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Title 50: Wildlife and Fisheries

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PART 10—GENERAL PROVISIONS

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Authority: 18 U.S.C. 42; 16 U.S.C. 703–712; 16 U.S.C. 668a–d; 19 U.S.C. 1202, 16 U.S.C. 1531–1543; 16 U.S.C. 1361–1384, 1401–1407; 16 U.S.C. 742a–742j–l; 16 U.S.C. 3371–3378.

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

Subpart A—Introduction

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§ 10.1 Purpose of regulations.

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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



§ 10.11 Scope of definitions.



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.



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, District of Columbia, Commonwealth of Puerto Rico, American Samoa, U.S. Virgin Islands, Guam, Commonwealth of the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Navassa Island, Palmyra Atoll, and Wake Atoll, and any other territory or possession under the jurisdiction of the United States.

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; 72 FR 48445, Aug. 23, 2007]

§ 10.13 List of Migratory Birds.



(a) *Legal authority for this list.* The Migratory Bird Treaty Act (MBTA) in 16 U.S.C. 703–711, the Fish and Wildlife Improvement Act of 1978, 16 U.S.C. 712, and 16 U.S.C. 742a–j. The MBTA implements Conventions between the United States and four neighboring countries for the protection of migratory birds, as follows:

(1) *Canada:* 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, as amended;

(2) *Mexico:* Convention for the Protection of Migratory Birds and Game Mammals, February 7, 1936, United States-United Mexican States (=Mexico), 50 Stat. 1311, T.S. No. 912, as amended;

(3) *Japan:* 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

(4) *Russia:* Convention for the Conservation of Migratory Birds and Their Environment, United States-Union of Soviet Socialist Republics (=Russia), November 26, 1976, 92 Stat. 3110, T.I.A.S. 9073, 16 U.S.C. 703, 712.

(b) *Purpose of this list.* The purpose is to inform the public of the species protected by regulations designed to enforce the terms of the MBTA. These regulations, found in parts 10, 20, and 21 of this chapter, cover most aspects of the taking, possession, transportation, sale, purchase, barter, exportation, and importation of migratory birds.

(c) *What species are protected as migratory birds?* Species protected as migratory birds are listed in two formats to suit the varying needs of the user: Alphabetically in paragraph (c)(1) of this section and taxonomically in paragraph (c)(2) of this section. Taxonomy and nomenclature generally follow the 7th edition of the American Ornithologists' Union's *Check-list of North American birds* (1998, as amended through 2007). For species not treated by the AOU *Check-list*, we generally follow Monroe and Sibley's *A World Checklist of Birds* (1993).

(1) *Alphabetical listing.* Species are listed alphabetically by common (English) group names, with the scientific name of each species following the common name. It is possible that alphabetical listing by common group names may create confusion in those few instances in which the common (English) name of a species has changed. The species formerly known as the Falcated Teal, for example, is now known as the Falcated Duck. To prevent confusion, the alphabetical list has two entries for Falcated Duck: "DUCK, Falcated" and "[TEAL, Falcated (see DUCK, Falcated)]." Other potential ambiguities are treated in the same way.

ACCENTOR, Siberian, *Prunella montanella*

AKEKEE, *Loxops caeruleirostris*

AKEPA, *Loxops coccineus*

AKIALOA, Greater, *Hemignathus ellisianus*

AKIAPOLAAU, *Hemignathus munroi*

AKIKIKI, *Oreomystis bairdi*

AKOHEKOHE, *Palmeria dolei*

ALAUAHIO, Maui, *Paroreomyza montana*

Oahu, *Paroreomyza maculata*

ALBATROSS, Black-browed, *Thalassarche melanophris*

Black-footed, *Phoebastria nigripes* Laysan, *Phoebastria immutabilis* Light-mantled, *Phoebastria palpebrata* Short-tailed, *Phoebastria albatrus* Shy, *Thalassarche cauta* Wandering, *Diomedea exulans* Yellow-nosed, *Thalassarche chlororhynchos*

ANHINGA, *Anhinga anhinga*

ANI, Groove-billed, *Crotophaga sulcirostris*

Smooth-billed, *Crotophaga ani*

AMAKIHI, Hawaii, *Hemignathus virens*

Kauai, *Hemignathus kauaiensis* Oahu, *Hemignathus flavus*

ANIANIAU, *Magnumma parva*

APAPANE, *Himatione sanguinea*

AUKLET, Cassin's, *Ptychoramphus aleuticus*

Crested, *Aethia cristatella* Least, *Aethia pusilla* Parakeet, *Aethia psittacula* Rhinoceros, *Cerorhinca monocerata* Whiskered, *Aethia pygmaea*

AVOCET, American, *Recurvirostra americana*

[BARN-OWL, Common (see OWL, Barn)]

BEAN-GOOSE, Taiga, *Anser fabalis*

Tundra, *Anser serrirostris*

BEARDLESS-TYRANULET, Northern, *Camptostoma imberbe*

BECARD, Rose-throated, *Pachyramphus aglaiae*

BITTERN, American, *Botaurus lentiginosus*

Black, *Ixobrychus flavicollis* [Chinese (see Yellow)]Least, *Ixobrychus exilis* Schrenck's, *Ixobrychus eurhythmus* Yellow, *Ixobrychus sinensis*

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*

BLUETAIL, Red-flanked, *Tarsiger cyanurus*

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, *Bucephala albeola*

BULLFINCH, Eurasian, *Pyrrhula pyrrhula*

Puerto Rican, *Loxigilla portoricensis*

BUNTING, Blue, *Cyanocompsa parellina*

Gray, *Emberiza variabilis* Indigo, *Passerina cyanea* Little, *Emberiza pusilla* Lark, *Calamospiza melanocorys* Lazuli, *Passerina amoena* McKay's, *Plectrophenax hyperboreus* Painted, *Passerina ciris* Pallas's, *Emberiza pallasi* Pine, *Emberiza leucocephalos* Reed, *Emberiza schoeniclus* Rustic, *Emberiza rustica* Snow, *Plectrophenax nivalis* Varied, *Passerina versicolor* Yellow-breasted, *Emberiza aureola* Yellow-throated, *Emberiza elegans*

BUSHTIT, *Psaltiriparus minimus*

CANVASBACK, *Aythya valisineria*

CARACARA, Crested, *Caracara cheriway*

CARDINAL, Northern, *Cardinalis cardinalis*

CARIB, Green-throated, *Eulampis holosericeus*

Purple-throated, *Eulampis jugularis*

CATBIRD, Black, *Melanoptila glabrirostris*

Gray, *Dumetella carolinensis*

CHAFFINCH, Common, *Fringilla coelebs*

CHAT, Yellow-breasted, *Icteria virens*

CHICKADEE, Black-capped, *Poecile atricapillus*

Boreal, *Poecile hudsonica* Carolina, *Poecile carolinensis* Chestnut-backed, *Poecile rufescens*
Gray-headed, *Poecile cincta* Mexican, *Poecile sclateri* Mountain, *Poecile gambeli*

CHUCK-WILL'S-WIDOW, *Caprimulgus carolinensis*

CONDOR, California, *Gymnogyps californianus*

COOT, American, *Fulica americana*

Caribbean, *Fulica caribaea* Eurasian, *Fulica atra* Hawaiian, *Fulica alai*

CORMORANT, Brandt's, *Phalacrocorax penicillatus*

Double-crested, *Phalacrocorax auritus* Great, *Phalacrocorax carbo* Little Pied, *Phalacrocorax
melanoleucos* Neotropic, *Phalacrocorax brasilianus* [Olivaceous (see Neotropic)]Pelagic,
Phalacrocorax pelagicus Red-faced, *Phalacrocorax urile*

COWBIRD, Bronzed, *Molothrus aeneus*

Brown-headed, *Molothrus ater* Shiny, *Molothrus bonariensis*

CRAKE, Corn, *Crex crex*

Paint-billed, *Neocrex erythrops* Spotless, *Porzana tabuensis* Yellow-breasted, *Porzana
flaviventer*

CRANE , Common, *Grus grus*

Sandhill, *Grus canadensis* Whooping, *Grus americana*

Creeper, Brown, *Certhia americana*

Hawaii, *Oreomystis mana*

CROSSBILL, Red, *Loxia curvirostra*

White-winged, *Loxia leucoptera*

CROW, American, *Corvus brachyrhynchos*

Fish, *Corvus ossifragus* Hawaiian, *Corvus hawaiiensis* Mariana, *Corvus kubaryi* [Mexican (see Tamaulipas)]Northwestern, *Corvus caurinus* Tamaulipas, *Corvus imparatus* White-necked, *Corvus leucognaphalus*

CUCKOO, Black-billed, *Coccyzus erythrophthalmus*

Common, *Cuculus canorus* Mangrove, *Coccyzus minor* Oriental, *Cuculus optatus* Yellow-billed, *Coccyzus americanus*

CURLEW, Bristle-thighed, *Numenius tahitiensis*

Eskimo, *Numenius borealis* Eurasian, *Numenius arquata* Far Eastern, *Numenius madagascariensis* [Least (see Little)]Little, *Numenius minutus* Long-billed, *Numenius americanus*

DICKCISSEL, *Spiza americana*

DIPPER, American, *Cinclus mexicanus*

DOTTEREL, Eurasian, *Charadrius morinellus*

DOVE, Inca, *Columbina inca*

Mourning, *Zenaida macroura* White-tipped, *Leptotila verreauxi* White-winged, *Zenaida asiatica* Zenaida, *Zenaida aurita*

DOVEKIE, *Alle alle*

DOWITCHER, Long-billed, *Limnodromus scolopaceus*

Short-billed, *Limnodromus griseus*

DUCK, American Black, *Anas rubripes*

Falcated, *Anas falcata* Harlequin, *Histrionicus histrionicus* Hawaiian, *Anas wyvilliana* Laysan, *Anas laysanensis* Long-tailed, *Clangula hyemalis* Masked, *Nomonyx dominicus* Mottled, *Anas fulvigula* Muscovy, *Cairina moschata* Pacific Black, *Anas superciliosa* Ring-necked, *Aythya collaris* Ruddy, *Oxyura jamaicensis* Spot-billed, *Anas poecilorhyncha* Tufted, *Aythya fuligula* Wood, *Aix sponsa*

DUNLIN, *Calidris alpina*

EAGLE, Bald, *Haliaeetus leucocephalus*

Golden, *Aquila chrysaetos* White-tailed, *Haliaeetus albicilla*

EGRET, Cattle, *Bubulcus ibis*

Chinese, *Egretta eulophotes* Great, *Ardea alba* Intermediate, *Mesophoyx intermedia* Little, *Egretta garzetta* [Plumed (see Intermediate)]Reddish, *Egretta rufescens* Snowy, *Egretta thula*

EIDER, Common, *Somateria mollissima*

King, *Somateria spectabilis* Spectacled, *Somateria fischeri* Steller's, *Polysticta stelleri*

ELAENIA, Caribbean, *Elaenia martinica*

Greenish, *Myiopagis viridicata*

EMERALD, Puerto Rican, *Chlorostilbon maugaeus*

EUPHONIA, Antillean, *Euphonia musica*

FALCON, Aplomado, *Falco femoralis*

Peregrine, *Falco peregrinus* Prairie, *Falco mexicanus* Red-Footed, *Falco vespertinus*

FIELDFARE, *Turdus pilaris*

FINCH, Cassin's, *Carpodacus cassinii*

House, *Carpodacus mexicanus* Laysan, *Telespiza cantans* Nihoa, *Telespiza ultima* Purple, *Carpodacus purpureus* [Rosy (see ROSY-FINCH)]

FLAMINGO, Greater, *Phoenicopterus ruber*

FLICKER, Gilded, *Colaptes chrysoides*

Northern, *Colaptes auratus*

FLYCATCHER, Acadian, *Empidonax virescens*

Alder, *Empidonax alnorum* Ash-throated, *Myiarchus cinerascens* Brown-crested, *Myiarchus tyrannulus* Buff-breasted, *Empidonax fulvifrons* Cordilleran, *Empidonax occidentalis* Dusky, *Empidonax oberholseri* Dusky-capped, *Myiarchus tuberculifer* Fork-tailed, *Tyrannus savana* Gray, *Empidonax wrightii* [Gray-spotted (see Gray-streaked)] Gray-streaked, *Muscicapa griseisticta* Great Crested, *Myiarchus crinitus* Hammond's, *Empidonax hammondii* La Sagra's, *Myiarchus sagrae* Least, *Empidonax minimus* Narcissus, *Ficedula narcissina* Nutting's, *Myiarchus nuttingi* Olive-sided, *Contopus cooperi* Pacific-slope, *Empidonax difficilis* Piratic, *Legatus leucophalus* Puerto Rican, *Myiarchus antillarum* Scissor-tailed, *Tyrannus forficatus* Social, *Myiozetetes similis* Sulphur-bellied, *Myiodynastes luteiventris* Tufted, *Mitrephanes phaeocercus* Variegated, *Empidonax varius* Vermilion, *Pyrocephalus rubinus* [Western (see Cordilleran and Pacific-slope)] Willow, *Empidonax traillii* Yellow-bellied, *Empidonax flaviventris*

FOREST-FALCON, Collared, *Micrastur semitorquatus*

FRIGATEBIRD, Great, *Fregata minor*

Lesser, *Fregata ariel* Magnificent, *Fregata magnificens*

FROG-HAWK, Gray, *Accipiter soloensis*

FRUIT-DOVE, Crimson-crowned, *Ptilinopus porphyraceus*

Many-colored, *Ptilinopus perousii* Mariana, *Ptilinopus roseicapilla*

FULMAR, Northern, *Fulmarus glacialis*

GADWALL, *Anas strepera*

GALLINULE, Azure, *Porphyrio flavirostris*

Purple, *Porphyrio martinica*

GANNET, Northern, *Morus bassanus*

GARGANEY, *Anas querquedula*

GNATCATCHER, Black-capped, *Polioptila nigriceps*

Black-tailed, *Polioptila melanura* Blue-gray, *Polioptila caerulea* California, *Polioptila californica*

GODWIT, Bar-tailed, *Limosa lapponica*

Black-tailed, *Limosa limosa* Hudsonian, *Limosa haemastica* Marbled, *Limosa fedoa*

GOLDEN-PLOVER, American, *Pluvialis dominica*

European, *Pluvialis apricaria* [Lesser (see American)]Pacific, *Pluvialis fulva*

GOLDENEYE, Barrow's, *Bucephala islandica*

Common, *Bucephala clangula*

GOLDFINCH, American, *Carduelis tristis*

Lawrence's, *Carduelis lawrencei* Lesser, *Carduelis psaltria*

GOOSE, Barnacle, *Branta leucopsis*

[Bean, (see BEAN-GOOSE, Taiga)]Canada, *Branta canadensis* (including Cackling Goose, *Branta hutchinsii*) Emperor, *Chen canagica* Greater White-fronted, *Anser albifrons* Hawaiian, *Branta sandvicensis* Lesser White-fronted, *Anser erythropus* Ross's, *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 olivaceus*

GREBE, Clark's, *Aechmophorus clarkii*

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*

Nordmann's, *Tringa guttifer*

GROSBEAK, Black-headed, *Pheucticus melanocephalus*

Blue, *Passerina caerulea* Crimson-collared, *Rhodothraupis celaeno* Evening, *Coccothraustes vespertinus* Pine, *Pinicola enucleator* Rose-breasted, *Pheucticus ludovicianus* Yellow, *Pheucticus chrysopleus*

GROUND-DOVE, Common, *Columbina passerina*

Friendly, *Gallicolumba stairi* Ruddy, *Columbina talpacoti* White-throated, *Gallicolumba xanthonura*

GUILLEMOT, Black, *Cephus grylle*

Pigeon, *Cephus columba*

GULL, Belcher's, *Larus belcheri*

Black-headed, *Larus ridibundus* Black-tailed, *Larus crassirostris* Bonaparte's, *Larus philadelphia* California, *Larus californicus* [Common Black-headed (see Black-headed)] Franklin's, *Larus pipixcan* Glaucous, *Larus hyperboreus* Glaucous-winged, *Larus glaucescens* Gray-hooded, *Larus cirrocephalus* Great Black-backed, *Larus marinus* Heermann's, *Larus heermanni* Herring, *Larus argentatus* Iceland, *Larus glaucoides* Ivory, *Pagophila eburnea* Kelp, *Larus dominicanus* Laughing, *Larus atricilla* Lesser Black-backed, *Larus fuscus* Little, *Larus minutus* Mew, *Larus canus* Ring-billed, *Larus delawarensis* Ross's, *Rhodostethia rosea* Sabine's, *Xema sabini* Slaty-backed, *Larus schistisagus* Thayer's, *Larus thayeri* Western, *Larus occidentalis* Yellow-footed, *Larus livens* Yellow-legged, *Larus michahellis*

GYRFALCON, *Falco rusticolus*

HARRIER, Northern, *Circus cyaneus*

HAWFINCH, *Coccothraustes coccothraustes*

HAWK, [Asiatic Sparrow (see SPARROWHAWK, Japanese)]

Broad-winged, *Buteo platypterus* Cooper's, *Accipiter cooperii* Crane, *Geranospiza caerulescens* Ferruginous, *Buteo regalis* Gray, *Buteo nitidus* Harris's, *Parabuteo unicinctus* Hawaiian, *Buteo solitarius* Red-shouldered, *Buteo lineatus* Red-tailed, *Buteo jamaicensis* Roadside, *Buteo magnirostris* 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 (see OWL, Northern Hawk)]

HERON, Gray, *Ardea cinerea*

Great Blue, *Ardea herodias* Green, *Butorides virescens* [Green-backed (see Green)] Little Blue, *Egretta caerulea* [Pacific Reef (see REEF-EGRET, Pacific)] Tricolored, *Egretta tricolor*

HOBBY, Eurasian, *Falco subbuteo*

HOOPOE, Eurasian, *Upupa epops*

HOUSE-MARTIN, Common, *Delichon urbicum*

HUMMINGBIRD, Allen's, *Selasphorus sasin*

Anna's, *Calypte anna* Antillean Crested, *Orthorhyncus cristatus* Berylline, *Amazilia beryllina* Black-chinned, *Archilochus alexandri* Blue-throated, *Lampornis clemenciae* Broad-billed, *Cyananthus latirostris* Broad-tailed, *Selasphorus platycercus* Buff-bellied, *Amazilia yucatanensis* Bumblebee, *Atthis heloisa* Calliope, *Stellula calliope* Cinnamon, *Amazilia rutila* 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* Xantus's, *Hylocharis xantusii*

IBIS, Glossy, *Plegadis falcinellus*

Scarlet, *Eudocimus ruber* White, *Eudocimus albus* White-faced, *Plegadis chihi*

IIWI, *Vestiaria coccinea*

IMPERIAL-PIGEON, Pacific, *Ducula pacifica*

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 (see Mexican)]
Green, *Cyanocorax yncas* Mexican, *Aphelocoma ultramarina* Pinyon, *Gymnorhinus cyanocephalus* [Scrub (see SCRUB-JAY)]
Steller's, *Cyanocitta stelleri*

JUNCO, Dark-eyed, *Junco hyemalis*

Yellow-eyed, *Junco phaeonotus*

KAKAWAHIE, *Paroreomyza flammea*

KAMAO, *Myadestes myadestinus*

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, *Megasceryle alcyon*

Collared, *Todirhamphus chloris* Green, *Chloroceryle americana* Micronesian, *Todirhamphus cinnamominus* Ringed, *Megaceryle torquata*

KINGLET, Golden-crowned, *Regulus satrapa*

Ruby-crowned, *Regulus calendula*

KISKADEE, Great, *Pitangus sulphuratus*

KITE, [American Swallow-tailed (see Swallow-tailed)]

Black, *Milvus migrans* [Black-shouldered (see White-tailed)] Hook-billed, *Chondrohierax uncinatus* Mississippi, *Ictinia mississippiensis* Snail, *Rostrhamus sociabilis* Swallow-tailed, *Elanoides forficatus* White-tailed, *Elanus leucurus*

KITTIWAKE, Black-legged, *Rissa tridactyla*

Red-legged, *Rissa brevirostris*

KNOT, Great, *Calidris tenuirostris*

Red, *Calidris canutus*

LAPWING, Northern, *Vanellus vanellus*

LARK, Horned, *Eremophila alpestris*

Sky, *Alauda arvensis*

LIMPKIN, *Aramus guarauna*

LIZARD-CUCKOO, Puerto Rican, *Coccyzus vieilloti*

LONGSPUR, Chestnut-collared, *Calcarius ornatus*

Lapland, *Calcarius lapponicus* McCown's, *Calcarius mccownii* Smith's, *Calcarius pictus*

LOON, Arctic, *Gavia arctica*

Common, *Gavia immer* Pacific, *Gavia pacifica* Red-throated, *Gavia stellata* Yellow-billed, *Gavia adamsii*

MAGPIE, Black-billed, *Pica hudsonia*

Yellow-billed, *Pica nuttalli*

MALLARD, *Anas platyrhynchos*

MANGO, Antillean, *Anthracothorax dominicus*

Green, *Anthracothorax viridis* Green-breasted, *Anthracothorax prevostii*

MARTIN, Brown-chested, *Progne tapera*

Caribbean, *Progne dominicensis* Cuban, *Progne cryptoleuca* Gray-breasted, *Progne chalybea*

Purple, *Progne subis* Southern, *Progne elegans*

MEADOWLARK, Eastern, *Sturnella magna*

Western, *Sturnella neglecta*

MERGANSER, Common, *Mergus merganser*

Hooded, *Lophodytes cucullatus* Red-breasted, *Mergus serrator*

MERLIN, *Falco columbarius*

MILLERBIRD, *Acrocephalus familiaris*

MOCKINGBIRD, Bahama, *Mimus gundlachii*

Blue, *Melanotis caerulescens* 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* Long-billed,
Brachyramphus perdix Marbled, *Brachyramphus marmoratus* Xantus's, *Synthliboramphus*
hypoleucus

NEEDLETAIL, White-throated, *Hirundapus caudacutus*

NIGHT-HERON, Black-crowned, *Nycticorax nycticorax*

Japanese, *Gorsachius goisagi* [Malay (see Malayan)]Malayan, *Gorsachius melanolophus*
Yellow-crowned, *Nyctanassa violacea*

NIGHTHAWK, Antillean, *Chordeiles gundlachii*

Common, *Chordeiles minor* Lesser, *Chordeiles acutipennis*

NIGHTINGALE-THRUSH, Black-headed, *Catharus mexicanus*

Orange-billed, *Catharus aurantiirostris*

NIGHTJAR, Buff-collared, *Caprimulgus ridgwayi*

Gray, *Caprimulgus indicus* [Jungle (see Gray)]Puerto Rican, *Caprimulgus noctitherus*

NODDY, Black, *Anous minutus*

Blue-gray, *Procelsterna cerulea* Brown, *Anous stolidus* [Lesser (see Black)]

NUKUPUU, *Hemignathus lucidus*

NUTCRACKER, Clark's, *Nucifraga columbiana*

NUTHATCH, Brown-headed, *Sitta pusilla*

Pygmy, *Sitta pygmaea* Red-breasted, *Sitta canadensis* White-breasted, *Sitta carolinensis*

[OLDSQUAW (see DUCK, Long-tailed)]

OLOMAO, *Myadestes lanaiensis*

OMAO, *Myadestes obscurus*

ORIOLE, Altamira, *Icterus gularis*

Audubon's, *Icterus graduacauda* Baltimore, *Icterus galbula* [Black-cowled (see Greater Antillean)]Black-vented, *Icterus wagleri* Bullock's, *Icterus bullockii* Greater Antillean, *Icterus dominicensis* Hooded, *Icterus cucullatus* [Northern (see Baltimore and Bullock's)]Orchard, *Icterus spurius* Scott's, *Icterus parisorum* Streak-backed, *Icterus pustulatus*

OSPREY, *Pandion haliaetus*

OU, *Psittirostra psittacea*

OVENBIRD, *Seiurus aurocapilla*

OWL, Barn, *Tyto alba*

Barred, *Strix varia* Boreal, *Aegolius funereus* Burrowing, *Athene cunicularia* Elf, *Micrathene whitneyi* Flammulated, *Otus flammeolus* Great Gray, *Strix nebulosa* Great Horned, *Bubo virginianus* Long-eared, *Asio otus* Mottled, *Ciccaba virgata* Northern Hawk, *Surnia ulula* Northern Saw-whet, *Aegolius acadicus* Short-eared, *Asio flammeus* Snowy, *Bubo scandiacus* Spotted, *Strix occidentalis* Stygian, *Asio stygius*

