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Title 50: Wildlife and Fisheries

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PART 10—GENERAL PROVISIONS

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Source: 38 FR 22015, Aug. 15, 1973, unless otherwise noted.

Subpart A—Introduction



§ 10.1 Purpose of regulations.



The regulations of this Subchapter B are promulgated to implement the following statutes enforced by the U.S. Fish and Wildlife Service which regulate the taking, possession, transportation, sale, purchase, barter, exportation, and importation of wildlife:

Lacey Act, 18 U.S.C. 42.

Lacey Act Amendments of 1981, 16 U.S.C. 3371–3378.

Migratory Bird Treaty Act, 16 U.S.C. 703–712.

Bald and Golden Eagle Protection Act, 16 U.S.C. 668a–668d.

Endangered Species Act of 1973, 16 U.S.C. 1531–1543.

Tariff Classification Act of 1962, 19 U.S.C. 1202, [Schedule 1, Part 15D, Headnote 2(d), T.S.U.S.].

Fish and Wildlife Act of 1956, 16 U.S.C. 742a–742j–l.

Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1384, 1401–1407.

[38 FR 22015, Aug. 15, 1973, as amended at 53 FR 6649, Mar. 2, 1988]

§ 10.2 Scope of regulations.



The various parts of this subchapter B are interrelated, and particular note should be taken that the parts must be construed with reference to each other.

§ 10.3 Other applicable laws.



No statute or regulation of any State shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this subchapter B. In addition, nothing in this subchapter B, nor any permit issued under this subchapter B, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of any State or of the United States, including any applicable health, quarantine, agricultural, or customs laws or regulations, or other Service enforced statutes or regulations.

§ 10.4 When regulations apply.



The regulations of this subchapter B shall apply to all matters arising after the effective date of such regulations, with the following exceptions:

(a) *Civil penalty proceedings.* Except as otherwise provided in §11.25, the civil penalty assessment procedures contained in this subchapter B shall apply only to any proceeding instituted by notice of violation dated subsequent to the effective date of these regulations, regardless of when the act or omission which is the basis of a civil penalty proceeding occurred.

(b) *Permits.* The regulations in this subchapter B shall apply to any permit application received after the effective date of the appropriate regulations in this subchapter B and, insofar as appropriate, to any permit which is renewed after such effective date.

[38 FR 22015, Aug. 15, 1973, as amended at 39 FR 1159, Jan. 4, 1974]

Subpart B—Definitions

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§ 10.11 Scope of definitions.

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In addition and subject to definitions contained in applicable statutes and subsequent parts or sections of this subchapter B, words or their variants shall have the meanings ascribed in this subpart. Throughout this subchapter B words in the singular form shall include the plural, words in the plural form shall include the singular, and words in the masculine form shall include the feminine.

§ 10.12 Definitions.

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Aircraft means any contrivance used for flight in the air.

Amphibians means a member of the class, Amphibia, including, but not limited to, frogs, toads, and salamanders; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Animal means an organism of the animal kingdom, as distinguished from the plant kingdom; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Birds means a member of the class, Aves; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Country of exportation means the last country from which the animal was exported before importation into the United States.

Country of origin means the country where the animal was taken from the wild, or the country of natal origin of the animal.

Crustacean means a member of the class, Crustacea, including but not limited to, crayfish, lobsters, shrimps, crabs, barnacles, and some terrestrial forms; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Director means the Director of the United States Fish and Wildlife Service, Department of the Interior, or his authorized representative.

Endangered wildlife means any wildlife listed in §17.11 or §17.12 of this subchapter.

Fish means a member of any of the following classes:

- (1) Cyclostomata, including, but not limited to, hagfishes and lampreys;
- (2) Elasmobranchii, including but not limited to, sharks, skates, and rays; and
- (3) Pisces, including but not limited to trout, perch, bass, minnows, and catfish; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Fish or wildlife means any wild animal, whether alive or dead, including without limitation any wild

mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and including any part, product, egg, or offspring thereof.

Foreign commerce includes, among other things, any transaction (1) between persons within one foreign country, or (2) between persons in two or more foreign countries, or (3) between a person within the United States and a person in one or more foreign countries, or (4) between persons within the United States, where the fish or wildlife in question are moving in any country or countries outside the United States.

Fossil means the remains of an animal of past geological ages which has been preserved in the earth's crust through mineralization of the object.

Import means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the tariff laws of the United States.

Injurious Wildlife means any wildlife for which a permit is required under subpart B of part 16 of this subchapter before being imported into or shipped between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States.

Mammal means a member of the class, Mammalia; including any part, product, egg, or offspring, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Migratory bird means any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in §10.13, or which is a mutation or a hybrid of any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof.

Migratory game birds: See §20.11 of this subchapter.

Mollusk means a member of the phylum, Mollusca, including but not limited to, snails, mussels, clams, oysters, scallops, abalone, squid, and octopuses; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

Permit means any document designated as a "permit," "license," "certificate," or any other document issued by the Service to authorize, limit, or describe activity and signed by an authorized official of the Service.

Person means any individual, firm, corporation, association, partnership, club, or private body, any one or all, as the context requires.

Plant means any member of the plant kingdom, including seeds, roots and other parts thereof.

Possession means the detention and control, or the manual or ideal custody of anything which may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercises it in one's place and name. Possession includes the act or state of possessing and that condition of facts under which one can exercise his power over a corporeal thing at his pleasure to the exclusion of all other persons. Possession includes constructive possession which means not actual but assumed to exist, where one claims to hold by virtue of some title, without having actual custody.

Public as used in referring to museums, zoological parks, and scientific or educational institutions, refers to such as are open to the general public and are either established, maintained, and operated as a governmental service or are privately endowed and organized but not operated for profit.

Reptile means a member of the class, Reptilia, including but not limited to, turtles, snakes, lizards, crocodiles, and alligators; including any part, product, egg, or offspring thereof, or the dead body or parts thereof, whether or not included in a manufactured product or in a processed food product.

Secretary means the Secretary of the Interior or his authorized representative.

Service means the United States Fish and Wildlife Service, Department of the Interior.

Shellfish means an aquatic invertebrate animal having a shell, including, but not limited to, (a) an oyster, clam, or other mollusk; and (b) a lobster or other crustacean; or any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

Take means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect. (With reference to marine mammals, see Part 18 of this subchapter.)

Transportation means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

United States means the several States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

Whoever means the same as person.

Wildlife means the same as fish or wildlife.

[38 FR 22015, Aug. 15, 1973, as amended at 42 FR 32377, June 24, 1977; 42 FR 59358, Nov. 16, 1977; 45 FR 56673, Aug. 25, 1980; 50 FR 52889, Dec. 26, 1985]

§ 10.13 List of Migratory Birds.



The following is a list of all species of migratory birds protected by the Migratory Bird Treaty Act (16 U.S.C. 703–711) and subject to the regulations on migratory birds contained in this subchapter B of title 50 CFR. The species listed are those protected by the Convention for the Protection of Migratory Birds, August 16, 1916, United States-Great Britain (on behalf of Canada), 39 Stat. 1702, T.S. No. 628; the Convention for the Protection of Migratory Birds and Game Mammals, February 7, 1936, United States-Mexico, 50 Stat. 1311, T.S. No. 912; the Convention for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment, March 4, 1972, United States-Japan, 25 U.S.T. 3329, T.I.A.S. No. 7990; and the Convention for the Conservation of Migratory Birds and Their Environment, United States-U.S.S.R., November 26, 1976, 92 Stat. 3110, T.I.A.S. 9073, 16 U.S.C. 703, 712. The species are listed two ways. In the first part of the List species are arranged alphabetically by English (common) name groups, with the scientific name following the English (common) name. All species of ducks are listed together under the heading “Ducks”. In the second part of the List, species are listed by scientific name arranged in taxonomic order. Taxonomy and nomenclature follows the American Ornithologists' Union's Check-list of North American Birds (6th Edition, 1983).

I. Alphabetical Listing

Accentor, Siberian, *Prunella montanella*

Albatross:

Black-footed, *Diomedea nigripes*

Laysan, *Diomedea immutabilis*

Short-tailed, *Diomedea albatrus*

Yellow-nosed, *Diomedea chlororhynchos*

Anhinga, *Anhinga anhinga*

Ani:

Groove-billed, *Crotophaga sulcirostris*

Smooth-billed, *Crotophaga ani*

Auklet:

Cassin's, *Ptychoramphus aleuticus*

Crested, *Aethia cristatella*

Least, *Aethia pusilla*

Parakeet, *Cyclorhynchus psittacula*

Rhinoceros, *Cerorhinca monocerata*

Whiskered, *Aethia pygmaea*

Avocet, American, *Recurvirostra americana*

Barn-Owl, Common, *Tyto alba*

Beardless-Tyrannulet, Northern, *Camptostoma imberbe*

Becard, Rose-throated, *Pachyramphus aglaiae*

Bittern:

American, *Botaurus lentiginosus*

Chinese, *Ixobrychus sinensis*

Least, *Ixobrychus exilis*

Schrenk's, *Ixobrychus eurhythmus*

Black-Hawk, Common, *Buteogallus anthracinus*

Blackbird:

Brewer's, *Euphagus cyanocephalus*

Red-winged, *Agelaius phoeniceus*

Rusty, *Euphagus carolinus*

Tawny-shouldered, *Agelaius humeralis*

Tricolored, *Agelaius tricolor*

Yellow-headed, *Xanthocephalus xanthocephalus*

Yellow-shouldered, *Agelaius xanthomus*

Bluebird:

Eastern, *Sialia sialis*

Mountain, *Sialia currucoides*

Western, *Sialia mexicana*

Bluethroat, *Luscinia svecica*

Bobolink, *Dolichonyx oryzivorus*

Booby:

Blue-footed, *Sula nebouxii*

Brown, *Sula leucogaster*

Masked, *Sula dactylatra*

Red-footed, *Sula sula*

Brambling, *Fringilla montifringilla*

Brant, *Branta bernicla*

Bufflehead (see DUCKS)

Bullfinch:

Eurasian, *Pyrrhula pyrrhula*

Puerto Rican, *Loxigilla portoricensis*

Bunting:

Indigo, *Passerina cyanea*

Lark, *Calamospiza melanocorys*

Lazuli, *Passerina amoena*

McKay's, *Plectrophenax hyperboreus*

Painted, *Passerina ciris*

Reed (see Reed-Bunting)

Rustic, *Emberiza rustica*

Snow, *Plectrophenax nivalis*

Varied, *Passerina versicolor*

Bushtit, *Psaltriparus minimus*

Canvasback (see DUCKS)

Caracara, Crested, *Polyborus plancus*

Cardinal, Northern, *Cardinalis cardinalis*

Carib, Green-throated, *Eulampis holosericeus*

Catbird, Gray, *Dumetella carolinensis*

Chat, Yellow-breasted, *Icteria virens*

Chickadee (see Tit):

Black-capped, *Parus atricapillus*

Boreal, *Parus hudsonicus*

Carolina, *Parus carolinensis*

Chestnut-backed, *Parus rufescens*

Mexican, *Parus sclateri*

Mountain, *Parus gambeli*

Chuck-will's-widow, *Caprimulgus carolinensis*

Condor, California, *Gymnogyps californianus*

Coot:

American, *Fulica americana*

Caribbean, *Fulica caribaea*

Eurasian, *Fulica atra*

Cormorant:

Brandt's, *Phalacrocorax penicillatus*

Double-crested, *Phalacrocorax auritus*

Great, *Phalacrocorax carbo*

Olivaceous, *Phalacrocorax olivaceus*

Pelagic, *Phalacrocorax pelagicus*

Red-faced, *Phalacrocorax urile*

Cowbird:

Bronzed, *Molothrus aeneus*

Brown-headed, *Molothrus ater*

Shiny, *Molothrus bonariensis*

Crake:

Corn, *Crex crex*

Yellow-breasted, *Porzana flaviventer*

Crane:

Common, *Grus grus*

Sandhill, *Grus canadensis*

Whooping, *Grus americana*

Creep, Brown, *Certhia americana*

Crossbill:

Red, *Loxia curvirostra*

White-winged, *Loxia leucoptera*

Crow:

American, *Corvus brachyrhynchos*

Fish, *Corvus ossifragus*

Hawaiian, *Corvus hawaiiensis*

Mexican, *Corvus imparatus*

Northwestern, *Corvus caurinus*

White-necked, *Corvus leucognaphalus*

Cuckoo:

Black-billed, *Coccyzus erythrophthalmus*

Common, *Cuculus canorus*

Hawk (see Hawk-Cuckoo)

Lizard (see Lizard-Cuckoo)

Mangrove, *Coccyzus minor*

Oriental, *Cuculus saturatus*

Yellow-billed, *Coccyzus americanus*

Curlew (see Whimbrel):

Bristle-thighed, *Numenius tahitiensis*

Eskimo, *Numenius borealis*

Far Eastern, *Numenius madagascariensis*

Least, *Numenius minutus*

Long-billed, *Numenius americanus*

Dickcissel, *Spiza americana*

Dipper, American, *Cinclus mexicanus*

Dotterel, Eurasian, *Charadrius morinellus*

Dove:

Ground (see Ground-Dove)

Inca, *Columbina inca*

Mourning, *Zenaida macroura*

Quail (see Quail-Dove)

White-tipped, *Leptotila verreauxi*

White-winged, *Zenaida asiatica*

Zenaida, *Zenaida aurita*

Dovekie, *Alle alle*

Dowitcher:

Long-billed, *Limnodromus scolopaceus*

Short-billed, *Limnodromus griseus*

Ducks

American Black Duck, *Anas rubripes*

Bufflehead, *Bucephala albeola*

Canvasback, *Aythya valisineria*

Eider:

Common, *Somateria mollissima*

King, *Somateria spectabilis*

Spectacled, *Somateria fischeri*

Steller's, *Polysticta stelleri*

Gadwall, *Anas strepera*

Garganey, *Anas querquedula*

Goldeneye:

Barrow's, *Bucephala islandica*

Common, *Bucephala clangula*

Harlequin Duck, *Histrionicus histrionicus*

Hawaiian Duck, *Anas wyvilliana*

Laysan Duck, *Anas laysanensis*

Mallard, *Anas platyrhynchos*

Masked Duck, *Oxyura dominica*

Merganser

Common, *Mergus merganser*

Hooded, *Lophodytes cucullatus*

Red-breasted, *Mergus serrator*

Mottled Duck, *Anas fulvigula*

Oldsquaw, *Clangula hyemalis*

Pintail:

Northern, *Anas acuta*

White-cheeked, *Anas bahamensis*

Pochard:

Baer's, *Aythya baeri*

Common, *Aythya ferina*

Redhead, *Aythya americana*

Ring-necked Duck, *Aythya collaris*

Ruddy Duck, *Oxyura jamaicensis*

Scaup:

Greater, *Aythya marila*

Lesser, *Aythya affinis*

Scoter:

Black, *Melanitta nigra*

Surf, *Melanitta perspicillata*

White-winged, *Melanitta fusca*

Shoveler, Northern, *Anas clypeata*

Smew, *Mergellus albellus*

Teal:

Baikal, *Anas formosa*

Blue-winged, *Anas discors*

Cinnamon, *Anas cyanoptera*

Falcated, *Anas falcata*

Green-winged, *Anas crecca*

Tufted Duck, *Aythya fuligula*

Whistling-Duck:

Black-bellied, *Dendrocygna autumnalis*

Fulvous, *Dendrocygna bicolor*

West Indian, *Dendrocygna arborea*

Wigeon:

American, *Anas americana*

Eurasian, *Anas penelope*

Wood Duck, *Aix sponsa*

End of Ducks

Dunlin, *Calidris alpina*

Eagle:

Bald, *Haliaeetus leucocephalus*

Golden, *Aquila chrysaetos*

Sea (see Sea-Eagle)

White-tailed, *Haliaeetus albicilla*

Egret:

Cattle, *Bubulcus ibis*

Chinese, *Egretta eulophotes*

Great, *Casmerodius albus*

Plumed, *Egretta intermedia*

Reddish, *Egretta rufescens*

Snowy, *Egretta thula*

Eider (see DUCKS)

Elaenia, Caribbean, *Elaenia martinica*

Emerald, Puerto Rican, *Chlorostilbon maugaeus*

Euphonia, Antillean, *Euphonia musica*

Falcon:

Aplomado, *Falco femoralis*

Peregrine, *Falco peregrinus*

Prairie, *Falco mexicanus*

Fieldfare, *Turdus pilaris*

Finch:

Cassin's, *Carpodacus cassinii*

House, *Carpodacus mexicanus*

Purple, *Carpodacus purpureus*

Rosy, *Leucosticte arctoa*

Flamingo, Greater, *Phoenicopterus ruber*

Flicker, Northern, *Colaptes auratus*

Flycatcher:

Acadian, *Empidonax virescens*

Alder, *Empidonax alnorum*

Ash-throated, *Myiarchus cinerascens*

Brown-crested, *Myiarchus tyrannulus*

Buff-breasted, *Empidonax fulvifrons*

Dusky, *Empidonax oberholseri*

Dusky-capped, *Myiarchus tuberculifer*

Fork-tailed, *Tyrannus savana*

Gray, *Empidonax wrightii*

Gray-spotted, *Muscicapa griseisticta*

Great Crested, *Myiarchus crinitus*

Hammond's, *Empidonax hammondi*

Least, *Empidonax minimus*

Narcissus, *Muscicapa narcissina*

Nutting's, *Myiarchus nuttingi*

Olive-sided, *Contopus borealis*

Puerto Rican, *Myiarchus antillarum*

Scissor-tailed, *Tyrannus forficatus*

Sulphur-bellied, *Myiodynastes luteiventris*

Vermilion, *Pyrocephalus rubinus*

Western, *Empidonax difficilis*

Willow, *Empidonax traillii*

Yellow-bellied, *Empidonax flaviventris*

Frigatebird:

Great, *Fregata minor*

Magnificent, *Fregata magnificens*

Lesser, *Fregata ariel*

Fulmar, Northern, *Fulmarus glacialis*

Gadwall (see DUCKS)

Gallinule, Purple, *Porphyryula martinica*

Gannet, Northern, *Sula bassanus*

Garganey (see DUCKS)

Gnatcatcher:

Black-capped, *Polioptila nigriceps*

Black-tailed, *Polioptila melanura*

Blue-gray, *Polioptila caerulea*

Godwit:

Bar-tailed, *Limosa lapponica*

Black-tailed, *Limosa limosa*

Hudsonian, *Limosa haemastica*

Marbled, *Limosa fedoa*

Golden-Plover, Lesser, *Pluvialis dominica*

Goldeneye (see DUCKS)

Goldfinch:

American, *Carduelis tristis*

Lawrence's, *Carduelis lawrencei*

Lesser, *Carduelis psaltria*

Goose:

Barnacle, *Branta leucopsis*

Bean, *Anser fabalis*

Canada, *Branta canadensis*

Emperor, *Chen canagica*

Greater White-fronted, *Anser albifrons*

Hawaiian, *Nesochen sandvicensis*

Ross', *Chen rossii*

Snow, *Chen caerulescens*

Goshawk, Northern, *Accipiter gentilis*

Grackle:

Boat-tailed, *Quiscalus major*

Common, *Quiscalus quiscula*

Great-tailed, *Quiscalus mexicanus*

Greater Antillean, *Quiscalus niger*

Grasshopper-Warbler, Middendorff's, *Locustella ochotensis*

Grassquit:

Black-faced, *Tiaris bicolor*

Yellow-faced, *Tiaris olivacea*

Grebe:

Eared, *Podiceps nigricollis*

Horned, *Podiceps auritus*

Least, *Tachybaptus dominicus*

Pied-billed, *Podilymbus podiceps*

Red-necked, *Podiceps grisegena*

Western, *Aechmophorus occidentalis*

Greenfinch, Oriental, *Carduelis sinica*

Greenshank, Common, *Tringa nebularia*

Grosbeak:

Black-headed, *Pheucticus melanocephalus*

Blue, *Guiraca caerulea*

Crimson-collared, *Rhodothraupis celaeno*

Evening, *Coccothraustes vespertinus*

Pine, *Pinicola enucleator*

Rose-breasted, *Pheucticus ludovicianus*

Yellow, *Pheucticus chrysopheplus*

Ground-Dove:

Common, *Columbina passerina*

Ruddy, *Columbina talpacoti*

Guillemot:

Black, *Cephus grylle*

Pigeon, *Cephus columba*

Gull:

Bonaparte's, *Larus philadelphia*

California, *Larus californicus*

Common Black-headed, *Larus ridibundus*

Franklin's, *Larus pipixcan*

Glaucous, *Larus hyperboreus*

Glaucous-winged, *Larus glaucescens*

Great Black-backed, *Larus marinus*

Heermann's, *Larus heermanni*

Herring, *Larus argentatus*

Iceland, *Larus glaucoides*

Ivory, *Pagophila eburnea*

Laughing, *Larus atricilla*

Lesser Black-backed, *Larus fuscus*

Little, *Larus minutus*

Mew, *Larus canus*

Ring-billed, *Larus delawarensis*

Ross', *Rhodostethia rosea*

Sabine's, *Xema sabini*

Slaty-backed, *Larus schistisagus*

Thayer's, *Larus thayeri*

Western, *Larus occidentalis*

Yellow-footed, *Larus livens*

Gyrfalcon, *Falco rusticolus*

Harrier, Northern, *Circus cyaneus*

Hawfinch, *Coccothraustes coccothraustes*

Hawk:

Asiatic Sparrow, *Accipiter gularis*

Black (see Black-Hawk)

Broad-winged, *Buteo platypterus*

Cooper's, *Accipiter cooperii*

Ferruginous, *Buteo regalis*

Gray, *Buteo nitidus*

Harris', *Parabuteo unicinctus*

Hawaiian, *Buteo solitarius*

Red-shouldered, *Buteo lineatus*

Red-tailed, *Buteo jamaicensis*

Rough-legged, *Buteo lagopus*

Sharp-shinned, *Accipiter striatus*

Short-tailed, *Buteo brachyurus*

Swainson's, *Buteo swainsoni*

White-tailed, *Buteo albicaudatus*

Zone-tailed, *Buteo albonotatus*

Hawk-Cuckoo, Hodgson's, *Cuculus fugax*

Hawk-Owl, Northern, *Surnia ulula*

Heron:

Great Blue, *Ardea herodias*

Green-backed, *Butorides striatus*

Little Blue, *Egretta caerulea*

Night (see Night-Heron)

Pacific Reef, *Egretta sacra*

Tricolored, *Egretta tricolor*

Hoopoe, *Upupa epops*

House-Martin, Common, *Delichon urbica*

Hummingbird (see Carib, Emerald, Mango, Starthroat, Woodstar, Violet-ear):

Allen's, *Selasphorus sasin*

Anna's, *Calypte anna*

Antillean Crested, *Orthorhynchus cristatus*

Berylline, *Amazilia beryllina*

Black-chinned, *Archilochus alexandri*

Blue-throated, *Lampornis clemenciae*

Broad-billed, *Cyananthus latirostris*

Broad-tailed, *Selasphorus platycercus*

Buff-bellied, *Amazilia yucatanensis*

Calliope, *Stellula calliope*

Costa's, *Calypte costae*

Lucifer, *Calothorax lucifer*

Magnificent, *Eugenes fulgens*

Ruby-throated, *Archilochus colubris*

Rufous, *Selasphorus rufus*

Violet-crowned, *Amazilia violiceps*

White-eared, *Hylocharis leucotis*

Ibis:

Glossy, *Plegadis falcinellus*

Scarlet, *Eudocimus ruber*

White, *Eudocimus albus*

White-faced, *Plegadis chihi*

Jabiru, *Jabiru mycteria*

Jacana, Northern, *Jacana spinosa*

Jaeger:

Long-tailed, *Stercorarius longicaudus*

Parasitic, *Stercorarius parasiticus*

Pomarine, *Stercorarius pomarinus*

Jay:

Blue, *Cyanocitta cristata*

Brown, *Cyanocorax morio*

Gray, *Perisoreus canadensis*

Gray-breasted, *Aphelocoma ultramarina*

Green, *Cyanocorax yncas*

Pinyon, *Gymnorhinus cyanocephalus*

Scrub, *Aphelocoma coerulescens*

Steller's, *Cyanocitta stelleri*

Junco:

Dark-eyed, *Junco hyemalis*

Yellow-eyed, *Junco phaeonotus*

Kestrel:

American, *Falco sparverius*

Eurasian, *Falco tinnunculus*

Killdeer, *Charadrius vociferus*

Kingbird:

Cassin's, *Tyrannus vociferans*

Couch's, *Tyrannus couchii*

Eastern, *Tyrannus tyrannus*

Gray, *Tyrannus dominicensis*

Loggerhead, *Tyrannus caudifasciatus*

Thick-billed, *Tyrannus crassirostris*

Tropical, *Tyrannus melancholicus*

Western, *Tyrannus verticalis*

Kingfisher:

Belted, *Ceryle alcyon*

Green, *Chloroceryle americana*

Ringed, *Cyeryle torquata*

Kinglet:

Golden-crowned, *Regulus satrapa*

Ruby-crowned, *Regulus calendula*

Kiskadee, Great, *Pitangus sulphuratus*

Kite:

American Swallow-tailed, *Elanoides forficatus*

Black, *Milvus migrans*

Black-shouldered, *Elanus caeruleus*

Hook-billed, *Chondrohierax uncinatus*

Mississippi, *Ictinia mississippiensis*

Snail, *Rostrhamus sociabilis*

Kittiwake:

Black-legged, *Larus tridactyla*

Red-legged, *Larus brevirostris*

Knot:

Great, *Calidris tenuirostris*

Red, *Calidris canutus*

Lapwing, Northern, *Vanellus vanellus*

Lark, Horned, *Eremophila alpestris*

Limpkin, *Aramus guarauna*

Lizard-Cuckoo, Puerto Rican, *Saurothera vieilloti*

Longspur:

Chestnut-collared, *Calcarius ornatus*

Lapland, *Calcarius lapponicus*

McCown's, *Calcarius mccownii*

Smith's, *Calcarius pictus*

Loon:

Arctic, *Gavia arctica*

Common, *Gavia immer*

Red-throated, *Gavia stellata*

Yellow-billed, *Gavia adamsii*

Magpie:

Black-billed, *Pica pica*

Yellow-billed, *Pica nuttalli*

Mallard (see DUCKS)

Mango:

Antillean, *Anthracothorax dominicus*

Green, *Anthracothorax viridis*

Martin:

Caribbean, *Progne dominicensis*

Cuban, *Progne cryptoleuca*

Gray-breasted, *Progne chalybea*

House (see House-Martin)

Purple, *Progne subis*

Meadowlark:

Eastern, *Sturnella magna*

Western, *Sturnella neglecta*

Merganser (see DUCKS)

Merlin, *Falco columbarius*

Mockingbird, Northern, *Mimus polyglottos*

Moorhen, Common, *Gallinula chloropus*

Murre:

Common, *Uria aalge*

Thick-billed, *Uria lomvia*

Murrelet:

Ancient, *Synthliboramphus antiquus*

Craveri's, *Synthliboramphus craveri*

Kittlitz's, *Brachyramphus brevirostris*

Marbled, *Brachyramphus marmoratus*

Xantus', *Synthliboramphus hypoleucus*

Needletail, White-throated, *Hirundapus caudacutus*

Night-Heron:

Black-crowned, *Nycticorax nycticorax*

Japanese, *Nycticorax goisagi*

Malay, *Nycticorax melanolophus*

Yellow-crowned, *Nycticorax violaceus*

Nighthawk:

Antillean, *Chordeiles gundlachii*

Common, *Chordeiles minor*

Lesser, *Chordeiles acutipennis*

Nightjar:

Buff-collared, *Caprimulgus ridgwayi*

Jungle, *Caprimulgus indicus*

Puerto Rican, *Caprimulgus noctitherus*

Noddy:

Black, *Anous minutus*

Blue-gray, *Procelsterna cerulea*

Brown, *Anous stolidus*

Lesser, *Anous tenuirostris*

Nutcracker, Clark's, *Nucifraga columbiana*

Nuthatch:

Brown-headed, *Sitta pusilla*

Pygmy, *Sitta pygmaea*

Red-breasted, *Sitta canadensis*

White-breasted, *Sitta carolinensis*

Oldsquaw (see DUCKS)

Oriole:

Altamira, *Icterus gularis*

Audubon's, *Icterus graduacauda*

Black-cowled, *Icterus dominicensis*

Black-vented, *Icterus wagleri*

Hooded, *Icterus cucullatus*

Northern, *Icterus galbula*

Orchard, *Icterus spurius*

Scott's, *Icterus parisorum*

Streak-backed, *Icterus pustulatus*

Osprey, *Pandion haliaetus*

Ovenbird, *Seiurus aurocapillus*

Owl:

Barn (see Barn-Owl)

Barred, *Strix varia*

Boreal, *Aegolius funereus*

Burrowing, *Athene cunicularia*

Elf, *Micrathene whitneyi*

Flammulated, *Otus flammeolus*

Great Gray, *Strix nebulosa*

Great Horned, *Bubo virginianus*

Hawk (see Hawk-Owl)

Long-eared, *Asio otus*

Pygmy (see Pygmy-Owl)

Saw-whet (see Saw-Whet Owl)

Screech (see Screech-Owl)

Short-eared, *Asio flammeus*

Snowy, *Nyctea scandiaca*

Spotted, *Strix occidentalis*

Oystercatcher:

American, *Haematopus palliatus*

Black, *Haematopus bachmani*

Parula:

Northern, *Parula americana*

Tropical, *Parula pitiayumi*

Pauraque, Common, *Nyctidromus albicollis*

Pelican:

American White, *Pelecanus erythrorhynchos*

Brown, *Pelecanus occidentalis*

Petrel:

Black-capped, *Pterodroma hasitata*

Bonin, *Pterodroma hypoleuca*

Bulwer's, *Bulweria bulwerii*

Cook's, *Pterodroma cookii*

Dark-rumped, *Pterodroma phaeopygia*

Herald, *Pterodroma arminjoniana*

Kermadec, *Pterodroma neglecta*

Mottled, *Pterodroma inexpectata*

Murphy's, *Pterodroma ultima*

Storm (see Storm-Petrel)

White-necked, *Pterodroma externa*

Pewee:

Greater, *Contopus pertinax*

Lesser Antillean, *Contopus latirostris*

Wood (see Wood-Pewee)

Phainopepla, *Phainopepla nitens*

Phalarope:

Red, *Phalaropus fulicaria*

Red-necked, *Phalaropus lobatus*

Wilson's, *Phalaropus tricolor*

Phoebe:

Black, *Sayornis nigricans*

Eastern, *Sayornis phoebe*

Say's, *Sayornis saya*

Pigeon:

Band-tailed, *Columba fasciata*

Plain, *Columba inornata*

Red-billed, *Columba flavirostris*

Scaly-naped, *Columba squamosa*

White-crowned, *Columba leucocephala*

Pintail (see DUCKS)

Pipit:

Pechora, *Anthus gustavi*

Red-throated, *Anthus cervinus*

Sprague's, *Anthus spragueii*

Tree (see Tree-Pipit)

Water, *Anthus spinoletta*

Plover:

Black-bellied, *Pluvialis squatarola*

Common Ringed, *Charadrius hiaticula*

Golden (see Golden-Plover)

Great Sand, *Charadrius leschenaultii*

Little Ringed, *Charadrius dubius*

Mongolian, *Charadrius mongolus*

Mountain, *Charadrius montanus*

Piping, *Charadrius melodus*

Semipalmated, *Charadrius semipalmatus*

Snowy, *Charadrius alexandrinus*

Wilson's, *Charadrius wilsonia*

Pochard (see DUCKS)

Poorwill, Common, *Phalaenoptilus nuttallii*

Puffin:

Atlantic, *Fratercula arctica*

Horned, *Fratercula corniculata*

Tufted, *Fratercula cirrhata*

Pygmy-Owl:

Ferruginous, *Glaucidium brasilianum*

Northern, *Glaucidium gnoma*

Pyrrhuloxia, *Cardinalis sinuatus*

Quail-Dove:

Bridled, *Geotrygon mystacea*

Key West, *Geotrygon chrysia*

Ruddy, *Geotrygon montana*

Rail:

Black, *Laterallus jamaicensis*

Clapper, *Rallus longirostris*

King, *Rallus elegans*

Sora (see Sora)

Virginia, *Rallus limicola*

Yellow, *Coturnicops noveboracensis*

Raven:

Chihuahuan, *Corvus cryptoleucus*

Common, *Corvus corax*

Razorbill, *Alca torda*

Redhead (see DUCKS)

Redpoll:

Common, *Carduelis flammea*

Hoary, *Carduelis hornemanni*

Redshank, Spotted, *Tringa erythropus*

Redstart:

American, *Setophaga ruticilla*

Painted, *Myioborus pictus*

Slaty-throated, *Myioborus miniatus*

Reed-Bunting:

Common, *Emberiza schoeniculus*

Pallas', *Emberiza pallasi*

Roadrunner, Greater, *Geococcyx californianus*

Robin:

American, *Turdus migratorius*

Clay-colored, *Turdus grayi*

Rufous-backed, *Turdus rufopalliatu*s

Rosefinch, Common, *Carpodacus erythrinus*

Rough-winged Swallow, Northern, *Stelgidopteryx serripennis*

Rubythroat, Siberian, *Luscinia calliope*

Ruff, *Philomachus pugnax*

Sanderling, *Calidris alba*

Sandpiper:

Baird's, *Calidris bairdii*

Broad-billed, *Limicola falcinellus*

Buff-breasted, *Tryngites subruficollis*

Common, *Actitis hypoleucos*

Curlew, *Calidris ferruginea*

Least, *Calidris minutilla*

Marsh, *Tringa stagnatilis*

Pectoral, *Calidris melanotos*

Purple, *Calidris maritima*

Rock, *Calidris ptilocnemis*

Semipalmated, *Calidris pusilla*

Sharp-tailed, *Calidris acuminata*

Solitary, *Tringa solitaria*

Spoonbill, *Eurynorhynchus pygmeus*

Spotted, *Actitis macularia*

Stilt, *Calidris himantopus*

Terek, *Xenus cinereus*

Upland, *Bartramia longicauda*

Western, *Calidris mauri*

White-rumped, *Calidris fuscicollis*

Wood, *Tringa glareola*

Sapsucker:

Red-breasted, *Sphyrapicus ruber*

Williamson's, *Sphyrapicus thyroideus*

Yellow-bellied, *Sphyrapicus varius*

Saw-whet Owl, Northern, *Aegolius acadicus*

Scaup (see DUCKS)

Scoter (see DUCKS)

Screech-Owl:

Eastern, *Otus asio*

Puerto Rican, *Otus nudipes*

Western, *Otus kennicottii*

Whiskered, *Otus trichopsis*

Sea-Eagle, Steller's, *Haliaeetus pelagicus*

Seedeater, White-collared, *Sporophila torqueola*

Shearwater:

Audubon's, *Puffinus lherminieri*

Black-vented, *Puffinus opisthomelas*

Buller's, *Puffinus bulleri*

Christmas, *Puffinus nativitatus*

Cory's, *Calonectris diomedea*

Flesh-footed, *Puffinus carneipes*

Greater, *Puffinus gravis*

Little, *Puffinus assimilis*

Manx, *Puffinus puffinus*

Pink-footed, *Puffinus creatopus*

Short-tailed, *Puffinus tenuirostris*

Sooty, *Puffinus griseus*

Townsend's, *Puffinus auricularis*

Wedge-tailed, *Puffinus pacificus*

Shoveler (see DUCKS)

Shrike:

Loggerhead, *Lanius ludovicianus*

Northern, *Lanius excubitor*

Siskin, Pine, *Carduelis pinus*

Skimmer, Black, *Rhynchops niger*

Skua:

Great, *Catharacta skua*

South Polar, *Catharacta maccormicki*

Skylark, Eurasian, *Alauda arvensis*

Smew (see DUCKS)

