

by the Puerto Rican harlequin butterfly.

(B) Normal residential and urban activities, such as mowing, weeding, edging, and fertilizing.

(C) Maintenance of recreational trails in Commonwealth Forests by mechanically clearing vegetation, only when approved by or under the auspices of the Puerto Rico Department of Natural and Environmental Resources, or conducted on lands established by private organizations or individuals solely for conservation or recreation.

(D) Habitat management or restoration activities expected to provide a benefit to Puerto Rican harlequin butterfly or other sensitive species, including removal of nonnative, invasive plants. These activities must be coordinated with and reported to the Service in writing and approved the first time an individual or agency undertakes them.

(E) Projects requiring removal of the host plant to access and remove illicit garbage dumps that are potential sources of intentionally set fires, provided such projects are conducted in coordination with and reported to the Service.

(F) Fruit fly trapping by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, provided trapping activities do not disturb the host plant.

(v) Possess and engage in other acts with unlawfully taken wildlife, as set forth at §17.21(d)(2) for endangered wildlife.

[77 FR 20986, Apr. 6, 2012, as amended at 79 FR 67348, Oct. 24, 2014; 84 FR 64227, Nov. 21, 2019; 85 FR 65260, Oct. 15, 2020; 86 FR 72427, Dec. 20, 2021; 87 FR 73678, Dec. 1, 2022; 88 FR 2036, Jan. 12, 2023]

§ 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.

(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.

[42 FR 32377, June 24, 1977, as amended at 81 FR 51605, Aug. 4, 2016]

§ 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 rule found at §§17.40 through 17.48, §§17.73 through 17.78, or §§17.84 through

§ 17.61

17.86, 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 per-

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mit, 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.

[42 FR 32377, June 24, 1977, as amended at 81 FR 51605, Aug. 4, 2016]

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