

published elsewhere in this issue of the **Federal Register**.]

**Par. 3.** Section 1.141-8 is amended by adding the text of the section to read as follows:

**§ 1.141-8 \$15 million limitation for output facilities.**

[The text of this proposed section is the same as the text of § 1.141-8T published elsewhere in this issue of the **Federal Register**.]

**Par. 4.** Section 1.141-15 is amended by adding paragraphs (f) through (i) to read as follows:

**§ 1.141-15 Effective dates.**

\* \* \* \* \*

(f) through (i) [The text of proposed paragraphs (f) through (i) are the same as the text of § 1.141-15T(f) through (i) published elsewhere in this issue of the **Federal Register**.]

**Par. 5.** Section 1.142(f)(4)-1 is added to read as follows:

**§ 1.142(f)(4)-1 Manner of making election to terminate tax-exempt bond financing.**

[The text of this proposed section is the same as the text of § 1.142(f)(4)-1T published elsewhere in this issue of the **Federal Register**.]

**Par. 6.** Section 1.150-5 is added to read as follows:

**§ 1.150-5 Filing notices and elections.**

[The text of this proposed section is the same as the text of § 1.150-5T published elsewhere in this issue of the **Federal Register**.]

**Michael P. Dolan,**

*Deputy Commissioner of Internal Revenue.*

[FR Doc. 98-717 Filed 1-21-98; 8:45 am]

BILLING CODE 4830-01-U

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 14

RIN 1018-AE08

#### Importation, Exportation, and Transportation of Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise the U.S. Fish and Wildlife Service (Service) regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. We, the Service, propose a licensing and fee scheme which will exempt certain commercial importers and exporters from our

inspection fee, based upon specific criteria, including country of origin, numbers of items, and permitting requirements. We propose to modify our user fee regulations to grant relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fee and nondesignated port administrative fee and hourly minimums only. This proposal, if implemented, will allow us to continue to collect data on fee collections in order to analyze the impact of user fees on small business for future decision making.

We will also update the authority citation for this part to delete an obsolete reference and to reflect the current United States Code citation regarding fees and charges for Government services.

**DATES:** Comments must be submitted on or before March 23, 1998.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203-3247. Comments and materials may be hand-delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, 4401 N. Fairfax Drive, Room 500, Arlington, Virginia, between the hours of 8 a.m. and 4 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Kevin R. Adams, Chief, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, Telephone Number (703) 358-1949.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 21, 1996, we published a final rule (61 FR 31850) which established a new requirement in Part 14 for all commercial importers and exporters of wildlife and wildlife products to obtain an Import/Export License (license) and also provided for our charging license holders increased inspection and overtime fees. The final rule eliminated the \$25,000 annual dollar value exemption the Service had utilized since 1984 in determining whether a particular business or individual was required to have a license. The final rule raised the inspection fees charged to licensees to enable the Service to more fully recoup the costs of operating the wildlife inspection program. We published the June 21, 1996, final rule after several lengthy comment periods which began with the notice of intent to review published on November 14, 1991 (56 FR 57873). Of the 800 total comments

received, 81 were on the new fee structure discussed in the notice of intent, the proposed rule published November 15, 1994 (59 FR 58811), and the supplemental proposed rule published March 23, 1995 (60 FR 15277). We received 64 favorable comments on the fee increase out of 81 total with 17 commenters opposed to a user fee increase. Several of the 17 commenters opposed to the fee increase requested that we maintain a dollar value exemption for small businesses. We acknowledged these commenters' concerns and expressed our own concern for the new fee structure being perceived as overly burdensome on small business, and replied, as restated in this proposed rule, that we are attempting to maintain the most efficient inspection program possible without being overly burdensome on smaller importers. We were attempting to implement the smallest fee increase possible which would allow us to recoup the cost of the wildlife inspection program. At the same time we were attempting to respond to several studies of the Service's inspection program that clearly indicate a need to raise inspection fees and overtime rates commensurate with costs incurred by the Service. In addition to the studies cited in the June 21, 1996, final rule, a 1994 General Accounting Office report states in its recommendations to the Secretary of the Interior, that the Service should "Proceed with plans to increase the user fees charged by the wildlife inspection program \* \* \*."

Since the implementation of the new fee schedule on August 1, 1996, we have received comments, including eight Congressional inquiries, indicating that the burden on small business may be greater than the Service initially anticipated in the June 21, 1996, rulemaking. In the economic effects section of that document, we estimated the costs to newly licensed small businesses and individuals who are now subject to the inspection fee requirement. In the analysis we used estimated numbers extrapolated from 1994 data contained in the Law Enforcement Management Information System (LEMIS) which represented the best information available. Based upon comments received subsequent to publication of the final rule, we believe that we may have underestimated the cumulative effect that the increased licensing and inspection fees may impose on small business and certain individuals. We have determined that we may need better data upon which to rely in making a definitive analysis of

the effect of user fee increases on small business. The proposed system will continue to provide that data.

