

## § 17.51

## 50 CFR Ch. I (10–1–07 Edition)

### § 17.51 Treatment as endangered or threatened.

(a) Any species listed in §17.11 or §17.12, pursuant to §17.50, shall be treated as Endangered or Threatened, as indicated in the “Status” column.

(b) All of the provisions of subparts C (Endangered Wildlife), D (Threatened Wildlife), F (Endangered Plants) or G (Threatened Plants), as appropriate, shall apply to any such species.

### § 17.52 Permits—similarity of appearance.

Upon receipt of a complete application and unless otherwise indicated in a special rule, the Director may issue permits for any activity otherwise prohibited with a species designated as Endangered or Threatened due to its similarity of appearance. Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce of plants must be obtained by the seller; in the case of wildlife, the permit must be obtained by the buyer. The application must be submitted on an official application form (Form 3–200) provided by the Service, or must contain the general information and certification required by §13.12(a) of this subchapter. It must include, as an attachment, all of the following information: Documentary evidence, sworn affidavits, or other information to show species identification and the origin of the wildlife or plant in question. This information may be in the form of hunting licenses, hide seals, official stamps, export documents, bills of sales, certification, expert opinion, or other appropriate information.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria, in §13.21(b) of this subchapter, the following factors:

(1) Whether the information submitted by the applicant appears reliable;

(2) Whether the information submitted by the applicant adequately identifies the wildlife or plant in question so as to distinguish it from any Endangered or Threatened wildlife or plant.

(c) *Permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If indicated in the permit, a special mark, to be specified in the permit, must be applied to the wildlife or plant, and remain for the time designated in the permit;

(2) A copy of the permit or an identification label, which includes the scientific name and the permit number, must accompany the wildlife or plant or its container during the course of any activity subject to these regulations.

(d) *Duration of permits.* The duration of a permit issued under this section shall be designated on the face of the permit.

## Subpart F—Endangered Plants

### § 17.61 Prohibitions.

(a) Except as provided in a permit issued pursuant to §17.62 or §17.63, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, any of the acts described in paragraphs (b) through (e) of this section in regard to any Endangered plant.

(b) *Import or export.* It is unlawful to import or to export any Endangered plant. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Remove and reduce to possession.* (1) It is unlawful to remove and reduce to possession any endangered plant from an area under Federal jurisdiction.

(2) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land

management agency, or a State conservation agency, who is designated by that agency for such purposes, may, when acting in the course of official duties, remove and reduce to possession endangered plants from areas under Federal jurisdiction without a permit if such action is necessary to:

- (i) Care for a damaged or diseased specimen;
- (ii) Dispose of a dead specimen; or
- (iii) Salvage a dead specimen which may be useful for scientific study.

(3) Any removal and reduction to possession pursuant to paragraph (c)(2) of this section must be reported in writing to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 28006, Washington, DC 20005, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with written directions from the Service.

(4) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State conservation agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by that agency for such purposes, may, when acting in the course of official duties, remove and reduce to possession from areas under Federal jurisdiction those endangered plants which are covered by an approved cooperative agreement for conservation programs in accordance with the Cooperative Agreement, provided that such removal is not reasonably anticipated to result in:

- (i) The death or permanent damage of the specimens;
- (ii) The removal of the specimen from the State where the removal occurred; or
- (iii) The introduction of the specimen so removed, or of any propagules derived from such a specimen, into an area beyond the historical range of the species.

(d) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, an endangered plant.

(e) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in

interstate or foreign commerce any endangered plant.

(2) An advertisement for the sale of any endangered plant which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the Service, shall not be considered an offer for sale within the meaning of this paragraph.

[44 FR 54060, Sept. 18, 1979, as amended at 50 FR 39690, Sept. 30, 1985]

**§ 17.62 Permits for scientific purposes or for the enhancement of propagation or survival.**

Upon receipt of a complete application the Director may issue a permit authorizing any activity otherwise prohibited by § 17.61, in accordance with the issuance criteria of this section, for scientific purposes or for enhancing the propagation or survival of endangered plants. (See § 17.72 for permits for threatened plants.) Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* A person wishing to get a permit for an activity prohibited by § 17.61 submits an application to conduct activities under this paragraph. For interstate commerce activities the seller gets the permit for plants coming from cultivated stock and the buyer gets the permit if the plants are taken from the wild. The Service provides application Form 3-200, or you may submit the general information and certification required by § 13.12(a) of this subchapter. Application requirements differ for permits issued for plants taken from the wild (excluding seeds), seeds and cultivated plants, or herbarium specimens. You must attach the following information and any other information requested by the Director.

(1) For activities involving plants obtained from the wild (excluding seeds), provide the following information:

- (i) The scientific names of the plants sought to be covered by the permit;
- (ii) The estimated number of specimens sought to be covered by the permit;
- (iii) The year, country, and approximate place where taking occurred or will occur;