export, or re-export of crocodilian skins and parts.* The import, export, or re-export into/from the United States of crocodilian skins and parts of Nile crocodiles listed in Appendix II of the Convention, and of saltwater crocodiles originating in Australia must meet the following conditions:

(A) All crocodilian parts must be in a transparent, sealed container, and each container imported into or presented for export or re-export from the United States after July 24, 1997,

(1) Must have a parts tag attached in such a way that opening of the container will preclude reuse of an undamaged tag,

(2) This parts tag must contain a description of the contents and total weight of the container, and

(3) This parts tag must reference the number of the CITES permit issued to allow the export or re-export of the container;

(B) Each crocodilian skin and each belly skin piece wider than 35 cm. imported into or presented for export or re-export from the United States after July 24, 1996, must bear: *either* an intact, uncut tag from the country of origin meeting all the requirements of the CITES tagging resolution, *or* an intact, uncut tag from the country of re-export where the original tags have been lost or removed from raw, tanned, and/or finished skins. The replacement tags must meet all the requirements of the CITES tagging resolution, except showing the country of re-export in place of the country of origin, provided those re-exporting countries have implemented an administrative system for the effective matching of imports and

re-exports consistent with the tagging resolution. Clearance of any shipment with more than 25 percent replacement tags requires prior consultation with the U.S. Office of Management Authority by the re-exporting country to determine whether the requirements of the tagging resolution have been observed;

(C) The same information that is on the tags must be given on the export permit for all skins or re-export certificate for whole skins and belly skin pieces wider than 35 cm or on a separate sheet, which will be considered an integral part of the document, carry the same permit or certificate number, and be validated by the government authority designated by the CITES-document issuing authority;

(D) The Convention permit or certificate must contain the following information:

(1) The country of origin, its export permit number, and date of issuance;

(2) If re-export, the country of re-export, its certificate number, and date of issuance; and

(3) If applicable, the country of last re-export, its certificate number, and date of issuance;

(E) The country of origin and any intermediary country(s) must be effectively implementing the tagging resolution for this exception to apply. If the Service receives substantial evidence from the CITES Secretariat or other reliable sources that the tagging resolution is not being effectively implemented by a specific country, the Service will prohibit or restrict imports from such country(s) as appropriate for the conservation of the species.

(F) At the time of import, for each shipment covered by this exception, the country of origin and each country of re-export involved in the trade of a particular shipment is not subject to a Schedule III Notice of Information pertaining to all wildlife or any members of the Order Crocodylia that may prohibit or restrict imports. A listing of all countries that are subject to such a Schedule III Notice of Information will be available by writing: The Office of Management Authority, ARLSQ Room 430, 4401 N. Fairfax Drive, U.S. Fish and

Wildlife Service, Arlington, Virginia, 22203.

(ii) *Import, export or re-export of crocodilian products.* Import, export, or re-export into or from the United States of crocodilian products of Nile crocodiles listed in Appendix II of the Convention, and saltwater crocodiles originating in Australia will be allowed without permits required by 50 CFR part 17 provided the following conditions are met:

(A) The Convention permit or certificate must contain the following information:

(1) The country of origin, its export permit number, and date of issuance;

(2) If re-export, the country of re-export, its certificate number, and date of issuance; and

(3) If applicable, the country of previous re-export, its certificate number, and date of issuance;

(B) The country of origin and any intermediary country(s) must be effectively implementing the tagging resolution for this exception to apply. If the Service receives substantial evidence from the CITES Secretariat or other reliable sources that the tagging resolution is not being effectively implemented by a specific country, the Service will prohibit or restrict imports from such countries as appropriate for the conservation of the species.

(C) At the time of import, for each shipment covered by this exception, the country of origin and each country of re-export involved in the trade of a particular shipment is not subject to a Schedule III Notice of Information pertaining to all wildlife or any member of the Order Crocodylia that may prohibit or restrict imports. A listing of all countries that are subject to such a Schedule III Notice of Information will be available by writing: The Office of Management Authority, ARLSQ Room 430, 4401 N. Fairfax Drive, U.S. Fish and Wildlife Service, Arlington, Virginia, 22203.

(iii) *Shipments of eggs, skulls, meat, scientific specimens and live specimens.* The import/re-export into/from the United States of eggs, skulls, meat, scientific specimens and live specimens of Nile crocodile populations listed in Appendix II of CITES or Australian saltwater

crocodile will be allowed without permits otherwise required by 50 CFR part 17, provided the requirements of part 23 are met.