Snipe:

Common, *Gallinago gallinago*

Jack, *Lymnocyptes minimus*

Pin-tailed, *Gallinago stenura*

Swinhoe's, *Gallinago megala*

Solitaire, Townsend's, *Myadestes townsendi*

Sora, *Porzana carolina*

Sparrow:

American Tree, *Spizella arborea*

Bachman's, *Aimophila aestivalis*

Baird's, *Ammodramus bairdii*

Black-chinned, *Spizella atrogularis*

Black-throated, *Amphispiza bilineata*

Botteri's, *Aimophila botterii*

Brewer's, *Spizella breweri*

Cassin's, *Aimophila cassinii*

Chipping, *Spizella passerina*

Clay-colored, *Spizella pallida*

Field, *Spizella pusilla*

Five-striped, *Amphispiza quinquestriata*

Fox, *Passerella iliaca*

Golden-crowned, *Zonotrichia atricapilla*

Grasshopper, *Ammodramus savannarum*

Harris', *Zonotrichia querula*

Henslow's, *Ammodramus henslowii*

Lark, *Chondestes grammacus*

Le Conte's, *Ammodramus leconteii*

Lincoln's, *Melospiza lincolnii*

Olive, *Arremonops rufivirgatus*

Rufous-crowned, *Aimophila ruificeps*

Rufous-winged, *Aimophila carpalis*

Sage, *Amphispiza belli*

Savannah, *Passerculus sandwichensis*

Seaside, *Ammodramus maritimus*

Sharp-tailed, *Ammodramus caudacutus*

Song, *Melospiza melodia*

Swamp, *Melospiza georgiana*

Vesper, *Pooecetes gramineus*

White-crowned, *Zonotrichia leucophrys*

White-throated, *Zonotrichia albicollis*

Worthen's, *Spizella wortheni*

Spoonbill, Roseate, *Ajaia ajaja*

Starling:

Ashy, *Sturnus cineraceus*

Violet-backed, *Sturnus philippensis*

Starthroat, Plain-capped *Heliomaster constantii*,

Stilt, Black-necked, *Himantopus mexicanus*

Stint:

Little, *Calidris minuta*

Long-toed, *Calidris subminuta*

Rufous-necked, *Calidris ruficollis*

Temminck's, *Calidris temminckii*

Stork, Wood, *Mycteria americana*

Storm-Petrel:

Ashy, *Oceanodroma homochroa*

Band-rumped, *Oceanodroma castro*

Black, *Oceanodroma melania*

Fork-tailed, *Oceanodroma furcata*

Leach's, *Oceanodroma leucorhoa*

Least, *Oceanodroma microsoma*

Sooty, *Oceanodroma tristrami*

Wedge-rumped, *Oceanodroma tethys*

White-faced, *Pelagadroma marina*

Wilson's, *Oceanites oceanicus*

Surfbird, *Aphriza virgata*

Swallow:

Bahama, *Tachycineta cyaneoviridis*

Bank, *Riparia riparia*

Barn, *Hirundo rustica*

Cave, *Hirundo fulva*

Cliff, *Hirundo pyrrhonota*

Rough-winged (see Rough-winged Swallow)

Tree, *Tachycineta bicolor*

Violet-green, *Tachycineta thalassina*

Swan:

Trumpeter, *Cygnus buccinator*

Tundra, *Cygnus columbianus*

Whooper, *Cygnus cygnus*

Swift:

Antillean Palm, *Tachornis pheonicobia*

Black, *Cypseloides niger*

Chimney, *Chaetura pelagica*

Common, *Apus apus*

Fork-tailed, *Apus pacificus*

Needle-tailed (see Needletail)

Vaux's, *Chaetura vauxi*

White-collared, *Streptoprocne zonaris*

White-throated, *Aeronautes saxatalis*

Tanager:

Hepatic, *Piranga flava*

Puerto Rican, *Neospingus speculariferus*

Scarlet, *Piranga olivacea*

Stripe-headed, *Spindalis zena*

Summer, *Piranga rubra*

Western, *Piranga ludoviciana*

Tattler:

Gray-tailed, *Heteroscelus brevipes*

Wandering, *Heteroscelus incanus*

Teal (see DUCKS)

Tern:

Aleutian, *Sterna aleutica*

Arctic, *Sterna paradisaea*

Black, *Chlidonias niger*

Black-naped, *Sterna sumatrana*

Bridled, *Sterna anaethetus*

Caspian, *Sterna caspia*

Common, *Sterna hirundo*

Elegant, *Sterna elegans*

Forster's, *Sterna forsteri*

Gray-backed, *Sterna lunata*

Gull-billed, *Sterna nilotica*

Least, *Sterna antillarum*

Little, *Sterna albifrons*

Roseate, *Sterna dougallii*

Royal, *Sterna maxima*

Sandwich, *Sterna sandvicensis*

Sooty, *Sterna fuscata*

White, *Gygis alba*

White-winged, *Chlidonias leucopterus*

Thrasher:

Bendire's, *Toxostoma bendirei*

Brown, *Toxostoma rufum*

California, *Toxostoma redivivum*

Crissal, *Toxostoma crissale*

Curve-billed, *Toxostoma curvirostre*

Le Conte's, *Toxostoma lecontei*

Long-billed, *Toxostoma longirostre*

Pearly-eyed, *Margarops fuscatus*

Sage, *Oreoscoptes montanus*

Thrush:

Aztec, *Ridgwayia pinicola*

Blue Rock, *Monticola solitarius*

Dusky, *Turdus naumanni*

Eye-browed, *Turdus obscurus*

Gray-cheeked, *Catharus minimus*

Hawaiian, *Phaeornis obscurus*

Hermit, *Catharus guttatus*

Red-legged, *Turdus plumbeus*

Small Kauai, *Phaeornis palmeri*

Swainson's, *Catharus ustulatus*

Varied, *Ixoreus naevius*

Wood, *Hylocichla minima*

Tit, Siberian, *Parus cinctus*

Titmouse:

Bridled, *Parus wollweberi*

Plain, *Parus inornatus*

Tufted, *Parus bicolor*

Towhee:

Abert's, *Pipilo aberti*

Brown, *Pipilo fuscus*

Green-tailed, *Pipilo chlorurus*

Rufous-sided, *Pipilo erythrophthalmus*

Tree-Pipit, Olive, *Anthus hodgsoni*

Trogon:

Eared, *Euptilotus neoxenus*

Elegant, *Trogon elegans*

Tropicbird:

Red-billed, *Phaethon aethereus*

Red-tailed, *Phaethon rubricauda*

White-tailed, *Phaethon lepturus*

Turnstone:

Black, *Arenaria melanocephala*

Ruddy, *Arenaria interpres*

Veery, *Catharus fuscescens*

Verdin, *Auriparus flaviceps*

Violet-Ear, Green, *Colibri thalassinus*

Vireo:

Bell's *Vireo bellii*

Black-capped, *Vireo atricapillus*

Black-whiskered, *Vireo altiloquus*

Gray, *Vireo vicinior*

Hutton's, *Vireo huttoni*

Philadelphia, *Vireo philadelphicus*

Puerto Rican, *Vireo latimeri*

Red-eyed, *Vireo olivaceus*

Solitary, *Vireo solitarius*

Warbling, *Vireo gilvus*

White-eyed, *Vireo griseus*

Yellow-throated, *Vireo flavifrons*

Vulture:

Black, *Coragyps atratus*

Turkey, *Cathartes aura*

Wagtail:

Black-backed, *Motacilla lugens*

Gray, *Motacilla cinerea*

White, *Motacilla alba*

Yellow, *Motacilla flava*

Warbler:

Adelaide's, *Dendroica adelaidae*

Arctic, *Phylloscopus borealis*

Bachman's, *Vermivora bachmanii*

Bay-breasted, *Dendroica castanea*

Black-and-white, *Mniotilta varia*

Black-throated Blue, *Dendroica caerulescens*

Black-throated Gray, *Dendroica nigrescens*

Black-throated Green, *Dendroica virens*

Blackburnian, *Dendroica fusca*

Blackpoll, *Dendroica striata*

Blue-winged, *Vermivora pinus*

Canada, *Wilsonia canadensis*

Cape May, *Dendroica tigrina*

Cerulean, *Dendroica cerulea*

Chestnut-sided, *Dendroica pensylvanica*

Colima, *Vermivora crissalis*

Connecticut, *Oporornis agilis*

Elfin Woods, *Dendroica angelae*

Golden-cheeked, *Dendroica chrysoparia*

Golden-crowned, *Basileuterus culicivorus*

Golden-winged, *Vermivora chrysoptera*

Grace's, *Dendroica graciae*

Grasshopper (see Grasshopper-Warbler)

Hermit, *Dendroica occidentalis*

Hooded, *Wilsonia citrina*

Kentucky, *Oporornis formosus*

Kirtland's, *Dendroica kirtlandii*

Lucy's, *Vermivora luciae*

MacGillivray's, *Oporornis tolmiei*

Magnolia, *Dendroica magnolia*

Mourning, *Oporornis philadelphia*

Nashville, *Vermivora ruficapilla*

Olive, *Peucedramus taeniatus*

Orange-crowned, *Vermivora celata*

Palm, *Dendroica palmarum*

Parula (see Parula)

Pine, *Dendroica pinus*

Prairie, *Dendroica discolor*

Prothonotary, *Protonotaria citrea*

Red-faced, *Cardellina rubrifrons*

Rufous-capped, *Basileuterus rufifrons*

Swainson's, *Limnothlypis swainsonii*

Tennessee, *Vermivora peregrina*

Townsend's, *Dendroica townsendi*

Virginia's, *Vermivora virginiae*

Willow, *Phylloscopus trochilus*

Wilson's, *Wilsonia pusilla*

Worm-eating, *Helmitheros vermivorus*

Yellow, *Dendroica petechia*

Yellow-rumped, *Dendroica coronata*

Yellow-throated, *Dendroica dominica*

Waterthrush:

Louisiana, *Seiurus motacilla*

Northern, *Seiurus noveboracensis*

Waxwing:

Bohemian, *Bombycilla garrulus*

Cedar, *Bombycilla cedrorum*

Wheatear, Northern, *Oenanthe oenanthe*

Whimbrel, *Numenius phaeopus*

Whip-poor-will, *Caprimulgus vociferus*

Whistling-Duck (see DUCKS)

Wigeon (see DUCKS)

Willet, *Catoptrophorus semipalmatus*

Wood-Pewee:

Eastern, *Contopus virens*

Western, *Contopus sordidulus*

Woodcock:

American, *Scolopax minor*

Eurasian, *Scolopax rusticola*

Woodpecker:

Acorn, *Melanerpes formicivorus*

Black-backed, *Picoides arcticus*

Downy, *Picoides pubescens*

Gila, *Melanerpes uropygialis*

Golden-fronted, *Melanerpes aurifrons*

Hairy, *Picoides villosus*

Ivory-billed, *Campephilus principalis*

Ladder-backed, *Picoides scalaris*

Lewis', *Melanerpes lewis*

Nuttall's, *Picoides nuttallii*

Pileated, *Dryocopus pileatus*

Puerto Rican, *Melanerpes portoricensis*

Red-bellied, *Melanerpes carolinus*

Red-cockaded, *Picoides borealis*

Red-headed, *Melanerpes erythrocephalus*

Strickland's, *Picoides stricklandi*

Three-toed, *Picoides tridactylus*

White-headed, *Picoides albolarvatus*

Woodstar, Bahama, *Calliphlox evelynae*

Wren:

Bewick's *Thryomanes bewickii*

Cactus, *Campylorhynchus brunneicapillus*

Canyon, *Catherpes mexicanus*

Carolina, *Thryothorus ludovicianus*

House, *Troglodytes aedon*

Marsh, *Cistothorus palustris*

Rock, *Salpinctes obsoletus*

Sedge, *Cistothorus platensis*

Winter, *Troglodytes troglodytes*

Wryneck, Eurasian, *Jynx torquilla*

Yellowlegs:

Greater, *Tringa melanoleuca*

Lesser, *Tringa flavipes*

Yellowthroat:

