

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

(I) 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.

(n)–(o) [Reserved]

(p) Northern sea otter (*Enhydra lutris kenyoni*).

(1) *To what population of sea otter does this special rule apply?* The regulations in paragraph (p) of this section apply to the southwest Alaska distinct population segment (DPS) of the northern sea otter as set forth at §17.11(h) of this part.

(2) *What provisions apply to this DPS?* Except as noted in paragraph (p)(3) of this section, all prohibitions and provisions of §§17.31 and 17.32 of this part apply to the southwest Alaska DPS of the northern sea otter.

(3) *What additional activities are allowed for this DPS?* In addition to the activities authorized under paragraph (p)(2) of this section, you may conduct any activity authorized or exempted under the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) with a part or product of a southwest Alaska DPS northern sea otter, provided that:

(i) The product qualifies as an authentic native article of handicrafts or clothing as defined in §17.3 of this part; and

(A) It was created by an Indian, Aleut, or Eskimo who is an Alaskan Native, and

(B) It is not being exported or imported for commercial purposes; or

(ii) The part or product is owned by an Indian, Aleut, or Eskimo who is an Alaskan Native and resides in Alaska, or by a Native inhabitant of Russia, Canada, or Greenland, and is part of a cultural exchange; or

(iii) The product is owned by a Native inhabitant of Russia, Canada, or Greenland, and is in conjunction with travel for noncommercial purposes; or

(iv) The part or product has been received or acquired by a person registered as an agent or tannery under §18.23 of this subchapter.

(4) *What other wildlife regulations may apply?* All applicable provisions of 50 CFR parts 14, 18, and 23 must be met.

[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.

§ 17.41 Special rules—birds.

(a) [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; 72 FR 37372, July 9, 2007]

§ 17.42 Special rules—reptiles.

(a) American alligator (*Alligator mississippiensis*)—(1) *Definitions*. For purposes of this paragraph (a) the following definitions apply:

(i) *American alligator* means any specimen of the species *Alligator mississippiensis*, whether alive or dead, including any skin, part, product, egg, or offspring thereof held in captivity or from the wild.

(ii) The definitions of *crocodilian skins* and *crocodilian parts* in § 23.70(b) of this subchapter apply to this paragraph (a).

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