OYSTERCATCHER, American, *Haematopus palliatus*

Black, *Haematopus bachmani* Eurasian, *Haematopus ostralegus*

PALILA, *Loxioides bailleui*

PALM-SWIFT, Antillean, *Tachornis phoenicobia*

PARROTBILL, Maui, *Pseudonestor xanthophrys*

PARULA, Northern, *Parula americana*

Tropical, *Parula pitiayumi*

PAURAQUE, Common, *Nyctidromus albicollis*

PELICAN, American White, *Pelecanus erythrorhynchos*

Brown, *Pelecanus occidentalis*

PETREL, Bermuda, *Pterodroma cahow*

Black-capped, *Pterodroma hasitata* Black-winged, *Pterodroma nigripennis* Bonin, *Pterodroma*

hypoleuca Bulwer's, *Bulweria bulwerii* Cook's, *Pterodroma cookii* [Dark-rumped (see Hawaiian)]Gould's, *Pterodroma leucoptera* Great-winged, *Pterodroma macroptera* Hawaiian, *Pterodroma sandwichensis* Herald, *Pterodroma arminjoniana* Jouanin's, *Bulweria fallax* Juan Fernandez, *Pterodroma externa* Kermadec, *Pterodroma neglecta* Mottled, *Pterodroma inexpectata* Murphy's, *Pterodroma ultima* Phoenix, *Pterodroma alba* Stejneger's, *Pterodroma longirostris* Tahiti, *Pterodroma rostrata* White-necked , *Pterodroma cervicalis* [White-necked, *Pterodroma externa* (see Petrel, Juan Fernandez)]

PEWEE, Cuban, *Contopus caribaeus*

Greater, *Contopus pertinax* Hispaniolan, *Contopus hispaniolensis* Lesser Antillean, *Contopus latirostris*

PHAINOPEPLA, *Phainopepla nitens*

PHALAROPE, Red, *Phalaropus fulicarius*

Red-necked, *Phalaropus lobatus* Wilson's, *Phalaropus tricolor*

PHOEBE, Black, *Sayornis nigricans*

Eastern, *Sayornis phoebe* Say's, *Sayornis saya*

PIGEON, Band-tailed, *Patagioenas fasciata*

Plain, *Patagioenas inornata* Red-billed, *Patagioenas flavirostris* Scaly-naped, *Patagioenas squamosa* White-crowned, *Patagioenas leucocephala*

PINTAIL, Northern, *Anas acuta*

White-cheeked, *Anas bahamensis*

PIPIT, American, *Anthus rubescens*

Olive-backed, *Anthus hodgsoni* Pechora, *Anthus gustavi* Red-throated, *Anthus cervinus* Sprague's, *Anthus spragueii* Tree, *Anthus trivialis* [Water (see American)]

PLOVER, Black-bellied, *Pluvialis squatarola*

Collared, *Charadrius collaris* Common Ringed, *Charadrius hiaticula* [Great Sand (see Sand-Plover, Greater)]Little Ringed, *Charadrius dubius* [Mongolian (see Sand-Plover, Lesser)] Mountain, *Charadrius montanus* Piping, *Charadrius melodus* Semipalmated, *Charadrius semipalmatus* Snowy, *Charadrius alexandrinus* Wilson's, *Charadrius wilsonia*

POCHARD, Baer's, *Aythya baeri*

Common, *Aythya ferina*

POND-HERON, Chinese, *Ardeola bacchus*

POORWILL, Common, *Phalaenoptilus nuttallii*

POO-ULI, *Melamprosops phaeosoma*

PUAIOHI, *Myadestes palmeri*

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 chrysis* Ruddy, *Geotrygon montana*

QUETZEL, Eared, *Euptilotis neoxenus*

RAIL, Black, *Laterallus jamaicensis*

Buff-banded, *Gallirallus philippensis* Clapper, *Rallus longirostris* Guam, *Gallirallus owstoni*
King, *Rallus elegans* Spotted, *Pardirallus maculatus* Virginia, *Rallus limicola* Yellow,
Coturnicops noveboracensis

RAVEN, Chihuahuan, *Corvus cryptoleucus*

Common, *Corvus corax*

RAZORBILL, *Alca torda*

REDHEAD, *Aythya americana*

REDPOLL, Common, *Carduelis flammea*

Hoary, *Carduelis hornemanni*

REDSHANK, Spotted, *Tringa erythropus*

REDSTART, American, *Setophaga ruticilla*

Painted, *Myioborus pictus* Slate-throated, *Myioborus miniatus*

[REED-BUNTING, Common (see BUNTING, Reed)]

[Pallas' (see BUNTING, Pallas's)]

REED-WARBLER, Nightingale, *Acrocephalus luscina*

REEF-EGRET, Pacific, *Egretta sacra*

REEF-HERON, Western, *Egretta gularis*

ROADRUNNER, Greater, *Geococcyx californianus*

ROBIN, American, *Turdus migratorius*

Clay-colored, *Turdus grayi* Rufous-backed, *Turdus rufopalliatus* Siberian Blue, *Luscinia cyane*

White-throated, *Turdus assimilis*

ROSEFINCH, Common, *Carpodacus erythrinus*

ROSY-FINCH, Black, *Leucosticte atrata*

Brown-capped, *Leucosticte australis* Gray-crowned, *Leucosticte tephrocotis*

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* Green, *Tringa ochropus* 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 (see Spoon-billed)] Spoon-billed, *Eurynorhynchus pygmeus* Spotted, *Actitis macularius* Stilt, *Calidris himantopus* Terek, *Xenus cinereus* Upland, *Bartramia longicauda* Western, *Calidris mauri* White-rumped, *Calidris fuscicollis* Wood, *Tringa glareola*

SAND-PLOVER, Greater, *Charadrius leschenaultii*

Lesser, *Charadrius mongolus*

SAPSUCKER, Red-breasted, *Sphyrapicus ruber*

Red-naped, *Sphyrapicus nuchalis* Williamson's, *Sphyrapicus thyroideus* Yellow-bellied, *Sphyrapicus varius*

SCAUP, Greater, *Aythya marila*

Lesser, *Aythya affinis*

SCOPS-OWL, Oriental, *Otus sunia*

SCOTER, Black, *Melanitta nigra*

Surf, *Melanitta perspicillata* White-winged, *Melanitta fusca*

SCREECH-OWL, Eastern, *Megascops asio*

Puerto Rican, *Megascops nudipes* Western, *Megascops kennicottii* Whiskered, *Megascops trichopsis*

SCRUB-JAY, Florida, *Aphelocoma coerulescens*

Island, *Aphelocoma insularis* Western, *Aphelocoma californica*

SEA-EAGLE, Steller's, *Haliaeetus pelagicus*

SEEDEATER, White-collared, *Sporophila torqueola*

SHEARWATER, Audubon's, *Puffinus lherminieri*

Black-vented, *Puffinus opisthomelas* Buller's, *Puffinus bulleri* Cape Verde, *Calonectris edwardsii* Christmas, *Puffinus nativitatis* 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* Streaked, *Calonectris leucomelas* Townsend's, *Puffinus auricularis* Wedge-tailed, *Puffinus pacificus*

SHOVELER, Northern, *Anas clypeata*

SHRIKE, Brown, *Lanius cristatus*

Loggerhead, *Lanius ludovicianus* Northern, *Lanius excubitor*

SILKY-FLYCATCHER, Gray, *Ptilogonys cinereus*

SISKIN, Eurasian, *Carduelis spinus*

Pine, *Carduelis pinus*

SKIMMER, Black, *Rynchops niger*

SKUA, Great, *Stercorarius skua*

South Polar, *Stercorarius maccormicki*

[SKYLARK, Eurasian (see LARK, Sky)]

SMEW, *Mergellus albellus*

SNIPE, Common, *Gallinago gallinago* (rare in western Alaska; also see SNIPE, Wilson's)

Jack, *Lymnocyptes minimus* Pin-tailed, *Gallinago stenura* Swinhoe's, *Gallinago megala* Wilson's, *Gallinago delicata* (the "common" snipe hunted in most of the U.S.)

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, *Aimophila quinquestriata* Fox, *Passerella iliaca* Golden-crowned, *Zonotrichia atricapilla* Grasshopper, *Ammodramus savannarum* Harris's, *Zonotrichia querula* Henslow's, *Ammodramus henslowii* Lark, *Chondestes grammacus* Le Conte's, *Ammodramus leconteii* Lincoln's, *Melospiza lincolni* Nelson's Sharp-tailed, *Ammodramus nelsoni* Olive, *Arremonops rufivirgatus* Rufous-crowned, *Aimophila ruficeps* Rufous-winged, *Aimophila carpalis* Sage, *Amphispiza belli* Saltmarsh Sharp-tailed, *Ammodramus caudacutus* Savannah, *Passerculus sandwichensis* Seaside, *Ammodramus maritimus* [Sharp-tailed (see Nelson's Sharp-tailed and Saltmarsh Sharp-tailed)] Song, *Melospiza melodia* Swamp, *Melospiza georgiana* Vesper, *Pooecetes gramineus* White-crowned, *Zonotrichia leucophrys* White-throated, *Zonotrichia albicollis* Worthen's, *Spizella wortheni*

SPARROWHAWK, Japanese, *Accipiter gularis*

SPINDALIS, Puerto Rican, *Spindalis portoricensis*

Western, *Spindalis zena*

SPOONBILL, Roseate, *Platalea ajaja*

STARLING, [Ashy (see White-cheeked)]

Chestnut-cheeked, *Sturnus philippensis* [Violet-backed (see Chestnut-cheeked)]White-cheeked, *Sturnus cineraceus*

STARTHROAT, Plain-capped, *Heliomaster constantii*

STILT, Black-necked, *Himantopus mexicanus*

Black-winged, *Himantopus himantopus*

STINT, Little, *Calidris minuta*

Long-toed, *Calidris subminuta* Red-necked, *Calidris ruficollis* [Rufous-necked (see Red-necked)]Temminck's, *Calidris temminckii*

STONECHAT, *Saxicola torquatus*

STORK, Wood, *Mycteria americana*

STORM-PETREL, Ashy, *Oceanodroma homochroa*

Band-rumped, *Oceanodroma castro* Black, *Oceanodroma melania* Black-bellied, *Fregatta tropica* Fork-tailed, *Oceanodroma furcata* Leach's, *Oceanodroma leucorhoa* Least, *Oceanodroma microsoma* Matsudaira's, *Oceanodroma matsudairae* Polynesian, *Nesofregata fuliginosa* Ringed, *Oceanodroma hornbyi* [Sooty (see Tristram's)]Tristram's, *Oceanodroma tristrami* Wedge-rumped, *Oceanodroma tethys* White-faced, *Pelagodroma marina* White-bellied, *Fregatta grillaria* Wilson's, *Oceanites oceanicus*

SURFBIRD, *Aphriza virgata*

SWALLOW, Bahama, *Tachycineta cyaneoviridis*

Bank, *Riparia riparia* Barn, *Hirundo rustica* Cave, *Petrochelidon fulva* Cliff, *Petrochelidon pyrrhonota* Mangrove, *Tachycineta albilinea* Northern Rough-winged, *Stelgidopteryx serripennis* Tree, *Tachycineta bicolor* Violet-green, *Tachycineta thalassina*

SWAMPHEN, Purple, *Porphyrio porphyrio*

SWAN, Trumpeter, *Cygnus buccinator*

Tundra, *Cygnus columbianus* Whooper, *Cygnus cygnus*

SWIFT, Alpine, *Apus melba*

[Antillean Palm (see PALM-SWIFT, Antillean)]Black, *Cypseloides niger* Chimney, *Chaetura pelagica* Common, *Apus apus* Fork-tailed, *Apus pacificus* Short-tailed, *Chaetura brachyura* Vaux's, *Chaetura vauxi* White-collared, *Streptoprocne zonaris* White-throated, *Aeronautes saxatalis*

SWIFTLET, Mariana, *Aerodramus bartschi*

White-rumped, *Aerodramus spodiopygius*

TANAGER, Flame-colored, *Piranga bidentata*

Hepatic, *Piranga flava* Puerto Rican, *Nesospingus specularis* Scarlet, *Piranga olivacea* [Stripe-headed (see SPINDALIS, Puerto Rican and Western)] Summer, *Piranga rubra* Western, *Piranga ludoviciana*

TATTLER, Gray-tailed, *Tringa brevipes*

Wandering, *Tringa incana*

TEAL, Baikal, *Anas formosa*

Blue-winged, *Anas discors* Cinnamon, *Anas cyanoptera* [Falcated (see DUCK, Falcated)]
Green-winged, *Anas crecca*

TERN, Aleutian, *Onychoprion aleuticus*

Arctic, *Sterna paradisaea* Black, *Chlidonias niger* Black-naped, *Sterna sumatrana* Bridled, *Onychoprion anaethetus* Caspian, *Hydroprogne caspia* Common, *Sterna hirundo* Elegant, *Thalasseus elegans* Forster's, *Sterna forsteri* Gray-backed, *Onychoprion lunatus* Great Crested, *Thalasseus bergii* Gull-billed, *Gelochelidon nilotica* Large-billed, *Phaetusa simplex* Least, *Sternula antillarum* Little, *Sternula albifrons* Roseate, *Sterna dougallii* Royal, *Thalasseus maximus* Sandwich, *Thalasseus sandvicensis* Sooty, *Onychoprion fuscatus* Whiskered, *Chlidonias hybrida* 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*

Bicknell's, *Catharus bicknelli* Blue Rock, *Monticola solitarius* Dusky, *Turdus naumanni* Eyebrowed, *Turdus obscurus* Gray-cheeked, *Catharus minimus* [Hawaiian (see KAMAO, OLOMAO, and OMAO)] Hermit, *Catharus guttatus* Red-legged, *Turdus plumbeus* [Small Kauai (see PUAIOHI)] Swainson's, *Catharus ustulatus* Varied, *Ixoreus naevius* Wood, *Hylocichla mustelina* [TIT, Siberian (see CHICKADEE, Gray-headed)]

TITMOUSE, Black-crested, *Baeolophus atricristatus*

Bridled, *Baeolophus wollweberi* Juniper, *Baeolophus ridgwayi* Oak, *Baeolophus inornatus* [Plain (see Juniper and Oak)] Tufted, *Baeolophus bicolor*

TITYRA, Masked, *Tityra semifasciata*

TOWHEE, Abert's, *Pipilo aberti*

[Brown (see California and Canyon)] California, *Pipilo crissalis* Canyon, *Pipilo fuscus* Eastern, *Pipilo erythrophthalmus* Green-tailed, *Pipilo chlorurus* [Rufous-sided (see Eastern and Spotted)] Spotted, *Pipilo maculatus*

[TREE-PIBIT, Olive (see PIPIT, Olive-backed)]

TROGON, [Eared (see QUETZEL, Eared)]

Elegant, *Trogon elegans*

TROPICBIRD, Red-billed, *Phaethon aethereus*

Red-tailed, *Phaethon rubricauda* White-tailed, *Phaethon lepturus*

TURNSTONE, Black, *Arenaria melanocephala*

Ruddy, *Arenaria interpres*

TURTLE-DOVE, Oriental, *Streptopelia orientalis*

VEERY, *Catharus fuscescens*

VERDIN, *Auriparus flaviceps*

VIOLET-EAR, Green, *Colibri thalassinus*

VIREO, Bell's, *Vireo bellii*

Black-capped, *Vireo atricapillus* Black-whiskered, *Vireo altiloquus* Blue-headed, *Vireo solitarius* Cassin's, *Vireo cassinii* Gray, *Vireo vicinior* Hutton's, *Vireo huttoni* Philadelphia, *Vireo philadelphicus* Plumbeous, *Vireo plumbeus* Puerto Rican, *Vireo latimeri* Red-eyed, *Vireo olivaceus* [Solitary (see Blue-headed, Cassin's, and Plumbeous)] Thick-billed, *Vireo crassirostris* Warbling, *Vireo gilvus* White-eyed, *Vireo griseus* Yellow-green, *Vireo flavoviridis* Yellow-throated, *Vireo flavifrons* Yucatan, *Vireo magister*

VULTURE, Black, *Coragyps atratus*

Turkey, *Cathartes aura*

WAGTAIL, [Black-backed (see White)]

Citrine, *Motacilla citreola* Eastern Yellow, *Motacilla tschutschensis* Gray, *Motacilla cinerea* White, *Motacilla alba* [Yellow (see Eastern Yellow)]

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* Crescent-chested, *Parula superciliosa* Dusky, *Phylloscopus fuscatus* Elfin-woods, *Dendroica angelae* Fan-tailed, *Euthlypis lachrymosa* Golden-cheeked, *Dendroica chrysoparia* Golden-crowned, *Basileuterus culicivorus* Golden-winged, *Vermivora chrysoptera* Grace's, *Dendroica graciae* Hermit, *Dendroica occidentalis* Hooded, *Wilsonia citrina* Kentucky, *Oporornis formosus* Kirtland's, *Dendroica kirtlandii* Lanceolated, *Locustella lanceolata* 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* 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* Wood, *Phylloscopus sialatrix* Worm-eating, *Helmitheros*

vermivorum Yellow, *Dendroica petechia* Yellow-browed, *Phylloscopus inornatus* 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, Black-bellied, *Dendrocygna autumnalis*

Fulvous, *Dendrocygna bicolor* West Indian, *Dendrocygna arborea*

WHITETHROAT, Lesser, *Sylvia curruca*

WIGEON, American, *Anas americana*

Eurasian, *Anas penelope*

WILLET, *Tringa semipalmata*

WOOD-PEWEE, Eastern, *Contopus virens*

Western, *Contopus sordidulus*

WOODCOCK, American, *Scolopax minor*

Eurasian, *Scolopax rusticola*

WOODPECKER, Acorn, *Melanerpes formicivorus*

American Three-toed, *Picoides dorsalis* Arizona, *Picoides arizonae* Black-backed, *Picoides arcticus* Downy, *Picoides pubescens* Gila, *Melanerpes uropygialis* Golden-fronted, *Melanerpes aurifrons* Great Spotted, *Dendrocopos major* Hairy, *Picoides villosus* Ivory-billed, *Campephilus principalis* Ladder-backed, *Picoides scalaris* Lewis's, *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 (see Arizona)][Three-toed (see American Three-toed)]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*

(2) *Taxonomic listing.* Species are listed in phylogenetic sequence by scientific name, with the common (English) name following the scientific name. To help clarify species relationships, we also list the higher-level taxonomic categories of Order, Family, and Subfamily.

Order ANSERIFORMES

Family ANATIDAE

Subfamily DENDROCYGNINAE

Dendrocygna autumnalis, Black-bellied Whistling-Duck *Dendrocygna arborea*, West Indian Whistling-Duck *Dendrocygna bicolor*, Fulvous Whistling-Duck

Subfamily ANSERINAE

Anser fabalis, Taiga Bean-Goose *Anser serrirostris*, Tundra Bean-Goose *Anser albifrons*, Greater White-fronted Goose *Anser erythropus*, Lesser White-fronted Goose *Chen canagica*, Emperor Goose *Chen caerulescens*, Snow Goose *Chen rossii*, Ross's Goose *Branta bernicla*, Brant *Branta leucopsis*, Barnacle Goose *Branta canadensis*, Canada Goose (including *Branta hutchinsii*, Cackling Goose) *Branta sandvicensis*, Hawaiian Goose *Cygnus buccinator*, Trumpeter Swan *Cygnus columbianus*, Tundra Swan *Cygnus cygnus*, Whooper Swan

Subfamily ANATINAE

Cairina moschata, Muscovy Duck *Aix sponsa*, Wood Duck *Anas strepera*, Gadwall *Anas falcata*, Falcated Duck *Anas penelope*, Eurasian Wigeon *Anas americana*, American Wigeon *Anas rubripes*, American Black Duck *Anas platyrhynchos*, Mallard *Anas fulvigula*, Mottled Duck *Anas wyvilliana*, Hawaiian Duck *Anas laysanensis*, Laysan Duck *Anas poecilorhyncha*, Spot-billed Duck *Anas superciliosa*, Pacific Black Duck *Anas discors*, Blue-winged Teal *Anas cyanoptera*, Cinnamon Teal *Anas clypeata*, Northern Shoveler *Anas bahamensis*, White-cheeked Pintail *Anas acuta*, Northern Pintail *Anas querquedula*, Garganey *Anas formosa*, Baikal Teal *Anas crecca*, Green-winged Teal *Aythya valisineria*, Canvasback *Aythya americana*, Redhead *Aythya ferina*, Common Pochard *Aythya baeri*, Baer's Pochard *Aythya collaris*, Ring-necked Duck *Aythya fuligula*, Tufted Duck *Aythya marila*, Greater Scaup *Aythya affinis*, Lesser Scaup *Polysticta stelleri*, Steller's Eider *Somateria fischeri*, Spectacled Eider *Somateria spectabilis*, King Eider *Somateria mollissima*, Common Eider *Histrionicus histrionicus*, Harlequin Duck *Melanitta perspicillata*, Surf Scoter *Melanitta fusca*, White-winged Scoter *Melanitta nigra*, Black Scoter *Clangula hyemalis*, Long-tailed Duck *Bucephala albeola*, Bufflehead *Bucephala clangula*, Common Goldeneye *Bucephala islandica*, Barrow's Goldeneye *Mergellus albellus*, Smew *Lophodytes cucullatus*, Hooded Merganser *Mergus merganser*, Common Merganser *Mergus serrator*, Red-breasted Merganser *Nomonyx dominicus*, Masked Duck *Oxyura jamaicensis*, Ruddy Duck

Order GAVIIFORMES

Family GAVIIDAE

Gavia stellata, Red-throated Loon *Gavia arctica*, Arctic Loon *Gavia pacifica*, Pacific Loon

Gavia immer, Common Loon *Gavia adamsii*, Yellow-billed Loon

Order PODICIPEDIFORMES

Family PODICIPEDIDAE

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 *Aechmophorus clarkii*, Clark's Grebe

Order PROCELLARIIFORMES

Family DIOMEDEIDAE

Thalassarche chlororhynchos, Yellow-nosed Albatross *Thalassarche cauta*, Shy Albatross *Thalassarche melanophris*, Black-browed Albatross *Phoebastria palpebrata*, Light-mantled Albatross *Diomedea exulans*, Wandering Albatross *Phoebastria immutabilis*, Laysan Albatross *Phoebastria nigripes*, Black-footed Albatross *Phoebastria albatrus*, Short-tailed Albatross

Family PROCELLARIIDAE

Fulmarus glacialis, Northern Fulmar *Pterodroma macroptera*, Great-winged Petrel *Pterodroma neglecta*, Kermadec Petrel *Pterodroma arminjoniana*, Herald Petrel *Pterodroma ultima*, Murphy's Petrel *Pterodroma inexpectata*, Mottled Petrel *Pterodroma cahow*, Bermuda Petrel *Pterodroma hasitata*, Black-capped Petrel *Pterodroma externa*, Juan Fernandez Petrel *Pterodroma sandwichensis*, Hawaiian Petrel *Pterodroma cervicalis*, White-necked Petrel *Pterodroma hypoleuca*, Bonin Petrel *Pterodroma nigripennis*, Black-winged Petrel *Pterodroma cookii*, Cook's Petrel *Pterodroma longirostris*, Stejneger's Petrel *Pterodroma alba*, Phoenix Petrel *Pterodroma leucoptera*, Gould's Petrel *Pterodroma rostrata*, Tahiti Petrel *Bulweria bulwerii*, Bulwer's Petrel *Bulweria fallax*, Jouanin's Petrel *Calonectris leucomelas*, Streaked Shearwater *Calonectris diomedea*, Cory's Shearwater *Calonectris edwardsii*, Cape Verde 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 auricularis*, Townsend's Shearwater *Puffinus opisthomelas*, Black-vented Shearwater *Puffinus lherminieri*, Audubon's Shearwater *Puffinus assimilis*, Little Shearwater

Family HYDROBATIDAE

Oceanites oceanicus, Wilson's Storm-Petrel *Pelagodroma marina*, White-faced Storm-Petrel *Fregetta tropica*, Black-bellied Storm-Petrel *Fregetta grallaria*, White-bellied Storm-Petrel *Nesofregetta fuiginosa*, Polynesian Storm-Petrel *Oceanodroma furcata*, Fork-tailed Storm-Petrel *Oceanodroma hornbyi*, Ringed 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 matsudairae*, Matsudaira's Storm-Petrel *Oceanodroma melania*, Black Storm-Petrel *Oceanodroma tristrami*, Tristram's Storm-Petrel *Oceanodroma microsoma*, Least Storm-Petrel