Common, *Geothlypis trichas*

Gray-crowned, *Geothlypis poliocephala*

II. Taxonomic Listing

OrderGAVIIFORMES

FamilyGAVIIDAE

Gavia stellata, Red-throated Loon

Gavia arctica, Arctic Loon

Gavia immer, Common Loon

Gavia adamsii, Yellow-billed Loon

OrderPODICIPEDIFORMES

FamilyPODICIPEDIDAE

Tachybaptus dominicus, Least Grebe

Podilymbus podiceps, Pied-billed Grebe

Podiceps auritus, Horned Grebe

Podiceps grisegena, Red-necked Grebe

Podiceps nigricollis, Eared Grebe

Aechmophorus occidentalis, Western Grebe

OrderPROCELLARIIFORMES

FamilyDIOMEDEIDAE

Diomedea albatrus, Short-tailed Albatross

Diomedea nigripes, Black-footed Albatross

Diomedea immutabilis, Laysan Albatross

Diomedea chlororhynchos, Yellow-nosed Albatross

FamilyPROCELLARIIDAE

Fulmarus glacialis, Northern Fulmar

Pterodroma hasitata, Black-capped Petrel

Pterodroma phaeopygia, Dark-rumped Petrel

Pterodroma externa, White-necked Petrel

Pterodroma inexpectata, Mottled Petrel

Pterodroma ultima, Murphy's Petrel

Pterodroma neglecta, Kermadec Petrel

Pterodroma arminjoniana, Herald Petrel

Pterodroma cookii, Cook's Petrel

Pterodroma hypoleuca, Bonin Petrel

Bulweria bulwerii, Bulwer's Petrel

Calonectris diomedea, Cory's Shearwater

Puffinus creatopus, Pink-footed Shearwater

Puffinus carneipes, Flesh-footed Shearwater

Puffinus gravis, Greater Shearwater

Puffinus pacificus, Wedge-tailed Shearwater

Puffinus bulleri, Buller's Shearwater

Puffinus griseus, Sooty Shearwater

Puffinus tenuirostris, Short-tailed Shearwater

Puffinus nativitatis, Christmas Shearwater

Puffinus puffinus, Manx Shearwater

Puffinus opisthomelas, Black-vented Shearwater

Puffinus auricularis, Townsend's Shearwater

Puffinus assimilis, Little Shearwater

Puffinus lherminieri, Audubon's Shearwater

FamilyHYDROBATIDAE

Oceanites oceanicus, Wilson's Storm-Petrel

Pelagodroma marina, White-faced Storm-Petrel

Oceanodroma furcata, Fork-tailed Storm-Petrel

Oceanodroma leucorhoa, Leach's Storm-Petrel

Oceanodroma homochroa, Ashy Storm-Petrel

Oceanodroma castro, Band-rumped Storm-Petrel

Oceanodroma tethys, Wedge-rumped Storm-Petrel

Oceanodroma melania, Black Storm-Petrel

Oceanodroma tristrami, Sooty Storm-Petrel

Oceanodroma microsoma, Least Storm-Petrel

OrderPELECANIFORMES

FamilyPHAETHONTIDAE

Phaethon lepturus, White-tailed Tropicbird

Phaethon aethereus, Red-billed Tropicbird

Phaethon rubricauda, Red-tailed Tropicbird

FamilySULIDAE

Sula dactylatra, Masked Booby

Sula nebouxii, Blue-footed Booby

Sula leucogaster, Brown Booby

Sula sula, Red-footed Booby

Sula bassanus, Northern Gannet

FamilyPELECANIDAE

Pelecanus erythrorhynchos, American White Pelican

Pelecanus occidentalis, Brown Pelican

FamilyPHALACROCORACIDAE

Phalacrocorax carbo, Great Cormorant

Phalacrocorax auritus, Double-crested Cormorant

Phalacrocorax olivaceus, Olivaceous Cormorant

Phalacrocorax penicillatus, Brandt's Cormorant

Phalacrocorax pelagicus, Pelagic Cormorant

Phalacrocorax urile, Red-faced Cormorant

FamilyANHINGIDAE

Anhinga anhinga, Anhinga

FamilyFREGATIDAE

Fregata magnificens, Magnificent Frigatebird

Fregata minor, Great Frigatebird

Fregata ariel, Lesser Frigatebird

OrderCICONIIFORMES

FamilyARDEIDAE

Botaurus lentiginosus, American Bittern

Ixobrychus exilis, Least Bittern

Ixobrychus sinensis, Chinese Bittern

Ixobrychus eurhythmus, Schrenk's Bittern

Ardea herodias, Great Blue Heron

Casmerodius albus, Great Egret

Egretta eulophotes, Chinese Egret

Egretta sacra, Pacific Reef Heron

Egretta intermedia, Plumed Egret

Egretta thula, Snowy Egret

Egretta caerulea, Little Blue Heron

Egretta tricolor, Tricolored Heron

Egretta rufescens, Reddish Egret

Bubulcus ibis, Cattle Egret

Butorides striatus, Green-backed Heron

Nycticorax nycticorax, Black-crowned Night-Heron

Nycticorax melanolophus, Malay Night-Heron

Nycticorax goisagi, Japanese Night-Heron

Nycticorax violaceus, Yellow-crowned Night-Heron

FamilyTHRESKIORNITHIDAE

Eudocimus albus, White Ibis

Eudocimus ruber, Scarlet Ibis

Plegadis falcinellus, Glossy Ibis

Plegadis chihi, White-faced Ibis

Ajaia ajaja, Roseate Spoonbill

FamilyCICONIIDAE

Jabiru mycteria, Jabiru

Mycteria americana, Wood Stork

OrderPHOENICOPTERIFORMES

FamilyPHOENICOPTERIDAE

Phoenicopterus ruber, Greater Flamingo

OrderANSERIFORMES

FamilyANATIDAE

Dendrocygna bicolor, Fulvous Whistling-Duck

Dendrocygna autumnalis, Black-bellied Whistling-Duck

Dendrocygna arborea, West Indian Whistling-Duck

Cygnus columbianus, Tundra Swan

Cygnus cygnus, Whooper Swan

Cygnus buccinator, Trumpeter Swan

Anser fabalis, Bean Goose

Anser albifrons, Greater White-fronted Goose

Chen caerulescens, Snow Goose

Chen rossii, Ross' Goose

Chen canagica, Emperor Goose

Branta bernicla, Brant

Branta leucopsis, Barnacle Goose

Branta canadensis, Canada Goose

Nesochen sandvicensis, Hawaiian Goose

Aix sponsa, Wood Duck

Anas crecca, Green-winged Teal

Anas formosa, Baikal Teal

Anas falcata, Falcated Teal

Anas rubripes, American Black Duck

Anas fulvigula, Mottled Duck

Anas platyrhynchos, Mallard

Anas wyvilliana, Hawaiian Duck

Anas laysanensis, Laysan Duck

Anas bahamensis, White-cheeked Pintail

Anas acuta, Northern Pintail

Anas querquedula, Garganey

Anas discors, Blue-winged Teal

Anas cyanoptera, Cinnamon Teal

Anas clypeata, Northern Shoveler

Anas strepera, Gadwall

Anas penelope, Eurasian Wigeon

Anas americana, American Wigeon

Aythya ferina, Common Pochard

Aythya valisineria, Canvasback

Aythya americana, Redhead

Aythya baeri, Baer's Pochard

Aythya collaris, Ring-necked Duck

Aythya fuligula, Tufted Duck

Aythya marila, Greater Scaup

Aythya affinis, Lesser Scaup

Somateria mollissima, Common Eider

Somateria spectabilis, King Eider

Somateria fischeri, Spectacled Eider

Polysticta stelleri, Steller's Eider

Histrionicus histrionicus, Harlequin Duck

Clangula hyemalis, Oldsquaw

Melanitta nigra, Black Scoter

Melanitta perspicillata, Surf Scoter

Melanitta fusca, White-winged Scoter

Bucephala clangula, Common Goldeneye

Bucephala islandica, Barrow's Goldeneye

Bucephala albeola, Bufflehead

Mergellus albellus, Smew

Lophodytes cucullatus, Hooded Merganser

Mergus merganser, Common Merganser

Mergus serrator, Red-breasted Merganser

Oxyura jamaicensis, Ruddy Duck

Oxyura dominica, Masked Duck

OrderFALCONIFORMES

FamilyCATHARTIDAE

Coragyps atratus, Black Vulture

Cathartes aura, Turkey Vulture

Gymnogyps californianus, California Condor

Family ACCIPITRIDAE

Pandion haliaetus, Osprey

Chondrohierax uncinatus, Hook-billed Kite

Elanoides forficatus, American Swallow-tailed Kite

Elanus caeruleus, Black-shouldered Kite

Rostrhamus sociabilis, Snail Kite

Ictinia mississippiensis, Mississippi Kite

Milvus migrans, Black Kite

Haliaeetus leucocephalus, Bald Eagle

Haliaeetus albicilla, White-tailed Eagle

Haliaeetus pelagicus, Steller's Sea-Eagle

Circus cyaneus, Northern Harrier

Accipiter gularis, Asiatic Sparrow Hawk

Accipiter striatus, Sharp-shinned Hawk

Accipiter cooperii, Cooper's Hawk

Accipiter gentilis, Northern Goshawk

Buteogallus anthracinus, Common Black-Hawk

Parabuteo unicinctus, Harris' Hawk

Buteo nitidus, Gray Hawk

Buteo lineatus, Red-shouldered Hawk

Buteo platypterus, Broad-winged Hawk

Buteo brachyurus, Short-tailed Hawk

Buteo swainsoni, Swainson's Hawk

Buteo albicaudatus, White-tailed Hawk

Buteo albonotatus, Zone-tailed Hawk

Buteo solitarius, Hawaiian Hawk

Buteo jamaicensis, Red-tailed Hawk

Buteo regalis, Ferruginous Hawk

Buteo lagopus, Rough-legged Hawk

Aquila chrysaetos, Golden Eagle

FamilyFALCONIDAE

Polyborus plancus, Crested Caracara

Falco tinnunculus, Eurasian Kestrel

Falco sparverius, American Kestrel

Falco columbarius, Merlin

Falco femoralis, Aplomado Falcon

Falco peregrinus, Peregrine Falcon

Falco rusticolus, Gyrfalcon

Falco mexicanus, Prairie Falcon

OrderGRUIFORMES

FamilyRALLIDAE

Coturnicops noveboracensis, Yellow Rail

Laterallus jamaicensis, Black Rail

Crex crex, Corn Crake

Rallus longirostris, Clapper Rail

Rallus elegans, King Rail

Rallus limicola, Virginia Rail

Porzana carolina, Sora

Porzana flaviventer, Yellow-breasted Crake

Porphyryla martinica, Purple Gallinule

Gallinula chloropus, Common Moorhen

Fulica atra, Eurasian Coot

Fulica americana, American Coot

Fulica caribaea, Caribbean Coot

Family ARAMIDAE

Aramus guarauna, Limpkin

Family GRUIDAE

Grus canadensis, Sandhill Crane

Grus grus, Common Crane

Grus americana, Whooping Crane

Order CHARADRIIFORMES

Family CHARADRIIDAE

Vanellus vanellus, Northern Lapwing

Pluvialis squatarola, Black-bellied Plover

Pluvialis dominica, Lesser Golden-Plover

Charadrius mongolus, Mongolian Plover

Charadrius leschenaultii, Great Sand Plover

Charadrius alexandrinus, Snowy Plover

Charadrius wilsonia, Wilson's Plover

Charadrius hiaticula, Common Ringed Plover

Charadrius semipalmatus, Semipalmated Plover

Charadrius melodus, Piping Plover

Charadrius dubius, Little Ringed Plover

Charadrius vociferus, Killdeer

Charadrius montanus, Mountain Plover

Charadrius morinellus, Eurasian Dotterel

Family HAEMATOPODIDAE

Haematopus palliatus, American Oystercatcher

Haematopus bachmani, Black Oystercatcher

Family RECURVIROSTRIDAE

Himantopus mexicanus, Black-necked Stilt

Recurvirostra americana, American Avocet

Family JACANIDAE

Jacana spinosa, Northern Jacana

Family SCOLOPACIDAE

Tringa nebularia, Common Greenshank

Tringa melanoleuca, Greater Yellowlegs

Tringa flavipes, Lesser Yellowlegs

Tringa stagnatilis, Marsh Sandpiper

Tringa erythropus, Spotted Redshank

Tringa glareola, Wood Sandpiper

Tringa solitaria, Solitary Sandpiper

Catoptrophorus semipalmatus, Willet

Heteroscelus incanus, Wandering Tattler

Heteroscelus brevipes, Gray-tailed Tattler

Actitis hypoleucos, Common Sandpiper

Actitis macularia, Spotted Sandpiper

Xenus cinereus, Terek Sandpiper

Bartramia longicauda, Upland Sandpiper

Numenius minutus, Least Curlew

Numenius borealis, Eskimo Curlew

Numenius phaeopus, Whimbrel

Numenius tahitiensis, Bristle-thighed Curlew

Numenius madagascariensis, Far Eastern Curlew

Numenius americanus, Long-billed Curlew

Limosa limosa, Black-tailed Godwit

Limosa haemastica, Hudsonian Godwit

Limosa lapponica, Bar-tailed Godwit

Limosa fedoa, Marbled Godwit

Arenaria interpres, Ruddy Turnstone

Arenaria melanocephala, Black Turnstone

Aphriza virgata, Surfbird

Calidris tenuirostris, Great Knot

Calidris canutus, Red Knot

Calidris alba, Sanderling

Calidris pusilla, Semipalmated Sandpiper

Calidris mauri, Western Sandpiper

Calidris ruficollis, Rufous-necked Stint

Calidris minuta, Little Stint

Calidris temminckii, Temminck's Stint

Calidris subminuta, Long-toed Stint

Calidris minutilla, Least Sandpiper

Calidris fuscicollis, White-rumped Sandpiper

Calidris bairdii, Baird's Sandpiper

Calidris melanotos, Pectoral Sandpiper

Calidris acuminata, Sharp-tailed Sandpiper

Calidris maritima, Purple Sandpiper

Calidris ptilocnemis, Rock Sandpiper

Calidris alpina, Dunlin

Calidris ferruginea, Curlew Sandpiper

Calidris himantopus, Stilt Sandpiper

Eurynorhynchus pygmeus, Spoonbill Sandpiper

Limicola falcinellus, Broad-billed Sandpiper

Tryngites subruficollis, Buff-breasted Sandpiper

Philomachus pugnax, Ruff

Limnodromus griseus, Short-billed Dowitcher

Limnodromus scolopaceus, Long-billed Dowitcher

Lymnocyptes minimus, Jack Snipe

Gallinago gallinago, Common Snipe

Gallinago stenura, Pin-tailed Snipe

Gallinago megala, Swinhoe's Snipe

Scolopax rusticola, Eurasian Woodcock

Scolopax minor, American Woodcock

Phalaropus tricolor, Wilson's Phalarope

Phalaropus lobatus, Red-necked Phalarope

Phalaropus fulicaria, Red Phalarope

Family LARIDAE

Stercorarius pomarinus, Pomarine Jaeger

Stercorarius parasiticus, Parasitic Jaeger

Stercorarius longicaudus, Long-tailed Jaeger

Catharacta skua, Great Skua

Catharacta maccormicki, South Polar Skua

Larus atricilla, Laughing Gull

Larus pipixcan, Franklin's Gull

Larus minutus, Little Gull

Larus ridibundus, Common Black-headed Gull

Larus philadelphia, Bonaparte's Gull

Larus heermanni, Heermann's Gull

Larus canus, Mew Gull

Larus delawarensis, Ring-billed Gull

Larus californicus, California Gull

Larus argentatus, Herring Gull

Larus thayeri, Thayer's Gull

Larus glaucooides, Iceland Gull

Larus fuscus, Lesser Black-backed Gull

Larus schistisagus, Slaty-backed Gull

Larus livens, Yellow-footed Gull

Larus occidentalis, Western Gull

Larus glaucescens, Glaucous-winged Gull

Larus hyperboreus, Glaucous Gull

Larus marinus, Great Black-backed Gull

Rissa tridactyla, Black-legged Kittiwake

Rissa brevirostris, Red-legged Kittiwake

Rhodostethia rosea, Ross' Gull

Xema sabini, Sabine's Gull

Pagophila eburnea, Ivory Gull

Sterna nilotica, Gull-billed Tern

Sterna caspia, Caspian Tern

Sterna maxima, Royal Tern

Sterna elegans, Elegant Tern

Sterna sandvicensis, Sandwich Tern

Sterna dougallii, Roseate Tern

Sterna hirundo, Common Tern

Sterna paradisaea, Arctic Tern

Sterna aleutica, Aleutian Tern

Sterna forsteri, Forster's Tern

Sterna antillarum, Least Tern

Sterna albifrons, Little Tern

Sterna sumatrana, Black-naped Tern

Sterna lunata, Gray-backed Tern

Sterna anaethetus, Bridled Tern

Sterna fuscata, Sooty Tern

Chlidonias leucopterus, White-winged Tern

Chlidonias niger, Black Tern

Anous stolidus, Brown Noddy

Anous minutus, Black Noddy

Anous tenuirostris, Lesser Noddy

Procelsterna cerulea, Blue-Gray Noddy

Gygis alba, White Tern

Rynchops niger, Black Skimmer

FamilyALCIDAE

Alle alle, Dovekie

Uria aalge, Common Murre

Uria lomvia, Thick-billed Murre

Alca torda, Razorbill

Cephus grylle, Black Guillemot

Cephus columba, Pigeon Guillemot

Brachyramphus marmoratus, Marbled Murrelet

Brachyramphus brevirostris, Kittlitz's Murrelet

Synthliboramphus hypoleucus, Xantus' Murrelet

Synthliboramphus craveri, Craveri's Murrelet

Synthliboramphus antiquus, Ancient Murrelet

Ptychoramphus aleuticus, Cassin's Auklet

Cyclorrhynchus psittacula, Parakeet Auklet

Aethia pusilla, Least Auklet

Aethia pygmaea, Whiskered Auklet

Aethia cristatella, Crested Auklet

Cerorhinca monocerata, Rhinoceros Auklet

Fratercula cirrhata, Tufted Puffin

Fratercula arctica, Atlantic Puffin

Fratercula corniculata, Horned Puffin

OrderCOLUMBIFORMES

FamilyCOLUMBIDAE

Columba squamosa, Scaly-naped Pigeon

Columba leucocephala, White-crowned Pigeon

Columba flavirostris, Red-billed Pigeon

Columba inornata, Plain Pigeon

Columba fasciata, Band-tailed Pigeon

Zenaida asiatica, White-winged Dove

Zenaida aurita, Zenaida Dove

Zenaida macroura, Mourning Dove

Columbina inca, Inca Dove

Columbina passerina, Common Ground-Dove

Columbina talpacoti, Ruddy Ground-Dove

Leptotila verreauxi, White-tipped Dove

Geotrygon chrysis, Key West Quail-Dove

Geotrygon mystacea, Bridled Quail-Dove

Geotrygon montana, Ruddy Quail-Dove

OrderCUCULIFORMES

FamilyCUCULIDAE

Cuculus canorus, Common Cuckoo

Cuculus saturatus, Oriental Cuckoo

Cuculus fugax, Hodgson's Hawk-Cuckoo

Coccyzus erythrophthalmus, Black-billed Cuckoo

Coccyzus americanus, Yellow-billed Cuckoo

Coccyzus minor, Mangrove Cuckoo

Geococcyx californianus, Greater Roadrunner

Saurothera vieilloti, Puerto Rican Lizard-Cuckoo

Crotophaga ani, Smooth-billed Ani

Crotophaga sulcirostris, Groove-billed Ani

OrderSTRIGIFORMES

FamilyTYTONIDAE

Tyto alba, Common Barn-Owl

FamilySTRIGIDAE

Otus flammeolus, Flammulated Owl

Otus asio, Eastern Screech-Owl

Otus kennicottii, Western Screech-Owl

Otus trichopsis, Whiskered Screech-Owl

Otus nudipes, Puerto Rican Screech-Owl

Bubo virginianus, Great Horned Owl

Nyctea scandiaca, Snowy Owl

Surnia ulula, Northern Hawk-Owl

Glaucidium gnoma, Northern Pygmy-Owl

Glaucidium brasilianum, Ferruginous Pygmy-Owl

Micrathene whitneyi, Elf Owl

Athene cunicularia, Burrowing Owl

Strix occidentalis, Spotted Owl

Strix varia, Barred Owl

Strix nebulosa, Great Gray Owl

Asio otus, Long-eared Owl

Asio flammeus, Short-eared Owl

Aegolius funereus, Boreal Owl

Aegolius acadicus, Northern Saw-whet Owl

OrderCAPRIMULGIFORMES

FamilyCAPRIMULGIDAE

Chordeiles acutipennis, Lesser Nighthawk

Chordeiles minor, Common Nighthawk

Chordeiles gundlachi, Antillean Nighthawk

Nyctidromus albicollis, Common Pauraque

Phalaenoptilus nuttallii, Common Poorwill

Caprimulgus carolinensis, Chuck-will's-widow

Caprimulgus ridgwayi, Buff-collared Nightjar

Caprimulgus vociferus, Whip-poor-will

Caprimulgus noctitherus, Puerto Rican Nightjar

Caprimulgus indicus, Jungle Nightjar

OrderAPODIFORMES

FamilyAPODIDAE

Cypseloides niger, Black Swift

Streptoprocne zonaris, White-collared Swift

Chaetura pelagica, Chimney Swift

Chaetura vauxi, Vaux's Swift

Hirundapus caudacutus, White-throated Needletail

Apus apus, Common Swift

Apus pacificus, Fork-tailed Swift

Aeronautes saxatalis, White-throated Swift

Tachornis phoenicobia, Antillean Palm Swift

FamilyTROCHILIDAE

Colibri thalassinus, Green Violet-ear

Anthracothorax dominicus, Antillean Mango

Anthracothorax viridis, Green Mango

Eulampis holosericeus, Green-throated Carib

Orthorhynchus cristatus, Antillean Crested Hummingbird

Chlorostilbon maugaeus, Puerto Rican Emerald

Cynanthus latirostris, Broad-billed Hummingbird

Hylocharis leucotis, White-eared Hummingbird

Amazilia beryllina, Berylline Hummingbird

Amazilia yucatanensis, Buff-bellied Hummingbird

Amazilia violiceps, Violet-crowned Hummingbird

Lampornis clemenciae, Blue-throated Hummingbird

Eugenes fulgens, Magnificent Hummingbird

Heliomaster constantii, Plain-capped Starthroat

Calliphlox evelynae, Bahama Woodstar

Calothorax lucifer, Lucifer Hummingbird

Archilochus colubris, Ruby-throated Hummingbird

Archilochus alexandri, Black-chinned Hummingbird

Calypte anna, Anna's Hummingbird

Calypte costae, Costa's Hummingbird

Stellula calliope, Calliope Hummingbird

Selasphorus platycercus, Broad-tailed Hummingbird

Selasphorus rufus, Rufous Hummingbird

Selasphorus sasin, Allen's Hummingbird

OrderTROGONIFORMES

FamilyTROGONIDAE

Trogon elegans, Elegant Trogon

Euptilotus neoxenus, Eared Trogon

OrderCORACIIFORMES

FamilyUPUPIDAE

Upupa epops, Hoopoe

FamilyALCEDINIDAE

Ceryle torquata, Ringed Kingfisher

Ceryle alcyon, Belted Kingfisher

Chloroceryle americana, Green Kingfisher

OrderPICIFORMES

FamilyPICIDAE

Jynx torquilla, Eurasian Wryneck

Melanerpes lewis, Lewis' Woodpecker

Melanerpes erythrocephalus, Red-headed Woodpecker

Melanerpes formicivorus, Acorn Woodpecker

Melanerpes uropygialis, Gila Woodpecker

Melanerpes aurifrons, Golden-fronted Woodpecker

Melanerpes carolinus, Red-bellied Woodpecker

Melanerpes portoricensis, Puerto Rican Woodpecker

Sphyrapicus varius, Yellow-bellied Sapsucker

Sphyrapicus ruber, Red-breasted Sapsucker

Sphyrapicus thyroideus, Williamson's Sapsucker

Picoides scalaris, Ladder-Backed Woodpecker

Picoides nuttallii, Nuttall's Woodpecker

Picoides pubescens, Downy Woodpecker

Picoides villosus, Hairy Woodpecker

Picoides stricklandi, Strickland's Woodpecker

Picoides borealis, Red-cockaded Woodpecker

Picoides albolarvatus, White-headed Woodpecker

Picoides tridactylus, Three-toed Woodpecker

Picoides arcticus, Black-backed Woodpecker

Colaptes auratus, Northern Flicker

Dryocopus pileatus, Pileated Woodpecker

Campephilus principalis, Ivory-billed Woodpecker

OrderPASSERIFORMES

FamilyTYRANNIDAE

Elaenia martinica, Caribbean Elaenia

Camptostoma imberbe, Northern Beardless-Tyrannulet

Contopus borealis, Olive-sided Flycatcher

Contopus pertinax, Greater Pewee

Contopus sordidulus, Western Wood-Pewee

Contopus virens, Eastern Wood-Pewee

Contopus latirostris, Lesser Antillean Pewee

Empidonax flaviventris, Yellow-bellied Flycatcher

Empidonax virescens, Acadian Flycatcher

Empidonax alnorum, Alder Flycatcher

Empidonax traillii, Willow Flycatcher

Empidonax minimus, Least Flycatcher

Empidonax hammondii, Hammond's Flycatcher

Empidonax oberholseri, Dusky Flycatcher

Empidonax wrightii, Gray Flycatcher

Empidonax difficilis, Western Flycatcher

Empidonax fulvifrons, Buff-breasted Flycatcher

Sayornis nigricans, Black Phoebe

Sayornis phoebe, Eastern Phoebe

Sayornis saya, Say's Phoebe

Pyrocephalus rubinus, Vermilion Flycatcher

Myiarchus tuberculifer, Dusky-capped Flycatcher

Myiarchus cinerascens, Ash-throated Flycatcher

Myiarchus nuttingi, Nutting's Flycatcher

Myiarchus crinitus, Great Crested Flycatcher

Myiarchus tyrannulus, Brown-crested Flycatcher

Myiarchus antillarum, Puerto Rican Flycatcher

Pitangus sulphuratus, Great Kiskadee

Myiodynastes luteiventris, Sulpher-bellied Flycatcher

Tyrannus melancholicus, Tropical Kingbird

Tyrannus couchii, Couch's Kingbird

Tyrannus vociferans, Cassin's Kingbird

Tyrannus crassirostris, Thick-billed Kingbird

Tyrannus verticalis, Western Kingbird

Tyrannus tyrannus, Eastern Kingbird

Tyrannus dominicensis, Gray Kingbird

Tyrannus caudifasciatus, Loggerhead Kingbird

Tyrannus forficatus, Scissor-tailed Flycatcher

Tyrannus savana, Fork-tailed Flycatcher

Pachyramphus aglaiae, Rose-throated Becard

FamilyALAUDIDAE

Alauda arvensis, Eurasian Skylark

Eremophila alpestris, Horned Lark

FamilyHIRUNDINIDAE

Progne subis, Purple Martin

Progne cryptoleuca, Cuban Martin

Progne dominicensis, Caribbean Martin

Progne chalybea, Gray-breasted Martin

Tachycineta bicolor, Tree Swallow

Tachycineta thalassina, Violet-green Swallow

Tachycineta cyaneoviridis, Bahama Swallow

Stelgidopteryx serripennis, Northern Rough-winged Swallow

Riparia riparia, Bank Swallow

Hirundo pyrrhonota, Cliff Swallow

Hirundo fulva, Cave Swallow

Hirundo rustica, Barn Swallow

Delichon urbica, Common House-Martin

FamilyCORVIDAE

Perisoreus canadensis, Gray Jay

Cyanocitta stelleri, Steller's Jay

Cyanocitta cristata, Blue Jay

Cyanocorax yncas, Green Jay

Cyanocorax morio, Brown Jay

Aphelocoma coerulescens, Scrub Jay

Aphelocoma ultramarina, Gray-breasted Jay

Gymnorhinus cyanocephalus, Pinyon Jay

Nucifraga columbiana, Clark's Nutcracker

Pica pica, Black-billed Magpie

Pica nuttalli, Yellow-billed Magpie

Corvus brachyrhynchos, American Crow

Corvus caurinus, Northwestern Crow

Corvus leucognaphalus, White-necked Crow

Corvus imparatus, Mexican Crow

Corvus ossifragus, Fish Crow

Corvus hawaiiensis, Hawaiian Crow

Corvus cryptoleucus, Chihuahuan Raven

Corvus corax, Common Raven

FamilyPARIDAE

Parus atricapillus, Black-capped Chickadee

Parus carolinensis, Carolina Chickadee

Parus sclateri, Mexican Chickadee

Parus gambeli, Mountain Chickadee

Parus cinctus, Siberian Tit

Parus hudsonicus, Boreal Chickadee

Parus rufescens, Chestnut-backed Chickadee

Parus wollweberi, Bridled Titmouse

Parus inornatus, Plain Titmouse

Parus bicolor, Tufted Titmouse

FamilyREMIZIDAE

Auriparus flaviceps, Verdin

FamilyAEGITHALIDAE

Psaltriparus minimus, Bushtit

FamilySITTIDAE

Sitta canadensis, Red-breasted Nuthatch

Sitta carolinensis, White-breasted Nuthatch

Sitta pygmaea, Pygmy Nuthatch

Sitta pusilla, Brown-headed Nuthatch

FamilyCERTHIIDAE

Certhia americana, Brown Creeper

FamilyTROGLODYTIDAE

Campylorhynchus brunneicapillus, Cactus Wren

Salpinctes obsoletus, Rock Wren

Catherpes mexicanus, Canyon Wren

Thryothorus ludovicianus, Carolina Wren

Thryomanes bewickii, Bewick's Wren

Troglodytes aedon, House Wren

Troglodytes troglodytes, Winter Wren

Cistothorus platensis, Sedge Wren

Cistothorus palustris, Marsh Wren

FamilyCINCLIDAE

Cinclus mexicanus, American Dipper

FamilyMUSCICAPIDAE

SubfamilySYLVIINAE

Locustella ochotensis, Middendorff's Grasshopper-Warbler

Phylloscopus borealis, Arctic Warbler

Phylloscopus trochilus, Willow Warbler

Regulus satrapa, Golden-crowned Kinglet

Regulus calendula, Ruby-crowned Kinglet

Polioptila caerulea, Blue-gray Gnatcatcher

Polioptila melanura, Black-tailed Gnatcatcher

Polioptila nigriceps, Black-capped Gnatcatcher

SubfamilyMUSCICAPINAE

Muscicapa griseisticta, Gray-spotted Flycatcher

Muscicapa narcissina, Narcissus Flycatcher

SubfamilyTURDINAE

Luscinia calliope, Siberian Rubythroat

Luscinia svecica, Bluethroat

Monticola solitarius, Blue Rock Thrush

Oenanthe oenanthe, Northern Wheatear

Sialis sialis, Eastern Bluebird

Sialis mexicana, Western Bluebird

Sialis currucoides, Mountain Bluebird

Myadestes townsendi, Townsend's Solitaire

Phaeornis obscurus, Hawaiian Thrush

Phaeornis palmeri, Small Kauai Thrush

Catharus fuscescens, Veery

Catharus minimus, Gray-cheeked Thrush

Catharus ustulatus, Swainson's Thrush

Catharus guttatus, Hermit Thrush

Hylocichla mustelina, Wood Thrush

Turdus plumbeus, Red-legged Thrush

Turdus obscurus, Eye-browed Thrush

Turdus naumanni, Dusky Thrush

Turdus pilaris, Fieldfare

Turdus grayi, Clay-colored Robin

Turdus rufopalliatus, Rufous-backed Robin

Turdus migratorius, American Robin

Ixoreus naevius, Varied Thrush

Ridgwayia pinicola, Aztec Thrush

FamilyMIMIDAE

Dumetella carolinensis, Gray Catbird

Mimus polyglottos, Northern Mockingbird

Oreoscoptes montanus, Sage Thrasher

Toxostoma rufum, Brown Thrasher

Toxostoma longirostre, Long-billed Thrasher

Toxostoma bendirei, Bendire's Thrasher

Toxostoma curvirostre, Curve-billed Thrasher

Toxostoma redivivum, California Thrasher

Toxostoma crissale, Crissal Thrasher

Toxostoma lecontei, Le Conte's Thrasher

Margarops fuscatus, Pearly-eyed Thrasher

FamilyPRUNELLIDAE

Prunella montanella, Siberian Accentor

FamilyMOTACILLIDAE

Motacilla flava, Yellow Wagtail

Motacilla cinerea, Gray Wagtail

Motacilla alba, White Wagtail

Motacilla lugens, Black-backed Wagtail

Anthur hodgsoni, Olive Tree-Pipit

Anthus gustavi, Pechora Pipit

Anthus cervinus, Red-throated Pipit

Anthus spinoletta, Water Pipit

Anthus spragueii, Sprague's Pipit

FamilyBOMBYCILLIDAE

Bombycilla garrulus, Bohemian Waxwing

Bombycilla cedrorum, Cedar Waxwing

FamilyPTILOGONATIDAE

Phainopepla nitens, Phainopepla

FamilyLANIIDAE

Lanius excubitor, Northern Shrike

Lanius ludovicianus, Loggerhead Shrike

FamilySTURNIDAE

Sturnus philippensis, Violet-backed Starling

Sturnus cineraceus, Ashy Starling

FamilyVIREONIDAE

Vireo griseus, White-eyed Vireo

Vireo latimeri, Puerto Rican Vireo

Vireo bellii, Bells' Vireo

Vireo atricapillus, Black-capped Vireo

Vireo vicinior, Gray Vireo

Vireo solitarius, Solitary Vireo

Vireo flavifrons, Yellow-throated Vireo

Vireo huttoni, Hutton's Vireo

Vireo gilvus, Warbling Vireo

Vireo philadelphicus, Philadelphia Vireo

Vireo olivaceus, Red-eyed Vireo

Vireo altiloquus, Black-whiskered Vireo

FamilyEMBERIZIDAE

SubfamilyPARULINAE

Vermivora bachmanii, Bachman's Warbler

Vermivora pinus, Blue-winged Warbler

Vermivora chrysoptera, Golden-winged Warbler

Vermivora peregrina, Tennessee Warbler

Vermivora celata, Orange-crowned Warbler

Vermivora ruficapilla, Nashville Warbler

Vermivora virginiae, Virginia's Warbler

Vermivora crissalis, Colima Warbler

Vermivora luciae, Lucy's Warbler

Parula americana, Northern Parula

Parula pitiayumi, Tropical Parula

Dendroica petechia, Yellow Warbler

Dendroica pensylvanica, Chestnut-sided Warbler

Dendroica magnolia, Magnolia Warbler

Dendroica tigrina, Cape May Warbler

Dendroica caerulescens, Black-throated Blue Warbler

Dendroica coronata, Yellow-rumped Warbler

Dendroica nigrescens, Black-throated Gray Warbler

Dendroica townsendi, Townsend's Warbler

Dendroica occidentalis, Hermit Warbler

Dendroica virens, Black-throated Green Warbler

Dendroica chrysoparia, Golden-cheeked Warbler

Dendroica fusca, Blackburnian Warbler

Dendroica dominica, Yellow-throated Warbler

Dendroica graciae, Grace's Warbler

Dendroica adelaidae, Adelaide's Warbler

Dendroica pinus, Pine Warbler

Dendroica kirtlandii, Kirtland's Warbler

Dendroica discolor, Prairie Warbler

Dendroica palmarum, Palm Warbler

Dendroica castanea, Bay-breasted Warbler

Dendroica striata, Blackpoll Warbler

Dendroica cerulea, Cerulean Warbler

Dendroica angelae, Elfin Woods Warbler

Mniotilta varia, Black-and-White Warbler

Setophaga ruticilla, American Redstart

Protonotaria citrea, Prothonotary Warbler
Helmitheros vermivorus, Worm-eating Warbler
Limnothlypis swainsonii, Swainson's Warbler
Seiurus aurocapillus, Ovenbird
Seiurus noveboracensis, Northern Waterthrush
Seiurus motacilla, Louisiana Waterthrush
Oporornis formosus, Kentucky Warbler
Oporornis agilis, Connecticut Warbler
Oporornis philadelphia, Mourning Warbler
Oporornis tolmiei, MacGillivray's Warbler
Geothlypis trichas, Common Yellowthroat
Geothlypis poliocephala, Gray-crowned Yellowthroat
Wilsonia citrina, Hooded Warbler
Wilsonia pusilla, Wilson's Warbler
Wilsonia canadensis, Canada Warbler
Cardellina rubrifrons, Red-faced Warbler
Myioborus pictus, Painted Redstart
Myioborus miniatus, Slaty-throated Redstart
Basileuterus culicivorus, Golden-crowned Warbler
Basileuterus rufifrons, Rufous-capped Warbler
Icteria virens, Yellow-breasted Chat
Peucedramus taeniatus, Olive Warbler
Subfamily THRAUPINAE
Spindalis zena, Stripe-headed Tanager
Neospingus speculiferus, Puerto Rican Tanager
Piranga flava, Hepatic Tanager
Piranga rubra, Summer Tanager

Piranga olivacea, Scarlet Tanager

Piranga ludoviciana, Western Tanager

Euphonia musica, Antillean Euphonia

SubfamilyCARDINALINAE

Rhodothraupis celaeno, Crimson-collared Grosbeak

Cardinalis cardinalis, Northern Cardinal

Cardinalis sinuatus, Pyrrhuloxia

Pheucticus chrysopheplus, Yellow Grosbeak

Pheucticus ludovicianus, Rose-breasted Grosbeak

Pheucticus melanocephalus, Black-headed Grosbeak

Guiraca caerulea, Blue Grosbeak

Passerina amoena, Lazuli Bunting

Passerina cyanea, Indigo Bunting

Passerina versicolor, Varied Bunting

Passerina ciris, Painted Bunting

Spiza americana, Dickcissel

SubfamilyEMBERIZINAE

Arremonops rufivirgatus, Olive Sparrow

Pipilo chlorurus, Green-tailed Towhee

Pipilo erythrophthalmus, Rufous-sided Towhee

Pipilo fuscus, Brown Towhee

Pipilo aberti, Abert's Towhee

Sporophila torqueola, White-collared Seedeater

Tiaris olivacea, Yellow-faced Grassquit

Tiaris bicolor, Black-faced Grassquit

Loxigilla portoricensis, Puerto Rican Bullfinch

Aimophila aestivalis, Bachman's Sparrow

Aimophila botterii, Botteri's Sparrow
Aimophila cassinii, Cassin's Sparrow
Aimophila carpalis, Rufous-winged Sparrow
Aimophila ruficeps, Rufous-crowned Sparrow
Spizella arborea, American Tree Sparrow
Spizella passerina, Chipping Sparrow
Spizella pallida, Clay-colored Sparrow
Spizella breweri, Brewer's Sparrow
Spizella pusilla, Field Sparrow
Spizella wortheni, Worthen's Sparrow
Spizella atrogularis, Black-chinned Sparrow
Pooecetes gramineus, Vesper Sparrow
Chondestes grammacus, Lark Sparrow
Amphispiza bilineata, Black-throated Sparrow
Amphispiza belli, Sage Sparrow
Amphispiza quinquestriata, Five-striped Sparrow
Calamospiza melanocorys, Lark Bunting
Passerculus sandwichensis, Savannah Sparrow
Ammodramus bairdii, Baird's Sparrow
Ammodramus savannarum, Grasshopper Sparrow
Ammodramus henslowii, Henslow's Sparrow
Ammodramus leconteii, Le Conte's Sparrow
Ammodramus caudacutus, Sharp-tailed Sparrow
Ammodramus maritimus, Seaside Sparrow
Passerella iliaca, Fox Sparrow
Melospiza melodia, Song Sparrow
Melospiza lincolnii, Lincoln's Sparrow

Melospiza georgiana, Swamp Sparrow

Zonotrichia albicollis, White-throated Sparrow

Zonotrichia atricapilla, Golden-crowned Sparrow

Zonotrichia leucophrys, White-crowned Sparrow

Zonotrichia querula, Harris' Sparrow

Junco hyemalis, Dark-eyed Junco

Junco phaeonotus, Yellow-eyed Junco

Emberiza rustica, Rustic Bunting

Emberiza pallasii, Pallas' Reed-Bunting

Emberiza schoeniculus, Common Reed-Bunting

Calcarius mccownii, McCown's Longspur

Calcarius lapponicus, Lapland Longspur

Calcarius pictus, Smith's Longspur

Calcarius ornatus, Chestnut-collared Longspur

Plectrophenax nivalis, Snow Bunting

Plectrophenax hyperboreus, McKay's Bunting

Subfamily ICTERINAE

Dolichonyx oryzivorus, Bobolink

Agelaius phoeniceus, Red-winged Blackbird

Agelaius tricolor, Tricolored Blackbird

Agelaius humeralis, Tawny-shouldered Blackbird

Agelaius xanthomus, Yellow-shouldered Blackbird

Sturnella magna, Eastern Meadowlark

Sturnella neglecta, Western Meadowlark

Xanthocephalus xanthocephalus, Yellow-headed Blackbird

Euphagus carolinus, Rusty Blackbird

Euphagus cyanocephalus, Brewer's Blackbird

Quiscalus mexicanus, Great-tailed Grackle

Quiscalus major, Boat-tailed Grackle

Quiscalus quiscula, Common Grackle

Quiscalus niger, Greater Antillean Grackle

Molothrus bonariensis, Shiny Cowbird

Molothrus aeneus, Bronzed Cowbird

Molothrus ater, Brown-headed Cowbird

Icterus dominicensis, Black-cowled Oriole

Icterus wagleri, Black-vented Oriole

Icterus spurius, Orchard Oriole

Icterus cucullatus, Hooded Oriole

Icterus pustulatus, Streak-backed Oriole

Icterus gularis, Altamira Oriole

Icterus graduacauda, Audubon's Oriole

Icterus galbula, Northern Oriole

Icterus parisorum, Scott's Oriole

FamilyFRINGILLIDAE

SubfamilyFRINGILLINAE

Fringilla montifringilla, Brambling

SubfamilyCARDUELINAE

Leucosticte arctoa, Rosy Finch

Pinicola enucleator, Pine Grosbeak

Carpodacus erythrinus, Common Rosefinch

Carpodacus purpureus, Purple Finch

Carpodacus cassinii, Cassin's Finch

Carpodacus mexicanus, House Finch

Loxia curvirostra, Red Crossbill

Loxia leucoptera, White-winged Crossbill

Carduelis flammea, Common Redpoll

Carduelis hornemanni, Hoary Redpoll

Carduelis pinus, Pine Siskin

Carduelis psaltria, Lesser Goldfinch

Carduelis lawrencei, Lawrence's Goldfinch

Carduelis tristis, American Goldfinch

Carduelis sinica, Oriental Greenfinch

Pyrhula pyrrhula, Eurasian Bullfinch

Coccothraustes vespertinus, Evening Grosbeak

Coccothraustes coccothraustes, Hawfinch

[50 FR 13710, Apr. 5, 1985]

Subpart C—Addresses



§ 10.21 Director.



(a) Mail forwarded to the Director for law enforcement purposes should be addressed: Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, VA 22203–3247.

(b) Mail sent to the Director regarding permits for the Convention on International Trade in Endangered Species of Wild Fauna and Fauna (CITES), injurious wildlife, Wild Bird Conservation Act species, international movement of all ESA-listed endangered or threatened species, and scientific research on, exhibition of, or interstate commerce in nonnative ESA-listed endangered and threatened species should be addressed to: Director, U.S. Fish and Wildlife Service, (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Address mail for the following permits to the Regional Director. In the address include one of the following: for import/export licenses and exception to designated port permits (Attention: Import/export license); for native endangered and threatened species (Attention: Endangered/threatened species permit); and for migratory birds and eagles (Attention: Migratory bird permit office). You can find addresses for regional offices at 50 CFR 2.2.

[55 FR 48851, Nov. 23, 1990, as amended at 63 FR 52633, Oct. 1, 1998]

§ 10.22 Law enforcement offices.



Service law enforcement offices and their areas of responsibility follow. Mail should be addressed:

“Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, (appropriate address below)”:

Areas of Responsibility and Office Addresses

California, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, the Marshall Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands (District 1):

Eastside Federal Complex, 911 N.E. 11th. Avenue, Portland, OR 97232-4181, Telephone: 503-231-6125.

Arizona, New Mexico, Oklahoma, and Texas (District 2):

P.O. Box 329, Albuquerque, NM 87103, Telephone: 505-766-2091

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin (District 3):

P.O. Box 45—Federal Building, Ft. Snelling, Twin Cities, MN 55111, Telephone: 612-725-3530.

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands (District 4):

P.O. Box 4839, Atlanta, GA 30302, Telephone: 404-331-5872

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia (District 5):

P.O. Box 129, New Town Branch, Boston, MA 02258, Telephone: 617-965-2298

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming (District 6):

P.O. Box 25486, Denver Federal Center, Denver, CO 80225, Telephone: 303-236-7540

Alaska (District 7):

P.O. Box 92597, Anchorage, AK 99509-2597, Telephone: 907-786-3311

Any foreign country (Washington Office):

P.O. Box 3247, Arlington, VA 22203-3247, Telephone: 703-358-1949.

(Pub. L. 97-79, 95 Stat. 1072; 16 U.S.C. 3371-3378)

[48 FR 1313, Jan. 12, 1983; 48 FR 37040, Aug. 16, 1983, as amended at 49 FR 31291, Aug. 6, 1984; 51 FR 23551, June 30, 1986; 53 FR 6649, Mar. 2, 1988; 55 FR 48851, Nov. 23, 1990]

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PART 13—GENERAL PERMIT PROCEDURES

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Authority: 16 U.S.C. 668a, 704, 712, 742j–l, 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.

Source: 39 FR 1161, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction



§ 13.1 General.



Each person intending to engage in an activity for which a permit is required by this subchapter B shall, before commencing such activity, obtain a valid permit authorizing such activity. Each person who desires to obtain the permit privileges authorized by this subchapter must make application for such permit in accordance with the requirements of this part 13 and the other regulations in this subchapter which set forth the additional requirements for the specific permits desired. If the activity for which permission is sought is covered by the requirements of more than one part of this subchapter, the requirements of each part must be met. If the information required for each specific permitted activity is included, one application will be accepted for all permits required, and a single permit will be issued.

§ 13.2 Purpose of regulations.



The regulations contained in this part provide uniform rules, conditions, and procedures for the application for and the issuance, denial, suspension, revocation, and general administration of all permits issued pursuant to this subchapter B.

[54 FR 38147, Sept. 14, 1989]

§ 13.3 Scope of regulations.



The provisions in this part are in addition to, and are not in lieu of, other permit regulations of this subchapter and apply to all permits issued thereunder, including "Importation, Exportation and Transportation of Wildlife" (part 14), "Wild Bird Conservation Act" (part 15), "Injurious Wildlife" (part 16), "Endangered and Threatened Wildlife and Plants" (part 17), "Marine Mammals" (part 18), "Migratory Bird Permits" (part 21), "Eagle Permits" (part 22), and "Endangered Species Convention" (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) (part 23). As used in this part 13, the term "permit" will refer to a license, permit, certificate, letter of authorization, or other document as the context may require, and to all such documents issued by the Service or other authorized U.S. or foreign government agencies.

[70 FR 18317, Apr. 11, 2005]

§ 13.4 Emergency variation from requirements.



The Director may approve variations from the requirements of this part when he finds that an emergency exists and that the proposed variations will not hinder effective administration of this subchapter B, and will not be unlawful.

§ 13.5 Information collection requirements.



(a) The Office of Management and Budget approved the information collection requirements contained in this part 13 under 44 U.S.C. and assigned OMB Control Number 1018–0092. The Service may not conduct or sponsor, and you are not required to respond, to a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation, or denial permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 15 minutes to 4 hours per response, with an average of 0.803 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0092), Washington, DC 20603.

[63 FR 52634, Oct. 1, 1998]

Subpart B—Application for Permits



§ 13.11 Application procedures.



The Service may not issue a permit for any activity authorized by this subchapter B unless you have filed an application under the following procedures:

(a) *Forms.* Applications must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3–200) or as otherwise specifically directed by the Service.

(b) *Forwarding instructions.* Applications for permits in the following categories should be forwarded to the issuing office indicated below.

(1) You may obtain applications for migratory bird banding permits (50 CFR 21.22) by writing to: Bird Banding Laboratory, USGS Patuxent Wildlife Research Center, 12100 Beech Forest Road, Laurel, Maryland 20708–4037. Submit completed permit applications to the same address.

(2) You may obtain applications for designated port exception permits and import/export licenses (50 CFR 14) by writing to the Special Agent in Charge (SAC) of the Region in which you reside (see 50 CFR 2.2 or the Service Web site, <http://www.fws.gov>, for addresses and boundaries of the Regions). Submit completed permit applications to the same address.

(3) You may obtain applications for Wild Bird Conservation Act permits (50 CFR 15); injurious wildlife permits (50 CFR 16); captive-bred wildlife registrations (50 CFR 17); permits authorizing import, export, or foreign commerce of endangered and threatened species, and interstate commerce of non-native endangered or threatened species (50 CFR 17); marine mammal permits (50 CFR 18); and permits and certificates for import, export, and reexport of species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (50 CFR 23) from: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203–1610. Submit completed permit applications to the same address.

(4) You may obtain Endangered Species Act permit applications (50 CFR 17) for activities involving native endangered and threatened species, including incidental take, scientific purposes, enhancement

of propagation or survival (*i.e.* , recovery), and enhancement of survival by writing to the Regional Director (Attention: Endangered Species Permits) of the Region where the activity is to take place (see 50 CFR 2.2 or the Service Web site, <http://www.fws.gov>, for addresses and boundaries of the Regions). Submit completed applications to the same address (the Regional office covering the area where the activity will take place). Permit applications for interstate commerce for native endangered and threatened species should be obtained by writing to the Regional Director (Attention: Endangered Species Permits) of the Region that has the lead for the particular species, rather than the Region where the activity will take place. You can obtain information on the lead Region via the Service's Endangered Species Program Web page (<http://endangered.fws.gov/wildlife.html>) by entering the common or scientific name of the listed species in the Regulatory Profile query box. Send interstate commerce permit applications for native listed species to the same Regional Office that has the lead for that species. Endangered Species Act permit applications for the import or export of native endangered and threatened species may be obtained from the Division of Management Authority in accordance with paragraph (b)(3) of this section.

(5) You may obtain applications for bald and golden eagle permits (50 CFR 22) and migratory bird permits (50 CFR 21), except for banding and marking permits, by writing to the Migratory Bird Permit Program Office in the Region in which you reside. For mailing addresses for the Migratory Bird Regional Permit Offices, see below, or go to: <http://permits.fws.gov/mbpermits/addresses.html>. Send completed applications to the same address. The mailing addresses for the Regional Migratory Bird Permit Offices are as follows:

Region 1 (CA, HI, ID, NV, OR, WA): U.S. Fish and Wildlife Service, Migratory Bird Permit Office, 911 N.E. 11th Avenue, Portland, OR 97232-4181.

Region 2 (AZ, NM, OK, TX): U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 709, Albuquerque, NM 87103.

Region 3 (IA, IL, IN, MN, MO, MI, OH, WI): U.S. Fish and Wildlife Service, Migratory Bird Permit Office, One Federal Drive, Fort Snelling, MN 55111.

Region 4 (AR, FL, GA, KY, LA, MS, NC, SC, TN, PR, VI): U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 49208, Atlanta, GA 30359.

Region 5 (CT, DC, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV): U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 779, Hadley, MA 01035-0779.

Region 6 (CO, KS, MT, ND, NE, SD, UT, WY): U.S. Fish and Wildlife Service, Migratory Bird Permit Office, P.O. Box 25486, DFC (60130), Denver, CO 80225-0486.

Region 7 (AK): U.S. Fish and Wildlife Service, Migratory Bird Permit Office (MS-201), 1011 E. Tudor Road, Anchorage, AK 99503.

(c) *Time notice.* The Service will process all applications as quickly as possible. However, we cannot guarantee final action within the time limit you request. You should ensure that applications for permits for marine mammals and/or endangered and threatened species are postmarked at least 90 calendar days prior to the requested effective date. The time we require for processing of endangered and threatened species incidental take permits will vary according to the project scope and significance of effects. Submit applications for all other permits to the issuing/reviewing office and ensure they are postmarked at least 60 calendar days prior to the requested effective date. Our processing time may be increased by the procedural requirements of the National Environmental Policy Act (NEPA), the requirement to publish a notice in the Federal Register requesting a 30-day public comment period when we receive certain types of permit applications, and/or the time required for extensive consultation within the Service, with other Federal agencies, and/or State or foreign governments. When applicable, we may require permit applicants to provide additional information on the proposal and on its environmental effects as may be necessary to satisfy the procedural requirements of NEPA.

(d) *Fees.* (1) Unless otherwise exempted under this subsection, you must pay the required permit processing fee at the time that you apply for issuance or amendment of a permit. You must pay by check or money order made payable to the "U.S. Fish and Wildlife Service." The Service will not refund any application fee under any circumstances if we have processed the application. However, we may return the application fee if you withdraw the application before we have significantly processed it.

(2) If regulations in this subchapter require more than one type of permit for an activity and the permits are issued by the same office, the issuing office may issue one consolidated permit authorizing the activity in accordance with §13.1. You may submit a single application in such cases, provided that the single application contains all the information required by the separate applications for each permitted activity. Where more than one permitted activity is consolidated into one permit, the issuing office will charge the highest single fee for the activity permitted.

(3) Circumstances under which we will not charge a permit application fee are as follows:

(i) We will not charge a permit application fee to any Federal, tribal, State, or local government agency or to any individual or institution acting on behalf of such agency. Except as otherwise authorized or waived, if you fail to submit evidence of such status with your application, we will require the submission of all processing fees prior to the acceptance of the application for processing.

(ii) As noted in paragraph (d)(4) of this section.

(iii) We may waive the fee on a case-by-case basis for extraordinary extenuating circumstances provided that the issuing permit office and a Regional or Assistant Director approves the waiver.

(4) *User fees.* The following table identifies specific fees for each permit application or amendment to a current permit. If no fee is identified under the Amendment Fee column, this particular permit either cannot be amended and a new application, and application fee, would need to be submitted or no fee will be charged for amending the permit (please contact the issuing office for further information).

Type of permit	CFR citation	Fee	Amendment fee
Migratory Bird Treaty Act			
Migratory Bird Import/Export	50 CFR 21	\$75	
Migratory Bird Banding or Marking	50 CFR 21		
Migratory Bird Scientific Collecting	50 CFR 21	100	\$50
Migratory Bird Taxidermy	50 CFR 21	100	
Waterfowl Sale and Disposal	50 CFR 21	75	
Special Canada Goose	50 CFR 21		
Migratory Bird Special Purpose/Education	50 CFR 21	75	
Migratory Bird Special Purpose/Salvage	50 CFR 21	75	
Migratory Bird Special Purpose/Game Bird Propagation	50 CFR 21	75	
Migratory Bird Special Purpose/Miscellaneous	50 CFR 21	100	
Falconry	50 CFR 21	100	
Raptor Propagation	50 CFR 21	100	

Migratory Bird Rehabilitation	50 CFR 21	50	
Migratory Bird Depredation	50 CFR 21	100	50
Migratory Bird Depredation/Homeowner	50 CFR 21	50	
Bald and Golden Eagle Protection Act			
Eagle Scientific Collecting	50 CFR 22	100	50
Eagle Exhibition	50 CFR 22	75	
Eagle Falconry	50 CFR 22	100	
Eagle—Native American Religion	50 CFR 22		
Eagle Depredation	50 CFR 22	100	50
Golden Eagle Nest Take	50 CFR 22	100	50
Eagle Transport—Scientific or Exhibition	50 CFR 22	75	
Eagle Transport—Native American Religious Purposes	50 CFR 22	(1)	(1)
Endangered Species Act/CITES/Lacey Act			
ESA Recovery	50 CFR 17	100	50
ESA Interstate Commerce	50 CFR 17	100	50
ESA Enhancement of Survival (Safe Harbor Agreement)	50 CFR 17	50	25
ESA Enhancement of Survival (Candidate Conservation Agreement with Assurances)	50 CFR 17	50	25
ESA Incidental Take (Habitat Conservation Plan)	50 CFR 17	100	50
ESA and CITES Import/Export and Foreign Commerce	50 CFR 17	100	50
ESA and CITES Museum Exchange	50 CFR 17	100	50
ESA Captive-bred Wildlife Registration	50 CFR 17	200	100
—Renewal of Captive-bred wildlife registration	50 CFR 17	100	
CITES Import (including trophies under ESA and MMPA)	50 CFR 17, 18,	100	50

	23		
CITES Export	50 CFR 23	100	50
CITES Pre-Convention	50 CFR 23	75	40
CITES Certificate of Origin	50 CFR 23	75	40
CITES Re-Export	50 CFR 23	75	40
CITES Personal Effects and Pet Export/Re-Export	50 CFR 23	50	
CITES Appendix II Export (native furbearers and alligators—excluding live animals)	50 CFR 23	100	50
CITES Master File (includes files for artificial propagation, biomedical, etc. and covers import, export, and re-export documents)	50 CFR 23	200	100
—Renewal of CITES Master File	50 CFR 23	100	
—Single-use permits issued on Master File	50 CFR 23	25	
CITES Annual Program File	50 CFR 23	50	
—Single-use permits issued under Annual Program	50 CFR 23	25	
CITES replacement documents (lost, stolen, or damaged documents)	50 CFR 23	50	50
CITES Passport for Traveling Exhibitions and Pets	50 CFR 23	³ 75	
CITES/ESA Passport for Traveling Exhibitions	50 CFR 23	³ 100	
Import/Export License	50 CFR 14	100	50
Designated Port Exception	50 CFR 14	100	50
Injurious Wildlife Permit	50 CFR 16	100	50
—Transport Authorization for Injurious Wildlife	50 CFR 16	25	
Wild Bird Conservation Act (WBCA)			
Personal Pet Import	50 CFR 15	50	
WBCA Scientific Research, Zoological Breeding or Display, Cooperative Breeding	50 CFR 15	100	50
WBCA Approval of Cooperative Breeding	50 CFR	200	100

Programs	15		
—Renewal of a WBCA Cooperative Breeding Program	50 CFR 15	50	
WBCA Approval of a Foreign Breeding Facility	50 CFR 15	⁴ 250	
Marine Mammal Protection Act			
Marine Mammal Public Display	50 CFR 18	300	150
Marine Mammal Scientific Research/Enhancement/Registered Agent or Tannery	50 CFR 18	150	75
—Renewal of Marine Mammal Scientific Research/Enhancement/Registered Agent or Tannery	50 CFR 18	75	

¹No fee.

²Each.

³Per animal.

⁴Per species.

(5) We will charge a fee for substantive amendments made to permits within the time period that the permit is still valid. The fee is generally half the original fee assessed at the time that the permit is processed; see paragraph (d)(4) of this section for the exact amount. Substantive amendments are those that pertain to the purpose and conditions of the permit and are not purely administrative. Administrative changes, such as updating name and address information, are required under 13.23(c), and we will not charge a fee for such amendments.

(6) Except as specifically noted in paragraph (d)(4) of this section, a permit renewal is an issuance of a new permit, and applicants for permit renewal must pay the appropriate fee listed in paragraph (d)(4) of this section.

(e) *Abandoned or incomplete applications.* If we receive an incomplete or improperly executed application, or if you do not submit the proper fees, the issuing office will notify you of the deficiency. If you fail to supply the correct information to complete the application or to pay the required fees within 45 calendar days of the date of notification, we will consider the application abandoned. We will not refund any fees for an abandoned application.