(iv) *Noncommercial accompanying baggage.* The conditions of paragraphs (c)(3)(i) and (ii) for skins tagged in accordance with the tagging resolution, skulls, meat, other parts, and products made of specimens of Nile crocodile populations on CITES Appendix II or of Australian saltwater crocodile do not apply to noncommercial accompanying personal baggage or household effects.

(v) *Personal sport-hunted trophies.* The import of personal sport-hunted trophies, including skulls, of Nile crocodile or saltwater crocodile from Appendix II populations will be allowed from country of origin and intermediary countries into the United States without permits required by 50 CFR part 17, provided that unmounted skins bear an intact, uncut tag from the country of origin or such a tag accompanies mounted specimens in accordance with the tagging resolution.

(4) *Notice of Information.* Except in rare cases involving extenuating circumstances that do not adversely affect the conservation of the species, the Service will issue a Schedule III Notice of Information banning or restricting trade in specimens of crocodylians addressed in this paragraph (c) if any of the following criteria are met:

(i) The country is listed in a Notification to the Parties by the CITES Secretariat as lacking designated Management and Scientific Authorities that issue CITES documents or their equivalent.

(ii) The country is identified in any action adopted by the Parties to the Convention, the Convention's Standing Committee, or in a Notification issued by the CITES Secretariat, whereby Parties are asked to not accept shipments of specimens of CITES-listed Species from the country in question.

(iii) The Service determines, based on information from the CITES Secretariat or other reliable sources that the country is not effectively implementing the tagging resolution.

(d) Blue-tailed mole skink (*Eumeces egregius lividus*) and sand skink (*Neoseps reynoldsi*). (1) No person shall take

these species, except in accordance with applicable State fish and wildlife conservation laws and regulations for educational purposes, scientific purposes, the enhancement or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to taking of these species is also a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatever, any such species taken in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraph (c) (1) through (3) of this section.

(5) Taking of these species for purposes other than those described in paragraph (c)(1) of this section, including taking incidental to carrying out otherwise lawful activities, is prohibited except when permitted under §§ 17.23 and 17.32.

(e) Desert tortoise (*Gopherus agassizii*)—(1) *Definition.* For the purposes of this paragraph (e) “desert tortoise” shall mean any member of the species *Gopherus agassizii*, whether alive or dead, and any part, product, egg, or offspring thereof, found outside of Arizona (south and east of the Colorado River) and Mexico, regardless of natal origin or place of removal from the wild.

(2) *Applicable provisions.* The provisions of § 17.31–17.32 shall apply to any desert tortoise subject to this paragraph (e).

(f) Bog turtle (*Clemmys muhlenbergii*), southern population—(1) *Definitions of terms.* For the purposes of this paragraph (f): *Bog turtle* of the southern population means any member of the species *Clemmys muhlenbergii*, within Georgia, North Carolina, South Carolina, Tennessee and Virginia, regardless of whether in the wild or captivity, and also applies to the progeny of any such turtle.

(2) *Prohibitions.* Except as provided in paragraph (f)(3) of this section, the provisions of Sec. 17.31 (a) and (b) of this part applies to bog turtles of the southern population (see also 50 CFR part 23).

(3) *Take.* Incidental take, that is, take that results from, but is not the purpose of, carrying out an otherwise lawful activity, does not apply to bog turtles of the southern population.

(g) *Threatened caiman.* This paragraph applies to the following species: Yacare caiman (*Caiman yacare*), the common caiman (*Caiman crocodilus crocodilus*), and the brown caiman (*Caiman crocodilus fuscus* including *Caiman crocodilus chiapasius*). These taxa will be collectively referred to as "caiman."

(1) *What are the definitions of terms used in this paragraph (g)?* (i) *Caiman skins* means whole or partial skins, flanks, chalcos, and bellies (whether these are salted, crusted, tanned, partially tanned, or otherwise processed).

(ii) *Caiman parts* means body parts with or without skin attached (including tails, throats, feet, and other parts, but excluding meat and skulls) and small cut skins pieces.

(iii) *Caiman product* means any processed or manufactured product items (including curios and souvenirs) that are ready for retail sale, and composed, totally or in part, of yacare caiman, brown caiman, or common caiman.

