

List of Subjects**50 CFR Part 13**

Administrative practice and procedure, Exports, Fish, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

For the reasons set out in the preamble, the Service proposes to amend Title 50, Chapter I, subchapter B of the Code of Federal Regulations, as set forth below:

PART 13—[AMENDED]

1. The authority citation for part 13 is revised to read as follows:

Authority: 16 U.S.C. 668(a), 704, 712, 742j-1, 1374(g), 1382, 1538(d), 1539, 1540(f), 3374, 4901-4916; 18 U.S.C. 42; 19 U.S.C. 1202; 31 U.S.C. 9701.

2. Amend § 13.25 by revising paragraph (b) introductory text, redesignating paragraphs (c) and (d) as paragraphs (d) and (e), and adding a new paragraph (c) as set forth below:

§ 13.25 Transfer of permits and scope of permit authorization.

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(b) Permits issued under § 17.22(b) or § 17.32(b) of this subchapter B may be transferred in whole or in part through a joint submission by the permittee and the proposed transferee or in the case of a deceased permittee, the deceased permittee's legal representative and the proposed transferee, provided the Service determines that:

* * * * *

(c) In the case of the transfer of lands subject to an agreement and permit issued under § 17.22(c) or (d) or § 17.32(c) or (d) of this subchapter B, the Service will transfer the permit to the new owner if the new owner agrees in writing to become a party to the original agreement and permit.

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PART 17—[AMENDED]

3. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

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4. Amend § 17.3 by revising the following definitions to read as follows:

§ 17.3 Definitions.

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Changed circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan or agreement that can reasonably be anticipated by plan or agreement developers and the Service and that can be planned for (e.g., the listing of new species, or a fire or other natural catastrophic event in areas prone to such events).

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Unforeseen circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan or agreement that could not reasonably have been anticipated by plan or agreement developers and the Service at the time of the conservation plan's or agreement's negotiation and development, and that result in a substantial and adverse change in the status of the covered species.

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5. Amend § 17.22 by revising the first sentence of paragraph (c)(1), paragraphs (c)(1)(ii), (c)(2)(ii), (c)(3)(ii), (c)(5)(ii), (c)(7), the first sentence of paragraph (d)(1), paragraphs (d)(3)(ii), (d)(5)(i)-(ii), (d)(5)(iii)(B), and (d)(7) to read as follows:

§ 17.22 Permits for scientific purposes, enhancement of propagation or survival, or for incidental taking.

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(c)(1) *Application requirements for permits for the enhancement of survival through Safe Harbor Agreements.* A property owner (including anyone with a fee simple, leasehold, or other property interest sufficient to carry out the proposed management activities, subject to applicable State law) must submit an application for a permit under paragraph (c) of this section to the appropriate Regional Director, U.S. Fish and Wildlife Service, for the Region where the applicant resides or where the proposed activity is to occur (for appropriate addresses, see 50 CFR 10.22), if the applicant wishes to engage in any activity prohibited by § 17.21.

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(ii) A description of how incidental take of the listed species pursuant to the Safe Harbor Agreement is likely to occur, both as a result of management activities and as a result of the return to baseline; and

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(2) * * *

(ii) The implementation of the terms of the Safe Harbor Agreement is reasonably expected to provide a net conservation benefit to the affected listed species by contributing to the

recovery of listed species included in the permit, and the Safe Harbor Agreement otherwise complies with the Safe Harbor policy available from the Service;

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(3) * * *

(ii) When appropriate, a requirement for the permittee to give the Service reasonable advance notice (generally at least 30 days) of when he or she expects to incidentally take any listed species covered under the permit. Such notification will provide the Service with an opportunity to relocate affected individuals of the species, if possible and appropriate; and

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(5) * * *

(ii) The Director and the permittee may agree to revise or modify the management measures set forth in a Safe Harbor Agreement if the Director determines that such revisions or modifications do not change the Director's prior determination that the Safe Harbor Agreement is reasonably expected to provide a net conservation benefit to the listed species. However, the Director may not require additional or different management activities to be undertaken by a permittee without the consent of the permittee.

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(7) *Criteria for revocation.* The Director may not revoke a permit issued under paragraph (c) of this section except as provided in this paragraph. The Director may revoke a permit for any reason set forth in § 13.28(a)(1) through (4) of this subchapter. The Director may revoke a permit if continuation of the permitted activity would either appreciably reduce the likelihood of survival and recovery in the wild of any listed species or directly or indirectly alter designated critical habitat such that it appreciably diminishes the value of that critical habitat for both the survival and recovery of a listed species. Before revoking a permit for either of the latter two reasons, the Director, with the consent of the permittee, will pursue all appropriate options to avoid permit revocation. These options may include, but are not limited to: extending or modifying the existing permit, capturing and relocating the species, compensating the landowner to forgo the activity, purchasing an easement or fee simple interest in the property, or arranging for a third-party acquisition of an interest in the property.

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(d)(1) *Application requirements for permits for the enhancement of survival through Candidate Conservation*