[70 FR 18317, Apr. 11, 2005]

§ 13.12 General information requirements on applications for permits.



(a) General information required for all applications. All applications must contain the following information:

(1) Applicant's full name, mailing address, telephone number(s), and,

(i) If the applicant is an individual, the date of birth, height, weight, hair color, eye color, sex, and any

business or institutional affiliation of the applicant related to the requested permitted activity; or

(ii) If the applicant is a corporation, firm, partnership, association, institution, or public or private agency, the name and address of the president or principal officer and of the registered agent for the service of process;

(2) Location where the requested permitted activity is to occur or be conducted;

(3) Reference to the part(s) and section(s) of this subchapter B as listed in paragraph (b) of this section under which the application is made for a permit or permits, together with any additional justification, including supporting documentation as required by the referenced part(s) and section(s);

(4) If the requested permitted activity involves the import or re-export of wildlife or plants from or to any foreign country, and the country of origin, or the country of export or re-export restricts the taking, possession, transportation, exportation, or sale of wildlife or plants, documentation as indicated in §14.52(c) of this subchapter B;

(5) Certification in the following language:

I hereby certify that I have read and am familiar with the regulations contained in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, Code of Federal Regulations, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.

(6) Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued;

(7) Date;

(8) Signature of the applicant; and

(9) Such other information as the Director determines relevant to the processing of the application, including, but not limited to, information on the environmental effects of the activity consistent with 40 CFR 1506.5 and Departmental procedures at 516 DM 6, Appendix 1.3A.

(b) *Additional information required on permit applications.* As stated in paragraph (a)(3) of this section certain additional information is required on all applications. These additional requirements may be found by referring to the section of this subchapter B cited after the type of permit for which application is being made:

Type of permit	Section
Importation at nondesignated ports:	
Scientific	14.31
Deterioration prevention	14.32
Economic hardship	14.33
Marking of package or container:	
Symbol marking	14.83
Import/export license	14.93
Feather import quota: Importation or entry	15.21
Injurious wildlife: Importation or shipment	16.22
Endangered wildlife and plant permits:	

Similarity of appearance	17.52
Scientific, enhancement of propagation or survival, incidental taking for wildlife	17.22
Scientific, propagation, or survival for plants	17.62
Economic hardship for wildlife	17.23
Economic hardship for plants	17.63
Threatened wildlife and plant permits:	
Similarity of appearance	17.52
General for wildlife	17.32
American alligator-buyer or tanner	17.42 (a)
General for plants	17.72
Marine mammals permits:	
Scientific research	18.31
Public display	18.31
Migratory bird permits:	
Banding or marking	21.22
Scientific collecting	21.23
Taxidermist	21.24
Waterfowl sale and disposal	21.25
Special aviculturist	21.26
Special purpose	21.27
Falconry	21.28
Raptor propagation permit	21.30
Depredation control	21.41
Eagle permits:	
Scientific or exhibition	22.21
Indian religious use	22.22
Depredation control	22.23
Falconry purposes	22.24
Take of golden eagle nests	22.25
Endangered Species Convention permits	23.15

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 10465, Feb. 22, 1977; 42 FR 32377, June 24, 1977; 44 FR 54006, Sept. 17, 1979; 44 FR 59083, Oct. 12, 1979; 45 FR 56673, Aug. 25, 1980; 45 FR 78154, Nov. 25, 1980; 46 FR 42680, Aug. 24, 1981; 48 FR 31607, July 8, 1983; 48 FR 57300, Dec. 29, 1983; 50 FR 39687, Sept. 30, 1985; 50 FR 45408, Oct. 31, 1985; 54 FR 38147, Sept. 14, 1989; 70 FR 18319, Apr. 11, 2005]

Subpart C—Permit Administration



§ 13.21 Issuance of permits.



(a) No permit may be issued prior to the receipt of a written application therefor, unless a written variation from the requirements, as authorized by §13.4, is inserted into the official file of the Bureau. An oral or written representation of an employee or agent of the United States Government, or an action of such employee or agent, shall not be construed as a permit unless it meets the requirements of a permit as defined in 50 CFR 10.12.

(b) Upon receipt of a properly executed application for a permit, the Director shall issue the appropriate permit unless:

(1) The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility.

(2) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application;

(3) The applicant has failed to demonstrate a valid justification for the permit and a showing of responsibility;

(4) The authorization requested potentially threatens a wildlife or plant population, or

(5) The Director finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

(c) *Disqualifying factors.* Any one of the following will disqualify a person from receiving permits issued under this part.

(1) A conviction, or entry of a plea of guilty or nolo contendere, for a felony violation of the Lacey Act, the Migratory Bird Treaty Act, or the Bald and Golden Eagle Protection Act disqualifies any such person from receiving or exercising the privileges of a permit, unless such disqualification has been expressly waived by the Director in response to a written petition.

(2) The revocation of a permit for reasons found in §13.28 (a)(1) or (a)(2) disqualifies any such person from receiving or exercising the privileges of a similar permit for a period of five years from the date of the final agency decision on such revocation.

(3) The failure to pay any required fees or assessed costs and penalties, whether or not reduced to judgement disqualifies such person from receiving or exercising the privileges of a permit as long as such moneys are owed to the United States. This requirement shall not apply to any civil penalty presently subject to administrative or judicial appeal; provided that the pendency of a collection action brought by the United States or its assignees shall not constitute an appeal within the meaning of this subsection.

(4) The failure to submit timely, accurate, or valid reports as required may disqualify such person from receiving or exercising the privileges of a permit as long as the deficiency exists.

(d) *Use of supplemental information.* The issuing officer, in making a determination under this subsection, may use any information available that is relevant to the issue. This may include any prior conviction, or entry of a plea of guilty or nolo contendere, or assessment of civil or criminal penalty for a violation of any Federal or State law or regulation governing the permitted activity. It may also include any prior permit revocations or suspensions, or any reports of State or local officials. The issuing officer shall consider all relevant facts or information available, and may make independent inquiry or investigation to verify information or substantiate qualifications asserted by the applicant.

(e) *Conditions of issuance and acceptance* —(1) *Conditions of issuance and acceptance.* Any permit automatically incorporates within its terms the conditions and requirements of subpart D of this part and of any part(s) or section(s) specifically authorizing or governing the activity for which the permit is issued, as well as any other conditions deemed appropriate and included on the face of the permit at the

discretion of the Director.

(2) Any person accepting and holding a permit under this subchapter B acknowledges the necessity for close regulation and monitoring of the permitted activity by the Government. By accepting such permit, the permittee consents to and shall allow entry by agents or employees of the Service upon premises where the permitted activity is conducted at any reasonable hour. Service agents or employees may enter such premises to inspect the location; any books, records, or permits required to be kept by this subchapter B; and any wildlife or plants kept under authority of the permit.

(f) *Term of permit.* Unless otherwise modified, a permit is valid during the period specified on the face of the permit. Such period shall include the effective date and the date of expiration.

(g) *Denial.* The issuing officer may deny a permit to any applicant who fails to meet the issuance criteria set forth in this section or in the part(s) or section(s) specifically governing the activity for which the permit is requested.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977; 47 FR 30785, July 15, 1982; 54 FR 38148, Sept. 14, 1989; 70 FR 18319, Apr. 11, 2005]

§ 13.22 Renewal of permits.



(a) *Application for renewal.* Applicants for renewal of a permit must submit a written application at least 30 days prior to the expiration date of the permit. Applicants must certify in the form required by §13.12 (a)(5) that all statements and information in the original application remain current and correct, unless previously changed or corrected. If such information is no longer current or correct, the applicant must provide corrected information.

(b) *Renewal criteria.* The Service shall issue a renewal of a permit if the applicant meets the criteria for issuance in §13.21(b) and is not disqualified under §13.21(c).

(c) *Continuation of permitted activity.* Any person holding a valid, renewable permit, who has complied with this section, may continue the activities authorized by the expired permit until the Service has acted on such person's application for renewal.

(d) *Denial.* The issuing officer may deny renewal of a permit to any applicant who fails to meet the issuance criteria set forth in §13.21 of this part, or in the part(s) or section(s) specifically governing the activity for which the renewal is requested.

[54 FR 38148, Sept. 14, 1989]

§ 13.23 Amendment of permits.



(a) *Permittee's request.* Where circumstances have changed so that a permittee desires to have any condition of his permit modified, such permittee must submit a full written justification and supporting information in conformity with this part and the part under which the permit was issued.

(b) The Service reserves the right to amend any permit for just cause at any time during its term, upon written finding of necessity, provided that any such amendment of a permit issued under §17.22(b) through (d) or §17.32(b) through (d) of this subchapter shall be consistent with the requirements of §17.22(b)(5), (c)(5) and (d)(5) or §17.32(b)(5), (c)(5) and (d)(5) of this subchapter, respectively.

(c) *Change of name or address.* A permittee is not required to obtain a new permit if there is a change in the legal individual or business name, or in the mailing address of the permittee. A permittee is required to notify the issuing office within 10 calendar days of such change. This provision does not authorize any

change in location of the conduct of the permitted activity when approval of the location is a qualifying condition of the permit.

[54 FR 38148, Sept. 14, 1989, as amended at 64 FR 32711, June 17, 1999]

§ 13.24 Right of succession by certain persons.



(a) Certain persons other than the permittee are authorized to carry on a permitted activity for the remainder of the term of a current permit, provided they comply with the provisions of paragraph (b) of this section. Such persons are the following:

(1) The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee; or

(2) A receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(b) In order to qualify for the authorization provided in this section, the person or persons desiring to continue the activity shall furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity.

(c) In the case of permits issued under §17.22(b) through (d) or §17.32(b) through (d) of this subchapter B, the successor's authorization under the permit is also subject to a determination by the Service that:

(1) The successor meets all of the qualifications under this part for holding a permit;

(2) The successor has provided adequate written assurances that it will provide sufficient funding for the conservation plan or Agreement and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation requirements; and

(3) The successor has provided such other information as the Service determines is relevant to the processing of the request.

[64 FR 32711, June 17, 1999]

§ 13.25 Transfer of permits and scope of permit authorization.



(a) Except as otherwise provided for in this section, permits issued under this part are not transferable or assignable.

(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:

(1) The proposed transferee meets all of the qualifications under this part for holding a permit;

(2) The proposed transferee has provided adequate written assurances that it will provide sufficient funding for the conservation plan or Agreement and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation requirements; and

(3) The proposed transferee has provided such other information as the Service determines is relevant to the processing of the submission.

(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.

(d) Except as otherwise stated on the face of the permit, any person who is under the direct control of the permittee, or who is employed by or under contract to the permittee for purposes authorized by the permit, may carry out the activity authorized by the permit.

(e) In the case of permits issued under §17.22(b)–(d) or §17.32(b)–(d) of this subchapter to a State or local governmental entity, a person is under the direct control of the permittee where:

(1) The person is under the jurisdiction of the permittee and the permit provides that such person(s) may carry out the authorized activity; or

(2) The person has been issued a permit by the governmental entity or has executed a written instrument with the governmental entity, pursuant to the terms of the implementing agreement.

[64 FR 32711, June 17, 1999, as amended at 64 FR 52676, Sept. 30, 1999; 69 FR 24092, May 3, 2004]

§ 13.26 Discontinuance of permit activity.



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When a permittee, or any successor to a permittee as provided for by §13.24, discontinues activities authorized by a permit, the permittee shall within 30 calendar days of the discontinuance return the permit to the issuing office together with a written statement surrendering the permit for cancellation. The permit shall be deemed void and cancelled upon its receipt by the issuing office. No refund of any fees paid for issuance of the permit or for any other fees or costs associated with a permitted activity shall be made when a permit is surrendered for cancellation for any reason prior to the expiration date stated on the face of the permit.

[54 FR 38149, Sept. 14, 1989]

§ 13.27 Permit suspension.



[top](#)

(a) *Criteria for suspension.* The privileges of exercising some or all of the permit authority may be suspended at any time if the permittee is not in compliance with the conditions of the permit, or with any applicable laws or regulations governing the conduct of the permitted activity. The issuing officer may also suspend all or part of the privileges authorized by a permit if the permittee fails to pay any fees, penalties or costs owed to the Government. Such suspension shall remain in effect until the issuing officer determines that the permittee has corrected the deficiencies.

(b) *Procedure for suspension.* (1) When the issuing officer believes there are valid grounds for suspending a permit the permittee shall be notified in writing of the proposed suspension by certified or registered mail. This notice shall identify the permit to be suspended, the reason(s) for such suspension, the actions necessary to correct the deficiencies, and inform the permittee of the right to object to the proposed suspension. The issuing officer may amend any notice of suspension at any time.

(2) Upon receipt of a notice of proposed suspension the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposal, must state the reasons why the permittee objects to the proposed suspension, and may include supporting documentation.

(3) A decision on the suspension shall be made within 45 days after the end of the objection period. The issuing officer shall notify the permittee in writing of the Service's decision and the reasons therefore. The issuing officer shall also provide the applicant with the information concerning the right to request reconsideration of the decision under §13.29 of this part and the procedures for requesting

reconsideration.

[54 FR 38149, Sept. 14, 1989]

§ 13.28 Permit revocation.



(a) *Criteria for revocation.* A permit may be revoked for any of the following reasons:

(1) The permittee willfully violates any Federal or State statute or regulation, or any Indian tribal law or regulation, or any law or regulation of any foreign country, which involves a violation of the conditions of the permit or of the laws or regulations governing the permitted activity; or

(2) The permittee fails within 60 days to correct deficiencies that were the cause of a permit suspension; or

(3) The permittee becomes disqualified under §13.21(c) of this part; or

(4) A change occurs in the statute or regulation authorizing the permit that prohibits the continuation of a permit issued by the Service; or

(5) Except for permits issued under §17.22(b) through (d) or §17.32(b) through (d) of this subchapter, the population(s) of the wildlife or plant that is the subject of the permit declines to the extent that continuation of the permitted activity would be detrimental to maintenance or recovery of the affected population.

(b) *Procedure for revocation.* (1) When the issuing officer believes there are valid grounds for revoking a permit, the permittee shall be notified in writing of the proposed revocation by certified or registered mail. This notice shall identify the permit to be revoked, the reason(s) for such revocation, the proposed disposition of the wildlife, if any, and inform the permittee of the right to object to the proposed revocation. The issuing officer may amend any notice of revocation at any time.

(2) Upon receipt of a notice of proposed revocation the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposal, must state the reasons why the permittee objects to the proposed revocation, and may include supporting documentation.

(3) A decision on the revocation shall be made within 45 days after the end of the objection period. The issuing officer shall notify the permittee in writing of the Service's decision and the reasons therefore, together with the information concerning the right to request and the procedures for requesting reconsideration.

(4) Unless a permittee files a timely request for reconsideration, any wildlife held under authority of a permit that is revoked must be disposed of in accordance with instructions of the issuing officer. If a permittee files a timely request for reconsideration of a proposed revocation, such permittee may retain possession of any wildlife held under authority of the permit until final disposition of the appeal process.

[54 FR 38149, Sept. 14, 1989, as amended at 64 FR 32711, June 17, 1999]

§ 13.29 Review procedures.



(a) *Request for reconsideration.* Any person may request reconsideration of an action under this part if that person is one of the following:

- (1) An applicant for a permit who has received written notice of denial;
 - (2) An applicant for renewal who has received written notice that a renewal is denied;
 - (3) A permittee who has a permit amended, suspended, or revoked, except for those actions which are required by changes in statutes or regulations, or are emergency changes of limited applicability for which an expiration date is set within 90 days of the permit change; or
 - (4) A permittee who has a permit issued or renewed but has not been granted authority by the permit to perform all activities requested in the application, except when the activity requested is one for which there is no lawful authority to issue a permit.
- (b) *Method of requesting reconsideration.* Any person requesting reconsideration of an action under this part must comply with the following criteria:
- (1) Any request for reconsideration must be in writing, signed by the person requesting reconsideration or by the legal representative of that person, and must be submitted to the issuing officer.
 - (2) The request for reconsideration must be received by the issuing officer within 45 calendar days of the date of notification of the decision for which reconsideration is being requested.
 - (3) The request for reconsideration shall state the decision for which reconsideration is being requested and shall state the reason(s) for the reconsideration, including presenting any new information or facts pertinent to the issue(s) raised by the request for reconsideration.
 - (4) The request for reconsideration shall contain a certification in substantially the same form as that provided by §13.12(a)(5). If a request for reconsideration does not contain such certification, but is otherwise timely and appropriate, it shall be held and the person submitting the request shall be given written notice of the need to submit the certification within 15 calendar days. Failure to submit certification shall result in the request being rejected as insufficient in form and content.
- (c) *Inquiry by the Service.* The Service may institute a separate inquiry into the matter under consideration.
- (d) *Determination of grant or denial of a request for reconsideration.* The issuing officer shall notify the permittee of the Service's decision within 45 days of the receipt of the request for reconsideration. This notification shall be in writing, shall state the reasons for the decision, and shall contain a description of the evidence which was relied upon by the issuing officer. The notification shall also provide information concerning the right to appeal, the official to whom an appeal may be addressed, and the procedures for making an appeal.
- (e) *Appeal.* A person who has received an adverse decision following submission of a request for reconsideration may submit a written appeal to the Regional Director for the region in which the issuing office is located, or to the Director for offices which report directly to the Director. An appeal must be submitted within 45 days of the date of the notification of the decision on the request for reconsideration. The appeal shall state the reason(s) and issue(s) upon which the appeal is based and may contain any additional evidence or arguments to support the appeal.
- (f) *Decision on appeal.* (1) Before a decision is made concerning the appeal the appellant may present oral arguments before the Regional Director or the Director, as appropriate, if such official judges oral arguments are necessary to clarify issues raised in the written record.
- (2) The Service shall notify the appellant in writing of its decision within 45 calendar days of receipt of the appeal, unless extended for good cause and the appellant notified of the extension.
 - (3) The decision of the Regional Director or the Director shall constitute the final administrative decision of the Department of the Interior.

[54 FR 38149, Sept. 14, 1989]

Subpart D—Conditions



§ 13.41 Humane conditions.



Any live wildlife possessed under a permit must be maintained under humane and healthful conditions.

[54 FR 38150, Sept. 14, 1989]

§ 13.42 Permits are specific.



The authorizations on the face of a permit that set forth specific times, dates, places, methods of taking or carrying out the permitted activities, numbers and kinds of wildlife or plants, location of activity, and associated activities that must be carried out; describe certain circumscribed transactions; or otherwise allow a specifically limited matter, are to be strictly interpreted and will not be interpreted to permit similar or related matters outside the scope of strict construction.

[70 FR 18320, Apr. 11, 2005]

§ 13.43 Alteration of permits.



Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid. Unless specifically permitted on the face thereof, no permit shall be copied, nor shall any copy of a permit issued pursuant to this subchapter B be displayed, offered for inspection, or otherwise used for any official purpose for which the permit was issued.

§ 13.44 Display of permit.



Any permit issued under this part shall be displayed for inspection upon request to the Director or his agent, or to any other person relying upon its existence.

§ 13.45 Filing of reports.



Permittees may be required to file reports of the activities conducted under the permit. Any such reports shall be filed not later than March 31 for the preceding calendar year ending December 31, or any portion thereof, during which a permit was in force, unless the regulations of this subchapter B or the provisions of the permit set forth other reporting requirements.

§ 13.46 Maintenance of records.



From the date of issuance of the permit, the permittee shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of plants obtained from the wild (excluding seeds) or wildlife pursuant to such permit. Such records shall be kept current and shall include names and addresses of persons with whom any plant obtained from the wild (excluding seeds) or wildlife has been purchased, sold, bartered, or otherwise transferred, and the date of such transaction, and such other information as may be required or appropriate. Such records shall be legibly written or reproducible in English and shall be maintained for five years from the date of expiration of the permit.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977; 54 FR 38150, Sept. 14, 1989]

§ 13.47 Inspection requirement.



Any person holding a permit under this subchapter B shall allow the Director's agent to enter his premises at any reasonable hour to inspect any wildlife or plant held or to inspect, audit, or copy any permits, books, or records required to be kept by regulations of this subchapter B.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977]

§ 13.48 Compliance with conditions of permit.



Any person holding a permit under subchapter B and any person acting under authority of such permit must comply with all conditions of the permit and with all applicable laws and regulations governing the permitted activity.

[54 FR 38150, Sept. 14, 1989]

§ 13.49 Surrender of permit.



Any person holding a permit under subchapter B shall surrender such permit to the issuing officer upon notification that the permit has been suspended or revoked by the Service, and all appeal procedures have been exhausted.

[54 FR 38150, Sept. 14, 1989]

§ 13.50 Acceptance of liability.



Except as otherwise limited in the case of permits described in §13.25(d), any person holding a permit under this subchapter B assumes all liability and responsibility for the conduct of any activity conducted under the authority of such permit.

[64 FR 32711, June 17, 1999]

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PART 21—MIGRATORY BIRD PERMITS

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Authority: Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Public Law 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)); Public Law 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

Source: 39 FR 1178, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction



§ 21.1 Purpose of regulations.



The regulations contained in this part supplement the general permit regulations of part 13 of this subchapter with respect to permits for the taking, possession, transportation, sale, purchase, barter, importation, exportation, and banding or marking of migratory birds. This part also provides certain exceptions to permit requirements for public, scientific, or educational institutions, and establishes depredation orders which provide limited exceptions to the Migratory Bird Treaty Act (16 U.S.C. 703–712).

[54 FR 38150, Sept. 14, 1989]

§ 21.2 Scope of regulations.



(a) Migratory birds, their parts, nests, or eggs, lawfully acquired prior to the effective date of Federal protection under the Migratory Bird Treaty Act (16 U.S.C. 703–712) may be possessed or transported without a permit, but may not be imported, exported, purchased, sold, bartered, or offered for purchase, sale or barter, and all shipments of such birds must be marked as provided by part 14 of this subchapter: *Provide*, no exemption from any statute or regulation shall accrue to any offspring of such migratory birds.

(b) This part, except for §21.12(a), (c), and (d) (general permit exceptions); §21.22 (banding or marking); §21.29 (Federal falconry standards); and §21.31 (rehabilitation), does not apply to the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle (*Aquila chrysaetos*), for which regulations are provided in part 22 of this subchapter.

(c) The provisions of this part are in addition to, and are not in lieu of other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also part 13).

[39 FR 1178, Jan. 4, 1974, as amended at 46 FR 42680, Aug. 24, 1981; 68 FR 61137, Oct. 27, 2003]

§ 21.3 Definitions.



In addition to definitions contained in part 10 of this chapter, and unless the context requires otherwise, as used in this part:

Armed Forces means the Army, Navy, Air Force, Marine Corps, Coast Guard, and the National Guard of any State.

Bred in captivity or *captive-bred* refers to raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

Captivity means that a live raptor is held in a controlled environment that is intensively manipulated by man for the purpose of producing raptors of selected species, and that has boundaries designed to prevent raptors, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

Conservation measures, as used in §21.15, means project design or mitigation activities that are reasonable from a scientific, technological, and economic standpoint, and are necessary to avoid, minimize, or mitigate the take of migratory birds or other adverse impacts. Conservation measures should be implemented in a reasonable period of time.

Falconry means the sport of taking quarry by means of a trained raptor.

Military readiness activity, as defined in Pub. L. 107–314, §315(f), 116 Stat. 2458 (Dec. 2, 2002) [Pub. L. §319 (c)(1)], includes all training and operations of the Armed Forces that relate to combat, and the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use. It does not include (a) routine operation of installation operating support functions, such as: administrative offices; military exchanges; commissaries; water treatment facilities; storage facilities; schools; housing; motor pools; laundries; morale, welfare, and recreation activities; shops; and mess halls, (b) operation of industrial activities, or (c) construction or demolition of facilities listed above.

Population, as used in §21.15, means a group of distinct, coexisting, conspecific individuals, whose breeding site fidelity, migration routes, and wintering areas are temporally and spatially stable, sufficiently distinct geographically (at some time of the year), and adequately described so that the population can be effectively monitored to discern changes in its status.

Raptor means a live migratory bird of the Order *Falconiformes* or the Order *Strigiformes*, other than a bald eagle (*Haliaeetus leucocephalus*) or a golden eagle (*Aquila chrysaetos*).

Resident Canada geese means Canada geese that nest within the lower 48 States in the months of March, April, May, or June, or reside within the lower 48 States and the District of Columbia in the months of April, May, June, July, or August.

Secretary of Defense means the Secretary of Defense or any other national defense official who has been nominated by the President and confirmed by the Senate.

Service or *we* means the U.S. Fish and Wildlife Service, Department of the Interior.

Significant adverse effect on a population, as used in §21.15, means an effect that could, within a reasonable period of time, diminish the capacity of a population of migratory bird species to sustain itself at a biologically viable level. A population is “biologically viable” when its ability to maintain its genetic diversity, to reproduce, and to function effectively in its native ecosystem is not significantly harmed. This effect may be characterized by increased risk to the population from actions that cause direct mortality or a reduction in fecundity. Assessment of impacts should take into account yearly variations and migratory movements of the impacted species. Due to the significant variability in potential military readiness activities and the species that may be impacted, determinations of significant measurable decline will be made on a case-by-case basis.

[48 FR 31607, July 8, 1983, as amended at 64 FR 32774, June 17, 1999; 71 FR 45986, Aug. 10, 2006; 72 FR 8949, Feb. 28, 2007]

§ 21.4 Information collection requirements.



(a) The Office of Management and Budget approved the information collection requirements contained in this part 21 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0022. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in the Migratory Bird Treaty Act, 16 U.S.C. 703–712 and its regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 15 minutes to 4 hours per response, with an average of 0.803 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0022), Washington, DC 20603.

[63 FR 52637, Oct. 1, 1998]

Subpart B—General Requirements and Exceptions



§ 21.11 General permit requirements.



No person may take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and part 13 of this chapter, or as permitted by regulations in this part, or part 20 of this subchapter (the hunting regulations), or part 92 of subchapter G of this chapter (the Alaska subsistence harvest regulations). Birds taken or possessed under this part in “included areas” of Alaska as defined in §92.5(a) are subject to this part and not to part 92 of subchapter G of this chapter.

[68 FR 43027, July 21, 2003]

§ 21.12 General exceptions to permit requirements.



The following exceptions to the permit requirement are allowed.

(a) Employees of the Department of the Interior authorized to enforce the provisions of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703–711), may, without a permit, take or otherwise acquire, hold in custody, transport, and dispose of migratory birds or their parts, nests, or eggs as necessary in performing their official duties.

(b) State game departments, municipal game farms or parks, and public museums, public zoological parks, accredited institutional members of the American Association of Zoological Parks and Aquariums

(AAZPA) and public scientific or educational institutions may acquire by gift or purchase, possess, transport, and by gift or sale dispose of lawfully acquired migratory birds or their progeny, parts, nests, or eggs without a permit: *Provided*, That such birds may be acquired only from persons authorized by this paragraph or by a permit issued pursuant to this part to possess and dispose of such birds, or from Federal or State game authorities by the gift of seized, condemned, r sick or injured birds. Any such birds, acquired without a permit, and any progeny therefrom may be disposed of only to persons authorized by this paragraph to acquire such birds without a permit. Any person exercising a privilege granted by this paragraph must keep accurate records of such operations showing the species and number of birds acquired, possessed, and disposed of; the names and addresses of the persons from whom such birds were acquired or to whom such birds were donated or sold; and the dates of such transactions. Records shall be maintained or reproducible in English on a calendar year basis and shall be retained for a period of five (5) years following the end of the calendar year covered by the records.

(c) Employees of Federal, State, and local wildlife and land management agencies; employees of Federal, State, and local public health agencies; and laboratories under contract to such agencies may in the course of official business collect, possess, transport, and dispose of sick or dead migratory birds or their parts for analysis to confirm the presence of infectious disease. Nothing in this paragraph authorizes the take of uninjured or healthy birds without prior authorization from the Service. Additionally, nothing in this paragraph authorizes the taking, collection, or possession of migratory birds when circumstances indicate reasonable probability that death, injury, or disability was caused by factors other than infectious disease and/or natural toxins. These factors may include, but are not limited to, oil or chemical contamination, electrocution, shooting, or pesticides. If the cause of death of a bird is determined to be other than natural causes or disease, Service law enforcement officials must be contacted without delay.

(d) Licensed veterinarians are not required to obtain a Federal migratory bird permit to temporarily possess, stabilize, or euthanize sick and injured migratory birds. However, a veterinarian without a migratory bird rehabilitation permit must transfer any such bird to a federally permitted migratory bird rehabilitator within 24 hours after the bird's condition is stabilized, unless the bird is euthanized. If a veterinarian is unable to locate a permitted rehabilitator within that time, the veterinarian must contact his or her Regional Migratory Bird Permit Office for assistance in locating a permitted migratory bird rehabilitator and/or to obtain authorization to continue to hold the bird. In addition, veterinarians must:

(1) Notify the local U.S. Fish and Wildlife Service Ecological Services Office immediately upon receiving a threatened or endangered migratory bird species. Contact information for Ecological Services offices can be located on the Internet at <http://offices.fws.gov> ;

(2) Euthanize migratory birds as required by §21.31(e)(4)(iii) and §21.31(e)(4)(iv), and dispose of dead migratory birds in accordance with §21.31(e)(4)(vi); and

(3) Keep records for 5 years of all migratory birds that die while in their care, including those they euthanize. The records must include: the species of bird, the type of injury, the date of acquisition, the date of death, and whether the bird was euthanized.

[39 FR 1178, Jan. 4, 1974, as amended at 50 FR 8638, Mar. 4, 1985; 54 FR 38151, Sept. 14, 1989; 68 FR 61137, Oct. 27, 2003]

§ 21.13 Permit exceptions for captive-reared mallard ducks.



Captive-reared and properly marked mallard ducks, alive or dead, or their eggs may be acquired, possessed, sold, traded, donated, transported, and disposed of by any person without a permit, subject to the following conditions, restrictions, and requirements:

(a) Nothing in this section shall be construed to permit the taking of live mallard ducks or their eggs from the wild.

(b) All mallard ducks possessed in captivity, without a permit, shall have been physically marked by at least one of the following methods prior to 6 weeks of age and all such ducks hatched, reared, and retained in captivity thereafter shall be so marked prior to reaching 6 weeks of age.

- (1) Removal of the hind toe from the right foot.
 - (2) Pinioning of a wing: *Provided*, That this method shall be the removal of the metacarpal bones of one wing or a portion of the metacarpal bones which renders the bird permanently incapable of flight.
 - (3) Banding of one metatarsus with a seamless metal band.
 - (4) Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.
- (c) When so marked, such live birds may be disposed of to, or acquired from, any person and possessed and transferred in any number at any time or place: *Provided*, That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 6 weeks of age.

(d) When so marked, such live birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of mallard ducks from the wild: *Provided*, That such birds may be killed by shooting, in any number, at any time, within the confines of any premises operated as a shooting preserve under State license, permit, or authorization; or they may be shot, in any number, at any time or place, by any person for bona fide dog training or field trial purposes: *Provided further*, That the provisions:

- (1) The hunting regulations (part 20 of this subchapter), with the exception of §20.108 (Nontoxic shot zones), and
- (2) The Migratory Bird Hunting Stamp Act (duck stamp requirement) shall not apply to shooting preserve operations as provided for in this paragraph, or to bona fide dog training or field trial operations.

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass: *Provided*, That persons, who operate game farms or shooting preserves under a State license, permit, or authorization for such activities, may remove the marked foot or wing when either the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass and on the container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization. When properly marked, such carcasses may be disposed of to, or acquired from, any person and possessed and transported in any number at any time or place.

[40 FR 28459, July 7, 1975, as amended at 46 FR 42680, Aug. 24, 1981; 54 FR 36798, Sept. 5, 1989]

§ 21.14 Permit exceptions for captive-reared migratory waterfowl other than mallard ducks.



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Any person may, without a permit, lawfully acquire captive-reared and properly marked migratory waterfowl of all species other than mallard ducks, alive or dead, or their eggs, and possess and transport such birds or eggs and any progeny or eggs therefrom solely for his own use subject to the following conditions and restrictions:

- (a) Such birds, alive or dead, or their eggs may be lawfully acquired only from holders of valid waterfowl sale and disposal permits, unless lawfully acquired outside of the United States, except that properly marked carcasses of such birds may also be lawfully acquired as provided under paragraph (c) of this section.
- (b) All progeny of such birds or eggs hatched, reared, and retained in captivity must be physically marked as defined in §21.13(b).
- (c) No such birds or eggs or any progeny or eggs thereof may be disposed of by any means, alive or

dead, to any other person unless a waterfowl sale and disposal permit has first been secured authorizing such disposal: *Provided*, That bona fide clubs, hotels, restaurants, boarding houses, and dealers in meat and game may serve or sell to their customers the carcass of any such birds which they have acquired from the holder of a valid waterfowl sale and disposal permit.

(d) Lawfully possessed and properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of like species from the wild. (See part 20 of this subchapter.)

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass, unless such carcasses were marked as provided in §21.25(c)(4) and the foot or wing removed prior to acquisition.

(f) When any such birds, alive or dead, or their eggs are acquired from a waterfowl sale and disposal permittee, the permittee shall furnish a copy of Form 3-186, Notice of Waterfowl Sale or Transfer, indicating all information required by the form and the method or methods by which individual birds are marked as required by §21.25(c)(2). The buyer shall retain the Form 3-186 on file for the duration of his possession of such birds or eggs or progeny or eggs thereof.

[40 FR 28459, July 7, 1975, as amended at 46 FR 42680, Aug. 24, 1981]

§ 21.15 Authorization of take incidental to military readiness activities.



(a) *Take authorization and monitoring.* (1) Except to the extent authorization is withdrawn or suspended pursuant to paragraph (b) of this section, the Armed Forces may take migratory birds incidental to military readiness activities provided that, for those ongoing or proposed activities that the Armed Forces determine may result in a significant adverse effect on a population of a migratory bird species, the Armed Forces must confer and cooperate with the Service to develop and implement appropriate conservation measures to minimize or mitigate such significant adverse effects.

(2) When conservation measures implemented under paragraph (a)(1) of this section require monitoring, the Armed Forces must retain records of any monitoring data for five years from the date the Armed Forces commence their action. During Integrated Natural Resource Management Plan reviews, the Armed Forces will also report to the Service migratory bird conservation measures implemented and the effectiveness of the conservation measures in avoiding, minimizing, or mitigating take of migratory birds.

(b) *Suspension or Withdrawal of take authorization.* (1) If the Secretary determines, after seeking the views of the Secretary of Defense and consulting with the Secretary of State, that incidental take of migratory birds during a specific military readiness activity likely would not be compatible with one or more of the migratory bird treaties, the Secretary will suspend authorization of the take associated with that activity.

(2) The Secretary may propose to withdraw, and may withdraw in accordance with the procedures provided in paragraph (b)(4) of this section the authorization for any take incidental to a specific military readiness activity if the Secretary determines that a proposed military readiness activity is likely to result in a significant adverse effect on the population of a migratory bird species and one or more of the following circumstances exists:

(i) The Armed Forces have not implemented conservation measures that:

(A) Are directly related to protecting the migratory bird species affected by the proposed military readiness activity;

(B) Would significantly reduce take of the migratory bird species affected by the military readiness activity;

(C) Are economically feasible; and

(D) Do not limit the effectiveness of the military readiness activity;

(ii) The Armed Forces fail to conduct mutually agreed upon monitoring to determine the effects of a military readiness activity on migratory bird species and/or the efficacy of the conservation measures implemented by the Armed Forces; or

(iii) The Armed Forces have not provided reasonably available information that the Secretary has determined is necessary to evaluate whether withdrawal of take authorization for the specific military readiness activity is appropriate.