The Regulatory Flexibility Act of 1980 establishes as a principle of regulatory issuance that “\* \* \* agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.” Therefore, in order to address the immediate concerns of small business and maintain consistency with the Regulatory Flexibility Act, we propose a new licensing and inspection fee system that will accomplish two objectives. First, the new system contained in this proposed rule would grant immediate relief from the economic burden of the increased inspection fees, and/or administrative fees and hourly minimums, to importers and exporters of wildlife and wildlife products at designated ports, border or special ports, and nondesignated ports that meet specific criteria.

Second, by continuing to require that all commercial importers and exporters be licensed, the new system would allow the Service to continue to monitor wildlife import/export activity in order to gather the data necessary to make future decisions on the true impact of our user fees on small businesses and certain individuals.

#### **Inspection Fee Exemption Criteria**

We propose to amend the inspection fee system to establish specific criteria that we will use to determine if the inspection fee applies at the time of import or export. The proposed revision uses distinctions that are already established in the regulation. The Service currently uses these distinctions to determine the applicability of various parts of the regulation to wildlife being imported or exported. We propose to use these same distinctions to establish if the inspection fee applies to wildlife shipments at the time of import to or export from the United States. Shipments will have to meet several basic criteria in order to qualify for the inspection fee exemption. The basic exemption criteria are outlined as follows: First, the inspection fee exemption will only apply to shipments that do NOT require permits under 50 CFR parts 16 (Injurious wildlife), 17 (Endangered and threatened wildlife and plants), 18 (Marine mammals), 21 (Migratory bird permits), or 23 (Endangered species convention). Those shipments that contain wildlife that require permits will not be eligible for

any inspection fee exemption. Second, the wildlife must have been lawfully taken from the wild in the United States, Canada, or Mexico, and imported or exported between the United States and Canada or Mexico. Shipments containing wildlife taken in any other country and imported or exported between any countries other than the United States, Canada, or Mexico will not be eligible for the inspection fee exemption. Third, the wildlife shipment must be imported or exported by the person who took the wildlife from the wild, or by a member of that person's immediate family, provided, that the importer or exporter of record is licensed in accordance with 50 CFR 14.91. Last, the shipment must consist of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, and the shipment cannot exceed 100 raw furs, raw, salted, crusted, hides or skins or separate parts thereof. The intent of this rulemaking is to provide financial relief from the burden of the inspection fees for small business and certain individuals who may be disproportionately affected. The Service believes that a cutoff point of 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof will adequately distinguish between small shippers disproportionately affected and those commercial wildlife dealers less impacted by the user fee.

All of the primary criteria for the user fee exemption outlined above serve as a means of limiting the exemption application to certain individuals or small business, while at the same time maintaining the integrity and intent of the user fee rulemaking published on June 21, 1996. By using distinctions already drawn in the regulation, we believe that the proposed criteria represent a balance between maintaining user fee revenues and providing small business economic relief.

In addition to the primary criteria, the Service will use additional criteria, outlined below, to ensure that the user fee exemption is utilized by those intended and to allow for statistical tracking of the exemption's use. As stated, the importer or exporter of record who is shipping wildlife that otherwise meets the inspection fee exemption criteria will still have to obtain an Import/Export License from the Service at a cost of \$50 annually (see 50 CFR part 14, subpart I). The raw fur, raw, salted or crusted hides or skins, or separate parts thereof cannot have been previously bought or sold if the inspection fee exemption is to apply. The fee exemption will not apply to

manufactured products or live animals of any kind.

The reason for the latter two criteria is that the fee exemption is intended to apply to small, low volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow, or to individuals who take wildlife from the wild as a hobby or to supplement their income and who do not deal in manufactured products or live animals as a primary means of income. We believe that wildlife traders buying and selling imported wildlife in the United States and those dealing in manufactured products or live animals require a higher level of oversight and are less impacted by the inspection fee.

The importer or exporter whose wildlife shipments meet the user fee exemption criteria will still be required to pay overtime fees or designated port exception permit fees if applicable. If wildlife being shipped requires a Convention on International Trade in Endangered Species (CITES) permit, no exemption from the user fee will be granted due to the higher level of oversight required by the Service on these shipments.