Order PELECANIFORMES

Family PHAETHONTIDAE

Phaethon lepturus, White-tailed Tropicbird *Phaethon aethereus*, Red-billed Tropicbird *Phaethon rubricauda*, Red-tailed Tropicbird

Family SULIDAE

Sula dactylatra, Masked Booby *Sula neboxii*, Blue-footed Booby *Sula leucogaster*, Brown Booby *Sula sula*, Red-footed Booby *Morus bassanus*, Northern Gannet

Family PELECANIDAE

Pelecanus erythrorhynchos, American White Pelican *Pelecanus occidentalis*, Brown Pelican

Family PHALACROCORACIDAE

Phalacrocorax melanoleucos, Little Pied Cormorant *Phalacrocorax penicillatus*, Brandt's Cormorant *Phalacrocorax brasilianus*, Neotropic Cormorant *Phalacrocorax auritus*, Double-crested Cormorant *Phalacrocorax carbo*, Great Cormorant *Phalacrocorax urile*, Red-faced Cormorant *Phalacrocorax pelagicus*, Pelagic Cormorant

Family ANHINGIDAE

Anhinga anhinga, Anhinga

Family FREGATIDAE

Fregata magnificens, Magnificent Frigatebird *Fregata minor*, Great Frigatebird *Fregata ariel*, Lesser Frigatebird

Order CICONIIFORMES

Family ARDEIDAE

Botaurus lentiginosus, American Bittern *Ixobrychus sinensis*, Yellow Bittern *Ixobrychus exilis*, Least Bittern *Ixobrychus eurhythmus*, Schrenck's Bittern *Ixobrychus flavicollis*, Black Bittern *Ardea herodias*, Great Blue Heron *Ardea cinerea*, Gray Heron *Ardea alba*, Great Egret *Mesophoyx intermedia*, Intermediate Egret *Egretta eulophotes*, Chinese Egret *Egretta garzetta*, Little Egret *Egretta sacra*, Pacific Reef-Egret *Egretta gularis*, Western Reef-Heron *Egretta thula*, Snowy Egret *Egretta caerulea*, Little Blue Heron *Egretta tricolor*, Tricolored Heron *Egretta rufescens*, Reddish Egret *Bubulcus ibis*, Cattle Egret *Ardeola bacchus*, Chinese Pond-Heron *Butorides virescens*, Green Heron *Nycticorax nycticorax*, Black-crowned Night-Heron *Nyctanassa violacea*, Yellow-crowned Night-Heron *Gorsachius goisagi*, Japanese Night-Heron *Gorsachius melanolophus*, Malayan Night-Heron

Family THRESKIORNITHIDAE

Subfamily THRESKIORNITHINAE

Eudocimus albus, White Ibis *Eudocimus ruber*, Scarlet Ibis *Plegadis falcinellus*, Glossy Ibis *Plegadis chihi*, White-faced Ibis

Subfamily PLATALEINAE

Platalea ajaja, Roseate Spoonbill

Family CICONIIDAE

Jabiru mycteria, Jabiru *Mycteria americana*, Wood Stork

Order PHOENICOPTERIFORMES

Family PHOENICOPTERIDAE

Phoenicopterus ruber, Greater Flamingo

Order FALCONIFORMES

Family CATHARTIDAE

Coragyps atratus, Black Vulture *Cathartes aura*, Turkey Vulture *Gymnogyps californianus*, California Condor

Family ACCIPITRIDAE

Subfamily PANDIONINAE

Pandion haliaetus, Osprey

Subfamily ACCIPITRINAE

Chondrohierax uncinatus, Hook-billed Kite *Elanoides forficatus*, Swallow-tailed Kite *Elanus leucurus*, White-tailed 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 soloensis*, Gray Frog-Hawk *Accipiter gularis*, Japanese Sparrowhawk *Accipiter striatus*, Sharp-shinned Hawk *Accipiter cooperii*, Cooper's Hawk *Accipiter gentilis*, Northern Goshawk *Geranospiza caerulescens*, Crane Hawk *Buteogallus anthracinus*, Common Black-Hawk *Parabuteo unicinctus*, Harris's Hawk *Buteo magnirostris*, Roadside Hawk *Buteo lineatus*, Red-shouldered Hawk *Buteo platypterus*, Broad-winged Hawk *Buteo nitidus*, Gray 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

Family FALCONIDAE

Subfamily MICRASTURINAE

Micrastur semitorquatus, Collared Forest-Falcon

Subfamily CARACARINAE

Caracara cheriway, Crested Caracara

Subfamily FALCONINAE

Falco tinnunculus, Eurasian Kestrel *Falco sparverius*, American Kestrel *Falco vespertinus*, Red-footed Falcon *Falco columbarius*, Merlin *Falco subbuteo*, Eurasian Hobby *Falco femoralis*, Aplomado Falcon *Falco rusticolus*, Gyrfalcon *Falco peregrinus*, Peregrine Falcon *Falco mexicanus*, Prairie Falcon

Order GRUIFORMES

Family RALLIDAE

Coturnicops noveboracensis, Yellow Rail *Laterallus jamaicensis*, Black Rail *Gallirallus philippensis*, Buff-banded Rail *Gallirallus owstoni*, Guam Rail *Crex crex*, Corn Crake *Rallus longirostris*, Clapper Rail *Rallus elegans*, King Rail *Rallus limicola*, Virginia Rail *Porzana carolina*, Sora *Porzana tabuensis*, Spotless Crake *Porzana flaviventer*, Yellow-breasted Crake *Neocrex erythrops*, Paint-billed Crake *Pardirallus maculatus*, Spotted Rail *Porphyrio*

martinica, Purple Gallinule *Porphyrio porphyrio*, Purple Swamphen *Porphyrio flavirostris*, Azure Gallinule *Gallinula chloropus*, Common Moorhen *Fulica atra*, Eurasian Coot *Fulica alai*, Hawaiian 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

Subfamily VANELLINAE

Vanellus vanellus, Northern Lapwing

Subfamily CHARADRIINAE

Pluvialis squatarola, Black-bellied Plover *Pluvialis apricaria*, European Golden-Plover *Pluvialis dominica*, American Golden-Plover *Pluvialis fulva*, Pacific Golden-Plover *Charadrius mongolus*, Lesser Sand-Plover *Charadrius leschenaultii*, Greater Sand-Plover *Charadrius collaris*, Collared 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 ostralegus, Eurasian Oystercatcher *Haematopus palliatus*, American Oystercatcher *Haematopus bachmani*, Black Oystercatcher

Family RECURVIROSTRIDAE

Himantopus himantopus, Black-winged Stilt *Himantopus mexicanus*, Black-necked Stilt *Recurvirostra americana*, American Avocet

Family JACANIDAE

Jacana spinosa, Northern Jacana

Family SCOLOPACIDAE

Subfamily SCOLOPACINAE

Xenus cinereus, Terek Sandpiper *Actitis hypoleucos*, Common Sandpiper *Actitis macularius*, Spotted Sandpiper *Tringa ochropus*, Green Sandpiper *Tringa solitaria*, Solitary Sandpiper *Tringa brevipes*, Gray-tailed Tattler *Tringa incana*, Wandering Tattler *Tringa erythropus*, Spotted Redshank *Tringa melanoleuca*, Greater Yellowlegs *Tringa nebularia*, Common Greenshank *Tringa guttifer*, Nordmann's Greenshank *Tringa semipalmata*, Willet *Tringa flavipes*, Lesser Yellowlegs *Tringa stagnatilis*, Marsh Sandpiper *Tringa glareola*, Wood Sandpiper *Bartramia longicauda*, Upland Sandpiper *Numerius minutus*, Little Curlew

Numenius borealis, Eskimo Curlew *Numenius phaeopus*, Whimbrel *Numenius tahitiensis*, Bristle-thighed Curlew *Numenius madagascariensis*, Far Eastern Curlew *Numenius arquata*, Eurasian 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*, Surf-bird *Calidris tenuirostris*, Great Knot *Calidris canutus*, Red Knot *Calidris alba*, Sanderling *Calidris pusilla*, Semipalmated Sandpiper *Calidris mauri*, Western Sandpiper *Calidris ruficollis*, Red-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*, Spoon-billed 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 delicata*, Wilson's Snipe (the "common" snipe hunted in most of the U.S.) *Gallinago gallinago*, Common Snipe (rare in western Alaska; also see *Gallinago delicata*) *Gallinago stenura*, Pin-tailed Snipe *Gallinago megala*, Swinhoe's Snipe *Scolopax rusticola*, Eurasian Woodcock *Scolopax minor*, American Woodcock

Subfamily PHALAROPODINAE

Phalaropus tricolor, Wilson's Phalarope *Phalaropus lobatus*, Red-necked Phalarope *Phalaropus fulicarius*, Red Phalarope

Family LARIDAE

Subfamily LARINAE

Larus atricilla, Laughing Gull *Larus pipixcan*, Franklin's Gull *Larus minutus*, Little Gull *Larus ridibundus*, Black-headed Gull *Larus philadelphia*, Bonaparte's Gull *Larus heermanni*, Heermann's Gull *Larus cirrocephalus*, Gray-hooded Gull *Larus belcheri*, Belcher's Gull *Larus crassirostris*, Black-tailed Gull *Larus canus*, Mew Gull *Larus delawarensis*, Ring-billed Gull *Larus californicus*, California Gull *Larus argentatus*, Herring Gull *Larus michahellis*, Yellow-legged 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 *Larus dominicanus*, Kelp Gull *Xema sabini*, Sabine's Gull *Rissa tridactyla*, Black-legged Kittiwake *Rissa brevirostris*, Red-legged Kittiwake *Rhodostethia rosea*, Ross's Gull *Pagophila eburnea*, Ivory Gull

Subfamily STERNINAE

Anous stolidus, Brown Noddy *Anous minutus*, Black Noddy *Procelsterna cerulea*, Blue-gray Noddy *Gygis alba*, White Tern *Onychoprion fuscatus*, Sooty Tern *Onychoprion lunatus*, Gray-backed Tern *Onychoprion anaethetus*, Bridled Tern *Onychoprion aleuticus*, Aleutian Tern *Sternula albifrons*, Little Tern *Sternula antillarum*, Least Tern *Phaetusa simplex*, Large-billed Tern *Gelochelidon nilotica*, Gull-billed Tern *Hydroprogne caspia*, Caspian Tern *Chlidonias niger*, Black Tern *Chlidonias leucopterus*, White-winged Tern *Chlidonias hybridus*, Whiskered Tern *Sterna dougallii*, Roseate Tern *Sterna hirundo*, Common Tern *Sterna paradisaea*, Arctic Tern *Sterna forsteri*, Forster's Tern *Sterna sumatrana*, Black-naped Tern *Thalasseus maximus*, Royal Tern *Thalasseus bergii*, Great Crested Tern *Thalasseus sandvicensis*, Sandwich Tern *Thalasseus elegans*, Elegant Tern

Subfamily RYNCHOPINAE

Rynchops niger, Black Skimmer

Family STERCORARIIDAE

Stercorarius skua, Great Skua *Stercorarius maccormicki*, South Polar Skua *Stercorarius pomarinus*, Pomarine Jaeger *Stercorarius parasiticus*, Parasitic Jaeger *Stercorarius longicaudus*, Long-tailed Jaeger

Family ALCIDAE

Alle alle, Dovekie *Uria aalge*, Common Murre *Uria lomvia*, Thick-billed Murre *Alca torda*, Razorbill *Cephus grylle*, Black Guillemot *Cephus columba*, Pigeon Guillemot *Brachyramphus perdix*, Long-billed Murrelet *Brachyramphus marmoratus*, Marbled Murrelet *Brachyramphus brevirostris*, Kittlitz's Murrelet *Synthliboramphus hypoleucus*, Xantus's Murrelet *Synthliboramphus craveri*, Craveri's Murrelet *Synthliboramphus antiquus*, Ancient Murrelet *Ptychoramphus aleuticus*, Cassin's Auklet *Aethia psittacula*, Parakeet Auklet *Aethia pusilla*, Least Auklet *Aethia pygmaea*, Whiskered Auklet *Aethia cristatella*, Crested Auklet *Cerorhinca monocerata*, Rhinoceros Auklet *Fratercula arctica*, Atlantic Puffin *Fratercula corniculata*, Horned Puffin *Fratercula cirrhata*, Tufted Puffin

Order COLUMBIFORMES

Family COLUMBIDAE

Patagioenas squamosa, Scaly-naped Pigeon *Patagioenas leucocephala*, White-crowned Pigeon *Patagioenas flavirostris*, Red-billed Pigeon *Patagioenas inornata*, Plain Pigeon *Patagioenas fasciata*, Band-tailed Pigeon *Streptopelia orientalis*, Oriental Turtle-Dove *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 *Gallicolumba xanthonura*, White-throated Ground-Dove *Gallicolumba stairi*, Friendly Ground-Dove *Ptilinopus perousii*, Many-colored Fruit-Dove *Ptilinopus roseicapilla*, Mariana Fruit-Dove *Ptilinopus porphyraceus*, Crimson-crowned Fruit-Dove *Ducula pacifica*, Pacific Imperial-Pigeon

Order CUCULIFORMES

Family CUCULIDAE

Subfamily CUCULINAE

Cuculus canorus, Common Cuckoo *Cuculus optatus*, Oriental Cuckoo *Cuculus fugax*, Hodgson's Hawk-Cuckoo *Coccyzus americanus*, Yellow-billed Cuckoo *Coccyzus minor*, Mangrove Cuckoo *Coccyzus erythrophthalmus*, Black-billed Cuckoo *Coccyzus vieilloti*, Puerto Rican Lizard-Cuckoo

Subfamily NEOMORPHINAE

Geococcyx californianus, Greater Roadrunner

Subfamily CROTOPHAGINAE

Crotophaga ani, Smooth-billed Ani *Crotophaga sulcirostris*, Groove-billed Ani

Order STRIGIFORMES

Family TYTONIDAE

Tyto alba, Barn Owl

Family STRIGIDAE

Otus flammeolus, Flammulated Owl *Otus sunia*, Oriental Scops-Owl *Megascops kennicottii*, Western Screech-Owl *Megascops asio*, Eastern Screech-Owl *Megascops trichopsis*, Whiskered Screech-Owl *Megascops nudipes*, Puerto Rican Screech-Owl *Bubo virginianus*, Great Horned Owl *Bubo scandiacus*, 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 *Ciccaba virgata*, Mottled Owl *Strix occidentalis*, Spotted Owl *Strix varia*, Barred Owl *Strix nebulosa*, Great Gray Owl *Asio otus*, Long-eared Owl *Asio stygius*, Stygian Owl *Asio flammeus*, Short-eared Owl *Aegolius funereus*, Boreal Owl *Aegolius acadicus*, Northern Saw-whet Owl

Order CAPRIMULGIFORMES

Family CAPRIMULGIDAE

Subfamily CHORDEILINAE

Chordeiles acutipennis, Lesser Nighthawk *Chordeiles minor*, Common Nighthawk *Chordeiles gundlachi*, Antillean Nighthawk

Subfamily CAPRIMULGINAE

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*, Gray Nightjar

Order APODIFORMES

Family APODIDAE

Subfamily CYPSELOIDINAE

Cypseloides niger, Black Swift *Streptoprocne zonaris*, White-collared Swift

Subfamily CHAETURINAE

Chaetura pelagica, Chimney Swift *Chaetura vauxi*, Vaux's Swift *Chaetura brachyura*, Short-tailed Swift *Hirundapus caudacutus*, White-throated Needletail *Aerodramus spodiopygius*, White-rumped Swiftlet *Aerodramus bartschi*, Mariana Swiftlet

Subfamily APODINAE

Apus apus, Common Swift *Apus pacificus*, Fork-tailed Swift *Apus melba*, Alpine Swift *Aeronautes saxatalis*, White-throated Swift *Tachornis phoenicobia*, Antillean Palm-Swift

Family TROCHILIDAE

Subfamily TROCHILINAE

Colibri thalassinus, Green Violet-ear *Anthracothorax prevostii*, Green-breasted Mango *Anthracothorax dominicus*, Antillean Mango *Anthracothorax viridis*, Green Mango *Eulampis jugularis*, Purple-throated Carib *Eulampis holosericeus*, Green-throated Carib *Orthorhyncus cristatus*, Antillean Crested Hummingbird *Chlorostilbon maugaeus*, Puerto Rican Emerald *Cyanthus latirostris*, Broad-billed Hummingbird *Hylocharis leucotis*, White-eared Hummingbird *Hylocharis xantusii*, Xantus's Hummingbird *Amazilia beryllina*, Berylline

Hummingbird *Amazilia yucatanensis*, Buff-bellied Hummingbird *Amazilia rutila*, Cinnamon 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 *Atthis heloisa*, Bumblebee Hummingbird *Selasphorus platycercus*, Broad-tailed Hummingbird *Selasphorus rufus*, Rufous Hummingbird *Selasphorus sasin*, Allen's Hummingbird

Order TROGONIFORMES

Family TROGONIDAE

Subfamily TROGONINAE

Trogon elegans, Elegant Trogon *Euptilotis neoxenus*, Eared Quetzal

Order UPUIFORMES

Family UPUIDAE

Upupa epops, Eurasian Hoopoe

Order CORACIIFORMES

Family ALCEDINIDAE

Subfamily HALCYONINAE

Todirhamphus cinnamominus, Micronesian Kingfisher *Todirhamphus chloris*, Collared Kingfisher

Subfamily CERYLINAE

Megaceryle torquata, Ringed Kingfisher *Megaceryle alcyon*, Belted Kingfisher *Chloroceryle americana*, Green Kingfisher

Order PICIFORMES

Family PICIDAE

Subfamily JYNGINAE

Jynx torquilla, Eurasian Wryneck

Subfamily PICINAE

Melanerpes lewis, Lewis's Woodpecker *Melanerpes portoricensis*, Puerto Rican Woodpecker *Melanerpes erythrocephalus*, Red-headed Woodpecker *Melanerpes formicivorus*, Acorn Woodpecker *Melanerpes uropygialis*, Gila Woodpecker *Melanerpes aurifrons*, Golden-fronted Woodpecker *Melanerpes carolinus*, Red-bellied Woodpecker *Sphyrapicus thyroideus*, Williamson's Sapsucker *Sphyrapicus varius*, Yellow-bellied Sapsucker *Sphyrapicus nuchalis*, Red-naped Sapsucker *Sphyrapicus ruber*, Red-breasted Sapsucker *Dendrocopos major*, Great Spotted Woodpecker *Picoides scalaris*, Ladder-backed Woodpecker *Picoides nuttallii*, Nuttall's Woodpecker *Picoides pubescens*, Downy Woodpecker *Picoides villosus*, Hairy Woodpecker *Picoides arizonae*, Arizona Woodpecker *Picoides borealis*, Red-cockaded

Woodpecker *Picoides albolarvatus*, White-headed Woodpecker *Picoides dorsalis*, American Three-toed Woodpecker *Picoides arcticus*, Black-backed Woodpecker *Colaptes auratus*, Northern Flicker *Colaptes chrysoides*, Gilded Flicker *Dryocopus pileatus*, Pileated Woodpecker *Campephilus principalis*, Ivory-billed Woodpecker

Order PASSERIFORMES

Family TYRANNIDAE

Subfamily ELAENIINAE

Camptostoma imberbe, Northern Beardless-Tyrannulet *Myiopagis viridicata*, Greenish Elaenia *Elaenia martinica*, Caribbean Elaenia

Subfamily FLUVICOLINAE

Mitrephanes phaeocercus, Tufted Flycatcher *Contopus cooperi*, Olive-sided Flycatcher *Contopus pertinax*, Greater Pewee *Contopus sordidulus*, Western Wood-Pewee *Contopus virens*, Eastern Wood-Pewee *Contopus caribaeus*, Cuban Pewee *Contopus hispaniolensis*, Hispaniolan 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 wrightii*, Gray Flycatcher *Empidonax oberholseri*, Dusky Flycatcher *Empidonax difficilis*, Pacific-slope Flycatcher *Empidonax occidentalis*, Cordilleran Flycatcher *Empidonax fulvifrons*, Buff-breasted Flycatcher *Sayornis nigricans*, Black Phoebe *Sayornis phoebe*, Eastern Phoebe *Sayornis saya*, Say's Phoebe *Pyrocephalus rubinus*, Vermilion Flycatcher

Subfamily TYRANNINAE

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 sagrae*, La Sagra's Flycatcher *Myiarchus antillarum*, Puerto Rican Flycatcher *Pitangus sulphuratus*, Great Kiskadee *Myiozetetes similis*, Social Flycatcher *Myiodynastes luteiventris*, Sulphur-bellied Flycatcher *Legatus leucophalus*, Piratic Flycatcher *Empidonomus varius*, Variegated 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 *Tityra semifasciata*, Masked Tityra

Family LANIIDAE

Lanius cristatus, Brown Shrike *Lanius ludovicianus*, Loggerhead Shrike *Lanius excubitor*, Northern Shrike

Family VIREONIDAE

Vireo griseus, White-eyed Vireo *Vireo crassirostris*, Thick-billed Vireo *Vireo latimeri*, Puerto Rican Vireo *Vireo bellii*, Bell's Vireo *Vireo atricapillus*, Black-capped Vireo *Vireo vicinior*, Gray Vireo *Vireo flavifrons*, Yellow-throated Vireo *Vireo plumbeus*, Plumbeous Vireo *Vireo cassinii*, Cassin's Vireo *Vireo solitarius*, Blue-headed Vireo *Vireo huttoni*, Hutton's Vireo *Vireo gilvus*, Warbling Vireo *Vireo philadelphicus*, Philadelphia Vireo *Vireo olivaceus*, Red-eyed Vireo *Vireo flavoviridis*, Yellow-green Vireo *Vireo altiloquus*, Black-whiskered Vireo *Vireo magister*, Yucatan Vireo

Family CORVIDAE

Perisoreus canadensis, Gray Jay *Cyanocitta stelleri*, Steller's Jay *Cyanocitta cristata*, Blue Jay *Cyanocorax yncas*, Green Jay *Cyanocorax morio*, Brown Jay *Aphelocoma coerulescens*, Florida Scrub-Jay *Aphelocoma insularis*, Island Scrub-Jay *Aphelocoma californica*, Western Scrub-Jay *Aphelocoma ultramarina*, Mexican Jay *Gymnorhinus cyanocephalus*, Pinyon Jay *Nucifraga columbiana*, Clark's Nutcracker *Pica hudsonia*, Black-billed Magpie *Pica nuttalli*, Yellow-billed Magpie *Corvus kubaryi*, Mariana Crow *Corvus brachyrhynchos*, American Crow *Corvus caurinus*, Northwestern Crow *Corvus leucognaphalus*, White-necked Crow *Corvus imparatus*, Tamaulipas Crow *Corvus ossifragus*, Fish Crow *Corvus hawaiiensis*, Hawaiian Crow *Corvus cryptoleucus*, Chihuahuan Raven *Corvus corax*, Common Raven

Family ALAUDIDAE

Alauda arvensis, Sky Lark *Eremophila alpestris*, Horned Lark

Family HIRUNDINIDAE

Subfamily HIRUNDININAE

Progne subis, Purple Martin *Progne cryptoleuca*, Cuban Martin *Progne dominicensis*, Caribbean Martin *Progne chalybea*, Gray-breasted Martin *Progne elegans*, Southern Martin *Progne tapera*, Brown-chested Martin *Tachycineta bicolor*, Tree Swallow *Tachycineta albilinea*, Mangrove Swallow *Tachycineta thalassina*, Violet-green Swallow *Tachycineta cyaneoviridis*, Bahama Swallow *Stelgidopteryx serripennis*, Northern Rough-winged Swallow *Riparia riparia*, Bank Swallow *Petrochelidon pyrrhonota*, Cliff Swallow *Petrochelidon fulva*, Cave Swallow *Hirundo rustica*, Barn Swallow *Delichon urbicum*, Common House-Martin

Family PARIDAE

Poecile carolinensis, Carolina Chickadee *Poecile atricapillus*, Black-capped Chickadee *Poecile gambeli*, Mountain Chickadee *Poecile sclateri*, Mexican Chickadee *Poecile rufescens*, Chestnut-backed Chickadee *Poecile hudsonica*, Boreal Chickadee *Poecile cincta*, Gray-headed Chickadee *Baeolophus wollweberi*, Bridled Titmouse *Baeolophus inornatus*, Oak Titmouse *Baeolophus ridgwayi*, Juniper Titmouse *Baeolophus bicolor*, Tufted Titmouse *Baeolophus atricristatus*, Black-crested Titmouse