(3) When the Secretary proposes to withdraw authorization with respect to a specific military readiness activity, the Secretary will first provide written notice to the Secretary of Defense. Any such notice will include the basis for the Secretary's determination that withdrawal is warranted in accordance with the criteria contained in paragraph (b)(2) of this section, and will identify any conservation measures or other measures that would, if implemented by the Armed Forces, permit the Secretary to cancel the proposed withdrawal of authorization.

(4) Within 15 days of receipt of the notice specified in paragraph (b)(3) of this section, the Secretary of Defense may notify the Secretary in writing of the Armed Forces' objections, if any, to the proposed withdrawal, specifying the reasons therefore. The Secretary will give due consideration to any objections raised by the Armed Forces. If the Secretary continues to believe that withdrawal is appropriate, he or she will provide written notice to the Secretary of Defense of the rationale for withdrawal and response to any objections to the withdrawal. If objections to the withdrawal remain, the withdrawal will not become effective until the Secretary of Defense has had the opportunity to meet with the Secretary within 30 days of the original notice from the Secretary proposing withdrawal. A final determination regarding whether authorization will be withdrawn will occur within 45 days of the original notice.

(5) Any authorized take incidental to a military readiness activity subject to a proposed withdrawal of authorization will continue to be authorized by this regulation until the Secretary makes a final determination on the withdrawal.

(6) The Secretary may, at his or her discretion, cancel a suspension or withdrawal of authorization at any time. A suspension may be cancelled in the event new information is provided that the proposed activity would be compatible with the migratory bird treaties. A proposed withdrawal may be cancelled if the Armed Forces modify the proposed activity to alleviate significant adverse effects on the population of a migratory bird species or the circumstances in paragraphs (b)(2)(i) through (iii) of this section no longer exist. Cancellation of suspension or withdrawal of authorization becomes effective upon delivery of written notice from the Secretary to the Department of Defense.

(7) The responsibilities of the Secretary under paragraph (b) of this section may be fulfilled by his/her delegatee who must be an official nominated by the President and confirmed by the Senate.

[72 FR 8949, Feb. 28, 2007]

Subpart C—Specific Permit Provisions



§ 21.21 Import and export permits.



(a) *Permit requirement.* (1) Except for migratory game birds imported in accordance with the provisions of subpart G of part 20 of this subchapter B, an import permit is required before any migratory birds, their parts, nests, or eggs may be imported.

(2) An export permit is required before any migratory birds, their parts, nests, or eggs may be exported: *Provided*, that captive-reared migratory game birds that are marked in compliance with the provisions of §21.13(b) may be exported to Canada or Mexico without a permit. *Provided further*, that raptors lawfully

possessed under a falconry permit issued pursuant to §21.28 of this part may be exported to or imported from Canada or Mexico without a permit for the purposes of attending bona fide falconry meets, as long as the person importing or exporting the birds returns the same bird(s) to the country of export following any such meet. Nothing in this paragraph, however, exempts any person from the permit requirements of parts 17, 22, and 23 of this subchapter.

(b) *Application procedures.* Applications for permits to import or export migratory birds shall be submitted to the appropriate issuing office (see §§10.22 and 13.11(b) of this subchapter). Each such application must contain the general information and certification required by §13.12(a)(5) of this subchapter plus the following additional information:

- (1) Whether importation or exportation is requested;
- (2) The species and numbers of migratory birds or their parts, nests, or eggs to be imported or exported;
- (3) The name and address of the person from whom such birds are being imported or to whom they are being exported;
- (4) The purpose of the importation or exportation;
- (5) The estimated date of arrival or departure of the shipment(s), and the port of entry or exit through which the shipment will be imported or exported; and
- (6) Federal and State permit numbers and type of permits authorizing possession, acquisition, or disposition of such birds, their parts, nests, or eggs where such a permit is required.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, import and export permits shall be subject to any requirements set forth in the permit.

(d) *Term of permit.* An import or export permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[54 FR 38151, Sept. 14, 1989]

§ 21.22 Banding or marking permits.



(a) *Permit requirement.* A banding or marking permit is required before any person may capture migratory birds for banding or marking purposes or use official bands issued by the Service for banding or marking any migratory bird.

(b) *Application procedures.* Applications for banding or marking permits shall be submitted by letter of application addressed to the Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. Each such application shall contain the general information and certification set forth by §13.12(a) of this subchapter plus the following additional information:

- (1) Species and numbers proposed to be banded or marked;
- (2) Purpose of banding or marking;
- (3) State or States in which authorization is requested; and
- (4) Name and address of the public, scientific, or educational institution to which any specimens will be donated that are salvaged pursuant to paragraphs (c) (3) and (4) of this section.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, banding or marking permits shall be subject to the following conditions:

(1) The banding of migratory birds shall only be by official numbered leg bands issued by the Service. The use of any other band, clip, dye, or other method of marking is prohibited unless specifically authorized in the permit.

(2) All traps or nets used to capture migratory birds for banding or marking purposes shall have attached thereto a tag or label clearly showing the name and address of the permittee and his permit number, or the area in which such traps or nets are located must be posted with notice of banding operations posters (Form 3-1155, available upon request from the Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Md. 20708) which shall bear the name and address of the permittee and the number of his permit.

(3) The holder of a banding or marking permit may salvage, for the purpose of donating to a public scientific or educational institution, birds killed or found dead as a result of the permittee's normal banding operations, and casualties from other causes. All dead birds salvaged under authority of a migratory bird banding or marking permit must be donated and transferred to a public scientific or educational institution at least every 6 months or within 60 days of the time such permit expires or is revoked, unless the permittee has been issued a special permit authorizing possession for a longer period of time.

(4) Permittees must keep accurate records of their operations and file reports as set forth in the North American Bird Banding Manual, or supplements thereto, in accordance with instructions contained therein.

(d) *Term of permit.* A banding or marking permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38151, Sept. 14, 1989]

§ 21.23 Scientific collecting permits.



(a) *Permit requirement.* A scientific collecting permit is required before any person may take, transport, or possess migratory birds, their parts, nests, or eggs for scientific research or educational purposes.

(b) *Application procedures.* Submit applications for scientific permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

(1) Species (and numbers of migratory birds or their parts, nests, or eggs to be taken or acquired when it is possible to determine same in advance;

(2) Location or locations where such scientific collecting is proposed;

(3) Statement of the purpose and justification for granting such a permit, including an outline of any research project involved;

(4) Name and address of the public, scientific, or educational institution to which all specimens ultimately will be donated; and

(5) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this

subchapter B, scientific collecting permits shall be subject to the following conditions:

(1) All specimens taken and possessed under authority of a scientific collecting permit must be donated and transferred to the public scientific, or educational institution designated in the permit application within 60 days following the date such permit expires or is revoked, unless the permittee has been issued a special purpose permit (See §21.27) authorizing possession for a longer period of time.

(2) Unless otherwise provided on the permit, all migratory game birds taken pursuant to a scientific collecting permit during the open hunting season for such birds must be in conformance with part 20 of this subchapter;

(3) Unless specifically stated on the permit, a scientific collecting permit does not authorize the taking of live migratory birds from the wild.

(4) In addition to any reporting requirement set forth in the permit, a report of the scientific collecting activities conducted under authority of such permit shall be submitted to the issuing officer on or before January 10 of each calendar year following the year of issue unless a different date is stated in the permit.

(d) *Term of permit.* A scientific collecting permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38151, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998]

§ 21.24 Taxidermist permits.



(a) *Permit requirement.* A taxidermist permit is required before any person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any person other than himself.

(b) *Application procedures.* Submit application for taxidermist permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

(1) The address of premises where taxidermist services will be provided;

(2) A statement of the applicant's qualifications and experience as a taxidermist; and

(3) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Permit authorizations.* A permit authorizes a taxidermist to:

(1) Receive, transport, hold in custody or possession, mount or otherwise prepare, migratory birds, and their parts, nests, or eggs, and return them to another.

(2) Sell properly marked, captive reared migratory waterfowl which he has lawfully acquired and mounted. Such mounted birds may be placed on consignment for sale and may be possessed by such consignee for the purpose of sale.

(d) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, taxidermist permits shall be subject to the following conditions:

(1) Permittees must keep accurate records of operations, on a calendar year basis, showing the names and addresses of persons from and to whom migratory birds or their parts, nests, or eggs were received

or delivered, the number and species of such, and the dates of receipt and delivery. In addition to the other records required by this paragraph, the permittee must maintain in his files, the original of the completed Form 3-186, Notice of Waterfowl Sale or Transfer, confirming his acquisition of captive reared, properly marked migratory waterfowl from the holder of a current waterfowl sale and disposal permit.

(2) Notwithstanding the provisions of paragraph (c) of this section, the receipt, possession, and storage by a taxidermist of any migratory game birds taken by another by hunting is not authorized unless they are tagged as required by §20.36 of this subchapter. The required tags may be removed during the taxidermy operations but must be retained by the taxidermist with the other records required to be kept and must be reattached to the mounted specimen after mounting. The tag must then remain attached until the mounted specimen is delivered to the owner.

(e) *Term of permit.* A taxidermist permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit will not exceed five (5) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38151, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998; 70 FR 18320, Apr. 11, 2005]

§ 21.25 Waterfowl sale and disposal permits.



(a) *Permit requirement.* A waterfowl sale and disposal permit is required before any person may lawfully sell, trade, donate, or otherwise dispose of, to another person, any species of captive-reared and properly marked migratory waterfowl or their eggs, except that such a permit is not required for such sales or disposals of captive-reared and properly marked mallard ducks or their eggs.

(b) *Application procedures.* Submit application for waterfowl sale and disposal permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

- (1) A description of the area where waterfowl are to be kept;
- (2) Species and numbers of waterfowl now in possession and a statement showing from whom these were obtained;
- (3) A statement indicating the method by which individual birds are marked as required by the provisions of this part 21; and
- (4) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, waterfowl sale and disposal permits shall be subject to the following conditions:

- (1) Permittees may not take migratory waterfowl or their eggs from the wild, and may not acquire such birds or their eggs from any person not authorized by a valid permit issued pursuant to this part to dispose of such birds or their eggs.
- (2) All live migratory waterfowl possessed in captivity under authority of a valid waterfowl sale and disposal permit shall have been, prior to 6 weeks of age, physically marked as defined in §21.13(b). All offspring of such birds hatched, reared, and retained in captivity shall be so marked prior to attaining 6 weeks of age. The preceding does not apply to captive adult geese, swans, and brant which were marked previous to March 1, 1967, by a "V" notch in the web of one foot, nor to such birds held in captivity at public zoological parks, and public scientific or educational institutions.

(3) Such properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all the applicable hunting regulations governing the taking of like species from the wild.

(4) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass: *Provided*, That permittees who are also authorized to sell game under a State license, permit or authorization may remove the marked foot or wing from the raw carcasses if the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass and on the wrapping or container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization.

(5) Such properly marked birds, alive or dead, or their eggs may be disposed of in any number, at any time or place, to any person: *Provided*, That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 6 weeks of age: *And provided further*, That on each date that any such birds or their eggs, are transferred to another person, the permittee must complete a Form 3-186, Notice of Waterfowl Sale or Transfer, indicating all information required by the form and the method or methods by which individual birds are marked as required by §21.25(c)(2). (Service will provide supplies of form.) The permittee will furnish the original of completed Form 3-186 to the person acquiring the birds or eggs; retain one copy in his files as a record of his operations; attach one copy to the shipping container for the birds or eggs, or include the copy in shipping documents which accompany the shipment; and, on or before the last day of each month, mail two copies of each form completed during that month to the office of the Fish and Wildlife Service which issued his permit.

(6) Permittees shall submit an annual report within 10 days following the 31st day of December of each calendar year to the office of the Fish and Wildlife Service which issued the permit. The information provided shall give the total number of waterfowl by species in possession on that date and the method or methods by which individual birds are marked as required by the provisions of this part 21.

(d) *Term of permit.* A waterfowl sale and disposal permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit will not exceed five (5) years from the date of issuance or renewal.

[40 FR 28460, July 7, 1975, as amended at 54 FR 38151, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998; 70 FR 18320, Apr. 11, 2005]

§ 21.26 Special Canada goose permit.



(a) *What is the special Canada goose permit and what is its purpose?* The special Canada goose permit is a permit issued by us to a State wildlife agency authorizing certain resident Canada goose management and control activities that are normally prohibited. We will only issue such a permit when it will contribute to human health and safety, protect personal property, or allow resolution or prevention of injury to people or property. The management and control activities conducted under the permit are intended to relieve or prevent injurious situations only. No person should construe the permit as opening, reopening, or extending any hunting season contrary to any regulations established under Section 3 of the Migratory Bird Treaty Act.

(b) *Who may receive a permit?* Only State wildlife agencies (State) are eligible to receive a permit to undertake the various goose management and control activities. Additionally, only employees or designated agents of a permitted State wildlife agency may undertake activities for injurious resident Canada geese in accordance with the conditions specified in the permit, conditions contained in 50 CFR part 13, and conditions specified in paragraph (d) of this section.

(c) *How does a State apply for a permit?* Any State wildlife agency wishing to obtain a permit must submit an application to the appropriate Regional Director (see §13.11(b) of this subchapter) containing the general information and certification required by §13.12(a) of this subchapter plus the following information:

(1) A detailed statement showing that the goose management and control activities will either provide for human health and safety, protect personal property, or allow resolution of other injury to people or property;

(2) An estimate of the size of the resident Canada goose breeding population in the State;

(3) The requested annual take of resident Canada geese, including eggs and nests;

(4) A statement indicating that the State will inform and brief all employees and designated agents of the requirements of these regulations and permit conditions.

(d) *What are the conditions of the permit?* The special Canada goose permits are subject to the general conditions in 50 CFR part 13, the conditions elsewhere in this section, and, unless otherwise specifically authorized on the permit, the conditions outlined below:

(1) *What are the limitations on management and control activities?* (i) Take of resident Canada geese as a management tool under this section may not exceed the number authorized by the permit. States should utilize non-lethal goose management tools to the extent they deem appropriate in an effort to minimize lethal take.

(ii) Methods of take for the control of injurious resident Canada geese are at the State's discretion. Methods include, but are not limited to, firearms, alpha-chloralose, traps, egg and nest manipulation and other damage control techniques consistent with accepted wildlife damage-management programs.

(2) *When may a State conduct management and control activities?* States and their employees and agents may conduct management and control activities, including the take of resident Canada geese, under this section between March 11 and August 31. In California, Oregon and Washington, in areas where the threatened Aleutian Canada goose (*B. c. leucoperia*) has been present during the previous 10 years, lethal control activities are restricted to May 1 through August 31, inclusive.

(3) *How must the States dispose or utilize geese taken under this permit?* States and their employees and agents may possess, transport, and otherwise dispose of Canada geese taken under this section. States must utilize such birds by donation to public museums or public institutions for scientific or educational purposes, by processing them for human consumption and distributing them free of charge to charitable organizations, or by burying or incinerating them. States, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any Canada geese taken under this section, nor their plumage or eggs.

(4) *How does the permit relate to existing State law?* No person conducting management and control activities under this section should construe the permit to authorize the killing of injurious resident Canada geese contrary to any State law or regulation, nor on any Federal land without specific authorization by the responsible management agency. No person may exercise the privileges granted under this section unless they possess any permits required for such activities by any State or Federal land manager.

(5) *When conducting management and control activities, are there any special inspection requirements?* Any State employee or designated agent authorized to carry out management and control activities must have a copy of the permit and designation in their possession when carrying out any activities. The State must also require the property owner or occupant on whose premises the State is conducting activities to allow, at all reasonable times, including during actual operations, free and unrestricted access to any Service special agent or refuge officer, State wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer (wildlife officer) on the premises where they are, or were, conducting activities. Furthermore, any State employee or designated agent conducting such activities must promptly furnish whatever information is required concerning such activities to any such wildlife officer.

(6) *What are the reporting requirements of the permit?* Any State employee or designated agent exercising the privileges granted by this section must keep records of all activities carried out under the authority of this permit, including the number of Canada geese killed and their disposition. The State must submit an annual report detailing activities, including the time, numbers and location of birds, eggs, and nests taken and non-lethal techniques utilized, before December 31 of each year. The State should submit the annual report to the appropriate Assistant Regional Director—Refuges and Wildlife (see §10.22 of this subchapter).

(7) *What are the limitations of the special permit?* The following limitations apply:

(i) Nothing in this section applies to any Federal land within a State's boundaries without written permission of the Federal Agency with jurisdiction.

(ii) States may not undertake any actions under any permit issued under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act.

(iii) We will only issue permits to State wildlife agencies in the conterminous United States.

(iv) States may designate agents who must operate under the conditions of the permit.

(v) *How long is the special permit valid?* A special Canada goose permit issued or renewed under this section expires on the date designated on the face of the permit unless it is amended or revoked or such time that we determine that the State's population of resident Canada geese no longer poses a threat to human health or safety, personal property, or injury to other interests. In all cases, the term of the permit may not exceed five (5) years from the date of issuance or renewal.

(vi) *Can we revoke the special permit?* We reserve the right to suspend or revoke any permit, as specified in §§13.27 and 13.28 of this subchapter.

(e) *What are the OMB information collection requirements of the permit program?* OMB has approved the information collection requirements of the permit and assigned clearance number 1018-0099. Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We will use the information collection requirements to administer this program and in the issuance and monitoring of these special permits. We will require the information from State wildlife agencies responsible for migratory bird management in order to obtain a special Canada goose permit, and to determine if the applicant meets all the permit issuance criteria, and to protect migratory birds. We estimate the public reporting burden for this collection of information to average 8 hours per response for 45 respondents (States), including the time for reviewing instructions, gathering and maintaining data needed, and completing and reviewing the collection of information. Thus, we estimate the total annual reporting and record-keeping for this collection to be 360 hours. States may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service Information Collection Clearance Officer, Fish and Wildlife Service, ms 224-ARLSQ, 1849 C Street N.W., Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018-0099, Washington, DC 20503.

[64 FR 32774, June 17, 1999]

§ 21.27 Special purpose permits.



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Permits may be issued for special purpose activities related to migratory birds, their parts, nests, or eggs, which are otherwise outside the scope of the standard form permits of this part. A special purpose permit for migratory bird related activities not otherwise provided for in this part may be issued to an applicant who submits a written application containing the general information and certification required by part 13 and makes a sufficient showing of benefit to the migratory bird resource, important research reasons, reasons of human concern for individual birds, or other compelling justification.

(a) *Permit requirement.* A special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part. In addition, a special purpose permit is required before any person may sell, purchase, or barter captive-bred, migratory game birds, other than waterfowl, that are marked in compliance with §21.13(b) of this part.

(b) *Application procedures.* Submit application for special purpose permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50

CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

(1) A detailed statement describing the project or activity which requires issuance of a permit, purpose of such project or activity, and a delineation of the area in which it will be conducted. (Copies of supporting documents, research proposals, and any necessary State permits should accompany the application);

(2) Numbers and species of migratory birds involved where same can reasonably be determined in advance; and

(3) Statement of disposition which will be made of migratory birds involved in the permit activity.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, special purpose permits shall be subject to the following conditions:

(1) Permittees shall maintain adequate records describing the conduct of the permitted activity, the numbers and species of migratory birds acquired and disposed of under the permit, and inventorying and identifying all migratory birds held on December 31 of each calendar year. Records shall be maintained at the address listed on the permit; shall be in, or reproducible in English; and shall be available for inspection by Service personnel during regular business hours. A permittee may be required by the conditions of the permit to file with the issuing office an annual report of operation. Annual reports, if required, shall be filed no later than January 31 of the calendar year following the year for which the report is required. Reports, if required, shall describe permitted activities, numbers and species of migratory birds acquired and disposed of, and shall inventory and describe all migratory birds possessed under the special purpose permit on December 31 of the reporting year.

(2) Permittees shall make such other reports as may be requested by the issuing officer.

(3) All live, captive-bred, migratory game birds possessed under authority of a valid special purpose permit shall be physically marked as defined in §21.13(b) of this part.

(4) No captive-bred migratory game bird may be sold or bartered unless marked in accordance with §21.13(b) of this part.

(5) No permittee may take, purchase, receive or otherwise acquire, sell, barter, transfer, or otherwise dispose of any captive-bred migratory game bird unless such permittee submits a Service form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing office within five (5) days of such transaction.

(6) No permittee, who is authorized to sell or barter migratory game birds pursuant to a permit issued under this section, may sell or barter such birds to any person unless that person is authorized to purchase and possess such migratory game birds under a permit issued pursuant to this part and part 13, or as permitted by regulations in this part.

(d) *Term of permit.* A special purpose permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 38152, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998]

§ 21.28 Falconry permits.



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(a) *Permit requirements.* A falconry permit is required before any person may take, possess, transport, sell, purchase, barter, offer to sell, purchase, or barter raptors for falconry purposes.

(b) *Application procedures.* (1) An applicant who wishes to practice falconry in a State listed in §21.29(k) of this part and which has been designated as a participant in a cooperative Federal/State permit

application program may submit an application for a falconry permit to the appropriate agency of that State. Each such application must incorporate a completed official form approved by the Service and must include in addition to the general information required by part 13 of this subchapter all of the following:

(i) The number of raptors the applicant possesses at the time the application is submitted, including the species, age (if known), sex (if known), date of acquisition, and source of each;

(ii) A check or money order made payable to "U.S. Fish and Wildlife Service" in the amount of the application fee listed in §13.11(d) of this subchapter.

(iii) An original, signed certification concerning the validity of the information provided in the application in the form set forth in §13.12(a)(5).

(iv) Any additional information requested by the State to which the application is submitted.

(2) Upon receipt of a joint application by a State listed in §21.29(k) as a participant in a cooperative Federal/State permit application program, the State will process the application for a State falconry permit in accordance with its own procedures. A copy of the application, the check or money order for Federal permit fees, and the original, signed certification required by paragraph (b)(1)(iii) of this section will be forwarded to the issuing office of the Service designated by §13.11(b) of this subchapter. If the State decides to issue a falconry permit based upon the application, a copy of the permit will also be forwarded to the appropriate issuing office of the Service.

(3) An applicant who wishes to practice falconry in a State listed in §21.29(k) of this subchapter, but which does not participate in a cooperative Federal/State permit application program must submit a written application for a falconry permit to the issuing office designated by §13.11(b) of this subchapter. Each application must contain the general information and certification required by §13.12(a) of this subchapter plus a copy of a valid State falconry permit issued to the applicant by a State listed in §21.19(k) of this subchapter.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section that meets all requirements of this part, the Director will issue a permit. In addition to meeting the general criteria in §13.21(b), the applicant must have a valid State falconry permit issued by a State listed in §21.29(k) of this subchapter.

(d) *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) A permittee may not take, transport, or possess a golden eagle (*Aquila chrysaetos*) unless authorized in writing under §22.24 of this subchapter.

(2) A permit issued under this section is not valid unless the permittee has a valid State falconry permit issued by a State listed in §21.29(k) of this subchapter.

(3) A permittee may not take, possess, transport, sell, purchase, barter, or transfer any raptor for falconry purposes except under authority of a Federal falconry permit issued under this section and in compliance with the Federal falconry standards set forth in §21.29 of this subchapter.

(4) No permittee may take, purchase, receive, or otherwise acquire, sell, barter, transfer, or otherwise dispose of any raptor unless such permittee submits a form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing office within five (5) calendar days of any such transaction.

(5) No raptor may be possessed under authority of a falconry permit unless the permittee has a properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) for each bird possessed, except as provided in paragraph (d)(4) of this section.

(6) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee for maintenance and care for a period not to exceed thirty (30) days. The raptor must be accompanied at all times by a properly completed form 3-186A (Migratory Bird

Acquisition/Disposition Report) designating the person caring for the raptor as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

(7) A permittee may not take, possess, or transport any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*) unless such bird is banded either by a seamless numbered band provided by the Service or by a permanent, non-reusable band provided by the Service.

(i) Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*) taken from the wild must be reported to the issuing office within five (5) days of taking and must be banded with a permanent, non-reusable band provided by the Service. No raptor removed from the wild may be banded with a seamless numbered band.

(ii) The loss or removal of any band must be reported to the issuing office within five (5) working days of the loss. The lost band must be replaced by a permanent, non-reusable band supplied by the Service. A form 3-186A (Migratory Bird Acquisition/Disposition Report) must be filed in accordance with paragraph (d)(4) of this section reporting the loss of the band and rebanding.

(8) A permittee may not sell, purchase, barter, or offer to sell, purchase or barter any raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the Service.

(9) A permittee may not propagate raptors without prior acquisition of a valid raptor propagation permit issued under section 21.30 of this subchapter.

(e) *Term of permit.* A falconry permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[54 FR 38152, Sept. 14, 1989]

§ 21.29 Federal falconry standards.



(a) *Before you can practice falconry in any State.* You cannot take, possess, transport, sell, purchase, barter, or offer to sell, purchase, or barter any raptor for falconry purposes, in any State unless the State allows the practice of falconry, and the State has submitted copies of its laws and regulations governing the practice of falconry to us (Director), and we have determined that they meet or exceed the Federal falconry standards established in this section. If you are a Federal falconry permittee, you can possess and transport for falconry purposes a lawfully possessed raptor through States that do not allow falconry or meet Federal falconry standards so long as the raptors remain in transit in interstate commerce. The States that are in compliance with Federal falconry standards are listed in paragraph (k) of this section.

(b) *More restrictive State laws.* Nothing in this section shall be construed to prevent a State from making and enforcing laws or regulations not inconsistent with the standards contained in any convention between the United States and any foreign country for the protection of raptors or with the Migratory Bird Treaty Act, and which shall give further protection to raptors.

(c) *What is the process for Federal approval of a State program?* Any State that wishes to allow the practice of falconry must submit to the Director of the Service a copy of the laws and regulations that govern the practice of falconry in the State. If we determine that they meet or exceed the Federal standards, which are established by this section, we will publish a notice in the Federal Register adding the State to the list of approved States in paragraph (k) of this section. Any State that was listed in paragraph (k) prior to September 14, 1989, is considered to be in compliance with our standards.

(d) *Permit.* State laws or regulations shall provide that a valid State falconry permit from either that State or another State meeting Federal falconry standards and listed in paragraph (k) of this section is required before any person may take, possess, or transport a raptor for falconry purposes or practice falconry in that State.

(e) *Classes of permits.* States may have any number of classes of falconry permits provided the standards are not less restrictive than the following:

(1) *Apprentice (or equivalent) class.* (i) Permittee shall be at least 14 years old;

(ii) A sponsor who is a holder of a General or Master Falconry Permit or equivalent class is required for the first two years in which an apprentice permit is held, regardless of the age of the permittee. A sponsor may not have more than three apprentices at any one time;

(iii) Permittee shall not possess more than one raptor and may not obtain more than one raptor for replacement during any 12-month period; and

(iv) Permittee shall possess only the following raptors which must be taken from the wild: an American kestrel (*Falco sparverius*), a red-tailed hawk (*Buteo jamaicensis*), a red-shouldered hawk (*Buteo lineatus*), or, in Alaska only, a goshawk (*Accipiter gentilis*).

(2) *General (or equivalent) class.* (i) A permittee shall be at least 18 years old;

(ii) A permittee shall have at least two years experience in the practice of falconry at the apprentice level or its equivalent;

(iii) A permittee may not possess more than two raptors and may not obtain more than two raptors for replacement birds during any 12-month period; and

(iv) A permittee may not take, transport, or possess any golden eagle or any species listed as threatened or endangered in part 17 of this subchapter.

(3) *Master (or equivalent) class.* (i) An applicant shall have at least five years experience in the practice of falconry at the general class level or its equivalent.

(ii) A permittee may not possess more than three raptors and may not obtain more than two raptors taken from the wild for replacement birds during any 12-month period;

(iii) A permittee may not take any species listed as endangered in part 17 of this chapter, but may transport or possess such species in accordance with part 17 of this chapter.

(iv) A permittee may not take, transport, or possess any golden eagle for falconry purposes unless authorized in writing under §22.24 of this subchapter;

(v) A permittee may not take, in any twelve (12) month period, as part of the three-bird limitation, more than one raptor listed as threatened in part 17 of this chapter, and then only in accordance with part 17 of this chapter.

(f) *Examination.* State laws or regulations shall provide that before any State falconry permit is issued the applicant shall be required to answer correctly at least 80 percent of the questions on a supervised examination provided or approved by the Service and administered by the State, relating to basic biology, care, and handling of raptors, literature, laws, regulations or other appropriate subject matter.

(g) *Facilities and equipment.* State laws or regulations shall provide that before a State falconry permit is issued the applicant's raptor housing facilities and falconry equipment shall be inspected and certified by a representative of the State wildlife department as meeting the following standards:

(1) *Facilities.* The primary consideration for raptor housing facilities whether indoors (mews) or outdoors (weathering area) is protection from the environment, predators, or undue disturbance. The applicant shall have the following facilities, except that depending upon climatic conditions, the issuing authority may require only one of the facilities described below.

(i) Indoor facilities (mews) shall be large enough to allow easy access for caring for the raptors housed in the facility. If more than one raptor is to be kept in the mews, the raptors shall be tethered or separated

by partitions and the area for each bird shall be large enough to allow the bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body, and a secure door that can be easily closed. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided.

(ii) Outdoor facilities (weathering area) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators except that perches more than 6 1/2 feet high need not be covered or roofed. The enclosed area shall be large enough to insure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather shall be provided for each bird. Adequate perches shall be provided.

(2) *Equipment.* The following items shall be in the possession of the applicant before he can obtain a permit or license:

(i) *Jesses*—At least 1 pair of Alymeri jesses or similar type constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free. (Traditional 1-piece jesses may be used on raptors when not being flown.);

(ii) *Leashes and swivels*—At least 1 flexible, weather-resistant leash and 1 strong swivel of acceptable falconry design;

(iii) *Bath container*—At least 1 suitable container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;

(iv) *Outdoor perches*—At least 1 weathering area perch of an acceptable design shall be provided for each raptor; and

(v) *Weighing device*—A reliable scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than 1/2 ounce (15 gram) shall be provided.

(3) *Maintenance.* All facilities and equipment shall be kept at or above the preceding standards at all times.

(4) *Transportation; temporary holding.* A raptor may be transported or held in temporary facilities which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbance, for a period not to exceed 30 days.

(h) *Marking.* All peregrine falcons (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), and Harris hawk (*Parabuteo unicinctus*) possessed for falconry purposes must be marked in accordance with the following provisions:

(1) Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*), except a captive bred raptor lawfully marked by a numbered, seamless band issued by the Service, must be banded with a permanent, non-reusable, numbered band issued by the Service.

(2) Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*) possessed for falconry purposes must be banded at all times in accordance with these standards. Loss or removal of any band must be reported to the issuing office within five (5) working days of the loss and must be replaced with a permanent, non-reusable, numbered band supplied by the Service.

(i) *Taking restrictions.* State laws or regulations shall provide the following restrictions on the taking of raptors from the wild:

(1) Young birds not yet capable of flight (eyasses) may only be taken by a General or Master Falconer during the period specified by the State and no more than two eyasses may be taken by the same permittee during the specified period.

(2) First-year (passage) birds may be taken only during the period specified by the State;

(3) In no case shall the total of all periods of taking of eyasses or passage birds exceed 180 days during a calendar year, except that a marked raptor may be retrapped at any time; and

(4) Only American kestrels (*Falco sparverius*) and great-horned owls (*Bubo virginianus*) may be taken when over one year old, except that any raptor other than endangered or threatened species taken under a depredation (or special purpose) permit may be used for falconry by General and Master falconers.

(j) *Other restrictions.* State laws or regulations shall provide the following restrictions or conditions:

(1) A person who possesses a lawfully acquired raptor before the enactment of these regulations and who fails to meet the permit requirements shall be allowed to retain the raptors. All such birds shall be identified with markers supplied by the Service and cannot be replaced if death, loss, release, or escape occurs.

(2) If you possessed raptors before January 15, 1976, the date these regulations were enacted, and you had more than the number allowed under your permit, you may retain the extra raptors. However, each of those birds must be identified with markers we supplied, and you cannot replace any birds, nor can you obtain any additional raptors, until the number in your possession is at least one fewer than the total number authorized by the class of permit you hold.

(3) A falconry permit holder shall obtain written authorization from the appropriate State wildlife department before any species not indigenous to that State is intentionally released to the wild, at which time the marker from the released bird shall be removed and surrendered to the State wildlife department. The marker from an intentionally released bird which is indigenous to that State shall also be removed and surrendered to the State wildlife department. A standard Federal bird band shall be attached to such birds by the State or Service-authorized Federal bird bander whenever possible.

(4) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by the properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

(5) Feathers that are molted or those feathers from birds held in captivity that die, may be retained and exchanged by permittees only for imping purposes.

(k) *States meeting Federal falconry standards.* We have determined that the following States meet or exceed the minimum Federal falconry standards established in this section for regulating the taking, possession, and transportation of raptors for the purpose of falconry. The States that are participants in a cooperative Federal/State permit system are designated by an asterisk (*).

*Alabama, *Alaska, Arizona, *Arkansas, *California, *Colorado, Connecticut, *Delaware, *Florida, *Georgia, *Idaho, *Illinois, *Indiana, *Iowa, *Kansas, *Kentucky, *Louisiana, Maine, Maryland, Massachusetts, *Michigan, *Minnesota, *Mississippi, Missouri, *Montana, *Nebraska, *Nevada, *New Hampshire, *New Jersey, New Mexico, New York, *North Carolina, *North Dakota, *Ohio, Oklahoma, *Oregon, Pennsylvania, Rhode Island, *South Carolina, *South Dakota, *Tennessee, Texas, Utah, *Vermont, *Virginia, *Washington, West Virginia, *Wisconsin, *Wyoming.

[41 FR 2238, Jan. 15, 1976; 41 FR 8053, Feb. 24, 1976, as amended at 42 FR 42353, Aug. 23, 1977; 43 FR 968, Jan. 5, 1978; 43 FR 10566, Mar. 14, 1978; 43 FR 34150, Aug. 3, 1978; 43 FR 57606, Dec. 8, 1978; 45 FR 25066, Apr. 14, 1980; 45 FR 70276, Oct. 23, 1980; 48 FR 31608, July 8, 1983; 48 FR 42820, Sept. 20, 1983; 54 FR 38153, Sept. 14, 1989; 59 FR 11204, Mar. 10, 1994; 64 FR 48566, Sept. 7, 1999; 65 FR 49509, Aug. 14, 2000; 70 FR 34698, June 15, 2005]

§ 21.30 Raptor propagation permits.



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(a) *Permit requirement.* A raptor propagation permit is required before any person may take, possess, transport, import, purchase, barter, or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes.

(b) *Application procedures.* Submit application for raptor propagation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

(1) A statement indicating the purpose(s) for which a raptor propagation permit is sought and, where applicable, the scientific or educational objectives of the applicant;

(2) A statement indicating whether the applicant has been issued a State permit authorizing raptor propagation (include name of State, permit number, and expiration date);

(3) A statement fully describing the nature and extent of the applicant's experience with raptor propagation or handling raptors;

(4) A description of each raptor the applicant possesses or will acquire for propagation purposes to include the species, age (if known), sex (if known), date of acquisition, source, and raptor marker number;

(5) A description of each raptor the applicant possesses for purposes other than raptor propagation to include the species, age (if known), sex (if known), date of acquisition, source, raptor marker number, and purpose for which it is possessed;

(6) A description and photographs of the facilities and equipment to be used by the applicant including the dimensions of any structures intended for housing the birds;

(7) A statement indicating whether the applicant requests authority to take raptors or raptor eggs from the wild.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section, the Director will decide whether a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in §13.21(b) of this chapter, the following factors:

(1) Whether an applicant's raptor propagation facilities are adequate for the number and species of raptors to be held under the permit.

(2) Whether propagation is authorized by the State in which the propagation will occur, and if authorized, whether the applicant has any required State propagation permit.

(3) Whether the applicant is at least 18 years old with a minimum of 2 years experience handling raptors, and if the applicant requests authority to propagate endangered or threatened species, whether the applicant is at least 23 years old with a minimum of 7 years experience handling raptors.

