

## § 17.71

(1) Whether the purpose for which the permit is requested will significantly affect the survival of the species in the wild;

(2) The economic, legal, or other alternatives or relief available to the applicant;

(3) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which:

(i) Deals specifically with the plant sought to be covered by the permit; and

(ii) Became binding prior to the date of the FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier;

(4) The severity of economic hardship which the contract or other binding legal obligation referred to in paragraph (b)(3) of this section would cause if the permit were denied;

(5) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income.

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

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) If requested, the permittee shall report to the Service's office designated in the permit the death, destruction or loss of all living plants covered by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit. No permit issued under this section shall be valid for more than one year from the date of a FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list

## 50 CFR Ch. I (10–1–23 Edition)

the species as endangered, whichever is earlier.

[44 FR 54060, Sept. 18, 1979]

### Subpart G—Threatened Plants

#### § 17.71 Prohibitions.

(a) Except as provided in a permit issued under this subpart, all of the provisions of §17.61 shall apply to threatened species of plants that were added to the List of Endangered and Threatened Plants in §17.12(h) on or prior to September 26, 2019, with the following exception: Seeds of cultivated specimens of species treated as threatened shall be exempt from all the provisions of §17.61, provided that a statement that the seeds are of “cultivated origin” accompanies the seeds or their container during the course of any activity otherwise subject to the regulations in this subpart.

(b) In addition to any provisions of this part, any employee or agent of the Service or of a State conservation agency that is operating a conservation program pursuant to the terms of 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 threatened species of plants that are covered by an approved cooperative agreement to carry out conservation programs.

(c) Whenever a species-specific rule in §§17.73 through 17.78 applies to a threatened species, the species-specific rule will contain all the applicable prohibitions and exceptions.

[84 FR 44760, Aug. 27, 2019]

#### § 17.72 Permits—general.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened plants. The permit shall be governed by the provisions of this section unless a special rule applicable to the plant is provided in §§17.73 to 17.78. A permit issued under this section must be for

one of the following: scientific purposes, the enhancement of the propagation or survival of threatened species, economic hardship, botanical or horticultural exhibition, educational purposes, or other activities consistent with the purposes and policy of the Act. 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 § 17.71 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 Form 3-200 for the application 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;

(iv) If the activities would involve removal and reduction to possession of a plant from an area under Federal jurisdiction, the year, State, county or any other description such as place name, township, and range designation that will precisely place the location where the proposed removal and reduction to possession will occur, the name of the Federal entity having jurisdiction over the area and the name, title, address, and phone number of the person in charge of the area.

(v) A brief description of the applicant's expertise and facilities as related to the proposed activity;

(vi) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act; and

(vii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to such efforts.

(2) For activities involving seeds obtained from the wild and cultivated plants, provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to the success of such efforts; and

(iii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act.

(iv) If the activities would involve removal and reduction to possession of seeds from an area under Federal jurisdiction, the year, State, county, or any other description such as place name, township, and range designation that will precisely place the location where the proposed removal and reduction to possession will occur, the name of the Federal entity having jurisdiction over the area and the name, title, address, and phone number of the person in charge of the area.

(3) For importation or exportation involving the non-commercial loan, exchange or donation of herbarium or other preserved, dried or embedded museum specimens of all threatened species between scientists or scientific institutions, provide the following information:

(i) The name and address of the institution or other facility where the plants sought to be covered by the permit will be used or maintained; and

(ii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the

propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act.

(4) When the activity applied for involves a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements in part 23 of this subchapter must be met.

(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 purpose for which the permit is requested will enhance the survival of the species in the wild;

(2) Whether the purpose for which the permit is requested will enhance the propagation of the species;

(3) The opinions or views of scientists or other persons or organizations having expertise concerning the plant or other matters germane to the application; and

(4) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(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 requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) A copy of the permit or an identification label, which includes the scientific name, the permit number, and a statement that the plant is of “wild origin” or “cultivated origin” must accompany the plant or its container during the course of any activity subject to these regulations, unless the specimens meet the special conditions referred to in paragraph (c)(3) of this section.

(3) In the case of plants that are herbarium specimens, or other preserved, dried, or embedded museum specimens

to be imported or exported as a non-commercial loan exchange or donation between scientists or scientific institutions, the names and addresses of the consignor and consignee must be on each package or container. A description such as “herbarium specimens” and the code letters assigned by the Service to the scientist or scientific institution must be entered on the Customs declaration form affixed to each package or container. If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, specific information must be entered on the Customs declaration label affixed to the outside of each shipping container or package. See part 23 of this subchapter for requirements for trade in CITES specimens between registered scientific institutions.

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

[42 FR 32380, June 24, 1977, as amended at 50 FR 39691, Sept. 30, 1985; 63 FR 52636, Oct. 1, 1998; 79 FR 30419, May 27, 2014]

#### § 17.73 Special rules—flowering plants.

(a) *Graptopetalum bartramii* (Bartram’s stonecrop)—(1) *Prohibitions.* The following prohibitions apply to *Graptopetalum bartramii*, except as provided under paragraph (a)(2) of this section:

(i) *Import or export.* It is unlawful to import or to export any *Graptopetalum bartramii*. 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.

(ii) *Remove and reduce to possession.* It is unlawful to remove and reduce to possession the species from areas under Federal jurisdiction; maliciously damage or destroy the species on any such area; or remove, cut, dig up, or damage or destroy the species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law.

(iii) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry,