over portions of the species' habitat. Federal activities that could impact Gymnoderma lineare and its habitat in the future include, but are not limited to, the following-construction of recreational facilities (including trails, buildings, or maintenance of these facilities), use of aerially applied retardants in fire-fighting efforts, road and utility line construction, certain forest management activities, permits for mineral exploration and mining, regulation of air pollution, and any other activities that do not include planning for the species' continued existence. The Service will work with the involved agencies to secure protection and proper management of Gymnoderma lineare while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions at section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, the 1988 amendments (P.L. 100–478) to the Act protect endangered plants from malicious damage or destruction on Federal lands, and the removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies.

It is the policy of the Service, published in the Federal Register on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. Of the thirty-two remaining populations of Gymnoderma lineare all but five are located on public lands. Collection, damage or destruction of this species on public lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. Removal, cutting, digging up,

damaging or destroying endangered plants on non-Federal lands would constitute a violation of section 9 if conducted in knowing violation of State law or regulations or in violation of State criminal trespass law. North Carolina prohibits intrastate trade and take of *G. lineare* without a State permit and written permission from the landowner. G. lineare is not legally protected under Tennessee State law, since the State's list does not include nonvascular plants. The only known populations in Tennessee are found on public lands. The Service is not aware of any otherwise conducted or proposed by the public that will be affected by this listing and result in a violation of section 9.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few permits would ever be sought or issued since *Gymnoderma* lineare is not common in the wild and is not commercially cultivated. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Asheville Office (see ADDRESSES section). Requests for copies of the regulations on listed plants and inquiries regarding prohibitions should be addressed to the U.S. Fish and Wildlife Service, Southeast Regional Office, Ecological Services Division, Threatened and Endangered Species, 1875 Century Boulevard, Atlanta, Georgia 30345-3301 (Telephone 404/679-7099, Facsimile 404/679-7081).

#### **National Environmental Policy Act**

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

# **References Cited**

- Evans, A.W. 1947, A study of certain North American Cladoniae. Bryologist 50:14-
- Hale, M. 1979. How to know the lichens, second edition. William C. Brown Company, Dubuque, IA. P. 231.

- Lawrey, J.D. 1987. Lichens as indicators of atmospheric quality in the northern district of Shenandoah National Park, Virginia, Final report to the U.S. National Park Service, Denver, CO. Contract number CX-0001-4-0059.
- Nash, T., III, and L. Sigal. 1979. Gross photosynthetic response of lichens to short-term ozone fumigations. The Bryologist 82(2):280-285.
- Pearson, L., and G. Rodgers. 1982. Air pollution damage to cell membranes in lichens. III. Field experiments. Phyton 22(2):329-327.
- Puckett, K. 1976. The effects of heavy metals on some aspects of lichen physiology. Canadian Journal of Botany 54(23):2695-
- St. Clair, L. 1987. Final report concerning the establishment of an air quality biomonitoring program using various lichen parameters in the James River Face Wilderness Area, Jefferson National Forest, Virginia. U.S. Forest Service, Jefferson National Forest, Roanoke, VA.
- Sigal, L., and O. Taylor. 1979. Preliminary studies on the gross photosynthetic response of lichens to peroxyacetylnitrate fumigations. The Bryologist 82(4):564-575.
- Weakley, A. S. 1988. Species account for Gymnoderma lineare. North Carolina Plant Conservation Program, Raleigh, NC. 3 pp.
- Yoshimura, I., and A. J. Sharp. 1968. A revision of the genus Gymnoderma. American Journal of Botany 55(5):635-

Authority: The primary author of this final rule is Ms. Nora Murdock (see ADDRESSES section).

### List of Subjects in 50 CFR Part 17

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

## **Regulation Promulgation**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

# PART 17—[AMENDED]

1. 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.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under lichens, to the List of Endangered and Threatened Plants to read as follows:

# § 17.12 Endangered and threatened plants.

(h) \* \* \*