

## U.S. Fish and Wildlife Serv., Interior

## § 17.50

(A) The problem(s) identified in the biennial reports or other salient documents.

(B) The scope of the problem and the number of nations involved.

(C) The scope of the trade restriction or suspension we are imposing, including products covered, duration of the restriction or suspension, and criteria for lifting it and reinstating any exemption to threatened species permits.

(D) How the public can provide input, make comments, and recommend remedial action to withdraw the trade measures imposed.

(z) Gila trout (*Oncorhynchus gilae*).

(1) Except as noted in paragraph (z)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 apply to the Gila trout.

(i) No person may possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of this section or in violation of applicable fish and conservation laws and regulations promulgated by the States of New Mexico or Arizona.

(ii) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed any offense listed in paragraph (z)(1)(i) of this section.

(2) In the following instances you may take Gila trout in accordance with applicable State fish and wildlife conservation laws and regulations to protect this species in the States of New Mexico or Arizona:

(i) Fishing activities authorized under New Mexico or Arizona laws and regulations; and

(ii) Educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Endangered Species Act.

(3) The four relict populations of Gila trout (Main Diamond Creek, South Diamond Creek, Spruce Creek, and Whiskey Creek) will not be opened to fishing.

(4) Any changes to State recreational fishing regulations will be made by the States in collaboration with the Service.

(5) Any violation of State applicable fish and wildlife conservation laws or

regulations with respect to the taking of this species is also a violation of the Endangered Species Act of 1973, as amended.

[40 FR 44415, Sept. 26, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations to §17.44, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 17.45 Special rules—snails and clams. [Reserved]

### § 17.46 Special rules—crustaceans.

(a) Madison Cave isopod (*Antrolina lira*). (1) All provisions of §17.31 (a) and (b) apply to this species except that it may be taken for scientific purposes without Federal permits issued pursuant to these regulations: *Provided*, that all other Federal, State, or local laws, regulations, ordinances or other restrictions or limitations have been complied with.

(b) [Reserved]

[47 FR 43701, Oct. 4, 1982]

### § 17.47 [Reserved]

### § 17.48 Special rules—common sponges and other forms. [Reserved]

## Subpart E—Similarity of Appearance

SOURCE: 42 FR 32377, June 24, 1977, unless otherwise noted.

### § 17.50 General.

(a) Whenever a species which is not Endangered or Threatened closely resembles an Endangered or Threatened species, such species may be treated as either Endangered or Threatened if the director makes such determination in accordance with section 4(e) of the Act and the criteria of paragraph (b) of this section. After the Director has made such determination in accordance with the notification procedures specified in the Act, such species shall appear in the list in §17.11 (Wildlife) or §17.12 (Plants) with the notation "(S/A)" (similarity of appearance) in the "Status" column, following either a letter "E" or a letter "T" to indicate whether the species is being treated as Endangered or Threatened.

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(b) In determining whether to treat a species as Endangered or Threatened due to similarity of appearance, the Director shall consider the criteria in section 4(e) of the Act, as indicated below:

(1) The degree of difficulty enforcement personnel would have in distinguishing the species, at the point in question, from an Endangered or Threatened species (including those cases where the criteria for recognition of a species are based on geographical boundaries);

(2) The additional threat posed to the Endangered or Threatened species by the loss of control occasioned because of the similarity of appearance; and

(3) The probability that so designating a similar species will substantially facilitate enforcement and further the purposes and policy of the Act.

*Example 1.* The ABC sparrow is Endangered wildlife. The ABD sparrow is a subspecies that is so similar to the ABC sparrow that when found outside their normal habitat, the two cannot readily be distinguished by law enforcement personnel. The ABD sparrow is listed in §17.11, after following the proper procedures as follows:

SPECIES AND RANGE

Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
ABC sparrow .....	ABCus .....	NA .....	North America .....	Entire .....	E	7	NA
ABD sparrow .....	ABDus .....	NA .....	.....do .....	NA .....	E(S/A)	7	NA

*Example 2.* Suppose the ABC sparrow is listed as Endangered in only a portion of its range. Within the meaning of the Act, the ABC sparrow as defined by geographic boundaries is a species. The ABC sparrow

which occurs beyond those boundaries is a different species, even though it is identical, except in location, to the listed species. If the criteria of this section were met, the two species would be listed as follows:

SPECIES AND RANGE

Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
ABC sparrow .....	ABCus .....	Idaho .....	Idaho .....	Entire .....	E	7	NA
Do .....	.....do .....	NA .....	United States .....	NA .....	E(S/A)	7	NA

*Example 3.* The XY cactus has been determined to be an Endangered species. The XZ cactus so closely resembles the XY cactus that enforcement personnel cannot distinguish between the two. The Endangered XY cactus could be illegally sold as the non-en-

dangered XZ species, thus posing an additional threat to the Endangered species. After following the proper procedures, the XZ cactus would be placed on the list and treated as though it was an Endangered species. This entry would appear as follows:

SPECIES AND RANGE

Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
XYum .....	XY cactus .....	Arizona .....	Entire .....	.....	E	7	NA
XZum .....	.....do .....	Arizona and Mexico.	NA .....	.....	E(S/A)	8	NA

**§ 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