(4) If the applicant requests authority to take raptors or raptor eggs from the wild:

(i) Whether issuance of the permit would have a significant effect on any wild population of raptors;

(ii) Whether suitable captive stock is available; and

(iii) Whether wild stock is needed to enhance the genetic variability of captive stock.

(d) *Additional permit conditions.* In addition to the general conditions found in part 13 of this chapter, raptor propagation permits are subject to the following additional conditions:

(1) *Facilities.* Any tethered raptor possessed under this permit must be maintained in accordance with the Federal falconry standards for "facilities and equipment" described in §21.29(g), unless a specific

exception in writing is obtained. For untethered raptors, the breeding facilities must be soundly constructed and entirely enclosed with wood, wire netting, or other suitable material which provides a safe, health, environment. The design of such facilities and ancillary equipment must:

(i) Minimize the risk of injury by providing protection from predators, disturbances that would likely cause harm, extreme weather conditions, and collision with interior or perimeter construction materials and equipment such as support poles, windows, wire netting, perches, or lights;

(ii) Enhance sanitation by providing a well-drained floor, fresh air ventilation, source of light, fresh water for bathing and drinking, access for cleaning, and interior construction materials suitable for thorough cleaning or disinfection; and

(iii) Enhance the welfare and breeding success of the raptors by providing suitable perches, nesting and feeding sites, and observation ports or inspection windows during times when disturbance is felt to be undesirable.

(2) *Incubation of eggs.* Each permittee must notify the Director in writing within 5 days from the day the first egg is laid by any raptor held under a raptor propagation permit, but notice is not required more often than once every 60 days.

(3) *Marking requirement.* Unless otherwise specifically exempted, every raptor possessed for propagation, including all progeny produced pursuant to the permitted activity, must be banded in accordance with the following provisions:

(i) Except for captive-bred raptors lawfully marked with a seamless, numbered band provided by the Service, any raptor possessed for propagation purposes shall be banded with a permanent, non-reusable, numbered band issued by the Service.

(ii) Unless specifically exempted by the conditions of the raptor propagation permit, each captive-bred raptor produced under authority of a raptor propagation permit shall be banded within two (2) weeks of hatching with a numbered, seamless band provided by the Service, placed on the raptor's leg (metatarsus). In marking captive-bred raptors, permittees:

(A) Shall use a band with an opening (inside diameter) which is small enough to prevent its removal when the raptor is fully grown without causing serious injury to the raptor or damaging the bands integrity or one-piece construction;

(B) May band a raptor with more than one size band when the potential diameter of the raptor's leg at maturity cannot be determined at the time of banding;

(C) Shall remove all but one band from any raptor with more than one band before the raptor is five (5) weeks of age and return all bands removed to the issuing office.

(iii) No raptor taken from the wild, produced from an egg taken from the wild, or produced from an egg from any source other than bred in captivity under authority of a raptor propagation permit may be banded with a numbered seamless band issued by the Service.

(iv) No permittee under this section may band any raptor with any band issued or authorized by the Service unless that raptor is lawfully possessed by the permittee.

(4) *Taking Raptors or Raptor Eggs from the Wild.* Any permit authorizing the permittee to take raptors or raptor eggs from the wild for propagation purposes is subject to the following additional restrictions:

(i) The State or foreign country in which the raptors or raptor eggs are taken must authorize the permittee in writing to take raptors or raptor eggs from the wild for propagation purposes;

(ii) No raptor listed in §17.11 of this chapter as "endangered" or "threatened" may be taken from the wild without first obtaining the proper permit under part 17 of this chapter; and

(iii) No raptor or raptor egg may be taken from the wild except in accordance with State law.

(5) *Transfer, purchase, sale, or barter of raptors, raptor eggs, or raptor semen.* (i) A permittee may transfer any lawfully possessed raptor, raptor egg, or raptor semen to another permittee or transfer any raptor to a falconer who holds a valid State falconry permit if no money or other consideration is involved.

(ii) A permittee may transfer, purchase, sell, or barter any raptor which is banded with a numbered seamless marker provided or authorized by the Service, subject to the following conditions:

(A) When the permittee purchases from, sells to, or barter with any person in the U.S., that person must be authorized under this part to purchase, sell, or barter captive-bred raptors;

(B) When the permittee purchases from or barter with any person in a foreign country, that person must be authorized by the competent wildlife management authority of the foreign country in which the transaction occurs to sell or barter captive-bred raptors; and

(C) When the permittee transfers to, sells to or barter with any person in a foreign country, that person must be authorized to possess, purchase or barter captive-bred raptors by the competent wildlife management authority of his/her country of residence or domicile and the same wildlife management authority must certify in writing that the recipient is an experienced falconer or raptor propagator who is required to maintain any raptors in his/her possession under conditions that are comparable to the conditions under which a permittee must maintain raptors under §21.29 or §21.30. No certification is required if the competent wildlife management authority itself is the recipient of captive-bred raptors for conservation purposes.

(iii) No raptor may be traded, transferred, purchased, sold, or bartered until it is two weeks old and only after it is properly banded with a nonreusable marker provided or authorized by the Service, unless it is transferred, sold, or bartered to a State or Federal wildlife management agency for conservation purposes.

(iv) A permittee may purchase, sell, or barter semen collected from any captive-bred raptor.

(v) A permittee may not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

(6) *Use of Service form 3-186A.* No permittee may take, purchase, receive, or otherwise acquire, sell, trade, barter, transfer, or otherwise dispose of any raptor unless such permittee submits a form 3-186A (Migratory Bird Acquisition/Disposition Report), completed in accordance with the instructions on the form, to the issuing office within five (5) calendar days of any such transfer. *Provided*, that a permittee does not have to submit a form 3-186A (Migratory Bird Acquisition/Disposition Report) to report the acquisition raptors hatched from eggs produced as a result of the permittee's propagation activities as long as these raptors remain in the possession of the permittee.

(7) *Documentation of lawful possession.* No raptor may be possessed under authority of a raptor propagation permit unless the permittee has a properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) for each bird possessed, except as provided in paragraph (d)(5) of this section.

(8) *Temporary possession.* A raptor possessed under authority of a raptor propagation permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by the properly completed form 3-186A (Migratory Bird Acquisition/Disposition Report) designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession.

(9) *Sale, purchase, barter.* A permittee may not sell, purchase, barter, or offer to sell, purchase, or barter any raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the Service.

(10) *Transfer to another.* A permittee may not receive or otherwise acquire from, may not transfer or otherwise dispose of to, and may not loan to or temporarily place with another person any raptor unless that person is authorized to acquire, possess, and dispose of such raptors under a valid permit issued pursuant to this part and part 13 or as permitted by regulations in this part.

(11) *Use in falconry.* A permittee may use a raptor possessed for propagation in the sport of falconry only if such use is designated in both the propagation permit and the permittee's falconry permit.

(12) *Interspecific hybridization.* Hybridization between species (interspecific hybridization) is authorized only if each raptor produced by interspecific hybridization is either imprinted on humans (hand-raised in isolation from the sight of other raptors from two weeks of age until it is fully feathered) or surgically sterilized.

(13) *Possession of dead raptors, non-viable eggs, nests, and feathers.* (i) Upon the death of any raptor held under permit, a permittee must remove the marker and immediately return it to the Director. The carcass must be destroyed immediately, unless the permittee requests authorization from the Director to retain possession of it. A permittee who has obtained written authorization from the Director to retain possession of the carcass may transfer it to any other person authorized by the Service to possess it, provided no money or other consideration is involved.

(ii) A permittee may possess addled or blown eggs, nests, and feathers from raptors held under permit and may transfer any of these items to any other person authorized by the Service to possess them provided no money or other consideration is involved.

(14) *Intentional release to the wild.* (i) A permittee must obtain written authorization from the Director and the Director of the wildlife conservation department of the State in which release to the wild is proposed before intentionally releasing any raptor to the wild. The raptor marker must be removed from each bird and immediately returned to the Director. A Federal bird band must be attached to each raptor by a person designated by the Director before its release.

(ii) No raptor produced by interspecific hybridization may be intentionally released to the wild.

(15) *Recordkeeping.* A permittee must maintain complete and accurate records of all operations, to include the following:

(i) Acquisition of raptors, eggs, or semen from sources other than production.

(A) Description of stock:

(1) Species, sex, age of each (if applicable),

(2) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Maryland, etc.), and

(3) Marker number (if applicable).

(B) Type of stock (including number or amount):

(1) Semen,

(2) Egg, or

(3) Bird.

(C) How acquired:

(1) Purchase, barter, or transfer (include the purchase price or a description of any other consideration involved), or

(2) Taken from the wild.

(D) Date acquired: month, day, and year.

(E) From whom or where stock acquired:

(1) Name, address, and permit number of seller, barterer, or transferor; or

(2) Location where stock taken from the wild.

(ii) Disposition of raptors, eggs, or semen.

(A) Description of stock:

(1) Species, sex, age of each (if applicable),

(2) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Maryland, etc.), and

(3) Marker number (if applicable).

(B) Type of stock (including number or amount):

(1) Semen,

(2) Egg, or

(3) Bird.

(C) Manner of disposition:

(1) Sale, barter, or transfer (include the sale price or a description of any other consideration involved),

(2) Live loss,

(3) Intentional release to the wild, or

(4) Death.

(D) Date of disposition: month, day, and year.

(E) To whom or where stock disposed:

(1) Name, address, and permit number of purchaser, barterer, or transferee, or

(2) Description and location of other disposition.

(iii) Production and pedigree record.

(A) Mother and father(s):

(1) Species,

(2) Genotype-natal area, and

(3) Marker number.

(B) Insemination:

(1) Natural,

(2) Artificial, or

(3) Combined.

(C) Eggs laid:

(1) Total,

(2) First date, and

(3) Last date.

(D) Eggs hatched:

(1) Total,

(2) First date, and

(3) Last date.

(E) Young raised to 2 weeks of age:

(1) Total produced, and

(2) Marker number and date marked for each raptor.

(16) *Annual report.* A permittee must submit an annual report by January 31 of each year for the preceding year to the Director. The report must include the following information for each species possessed by the permittee:

(i) Number of raptors possessed as of December 31 (including the species, marker number, sex, and age of each raptor).

(ii) Number of females laying eggs.

(iii) Number of eggs laid.

(iv) Number of eggs hatched.

(v) Number of young raised to 2 weeks of age.

(vi) Number of raptors purchased, sold, bartered, received, or transferred (including the species, marker number, sex, and age of each raptor) the date of the transaction, and the name, address and permit number of each purchaser, seller, barterer, transferor, or transferee.

(e) *Term of permit.* A raptor propagation permit issued or renewed under this part expires on the date designated on the face of the permit unless amended or revoked, but the term of the permit shall not exceed three (3) years from the date of issuance or renewal.

[48 FR 31608, July 8, 1983, as amended at 49 FR 9736, Mar. 15, 1984; 54 FR 38154, Sept. 14, 1989; 63 FR 52637, Oct. 1, 1998]

§ 21.31 Rehabilitation permits.



(a) *What is the permit requirement?* Except as provided in §21.12, a rehabilitation permit is required to take, temporarily possess, or transport any migratory bird for rehabilitation purposes. However, any person who finds a sick, injured, or orphaned migratory bird may, without a permit, take possession of the bird in order to immediately transport it to a permitted rehabilitator.

(b) *What are the general permit provisions?* (1) The permit authorizes you to:

(i) Take from the wild or receive from another person sick, injured, or orphaned migratory birds and to possess them and provide rehabilitative care for them for up to 180 days;

(ii) Transport such birds to a suitable habitat for release, to another permitted rehabilitator's facilities, or to a veterinarian;

(iii) Transfer, release, or euthanize such birds;

(iv) Transfer or otherwise dispose of dead specimens; and

(v) Receive, stabilize, and transfer within 48 hours types of migratory bird species not authorized by your permit, in cases of emergency. If a rehabilitator authorized to care for the bird is not available within that timeframe, you must contact the issuing office for authorization to retain the bird until it can be transferred.

(2) The permit does not authorize the use of migratory birds for educational purposes.

(c) *How do I apply for a migratory bird rehabilitation permit?* You must apply to the appropriate Regional Director—Attention Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in §2.2 of subchapter A of this chapter. Your application package must consist of the following:

(1) A completed application (Form 3–200–10b);

(2) A copy of your State rehabilitation permit, license, or other authorization, if one is required in your State; and

(3) A check or money order made payable to the “U.S. Fish and Wildlife Service” in the amount of the application fee for permits issued under this section listed in §13.11 of this chapter.

(d) *What criteria will the Service consider before issuing a permit?* (1) Upon receiving an application completed in accordance with paragraph (c) of this section, the Regional Director will decide whether to issue you a permit based on the general criteria of §13.21 of this chapter and whether you meet the following requirements:

(i) You must be at least 18 years of age with at least 100 hours of hands-on experience, gained over the course of at least 1 whole year, rehabilitating the types of migratory birds you intend to rehabilitate (e.g., waterbirds, raptors), or comparable experience. Up to 20 hours of the 100-hour time requirement may be fulfilled by participation in migratory bird rehabilitation seminars and courses.

(ii) Your facilities must be adequate to properly care for the type(s) of migratory bird species you intend to rehabilitate, or you must have a working relationship with a person or organization with such facilities.

(iii) You must have an agreement with a licensed veterinarian to provide medical care for the birds you intend to rehabilitate, unless you are a licensed veterinarian.

(iv) You must have a State permit, license, or other authorization to rehabilitate migratory birds if such authorization is required by your State.

(2) In issuing a permit, the Regional Director may place restrictions on the types of migratory bird

species you are authorized to rehabilitate, based on your experience and facilities as well as on the specific physical requirements and behavioral traits of particular species.

(e) *What are the standard conditions for this permit?* In addition to the general permit conditions set forth in part 13 of this chapter, rehabilitation permits are subject to the following conditions:

(1) *Facilities.* You must conduct the activities authorized by this permit in appropriate facilities that are approved and identified on the face of your permit. In evaluating whether caging dimensions are adequate, the Service will use as a guideline the standards developed by the National Wildlife Rehabilitators Association and the International Wildlife Rehabilitation Council (*Minimum Standards for Wildlife Rehabilitation, 2000*).¹ The Regional Migratory Bird Permit Office will authorize variation from the standards where doing so is reasonable and necessary to accommodate a particular rehabilitator's circumstances, unless a determination is made that such variation will jeopardize migratory birds. However, except as provided by paragraph (f)(2)(i) of this section, all facilities must adhere to the following criteria:

¹ Copies may be obtained by contacting either the National Wildlife Rehabilitators Association: 14 North 7th Avenue, St. Cloud MN 56303-4766, <http://www.nwawildlife.org/default.asp>; or the International Wildlife Rehabilitation Council: 829 Bancroft Way, Berkeley, CA 94710, <http://www.iwrc-online.org>.

(i) Rehabilitation facilities for migratory birds must be secure and provide protection from predators, domestic animals, undue human disturbance, sun, wind, and inclement weather.

(ii) Caging must be made of a material that will not entangle or cause injury to the type of birds that will be housed within.

(iii) Enclosures must be kept clean, well-ventilated, and hygienic.

(iv) Birds must not be overcrowded, and must be provided enough perches, if applicable.

(v) Birds must be housed only with compatible migratory bird species.

(vi) Birds may not be displayed to the public unless you use video equipment, barriers, or other methods to reduce noise and exposure to humans to levels the birds would normally encounter in their habitat. You may not use any equipment for this purpose that causes stress or harm, or impedes the rehabilitation of any bird.

(2) *Dietary requirements.* You must provide the birds in your care with a diet that is appropriate and nutritionally approximates the natural diet consumed by the species in the wild, with consideration for the age and health of the individual bird.

(3) *Subpermittees.* Except as provided by paragraph (f)(2)(ii) of this section, anyone who will be performing activities that require permit authorization under paragraph (b)(1) of this section when you or a subpermittee are not present, including any individual who transports birds to or from your facility on a regular basis, must either possess his or her own Federal rehabilitation permit, or be authorized as your subpermittee by being named in writing to your issuing Migratory Bird Permit Office. Subpermittees must be at least 18 years of age and possess sufficient experience to tend the species in their care. Subpermittees authorized to care for migratory birds at a site other than your facility must have facilities adequate to house the species in their care, based on the criteria of paragraph (e)(1) of this section. All such facilities must be approved by the issuing office. As the primary permittee, you are legally responsible for ensuring that your subpermittees, staff, and volunteers adhere to the terms of your permit when conducting migratory bird rehabilitation activities.

(4) *Disposition of birds under your care.* (i) You must take every precaution to avoid imprinting or habituating birds in your care to humans. If a bird becomes imprinted to humans while under your care, you will be required to transfer the bird as directed by the issuing office.

(ii) You may not retain migratory birds longer than 180 days without additional authorization from your Regional Migratory Bird Permit Office. You must release all recuperated birds to suitable habitat as soon

as seasonal conditions allow, following recovery of the bird. If the appropriate season for release is outside the 180-day timeframe, you must seek authorization from the Service to hold the bird until the appropriate season. Before releasing a threatened or endangered migratory bird, you must coordinate with your issuing Migratory Bird Permit Office.

(iii) You must euthanize any bird that cannot feed itself, perch upright, or ambulate without inflicting additional injuries to itself where medical and/or rehabilitative care will not reverse such conditions. You must euthanize any bird that is completely blind, and any bird that has sustained injuries that would require amputation of a leg, a foot, or a wing at the elbow or above (humero-ulnar joint) rather than performing such surgery, unless:

(A) A licensed veterinarian submits a written recommendation that the bird should be kept alive, including an analysis of why the bird is not expected to experience the injuries and/or ailments that typically occur in birds with these injuries and a commitment (from the veterinarian) to provide medical care for the bird for the duration of its life, including complete examinations at least once a year;

(B) A placement is available for the bird with a person or facility authorized to possess it, where it will receive the veterinary care described in paragraph (e)(4)(iii)(A) of this section; and

(C) The issuing office specifically authorizes continued possession, medical treatment, and rehabilitative care of the bird.

(iv) You must obtain authorization from your issuing Migratory Bird Permit Office before euthanizing endangered and threatened migratory bird species. In rare cases, the Service may designate a disposition other than euthanasia for those birds. If Service personnel are not available, you may euthanize endangered and threatened migratory birds without Service authorization when prompt euthanasia is warranted by humane consideration for the welfare of the bird.

(v) You may place nonreleasable live birds that are suitable for use in educational programs, foster parenting, research projects, or other permitted activities with persons permitted or otherwise authorized to possess such birds, with prior approval from your issuing Migratory Bird Permit Office.

(vi)(A) You may donate dead birds and parts thereof, except threatened and endangered species, and bald and golden eagles, to persons authorized by permit to possess migratory bird specimens or exempted from permit requirements under §21.12.

(B) You must obtain approval from your issuing office before disposing of or transferring any live or dead endangered or threatened migratory bird specimen, parts, or feathers.

(C) You must send all dead bald and golden eagles, and their parts and feathers to: National Eagle Repository, Building 128, Rocky Mountain Arsenal, Commerce City, CO 80022. If your State requires you to notify State wildlife officers of a dead bald or golden eagle before sending the eagle to the Repository you must comply with State regulations. States may assume temporary possession of the carcasses for purposes of necropsy.

(D) Unless specifically required to do otherwise by the Service, you must promptly destroy all other dead specimens by such means as are necessary to prevent any exposure of the specimens to animals in the wild.

(vii) With authorization from your issuing Migratory Bird Permit Office, you may hold a nonreleasable bird longer than 180 days for the purpose of fostering juveniles during their rehabilitation. You may also use birds you possess under an educational permit to foster juveniles.

(viii) You may possess a reasonable number of feathers for imping purposes, based on the numbers and species of birds for which you regularly provide care.

(ix) You may draw blood and take other medical samples for purposes of the diagnosis and recovery of birds under your care, or for transfer to authorized facilities conducting research pertaining to a contagious disease or other public health hazard.

(x) You may conduct necropsies on dead specimens in your possession, except that you must obtain

approval from your Regional Migratory Bird Permit Office before conducting necropsies on threatened or endangered species.

(xi) This permit does not confer ownership of any migratory bird. All birds held under this permit remain under the stewardship of the U.S. Fish and Wildlife Service.

(5) *Notification to the U.S. Fish and Wildlife Service.* (i) You must notify your issuing Migratory Bird Permit Office within 24 hours of acquiring a threatened or endangered migratory bird species, or bald or golden eagle, whether live or dead. You may be required to transfer these birds to another facility designated by the Service.

(ii) You must immediately notify the local U.S. Fish and Wildlife Service Law Enforcement Office if you have reason to believe a bird has been poisoned, electrocuted, shot, or otherwise subjected to criminal activity. Contact information for your local Service Law Enforcement office is listed on your permit, or you can obtain it on the Internet at <http://offices.fws.gov>.

(iii) If the sickness, injury, or death of any bird is due or likely due to avian virus, or other contagious disease or public health hazard, you must notify and comply with the instructions given by the State or local authority that is responsible for tracking the suspected disease or hazard in your location, if that agency is currently collecting such information from the public.

(6) You must maintain a working relationship with a licensed veterinarian. If your working relationship with your original cooperating veterinarian is dissolved, you must establish an agreement within 30 days with another licensed veterinarian to provide medical services to the birds in your care, and furnish a copy of this agreement to the issuing office.

(7) *Recordkeeping.* You must maintain complete and accurate records of all migratory birds that you receive, including for each bird the date received, type of injury or illness, disposition, and date of disposition. You must retain these records for 5 years following the end of the calendar year covered by the records.

(8) *Annual report.* You must submit an annual report that includes the information required by paragraph (e)(7) for the preceding calendar year to your issuing Migratory Bird Permit Office by the date required on your permit. You may complete Service Form 3-202-4, or submit your annual report from a database you maintain, provided your report contains all, and only, the information required by Form 3-202-4.

(9) At the discretion of the Regional Director, we may stipulate on the face of your permit additional conditions compatible with the permit conditions set forth in this section, to place limits on numbers and/or types of birds you may possess under your permit, to stipulate authorized location(s) for your rehabilitation activities, or otherwise specify permitted activities, based on your experience and facilities.

(f) *How does this permit apply to oil and hazardous waste spills?* Prior to entering the location of an oil or hazardous material spill, you must obtain authorization from the U.S. Fish and Wildlife Service Field Response Coordinator or other designated Service representative and obtain permission from the On-Scene Coordinator. All activities within the location of the spill are subject to the authority of the On-Scene Coordinator. The U.S. Fish and Wildlife Service is responsible for the disposition of all migratory birds, dead or alive.

(1) *Permit provisions in oil or hazardous material spills.* (i) In addition to the rehabilitation permit provisions set forth in paragraph (b) of this section, when under the authority of the designated U.S. Fish and Wildlife Service representative this permit further authorizes you to temporarily possess healthy, unaffected birds for the purpose of removing them from imminent danger.

(ii) This permit does not authorize salvage of dead migratory birds. When dead migratory birds are discovered, a Service law enforcement officer must be notified immediately in order to coordinate the handling and collection of evidence. Contact information for your local Service Law Enforcement office is listed on your permit and on the Internet at <http://offices.fws.gov>. The designated Service representative will have direct control and responsibility over all live migratory birds, and will coordinate the collection, storage, and handling of any dead migratory birds with the Service's Division of Law Enforcement.

(iii) You must notify your issuing Migratory Bird Permit Office of any migratory birds in your possession

within 24 hours of removing such birds from the area.

(2) *Conditions specific to oil and hazardous waste spills*—(i) *Facilities*. Facilities used at the scene of oil or hazardous waste spills may be temporary and/or mobile, and may provide less space and protection from noise and disturbance than facilities authorized under paragraph (e)(1) of this section. Such facilities should conform as closely as possible with the facility specifications contained in the Service policy titled *Best Practices for Migratory Bird Care During Oil Spill Response*.²

² You can obtain copies of this document by writing to the U.S. Fish and Wildlife Service, Division of Environmental Quality, 4401 North Fairfax Drive, MS 322, Arlington, VA, 22203.

(ii) *Subpermittees*. In cases of oil and hazardous waste spills, persons who assist with cleaning or treating migratory birds at the on-scene facility will not be required to have a rehabilitation permit or be a subpermittee; however, volunteers must be trained in rescue protocol for migratory birds affected by oil and hazardous waste spills. A permit (or subpermittee designation) is required to perform extended rehabilitation of such birds, after initial cleaning and treating, at a subsequent location.

(g) *Will I also need a permit from the State in which I live?* If your State requires a license, permit, or other authorization to rehabilitate migratory birds, your Federal migratory bird rehabilitation permit will not be valid if you do not also possess and adhere to the terms of the required State authorization, in addition to the Federal permit. Nothing in this section prevents a State from making and enforcing laws or regulations consistent with this section that are more restrictive or give further protection to migratory birds.

(h) *How long is a migratory bird rehabilitation permit valid?* Your rehabilitation permit will expire on the date designated on the face of the permit unless amended or revoked. No rehabilitation permit will have a term exceeding 5 years.

(i) *Will I need to apply for a new permit under this section if I already have a special purpose permit to rehabilitate migratory birds, issued under §21.27 (Special purpose permits)?* (1) If you had a valid Special Purpose—Migratory Bird Rehabilitation Permit issued under §21.27 on November 26, 2003, your permit will remain valid until the expiration date listed on its face. If you renew your permit, it will be issued under this section.

(2) If your original permit authorization predates permit application procedures requiring submission of photographs and diagrams for approval of your facilities, and your facilities have never been approved by the migratory bird permit office on the basis of such photographs and diagrams, you must submit photographs and diagrams of your facilities as part of your renewal application. If those facilities do not meet the criteria set forth under this section, your permit may be renewed for only 1 year. We will re-evaluate your facilities when you seek renewal in a year. If you have made the improvements necessary to bring your facilities into compliance with paragraph (e)(1) of this section, and the other criteria within this section for permit issuance are met, your permit may be renewed for up to the full 5-year tenure.

(3) If your facilities have already been approved on the basis of photographs and diagrams, and authorized under a valid §21.27 special purpose permit, then they are preapproved to be authorized under your new permit issued under this section, unless those facilities have materially diminished in size or quality from what was authorized when you last renewed your permit, or unless you wish to expand the authorizations granted by your permit (e.g., the number or types of birds you rehabilitate). Regulations governing permit renewal are set forth in §13.22 of this chapter.

[68 FR 61137, Oct. 27, 2003]

Subpart D—Control of Depredating and Otherwise Injurious Birds



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§ 21.41 Depredation permits.



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(a) *Permit requirement.* Except as provided in §§21.42 through 21.46, a depredation permit is required before any person may take, possess, or transport migratory birds for depredation control purposes. No permit is required merely to scare or herd depredating migratory birds other than endangered or threatened species or bald or golden eagles.

(b) *Application procedures.* Submit application for depredation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

- (1) A description of the area where depredations are occurring;
- (2) The nature of the crops or other interests being injured;
- (3) The extent of such injury; and
- (4) The particular species of migratory birds committing the injury.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, depredation permits shall be subject to requires, in this section:

- (1) Permittees may not kill migratory birds unless specifically authorized on the permit.
- (2) Unless otherwise specifically authorized, when permittees are authorized to kill migratory birds they may do so only with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or area described on the permit.
- (3) Permittees may not use blinds, pits, or other means of concealment, decoys, duck calls, or other devices to lure or entice birds within gun range.
- (4) All migratory birds killed shall be retrieved by the permittee and turned over to a Bureau representative or his designee for disposition to charitable or other worthy institutions for use as food, or otherwise disposed of as provided by law.
- (5) Only persons named on the permit are authorized to act as agents of the permittee under authority of the permit.

(d) *Tenure of permits.* The tenure of depredation permits shall be limited to the dates which appear on its face, but in no case shall be longer than one year.

[39 FR 1178, Jan. 4, 1974, as amended at 42 FR 17122, Mar. 31, 1977; 63 FR 52637, Oct. 1, 1998]

§ 21.42 Authority to issue depredating orders to permit the killing of migratory game birds.



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Upon the receipt of evidence clearly showing that migratory game birds have accumulated in such numbers in a particular area as to cause or about to cause serious damage to agricultural, horticultural, and fish cultural interests, the Director is authorized to issue by publication in the Federal Register a depredation order to permit the killing of such birds under the following conditions:

- (a) That such birds may only be killed by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or areas;
- (b) That shooting shall be limited to such time as may be fixed by the Director on the basis of all circumstances involved. If prior to termination of the period fixed for such shooting, the Director receives information that there no longer exists a serious threat to the area or areas involved, he shall without

delay cause to be published in the Federal Register an order of revocation;

(c) That such migratory birds as are killed under the provisions of any depredation order may be used for food or donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, but shall not be sold, offered for sale, bartered, or shipped for purpose of sale or barter, or be wantonly wasted or destroyed: *Provided*, That any migratory game birds which cannot be so utilized shall be disposed of as prescribed by the Director;

(d) That any order issued pursuant to this section shall not authorize the killing of the designated species of depredating birds contrary to any State laws or regulations. The order shall specify that it is issued as an emergency measure designed to relieve depredations only and shall not be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated pursuant to section 3 of the Migratory Bird Treaty Act.

§ 21.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies.



A Federal permit shall not be required to control yellow-headed red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance: *Provided*:

(a) That none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale, but may be possessed, transported, and otherwise disposed of or utilized.

(b) That any person exercising any of the privileges granted by this section shall permit at all reasonable times including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(c) That nothing in this section shall be construed to authorize the killing of such birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State concerned.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 47525, Nov. 15, 1989]

§ 21.44 Depredation order for designated species of depredating birds in California.



In any county in California in which horned larks, golden-crowned, white-crowned and other crowned sparrows, and house finches are, under extraordinary conditions, seriously injurious to agricultural or other interests, the Commissioner of Agriculture may, without a permit, kill or cause to be killed under his/her general supervision such of the above migratory birds as may be necessary to safeguard any agricultural or horticultural crop in the county: *Provided*:

(a) That such migratory birds shall be killed only when necessary to protect agricultural or horticultural crops from depredation; that none of the above migratory birds killed, or the parts thereof, or the plumage of such birds, shall be sold or removed from the area where killed; but that all such dead migratory birds shall be buried or otherwise destroyed within this area, except that any specimens needed for scientific purposes, as determined by the State or the Director shall not be destroyed.

(b) That any Commissioner of Agriculture exercising the privileges granted by this section shall keep records of the persons authorized by the Commissioner to kill such migratory birds, and the estimated number of such birds killed pursuant to the exercise of his authority, and the Commissioner shall submit a report thereof to the Director on or before December 31 of each year or whenever the Director so

requests.

[39 FR 1178, Jan. 4, 1974, as amended at 54 FR 47525, Nov. 15, 1989; 55 FR 17352, Apr. 24, 1990]

§ 21.45 Depredation order for depredating purple gallinules in Louisiana.



Landowners, sharecroppers, tenants, or their employees or agents, actually engaged in the production of rice in Louisiana, may, without a permit, shoot purple gallinules (*Lonornis martinica*) when found committing or about to commit serious depredations to growing rice crops on the premises owned or occupied by such persons: *Provided*:

(a) That purple gallinules may only be killed pursuant to this section between May 1 and August 15 in any year.

(b) That purple gallinules killed pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided*, That the Director or the State agricultural department, college, or other public institution may requisition such purple gallinules killed as may be needed for scientific investigations: *Provided further*, That any purple gallinules killed under authority of this section may also be donated to charitable institutions for food purposes.

(c) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(d) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State of Louisiana.

(e) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the Director.

§ 21.46 Depredation order for depredating scrub jays and Steller's jays in Washington and Oregon.



Landowners, sharecroppers, tenants, or their employees or agents actually engaged in the production of nut crops in Washington and Oregon may, without a permit, take scrub jays (*Aphelocoma coerulescens*) and Steller's jays (*Cyanocitta stelleri*) when found committing or about to commit serious depredations to nut crops on the premises owned or occupied by such persons: *Provided*:

(a) That scrub jays and Steller's jays may only be taken pursuant to this section between August 1 and December 1 in any year, in the Washington counties of Clark, Cowlitz, and Lewis; and the Oregon counties of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill.

(b) That scrub jays and Steller's jays taken pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided*, That the Director of the State agricultural department, college, or other public institution may requisition such scrub jays and Steller's jays killed as may be needed for scientific investigations.

(c) That such birds may be taken only by trapping or shooting and on areas where serious depredations are being or are about to be committed.

(d) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(e) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the States of Washington and Oregon.

(f) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the appropriate Special Agent in Charge (see §10.22 of this subchapter).

[39 FR 31326, Aug. 28, 1974]

§ 21.47 Depredation order for double-crested cormorants at aquaculture facilities.



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(a) *What is the purpose of this depredation order?* The purpose of this depredation order is to help reduce depredation of aquacultural stock by double-crested cormorants at private fish farms and State and Federal fish hatcheries.

(b) *In what areas can this depredation order be implemented?* This depredation order applies to commercial freshwater aquaculture facilities and to State and Federal fish hatcheries in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Minnesota, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

(c) *What does this depredation order allow and who can participate?* (1) This depredation order authorizes landowners, operators, and tenants (or their employees or agents) actually engaged in the commercial, Federal, or State production of freshwater aquaculture stocks to take, without a Federal permit, double-crested cormorants when they are found committing or about to commit depredations to aquaculture stocks. This authority is applicable only during daylight hours and only within the boundaries of freshwater commercial aquaculture facilities or State and Federal hatcheries.

(2) This depredation order authorizes employees of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service to take double-crested cormorants, with appropriate landowner permission, at roost sites in the vicinity of aquaculture facilities, at any time, day or night, during the months of October, November, December, January, February, March, and April.

(3) Authorized employees of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service may designate agents to carry out control, provided these individuals act under the conditions of the order.

(d) *What are the terms and conditions of this order?* (1) Persons operating under paragraph (c)(1) of this section may only do so in conjunction with an established nonlethal harassment program as certified by officials of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service. Wildlife Services directive 2.330 outlines this certification process.

(2) Double-crested cormorants may be taken only by shooting with firearms, including rifles. Persons using shotguns are required to use nontoxic shot as listed in 50 CFR 20.21(j).

(3) Persons operating under this depredation order may use decoys, taped calls, or other devices to lure within gun range birds committing or about to commit depredations.

- (4) Persons operating under this depredation order must obtain appropriate landowner permission before implementing activities authorized by the order.
- (5) Double-crested cormorants may not be killed contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the person possesses the appropriate State or other permits, if required.
- (6) Persons operating under this depredation order must properly dispose of double-crested cormorants killed in control efforts:
- (i) Individuals may donate birds killed under authority of this order to museums or other such scientific and educational institutions for the purposes of scientific or educational exhibition;
 - (ii) Individuals may also bury or incinerate birds taken; and
 - (iii) Individuals may not allow birds taken under this order, or their plumage, to be sold, offered for sale, bartered, or shipped for purpose of sale or barter.
- (7) Nothing in this depredation order authorizes the take of any migratory bird species other than double-crested cormorants. Two look-alike species co-occur with double-crested cormorants in the southeastern States: the anhinga, which occurs across the southeastern United States, and the neotropical cormorant, which is found in varying numbers in Texas, Louisiana, and Oklahoma. Both species can be mistaken for double-crested cormorants, but take of these two species is not authorized under this depredation order. Persons operating under this order must immediately report the take of a migratory bird species other than double-crested cormorants to the appropriate Service Regional Migratory Bird Permit Office.
- (8) Nothing in this depredation order authorizes the take of any species protected by the Endangered Species Act. Persons operating under this order must immediately report the take of species protected under the Endangered Species Act to the Service.
- (i) To protect wood storks and bald eagles, the following conservation measures must be observed within any geographic area where Endangered Species Act protection applies to these species: All control activities are allowed if the activities occur more than 1,500 feet from active wood stork nesting colonies, more than 1,000 feet from active wood stork roost sites, and more than 750 feet from feeding wood storks, and if they occur more than 750 feet from active bald eagle nests.
 - (ii) At their discretion, landowners, operators, and tenants may contact the Regional Migratory Bird Permit Office to request modification of the measures listed in paragraph (d)(8)(i) of this section. Such modification can occur only if the Regional Director determines, on the basis of coordination between the Regional Migratory Bird Permit Office and the Endangered Species Field Office, that wood storks and bald eagles will not be adversely affected.
 - (iii) If adverse effects are anticipated from the control activities in a geographical area where Endangered Species Act protection applies to wood storks or bald eagles, either during the intra-Service coordination discussions described above or at any other time, the Regional Migratory Bird Permit Office will initiate consultation with the Endangered Species Field Offices.
- (9) Persons operating under this depredation order must:
- (i) Keep a log recording the date, number, and location of all birds killed each year under this authorization;
 - (ii) Maintain this log for a period of 3 years (and maintain records for 3 previous years of takings at all times thereafter); and
 - (iii) Each year, provide the previous year's log to the appropriate Service Regional Migratory Bird Permit Office. Regional Office addresses are found in §2.2 of subchapter A of this chapter.
- (10) We reserve the right to suspend or revoke the authority of any Agency or individual granted by this

order if we find that the specified purpose, terms, and conditions have not been adhered to by that Agency or individual or if the long-term sustainability of double-crested cormorant populations is threatened by that Agency's or individual's action(s). The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this depredation order. For purposes of §13.29(e), appeals shall be made to the Director.