Family REMIZIDAE

Auriparus flaviceps, Verdin

Family AEGITHALIDAE

Psaltriparus minimus, Bushtit

Family SITTIDAE

Subfamily SITTINAE

Sitta canadensis, Red-breasted Nuthatch *Sitta carolinensis*, White-breasted Nuthatch *Sitta pygmaea*, Pygmy Nuthatch *Sitta pusilla*, Brown-headed Nuthatch

Family CERTHIIDAE

Subfamily CERTHIINAE

Certhia americana, Brown Creeper

Family TROGLODYTIDAE

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

Family CINCLIDAE

Cinclus mexicanus, American Dipper

Family REGULIDAE

Regulus satrapa, Golden-crowned Kinglet *Regulus calendula*, Ruby-crowned Kinglet

Family SYLVIIDAE

Subfamily SYLVIINAE

Locustella ochotensis, Middendorff's Grasshopper-Warbler *Locustella lanceolata*, Lanceolated Warbler *Acrocephalus luscini*, Nightingale Reed-Warbler *Acrocephalus familiaris*, Millerbird *Phylloscopus trochilus*, Willow Warbler *Phylloscopus sibilatrix*, Wood Warbler *Phylloscopus fuscatus*, Dusky Warbler *Phylloscopus inornatus*, Yellow-browed Warbler *Phylloscopus borealis*, Arctic Warbler *Sylvia curruca*, Lesser Whitethroat

Subfamily POLIOPTILINAE

Polioptila caerulea, Blue-gray Gnatcatcher *Polioptila californica*, California Gnatcatcher *Polioptila melanura*, Black-tailed Gnatcatcher *Polioptila nigriceps*, Black-capped Gnatcatcher

Family MUSCICAPIDAE

Ficedula narcissina, Narcissus Flycatcher *Muscicapa griseisticta*, Gray-streaked Flycatcher

Family TURDIDAE

Luscinia calliope, Siberian Rubythroat *Luscinia svecica*, Bluethroat *Luscinia cyane*, Siberian Blue Robin *Monticola solitarius*, Blue Rock Thrush *Tarsiger cyanurus*, Red-flanked Bluetail *Oenanthe oenanthe*, Northern Wheatear *Saxicola torquatus*, Stonechat *Sialia sialis*, Eastern Bluebird *Sialia mexicana*, Western Bluebird *Sialia currucoides*, Mountain Bluebird *Myadestes townsendi*, Townsend's Solitaire *Myadestes myadestinus*, Kamao *Myadestes lanaiensis*, Olomao *Myadestes obscurus*, Omao *Myadestes palmeri*, Puaiohi *Catharus aurantiirostris*, Orange-billed Nightingale-Thrush *Catharus mexicanus*, Black-headed Nightingale-Thrush *Catharus fuscescens*, Veery *Catharus minimus*, Gray-cheeked Thrush *Catharus bicknelli*, Bicknell's Thrush *Catharus ustulatus*, Swainson's Thrush *Catharus guttatus*, Hermit Thrush *Hylocichla mustelina*, Wood Thrush *Turdus obscurus*, Eyebrowed Thrush *Turdus naumanni*, Dusky Thrush *Turdus pilaris*, Fieldfare *Turdus grayi*, Clay-colored Robin *Turdus assimilis*, White-throated Robin *Turdus rufopalliatus*, Rufous-backed Robin *Turdus migratorius*, American Robin *Turdus plumbeus*, Red-legged Thrush *Ixoreus naevius*, Varied Thrush *Ridgwayia pinicola*, Aztec Thrush

Family MIMIDAE

Dumetella carolinensis, Gray Catbird *Melanoptila glabrirostris*, Black Catbird *Mimus polyglottos*, Northern Mockingbird *Mimus gundlachi*, Bahama 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 *Melanotis caerulescens*, Blue Mockingbird *Margarops fuscatus*, Pearly-eyed Thrasher

Family STURNIDAE

Sturnus philippensis, Chestnut-cheeked Starling *Sturnus cineraceus*, White-cheeked Starling

Family PRUNELLIDAE

Prunella montanella, Siberian Accentor

Family MOTACILLIDAE

Motacilla tschutschensis, Eastern Yellow Wagtail *Motacilla citreola*, Citrine Wagtail *Motacilla cinerea*, Gray Wagtail *Motacilla alba*, White Wagtail *Anthus trivialis*, Tree Pipit *Anthus hodgsoni*, Olive-backed Pipit *Anthus gustavi*, Pechora Pipit *Anthus cervinus*, Red-throated Pipit *Anthus rubescens*, American Pipit *Anthus spragueii*, Sprague's Pipit

Family BOMBYCILLIDAE

Bombycilla garrulus, Bohemian Waxwing *Bombycilla cedrorum*, Cedar Waxwing

Family PTILOGONATIDAE

Ptilogonys cinereus, Gray Silky-flycatcher *Phainopepla nitens*, Phainopepla

Family PEUCEDRAMIDAE

Peucedramus taeniatus, Olive Warbler

Family PARULIDAE

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 superciliosa*, Crescent-chested 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 chrysoparia*, Golden-cheeked Warbler *Dendroica virens*, Black-throated Green Warbler *Dendroica townsendi*, Townsend's Warbler *Dendroica occidentalis*, Hermit 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 vermivorum*, Worm-eating Warbler *Limnothlypis swainsonii*, Swainson's Warbler *Seiurus aurocapilla*, 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*, Slate-throated Redstart *Euthlypis lachrymosa*, Fan-tailed Warbler *Basileuterus culicivorus*, Golden-crowned Warbler *Basileuterus rufifrons*, Rufous-capped Warbler *Icteria virens*, Yellow-breasted Chat

Family THRAUPIDAE

Nesospingus speculariferus, Puerto Rican Tanager *Piranga flava*, Hepatic Tanager *Piranga rubra*, Summer Tanager *Piranga olivacea*, Scarlet Tanager *Piranga ludoviciana*, Western Tanager *Piranga bidentata*, Flame-colored Tanager *Spindalis zena*, Western Spindalis *Spindalis portoricensis*, Puerto Rican Spindalis *Euphonia musica*, Antillean Euphonia

Family EMBERIZIDAE

Sporophila torqueola, White-collared Seedeater *Tiaris olivacea*, Yellow-faced Grassquit *Tiaris bicolor*, Black-faced Grassquit *Loxigilla portoricensis*, Puerto Rican Bullfinch *Arremonops rufivirgatus*, Olive Sparrow *Pipilo chlorurus*, Green-tailed Towhee *Pipilo maculatus*, Spotted Towhee *Pipilo erythrophthalmus*, Eastern Towhee *Pipilo fuscus*, Canyon Towhee *Pipilo crissalis*, California Towhee *Pipilo aberti*, Abert's Towhee *Aimophila carpalis*, Rufous-winged Sparrow *Aimophila cassinii*, Cassin's Sparrow *Aimophila aestivalis*, Bachman's Sparrow *Aimophila botterii*, Botteri's Sparrow *Aimophila ruficeps*, Rufous-crowned Sparrow *Aimophila quinquestriata*, Five-striped 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 *Calamospiza melanocorys*, Lark Bunting *Passerculus sandwichensis*, Savannah Sparrow *Ammodramus savannarum*, Grasshopper Sparrow *Ammodramus bairdii*, Baird's Sparrow *Ammodramus henslowii*, Henslow's Sparrow *Ammodramus leconteii*, Le Conte's Sparrow *Ammodramus nelsoni*, Nelson's Sharp-tailed Sparrow *Ammodramus caudacutus*, Saltmarsh Sharp-tailed Sparrow *Ammodramus maritimus*, Seaside Sparrow *Passerella iliaca*, Fox Sparrow *Melospiza melodia*, Song Sparrow *Melospiza lincolni*, Lincoln's Sparrow *Melospiza georgiana*, Swamp Sparrow *Zonotrichia albicollis*, White-throated Sparrow *Zonotrichia querula*, Harris's Sparrow *Zonotrichia leucophrys*, White-crowned Sparrow *Zonotrichia atricapilla*, Golden-crowned Sparrow *Junco hyemalis*, Dark-eyed Junco *Junco phaeonotus*, Yellow-eyed Junco *Calcarius mccownii*, McCown's Longspur *Calcarius lapponicus*, Lapland Longspur *Calcarius pictus*, Smith's Longspur *Calcarius ornatus*, Chestnut-collared Longspur *Emberiza leucocephalos*, Pine Bunting *Emberiza pusilla*, Little Bunting *Emberiza rustica*, Rustic Bunting *Emberiza elegans*, Yellow-throated Bunting *Emberiza aureola*, Yellow-breasted Bunting *Emberiza variabilis*, Gray Bunting *Emberiza pallasi*, Pallas's Bunting *Emberiza schoeniclus*, Reed Bunting *Plectrophenax nivalis*, Snow Bunting *Plectrophenax hyperboreus*, McKay's Bunting

Family CARDINALIDAE

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 *Cyanocompsa parellina*, Blue Bunting *Passerina caerulea*, Blue Grosbeak *Passerina amoena*, Lazuli Bunting *Passerina cyanea*, Indigo Bunting *Passerina versicolor*, Varied Bunting *Passerina ciris*, Painted Bunting *Spiza americana*, Dickcissel

Family ICTERIDAE

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 quiscula*, Common Grackle *Quiscalus major*, Boat-tailed Grackle *Quiscalus mexicanus*, Great-tailed Grackle *Quiscalus niger*, Greater Antillean Grackle *Molothrus bonariensis*, Shiny Cowbird *Molothrus aeneus*, Bronzed Cowbird *Molothrus ater*, Brown-headed Cowbird *Icterus wagleri*, Black-vented Oriole *Icterus dominicensis*, Greater Antillean Oriole *Icterus spurius*, Orchard Oriole *Icterus cucullatus*, Hooded Oriole *Icterus pustulatus*, Streak-backed Oriole *Icterus bullockii*, Bullock's Oriole *Icterus gularis*, Altamira Oriole *Icterus graduacauda*, Audubon's

Oriole *Icterus galbula*, Baltimore Oriole *Icterus parisorum*, Scott's Oriole

Family FRINGILLIDAE

Subfamily FRINGILLINAE

Fringilla coelebs, Common Chaffinch *Fringilla montifringilla*, Brambling

Subfamily CARDUELINAE

Leucosticte tephrocotis, Gray-crowned Rosy-Finch *Leucosticte atrata*, Black Rosy-Finch
Leucosticte australis, Brown-capped 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 spinus*, Eurasian Siskin *Carduelis pinus*, Pine
Siskin *Carduelis psaltria*, Lesser Goldfinch *Carduelis lawrencei*, Lawrence's Goldfinch
Carduelis tristis, American Goldfinch *Carduelis sinica*, Oriental Greenfinch *Pyrrhula pyrrhula*,
Eurasian Bullfinch *Coccothraustes vespertinus*, Evening Grosbeak *Coccothraustes
coccothraustes*, Hawfinch

Subfamily DREPANIDINAE

Telespiza cantans, Laysan Finch *Telespiza ultima*, Nihoa Finch *Psittirostra psittacea*, Ou
Loxioides bailleui, Palila *Pseudonestor xanthophrys*, Maui Parrotbill *Hemignathus virens*,
Hawaii Amakihi *Hemignathus flavus*, Oahu Amakihi *Hemignathus kauaiensis*, Kauai Amakihi
Hemignathus ellisianus, Greater Akiakoa *Hemignathus lucidus*, Nukupuu *Hemignathus
munroi*, Akiapolaau *Magumma parva*, Anianiau *Oreomystis bairdi*, Akikiki *Oreomystis mana*,
Hawaii Creeper *Paroreomyza maculata*, Oahu Alauahio *Paroreomyza flammea*, Kakawahie
Paroreomyza montana, Maui Alauahio *Loxops caeruleirostris*, Akekee *Loxops coccineus*,
Akepa *Vestiaria coccinea*, Iiwi *Palmeria dolei*, Akohekohe *Himatione sanguinea*, Apapane
Melamprosops phaeosoma, Poo-uli

[75 FR 9299, Mar. 1, 2010]

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–i, 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.



(a) A person must obtain a valid permit before commencing an activity for which a permit is required by this subchapter, except as provided in §23.53 of this subchapter for retrospective permits for certain CITES shipments under very specific situations.

(b) A person must apply for such a permit under the general permit procedures of this part and any other regulations in this subchapter that apply to the proposed activity.

(1) The requirements of all applicable parts of this subchapter must be met.

(2) A person may submit one application that includes the information required in each part of this subchapter, and a single permit will be issued if appropriate.

[72 FR 48445, Aug. 23, 2007]

§ 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, American Samoa, Guam, Commonwealth of the Northern Mariana Islands, and other Pacific possessions): 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 (AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, PR, VI, and Caribbean possessions): 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 paragraph (d), you must pay the required permit processing fee at the time that you apply for issuance or amendment of a permit. You must pay in U.S. dollars. If you submit a check or money order, it must be 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 Take permits—Depredation and Protection of Health and Safety	50 CFR 22	100	
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)
Eagle Take—Associated With but Not the Purpose of an Activity	50 CFR 22	500	150
Eagle Take—Associated With but Not the Purpose of an Activity—Programmatic	50 CFR 22	1000	500
Eagle Nest Take	50 CFR 22	500	150
Eagle Nest Take—Programmatic	50 CFR 22	1000	500
Eagle Take—Exempted under ESA	50 CFR 22		
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, 23	100	50
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	² 5	
CITES Annual Program File	50 CFR 23	50	
—Single-use permits issued under Annual Program	50 CFR 23	² 5	
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	
CITES Introduction from the Sea	50 CFR 23	100	50
CITES Participation in the Plant Rescue Center Program	50 CFR 23	(¹)	(¹)
CITES Registration of Commercial Breeding Operations for Appendix-I wildlife	50 CFR 23	100	
CITES Request for Approval of an Export Program for a State or Tribe (American Ginseng, Certain Furbearers, and American Alligator)	50 CFR 23	(¹)	(¹)

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 Programs	50 CFR 15	200	100
—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, as amended at 72 FR 48445, Aug. 23, 2007; 73 FR 29083, May 20, 2008; 73 FR 42281, July 21, 2008; 74 FR 46875, Sept. 11, 2009]

§ 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 and address (street address, city, county, state, and zip code; and mailing address if different from street address); home and work telephone numbers; and, if available, a fax number and e-mail address, and:

(i) If the applicant resides or is located outside the United States, an address in the United States, and, if conducting commercial activities, the name and address of his or her agent that is located in the United States; and

(ii) If the applicant is an individual, the date of birth, social security number, if available, occupation, and any business, agency, organizational, or institutional affiliation associated with the wildlife or plants to be covered by the license or permit; or

(iii) If the applicant is a business, corporation, public agency, or institution, the tax identification number; description of the type of business, corporation, agency, or institution; and the name and title of the person responsible for the permit (such as president, principal officer, or director);

(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 and protection of health and safety	22.23

Falconry purposes	22.24
Take of golden eagle nests	22.25
Eagle take—Associated with but not the purpose of an activity	22.26
Eagle nest take	22.27
Eagle take—Exempted under ESA	22.28
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; 72 FR 48446, Aug. 23, 2007; 73 FR 29083, May 20, 2008; 74 FR 46876, Sept. 11, 2009]

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 may continue the activities authorized by the expired permit until the Service acts on the application for renewal if all of the following conditions are met:

(1) The permit is currently in force and not suspended or revoked;

(2) The person has complied with this section; and

(3) The permit is not a CITES document that was issued under part 23 of this subchapter (because the CITES document is void upon expiration).

(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, as amended at 72 FR 48446, Aug. 23, 2007]

§ 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.



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.



(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. Permittees who reside or are located in the United States and permittees conducting commercial activities in the United States who reside or are located outside the United States must maintain records at a location in the United States where the records are available for inspection.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977; 54 FR 38150, Sept. 14, 1989; 72 FR 48446, Aug. 23, 2007]

§ 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.

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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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[§ 21.60 Conservation order for light geese.](#)

[§ 21.61 Population control of resident Canada geese.](#)

Authority: Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Public Law 95616, 92 Stat. 3112 (16 U.S.C. 712(2)); Public Law 106108, 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 (falconry); 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; 73

FR 59465, Oct. 8, 2008]

§ 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 is caring for and training raptors for pursuit of wild game, and hunting wild game with raptors. Falconry includes the taking of raptors from the wild to use in the sport; and caring for, training, and transporting raptors held for falconry.

Hacking is the temporary release of a raptor held for falconry to the wild so that it must survive on its own.

Hybrid means offspring of birds listed as two or more distinct species in §10.13 of subchapter B of this chapter, or offspring of birds recognized by ornithological authorities as two or more distinct species listed in §10.13 of subchapter B of this chapter.

Imprint, for the purposes of falconry, means a bird that is hand-raised, from 2 weeks of age until it has fledged, and has identified itself with humans rather than its own species. An imprinted bird is considered to be so for its entire lifetime.

Livestock depredation area means a specific geographic location in which depredation by golden eagles has been recognized. The boundaries and duration of a livestock depredation area are declared by U.S.D.A. Wildlife Services or by a State governor.

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 migratory bird of the Order Falconiformes or the Order Strigiformes listed in §10.13 of this chapter, including the bald eagle (*Haliaeetus leucocephalus*) and the golden eagle (*Aquila chrysaetos*).

Resident Canada geese means Canada geese that nest within the lower 48 States and the District of Columbia 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; 72 FR 46408, Aug. 20, 2007; 73 FR 59465, Oct. 8, 2008; 75 FR 931, Jan. 7, 2010]

§ 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 persons or entities under the following conditions are exempt from the permit requirements:

(a) *Employees of the Department of the Interior (DOI)*: DOI employees 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) *Employees of certain public and private institutions*:

(b)(1) 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.

(b)(2) 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.

(c) *Licensed veterinarians*: 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.

(d) *General public*: Any person may remove a migratory bird from the interior of a building or structure under certain conditions.

(1) You may humanely remove a trapped migratory bird from the interior of a residence or a commercial or government building without a Federal permit if the migratory bird:

(i) Poses a health threat (for example, through damage to foodstuffs);

(ii) Is attacking humans, or poses a threat to human safety because of its activities (such as opening and closing automatic doors);

(iii) Poses a threat to commercial interests, such as through damage to products for sale; or

(iv) May injure itself because it is trapped.

(2) You must use a humane method to capture the bird or birds. You may not use adhesive traps to which birds may adhere (such as glue traps) or any other method of capture likely to harm the bird.

(3) Unless you have a permit that allows you to conduct abatement activities with a raptor, you may not release a raptor into a building to either frighten or capture another bird.

(4) You must immediately release a captured bird to the wild in habitat suitable for the species, unless it is exhausted, ill, injured, or orphaned.

(5) If a bird is exhausted or ill, or is injured or orphaned during the removal, the property owner is responsible for immediately transferring it to a federally permitted migratory bird rehabilitator.

(6) You may not lethally take a migratory bird for these purposes. If your actions to remove the trapped migratory bird are likely to result in its lethal take, you must possess a Federal Migratory Bird Permit. However, if a bird you are trying to remove dies, you must dispose of the carcass immediately unless you have reason to believe that a museum or scientific institution might be able to use it. In that case, you should contact your nearest Fish and Wildlife Service office or your State wildlife agency about donating the carcass.

(7) For birds of species on the Federal List of Threatened or Endangered Wildlife, provided at 50 CFR 17.11(h), you may need a Federal threatened or endangered species permit before removing the birds (see 50 CFR 17.21 and 50 CFR 17.31).

(8) You must have a permit from your Regional migratory bird permits office to remove a bald eagle or a golden eagle from a building (see 50 CFR Part 22).

(9) Your action must comply with State and local regulations and ordinances. You may need a State, Tribal, or Territorial permit before you can legally remove the bird or birds.

(10) If an active nest with eggs or nestlings is present, you must seek the assistance of a federally permitted migratory bird rehabilitator in removing the eggs or nestlings. The rehabilitator is then responsible for handling them properly.

(11) If you need advice on dealing with a trapped bird, you should contact your closest Fish and Wildlife Service office or your State wildlife agency.

[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; 72 FR 56928, Oct. 5, 2007]

§ 21.13 Permit exceptions for captive-reared mallard ducks.



[top](#)

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-bred migratory waterfowl other than mallard ducks.



You may acquire captive-bred and properly marked migratory waterfowl of all species other than mallard ducks (*Anas platyrhynchos*), alive or dead, or their eggs, and possess and transport such birds or eggs and any progeny or eggs for your use without a permit, subject to the following conditions and restrictions. Additional restrictions on the acquisition and transfer of muscovy ducks (*Cairina moschata*) are in paragraph (g) of this section.

(a) You may acquire live waterfowl or their eggs only from a holder of a valid waterfowl sale and disposal permit in the United States. You also may lawfully acquire them outside of the United States with appropriate permits (see §21.21 of subpart C of this part).

(b) All progeny of captive-bred birds or eggs from captive-bred birds must be physically marked as set forth in §21.13(b).

(c) You may not transfer or dispose of captive-bred birds or their eggs, whether alive or dead, to any other person unless you have a waterfowl sale and disposal permit (see §21.25 of subpart C of this part).

(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, you must leave the marked foot or wing attached to each carcass, unless the carcass was marked as provided in §21.25(b)(6) and the foot or wing was removed prior to your acquisition of the carcass.

(f) If you acquire captive-bred waterfowl or their eggs from a waterfowl sale and disposal permittee, you must retain the FWS Form 3–186, Notice of Waterfowl Sale or Transfer, from the permittee for as long as you have the birds, eggs, or progeny of them.

(g) You may not acquire or possess live muscovy ducks, their carcasses or parts, or their eggs, except to raise them to be sold as food, and except that you may possess any live muscovy duck that you lawfully acquired prior to March 31, 2010. If you possess muscovy ducks on that date, you may not propagate them or sell or transfer them to anyone for any purpose, except to be used as food. You may not release them to the wild, sell them to be hunted or released to the wild, or transfer them to anyone to be hunted or released to the wild.

(h) Dealers in meat and game, hotels, restaurants, and boarding houses may serve or sell to their customers the carcass of any bird acquired from a holder of a valid waterfowl sale and disposal permit.

[75 FR 9320, Mar. 1, 2010]

§ 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*. Except as provided in paragraphs (b), (c), and (d) of this section, you must have

a permit to import or export migratory birds, their parts, nests, or eggs. You must meet the applicable permit requirements of the following parts of this subchapter B, even if the activity is exempt from a migratory bird import or export permit:

- (1) 13 (General Permit Procedures);
- (2) 14 (Importation, Exportation, and Transportation of Wildlife);
- (3) 15 (Wild Bird Conservation Act);
- (4) 17 (Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, and Importation of Wildlife and Plants);
- (5) 20 (Migratory Bird Hunting);
- (6) 21 (Migratory Bird Permits);
- (7) 22 (Eagle Permits); and
- (8) 23 (Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)).

(b) *Exception to the import permit requirements* . If you comply with the requirements of parts 14, 20, and 23 of this subchapter B, you do not need a migratory bird permit to import or possess migratory birds in the families Anatidae, Columbidae, Gruidae, Rallidae, and Scolopacidae for personal use that were lawfully hunted by you in a foreign country. The birds may be carcasses, skins, or mounts. You must provide evidence that you lawfully took the bird or birds in, and exported them from, the country of origin. This evidence must include a hunting license and any export documentation required by the country of origin. You must keep these documents with the imported bird or birds permanently.

(c) *General exceptions to the export permit requirements* . You do not need a migratory bird export permit to:

(1) Export live, captive-bred migratory game birds (see §20.11 of this subpart) to Canada or Mexico if they are marked by one of the following methods:

- (i) Removal of the hind toe from the right foot;
- (ii) Pinioning of a wing by removal of all or some of the metacarpal bones of one wing, which renders the bird permanently incapable of flight;
- (iii) Banding of one metatarsus with a seamless metal band; or
- (iv) A readily discernible tattoo of numbers and/or letters on the web of one foot.

(2) Export live, lawfully-acquired, captive-bred raptors provided you hold a valid raptor propagation permit issued under §21.30 and you obtain a CITES permit or certificate issued under part 23 to do so. You must have full documentation of the lawful origin of each raptor, and each must be identifiable with a seamless band issued by the Service, including any raptor with an implanted microchip for identification.

(d) *Falconry birds covered under a CITES "pet passport."* You do not need a migratory bird import or export permit to temporarily export and subsequently import a raptor or raptors you lawfully possess for falconry to and from another country for use in falconry when the following conditions are met:

(1) You must meet applicable requirements in part 14 (Importation, Exportation, and Transportation of Wildlife) of this subchapter B.

(2) You may need one or more additional permits to take a bird from the United States or to return home with it (see 50 CFR part 15 (Wild Bird Conservation Act), part 17 (Endangered and Threatened Wildlife and Plants), and part 23 (Convention on International Trade in Endangered Species of Wild Fauna and Flora)).

(3) Each raptor must be covered by a CITES certificate of ownership issued under part 23 of this chapter. You must have full documentation of the lawful origin of each raptor (a copy of a propagation report with band number or a 3–186A report), and each must be identifiable with a seamless band or a permanent, nonreusable, numbered Fish and Wildlife Service leg band issued by the Service, including any raptor with an implanted microchip for identification. We may exempt a raptor from banding because of health concerns, but you must provide proof of the exemption from your falconry permitting authority.

(4) You must bring any raptor that you export out of the country for falconry under a CITES “pet passport” back to the United States when you return.

(5) If the raptor dies or is lost, you are not required to bring it back, but you must report the loss immediately upon your return to the United States in the manner required by the falconry regulations of your State, and according to any conditions on your CITES certificate.

(e) *Inspection of imported or exported migratory birds* . All migratory birds imported into, or exported from, the United States, and any associated documentation, may be inspected by the Service. You must comply with the import and export regulations in Part 14 of this chapter.

(f) *Applying for a migratory bird import or export permit* . You must apply to the appropriate Regional Director—Attention Migratory Bird Permit Office. You can find the address for your Regional Director in §2.2 of subchapter A of this chapter. Your application package must include a completed application (form 3–200–6, or 3–200–7 if the import or export is associated with an application for a scientific collecting permit), and 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, as listed in §13.11 of this chapter.

(g) *Criteria we will consider before issuing a permit* . After we receive a completed import or export application, 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:

(1) You are at least 18 years of age;

(2) The bird was lawfully acquired; and

(3) The purpose of the import or export is consistent with the conservation of the species; and

(4) For an import permit, whether you are authorized to lawfully possess the migratory bird after it is imported.

(h) *Are there standard conditions for the permit?* Yes, standard conditions for your permit are set forth in part 13 of this subchapter B. You must also comply with the regulations in part 14 (Importation, Exportation, and Transportation of Wildlife). We may place additional requirements or restrictions on your permit as appropriate.

(i) *Term of a migratory bird import and export permit* . Your migratory bird import or export permit will be valid for not more than 5 years. It will expire on the date designated on its face unless it is amended or revoked.

[73 FR 47097, Aug. 13, 2008, as amended at 73 FR 55451, Sept. 25, 2008]

§ 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.



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(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.



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(a) *Permit requirement.* You must have a waterfowl sale and disposal permit before you may lawfully sell, trade, donate, or otherwise dispose of, most species of captive-reared and properly marked migratory waterfowl or their eggs. You do not need a permit to sell or dispose of properly marked captive-reared mallard ducks (*Anas platyrhynchos*) or their eggs.

(b) *Permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, waterfowl sale and disposal permits are subject to the following conditions:

(1) You may not take migratory waterfowl or their eggs from the wild, unless take is provided for elsewhere in this subchapter.

(2) You may not acquire migratory waterfowl or their eggs from any person who does not have a valid waterfowl propagation permit.

(3) Before they are 6 weeks of age, all live captive migratory waterfowl possessed under authority of a valid waterfowl sale and disposal permit must be physically marked as defined in §21.13(b).

(4) All offspring of birds hatched, reared, and retained in captivity also must be marked before they are 6 weeks of age in accordance with §21.13(b), unless they are held in captivity at a public zoological park, or a public scientific or educational institution.

(5) Properly marked captive-bred birds may be killed, in any number, at any time or place, by any means except shooting. They may be killed by shooting only in accordance with all the applicable hunting regulations governing the taking of like species from the wild.

(6) 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. However, if you have a State license, permit, or authorization that allows you to sell game, you may remove the marked foot or wing from the raw carcasses if the number of your State license, permit, or authorization has been legibly stamped in ink on the back of each carcass and on the wrapping or container in which each carcass is maintained, or if each carcass is identified by a State band on a leg or wing pursuant to requirements of your State license, permit, or authorization.

(7) You may dispose of properly marked live or dead birds or their eggs (except muscovy ducks and their eggs) in any number at any time or place, or transfer them to any person, if the birds are physically marked prior to sale or disposal, regardless of whether or not they have attained 6 weeks of age.

(8) You may propagate muscovy ducks (*Cairina moschata*) only for sale for food.

(i) You may not release muscovy ducks to the wild or transfer them for release to the wild.

(ii) You may not sell or transfer muscovy ducks to be killed by shooting.

(9) If you transfer captive-bred birds or their eggs to another person, you must complete FWS Form 3-186, Notice of Waterfowl Sale or Transfer, and provide all information required on the form, plus the method or methods by which individual birds are marked as required by §21.13(b).

(i) Give the original of the completed form to the person acquiring the birds or eggs.

(ii) Retain one copy in your files.

(iii) Attach one copy to the shipping container for the birds or eggs, or include it with shipping documents that accompany the shipment.

(iv) By the end of the month in which you complete the transfer, mail two copies to the Fish and Wildlife Service Regional Office that issued your permit.

(c) *Reporting requirements.* You must submit an annual report by January 10th of each year to the Fish and Wildlife Service Regional Office that issued your permit. You must report the number of waterfowl of each species you possess on that date, and the method or methods by which each is marked.

(d) *Applying for a waterfowl propagation permit.* Submit your application for a waterfowl sale and disposal permit to the appropriate Regional Director (Attention: Migratory Bird Permit Office). You can find addresses for the Regional Directors in 50 CFR 2.2. Your application must contain the general information and certification required in §13.12(a) of subchapter A of this chapter, and the following additional information:

(1) A description of the area where you will keep waterfowl in your possession;

(2) The species and numbers of waterfowl you possess and a statement showing from whom the birds were obtained;

(3) A statement indicating the method by which birds you hold will be marked as required by the provisions of this part 21; and

(4) The number and expiration of your State permit if you are required to have one.

(e) *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.

[75 FR 9320, Mar. 1, 2010]

§ 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.



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 [Reserved]



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§ 21.29 Falconry standards and falconry permitting.



(a) *Background* —(1) *The legal basis for regulating falconry.* The Migratory Bird Treaty Act prohibits any person from taking, possessing, purchasing, bartering, selling, or offering to purchase, barter, or sell, among other things, raptors (birds of prey) listed in §10.13 of this subchapter unless the activities are allowed by Federal permit issued under this part and part 13 of this chapter, or as permitted by regulations in this part.

(i) This section covers all Falconiformes (vultures, kites, eagles, hawks, caracaras, and falcons) and all Strigiformes (owls) listed in §10.13 of this subchapter (“native” raptors), and applies to any person who possesses one or more wild-caught, captive-bred, or hybrid raptors protected under the MBTA to use in falconry.

(ii) The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) provides for the taking of golden eagles from the wild to use in falconry. It specifies that the only golden eagles that may be used for falconry are those that would be taken because of depredations on livestock or wildlife (16 U.S.C. 668a).

(2) “ *Possession*” and *short-term handling of a falconry raptor.* We do not consider short-term handling, such as letting any other person hold or practice flying a raptor you possess under your permit, to be possession for the purposes of this section if you are present and the person is under your supervision.

(3) *Regulatory year for governing falconry.* For determining possession and take of raptors for falconry, a year is any 12-month period for take defined by the State, tribe, or territory.

(b) *Federal approval of State, tribal, and territorial falconry programs* —(1) *General* . (i) A State (including the District of Columbia), tribe, or territory under the jurisdiction of the United States that wishes to allow falconry must establish laws and regulations (hereafter referred to as laws) that meet the standards established in this section. To allow the practice of falconry on tribal lands by tribal members or residents, a tribe may either certify that it has adopted Service-approved State laws if those laws are fully enforceable on tribal lands, or issue its own laws and request our approval.

(ii) The U.S. Fish and Wildlife Service (Service) Director must determine that a State, tribal, or territorial falconry permitting program meets the requirements and standards of this section. The Director must certify no later than January 1, 2014, that a State, tribe, and territory willing to allow falconry meets the federal standards. At that time, all Federal falconry permits and the Federal permitting program will end. Falconry will not be permitted in a State or territory or by a tribe after this date until that State, tribe, or territory develops a permitting program the Director certifies to be in compliance with these regulations. Also see paragraph (b)(12) of this section.

(iii) State, tribal, or territorial laws may be more restrictive than these Federal standards but may not be less restrictive. For instance, a State, tribe, or territory may choose not to allow possession of some species of raptors otherwise allowed in this section. State, tribal, and territorial laws must be consistent with the terms contained in any convention between the United States and any foreign country for the protection of raptors and the Migratory Bird Treaty Act.

(2) *State, tribal, or territorial submission for approval.* A State, tribe, or territory that wishes to allow falconry must submit to the Director:

(i) The data required by paragraph (b)(1) of this section;

(ii) A copy of the State's, tribe's, or territory's Apprentice Falconer examination, which must at a minimum cover laws and regulations, raptor biology and raptor identification, trapping methods, facilities requirements, care of raptors held for falconry, and diseases and health problems of raptors, and training methods; and

(iii) Copies of the laws and regulations governing falconry of the State, tribe, or territory, and certification that the laws and regulations meet the requirements of this section.

(3) *Electronic reporting.* The State, tribe, or territory must work with us to ensure that the electronic 3-186A reporting system (<http://permits.fws.gov/186A>) for reporting take, transfers, and loss of falconry

birds is fully operational for residents of that jurisdiction.

(4) *Federal approval and terms* . If we concur that the regulations and the examination meet the requirements of this section, we will publish a rule in the Federal Register adding the State, tribe, or territory to the list of those approved for allowing the practice of falconry. We will terminate Federal falconry permitting in any State certified under these regulations on January 1st of the calendar year following publication of the rule.

(i) An approved State, tribe, or territory must notify the Service Director of any substantive revisions of their laws governing falconry and certify that they meet the requirements of this section.

(ii) We must approve the falconry examination any time it is revised.

(5) *Review of a State, tribal, or territorial falconry program* . We may review the administration of an approved State's, tribe's, or territory's falconry program if complaints from the public or law enforcement investigations that indicate the need for a review, or revisions to the State's, tribe's, or territory's laws or falconry examination. The review may involve, but is not limited to:

(i) Inspecting falconers' facilities to ensure that facilities standards in this section are met;

(ii) Processing time of applications;

(iii) Reviewing approved applications for completeness;

(iv) Determining that permits issued are appropriate for the experience of the applicants;

(v) Determining the adequacy of the State's, tribe's, or territory's recordkeeping for the needs of State, tribal, or territorial and Federal law enforcement;

(vi) Reviewing laws to determine if they meet the requirements of this section; and

(vii) Reviewing a revised falconry examination to determine if it meets the requirements of this section.

(6) *Suspension of a State's, tribe's, or territory's certification* .(i) We may propose to suspend, and may suspend the approval of a State, tribal, or territorial falconry program in accordance with the procedures in paragraph (b)(6)(ii) of this section if we determine that the State, tribe, or territory has deficiencies in one or more items in paragraph (b)(5) of this section.

(ii) When we propose to suspend approval of a State, tribal, or territorial falconry program, we will first provide written notice to the State, tribe, or territory. Any such notice will include the basis for our determination that suspension is warranted. We will identify the actions that would, if implemented by the State, tribe, or territory, allow us to cancel the proposed suspension of approval.

(iii) The State, tribe, or territory will have 2 years from the date of our notification to correct the deficiencies. The State, tribe, or territory must respond in writing within that time to the proposed suspension, specifying the reasons why the certification should not be suspended. We will give due consideration to any objections and evidence raised by the State, tribe, or territory.

(iv) If we continue to believe that suspension is warranted, we will provide written notice of suspension, including the rationale for suspension, and respond to any objections to the suspension.

(A) The suspension of approval of the State's, tribe's, or territory's falconry program will be effective 180 days from the date of the Service's final notification of suspension.

(B) The State, tribe, or territory must then inform all falconry applicants and permittees of the impending cancellation of permitting.

(v) We will honor all falconry permits in that jurisdiction for 2 years from the date of our final notification of suspension of certification. At the end of the 2 years, you must transfer all raptors (including captive-bred raptors) held under permits from the State, tribal, or territorial falconry program to other falconry permittees in other States or territories, or to Federal raptor propagation or education permittees, institutions exempt from the Federal permit requirements, or permanently released to the wild (if it is

allowed by the State, tribe, or territory and by this section), or euthanized. However, you may not permanently release hybrid raptors to the wild.

(7) *Appeal of a decision to suspend State, tribal, or territorial certification* . The State, tribe, or territory may appeal a decision to suspend certification to the Director within 180 days of the date of the Director's decision. The Director will then respond to the State, tribe, or territory within 180 days of receipt of the appeal. The State, tribe, or territory certification will remain effective until the Director makes a final decision on the appeal.

(8) *Recertification of compliance with this section if a State's, tribe's, or territory's falconry permitting authority has been suspended* . If a State, tribe, or territory has had its falconry permitting authority suspended but has corrected its problems, it must submit a request for approval of its permitting activities. We will then either recertify the program, or report in writing why we do not believe that earlier permitting problems have been rectified.

(9) *Authority to suspend or revoke a falconry permit issued by a State, tribe, or territory* . Suspension or revocation of a falconry permit is the responsibility of the State, tribe, or territory. However, compliance with all provisions of these regulations remains under the purview of the Fish and Wildlife Service.

(10) *Standards in effect in your place of residence*.

If your legal residence is in	you may
(i) Mississippi, Montana, Oklahoma, Pennsylvania, Texas, or Utah,	practice falconry as permitted in these regulations if you have a permit from your State, tribe, or territory.
(ii) Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, West Virginia, Wisconsin, or Wyoming,	practice falconry under the Federal regulations in effect on November 7, 2008 (if falconry was allowed in your State at that time) until your State has certified that it meets the requirements in these regulations or until January 1, 2014.

(11) *Compliance date for the regulations in this section*. A State with existing Federally-approved falconry regulations wishing to continue to allow falconry after January 1, 2014 must certify to the Director of the Fish and Wildlife Service that it is in compliance with this section. This section will be applicable for a State upon publication in the Federal Register of our notice of approval of the State's certification. Any State certified to allow falconry under the Federal falconry regulations contained in §§21.28 and §21.29 in effect prior to November 7, 2008 may continue to allow falconry under those provisions until:

(i) We publish a notice of our approval of the State's certification in the Federal Register; or

(ii) January 1, 2014.

(12) *What will happen if a State with falconry regulations certified under earlier regulations does not come into compliance with this section by January 1, 2014?* If a State does not come into compliance with this section by the compliance date, we will require that all raptors held for falconry in that State or (including captive-bred raptors) be transferred to falconers in other jurisdictions, transferred to captive propagation programs, permanently released to the wild (if that is allowed by the State and by this section), or euthanized. However, you may not permanently release hybrid raptors to the wild.

(c) *Practicing falconry* —(1) *Practicing falconry where you reside.*

If your legal residence is in	you may	because your place of residence
(i) the District of Columbia, Hawaii, on any tribal land, or in any U.S. territory,	not practice falconry	has not met the Federal falconry standards or does not allow the practice of falconry.
(ii) any State other than Hawaii, in the District of Columbia, on any tribal land, or in any U.S. territory,	practice falconry after you receive your State, tribal, or territorial falconry permit, if your State, tribe, or territory is in compliance with these regulations	has met the Federal standards and allows the practice of falconry.

(2) *Permits and inspections to practice falconry.* You must have a valid falconry permit from the State, tribe, or territory in which you reside (or the tribe on whose land you wish to practice falconry if you reside on tribal land or are a tribal member), to take, possess, or transport raptors for falconry, or to hunt with them. Depending on the game you hunt as a falconer and where you hunt, you also may need a Federal Migratory Bird Hunting and Conservation Stamp (a "Duck Stamp"), and State, tribal, or territorial hunting permits or stamps to hunt with a raptor.

(i) Some State, tribal, territorial, or local governments may require you to have additional permits or licenses to practice falconry or to take a raptor from the wild.

(ii) You must comply with all regulations governing migratory bird permitting.

(iii) If you reside for more than 120 consecutive days in a State or territory or on tribal lands other than the location of your primary residence, your falconry facilities in the second location must meet the standards in paragraph (d) of this section and of the corresponding State, tribal, or territorial lands, and your facilities must be listed on your falconry permit.

(3) *Classes of permit to practice falconry.* We recognize Apprentice, General, and Master Falconer levels. Each State, tribe, or territory may have any number of permit levels, but the standards for them must be at least as restrictive as these Federal standards. Your State, tribe, or territory may have more restrictive laws or regulations governing falconry.

(i) Requirements and possession options for an Apprentice Falconer.

(A) You must be at least 12 years of age.

(B) If you are under 18 years of age, a parent or legal guardian must sign your application and is legally responsible for your activities.

(C) You must have a letter from a Master Falconer or a General Falconer with a valid State, tribal, or territorial falconry permit who is at least 18 years old and has at least 2 years experience at the General Falconer level, stating that he or she will assist you, as necessary, in:

(1) Learning about the husbandry and training of raptors held for falconry;

(2) Learning and about relevant wildlife laws and regulations, and

(3) Deciding what species of raptor is appropriate for you to possess while an Apprentice.

(D) Regardless of the number of State, tribal, or territorial falconry permits you have, you may possess no more than one raptor for use in falconry.

(E) You may possess a raptor of any Falconiform or Strigiform species, including wild, captive-bred, or hybrid individuals, except a federally listed threatened or endangered species, a bald eagle (*Haliaeetus leucocephalus*), a white-tailed eagle (*Haliaeetus albicilla*), a Steller's sea-eagle (*Haliaeetus pelagicus*), or a golden eagle (*Aquila chrysaetos*).

(F) You do not need to capture a wild raptor yourself; it can be transferred to you by another falconry permittee.

(G) You may not possess a raptor taken from the wild as a nestling.

(H) You may not possess a bird that is imprinted on humans.

(I) Your raptor facilities must pass inspection by your State, tribe, or territory before you may be granted a permit.

(ii) Requirements and possession options for a General Falconer.

(A) You must be at least 16 years of age.

(B) If you are 16 or 17 years of age, a parent or legal guardian must sign your application and must be legally responsible for your activities.

(C) You must submit a document from a General Falconer or Master Falconer (preferably your sponsor) to your State, tribal, or territorial wildlife agency stating that you have practiced falconry with raptor(s) at the Apprentice Falconer level or equivalent for at least 2 years, including maintaining, training, flying, and hunting the raptor(s) for least 4 months in each year. That practice may include capture and release of falconry raptors.

(D) You may not substitute any falconry school program or education to shorten the period of 2 years at the Apprentice level.

(E) You may take and possess any species of Falconiform or Strigiform except a golden eagle, a bald eagle, a white-tailed eagle, or a Steller's sea-eagle. You may use captive-bred individuals and hybrids of the species you are allowed to possess.

(F) Regardless of the number of State, tribal, or territorial falconry permits you have, you may possess no more than 3 raptors.

(iii) Requirements and possession options for a Master Falconer.

(A) You must have practiced falconry with your own raptor(s) at the General Falconer level for at least 5 years.

(B) You may take and possess any species of Falconiform or Strigiform except a bald eagle. However, you may take and possess a golden eagle, a white-tailed eagle, or a Steller's sea eagle only if you meet the qualifications set forth under paragraph (c)(3)(iv).

(C) You may possess any captive-bred individuals or hybrids of species your State, tribe, or territory allows you to possess for use in falconry.

(D) Regardless of the number of State, tribal, or territorial falconry permits you have, you may possess no more than 5 wild raptors, including golden eagles.

(E) You may possess any number of captive-bred raptors. However, you must train them in the pursuit of wild game and use them in hunting.

(iv) If you meet the requirements in paragraph (c) of this section for falconry you may possess up to 3 eagles of the following species: golden eagle, white-tailed eagle, or Steller's sea eagle.

(A) Your State, tribal, or territorial agency that regulates falconry must document the following before approving your request to possess an eagle to use in falconry:

(1) Your experience in handling large raptors, including information about the species you have handled and the type and duration of the activity in which you gained the experience.

(2) At least two letters of reference from people with experience handling and/or flying large raptors such as eagles, ferruginous hawks, goshawks (*Accipiter gentilis*), or great horned owls (*Bubo virginianus*). Each must contain a concise history of the author's experience with large raptors, which can include, but is not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter must also assess your ability to care for eagles and fly them in falconry.

(B) A golden eagle, white-tailed eagle, or Steller's sea-eagle you hold will count as one of the raptors you are allowed to possess for use in falconry.

(4) *Taking a test to qualify for a falconry permit.* Before you are issued an Apprentice permit you must correctly answer at least 80 percent of the questions on an examination administered by the State, tribe, or territory under which you wish to obtain a falconry permit. The examination must cover care and handling of falconry raptors, Federal, State or territorial, and tribal (if applicable) laws and regulations relevant to falconry, and other appropriate subject matter. Contact your State, tribal, or territorial agency that regulates falconry for information about permits and taking the test.

(5) *Reinstatement of a lapsed falconry permit if your State, tribe, or territory allows it.* (i) If your permit has lapsed for fewer than 5 years, it may be reinstated at the level you held previously if you have proof of your certification at that level.

(ii) If your permit has lapsed for 5 years or longer, you must correctly answer at least 80 percent of the questions on an examination administered by the State, tribe, or territory in which you wish to obtain a falconry permit. If you pass the exam, your permit may be reinstated at the level you previously held. Your facilities must pass State, tribal, or territorial inspection before you may possess a falconry bird.

(6) *Permit to practice falconry at an appropriate level if you have experience in falconry but are a new resident in the United States.* You may qualify for the falconry permit appropriate for your experience. To demonstrate your knowledge of U.S. falconry laws and regulations, you must correctly answer at least 80 percent of the questions on the supervised examination for falconers administered by the State, tribe, or territory under which you wish to obtain a falconry permit. If you pass the test, the State, tribe, or territory will decide for which level of falconry permit you are qualified, consistent with the class requirements in paragraph (c)(3) of this section. To do so, the State, tribe, or territory should base its decision on your documentation of your experience. Your falconry facilities must meet the standards in paragraph (d)(1) of this section before you may keep a raptor to use in falconry.

(7) *Banding or tagging raptors used in falconry.* (i) If you take a goshawk, Harris's hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*), or gyrfalcon (*Falco rusticolus*) from the wild or acquire one from another falconer or a rehabilitator, and if the raptor is not already banded, you must band it with a permanent, nonreusable, numbered U.S. Fish and Wildlife Service leg band that your State, tribal, or territorial agency will supply. If you wish, you may purchase and implant an ISO (International Organization for Standardization)-compliant (134.2 kHz) microchip in addition to the band. You must report the band number when you report your acquisition of the bird. Contact your State, tribal, or territorial agency for information on obtaining and disposing of bands. Within 10 days from the day on which you take the raptor from the wild, you must report take of the bird by entering the required information (including the band number) in the electronic database at <http://permits.fws.gov/186A> or, if required by your permitting agency, by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry. You may request an appropriate band from your State, tribal, or territorial agency in advance of any effort to capture a raptor. Your State, tribe, or territory may require that you band other species taken from the wild.

(ii) A raptor bred in captivity must be banded with a seamless metal band (see §21.30). If you must remove a seamless band or if it is lost, within 10 days from the day you remove or note the loss of the band, you must report it and request a replacement U.S. Fish and Wildlife Service nonreusable band from your State, tribe, or territory. You must submit the required information electronically immediately upon rebanding the raptor at <http://permits.fws.gov/186A> or, if required by your permitting agency, by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry. You must replace a seamless band that is removed or lost. You may implant an ISO-compliant (134.2 kHz) microchip in a falconry raptor in addition to the seamless band.

(iii) If the band must be removed or is lost from a raptor in your possession, you must report the loss of the band within 5 days, and you must then do at least one of the following:

(A) Request a U.S. Fish and Wildlife Service nonreusable band from your State, tribal, or territorial agency that regulates falconry. You must submit the required information within 10 days of rebanding the raptor at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(B) Purchase and implant an ISO-compliant (134.2 kHz) microchip in the bird and report the microchip information at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A form to your State, tribal, or territorial agency that governs falconry.

(iv) You must not alter, deface, or counterfeit a band. You may remove the rear tab on a band on a raptor you take from the wild, and you may smooth any imperfect surface if you do not affect the integrity of the band or the numbering on it.