(iv) *Country of re-export* means those intermediary countries that import and re-export caiman skins, parts, and/or products. However, we will not consider intermediary countries those through which caiman skins, parts, and/or products are shipped while remaining under Customs control.

(v) *Universal Tagging System Resolution* means the CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) resolution entitled "Universal Tagging System for the Identification of Crocodilian Skins" and numbered Conf. 9.22, and any subsequent revisions.

(2) *What activities involving yacare caiman (Caiman yacare), the common caiman (Caiman crocodilus crocodilus), and the brown caiman (Caiman crocodilus fuscus) are prohibited by this rule?* (i) *Import, export, and re-export.* Except for

the activities described in paragraph (g)(3) of this section, it is unlawful to import, export, re-export, or present for export or re-export without valid permits (as required under 50 CFR parts 17 and 23) any caiman or their skins, other parts or products.

(ii) *Commercial activity.* Except as described in paragraph (g)(3) of this section, it is unlawful to sell or offer for sale, deliver, receive, carry, transport, or ship in interstate or foreign commerce any caiman or their skins, other parts, or products.

(iii) It is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, solicit to commit, or cause to be committed any acts described in paragraphs (g)(2)(i) and (ii) of this section.

(3) *What activities involving yacare caiman (Caiman yacare), the common caiman (Caiman crocodilus crocodilus), and the brown caiman (Caiman crocodilus fuscus) are allowed by this rule?* The import/export/re-export of, or the interstate/foreign commerce in caiman skins, other parts, or products may be allowed without a threatened species permit (issued according to 50 CFR 17.32) only when the provisions in 50 CFR parts 13, 14, and 23, and the requirements of the applicable paragraphs below have been met.

(1) *Import, export, or re-export.* The import, export, or re-export into/from the United States of caiman skins, parts, or products may be allowed provided the following conditions are met:

(A) Each caiman skin imported into or exported or re-exported from the United States after the effective date of the final rule must bear *either*:

(1) An intact, uncut tag from the country of origin meeting all the requirements of the CITES Universal Tagging System Resolution, *or*

(2) An intact, uncut replacement tag from the country of re-export where the original tags were lost or removed from raw, tanned, and/or processed skins. These replacement tags must meet all the requirements of the CITES Universal Tagging System Resolution, except showing the country of re-export instead of the country of origin, provided those re-exporting countries have implemented an administrative system for the effective matching of

imports and re-exports consistent with the CITES Universal Tagging System Resolution. If a shipment contains more than 25 percent replacement tags, the Management Authority of the re-exporting country must consult with the U.S. Office of Management Authority before clearance of the shipment. Such shipments may be seized if we determine that the requirements of the CITES Universal Tagging System Resolution have not been met.

(B) In accordance with the CITES Universal Tagging System Resolution, all caiman parts must be placed in a transparent, sealed container. Each container imported, exported, or re-exported into/from the United States after the effective date of the rule:

(1) Must have a parts tag attached in such a way that opening of the container will prevent later reuse of such tag; and

(2) The parts tag must contain a description of the contents plus total weight of the container and its contents.

(C) The information on the export permit or re-export certificate must be the same as that on the skin and part tags, carry the same permit or certificate number, and be validated by the government authority designated as the CITES document-issuing authority.

(D) The CITES permit or certificate accompanying shipments of caiman skins, parts, or products must contain the following information:

(1) The country of origin, its export permit number, and date of issuance;

(2) If re-export, the country of re-export, its certificate number, and date of issuance; and

(3) If applicable, the country of previous re-export, its certificate number, and date of issuance.

(E) The country of origin and any intermediary country(s) must be effectively implementing the CITES Universal Tagging System Resolution. If we receive persuasive information from the CITES Secretariat or other reliable sources that a specific country is not effectively implementing the CITES Universal Tagging System Resolution, we will prohibit or restrict imports from such country(s) as appropriate for the conservation of the species.

(F) At the time of import, for each shipment covered by this exception, the country of origin and each country of re-export involved in the trade of a particular shipment must not be subject to a Schedule III Notice of Information (see paragraph (g)(4) of this section) prohibiting or restricting imports of all wildlife or any members of the Order Crocodylia. A listing of all countries subject to such a Schedule III Notice of Information is available by writing to: Office of Management Authority, U.S. Fish and Wildlife Service, Mail Stop ARLSQ-700, Washington, DC 20240, or via e-mail at r9oma@fws.gov.