(e) *Does this section contain information collection requirements?* Yes, the information collection requirements in this section are approved by the Office of Management and Budget (OMB) under OMB control number 1018-0121. Federal agencies may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(f) *When does this depredation order expire?* This depredation order will automatically expire on April 30, 2009, unless revoked or extended prior to that date.

[68 FR 58034, Oct. 8, 2003]

§ 21.48 Depredation order for double-crested cormorants to protect public resources.



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(a) *What is the purpose of this depredation order?* The purpose of this depredation order is to reduce the occurrence and/or minimize the risk of adverse impacts to public resources (fish, wildlife, plants, and their habitats) caused by double-crested cormorants.

(b) *In what areas can this depredation order be implemented?* This depredation order applies to all lands and freshwaters in the States of Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Vermont, West Virginia, and Wisconsin.

(c) *What does this depredation order allow and who can participate?* (1) This depredation order authorizes State fish and wildlife agencies, Federally recognized Tribes, and State Directors of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service (collectively termed "Agencies") to prevent depredations on the public resources of fish (including hatchery stock at Federal, State, and Tribal facilities), wildlife, plants, and their habitats by taking without a permit double-crested cormorants found committing or about to commit, such depredations.

(2) Agencies may designate agents to carry out control, provided those individuals act under the conditions of the order.

(3) Federally recognized Tribes and their agents may carry out control only on reservation lands or ceded lands within their jurisdiction.

(d) *What are the terms and conditions of this order?* (1) Persons operating under this order should first utilize nonlethal control methods such as harassment and exclusion devices when these are considered effective and practicable and not harmful to other nesting birds by the responsible Agency.

(2) Double-crested cormorants may be taken only by means of egg oiling, egg and nest destruction, cervical dislocation, firearms, and CO₂ asphyxiation. Persons using shotguns must use nontoxic shot, as listed in 50 CFR 20.21(j). Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(3) Persons operating under this depredation order may use decoys, taped calls, or other devices to lure within gun range birds committing or about to commit depredation of public resources.

(4) Persons operating under this depredation order must obtain appropriate landowner permission

before implementing activities authorized by the order.

(5) Persons operating under this depredation order may not take double-crested cormorants contrary to the laws or regulations of any State, and none of the privileges of this section may be exercised unless the person possesses the appropriate State or other permits, if required.

(6) Persons operating under this depredation order must properly dispose of double-crested cormorants killed in control efforts:

(i) Individuals may donate birds killed under authority of this order to museums or other such scientific and educational institutions for the purposes of scientific or educational exhibition;

(ii) Individuals may also bury or incinerate birds taken; and

(iii) Individuals may not allow birds taken under this order, or their plumage, to be sold, offered for sale, bartered, or shipped for purpose of sale or barter.

(7) Nothing in this depredation order authorizes the take of any migratory bird species other than double-crested cormorants. Two look-alike species co-occur with double-crested cormorants in the southeastern States: the anhinga, which occurs across the southeastern United States, and the neotropic cormorant, which is found in varying numbers in Texas, Louisiana, Kansas, and Oklahoma. Both species can be mistaken for double-crested cormorants, but take of these two species is not authorized under this depredation order. Persons operating under this order must immediately report the take of a migratory bird species other than double-crested cormorants to the appropriate Service Regional Migratory Bird Permit Office.

(8) Nothing in this depredation order authorizes the take of any species protected by the Endangered Species Act. Persons operating under this order must immediately report the take of species protected under the Endangered Species Act to the Service.

(i) To protect piping plovers, interior least terns, wood storks, and bald eagles, the following conservation measures must be observed within any geographic area where Endangered Species Act protection applies to these species:

(A) The discharge/use of firearms to kill or harass double-crested cormorants or use of other harassment methods are allowed if the control activities occur more than 1,000 feet from active piping plover or interior least tern nests or colonies; occur more than 1,500 feet from active wood stork nesting colonies, more than 1,000 feet from active wood stork roost sites, and more than 750 feet from feeding wood storks; or occur more than 750 feet from active bald eagle nests;

(B) Other control activities such as egg oiling, cervical dislocation, CO₂ asphyxiation, egg destruction, or nest destruction are allowed if these activities occur more than 500 feet from active piping plover or interior least tern nests or colonies; occur more than 1,500 feet from active wood stork nesting colonies, more than 1,000 feet from active wood stork roost sites, and more than 750 feet from feeding wood storks; or occur more than 750 feet from active bald eagle nests;

(C) To ensure adequate protection of piping plovers, any Agency or its agents who plan to implement control activities that may affect areas designated as piping plover critical habitat in the Great Lakes Region are to obtain prior approval from the appropriate Regional Director. Requests for approval of activities in these areas must be submitted to the Regional Migratory Bird Permit Office. The Regional Migratory Bird Permit Office will then coordinate with the Endangered Species Field Office staff to assess whether the measures in paragraph (d)(8)(i)(B) of this section are adequate.

(ii) At their discretion, Agencies or their agents may contact the Regional Migratory Bird Permit Office to request modification of the above measures. Such modification can occur only if the Regional Director determines, on the basis of coordination between the Regional Migratory Bird Permit Office and the Endangered Species Field Office, that the species listed in paragraph (d)(8)(i) of this section will not be adversely affected.

(iii) If adverse effects are anticipated from the control activities in a geographical area where Endangered Species Act protection applies to any of the four species listed in paragraph (d)(8)(i) of this

section, either during the intra-Service coordination discussions described in paragraph (d)(8)(i)(C) of this section or at any other time, the Regional Migratory Bird Permit Office will initiate consultation with the Endangered Species Field Offices.

(9) Responsible Agencies must, before they initiate any control activities in a given year, provide a one-time written notice to the appropriate Service Regional Migratory Bird Permit Office indicating that they intend to act under this order.

(i) Additionally, if any Agency plans a single control action that would individually, or a succession of such actions that would cumulatively, kill more than 10 percent of the double-crested cormorants in a breeding colony, it must first provide written notification to the appropriate Service Regional Migratory Bird Permit Office. This letter must be received no later than 30 days in advance of the activity and must provide:

(A) The location (indicating specific colonies, if applicable) of the proposed control activity;

(B) A description of the proposed control activity, specifying what public resources are being impacted, how many birds are likely to be taken and what approximate percentage they are of total DCCOs present, and which species of other birds are present; and

(C) Contact information for the person in charge of the control action.

(ii) The Regional Director may prevent any such activity by notifying the agency in writing if the Regional Director deems the activity a threat to the long-term sustainability of double-crested cormorants or any other migratory bird species.

(10) Persons operating under this order must keep records of all activities, including those of designated agents, carried out under this order. On an annual basis, Agencies must provide the Service Regional Migratory Bird Permit Office with a report detailing activities conducted under the authority of this order, including:

(i) By date and location, a summary of the number of double-crested cormorants killed and/or number of nests in which eggs were oiled;

(ii) A statement of efforts being made to minimize incidental take of nontarget species and a report of the number and species of migratory birds involved in such take, if any;

(iii) A description of the impacts or anticipated impacts to public resources by double-crested cormorants and a statement of the management objectives for the area in question;

(iv) A description of the evidence supporting the conclusion that double-crested cormorants are causing or will cause these impacts;

(v) A discussion of other limiting factors affecting the resource (e.g., biological, environmental, and socioeconomic); and

(vi) A discussion of how control efforts are expected to, or actually did, alleviate resource impacts.

(11) Agencies must provide annual reports to the appropriate Service Regional Migratory Bird Permit Office, as described in paragraph (d)(10) of this section, by December 31 for the reporting period October 1 of the previous year to September 30 of the same year. For example, reports for the period October 1, 2003, to September 30, 2004, would be due on or before December 31, 2004. The Service will regularly review Agency reports and will periodically assess the overall impact of this program to ensure compatibility with the long-term conservation of double-crested cormorants and other resources.

(12) In some situations, Agencies may deem it necessary to reduce or eliminate local breeding populations of double-crested cormorants to reduce the occurrence of resource impacts.

(i) For such actions, Agencies must:

- (A) Comply with paragraph (d)(9) of this section;
 - (B) Carefully plan activities to avoid disturbance of nontarget species;
 - (C) Evaluate effects of management activities on cormorants at the control site;
 - (D) Evaluate, by means of collecting data or using best available information, effects of management activities on the public resources being protected and on nontarget species; and
 - (E) Include this information in the report described in paragraph (d)(10) of this section.
- (ii) Agencies may coordinate with the appropriate Service Regional Migratory Bird Permit Office in the preparation of this information to attain technical or other assistance.

(13) We reserve the right to suspend or revoke the authority of any Agency, Tribe, or State Director granted by this order if we find that the specified purpose, terms, and conditions have not been adhered to or if the long-term sustainability of double-crested cormorant populations is threatened by the action (s) of that Agency, Tribe, or State Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this depredation order. For purposes of §13.29(e), appeals shall be made to the Director.

(e) *Does this section contain information collection requirements?* Yes, the information collection requirements in this section are approved by the Office of Management and Budget (OMB) under OMB control number 1018-0121. Federal agencies may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(f) *When does this depredation order expire?* This depredation order will automatically expire on April 30, 2009, unless revoked or extended prior to that date.

[68 FR 58035, Oct. 8, 2003]

§ 21.49 Control order for resident Canada geese at airports and military airfields.



(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in §21.3.

(b) *What is the control order for resident Canada geese at airports, and what is its purpose?* The airport control order authorizes managers at commercial, public, and private airports (airports) (and their employees or their agents) and military air operation facilities (military airfields) (and their employees or their agents) to establish and implement a control and management program when necessary to resolve or prevent threats to public safety from resident Canada geese. Control and management activities include indirect and/or direct control strategies such as trapping and relocation, nest and egg destruction, gosling and adult trapping and culling programs, or other lethal and non-lethal control strategies.

(c) *Who may participate in the program?* To be designated as an airport that is authorized to participate in this program, an airport must be part of the National Plan of Integrated Airport Systems and have received Federal grant-in-aid assistance, or a military airfield, meaning an airfield or air station that is under the jurisdiction, custody, or control of the Secretary of a military department. Only airports and military airfields in the lower 48 States and the District of Columbia are eligible to conduct and implement the various resident Canada goose control and management program components.

(d) *What are the restrictions of the control order for resident Canada geese at airports and military airfields?* The airport control order for resident Canada geese is subject to the following restrictions:

- (1) Airports and military airfields should use nonlethal goose management tools to the extent they deem

appropriate. To minimize lethal take, airports and military airfields should follow this procedure:

(i) Assess the problem to determine its extent or magnitude, its impact on current operations, and the appropriate control method to be used.

(ii) Base control methods on sound biological, environmental, social, and cultural factors.

(iii) Formulate appropriate methods into a control strategy that uses several control techniques rather than relying on a single method.

(iv) Implement all appropriate nonlethal management techniques (such as harassment and habitat modification) in conjunction with take authorized under this order.

(2)(i) Methods of take for the control of resident Canada geese are at the airport's and military airfield's discretion from among the following:

(A) Egg oiling,

(B) Egg and nest destruction,

(C) Shooting,

(D) Lethal and live traps,

(E) Nets,

(F) Registered animal drugs, pesticides, and repellants,

(G) Cervical dislocation, and

(H) CO₂ asphyxiation.

(ii) Birds caught live may be euthanized or transported and relocated to another site approved by the State or Tribal wildlife agency, if required.

(iii) All techniques used must be in accordance with other Federal, State, and local laws, and their use must comply with any labeling restrictions.

(iv) Persons using shotguns must use nontoxic shot, as listed in §20.21(j) of this subchapter.

(v) Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(3) Airports and military airfields may conduct management and control activities, involving the take of resident Canada geese, under this section between April 1 and September 15. The destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(4) Airports and military airfields and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Disposal of birds taken under this order may be by donation to public museums or public institutions for scientific or educational purposes, processing for human consumption and subsequent distribution free of charge to charitable organizations, or burial or incineration. Airports/military airfields, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Any specimens needed for scientific purposes as determined by the Regional Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263).

(5) Resident Canada geese may be taken only within a 3-mile radius of the airport or military airfield. Airports and military airfields or their agents must first obtain all necessary authorizations from landowners for all management activities conducted outside the airport or military airfield's boundaries and be in compliance with all State and local laws and regulations.

(6) Nothing in this section authorizes the killing of resident Canada geese or destruction of their nests and eggs contrary to the laws or regulations of any State or Tribe, and none of the privileges of this section may be exercised unless the airport or military airfield possesses the appropriate State or Tribal authorization or other permits required by the State or Tribe. Moreover, this section does not authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(7) Authorized airports and military airfields, and their employees and agents operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(8) Airports and military airfields exercising the privileges granted by this section must submit an annual report summarizing activities, including the date and numbers and location of birds, nests, and eggs taken, by December 31 of each year to the Regional Migratory Bird Permit Office listed in §2.2 of this subchapter.

(9) Nothing in this section applies to any Federal land without written permission of the Federal agency with jurisdiction.

(10) Airports and military airfields may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, airports and military airfields must:

(i) Follow the Federal-State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest;

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities;

(iv) Contact the Arizona Ecological Services Office (for the Colorado River and Arizona sites) or the Carlsbad Fish and Wildlife Office (for Salton Sea sites) if control activities are proposed in or around occupied habitats (cattail or cattail bulrush marshes) to discuss the proposed activity and ensure that implementation will not adversely affect clapper rails or their habitats; and

(v) In California, any control activities of resident Canada geese in areas used by the following species listed under the Endangered Species Act must be done in coordination with the appropriate local FWS field office and in accordance with standard local operating procedures for avoiding adverse effects to the species or its critical habitat:

(A) *Birds*: Light-footed clapper rail, California clapper rail, Yuma clapper rail, California least tern, southwestern willow flycatcher, least Bell's vireo, western snowy plover, California gnatcatcher.

(B) *Amphibians*: California red-legged frog and California tiger salamander.

(C) *Insects*: Valley elderberry longhorn beetle and delta green ground beetle.

(D) *Crustaceans*: Vernal pool fairy shrimp, conservancy fairy shrimp, longhorn fairy shrimp, vernal pool tadpole shrimp, San Diego fairy shrimp, and Riverside fairy shrimp.

(E) *Plants*: Butte County meadowfoam, large-flowered wooly meadowfoam, Cook's lomatium, Contra Costa goldfields, Hoover's spurge, fleshy owl's clover, Colusa grass, hairy Orcutt grass, Solano grass, Greene's tuctoria, Sacramento Valley Orcutt grass, San Joaquin Valley Orcutt grass, slender Orcutt

grass, California Orcutt grass, spreading navarretia, and San Jacinto Valley crownscale.

(e) *Can the control order be suspended?* We reserve the right to suspend or revoke an airport's or military airfield's authority under this control order if we find that the terms and conditions specified in the control order have not been adhered to by that airport or military airfield. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this control order. For purposes of §13.29(e), appeals must be made to the Director.

(f) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the control order?* OMB has approved the information collection and recordkeeping requirements of the control order under OMB control number 1018-0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222—ARLSQ, 1849 C Street NW., Washington, DC 20240.

[71 FR 45986, Aug. 10, 2006]

§ 21.50 Depredation order for resident Canada geese nests and eggs.



(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in §21.3.

(b) *What is the depredation order for resident Canada geese nests and eggs, and what is its purpose?* The nest and egg depredation order for resident Canada geese authorizes private landowners and managers of public lands (landowners) (and their employees or their agents) to destroy resident Canada goose nests and eggs on property under their jurisdiction when necessary to resolve or prevent injury to people, property, agricultural crops, or other interests.

(c) *Who may participate in the depredation order?* Only landowners (and their employees or their agents) in the lower 48 States and the District of Columbia are eligible to implement the resident Canada goose nest and egg depredation order.

(d) *What are the restrictions of the depredation order for resident Canada goose nests and eggs?* The resident Canada goose nest and egg depredation order is subject to the following restrictions:

(1) Before any management actions can be taken, landowners must register with the Service at <http://www.fws.gov/permits/mbpermits/gooseeggregistration.html>. Landowners must also register each employee or agent working on their behalf. Once registered, landowners or their agents will be authorized to act under the depredation order.

(2) Landowners authorized to operate under the depredation order must use nonlethal goose management techniques to the extent they deem appropriate in an effort to minimize take.

(3) Methods of nest destruction or take are at the landowner's discretion from among the following:

(i) Egg oiling, using 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, and

(ii) Removal and disposal of eggs and nest material.

(4) Landowners authorized to operate under the depredation order may conduct resident Canada goose nest and egg destruction activities between March 1 and June 30.

(5) Landowners authorized to operate under the depredation order may possess, transport, and dispose of resident Canada goose nests and eggs taken under this section. Landowners authorized to operate under the program may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada goose nest or egg taken under this section.

(6) Landowners exercising the privileges granted by this section must complete an annual report summarizing activities, including the date, numbers, and location of nests and eggs taken by October 31 of each year at <http://www.fws.gov/permits/mbpermits/gooseeggregistration/report.html> before any subsequent registration for the following year.

(7) Nothing in this section authorizes the destruction of resident Canada goose nests or the take of resident Canada goose eggs contrary to the laws or regulations of any State or Tribe, and none of the privileges of this section may be exercised unless the landowner is authorized to operate under the program and possesses the appropriate State or Tribal permits, when required. Moreover, this section does not authorize the killing of any migratory bird species or destruction of their nest or eggs other than resident Canada geese.

(8) Landowners may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, landowners must:

(i) Follow the Federal-State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest;

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities;

(iv) Contact the Arizona Ecological Services Office (for the Colorado River and Arizona sites) or the Carlsbad Fish and Wildlife Office (for Salton Sea sites) if control activities are proposed in or around occupied habitats (cattail or cattail bulrush marshes) to discuss the proposed activity and ensure that implementation will not adversely affect clapper rails or their habitats; and

(v) In California, any control activities of resident Canada geese in areas used by the following species listed under the Endangered Species Act must be done in coordination with the appropriate local FWS field office and in accordance with standard local operating procedures for avoiding adverse effects to the species or its critical habitat:

(A) *Birds*: Light-footed clapper rail, California clapper rail, Yuma clapper rail, California least tern, southwestern willow flycatcher, least Bell's vireo, western snowy plover, California gnatcatcher.

(B) *Amphibians*: California red-legged frog and California tiger salamander.

(C) *Insects*: Valley elderberry longhorn beetle and delta green ground beetle.

(D) *Crustaceans*: Vernal pool fairy shrimp, conservancy fairy shrimp, longhorn fairy shrimp, vernal pool tadpole shrimp, San Diego fairy shrimp, and Riverside fairy shrimp.

(E) *Plants*: Butte County meadowfoam, large-flowered wooly meadowfoam, Cook's lomatium, Contra Costa goldfields, Hoover's spurge, fleshy owl's clover, Colusa grass, hairy Orcutt grass, Solano grass, Greene's tuctoria, Sacramento Valley Orcutt grass, San Joaquin Valley Orcutt grass, slender Orcutt grass, California Orcutt grass, spreading navarretia, and San Jacinto Valley crownscale.

(e) *Can the depredation order be suspended?* We reserve the right to suspend or revoke this authorization for a particular landowner if we find that the landowner has not adhered to the terms and conditions specified in the depredation order. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this

depredation order. For purposes of §13.29(e), appeals must be made to the Director. Additionally, at such time that we determine that resident Canada goose populations no longer need to be reduced in order to resolve or prevent injury to people, property, agricultural crops, or other interests, we may choose to terminate part or all of the depredation order by subsequent regulation. In all cases, we will annually review the necessity and effectiveness of the depredation order.

(f) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the depredation order?* OMB has approved the information collection and recordkeeping requirements of the depredation order under OMB control number 1018–0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222—ARLSQ, 1849 C Street NW., Washington, DC 20240.

[71 FR 45988, Aug. 10, 2006]

§ 21.51 Depredation order for resident Canada geese at agricultural facilities.



(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in §21.3.

(b) *What is the depredation order for resident Canada geese at agricultural facilities, and what is its purpose?* The depredation order for resident Canada geese at agricultural facilities authorizes States and Tribes, via the State or Tribal wildlife agency, to implement a program to allow landowners, operators, and tenants actively engaged in commercial agriculture (agricultural producers) (or their employees or agents) to conduct direct damage management actions such as nest and egg destruction, gosling and adult trapping and culling programs, or other lethal and non-lethal wildlife-damage management strategies on resident Canada geese when the geese are committing depredations to agricultural crops and when necessary to resolve or prevent injury to agricultural crops or other agricultural interests from resident Canada geese.

(c) *Who may participate in the depredation order?* State and Tribal wildlife agencies in the following States may authorize agricultural producers (or their employees or agents) to conduct and implement various components of the depredation order at agricultural facilities in the Atlantic, Central, and Mississippi Flyway portions of these States: Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

(d) *What are the restrictions of the depredation order for resident Canada geese at agricultural facilities?* The depredation order for resident Canada geese at agricultural facilities is subject to the following restrictions:

(1) Only landowners, operators, and tenants (or their employees or agents) actively engaged in commercial activities (agricultural producers) so designated by the States may act under this order.

(2) Authorized agricultural producers should use nonlethal goose management tools to the extent they deem appropriate. To minimize lethal take, agricultural producers should adhere to the following procedure:

(i) Assess the problem to determine its extent or magnitude, its impact to current operations, and the appropriate control method to be used.

(ii) Base control methods on sound biological, environmental, social, and cultural factors.

(iii) Formulate appropriate methods into a control strategy that uses the approach/concept that encourages the use of several control techniques rather than relying on a single method.

(iv) Implement all appropriate nonlethal management techniques (such as harassment and habitat modification) in conjunction with take authorized under this order.

(3)(i) Methods of take for the control of resident Canada geese are at the State's or Tribe's discretion among the following:

(A) Egg oiling,

(B) Egg and nest destruction,

(C) Shotguns,

(D) Lethal and live traps,

(E) Nets,

(F) Registered animal drugs, pesticides, and repellants,

(G) Cervical dislocation, and

(H) CO₂ asphyxiation.

(ii) Birds caught live may be euthanized or transported and relocated to another site approved by the State or Tribal wildlife agency, if required.

(iii) All techniques used must be in accordance with other Federal, State, Tribal, and local laws, and their use must comply with any labeling restrictions.

(iv) Persons using shotguns must use nontoxic shot, as listed in §20.21(j) of this subchapter.

(v) Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(4) Authorized agricultural producers and their employees and agents may conduct management and control activities, involving the take of resident Canada geese, under this section between May 1 and August 31. The destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(5) Authorized agricultural producers and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Disposal of birds taken under this order may be by donation to public museums or public institutions for scientific or educational purposes, processing for human consumption and subsequent distribution free of charge to charitable organizations, or burial or incineration. Agricultural producers, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Any specimens needed for scientific purposes as determined by the Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263).

(6) Resident Canada geese may be taken only on land which an authorized agricultural producer personally controls and where geese are committing depredations to agricultural crops.

(7) Authorized agricultural producers, and their employees and agents, operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(8) Any authorized agricultural producer exercising the privileges of this section must keep and maintain a log that indicates the date and number of birds killed and the date and number of nests and eggs taken under this authorization. The log must be maintained for a period of 3 years (and records for 3

previous years of takings must be maintained at all times thereafter). The log and any related records must be made available to Federal, State, or Tribal wildlife enforcement officers upon request during normal business hours.

(9) Nothing in this section authorizes the killing of resident Canada geese or the destruction of their nests and eggs contrary to the laws or regulations of any State or Tribe, and none of the privileges of this section may be exercised unless the agricultural producer possesses the appropriate State or Tribal permits, when required. Moreover, this regulation does not authorize the killing of any migratory bird species or destruction of their nests or eggs other than resident Canada geese.

(10) States and Tribes exercising the privileges granted by this section must submit an annual report summarizing activities, including the numbers and County of birds, nests, and eggs taken, by December 31 of each year to the Regional Migratory Bird Permit Office listed in §2.2 of this subchapter.

(11) Nothing in this section applies to any Federal land without written permission of the Federal agency with jurisdiction.

(12) Authorized agricultural producers may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, agricultural producers must:

(i) Follow the Federal-State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest; and

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities.

(e) *Can the depredation order be suspended?* We reserve the right to suspend or revoke a State, Tribal, or agricultural producer's authority under this program if we find that the terms and conditions specified in the depredation order have not been adhered to by that State or Tribe. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this depredation order. For purposes of §13.29(e), appeals must be made to the Director. Additionally, at such time that we determine that resident Canada geese populations no longer pose a threat to agricultural crops or no longer need to be reduced in order to resolve or prevent injury to agricultural crops or other agricultural interests, we may choose to terminate part or all of the depredation order by subsequent regulation. In all cases, we will annually review the necessity and effectiveness of the depredation order.

(f) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the depredation order?* OMB has approved the information collection and recordkeeping requirements of the depredation order under OMB control number 1018-0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ, 1849 C Street, NW., Washington, DC 20240.

[71 FR 45989, Aug. 10, 2006]

§ 21.52 Public health control order for resident Canada geese.



(a) *Which Canada geese are covered by this order?* This regulation addresses the control and management of resident Canada geese, as defined in §21.3.

(b) *What is the public health control order for resident Canada geese, and what is its purpose?* The public health control order for resident Canada geese authorizes States, Tribes, and the District of Columbia, via the State or Tribal wildlife agency, to conduct resident Canada goose control and management activities including direct control strategies such as trapping and relocation, nest and egg destruction, gosling and adult trapping and culling programs, or other lethal and non-lethal wildlife damage-management strategies when resident Canada geese are posing a direct threat to human health.

(c) *What is a direct threat to human health?* A direct threat to human health is one where a Federal, State, Tribal, or local public health agency has determined that resident Canada geese pose a specific, immediate human health threat by creating conditions conducive to the transmission of human or zoonotic pathogens. The State or Tribe may not use this control order for situations in which resident Canada geese are merely causing a nuisance.

(d) *Who may participate in the program?* Only State and Tribal wildlife agencies in the lower 48 States and the District of Columbia (or their employees or agents) may conduct and implement the various components of the public health control order for resident Canada geese.

(e) *What are the restrictions of the public health depredation order for resident Canada geese?* The public health control order for resident Canada geese is subject to the following restrictions:

(1) Authorized State and Tribal wildlife agencies should use nonlethal goose management tools to the extent they deem appropriate.

(2)(i) Methods of take for the control of resident Canada geese are at the State's and Tribe's discretion from among the following:

(A) Egg oiling,

(B) Egg and nest destruction,

(C) Shotguns,

(D) Lethal and live traps,

(E) Nets,

(F) Registered animal drugs, pesticides, and repellants,

(G) Cervical dislocation, and

(H) CO₂ asphyxiation.

(ii) Birds caught live may be euthanized or transported and relocated to another site approved by the State or Tribal wildlife agency, if required.

(iii) All techniques used must be in accordance with other Federal, State, Tribal, and local laws, and their use must comply with any labeling restrictions.

(iv) Persons using shotguns must use nontoxic shot, as listed in §20.21(j) of this subchapter.

(v) Persons using egg oiling must use 100 percent corn oil, a substance exempted from regulation by the U.S. Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act.

(3) Authorized State and Tribal wildlife agencies and their employees and agents may conduct management and control activities, involving the take of resident Canada geese, under this section between April 1 and August 31. The destruction of resident Canada goose nests and eggs may take place between March 1 and June 30.

(4) Authorized State and Tribal wildlife agencies and their employees and agents may possess, transport, and otherwise dispose of resident Canada geese taken under this section. Disposal of birds taken under this order may be by donation to public museums or public institutions for scientific or educational purposes, processing for human consumption and subsequent distribution free of charge to charitable organizations, or burial or incineration. States, their employees, and designated agents may not sell, offer for sale, barter, or ship for the purpose of sale or barter any resident Canada geese taken under this section, nor their plumage or eggs. Any specimens needed for scientific purposes as determined by the Regional Director must not be destroyed, and information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263).

(5) Resident Canada geese may be taken only within the specified area of the direct threat to human health.

(6) Authorized State and Tribal wildlife agencies, and their employees and agents operating under the provisions of this section may not use decoys, calls, or other devices to lure birds within gun range.

(7) No person conducting activities under this section should construe the program as authorizing the killing of resident Canada geese or destruction of their nests and eggs contrary to any State law or regulation, nor may any control activities be conducted on any Federal land without specific authorization by the responsible management agency. No person may exercise the privileges granted under this section unless they possess any permits required for such activities by any State or Federal land manager.

(8) Any State or Tribal employee or designated agent authorized to carry out activities under this section must have a copy of the State's or Tribal authorization and designation in their possession when carrying out any activities. If the State or Tribe is conducting operations on private property, the State or Tribe must also require the property owner or occupant on whose premises resident Canada goose activities are being conducted to allow, at all reasonable times, including during actual operations, free and unrestricted access to any Service special agent or refuge officer, State or Tribal wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer on the premises where they are, or were, conducting activities. Furthermore, any State or Tribal employee or designated agent conducting such activities must promptly furnish whatever information is required concerning such activities to any such wildlife officer.

(9) States and Tribes exercising the privileges granted by this section must submit an annual report summarizing activities, including the numbers and County of birds taken, by December 31 of each year to the Regional Migratory Bird Permit Office listed in §2.2 of this subchapter.

(10) Authorized State and Tribal wildlife agencies may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this order must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, State and Tribal wildlife agencies must:

(i) Follow the Federal-State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest;

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities;

(iv) Contact the Arizona Fish and Wildlife Service Ecological Services Office (for the Colorado River and Arizona sites) or the Carlsbad Fish and Wildlife Office (for Salton Sea sites) if control activities are proposed in or around occupied habitats (cattail or cattail bulrush marshes) to discuss the proposed activity and ensure that implementation will not adversely affect clapper rails or their habitats; and

(v) In California, any control activities of resident Canada geese in areas used by the following species listed under the Endangered Species Act must be done in coordination with the appropriate local FWS field office and in accordance with standard local operating procedures for avoiding adverse effects to the species or its critical habitat:

(A) *Birds*: Light-footed clapper rail, California clapper rail, Yuma clapper rail, California least tern, southwestern willow flycatcher, least Bell's vireo, western snowy plover, California gnatcatcher.

(B) *Amphibians*: California red-legged frog and California tiger salamander.

(C) *Insects*: Valley elderberry longhorn beetle and delta green ground beetle.

(D) *Crustaceans*: Vernal pool fairy shrimp, conservancy fairy shrimp, longhorn fairy shrimp, vernal pool tadpole shrimp, San Diego fairy shrimp, and Riverside fairy shrimp.

(E) *Plants*: Butte County meadowfoam, large-flowered woolly meadowfoam, Cook's lomatium, Contra Costa goldfields, Hoover's spurge, fleshy owl's clover, Colusa grass, hairy Orcutt grass, Solano grass, Greene's tuctoria, Sacramento Valley Orcutt grass, San Joaquin Valley Orcutt grass, slender Orcutt grass, California Orcutt grass, spreading navarretia, and San Jacinto Valley crownscale.

(f) *Can the control order be suspended?* We reserve the right to suspend or revoke a State's or Tribe's authority under this program if we find that the terms and conditions specified in the depredation order have not been adhered to by that agency. Final decisions to revoke authority will be made by the appropriate Regional Director. The criteria and procedures for suspension, revocation, reconsideration, and appeal are outlined in §§13.27 through 13.29 of this subchapter. For the purposes of this section, "issuing officer" means the Regional Director and "permit" means the authority to act under this control order. For purposes of §13.29(e), appeals must be made to the Director. Additionally, at such time that we determine that resident Canada geese populations no longer pose direct threats to human health, we may choose to terminate part or all of the control order by subsequent regulation. In all cases, we will annually review the necessity and effectiveness of the control order.

(g) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the control order?* OMB has approved the information collection and recordkeeping requirements of the control order under OMB control number 1018-0133. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ, 1849 C Street, NW., Washington, DC 20240.

[71 FR 45990, Aug. 10, 2006]

Subpart E—Control of Overabundant Migratory Bird Populations



§ 21.60 Conservation order for mid-continent light geese.



(a) *Which waterfowl species are covered by this order?* This conservation order addresses management of lesser snow (*Anser c. caerulescens*) and Ross' (*Anser rossii*) geese that breed, migrate, and winter in the mid-continent portion of North America, primarily in the Central and Mississippi Flyways (mid-continent light geese).

(b) *In what areas can the conservation order be implemented?* (1) The following States, or portions of States, that are contained within the boundaries of the Central and Mississippi Flyways: Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming.

(2) Tribal lands within the geographic boundaries in paragraph (b)(1) of this section.

(3) The following areas within the boundaries in paragraph (b)(1) of this section are closed to the conservation order after 10 March of each year: Monte Vista National Wildlife Refuge (CO); Bosque del

Apache National Wildlife Refuge (NM); the area within 5 miles of the Platte River from Lexington, Nebraska to Grand Island, Nebraska; the following area in and around Aransas National Wildlife Refuge; those portions of Refugio, Calhoun, and Aransas counties that lie inside a line extending from 5 nautical miles offshore to and including Pelican Island, thence to Port O'Conner, thence northwest along State Highway 185 and southwest along State Highway 35 to Aransas Pass, thence southeast along State Highway 361 to Port Aransas, thence east along the Corpus Christi Channel, thence southeast along the Aransas Channel, extending to 5 nautical miles offshore; except that it is lawful to take mid-continent light geese after 10 March of each year within the Guadalupe WMA. If at any time we receive evidence that a need to close the areas in this paragraph (b)(3) no longer exists, we will publish a proposal to remove the closures in the Federal Register.

(c) *What is required in order for State/Tribal governments to participate in the conservation order?* Any State or Tribal government responsible for the management of wildlife and migratory birds may, without permit, kill or cause to be killed under its general supervision, mid-continent light geese under the following conditions:

- (1) Activities conducted under this section may not affect endangered or threatened species as designated under the Endangered Species Act.
- (2) Control activities must be conducted clearly as such and are intended to relieve pressures on migratory birds and habitat essential to migratory bird populations only and are not to be construed as opening, re-opening, or extending any open hunting season contrary to any regulations promulgated under section 3 of the Migratory Bird Treaty Act.
- (3) Control activities may be conducted only when all waterfowl and crane hunting seasons, excluding falconry, are closed.
- (4) Control measures employed through this section may be implemented only between the hours of one-half hour before sunrise to one-half hour after sunset.
- (5) Nothing in this section may limit or initiate management actions on Federal land without concurrence of the Federal Agency with jurisdiction.
- (6) States and Tribes must designate participants who must operate under the conditions of this section.
- (7) States and Tribes must inform participants of the requirements/conditions of this section that apply.
- (8) States and Tribes must keep records of activities carried out under the authority of this section, including the number of mid-continent light geese taken under this section, the methods by which they were taken, and the dates they were taken. The States and Tribes must submit an annual report summarizing activities conducted under this section on or before August 30 of each year, to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, ms 634—ARLSQ, 1849 C Street NW., Washington, DC 20240.