#### **Certification**

In order for the Service to have some means of verifying that the raw furs, raw, salted or crusted hides or skins, or separate parts thereof are, in fact, taken from the wild by the licensee who is acting as importer/exporter of record, or taken from the wild by a member of his or her immediate family, the licensee must sign a certification statement supplied by the Service at the time clearance is requested. The certification statement will ask that the licensee certify, subject to the penalties provided for under 18 U.S.C. Section 1001 for false or fraudulent statements, that he or she took the raw furs, raw, salted, or crusted hides or skins, or separate parts thereof from the wild or that they were taken from the wild by a member of that person's immediate family. We will consider the term “immediate family” to mean a licensee's spouse, parents, siblings, and children. The Service believes that extending the meaning to include grandparents, cousins, aunts, or uncles would compromise the intent of this rule. This signed certification statement will have to be presented to a Service officer at the time clearance is requested.

The Service intends that this inspection fee exemption framework utilize existing regulatory language that grants various exemptions to 50 CFR part 14, including § 14.15 and § 14.62. In addition, 50 CFR part 14 already exempts certain “classes” of wildlife

from various regulatory requirements, including farm-raised fish from the designated port requirement on export, aquatic invertebrates of the Class Pelecypoda from the designated port and declaration requirement, and captive-bred furbearers from the marking requirement. We believe that these distinctions are consistent with the intent of the regulation.

In summary, the Service will exempt commercial wildlife shipments from the designated port inspection fee and/or the nondesignated port administrative fee and hourly minimums, whichever applies, for shipments meeting the following criteria: no permits are required under 50 CFR parts 16, 17, 18,

21, or 23; imports or exports are between the United States and Canada or Mexico of raw furs, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico; imported or exported by the person taking the wildlife from the wild, or taken from the wild by a member of the importer or exporters' immediate family; provided, the importer or exporter of record is licensed; the shipment or any part thereof has not been previously bought or sold; the shipment does not exceed 100 raw furs, raw, salted, or crusted, hides or skins, or separate parts thereof; the shipment

does not contain any manufactured products or live animals; overtime fees, if applicable, have been paid; and the importer or exporter has attached a certification statement stating that the shipment contains items taken from the wild by the importer/exporter of record or by a member of that person's immediate family.

The following chart illustrates the commercial user fee charges at designated and nondesignated ports during normal working hours before the June 21, 1996, final rule, after the August 1, 1996, effective date of that final rule, and under this proposed rule, for comparison:

Fees	Prior to June 21, 1996 final rule	After August 1, 1996 effective date	Proposed
Designated Port .....	Under 25K/year No Charge. \$125/year License Fee. \$25/Shipment Inspection Fee.	\$50/year License Fee. \$55/Shipment Inspection Fee.	\$50/year License Fee. \$55/Shipment Inspection Fee if criteria not met. No Charge if criteria met.
Nondesignated Port	Under 25K/year No Charge. \$125/Shipment Administrative Fee plus 2 hour minimum at \$25/hr (\$50).	\$50/year License Fee. \$55 Administrative Fee plus 2 hour minimum at \$20/hr (\$40).	\$50/year License Fee. \$55 Administrative Fee plus 2 hour minimum at \$20/hr (\$40) if criteria not met. No Charge if criteria met.

All interested parties are invited to submit comments on this proposal.

#### **Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.**

This proposed rule affects only the requirement to pay an inspection fee for shipments and contains no information collections for which Office of Management and Budget approval is required under the Paperwork Reduction Act (44 U.S.C. 3501). Importers/exporters subject to this rule may be subject to the requirement to file a Declaration for Importation or Exportation of Fish or Wildlife (FWS form 3-177; OMB approval number 1018-0012; expiration date August 31, 2000). This rule does not change or affect the information collection requirements associated with the declaration form 3-177.

#### **Required Determinations**

The Service has determined that these proposed regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 et seq., that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities.

#### **Economic Effects**

The Service conducted an economic analysis of this proposed rule. The

declared value of all wildlife shipments requiring Service clearance in Fiscal Year 1995 was approximately \$860,000,000. In 1996, the total value of all wildlife shipments which may be eligible for the proposed exemption was \$700,734. Fees payable to the Service on these shipments would be reduced between \$22,935 and \$39,615 under the proposed rule. No substantial indirect economic effects are anticipated so the effect of the rule is much less than \$100 million annually. Shipment volume is not expected to rise to a level that would generate \$100 million annual impact. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

Accordingly, under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), this rulemaking will not have a significant economic effect on a substantial number of small entities, which include businesses, organizations, or governmental jurisdictions. The proposed rule exempts small shippers from the Fish and Wildlife Service inspection fee and so represents an adaptation of the current fee structure to provide relief for small shippers, therefore, this rule will have a beneficial effect on such entities.

#### **List of Subjects in 50 CFR Part 14**

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

#### **Regulation Promulgation**

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 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE**

1. Revise the authority citation for Part 14 to read as follows:

**Authority:** 16 U.S.C. 668, 704, 712, 1382, 1538(d)-(f), 1540(f), 3371-3378, 4223-4244, and 4901-4916; 18 U.S.C. 42; 31 U.S.C. 9701.

