

accordance with directions from the Service.

(i) Louisiana black bear (*Ursus americanus luteolus*). (1) Except as noted in paragraph (i)(2) of this section, all prohibitions of §17.31 and exemptions of §17.32 shall apply to any black bear within the historic range of the Louisiana black bear (Texas, Louisiana and Mississippi).

(2) Subsection 17.40(i)(1) and §17.31 shall not prohibit effects incidental to normal forest management activities within the historic range of the Louisiana black bear except for activities causing damage to or loss of den trees, den tree sites or candidate den trees. For purposes of this exemption, normal forest management activities are defined as those activities that support a sustained yield of timber products and wildlife habitats, thereby maintaining forestland conditions in occupied habitat. For purposes of this special rule, candidate den trees are considered to be bald cypress and tupelo gum with visible cavities, having a minimum diameter at breast height (DBH) of 36 inches, and occurring in or along rivers, lakes, streams, bayous, sloughs, or other water bodies.

(3) This express exemption for normal forest management activities provided by this special rule is subject to modification or withdrawal if the Service determines that this provision fails to further the conservation of the Louisiana black bear.

(j) Argali (*Ovis ammon*) in Kyrgyzstan, Mongolia, and Tajikistan—(1) Except as noted in paragraph (j)(2) of this section, all prohibitions of §17.31 of this part and exemptions of §17.32 of this part shall apply to this species in Kyrgyzstan, Mongolia, and Tajikistan

(NOTE— In all other parts of its range the argali is classified as endangered and covered by §17.21).

(2) Upon receiving from the governments of Kyrgyzstan, Mongolia, and Tajikistan properly documented and verifiable certification that (i) argali populations in those countries are sufficiently large to sustain sport hunting, (ii) regulating authorities have the capacity to obtain sound data on these populations, (iii) regulating authorities recognize these populations as a valu-

able resource and have the legal and practical capacity to manage them as such, (iv) the habitat of these populations is secure, (v) regulating authorities can ensure that the involved trophies have in fact been legally taken from the specified populations, and (vi) funds derived from the involved sport hunting are applied primarily to argali conservation, the Director may, consistent with the purposes of the Act, authorize by publication of a notice in the FEDERAL REGISTER the importation of personal sport-hunted argali trophies, taken legally in Kyrgyzstan, Mongolia, and Tajikistan after the date of such notice, without a Threatened Species permit pursuant to §17.32 of this part, provided that the applicable provisions of 50 CFR part 23 have been met.

[40 FR 44415, Sept. 26, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §17.40, see the List of CFR Sections Affected in the Finding Aids section of this volume.

#### §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.

(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