(d) *What is required in order for individuals to participate in the conservation order?* Individual participants in State or tribal programs covered by this section are required to comply with the following requirements:

- (1) Nothing in this section authorizes the take of mid-continent light geese contrary to any State or Tribal laws or regulations; and none of the privileges granted under this section may be exercised unless persons acting under the authority of the conservation order possesses whatever permit or other authorization(s) required for such activities by the State or Tribal government concerned.
- (2) Participants who take mid-continent light geese under this section may not sell or offer for sale those birds nor their plumage, but may possess, transport, and otherwise properly use them.
- (3) Participants acting under the authority of this section must permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted, and must promptly furnish whatever information an officer requires concerning the operation.

(4) Participants acting under the authority of this section may take mid-continent light geese by any method except those prohibited as follows:

(i) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance;

(ii) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the person a means of concealment beneath the surface of the water;

(iii) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

(iv) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and the sails furled, and its progress therefrom has ceased. A craft under power may be used only to retrieve dead or crippled birds; however, the craft may not be used under power to shoot any crippled birds;

(v) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this paragraph for any person to take mid-continent light geese on an area where tame or captive live geese are present unless such birds are and have been for a period of 10 consecutive days before the taking, confined within an enclosure that substantially reduces the audibility of their calls and totally conceals the birds from the sight of mid-continent light geese;

(vi) By means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of mid-continent light geese;

(vii) By the aid of baiting, or on or over any baited area. As used in this paragraph, "baiting" means the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this paragraph prohibits the taking of mid-continent light geese on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or

(viii) Participants may not possess shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, or bismuth-tin, or other shots that are authorized in 50 CFR 20.21(j). Season limitations in that section do not apply to participants acting under this order.

(e) *Under what conditions would the conservation order be revoked?* The Service will annually assess the overall impact and effectiveness of the conservation order to ensure compatibility with long-term conservation of this resource. If at any time we receive that clearly demonstrates a serious threat of injury to the area or areas involved no longer exists, we will initiate action to revoke the conservation order.

(f) *Will information concerning the conservation order be collected?* The information collection requirements of the conservation order have been approved by OMB and assigned clearance number 1018-0103. Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The recordkeeping and reporting requirements imposed under regulations established in this subpart E will be utilized to administer this program, particularly in the assessment of impacts alternative regulatory strategies may have on mid-continent light geese and other migratory bird populations. The information collected will be required to authorize State and Tribal governments responsible for migratory bird management to take mid-continent light geese within the guidelines provided by the Service.

[66 FR 32265, June 14, 2001]

§ 21.61 Population control of resident Canada geese.



(a) *Which Canada geese are covered by this regulation?* This regulation addresses the population control of resident Canada geese, as defined in §21.3.

(b) *What is the resident Canada goose population control program, and what is its purpose?* The resident Canada goose population control program is a managed take program implemented under the authority of the Migratory Bird Treaty Act to reduce and stabilize resident Canada goose populations when traditional and otherwise authorized management measures are unsuccessful, not feasible for dealing with, or applicable, in preventing injury to property, agricultural crops, public health, and other interests from resident Canada geese. The Director is authorized to allow States and Tribes to implement a population control, or managed take, program to remedy these injuries. When authorized by the Director, managed take allows additional methods of taking resident Canada geese, allows shooting hours for resident Canada geese to extend to one-half hour after sunset, and removes daily bag limits for resident Canada geese inside or outside the migratory bird hunting season frameworks as described in this section. The intent of the program is to reduce resident Canada goose populations in order to protect personal property and agricultural crops and other interests from injury and to resolve potential concerns about human health. The management and control activities allowed or conducted under the program are intended to relieve or prevent damage and injurious situations. No person should construe this program as opening, reopening, or extending any hunting season contrary to any regulations established under section 3 of the Migratory Bird Treaty Act.

(c) *What areas are eligible to participate in the program?* When approved by the Director, the State and Tribal wildlife agencies of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming may implement the resident Canada goose population control program components in the Atlantic, Central, and Mississippi Flyway portions of these States.

(d) *What is required in order for State governments to participate in a managed take program?* Following the conclusion of the first full operational year of §§21.49 through 21.52 of this part, any wildlife agency from a State listed in 21.61(c) may request approval for the population control program. A request must include a discussion of the State's or Tribe's efforts to address its injurious situations utilizing the methods approved in this rule or a discussion of the reasons why the methods authorized by these rules are not feasible for dealing with, or applicable to, the injurious situations that require further action. Discussions should be detailed and provide the Service with a clear understanding of the injuries that continue, why the authorized methods utilized have not worked, and why methods not utilized could not effectuate resolution of the injuries. A State's request for approval may be for an area or areas smaller than the entire State. Upon written approval by the Director, any State or Tribal government responsible for the management of wildlife and migratory birds may, without permit, kill or cause to be killed under its general supervision, resident Canada geese under the following conditions:

(1) Activities conducted under the managed take program may not affect endangered or threatened species as designated under the Endangered Species Act.

(2) Control activities may be conducted under this section only between August 1 and August 30.

(3) Control measures employed through this section may be implemented only between the hours of one-half hour before sunrise to one-half hour after sunset.

(4) Nothing in the program may limit or initiate management actions on Federal land without concurrence of the Federal agency with jurisdiction.

(5) States and Tribes must designate participants who must operate under the conditions of the managed take program.

(6) States and Tribes must inform participants of the requirements/conditions of the program that apply.

(7) States and Tribes must keep annual records of activities carried out under the authority of the program. Specifically, information must be collected on:

(i) The number of individuals participating in the program;

(ii) The number of days individuals participated in the program;

(iii) The total number of resident Canada geese shot and retrieved during the program; and

(iv) The number of resident Canada geese shot but not retrieved. The States and Tribes must submit an annual report summarizing activities conducted under the program and an assessment of the continuation of the injuries on or before June 1 of each year to the Chief, Division of Migratory Bird Management, 4401 North Fairfax Drive, ms-MBSP-4107, Arlington, Virginia 22203.

(e) *What is required for individuals to participate in the program?* Individual participants in State and Tribal programs covered by the managed take program must comply with the following requirements:

(1) Participants must comply with all applicable State and Tribal laws or regulations including possession of whatever permit(s) or other authorization(s) may be required by the State or Tribal government concerned.

(2) Participants who take resident Canada geese under the program may not sell or offer for sale those birds or their plumage, but may possess, transport, and otherwise properly use them.

(3) Participants must permit at all reasonable times, including during actual operations, any Service special agent or refuge officer, State or Tribal wildlife or deputy wildlife agent, warden, protector, or other wildlife law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted and must promptly furnish whatever information an officer requires concerning the operation.

(4) Participants may take resident Canada geese by any method except those prohibited as follows:

(i) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance.

(ii) From or by means, aid, or use of a sinkbox or any other type of low-floating device, having a depression affording the person a means of concealment beneath the surface of the water.

(iii) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegic persons and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance.

(iv) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and the sails furled, and its progress has ceased. A craft under power may be used only to retrieve dead or crippled birds; however, the craft may not be used under power to shoot any crippled birds.

(v) By the use or aid of live birds as decoys. No person may take resident Canada geese on an area where tame or captive live geese are present unless such birds are, and have been for a period of 10 consecutive days before the taking, confined within an enclosure that substantially reduces the audibility of their calls and totally conceals the birds from the sight of resident Canada geese.

(vi) By means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of resident Canada geese.

(vii) By the aid of baiting, or on or over any baited area, where a person knows or reasonably should know that the area is or has been baited as described in §20.11(j) and (k) of this part. Resident Canada geese may not be taken on or over lands or areas that are baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation as described in §20.11

(h) and (l) of this part. However, nothing in this paragraph prohibits the taking of resident Canada geese on or over the following lands or areas that are not otherwise baited areas:

(A) Standing crops or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested croplands; or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice as described in §20.11(g), (i), (l), and (m) of this part;

(B) From a blind or other place of concealment camouflaged with natural vegetation;

(C) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing, or scattering of grain or other feed; or

(D) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

(E) Participants may not possess shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin, tungsten-iron, tungsten-polymer, tungsten-matrix, tungsten-nickel iron, or other shots that are authorized in §20.21(j) of this part.

(f) *Under what conditions would we suspend the managed take program?* Following authorization by the Director, we will annually assess the overall impact and effectiveness of the program on resident Canada goose populations to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that resident Canada geese populations no longer need to be reduced in order to allow resolution or prevention of injury to people, property, agricultural crops, or other interests, the Director, in writing, will suspend the program for the resident Canada goose population in question. However, resumption of injuries caused by growth of the population and not otherwise addressable by the methods available in part 21 may warrant reinstatement of such regulations. A State must reapply for approval, including the same information and discussions noted in 21.61(d). Depending on the location of the injury or threat or injury, the Director, in writing, may suspend or reinstate this authorization for one or more resident Canada goose populations, but not others.

(g) *What population information is the State or Tribe required to collect concerning the resident Canada goose managed take program?* Participating States and Tribes must provide an annual estimate of the breeding population and distribution of resident Canada geese in their State. The States and Tribes must submit this estimate on or before August 1 of each year, to the Chief, Division of Migratory Bird Management, 4401 N. Fairfax Dr., MBSP-4107, Arlington, Virginia 22203.

(h) *What are the general program conditions and restrictions?* The program is subject to the conditions elsewhere in this section, and, unless otherwise specifically authorized, the following conditions:

(1) Nothing in this section applies to any Federal land within a State's or Tribe's boundaries without written permission of the Federal agency with jurisdiction.

(2) States may not undertake any actions under this section if the activities adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. Persons operating under this section must immediately report the take of any species protected under the Endangered Species Act to the Service. Further, to protect certain species from being adversely affected by management actions, States must:

(i) Follow the Federal State Contingency Plan for the whooping crane;

(ii) Conduct no activities within 300 meters of a whooping crane or Mississippi sandhill crane nest; and

(iii) Follow all Regional (or National when available) Bald Eagle Nesting Management guidelines for all management activities.

(i) *Has the Office of Management and Budget (OMB) approved the information collection requirements of the program?* OMB has approved the information collection and recordkeeping requirements of the program under OMB control number 1018-0133. We may not conduct or sponsor, and you are not

required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection and recordkeeping requirements to the Service's Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222—ARLSQ, 1849 C Street, NW., Washington, DC 20240.

[71 FR 45992, Aug. 10, 2006]

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- [§ 22.31 Golden eagle depredations control order on request of Governor of a State.](#)
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Authority: 16 U.S.C. 668a; 16 U.S.C. 703–712; 16 U.S.C. 1531–1544.

Source: 39 FR 1183, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction



§ 22.1 What is the purpose of this part?



This part controls the taking, possession, and transportation within the United States of bald and golden eagles for scientific, educational, and depredation control purposes and for the religious purposes of American Indian tribes. This part also governs the transportation into or out of the United States of bald and golden eagle parts for scientific, educational, and Indian religious purposes. The import, export, purchase, sale, trade, or barter of bald and golden eagles, or their parts, nests, or eggs is prohibited.

[64 FR 50472, Sept. 17, 1999]

§ 22.2 What activities does this part apply to?



(a)(1) You can possess or transport within the United States, without a Federal permit:

(i) Any live or dead bald eagles, or their parts, nests, or eggs that were lawfully acquired before June 8, 1940; and

(ii) Any live or dead golden eagles, or their parts, nests, or eggs that were lawfully acquired before October 24, 1962.

(2) You may not transport into or out of the United States, import, export, purchase, sell, trade, barter, or offer for purchase, sale, trade, or barter bald or golden eagles, or their parts, nests, or eggs of these lawfully acquired pre-act birds. However, you may transport into or out of the United States any lawfully acquired dead bald or golden eagles, their parts, nests, or dead eagles, if you acquire a permit issued under §22.22 of this part.

(3) No exemption from any statute or regulation will apply to any offspring of these pre-act birds.

(4) You must mark all shipments containing bald or golden eagles, alive or dead, their parts, nests, or eggs as directed in §14.81 of this subchapter. The markings must contain the name and address of the person the shipment is going to, the name and address of the person the shipment is coming from, an accurate list of contents by species, and the number of each species.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also part 13 of this subchapter).

[39 FR 1183, Jan. 4, 1974, as amended at 64 FR 50472, Sept. 17, 1999]

§ 22.3 What definitions do you need to know?



[Link to an amendment published at 72 FR 31139, June 5, 2007.](#)

In addition to definitions contained in part 0 of this subchapter, and unless the context otherwise requires, in this part 22:

Area nesting population means the number of pairs of golden eagles known to have a resting attempt during the preceding 12 months within a 10-mile radius of a golden eagle nest.

Export for the purpose of this part does not include the transportation of any dead bald or golden eagles, or their parts, nests, or dead eggs out of the United States when accompanied with a valid transportation permit.

Golden eagle nest means any readily identifiable structure built, maintained or occupied by golden eagles for propagation purposes.

Import for the purpose of this part does not include the transportation of any dead bald or golden eagles, or their parts, nests, or dead eggs into the United States when accompanied with a valid transportation permit.

Inactive nest means a golden eagle nest that is not currently used by golden eagles as determined by the absence of any adult, egg, or dependent young at the nest during the 10 days before the nest is taken.

Nesting attempt means any activity by golden eagles involving egg laying and incubation as determined by the presence of an egg attended by an adult, an adult in incubation posture, or other evidence indicating recent use of a golden eagle nest for incubation of eggs or rearing of young.

Person means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of any State or political subdivision of a State.

Resource development or recovery includes, but is not limited to, mining, timbering, extracting oil, natural gas and geothermal energy, construction of roads, dams, reservoirs, power plants, power transmission lines, and pipelines, as well as facilities and access routes essential to these operations, and reclamation following any of these operations.

Take includes also pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb.

Transportation into or out of the United States for the purpose of this part means that the permitted item or items transported into or out of the United States do not change ownership at any time, they are not transferred from one person to another in the pursuit of gain or profit, and they are transported into or out of the United States for Indian religious purposes, or for scientific or exhibition purposes under the conditions and during the time period specified on a transportation permit for the items.

[39 FR 1183, Jan. 4, 1974, as amended at 48 FR 57300, Dec. 29, 1983; 64 FR 50472, Sept. 17, 1999]

§ 22.4 Information collection requirements.



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(a) The Office of Management and Budget approved the information collection requirements contained in this part 22 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0022. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in the Bald and Golden Eagle Protection Act and its regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 1 to 4 hours per response, with an average of 1 hour per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0022), Washington, DC 20603.

[63 FR 52637, Oct. 1, 1998]

Subpart B—General Requirements



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§ 22.11 What is the relationship to other permit requirements?



You may not take, possess, or transport any bald eagle (*Haliaeetus leucocephalus*) or any golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of such birds, except as allowed by a valid permit issued under this part, 50 CFR part 13, and/or 50 CFR part 21 as provided by §21.2, or authorized under a depredation order issued under subpart D of this part. We will accept a single application for a permit under this part and any other parts of this subchapter B if it includes all of the information required for an application under each applicable part.

(a) You do not need a permit under parts 17 and 21 of this subchapter B for any activity permitted under this part 22 with respect to bald or golden eagles or their parts, nests, or eggs.

(b) You must obtain a permit under part 21 of this subchapter for any activity that also involves migratory birds other than bald and golden eagles, and a permit under part 17 of this subchapter for any activity that also involves threatened or endangered species other than the bald eagle.

(c) If you are transporting dead bald or golden eagles, or their parts, nests, or dead eggs into or out of the United States, you will also need a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) permit under part 23 of this subchapter.

[64 FR 50472, Sept. 17, 1999, as amended at 68 FR 61140, Oct. 27, 2003]

§ 22.12 What activities are illegal?



(a) You may not sell, purchase, barter, trade, import, or export, or offer for sale, purchase, barter, or trade, at any time or in any manner, any bald eagle (*Haliaeetus leucocephalus*), or any golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of these birds, and we will not issue a permit to authorize these acts.

(b) You may not transport into or out of the United States any *live* bald or golden eagle, or any *live* egg of those birds, and we will not issue a permit to authorize these acts.

[64 FR 50472, Sept. 17, 1999]

Subpart C—Eagle Permits



§ 22.21 What are the requirements concerning scientific and exhibition purpose permits?



We may, under the provisions of this section, issue a permit authorizing the taking, possession, transportation within the United States, or transportation into or out of the United States of lawfully possessed bald eagles or golden eagles, or their parts, nests, or eggs for the scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks. We will not issue a permit under this section that authorizes the transportation into or out of the United States of any live bald or golden eagles, or any live eggs of these birds.

(a) *How do I apply if I want a permit for scientific and exhibition purposes?* (1) You must submit applications for permits to take, possess, or transport within the United States lawfully acquired live or

dead bald or golden eagles, or their parts, nests, or live or dead eggs for scientific or exhibition purposes to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the Regional Directors in 50 CFR 2.2.

(2) If you want a permit to *transport into or out of the United States* any lawfully acquired dead bald or golden eagles or their parts, nests, or dead eggs for scientific or exhibition purposes, you must submit your application to the Office of Management Authority. Your application must contain all the information necessary for the issuance of a CITES permit. You must also comply with all the requirements in part 23 of this subchapter before international travel. Mail should be addressed to: Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, VA, 22203.

(3) Your application for any permit under this section must also contain the information required under this section, §13.12(a) of this subchapter, and the following information:

(i) Species of eagle and number of such birds, nests, or eggs proposed to be taken, possessed, or transported;

(ii) Specific locality in which taking is proposed, if any;

(iii) Method taking proposed, if any;

(iv) If not taken, the source of eagles and other circumstances surrounding the proposed acquisition or transportation;

(v) Name and address of the public museum, public scientific societies, or public zoological park for which they are intended;

(vi) Complete explanation and justification of request, nature of project or study, number of specimens now at institution, reason these are inadequate, and other appropriate explanations.

(b) *What are the conditions?* In addition to the general conditions in part 13 of this subchapter B, permits to take, possess, transport within the United States, or transport into or out of the United States bald or golden eagles, or their parts, nests, or eggs for scientific or exhibition purposes, are also subject to the following condition: In addition to any reporting requirement specifically noted in the permit, you must submit a report of activities conducted under the permit to the Regional Director—Attention: Migratory Bird Permit Office, within 30 days after the permit expires.

(c) *How do we evaluate your application for a permit?* We will conduct an investigation and will only issue a permit to take, possess, transport within the United States, or transport into or out of the United States bald or golden eagles, or their parts, nests, or eggs for scientific or exhibition purposes when we determine that the taking, possession, or transportation is compatible with the preservation of the bald eagle and golden eagle. In making this determination, we will consider, among other criteria, the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of bald and golden eagles;

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

(3) Whether the justification of the purpose for which the permit is being requested is adequate to justify the removal of the eagle from the wild or otherwise change its status; and

(4) Whether the applicant has demonstrated that the permit is being requested for *bona fide* scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks.

(d) *Tenure of permits.* The tenure of permits to take bald or golden eagles for scientific or exhibition purposes shall be that shown on the face of the permit.

[39 FR 1183, Jan. 4, 1974, as amended at 63 FR 52638, Oct. 1, 1998; 64 FR 50472, Sept. 17, 1999]

§ 22.22 What are the requirements concerning permits for Indian religious purposes?



We will issue a permit only to members of Indian entities recognized and eligible to receive services from the United States Bureau of Indian Affairs listed under 25 U.S.C. 479a–1 engaged in religious activities who satisfy all the issuance criteria of this section. We may, under the provisions of this section, issue a permit authorizing the taking, possession, and transportation within the United States, or transportation into or out of the United States of lawfully acquired bald eagles or golden eagles, or their parts, nests, or eggs for Indian religious use. We will not issue a permit under this section that authorizes the transportation into or out of the United States of any *live* bald or golden eagles, or any *live* eggs of these birds.

(a) *How do I apply if I want a permit for Indian religious purposes?* You must submit applications for permits to take, possess, transport within the United States, or transport into or out of the United States lawfully acquired bald or golden eagles, or their parts, nests, or eggs for Indian religious use to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in 50 CFR 2.2. If you are applying for a permit to *transport into or out of the United States*, your application must contain all the information necessary for the issuance of a CITES permit. You must comply with all the requirements in part 23 of this subchapter before international travel. Your application for any permit under this section must also contain the information required under this section, §13.12(a) of this subchapter, and the following information:

- (1) Species and number of eagles or feathers proposed to be taken, or acquired by gift or inheritance.
- (2) State and local area where the taking is proposed to be done, or from whom acquired.
- (3) Name of tribe with which applicant is associated.
- (4) Name of tribal religious ceremony(ies) for which required.
- (5) You must attach a certification of enrollment in an Indian tribe that is federally recognized under the Federally Recognized Tribal List Act of 1994, 25 U.S.C. 479a–1, 108 Stat. 4791 (1994). The certificate must be signed by the tribal official who is authorized to certify that an individual is a duly enrolled member of that tribe, and must include the official title of that certifying official.

(b) *What are the permit conditions?* In addition to the general conditions in part 13 of this subchapter B, permits to take, possess, transport within the United States, or transport into or out of the United States bald or golden eagles, or their parts, nests or eggs for Indian religious use are subject to the following conditions:

- (1) Bald or golden eagles or their parts possessed under permits issued pursuant to this section are not transferable, except such birds or their parts may be handed down from generation to generation or from one Indian to another in accordance with tribal or religious customs; and
- (2) You must submit reports or inventories, including photographs, of eagle feathers or parts on hand as requested by the issuing office.

(c) *How do we evaluate your application for a permit?* We will conduct an investigation and will only issue a permit to take, possess, transport within the United States, or transport into or out of the United States bald or golden eagles, or their parts, nests or eggs, for Indian religious use when we determine that the taking, possession, or transportation is compatible with the preservation of the bald and golden eagle. In making a determination, we will consider, among other criteria, the following:

- (1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of bald or golden eagles; and
- (2) Whether the applicant is an Indian who is authorized to participate in *bona fide* tribal religious ceremonies.

(d) *How long are the permits valid?* We are authorized to amend, suspend, or revoke any permit that is issued under this section (see §§13.23, 13.27, and 13.28 of this subchapter).

(1) A permit issued to you that authorizes you to take bald or golden eagles will be valid during the period specified on the face of the permit, but will not be longer than 1 year from the date it is issued.

(2) A permit issued to you that authorizes you to transport and possess bald or golden eagles or their parts, nests, or eggs within the United States will be valid for your lifetime.

(3) A permit authorizing you to transport dead bald eagles or golden eagles, or their parts, nests, or dead eggs into or out of the United States can be used for multiple trips to or from the United States, but no trip can be longer than 180 days. The permit will be valid during the period specified on the face of the permit, not to exceed 3 years from the date it is issued.

[39 FR 1183, Jan. 4, 1974, as amended at 63 FR 52638, Oct. 1, 1998; 64 FR 50473, Sept. 17, 1999]

§ 22.23 What are the requirements for permits to take depredating eagles?



(a) *How do I apply for a permit?* You must submit applications for permits to take depredating bald or golden eagles to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in 50 CFR 2.2. Your application must contain the information and certification required by §13.12(a) of this subchapter, and the following additional information:

(1) Species and number of eagles proposed to be taken;

(2) Location and description of property where taking is proposed;

(3) Inclusive dates for which permit is requested;

(4) Method of taking proposed;

(5) Kind and number of livestock or domestic animals owned by applicant;

(6) Kind and amount of alleged damaged; and

(7) Name, address, age, and business relationship with applicant of any person the applicant proposes to act for him as his agent in the taking of such eagles.

(b) *What are the permit conditions?* In addition to the general conditions set forth in part 13 of this subchapter B, permits to take depredating bald or golden eagles shall be subject to the following conditions:

(1) Bald or golden eagles may be taken under permit by firearms, traps, or other suitable means except by poison or from aircraft;

(2) The taking of eagles under permit may be done only by the permittee or his agents named in the permit;

(3) Any eagle taken under authority of such permit will be promptly turned over to a Service agent or other game law enforcement officer designated in the permit; and

(4) In addition to any reporting requirement on a permit, you must submit a report of activities conducted under the permit to the appropriate Regional Director—Attention: Migratory Bird Permit Office within 10 days following completion of the taking operations or the expiration of the permit, whichever occurs first.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take depredating bald or golden eagles unless he has determined that such taking is compatible with the preservation of the bald or golden eagle. In making such determination the Director shall consider the following:

- (1) The direct or indirect effect which issuing such permit would be likely to have upon the wild population of bald or golden eagles;
- (2) Whether there is evidence to show that bald or golden eagles have in fact become seriously injurious to wildlife or to agriculture or other interests in the particular locality to be covered by the permit, and the injury complained of is substantial; and
- (3) Whether the only way to abate the damage caused by the bald or golden eagle is to take some or all of the offending birds.

(d) *Tenure of permits.* The tenure of any permit to take bald or golden eagles for depredation control purposes shall be that shown on the face thereof, and shall in no case be longer than 90 days from date of issue.

[39 FR 1183, Jan. 4, 1974, as amended at 63 FR 52638, Oct. 1, 1998; 64 FR 50473, Sept. 17, 1999]

§ 22.24 Permits for falconry purposes.



The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the possession and transportation of golden eagles for falconry purposes.

(a) *Application procedures.* Submit applications for permits to possess and transport golden eagles for falconry purposes to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in §13.12(a) of this subchapter, and the following additional information:

- (1) A copy of the applicant's master (or equivalent) class permit issued in accordance with 50 CFR 21.28.
- (2) A statement of the applicant's experience in handling large raptors, including the species, type of experience and duration of the activity in which the experience was acquired.
- (3) At least two (2) letters of reference from individuals with recognized experience in handling and/or flying eagles. Each letter must contain a concise history of the author's experience with eagles. Eagle handling experience is defined as, but is not limited to, the handling of pre-Act birds, zoological specimens, rehabilitating eagles, or scientific studies involving eagles. Each letter must also assess the applicant's capability to properly care for the fly golden eagles in falconry, and recommend the issuance or denial of the permit.
- (4) A description of the facilities in which golden eagles will be housed.
- (5) If requesting an eagle(s) from the Service, applicants must specify the sex, age and condition of the eagle(s) they will accept.
- (6) For eagles already legally possessed, a copy of the permit or other documentation authorizing possession of said birds, and the procedures to be used to minimize or eliminate hazards associated with the use of imprinted birds in falconry.
- (7) Name, address, age and experience in handling raptors of any person the applicant proposes to act as an authorized agent in taking possession of golden eagles provided by the Service.

(8) To obtain additional or replacement golden eagles, a request in writing to the appropriate special agent in charge must be tendered, identifying the existing permit and, for replacement eagles, the reason for such replacement.

(b) *Permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to possess and transport golden eagles for falconry purposes are subject to the following conditions:

(1) Golden eagles possessed for falconry purposes are considered as raptors and must be maintained in accordance with Federal falconry standards described in §§21.28 and 21.29 of this subchapter.

(2) Only golden eagles legally obtained may be possessed and transported for falconry purposes.

(3) Captive breeding of golden eagles possessed for falconry purposes is prohibited.

(4) The applicant, or authorized agent, must agree to take possession of a requested golden eagle(s) within 72 hours of notification of availability. Expenses incurred by the applicant in taking possession of said eagle(s) will be the applicant's responsibility.

(5) The golden eagle(s) must be banded with a numbered eagle marker provided by the Service.

(6) All permits issued pursuant to this section shall state on their face that eagles possessed for falconry purposes under authority of this permit may not be transferred or otherwise intentionally disposed of by any means, including release to the wild, without written approval from the appropriate regional director.

(7) All permits issued pursuant to this section shall state on their face that the appropriate special agent in charge must be notified no later than ten (10) days after the death of a permit holder.

(c) *More restrictive State laws.* Nothing in this section shall be construed to prevent a State from making and/or enforcing more restrictive laws and regulations as regards the use of golden eagles in falconry.

(d) *Issuance criteria.* The Director shall conduct an investigation and shall not issue a permit to possess and transport golden eagles for falconry purposes unless he has determined: that such possession and transportation is compatible with the preservation of golden eagles; that the proposed possession and transportation of golden eagles for falconry is not otherwise prohibited by laws and regulations within the State where the activity is proposed; and that the applicant is qualified to possess and transport golden eagles for falconry purposes. In making the latter determination, the Director shall consider, but shall not necessarily be limited to, the following:

(1) The applicant's cumulative falconry experience.

(2) The applicant's demonstrated ability to handle and care for large raptors.

(3) Information contained in the applicant's letters of reference.

(e) *Tenure of permits.* Any permit to possess and transport golden eagles for falconry purposes is valid for as long as the holder maintains a valid master (or equivalent) class falconry permit or until revoked in writing by the Service.

(f) *Permission to trap golden eagles for falconry purposes.* Applicants desiring to trap golden eagles from the wild for use in falconry must request and obtain permission from the Service prior to exercising this privilege. The following applies to requests:

(1) Only golden eagles from a specified depredation area may be trapped for falconry purposes.

(2) Permission to trap golden eagles must be requested in writing from the appropriate State Animal Damage Control (ADC) supervisor subsequent to issuance of the permit to possess and transport golden eagles for falconry purposes.

(3) Permission to trap will not be granted until the permittee suitably demonstrates to the State ADC supervisor or a designated project leader his/her qualifications and capabilities to trap golden eagles from the wild.

(4) All such trapping must be conducted under the direct supervision of the State ADC supervisor or designated project leader in the specified depredation area.

(5) Any permission to trap golden eagles from the wild pursuant to this section shall in no case extend more than 90 days from the date of issue.

(6) Upon issuance of permission to trap in accordance with the above conditions, the appropriate special agent in charge will be notified in writing by the State ADC supervisor of the individual's name, address, location of the specified depredation area and tenure of permission to trap golden eagles.

(The information collection requirements approved by the Office of Management and Budget under control number 1018-0022. The information is necessary to determine potential permittee's qualifications and is required to obtain a permit)

[49 FR 891, Jan. 6, 1984, as amended at 63 FR 52638, Oct. 1, 1998]

§ 22.25 What are the requirements concerning permits to take golden eagle nests?



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The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing any person to take golden eagle nests during a resource development or recovery operation when the nests are inactive, if the taking is compatible with the preservation of the area nesting population of golden eagles. The information collection requirements contained within this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to the criteria established in this section for the issuance or denial of such permits. The obligation to respond is required to obtain or retain a permit.

(a) *How do I apply for a permit to take golden eagle nests?* You must submit applications for permits to take golden eagle nests to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in 50 CFR 2.2. We will only accept applications if you are engaged in a resource development or recovery operation, including the planning and permitting stages of an operation. Your application must contain the general information and certification required by §13.12(a) of this chapter plus the following additional information:

(1) A description of the resource development or recovery operation in which the applicant is engaged;

(2) The number of golden eagle nests proposed to be taken;

(3) A description of the property on which the taking is proposed, with reference made to its exact geographic location. An appropriately scaled map or plat must be included which delineates the area of the resource development or recovery operation and identifies the exact location of each golden eagle nest proposed to be taken. The map or plat must contain enough detail so that each golden eagle nest proposed to be taken can be readily located by the Service.

(4) For each golden eagle nest proposed to be taken, the applicant must calculate the area nesting population of golden eagles and identify on an appropriately scaled map or plat the exact location of each golden eagle nest used to calculate the area nesting population unless the Service has sufficient data to independently calculate the area nesting population. The map or plat must contain enough details so that each golden eagle nest used to calculate the area nesting population can be readily located by the Service.

(5) A description of each activity to be performed during the resource development or recovery operation which involves the taking of a golden eagle nest;

(6) A statement with any supporting documents from ornithologists experienced with golden eagles or other qualified persons who have made on site inspections and can verify the applicant's calculation of the area nesting population;

(7) The length of time for which the permit is requested, including the dates on which the proposed resource development or recovery operation is to begin and end;

(8) A statement indicating the intended disposition of each nest proposed to be taken. Applicants should state whether they are willing to collect any nest for scientific or educational purposes; and

(9) A statement indicating any proposed mitigation measures that are compatible with the resource development or recovery operation to encourage golden eagles to reoccupy the resource development or recovery site. Mitigation measures may include reclaiming disturbed land to enhance golden eagle nesting and foraging habitat, relocating in suitable habitat any inactive golden eagle nest taken, or establishing one or more nest sites. If the establishment of one or more nest sites is proposed, a description of the materials and methods to be used and the exact location of each artificial nest site must be included.

(b) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this chapter, permits to take golden eagle nests are subject to the following additional conditions:

(1) Only inactive golden eagle nests may be taken.

(2) The permittee shall submit a report of activities conducted under the permit to the Director within ten (10) days following the permit's expiration;

(3) The permittee shall notify the Director in writing at least 10 days but not more than 30 days before any golden eagle nest is taken;

(4) The permittee shall comply with any mitigation measures determined by the Director to be feasible and compatible with the resource development or recovery operation; and

(5) Any permit issued before the commencement of a resource development or recovery operation is invalid if the activity which required a permit is not performed.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take any golden eagle nest unless such taking is compatible with the preservation of the area nesting population of golden eagles. In making such determination, the Director shall consider the following:

(1) Whether the applicant can reasonably conduct the resource development or recovery operation in a manner that avoids taking any golden eagle nest;

(2) The total number of golden eagle nests proposed to be taken;

(3) The size of the area nesting population of golden eagles;

(4) Whether suitable golden eagle nesting and foraging habitat unaffected by the resource development or recovery operation is available to the area nesting population of golden eagles to accommodate any golden eagles displaced by the resource development or recovery operation;

(5) Whether feasible mitigation measures compatible with the resource development or recovery operation are available to encourage golden eagles to reoccupy the resource development or recovery site. Mitigation measures may include reclaiming disturbed land to enhance golden eagle nesting and foraging habitat, relocating in suitable habitat any golden eagle nest taken, or establishing one or more nest sites; and

(6) Whether the area nesting population is widely dispersed or locally concentrated.

(d) *Tenure of permits.* The tenure of any permit to take golden eagle nests is 2 years from the date of

issuance, unless a shorter period of time is prescribed on the face of the permit. Permits may be renewed in accordance with part 13 of this chapter.

[48 FR 57300, Dec. 29, 1983, as amended at 63 FR 52638, Oct. 1, 1998; 64 FR 50474, Sept. 17, 1999]

Subpart D—Depredation Control Orders on Golden Eagles



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§ 22.31 Golden eagle depredations control order on request of Governor of a State.



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(a) Whenever the Governor of any State requests permission to take golden eagles to seasonally protect domesticated flocks and herds in such State, the Director shall make an investigation and if he determines that such taking is necessary to and will seasonally protect domesticated flocks and herds in such States he shall authorize such taking in whatever part or parts of the State and for such periods as he determines necessary to protect such interests.

(b) Requests from the Governor of a State to take golden eagles to seasonally protect domesticated flocks and herds must be submitted in writing to the Director listing the periods of time during which the taking of such birds is recommended, and including a map of the State indicating the boundaries of the proposed area of taking. Such requests should include a statement of the facts and the source of such facts that in the Governor's opinion justifies the request. After a decision by the Director, the Governor will be advised in writing concerning the request and a notice will be published in the Federal Register.

§ 22.32 Conditions and limitations on taking under depredation control order.



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(a) Whenever the taking of golden eagles without a permit is authorized for the seasonal protection of livestock, such birds may be taken by firearms, traps, or other suitable means except by poison or from aircraft.

(b) Any person exercising any of the privileges granted by this subpart D must permit all reasonable times, including during actual operations, any Service agent, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require concerning such operations.

(c) The authority to take golden eagles under a depredations control order issued pursuant to this subpart D only authorizes the taking of golden eagles when necessary to seasonally protect domesticated flocks and herds, and all such birds taken must be reported and turned over to a local Bureau Agent.

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