2. Amend § 14.94 by revising paragraph (a) and adding paragraph (e) to read as follows:

#### **§ 14.94 Fees.**

(a) *License and inspection fees.* The Service will impose a yearly fee for a license pursuant to § 14.93. In addition, each licensee must pay an inspection fee for each wildlife shipment imported into or exported from the United States at a designated port. Licensees who import into or export from the United States wildlife shipments meeting the criteria outlined in paragraph (e) of this section are exempt from the designated port inspection fee, or nondesignated port administrative fee and hourly minimums, whichever apply, *provided*, that all overtime fees and permit fees still apply.

\* \* \* \* \*

(e) *Exemption criteria.* Wildlife shipments meeting all of the following criteria are exempt from the designated port inspection fee or nondesignated port administrative fee and hourly minimums:

(1) No permits are required under parts 16, 17, 18, 21, 22, or 23 of this subchapter;

(2) The wildlife is imported or exported between the United States and Canada or Mexico;

(3) The wildlife shipment consists of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico;

(4) The wildlife was taken from the wild by the importer or exporter of record or a member of his immediate family;

(5) The importer or exporter of record is licensed in accordance with § 14.91;

(6) The wildlife or any part thereof has not been previously bought or sold;

(7) The shipment does not exceed 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof;

(8) The shipment does not contain any manufactured products or live animals.

**Donald J. Barry,**

*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 98-1414 Filed 1-21-98; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AE30

#### Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Extension of Comment Period on Proposed Endangered Status for Rough Popcornflower

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of public hearing and reopening and extension of comment period.

**SUMMARY:** The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of a public hearing on the proposed endangered status for *Plagiobothrys hirtus* (rough popcornflower). In addition, the Service has reopened and extended the comment period to accommodate a public hearing that was requested by Mr. Danny Lang of Roseburg, Oregon. All parties are invited to submit comments on this proposal.

**DATES:** The comment period now closes on February 23, 1998. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held on Tuesday, February 10, 1998, from 6:00 p.m. to 8:00 p.m.

**ADDRESSES:** The public hearing will be held at the Holiday Inn Express, 375 West Harvard Boulevard, Roseburg, Oregon. Comments and materials concerning this proposal should be sent to the State Supervisor, U.S. Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Suite 100, Portland, Oregon 97266. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:**

Dr. Andrew F. Robinson Jr. of the Oregon State Office (see **ADDRESSES** section) at (503) 231-6179.

**SUPPLEMENTARY INFORMATION:**

#### Background

*Plagiobothrys hirtus* is an annual herb on drier sites, or perennial herb on wetter sites, that is known from only the interior valley of the Umpqua River in Douglas County, Oregon. The plant is threatened by destruction and/or alteration of habitat by development and hydrological change (e.g., wetland fills, draining, construction); spring and summer grazing by domestic cattle, horses, and sheep; roadside maintenance; and competition from native and non-native species (i.e., succession and encroachment). Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the species listed above;

(2) The location of any additional populations of the species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population sizes of the species; and

(4) Current or planned activities in the subject area and their possible impacts on the species.

On November 20, 1997, the Service published a rule proposing endangered status for *Plagiobothrys hirtus* in the **Federal Register** (62 FR 61953). The original comment period was to close on January 20, 1998. Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 et seq.) requires that a public hearing be held if it is

requested within 45 days of the publication of the proposed rule. A public hearing request from Mr. Danny Lang of Roseburg, Oregon was received within the allotted time period. The Service has scheduled a public hearing on Tuesday, February 10, 1998, at the Holiday Inn Express in Roseburg, Oregon.

Parties wishing to make statements for the record should bring a copy of their statements to the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments carry the same weight as oral comments. The comment period now closes on February 23, 1998. Written comments should be submitted to the Service Office listed in the **ADDRESSES** section.

#### Author

The primary author of this notice is Dr. Andrew F. Robinson Jr. (see **ADDRESSES** section).

#### Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

Dated: January 7, 1998.

**Don Weathers,**

*Acting Regional Director, Region 1, Portland, Oregon, Fish and Wildlife Service.*

[FR Doc. 98-857 Filed 1-21-98; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AE54

#### Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Plant *Lesquerella thamnophila* (Zapata Bladderpod) as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Fish and Wildlife Service (Service) proposes to list the plant *Lesquerella thamnophila* (Zapata bladderpod) as an endangered species under the Endangered Species Act of 1973, as amended (Act). *Lesquerella thamnophila* is known from four locations in Zapata and Starr Counties, Texas. This species is threatened by increased urban development, highway construction, increased oil and gas