(ii) *Shipment of skulls, processed meat, and scientific specimens.* The import, export, and re-export into/from the United States of skulls, processed meat, and scientific specimens of caiman is allowed without permits otherwise required by 50 CFR part 17, provided the requirements of part 23 are met.

(iii) *Noncommercial accompanying baggage.* The conditions described in paragraphs (g)(3)(i) and (ii) for skins, skulls, meat, other parts, and products made of specimens of caiman do not apply to non-commercial personal effects in accompanying baggage or household effects.

(iv) *Eggs and live specimens.* This special rule does not apply to live specimens or eggs of caiman. Import of such specimens requires an import permit as described in 50 CFR 17.32.

(4) *When and how will we inform you of additional restrictions in trade of yacare caiman (Caiman yacare), the common caiman (Caiman crocodilus crocodilus), and the brown caiman (Caiman crocodilus fuscus)?* Except in rare cases involving extenuating circumstances that do not adversely affect the conservation of the species, the Service will issue a Notice of Information announcing additional CITES restrictions in trade in specimens of caiman dealt with in this paragraph (g) if any of the following criteria are met:

(i) The country is listed in a Notification to the Parties by the CITES Secretariat as not having designated Management and Scientific Authorities that issue CITES documents or their equivalent.

(ii) The country is identified in any action adopted by the Conference of the Parties to the Convention, the Convention's Standing Committee, or in a Notification issued by the CITES Secretariat, whereby Parties are asked not to accept shipments of specimens of any CITES-listed species from the country in question or of any crocodilian species listed in the CITES appendices.

(iii) We determine, based on information from the CITES Secretariat or other reliable sources, that the country is not effectively implementing the CITES Universal Tagging System Resolution.

(5) *What are the approved information collection requirements in this rule?* The Office of Management and Budget approved the information collection requirements contained in this special rule under the Paperwork Reduction Act and assigned clearance number 1018-0093 as part of the permit requirements contained in Part 23 of Title 50. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. The collection of information under this rule is done to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit. We estimate the public reporting burden for these reporting requirements to vary from 20 minutes to 2 hours per response, with an average of 1 hour per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms.

[42 FR 2076, Jan. 10, 1977, as amended at 43 FR 32809, July 28, 1978; 44 FR 59084, Oct. 12, 1979; 45 FR 17589, Mar. 19, 1980; 45 FR 78154, Nov. 25, 1980; 48 FR 46336, Oct. 12, 1983; 50 FR 25678, June 20, 1985; 50 FR 45409, Oct. 31, 1985; 52 FR 21063, June 4, 1987; 52 FR 42662, Nov. 6, 1987; 55 FR 12191, Apr. 2, 1990; 61 FR 32366, June 24, 1996; 62 FR 59622, Nov. 4, 1997; 65 FR 25879, May 4, 2000]

§ 17.43 Special rules—amphibians.

(a) San Marcos salamander (*Eurycea nana*). (1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

(b) Chiricahua leopard frog (*Rana chiricahuensis*).

(1) *What activities are prohibited?* Except as noted in paragraph (b)(2) of this section, all prohibitions of § 17.31 will apply to the Chiricahua leopard frog.

(2) *What activities are allowed on private, State, or Tribal land?* Incidental take of the Chiricahua leopard frog will not be considered a violation of section 9 of the Act, if the take results from livestock use at or maintenance activities of livestock tanks located on private, State, or Tribal lands. A livestock tank is defined as an existing or future impoundment in an ephemeral drainage or upland site constructed primarily as a watering site for livestock.

[40 FR 44415, Sept. 26, 1975, as amended at 45 FR 47363, July 14, 1980; 67 FR 40811, June 13, 2002]

§ 17.44 Special rules—fishes.

(a) Lahontan cutthroat trout, Paiute cutthroat trout, and Arizona trout (*Salmo clarki henshawi*, *Salmo clarki seleniris*, and *Salmo apache*). (1) All the provisions of § 17.31 apply to these species, except that they may be taken in accordance with applicable State law.

(2) Violation of State law will also be a violation of the Act.

(b) Bayou darter (*Etheostoma rubrum*). (1) All the provisions of § 17.31 apply to this species, except that they may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

(c) Slender chub (*Hybopsis cahnii*), spotfin chub (*Hybopsis monacha*), slackwater darter (*Etheostoma boschungii*), and yellowfin madtom (*Noturus flavipinnis*).

(1) All the provisions of § 17.31 apply to these species, except that they may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.