(v) If you document health or injury problems for a raptor you possess that are caused by the band, the State, tribe, or territory may provide an exemption to the requirement for that raptor. In that case, you must keep a copy of the exemption paperwork with you when transporting or flying the raptor. If your bird is a wild goshawk, Harris's hawk, peregrine falcon, or gyrfalcon, you must replace the band with an ISO-compliant microchip that we will supply to your State, tribe, or territory. We will not provide a microchip for a wild goshawk, Harris's hawk, peregrine falcon, or gyrfalcon unless you have demonstrated that a band causes an injury or a health problem for the bird.

(vi) You may not band a raptor removed from the wild with a seamless numbered band.

(8) *Carrying your permit(s) when conducting falconry activities.* You must have your permit(s) or legible copies of them in your immediate possession if you are not at the location of your falconry facilities and you are trapping, transporting, working with, or flying your falconry raptor(s).

(9) *Transporting a falconry raptor or raptors to other States or territories.* If you have a valid falconry permit, you may possess and transport for falconry purposes a lawfully possessed raptor through other States or territories. However, any State, tribe, or territory may further regulate such transport.

(d) *Facilities and care requirements* —(1) *Facilities you must have and maintain* . You must keep all raptors you hold under your falconry permit in humane and healthful conditions.

(i) Whether they are indoors (a "mews") or outdoors (a "weathering area"), your raptor facilities must protect raptors in them from the environment, predators, and domestic animals. You are responsible for the maintenance and security (protection from predators) of raptors you possess under your permit.

(ii) You must have raptor housing facilities approved by your State, tribe, or territory before you may obtain a bird to use in falconry. Your State, tribe, or territory may require that you have both indoor and outdoor facilities. A representative of your agency that regulates falconry, or its designee, must certify that your facilities and equipment meet the following standards:

(A) For housing raptors indoors or outdoors, the facility must protect raptors from predators and domestic animals.

(1) The facility must have a suitable perch for each raptor, at least one opening for sunlight, and must provide a healthy environment for raptors inside.

(2) You may house untethered raptors together if they are compatible with each other.

(3) Each raptor must have an area large enough to allow it to fly if it is untethered or, if tethered, to fully extend its wings or bate (attempt to fly while tethered) without damaging its feathers or contacting other raptors.

(4) Each falconry bird must have access to a pan of clean water unless weather conditions, the perch type used, or some other factor makes access to a water pan unsafe for the raptor.

(B) An indoor facility must be large enough to allow easy access for the care and feeding of raptors kept there.

(1) If raptors you house in this indoor facility are not tethered, all walls that are not solid must be protected on the inside. Suitable materials may include vertical bars spaced narrower than the width of

the body of the smallest raptor you house in the enclosure. However, heavy-duty netting or other such materials may be used to cover the walls or roof of the enclosure.

(2) Acceptable indoor facilities include shelf perch enclosures where raptors are tethered side by side. Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and maintain healthy feathers.

(C) You may keep a falconry raptor or raptors inside your place of residence if you provide a suitable perch or perches. If you house your raptor(s) inside your home, you do not need to modify windows or other openings of the structure. Raptors kept in your home must be tethered when they are not being moved into or out of the location in which they are kept.

(D) An outdoor facility must be totally enclosed, and may be made of heavy-gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material.

(1) The facility must be covered and have at least a covered perch to protect a raptor held in it from predators and weather.

(2) The facility must be large enough to insure that the birds cannot strike the enclosure when flying from the perch.

(3) New types of housing facilities and/or husbandry practices may be used if they satisfy the requirements above and are approved by the State, tribal, or territorial authority regulating falconry.

(iii) You may keep falconry raptors outside in the open if they are under watch, such as by you or a family member at any location or, for example, by a designated individual in a weathering yard at a falconry meet.

(iv) You must inform your State, tribal, or territorial agency within 5 business days if you change the location of your facilities.

(2) *Falconry facilities on property you do not own* . (i) Your falconry facilities may be on property owned by another person where you reside, or at a different location. Regardless of location, the facilities must meet the standards in paragraph (d)(1) of this section and those of the State, tribe, or territory from which you have a falconry permit.

(ii) You must submit to your State, tribal, or territorial agency that regulates falconry a signed and dated statement showing that you agree that the falconry facilities and raptors may be inspected without advance notice by State, tribal (if applicable), or territorial authorities at any reasonable time of day, but you must be present. If your facilities are not on property that you own, you must submit a signed and dated statement showing that the property owner agrees that the falconry facilities and raptors may be inspected by State, tribal (if applicable), or territorial authorities at any reasonable time of day in the presence of the property owner; except that the authorities may not enter the facilities or disturb the raptors unless you are present.

(3) *Equipment you must have and maintain*. You must have jesses or the materials and equipment to make them, leash and swivel, bath container, and appropriate scales or balances for weighing raptor(s) you possess.

(4) *Facilities you must have for a raptor when you are transporting it, using it for hunting, or are away from your home with it*. You must be sure that the bird has a suitable perch and is protected from extreme temperatures, wind, and excessive disturbance. A "giant hood" or similar container is acceptable for transporting or housing a raptor when you are away from the permanent facility where it is housed.

(5) *Temporarily housing a raptor outside of your permanent facilities when you are not transporting it or using it for hunting*. You may house a raptor in temporary facilities for no more than 120 consecutive calendar days if the bird has a suitable perch and is protected from predators, domestic animals, extreme temperatures, wind, and excessive disturbance.

(6) *Care of falconry raptors by another falconry permittee* . Another falconry permittee may care for a raptor or raptors for you at your facilities or at that person's facilities for up to 120 consecutive calendar days. The other person must have a signed and dated statement from you authorizing the temporary

possession, plus a copy of FWS form 3-186A that shows that you are the possessor of each of the raptors. The statement must include information about the time period for which he or she will keep the raptor(s), and about what he or she is allowed to do with it or them.

(i) Your raptor(s) will remain on your falconry permit, and will not be counted against the possession limit of the person caring for your raptors.

(ii) If the person caring for your raptor(s) holds the appropriate level falconry permit, he or she may fly your raptor(s) in whatever way you authorize, including hunting.

(iii) This care of your raptors may be extended indefinitely in extenuating circumstances, such as illness, military service, or for a family emergency. The State, tribe, or territory may consider such instances on a case-by-case basis.

(7) *Care of falconry raptors by someone who does not have a falconry permit.* Another person may care for falconry birds you possess at your facilities for up to 45 consecutive calendar days.

(i) The raptor(s) will remain on your falconry permit.

(ii) The raptors must remain in your facilities.

(iii) This care may be extended indefinitely in extenuating circumstances, such as illness, military service, or for a family emergency.

(iv) The person(s) caring for your raptors may not fly them for any reason.

(8) *Residence part of the year in another jurisdiction.* (i) The State, tribe, or territory in which you live part-time may require that you obtain its falconry permit. You must contact the State, tribal, or territorial agency that regulates falconry to determine whether you need a permit.

(ii) If you live for more than 120 consecutive days in a State or territory or on tribal lands other than where you maintain your primary residence, your falconry facilities in the second State must meet the standards in this section.

(9) Falconry equipment and records may be inspected in the presence of the permittee during business hours on any day of the week by State, tribal, or territorial officials.

(e) *Taking, possessing, and transporting raptors for falconry —(1) Raptor species you may take from the wild to use for falconry.* (i) You may not intentionally capture a raptor species that your classification as a falconer does not allow you to possess for falconry. If you capture a bird you are not allowed to possess, you must release it immediately.

(ii) On some tribal lands and in some States there may be State, tribal, or Federal restrictions on the take or use of these species, and you may need a tribal or State permit or permits to capture a bird.

(iii) State, tribal, or territorial regulations on take may be more restrictive than those in this section.

(iv) Take of any species must be in compliance with these regulations.

(v) If you are a Master Falconer and your State, tribe, or territory allows you to possess golden eagles, in any year you may take up to two golden eagles from the wild and only in a livestock depredation area during the time the depredation area and associated depredation permit or depredation control order are in effect. A livestock depredation area is declared by USDA Wildlife Services and permitted under §22.23, or upon the request of a State governor and authorized by the Service Director pursuant to §§22.31 and 22.32.

(2) *How and when you may take raptors from the wild to use in falconry.* You may take no more than two raptors from the wild each year to use in falconry.

(i) If you transfer a bird you take from the wild to another permittee in the same year in which you capture it, the bird will count as one of the raptors you are allowed to take from the wild that year; it will not count as a capture by the recipient, though it will always be considered a wild bird.

(ii) If you are a General or Master Falconer, you may remove nestlings from a nest or aerie in accordance with tribal (if applicable), State, territorial, and Federal restrictions.

(iii) You may not take raptors at any time or in any manner that violates any law of the State, tribe, or territory on whose land you are trapping.

(iv) If you are responsible for reporting take of a raptor from the wild, you can report by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry. You must do this at your first opportunity to do so, but no later than 10 days after the capture of the bird.

(v) If you are present at the capture site, even if another person captures the bird for you, you are considered the person who removes the bird from the wild. You are responsible for filing a 3-186A form reporting take of the bird from the wild. This would occur, for example, if another person climbs a tree or rappels down a cliff and takes a nestling for you and gives it to you at the tree or cliff.

(vi) If you are not at the immediate location where the bird is taken from the wild, the person who removes the bird from the wild must be a General or Master Falconer, and must report take of the bird. If that person then transfers the bird to you, you must both file 3-186A forms reporting the transaction at your first opportunity to do so, but no later than 10 days after the transfer. The bird will count as one of the two raptors the person who took it from the wild is allowed to capture in any year. The bird will not count as a bird you took from the wild. The person who takes the bird from the wild must report the take even if he or she promptly transfers the bird to you.

(vii) If you have a long-term or permanent physical impairment that prevents you from attending the capture of a species you can use for falconry, a General or Master Falconer may capture a bird for you. You are then responsible for filing a 3-186A form reporting take of the bird from the wild, and the bird will count against the take of wild raptors that you are allowed in any year.

(viii) You must promptly release any bird you capture unintentionally.

(i) If you are an Apprentice Falconer, you may take raptors less than 1 year old, except nestlings, from the wild during any period or periods specified by the State, tribe, or territory. You may take any raptor species from the wild except a federally listed threatened or endangered species or the following species: Bald eagle (*Haliaeetus leucocephalus*), white-tailed eagle (*Haliaeetus albicilla*), Steller's sea-eagle (*Haliaeetus pelagicus*), golden eagle (*Aquila chrysaetos*), American swallow-tailed kite (*Elanoides forficatus*), Swainson's hawk (*Buteo swainsoni*), peregrine falcon (*Falco peregrinus*), flammulated owl (*Otus flammeolus*), elf owl (*Micrathene whitneyi*), and short-eared owl (*Asio flammeus*).

(3) *Other restrictions on taking raptors from the wild for falconry.* (i) If you are an Apprentice Falconer, you may take raptors less than 1 year old, except nestlings, from the wild during any period or periods specified by the State, tribe, or territory. You may take any raptor species from the wild except a federally listed threatened or endangered species or the following species: Bald eagle (*Haliaeetus leucocephalus*), white-tailed eagle (*Haliaeetus albicilla*), Steller's sea-eagle (*Haliaeetus pelagicus*), golden eagle (*Aquila chrysaetos*), American swallow-tailed kite (*Elanoides forficatus*), Swainson's hawk (*Buteo swainsoni*), peregrine falcon (*Falco peregrinus*), flammulated owl (*Otus flammeolus*), elf owl (*Micrathene whitneyi*), and short-eared owl (*Asio flammeus*).

(ii) If you are a General or Master Falconer, you may take only raptors less than 1 year of age from the wild during any period or periods specified by the State, tribe, or territory. However, you may take an American kestrel or great horned owl of any age from the wild during any period or periods specified by the State, tribe, or territory.

(iii) If you are a Master Falconer authorized to possess golden eagles for use in falconry, you may capture a golden eagle in a livestock or wildlife depredation area during the time the depredation area and associated depredation permit or depredation control order are in effect.

(A) You may capture an immature or subadult golden eagle.

(B) You may take a nestling from its nest in a livestock depredation area if a biologist representing the agency responsible for declaring the depredation area has determined that the adult eagle is preying on livestock or wildlife.

(C) You may take a nesting adult golden eagle only if a biologist representing the agency responsible for declaring the depredation area has determined that the adult eagle is preying on livestock or wildlife and that any nestling of the adult will be taken by a falconer authorized to possess it or by the biologist and transferred to an individual authorized to possess it.

(D) You must determine the locations of the livestock or wildlife depredation areas declared by USDA Wildlife Services, or published in the Federal Register by the Service in response to a State governor's request. We will not notify you about them.

(E) Before you begin any trapping activities, you must inform our regional Law Enforcement office of your capture plans. You must notify the offices in person, in writing, or via facsimile or email at least 3 business days before you start trapping. You may send an email to with your trapping plans to lawenforcement@fws.gov, or

If you plan to trap a golden eagle in	you must notify
(1) California, Idaho, Nevada, Oregon, or Washington,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement 911 NE 11th Avenue Portland, Oregon 97232-4181 503-231-6125 facsimile 503-231-6197
(2) Arizona, New Mexico, Oklahoma, or Texas,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 329 Albuquerque, New Mexico 87103 505-248-7889 facsimile 505-248-7899
(3) Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, or Wisconsin,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 45 Federal Building Fort Snelling, Minnesota 55111-0045 612-713-5320 facsimile 612-713-5283
(4) Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, or Tennessee,	U.S. Fish and Wildlife Service Special Agent in

	Charge - Law Enforcement P.O. Box 49226 Atlanta, Georgia 30359 404-679-7057 facsimile 404-679-7065
(5) Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, or West Virginia,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 659 Hadley, Massachusetts 01035-0659 413-253-8274 facsimile 413-253-8459
(6) Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, or Wyoming,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement P.O. Box 25486 Denver Federal Center (60130) Denver, Colorado 80225-0486 303-236-7540 facsimile 303-236-7901
(7) Alaska,	U.S. Fish and Wildlife Service Special Agent in Charge - Law Enforcement 1011 East Tudor Road Suite 155 Anchorage, Alaska 99503-6199 907-786-3311 facsimile 907-786-3313

(F) You also must meet all requirements of the State or territory in which you plan to trap, or the tribe on whose lands you plan to trap.

(G) You must have permission from the landowner to capture an eagle; or if you wish to capture one on public land, the responsible agency must allow it.

(iv) You may recapture a falconry bird you have lost at any time. We do not consider recapture of a wild bird to be taking a bird from the wild.

(v) You may recapture a raptor wearing falconry equipment or a captive-bred bird at any time - even if you are not allowed to possess the species. The bird will not count against your possession limit, nor will its take from the wild count against your limit. You must report your recapture of the bird to your State, tribal, or territorial agency that regulates falconry no more than 5 working days after the recapture. You must return a recaptured falconry bird to the person who lost it, if that person may legally possess it. Disposition of a bird whose legal possession cannot be determined will be at the discretion of the State, tribe, or territory.

(vi) You may take any raptor that you are authorized to possess from the wild if the bird is banded with a Federal Bird Banding Laboratory aluminum band except that you may not take a banded peregrine falcon from the wild.

(A) If a raptor (including a peregrine falcon) you capture is marked with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird, you must report your capture of the bird to your State, tribal, or territorial agency that regulates falconry no more than 5 working days after the capture. You must return a recaptured falconry bird to the person who lost it. If that person cannot possess the bird or does not wish to possess it, you may keep it. Otherwise, disposition of a bird whose legal possession cannot be determined will be at the discretion of the State, tribe, or territory. While you keep a bird for return to the person who lost it, the bird will not count against your possession limit or your limit on take of raptors from the wild if you have reported possessing the bird to your State, tribal, or territorial falconry permit office.

(B) If you capture a peregrine falcon that has a research band (such as a colored band with alphanumeric codes) or a research marking attached to it, you must immediately release the bird, except that if the falcon has a transmitter attached to it, you are authorized to possess the bird up to 30 days if you wish to contact the researcher to determine if he or she wishes to replace the transmitter or its batteries. If the researcher wishes to do so, or to have the transmitter removed, the researcher or his or her designee can make the change or allow you to do so before you release the bird. If the researcher does not wish to keep the transmitter on the falcon, you may keep the bird if you captured it in circumstances in which capture of wild peregrines is allowed.

(C) If a raptor you capture has any other band, research marking, or transmitter attached to it, you must promptly report the band numbers and all other relevant information to the Federal Bird Banding Laboratory at 1-800-327-2263.

(1) You may contact the researcher and determine if he or she wishes to replace a transmitter attached to a bird you capture. If so, you are authorized to possess the bird up to 30 days until the researcher or his or her designee does so, or until you can replace it yourself. Disposition of the bird will be at the discretion of the researcher and your State, tribal, or territorial agency that regulates falconry.

(2) If you possess such a bird temporarily, it will not count against your possession limit for falconry raptors.

(vii) You must leave at least one young from any nest or aerie from which you take a nestling.

(viii) If you are an Apprentice Falconer, you may not take a nestling from the wild.

(ix) If you are a Master Falconer with a permit to do so, you may take, transport, or possess up to three eagles, including golden eagles, white-tailed eagles, or Steller's sea-eagles, subject to the requirements in paragraph (c)(3)(iv) of this section and §22.24 of this part. A golden eagle, white-tailed eagle, or Steller's sea-eagle you possess counts as a bird to be included under your possession limit.

(x) If you are a General or Master Falconer, you may take no more than one bird of a threatened species from the wild each year if the regulations in part 17 of this subchapter allow it and if you obtain a Federal endangered species permit to do so before you take the bird. You also may need a State, tribal, or territorial endangered species permit to take a listed species.

(4) *Take of a species or subspecies that was recently removed from the Federal List of Endangered and*

Threatened Wildlife to use in falconry. We must first publish a management plan for the species. If take is allowed in the management plan, you may do so in accordance with the provisions for take in the plan.

(5) *Raptors injured due to falconer trapping efforts.* You have two options for dealing with a bird injured by your trapping efforts. In either case, you are responsible for the costs of care and rehabilitation of the bird.

(i) You may put the bird on your falconry permit. You must report take of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry at your first opportunity to do so, but no more than 10 days after capture of the bird. You must then have the bird treated by a veterinarian or a permitted wildlife rehabilitator. The bird will count against your possession limit.

(ii) You may give the bird directly to a veterinarian, or a permitted wildlife rehabilitator, or an appropriate wildlife agency employee. If you do so, it will not count against your allowed take or the number of raptors you may possess.

(6) *Acquisition, transfer, loss, or rebanding of a raptor.* (i) If you acquire a raptor; transfer, reband, or microchip a raptor; if a raptor you possess is stolen; if you lose a raptor to the wild and you do not recover it within 30 days; or if a bird you possess for falconry dies; you must report the change within 10 days by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(ii) If a raptor you possess is stolen, you must report the theft to your State, tribal, or territorial agency that regulates falconry and to your Fish and Wildlife Service Regional Law Enforcement office (see paragraph (e)(3)(iii)(C) of this section) within 10 days of the theft of the bird.

(iii) You must keep copies of all electronic database submissions documenting take, transfer, loss, rebanding or microchipping of each falconry raptor until 5 years after you have transferred or lost the bird, or it has died.

(7) *Acquiring a bird for falconry from a permitted rehabilitator.* You may acquire a raptor of any age of a species that you are permitted to possess directly from a rehabilitator. Transfer to you is at the discretion of the rehabilitator.

(i) If you acquire a bird from a rehabilitator, within 10 days of the transaction you must report it by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(ii) If you acquire a bird from a rehabilitator, it will count as one of the raptors you are allowed to take from the wild that year.

(8) *Flying a hybrid raptor in falconry.* When flown free, a hybrid raptor must have attached at least two functioning radio transmitters to help you to locate the bird.

(9) *Releasing a falconry bird to the wild.* You must follow all applicable State or territorial and Federal laws and regulations before releasing a falconry bird to the wild.

(i) If the raptor you wish to release is not native to the State or territory, or is a hybrid of any kind, you may not permanently release the bird to the wild. You may transfer it to another falconry permittee.

(ii) If the species you wish to release is native to the State or territory and is captive-bred, you may not release the bird to the wild unless you have permission from the State, tribe, or territory to release the bird. If you are permitted to do so, you must hack the bird (allow it to adjust) to the wild at an appropriate time of year and an appropriate location. You must remove its falconry band (if it has one) and report release of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(iii) If the species you wish to release is native to the State and was taken from the wild, you may release the bird only at an appropriate time of year and an appropriate location. You must remove its falconry band and report release of the bird by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a paper form 3-186A to your State, tribal, or territorial

agency that governs falconry.

(10) *Restrictions on transfers of falconry raptors from other falconers.* We do not restrict the number of wild-caught or captive-bred raptors transferred to you, but you may not exceed your possession limit.

(f) *Additional information on the practice of falconry* —(1) *Raptors removed from the wild for falconry are always considered “wild” raptors.* No matter how long such a bird is held in captivity or whether it is transferred to another permittee or permit type, it is always considered a “wild” bird. However, it is considered to be taken from the wild only by the person who originally captured it. We do not consider the raptor to be taken from the wild by any subsequent permittee to whom it is legally transferred.

(2) *“Hacking” of falconry raptors.* Hacking (temporary release to the wild) is an approved method for falconers to condition raptors for falconry. If you are a General Falconer or a Master Falconer, you may hack a falconry raptor or raptors.

(i) You may need permission from your State, tribal, or territorial wildlife agency to hack a bird you possess for falconry. Check with your State, tribal, or territorial agency that regulates falconry to determine if hacking is allowed.

(ii) Any bird you are hacking counts against your possession limit and must be a species you are authorized to possess.

(iii) Any hybrid you hack must have two attached functioning radio transmitters during hacking.

(iv) You may not hack a falconry bird near a nesting area of a Federally threatened or endangered bird species or in any other location where the raptor is likely to harm a Federally listed threatened or endangered animal species that might be disturbed or taken by your falconry bird. You should contact your State or territorial wildlife agency before hacking a falconry bird to ensure that this does not occur. You can contact the State Fish and Wildlife Service office in your State or territory for information on Federally-listed species.

(3) *Use of other falconry training or conditioning techniques.* You may use other acceptable falconry practices, such as, but not limited to, the use of creance (tethered) flying, lures, balloons, or kites in training or conditioning falconry raptors. You also may fly falconry birds at bird species not protected under the Migratory Bird Treaty Act or at pen-raised animals.

(4) *Selling or trading raptors under a falconry permit.* (i) If allowed by your State, tribe or territory, you may sell, purchase, or barter, or offer to sell, purchase, or barter captive-bred raptors marked with seamless bands to other permittees who are authorized to possess them.

(ii) You may not purchase, sell, trade, or barter wild raptors. You may only transfer them.

(5) *Transfer of wild-caught raptors captured for falconry to another type of permit.* Under some circumstances you may transfer a raptor to another permit type if the recipient of the bird (which could be you) possesses the necessary permits for the other activity.

(i) If your State, tribe, or territory allows you to do so, you may transfer a wild-caught falconry bird to a raptor propagation permit after the bird has been used in falconry for at least 2 years (1 year for a sharp-shinned hawk, a Cooper's hawk, a merlin, or an American kestrel). When you transfer the bird, you must provide a copy of the 3-186A form documenting acquisition of the bird by the propagator to the Federal migratory bird permit office that administers the propagation permit.

(ii) You may transfer a wild-caught bird to another permit type in less than 2 years (1 year for a sharp-shinned hawk, a Cooper's hawk, a merlin, or an American kestrel) if the bird has been injured and a veterinarian or permitted wildlife rehabilitator has determined that the bird can no longer be flown for falconry.

(A) Within 10 days of transferring the bird, you must provide a copy of the 3-186A form documenting acquisition of the bird to the Federal migratory bird permit office that administers the other permit type.

(B) When you transfer the bird, you must provide a copy of the certification from the veterinarian or rehabilitator that the bird is not useable in falconry to the Federal migratory bird permits office that administers the other permit type.

(6) *Transfer of captive-bred falconry raptors to another type of permit* . You may transfer captive-bred falconry raptors if the holder of the other permit type is authorized to possess the bird(s). Within 10 days you must report the transfer by entering the required information in the electronic database at <http://permits.fws.gov/186A> or by submitting a standard paper form 3-186A to your State, tribal, or territorial agency that governs falconry.

(7) *Use of raptors held under a falconry permit in captive propagation* . You may use raptors you possess for falconry in captive propagation if you or the person overseeing the propagation has the necessary permit(s) (see §21.30). You do not need to transfer a bird from your falconry permit if you use it for fewer than 8 months in a year in captive propagation, but you must do so if you permanently transfer the bird for propagation. The bird must then be banded as required in §21.30.

(8) *Use of falconry raptors in conservation education programs* . If you are a General or Master Falconer, you may use a bird you possess in conservation education programs presented in public venues.

(i) You do not need a Federal education permit to conduct conservation education activities using a falconry raptor held under a State, tribal, or territorial falconry permit.

(ii) You may present conservation programs as an Apprentice Falconer if you are under the supervision of a General or Master Falconer when you do so.

(iii) You must use the bird primarily for falconry.

(iv) You may charge a fee for presentation of a conservation education program. The fee may not exceed the amount required to recoup your costs.

(v) In conservation education programs, you must provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds, although not all of these topics must be addressed in every presentation. You may not give presentations that do not address falconry and conservation education.

(vi) You are responsible for all liability associated with conservation education activities you undertake (see 50 CFR 13.50).

(9) *Other educational uses of falconry raptors* . You may allow photography, filming, or other such uses of falconry raptors to make movies or other sources of information on the practice of falconry or on the biology, ecological roles, and conservation needs of raptors and other migratory birds, though you may not be paid for doing so.

(i) You may not use falconry raptors to make movies, commercials, or in other commercial ventures that are not related to falconry.

(ii) You may not use falconry raptors for commercial entertainment; for advertisements; as a representation of any business, company, corporation, or other organization; or for promotion or endorsement of any products, merchandise, goods, services, meetings, or fairs, with the following exceptions:

(A) You may use a falconry raptor to promote or endorse a nonprofit falconry organization or association.

(B) You may use a falconry raptor to promote or endorse products or endeavors related to falconry, including, but not limited to items such as hoods, telemetry equipment, giant hoods, perches, materials for raptor facilities, falconry training and education materials, and scientific research and publication.

(10) *Assisting in rehabilitation of raptors to prepare them for release* . If your State, tribe, or territory allows you to do so, and if you are a General or Master Falconer, you may assist a permitted migratory bird rehabilitator to condition raptors in preparation for their release to the wild. You may keep a bird you are helping to rehabilitate in your facilities.

(i) The rehabilitator must provide you with a letter or form that identifies the bird and explains that you are assisting in its rehabilitation.

(ii) You do not need to meet the rehabilitator facility standards. You need only meet the facility standards in this section; your facilities are not subject to inspection for compliance with the standards in §21.31.

(iii) You do not have to add any raptor you possess for this purpose to your falconry permit; it will remain under the permit of the rehabilitator.

(iv) You must return any such bird that cannot be permanently released to the wild to the rehabilitator for placement within the 180-day timeframe in which the rehabilitator is authorized to possess the bird, unless the issuing office authorizes you to retain the bird for longer than 180 days.

(v) Upon coordination with the rehabilitator, you must release all releaseable raptors to the wild or return them to the rehabilitator for release within the 180-day timeframe in which the rehabilitator is authorized to possess the birds, unless the issuing office authorizes you to retain and condition a bird for longer than 180 days, or unless the rehabilitator transfers the bird to you to hold under your falconry permit.

(11) *Using a falconry bird in abatement activities.* (i) If you are a Master Falconer, you may conduct abatement activities with a bird or birds you possess for falconry, if you have a Special Purpose Abatement permit. If you are a General Falconer, you may conduct abatement activities only as a subpermittee of the holder of the abatement permit.

(ii) You may receive payment for providing abatement services if you have a Special Purpose Abatement permit.

(12) *Feathers that a falconry bird or birds molts.* (i) For imping (replacing a damaged feather with a molted feather), you may possess flight feathers for each species of raptor you possess or previously held for as long as you have a valid falconry permit. You may receive feathers for imping from other permitted falconers, wildlife rehabilitators, or propagators in the United States, and you may give feathers to them. You may not buy, sell, or barter such feathers.

(ii) You may donate feathers from a falconry bird, except golden eagle feathers, to any person or institution with a valid permit to have them, or to anyone exempt from the permit requirement under §21.12.

(iii) Except for primary or secondary flight feathers or retrices from a golden eagle, you are not required to gather feathers that are molted or otherwise lost by a falconry bird. You may leave the feathers where they fall, store them for imping, or destroy them. However, you must collect molted flight feathers and retrices from a golden eagle. If you choose not to keep them for imping, you must send them to the National Eagle Repository.

(iv) We request that you send all feathers (including body feathers) that you collect from any falconry golden eagle and that you do not need for imping, to the National Eagle Repository at the following address: U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022. The telephone number at the Repository is 303-287-2110.

(v) If your permit expires or is revoked, you must donate the feathers of any species of falconry raptor except a golden eagle to any person or any institution exempt from the permit requirement under §21.12 or authorized by permit to acquire and possess the feathers. If you do not donate the feathers, you must burn, bury, or otherwise destroy them.

(13) *Disposition of carcasses of falconry birds that die.* (i) You must send the entire body of a golden eagle you held for falconry, including all feathers, talons, and other parts, to the National Eagle Repository.

(ii) You may donate the body or feathers of any other species of falconry raptor to any person or institution exempt under §21.12 or authorized by permit to acquire and possess such parts or feathers.

(iii) If the bird was banded or microchipped prior to its death, you may keep the body of any falconry raptor except that of a golden eagle. You may keep the body so that the feathers are available for imping, or you may have the body mounted by a taxidermist. You may use the mount in giving conservation education programs. If the bird was banded, you must leave the band on the body. If the bird has an implanted microchip, you must leave the microchip in place.

(iv) If you do not wish to donate the bird body or feathers or keep it yourself, you must burn, bury, or

otherwise destroy it or them within 10 days of the death of the bird or after final examination by a veterinarian to determine cause of death. Carcasses of euthanized raptors could pose a risk of secondary poisoning of eagles and other scavengers. You must take appropriate precautions to avoid such poisonings.

(v) If you do not donate the bird body or feathers or have the body mounted by a taxidermist, you may possess the flight feathers for as long as you have a valid falconry permit. However, you may not buy, sell, or barter the feathers. You must keep the paperwork documenting your acquisition of the bird.

(14) *Visitors practicing falconry in the United States.* (i) A visitor to the United States may qualify for a temporary falconry permit appropriate for his or her experience.

(A) The permit may be valid for any period specified by the State, tribe, or territory.

(B) To demonstrate knowledge of U.S. falconry laws and regulations, the visitor must correctly answer at least 80 percent of the questions on the supervised examination for falconers administered by the tribe, State, or territory from which he or she wishes to obtain a temporary falconry permit. If the visitor passes the test, the tribe, State, or territory will decide for what level of temporary permit the person is qualified. The decision should be based on the individual's documentation of his or her experience.

(C) If you hold a temporary falconry permit, you may possess raptors for falconry if you have approved falconry facilities.

(D) A holder of a temporary falconry permit may fly raptors held for falconry by a permitted falconer.

(E) A holder of a temporary falconry permit may not take a bird from the wild to use in falconry.

(ii) For the duration of a permit from a State, tribe, or territory, a visitor may use any bird for falconry that he or she possess legally in his or her country of residence for that purpose, provided that import of that species to the United States is not prohibited, and provided that he or she has met all permitting requirements of his or her country of residence.

(A) A visitor must comply with the provisions in this section, those of the State, tribe or territory where he or she wishes to conduct falconry, and all States through which he or she will travel with the bird.

(B) The visitor may transport registered raptors. He or she may need one or more additional permits to bring a raptor into the United States or to return home with it (see 50 CFR part 14 (importation, exportation, and transportation of wildlife), part 15 (Wild Bird Conservation Act), part 17 (endangered and threatened species), part 21 (migratory bird import and export permits), and part 23 (endangered species convention)).

(C) Unless the visitor has the necessary permit(s) to bring a raptor into the United States and leave it here, he or she must take raptors brought into the country for falconry out of the country when he or she leaves. If a raptor brought into the United States dies or is lost while in this country, the visitor must document the loss before leaving the United States by reporting the loss to the State, tribal, or territorial agency that governs falconry where the bird was lost.

(D) When flown free, any bird brought to this country temporarily must have two attached radio transmitters that will allow the falconer to locate it.

(E) There also may be tribal or State restrictions on nonresidents practicing falconry or importing a raptor or raptors held for falconry.

(15) *Taking falconry raptors to another country to use in falconry activities.* A permit issued under this section authorizes you to export and then import raptors you legally possess for falconry to another country to use in falconry without an additional migratory bird import/export permit issued under §21.21.

(i) You must meet any requirements in 50 CFR 14 subpart B.

(ii) You may need one or more additional permits to take a bird from the United States or to return home with it (see 50 CFR part 15 (Wild Bird Conservation Act), part 17 (endangered and threatened species), and part 23 (endangered species convention)).

(iii) Unless you have the necessary permit(s) to permanently export a raptor from the United States, you must bring any raptor you take out of the country for falconry back to the United States when you return. Each raptor must be covered by a CITES certificate of ownership issued under part 23 of this chapter. You must have full documentation of the lawful origin of each raptor (a copy of a propagation report with band number or a 3-186A report), and each must be identifiable with a seamless band or a permanent, nonreusable, numbered Fish and Wildlife Service leg band issued by the Service or an implanted microchip for identification.

(iv) If the raptor dies or is lost, you are not required to bring it back but must report the loss immediately upon your return to the United States in the manner required by the falconry regulations of your State, and any conditions on your CITES certificate.

(16) *Permission to capture, fly, or release a falconry bird at any location.* You do not need special or written permission for any of these activities on public lands if it is authorized. However, you must comply with all applicable Federal, State, tribal, or territorial laws regarding falconry activities, including hunting. Your falconry permit does not authorize you to capture or release raptors or practice falconry on public lands if it is prohibited on those lands, or on private property, without permission from the landowner or custodian.

(17) *Practicing falconry in the vicinity of a Federally listed threatened or endangered animal species.* In practicing falconry you must ensure that your activities do not cause the take of Federally listed threatened or endangered wildlife. "Take" under the Endangered Species Act means "to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct" (Endangered Species Act §3(18)). Within this definition, "harass" means any act that may injure wildlife by disrupting normal behavior, including breeding, feeding, or sheltering, and harm" means an act that actually kills or injures wildlife (50 CFR 17.3). To obtain information about threatened or endangered species that may occur in your State or on tribal lands where you wish to practice falconry, contact your State, tribal, or territorial agency that regulates falconry. You can contact your State Fish and Wildlife Service office for information on Federally-listed species.

(18) *Trapping a bird for use in falconry in areas used by the northern aplomado falcon.* Capture of a northern aplomado falcon (*Falco femoralis septentrionalis*) is not authorized because it is a violation of the Endangered Species Act. To avoid trapping northern aplomado falcons, you must comply with the following conditions when trapping a bird for use in falconry in the following counties.

If you trap in	You may trap a bird for falconry in the following counties if you comply with the conditions below.
(i) Arizona,	Cochise, Graham, Pima, Pinal, or Santa Cruz.
(ii) New Mexico,	Doa Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Sierra, or Socorro.
(iii) Texas,	Aransas, Brewster, Brooks, Calhoun, Cameron, Culberson, Duval, Ector, El Paso, Hidalgo, Hudspeth, Jackson, Jeff Davis, Kenedy, Kinney, Kleberg, Matagorda, Maverick, Midland, Nueces, Pecos, Presidio, Reeves, Refugio, San Patricio, Starr, Terrell, Val Verde, Victoria, Webb, Willacy, or Zapata.

(iv) If you are an Apprentice Falconer, you must be accompanied by a General or Master Falconer when trapping in one of these counties.

(v) You may not begin trapping if you observe a northern aplomado falcon in the vicinity of your intended trapping effort.

(vi) You must suspend trapping if a northern aplomado falcon arrives in the vicinity of your trapping effort.

(19) *Prey item killed by a falconry bird without your intent, including an animal taken outside of a regular hunting season .* (i) You may allow your falconry bird to feed on the animal, but you may not take the animal into your possession.

(ii) You must report take of any federally listed threatened or endangered species to our Ecological Services Field Office for the location in which the take occurred.

(20) *Take of bird species for which a depredation order is in place* . With a falconry bird, you may take any species listed in parts 21.43, 44, 45, or 46 of this subchapter at any time in accordance with the conditions of the applicable depredation order, as long as you are not paid for doing so.

(21) *Transfer of falconry raptors if a permittee dies* . A surviving spouse, executor, administrator, or other legal representative of a deceased falconry permittee may transfer any bird held by the permittee to another authorized permittee within 90 days of the death of the falconry permittee. After 90 days, disposition of a bird held under the permit is at the discretion of the authority that issued it.

(g) *Applying for a falconry permit* . If you apply for a falconry permit, you must include the following information plus any other information required by your State, tribe, or territory.

(1) The completed application form from your State, tribal, or territorial agency that regulates falconry permits.

(2) Proof that you have passed the falconry test administered by the State, tribe, or territory where you maintain your legal residence, or proof that you have previously held a falconry permit at the level you seek.

(3) For an Apprentice permit, you must provide the following:

(i) A letter from a General or Master Falconer stating that he or she has agreed to assist you in learning about the husbandry and training of raptors held for falconry and about relevant wildlife laws and regulations, and in deciding what species of raptor is appropriate for you to possess while an Apprentice.

(ii) An original, signed certification that you are particularly familiar with §10.13 of this subchapter, the list of migratory bird species to which the Migratory Bird Treaty Act applies; part 13 of this subchapter, general permit regulations; part 21 of this subchapter, migratory bird permits; and part 22 of this subchapter, eagle permits. The certification can be incorporated into tribal and State application forms, and must be worded as follows:

I certify that I have read and am familiar with the regulations 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, and that the information I have submitted is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.

(4) For an Apprentice or General Falconry permit, a parent or legal guardian must co-sign your application if you are under 18.

(5) For a General Falconer permit:

(i) Information documenting your experience maintaining falconry raptors, including a summary of what species you held as an Apprentice Falconer and how long you possessed each bird, and

(ii) A letter from a General Falconer or Master Falconer (preferably your sponsor) attesting that you have practiced falconry with raptor(s) at the Apprentice Falconer level for at least 2 years, including maintaining, training, flying, and hunting the raptor(s) for at least 4 months in each year.

(6) For a Master Falconer permit, you must attest that you have practiced falconry at the General Falconer level for at least 5 years.

(h) *Updating a falconry permit after a move* . If you move to a new State or outside the jurisdiction of your tribe or territory and take falconry birds with you, within 30 days you must inform both your former State, tribe, or territory and the permitting authority for your new place of residence of your address change. To obtain a new falconry permit, you must follow the permit application procedures of the authority under which you wish to acquire a new permit. You may keep falconry birds you hold while you apply for a new falconry permit. However, the State, tribe, or territory into which you move may place restrictions on your possession of falconry birds until you meet the residency requirements there.

(i) *Restoration of revoked permits* . Upon request of the person whose permit has been revoked, the State, tribe, or territory may restore the person's falconry permit at the end of the revocation period.

(j) *Information collection requirements* . The information collection required for falconry applications and for falconry bird disposition on FWS Form 3-186A is approved by the Office of Management and Budget under control number 1018-0022. The information is necessary to determine take of raptors from the wild for falconry.

(k) *Database required of States, tribes, and territories*. Each State, tribe, or territory that permits falconry must maintain information in a database. The information will enable enforcement of this section.

(1) The State, tribal, or territorial database must be compatible with the database that we maintain. The State, tribal, or territorial database must contain the following information:

(i) The current address of each person with a falconry permit.

(ii) The classification of each person with a falconry permit - Apprentice Falconer, General Falconer, or Master Falconer.

(iii) The address of the falconry facilities of each person with a falconry permit.

(iv) The Federal falconry identifier number assigned via the 3-186A system to each person with a falconry permit.

(v) Whether each permittee is authorized to possess eagles.

(vi) Information on the status of each person's permit: whether it is active, suspended, or revoked.

(2) Information on each permit granted, including changes in status from Apprentice Falconer to General Falconer or General Falconer to Master Falconer, and moves of falconers or their facilities must be entered into the State's, tribe's, or territory's database within 30 days of the granting of the permit or a falconer's change in status. New additions to the State, tribal, or territorial database must be forwarded to us monthly.

[73 FR 59465, Oct. 8, 2008, as amended at 74 FR 64640, Dec. 8, 2009; 75 FR 931, Jan. 7, 2010; 75 FR 3395, Jan. 21, 2010]

§ 21.30 Raptor propagation permits.



(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 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 a Federal rehabilitation permit or be authorized as your subpermittee by being named in writing to your issuing Migratory Bird Permit Office. This does not apply to General Falconers or Master Falconers, who may assist with conditioning raptors for release without being your subpermittee. If you have a falconer assist in conditioning a rehabilitated raptor for release, you must provide the falconer with a letter or form that identifies the bird and explains that the falconer is assisting in rehabilitation of the raptor.

(i) Your subpermittees must be at least 18 years of age and possess sufficient experience to tend the species in their care.

(ii) Your subpermittees who are 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 except those of a falconer assisting in conditioning raptors for release must be approved by the issuing office.

(iii) 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) After a bird is rehabilitated to a condition suitable for release to the wild, you must release it to suitable habitat as soon as seasonal conditions allow, except that you may transfer a rehabilitated wild raptor to a holder of a State, tribal, or territorial falconry permit if the permit holder is authorized to hold the species for use in falconry. The transfer may need the approval of your State, tribe, or territory. The falconer must complete a Form 3-186A reporting the transfer.

(A) You may not retain migratory birds longer than 180 days without additional authorization from your Regional Migratory Bird Permit Office. If the appropriate season for release is outside the 180-day timeframe, you must seek authorization from your Fish and Wildlife Service Regional Migratory Bird Permit Office to possess the bird until the appropriate season.

(B) Before releasing a threatened or endangered migratory bird, you must comply with any requirements for the release from your Fish and Wildlife Service Regional 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.

[68 FR 61137, Oct. 27, 2003, as amended at 73 FR 59477, Oct. 8, 2008; 75 FR 29918, May 28, 2010]

Subpart D—Control of Depredating and Otherwise Injurious Birds



§ 21.41 Depredation permits.



(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.



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.



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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.



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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 neotropic 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 deprecation 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 deprecation order expire?* This deprecation order will automatically expire on June 30, 2014, unless revoked or extended prior to that date.

[68 FR 58034, Oct. 8, 2003, as amended at 74 FR 15398, Apr. 6, 2009]

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



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(a) *What is the purpose of this deprecation order?* The purpose of this deprecation 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 deprecation order be implemented?* This deprecation 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 deprecation order allow and who can participate?* (1) This deprecation 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 deprecation order may use decoys, taped calls, or other devices to lure within gun range birds committing or about to commit deprecation of public resources.

(4) Persons operating under this deprecation order must obtain appropriate landowner permission before implementing activities authorized by the order.

(5) Persons operating under this deprecation 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 June 30, 2014, unless revoked or extended prior to that date.

[68 FR 58035, Oct. 8, 2003, as amended at 74 FR 15398, Apr. 6, 2009]

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



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(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 the airport, or the military base on which a military airfield is located, or within a 3-mile radius of the outer boundary of such a facility. 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, as amended at 72 FR 46408, Aug. 20, 2007]

§ 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); homeowners' associations; and village, town, municipality, and county governments (local governments); and the employees or agents of any of these persons or entities 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, homeowners' associations, and local governments (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, homeowners' associations, and local governments must register with the Service at <https://epermits.fws.gov/eRCGR>. Landowners, homeowners' associations, and local governments (collectively termed "registrants") must also register each employee or agent working on their behalf. Once registered, registrants and agents will be authorized to act under the depredation order.

(2) Registrants 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 and egg destruction or take are at the registrant'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) Egg and nest destruction, including but not limited to the removal and disposal of eggs and nest material.

(4) Registrants may conduct resident Canada goose nest and egg destruction activities between March 1 and June 30. Homeowners' associations and local governments or their agents must obtain landowner consent prior to destroying nests and eggs on private property within the homeowners' association or local government's jurisdiction and be in compliance with all State and local laws and regulations.

(5) Registrants authorized to operate under the depredation order may possess, transport, and dispose of resident Canada goose nests and eggs taken under this section. Registrants 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) Registrants exercising the privileges granted by this section must submit an annual report summarizing activities, including the date, numbers, and location of nests and eggs taken by October 31 of each year at <https://epermits.fws.gov/eRCGR> 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 registrant 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) Registrants may not undertake any actions under this section if the activities adversely affect 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, registrants 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, homeowners' association, or local government if we find that the registrant 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, as amended by 72 FR 46408, Aug. 20, 2007]

§ 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 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.

(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]

§ 21.53 Control order for purple swamphens.



(a) *Control of purple swamphens.* Federal, State, Tribal, and local wildlife management agencies, and their tenants, employees, or agents may remove or destroy purple swamphens (*Porphyrio porphyrio*) or their nests or eggs at any time when they find them anywhere in the contiguous United States, Hawaii, Alaska, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands. Any authorized agency personnel may temporarily possess, transport, and dispose of purple swamphens, subject to the restrictions in paragraph (c) of this section. No permit is necessary to engage in these actions.

(b) *Disposal of purple swamphens.* If you are authorized to control purple swamphens, you may dispose of purple swamphens by the following methods: You may donate purple swamphens taken under this order to public museums or public institutions for scientific or educational purposes; you may dispose of the carcasses by burial or incineration; or, if the carcasses are not readily retrievable, you may leave them in place. No one may retain for personal use, offer for sale, or sell a purple swamphen removed under this section.

(c) *Other provisions.* (1) You may not remove or destroy purple swamphens or their nests or eggs if doing so is contrary to any State, territorial, tribal, or local laws or regulations.

(2) You may not remove or destroy purple swamphens or their nests or eggs if doing so will adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. In particular, the purple swamphen resembles the native purple gallinule (*Porphyryla martinica*). Authorized persons must take special care not to take purple gallinules or their nests or eggs when conducting purple swamphen control activities. Certain persons may take purple gallinules without a permit on rice-producing property in Louisiana according to the terms of a separate depredation order (see §21.45).

(3) If you use firearms to control purple swamphens under this regulation, you may use only nontoxic shot or nontoxic bullets for the control.

(4) If, while operating under this regulation, an authorized person takes any other species protected under the Endangered Species Act, the Migratory Bird Treaty Act, or the Bald and Golden Eagle Protection Act, that person must immediately report the take to the nearest Ecological Services office of the Fish and Wildlife Service. See <http://www.fws.gov/where/> to find the location of the nearest Ecological Services office.

(5) We may suspend or revoke the authority of any agency or individual to undertake purple swamphen control if we find that agency or individual has, without an applicable permit, taken actions that may take Federally listed threatened or endangered species or any bird species protected by the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act (see §10.13 of subchapter A of this chapter for the list of protected migratory bird species), or otherwise violated Federal regulations.

[75 FR 9316, Mar. 1, 2010]

§ 21.54 Control order for muscovy ducks in the United States.



(a) *Control of muscovy ducks.* Anywhere in the contiguous United States except in Hidalgo, Starr, and Zapata Counties in Texas, and in Alaska, Hawaii, and U.S. territories and possessions, landowners and Federal, State, Tribal, and local wildlife management agencies, and their tenants, employees, or agents may, without a Federal permit, remove or destroy muscovy ducks (*Cairina moschata*) (including hybrids of muscovy ducks), or their nests, or eggs at any time when found. Any authorized person may

temporarily possess, transport, and dispose of muscovy ducks taken under this order.

(b) *Muscovy ducks in Hidalgo, Starr, and Zapata Counties in Texas.* In these counties, take of muscovy ducks, their nests, and their eggs may be allowed if we issue a depredation permit for the activity.

(c) *Disposal of muscovy ducks.* You may donate muscovy ducks taken under this order to public museums or public institutions for scientific or educational purposes, or you may dispose of them by burying or incinerating them. You may not retain for personal use or consumption, offer for sale, or sell a muscovy duck removed under authority of this section, nor may you release it in any other location.

(d) *Other provisions.* (1) You must comply with any State, territorial, or Tribal laws or regulations governing the removal or destruction of muscovy ducks or their nests or eggs.

(2) You may not remove or destroy muscovy ducks or their nests or eggs if doing so will adversely affect other migratory birds or species designated as endangered or threatened under the authority of the Endangered Species Act. If you use a firearm to kill muscovy ducks under the provisions of this section, you must use nontoxic shot or nontoxic bullets to do so.

(3) If you operate under this order, you must immediately report the take of any species protected under the Endangered Species Act, or any other bird species protected under the Migratory Bird Treaty Act, to the Fish and Wildlife Service Ecological Services Office for the State or location in which the take occurred.

(4) We reserve the right to suspend or revoke the authority of any agency or individual to undertake muscovy duck control if we find that the agency or individual has undertaken actions that may harm Federally listed threatened or endangered species or are contrary to the provisions of this part.

[75 FR 9321, Mar. 1, 2010]

Subpart E—Control of Overabundant Migratory Bird Populations



§ 21.60 Conservation order for light geese.



(a) *What is a conservation order?* A conservation order is a special management action that is needed to control certain wildlife populations when traditional management programs are unsuccessful in preventing overabundance of the population. We are authorizing a conservation order under the authority of the Migratory Bird Treaty Act to reduce and stabilize various light goose populations. The conservation order allows new methods of taking light geese, allows shooting hours for light geese to end one-half hour after sunset, and imposes no daily bag limits for light geese inside or outside the migratory bird hunting season frameworks as described in this section.

(b) *Which waterfowl species are covered by the order?* The conservation order addresses management of greater snow (*Chen caerulescens atlantica*), lesser snow (*C. c. caerulescens*), and Ross's (*C. rossii*) geese that breed, migrate, and winter in North America. The term light geese refers collectively to greater and lesser snow geese and Ross's geese.

(c) *Where can the conservation order be authorized?* The Director can authorize the conservation order in these areas:

(1) The following States that are contained within the boundaries of the Atlantic Flyway: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia.

(2) The following States, or portions of States, that are contained within the boundaries of the Mississippi and Central 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.

(3) The following States, or portions of States, that are contained within the boundaries of the Pacific Flyway: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(4) Tribal lands within the geographic boundaries in paragraphs (c)(1), (2), and (3) of this section.

(d) *When will the Director authorize the conservation order in a particular Flyway?* (1) The Director may authorize the conservation order for the reduction of greater snow geese for any State or Tribe contained within the Atlantic Flyway by publishing a notice under paragraph (e) of this section when the May Waterfowl Population Status report indicates that the management goal of 500,000 birds has been exceeded and that special conservation actions conducted in Canada are insufficient to reduce the population. Authorization of the conservation order in the U.S. portion of the Atlantic Flyway will occur after the Director determines the degree to which the management goal has been exceeded, the trajectory of population growth, anticipated harvest that would result from implementation of the conservation order, and whether or not similar conservation actions will be conducted in Canada.

(2) The Director may authorize the conservation order for the reduction of mid-continent light geese (lesser snow and Ross's geese) for any State or Tribe contained within the Mississippi and Central Flyways by publishing a notice under paragraph (e) of this section when the May Waterfowl Population Status report indicates that the management goal of 1,600,000 birds (winter index for Mid-continent Population and Western Central Flyway Population, combined) has been exceeded. Authorization of the conservation order in the U.S. portion of the Mississippi and Central Flyways will occur after the Director determines the degree to which the management goal has been exceeded, the trajectory of population growth, anticipated harvest that would result from implementation of the conservation order, and whether or not similar conservation actions will be conducted in Canada.

(3) The Director may authorize a conservation order for the reduction of light geese (lesser snow and Ross's geese) for any State or Tribe contained within the Pacific Flyway by publishing a notice under paragraph (e) of this section when the Director determines that light goose numbers in the western Arctic have exceeded the ability of their breeding habitat to support them.

(e) *How will the conservation order be authorized for a particular Flyway?* The Director will publish a notice in the Federal Register when the conservation order is authorized in a particular Flyway.

(f) *What is required for State/Tribal governments to participate in the conservation order?* When authorized 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, light geese under the following conditions:

(1) Activities conducted under the conservation order 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, reopening, 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 (including light goose) and crane hunting seasons, excluding falconry, are closed.

(4) Control measures employed through this section may be used only between the hours of one-half hour before sunrise to one-half hour after sunset.

(5) Nothing in the conservation order 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 the conservation order.

(7) States and Tribes must inform participants of the requirements and conditions of the conservation order that apply.

(8) States and Tribes must keep annual records of activities carried out under the authority of the

conservation order. Specifically, information must be collected on:

- (i) The number of persons participating in the conservation order;
- (ii) The number of days people participated in the conservation order;
- (iii) The number of persons who pursued light geese with the aid of a shotgun capable of holding more than three shells;
- (iv) The number of persons who pursued light geese with the aid of an electronic call;
- (v) The number of persons who pursued light geese during the period one-half hour after sunset;
- (vi) The total number of light geese shot and retrieved during the conservation order;
- (vii) The number of light geese taken with the aid of an electronic call;
- (viii) The number of light geese taken with the fourth, fifth, or sixth shotgun shell;
- (ix) The number of light geese taken during the period one-half hour after sunset; and
- (x) The number of light geese shot but not retrieved.

(9) The States and Tribes must submit an annual report summarizing activities conducted under the conservation order on or before September 15 of each year, to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop MBSP-4107, Arlington, Virginia 22203. Information from Tribes may be incorporated in State reports.

(g) *What is required for persons to participate in the conservation order?* Individual participants in State or Tribal programs covered by the conservation order must comply with the following provisions:

- (1) Nothing in the conservation order authorizes the take of light geese contrary to any State or Tribal laws or regulations, and none of the privileges granted under the conservation order may be exercised unless persons acting under the authority of the conservation order possess whatever permit or other authorization(s) may be required for such activities by the State or Tribal government concerned.
- (2) Persons who take light geese under the conservation order may not sell or offer for sale those birds or their plumage but may possess, transport, and otherwise properly use them.
- (3) Persons acting under the authority of the conservation order 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) Persons acting under the authority of the conservation order may take 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 carry out take activities 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 bird.

(v) By the use or aid of live birds as decoys. It is a violation of this paragraph (g) for any person to take 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 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 light 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–k). Light 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). However, nothing in this paragraph (g) prohibits the taking of light 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, postharvest manipulation or normal soil stabilization practice as described in §20.11(g), (i), (l), and (m);

(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.

(viii) 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-bronze, tungsten-nickel-iron, tungsten-tin-iron, tungsten-nickel-iron-tin, tungsten-iron-copper-nickel, or other shots that are authorized in §20.21(j).

(h) *Can the conservation order be suspended?* The Director reserves the right to suspend or revoke a State's or Tribe's authority under the conservation order if we find that the State or Tribe has not adhered to the terms and conditions specified in this section. The criteria for suspension and revocation are outlined in §13.27 and §13.28 of this subchapter. Upon appeal, final decisions to revoke authority will be made by the Director. Additionally, at such time that the Director determines that a specific population of light geese no longer poses a threat to habitats, agricultural crops, or other interests, or is within Flyway management objectives, the Director may choose to terminate part or all of the conservation order.

(i) *Under what conditions would the conservation order be suspended?* The Director will annually assess the overall impact and effectiveness of the conservation order on each light goose population to ensure compatibility with long-term conservation of this resource. The Director will suspend the conservation order if at any time evidence clearly demonstrates that an individual light goose population no longer presents a serious threat of injury to the area or areas involved. Suspension by the Director will occur by publication of a notice in the Federal Register. However, resumption of growth by the light goose population in question may warrant reinstatement of the conservation order to control the population. The Director will publish a notice of such reinstatement in the Federal Register. Depending on the status of individual light goose populations, it is possible that a conservation order may be in effect for one or more light goose populations, but not others.

(j) *What are the information collection requirements?* The information collection requirements associated with the conservation order are described in paragraphs (f)(6) through (9) of this section. Reported information helps us to assess the effectiveness of light geese population control methods and strategies and assess whether or not additional population control methods are needed. The Office of Management and Budget has approved this information collection and assigned OMB Control No. 1018–0103. We 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. At any time, you may submit

comments on these information collection requirements to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., (mailstop ARL SQ-222), Washington, DC 20240.

[73 FR 65951, Nov. 5, 2008; 73 FR 70914, Nov. 24, 2008]

§ 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 31.
- (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, as amended by 72 FR 46409, Aug. 20, 2007]

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PART 22—EAGLE PERMITS

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[Subpart D—Depredation Control Orders on Golden Eagles](#)

- [§ 22.31 Golden eagle depredations control order on request of Governor of a State.](#)
- [§ 22.32 Conditions and limitations on taking under depredation control order.](#)

Authority: 16 U.S.C. 668–668d; 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 eagles (*Haliaeetus leucocephalus*) and golden eagles (*Aquila chrysaetos*) and their parts, nests, and eggs for scientific, educational, and depredation control purposes; for the religious purposes of American Indian tribes; and to protect other interests in a particular locality. 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, as amended at 73 FR 29083, May 20, 2008]

§ 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 Definitions.



In addition to the definitions contained in part 10 of this subchapter, and unless the context otherwise requires, in this part 22:

Advanced conservation practices means scientifically supportable measures that are approved by the Service and represent the best available techniques to reduce eagle disturbance and ongoing mortalities to a level where remaining take is unavoidable.

Area nesting population means the number of pairs of golden eagles known to have a nesting attempt during the preceding 12 months within a 10-mile radius of a golden eagle nest.

Communal roost site means an area where eagles gather repeatedly in the course of a season and shelter overnight and sometimes during the day in the event of inclement weather.

Cumulative effects means the incremental environmental impact or effect of the proposed action, together with impacts of past, present, and reasonably foreseeable future actions.

Disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

Eagle nest means any readily identifiable structure built, maintained, or used by bald eagles or golden eagles for the purpose of reproduction.

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.

Foraging area means an area where eagles regularly feed during one or more seasons.

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.

Important eagle-use area means an eagle nest, foraging area, or communal roost site that eagles rely on for breeding, sheltering, or feeding, and the landscape features surrounding such nest, foraging area, or roost site that are essential for the continued viability of the site for breeding, feeding, or sheltering eagles.

Inactive nest means a bald eagle or golden eagle nest that is not currently being used by eagles as determined by the continuing absence of any adult, egg, or dependent young at the nest for at least 10 consecutive days immediately prior to, and including, at present. An inactive nest may become active again and remains protected under the Eagle Act.

Indirect effects means effects for which a proposed action is a cause, and which may occur later in time and/or be physically manifested beyond the initial impacts of the action, but are still reasonably likely to occur.

Maximum degree achievable means the standard at which any take that occurs is unavoidable despite implementation of advanced conservation practices.

Necessary to ensure public health and safety means required to maintain society's well-being in matters of health and safety.

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.

Practicable means capable of being done after taking into consideration, relative to the magnitude of the impacts to eagles, the following three things: the cost of remedy compared to proponent resources; existing technology; and logistics in light of overall project purposes.

Programmatic permit means a permit that authorizes programmatic take. A programmatic permit can cover other take in addition to programmatic take.

Programmatic take means take that is recurring, is not caused solely by indirect effects, and that occurs over the long term or in a location or locations that cannot be specifically identified.

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.

Safety emergency means a situation that necessitates immediate action to alleviate a threat of bodily harm to humans or eagles.

Take means pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb.

Territory means an area that contains, or historically contained, one or more nests within the home range of a mated pair of eagles.

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; 72 FR 31139, June 5, 2007; 74 FR 46876, Sept. 11, 2009]

§ 22.4 Information collection requirements.



(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 and 1018-0136. 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) Direct comments regarding any 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 and 1018-0136), Washington, DC 20603.

[63 FR 52637, Oct. 1, 1998, as amended at 74 FR 46876, Sept. 11, 2009]

Subpart B—General Requirements



§ 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, 50 CFR part 17, 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) A permit that covers take of bald eagles or golden eagles under 50 CFR part 17 for purposes of providing prospective or current ESA authorization constitutes a valid permit issued under this part for any take authorized under the permit issued under part 17 as long as the permittee is in full compliance with the terms and conditions of the permit issued under part 17. The provisions of part 17 that originally applied will apply for purposes of the Eagle Act authorization, except that the criterion for revocation of the permit is that the activity is incompatible with the preservation of the bald eagle or the golden eagle rather than inconsistent with the criterion set forth in 16 U.S.C. 1539(a)(2)(B)(iv).

(b) 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.

(c) 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.

(d) 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; 73 FR 29083, May 20, 2008]

§ 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?



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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 and eagles that pose a risk to human or eagle health and safety?



(a) *How do I apply for a permit?* You must submit applications for permits under this section 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, if applicable;
- (6) Kind and amount of alleged damage, or description of the risk posed to human health and safety or eagles; 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 bald or golden eagles under this section are 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 will not issue a permit to take bald or golden eagles unless the Director has determined that such taking is compatible with the preservation of the bald or golden eagle. In making such determination, the Director will 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 evidence shows 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, or that bald or golden eagles pose a significant risk to human or eagle health and safety; and

(3) Whether the only way to abate or prevent 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 under this section is that shown on the face of the permit. We will not issue these permits for terms longer than 90 days, except that permits to authorize disturbance associated with hazing eagles from the vicinity may be valid for up to 5 years. We may amend, suspend, or revoke permits issued for a period of longer than 90 days if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations.

[39 FR 1183, Jan. 4, 1974, as amended at 63 FR 52638, Oct. 1, 1998; 64 FR 50473, Sept. 17, 1999; 74 FR 46876, Sept. 11, 2009]

§ 22.24 Permits for falconry purposes.



(a) *Use of golden eagles in falconry* . If you meet the conditions outlined in §21.29 (c)(3)(iv) of this part, and you have a permit to possess a golden eagle (*Aquila chrysaetos*) from your State, tribe, or territory, we consider your permit sufficient for the purposes of the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d), subject to the requirement that take of golden eagles for falconry is compatible with the preservation of the golden eagle.

(b) *Transfer of golden eagles trapped by government employees to other permittees*. If you have the necessary permit(s) from your State, tribe, or territory, a government employee who has trapped a golden eagle under a Federal depredation permit or under a depredation control order may transfer the bird to you if he or she cannot release the eagle in an appropriate location. A golden eagle may only be taken from a livestock or wildlife depredation area declared by USDA Wildlife Services and permitted under §22.23, or from a livestock depredation area authorized in accordance with Subpart D, Depredation Control Orders on Golden Eagles.

[73 FR 59477, Oct. 8, 2008, as amended at 75 FR 932, Jan. 7, 2010]

§ 22.25 What are the requirements concerning permits to take golden eagle nests?



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]

§ 22.26 Permits for eagle take that is associated with, but not the purpose of, an activity.



(a) *Purpose and scope* . This permit authorizes take of bald eagles and golden eagles where the take is compatible with the preservation of the bald eagle and the golden eagle; necessary to protect an interest in a particular locality; associated with but not the purpose of the activity; and

(1) For individual instances of take: the take cannot practicably be avoided; or

(2) For programmatic take: the take is unavoidable even though advanced conservation practices are being implemented.

(b) *Definitions* . In addition to the definitions contained in part 10 of this subchapter, and §22.3, the following definition applies in this section:

Eagle means a live bald eagle (*Haliaeetus leucocephalus*), live golden eagle (*Aquila chrysaetos*), a bald eagle egg, or a golden eagle egg.

(c) *Permit conditions* . In addition to the conditions set forth in part 13 of this subchapter, which govern permit renewal, amendment, transfer, suspension, revocation, and other procedures and requirements for all permits issued by the Service, your authorization is subject to the following additional conditions:

(1) You must comply with all avoidance, minimization, or other mitigation measures determined by the Director as reasonable and specified in the terms of your permit to compensate for the detrimental effects, including indirect effects, of the permitted activity on the regional eagle population;

(2) You may be required to monitor eagle use of important eagle-use areas where eagles are likely to be affected by your activities for up to 3 years after completion of the activity or as set forth in a separate management plan, as specified on your permit. Unless different monitoring protocols are required under a separate management plan approved by the Service and denoted on the permit, monitoring consists of periodic site visits, during the season(s) when eagles would normally be present, to the area where the take is likely to occur, and noting whether eagles continue to nest, roost, or forage there. The periodic monitoring is required for the duration of the activity that is likely to cause take (during the season(s) that eagles would normally be present). The frequency and duration of required monitoring after the activity is completed will depend on the form and magnitude of the anticipated take and the objectives of associated conservation measures, not to exceed what is reasonable to meet the primary purpose of the monitoring, which is to provide data needed by the Service regarding the impacts of human activity on eagles for purposes of adaptive management. Monitoring will not be required beyond 3 years after completion of an activity that was likely to cause take. For ongoing activities and enduring site features that continue to be likely to result in take, periodic monitoring may be required for as long as the data are needed to assess impacts to eagles.

(3) You must submit an annual report summarizing the information you obtained through monitoring to the Service every year that your permit is valid and for up to 3 years after completion of the activity or termination of the permit, as specified in your permit. If your permit expires or is suspended or revoked before the activity is completed, you must submit the report within 60 days of such date. Reporting

requirements include:

(i) Whether eagles are observed using the important eagle-use areas designated on the permit; and

(ii) Description of the human activities conducted at the site when eagles are observed.

(4) While the permit is valid and for up to 3 years after it expires, you must allow Service personnel, or other qualified persons designated by the Service, access to the areas where eagles are likely to be affected, at any reasonable hour, and with reasonable notice from the Service, for purposes of monitoring eagles at the site(s).

(5) The authorizations granted by permits issued under this section apply only to take that results from activities conducted in accordance with the description contained in the permit application and the terms of the permit. If the permitted activity changes after a permit is issued, you must immediately contact the Service to determine whether a permit amendment is required in order to retain take authorization.

(6) You must contact the Service immediately upon discovery of any unanticipated take.

(7) The Service may amend, suspend, or revoke a programmatic permit issued under this section if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspension, and revocation of Federal permits set forth in §§13.23, 13.27, and 13.28.

(8) Notwithstanding the provisions of §13.26 of this subchapter, you remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit.

(9) You must promptly notify the Service of any eagle(s) found injured or dead at the activity site, regardless of whether the injury or death resulted from your activity. The Service will determine the disposition of such eagles.

(10) The authorization granted by permits issued under this section is not valid unless you are in compliance with all Federal, tribal, State, and local laws and regulations applicable to take of eagles.

(d) *Applying for an eagle take permit*. (1) You are advised to coordinate with the Service as early as possible for advice on whether a permit is needed and for technical assistance in assembling your permit application package. The Service may provide guidance on developing complete and adequate application materials and will determine when the application form and materials are ready for submission.

(2) Your application must consist of a completed application Form 3-200-71 and all required attachments. Send applications to the Regional Director of the Region in which the disturbance would occur—Attention: Migratory Bird Permit Office. You can find the current addresses for the Regional Directors in §2.2 of subchapter A of this chapter.

(e) *Evaluation of applications*. In determining whether to issue a permit, we will evaluate:

(1) Whether take is likely to occur based on the magnitude and nature of the impacts of the activity, which include indirect effects. For potential take in the form of disturbance, this evaluation would include:

(i) The prior exposure and tolerance to similar activity of eagles in the vicinity;

(ii) Visibility of the activity from the eagle's nest, roost, or foraging perches; and

(iii) Whether alternative suitable eagle nesting, roosting, and/or feeding areas that would not be detrimentally affected by the activity are available to the eagles potentially affected by the activity.

(2) Whether the take is:

(i) Compatible with the preservation of the bald eagle and the golden eagle, including consideration of indirect effects and the cumulative effects of other permitted take and other additional factors affecting

eagle populations;

(ii) Associated with the permanent loss of an important eagle use area;

(iii) Necessary to protect a legitimate interest in a particular locality; and

(iv) Associated with, but not the purpose of, the activity.

(3) Whether the applicant has proposed avoidance and minimization measures to reduce the take to the maximum degree practicable, and for programmatic authorizations, the take is unavoidable despite application of advanced conservation practices developed in coordination with the Service.

(4) Whether issuing the permit would preclude the Service from authorizing another take necessary to protect an interest of higher priority, according to the following prioritization order:

(i) Safety emergencies;

(ii) Native American religious use for rites and ceremonies that require eagles be taken from the wild;

(iii) Renewal of programmatic take permits;

(iv) Non-emergency activities necessary to ensure public health and safety; and

(v) Other interests.

(5) Any additional factors that may be relevant to our decision whether to issue the permit, including, but not limited to, the cultural significance of a local eagle population.

(f) *Required determinations* . Before we issue a permit, we must find that:

(1) The direct and indirect effects of the take and required mitigation, together with the cumulative effects of other permitted take and additional factors affecting eagle populations, are compatible with the preservation of bald eagles and golden eagles;

(2) The taking is necessary to protect a legitimate interest in a particular locality;

(3) The taking is associated with, but not the purpose of, the activity;

(4) The taking cannot practicably be avoided; or for programmatic authorizations, the take is unavoidable;

(5) The applicant has avoided and minimized impacts to eagles to the extent practicable, and for programmatic authorizations, the taking will occur despite application of advanced conservation practices; and

(6) Issuance of the permit will not preclude issuance of another permit necessary to protect an interest of higher priority as set forth in paragraph (e)(4) of this section.

(g) We may deny issuance of a permit if we determine that take is not likely to occur.

(h) *Permit duration* . The duration of each permit issued under this section will be designated on its face, and will be based on the duration of the proposed activities, the period of time for which take will occur, the level of impacts to eagles, and mitigation measures, but will not exceed 5 years.

[74 FR 46877, Sept. 11, 2009]

§ 22.27 Removal of eagle nests.



[top](#)

(a) *Purpose and scope* . (1) A permit may be issued under this section to authorize removal or relocation of:

(i) An active or inactive nest where necessary to alleviate a safety emergency;

(ii) An inactive eagle nest when the removal is necessary to ensure public health and safety;

(iii) An inactive nest that is built on a human-engineered structure and creates a functional hazard that renders the structure inoperable for its intended use; or

(iv) An inactive nest, provided the take is necessary to protect an interest in a particular locality and the activity necessitating the take or the mitigation for the take will, with reasonable certainty, provide a clear and substantial benefit to eagles.

(2) Where practicable and biologically warranted, the permit may require a nest to be relocated, or a substitute nest provided, in a suitable site within the same territory to provide a viable nesting option for eagles within that territory, unless such relocation would create a threat to safety. However, we may issue permits to remove nests that we determine cannot or should not be relocated. The permit may authorize take of eggs or nestlings if present. The permit may also authorize the take of adult eagles (e.g., disturbance or capture) associated with the removal or relocation of the nest.

(3) A programmatic permit may be issued under this section to cover multiple nest takes over a period of up to 5 years, provided the permittee complies with comprehensive measures that are developed in coordination with the Service, designed to reduce take to the maximum degree technically achievable, and specified as conditions of the permit.

(4) This permit does not authorize intentional, lethal take of eagles.

(b) *Conditions* . (1) Except for take that is necessary to alleviate an immediate threat to human or eagle safety, only inactive eagle nests may be taken under this permit.

(2) When an active nest must be removed under this permit, any take of nestlings or eggs must be conducted by a Service-approved, qualified, and permitted agent, and all nestlings and viable eggs must be immediately transported to foster/recipient nests or a rehabilitation facility permitted to care for eagles, as directed by the Service.

(3) Possession of the nest for any purpose other than removal or relocation is prohibited without a separate permit issued under this part authorizing such possession.

(4) You must submit a report consisting of a summary of the activities conducted under the permit to the Service within 30 days after the permitted take occurs, except that for programmatic permits, you must report each nest removal within 10 days after the take and submit an annual report by January 31 containing all the information required in Form 3-202-16 for activities conducted during the preceding calendar year.

(5) You may be required to monitor the area and report whether eagles attempt to build or occupy another nest at another site in the vicinity for the duration specified in the permit.

(6) You may be required under the terms of the permit to harass eagles from the area following the nest removal when the Service determines it is necessary to prevent eagles from re-nesting in the vicinity.

(7) You must comply with all avoidance, minimization, or other mitigation measures determined by the Director as reasonable and specified in the terms of your permit to compensate for the detrimental effects, including indirect effects, of the permitted activity on—and for permits issued under paragraph (a)(1)(iv) of this section, to provide a net benefit to—the regional eagle population.

(8) The Service may amend or revoke a programmatic permit issued under this section if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations.

(9) Notwithstanding the provisions of §13.26 of this subchapter, you remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit.

(10) The authorization granted by permits issued under this section is not valid unless you are in compliance with all Federal, tribal, State, and local laws and regulations applicable to take of eagles.

(c) *Applying for a permit to take eagle nests* . (1) If the take is necessary to address an immediate threat to human or eagle safety, contact your local U.S. Fish and Wildlife Service Regional Migratory Bird Permit Office (<http://www.fws.gov/permits/mbpermits/addresses.html>) at the earliest possible opportunity to inform the Service of the emergency.

(2) Your application must consist of a completed application Form 3-200-72 and all required attachments. Send applications to the Regional Director of the Region in which the disturbance would occur—Attention: Migratory Bird Permit Office. You can find the current addresses for the Regional Directors in §2.2 of subchapter A of this chapter.

(d) *Evaluation of applications* . In determining whether to issue a permit, we will evaluate:

- (1) Whether the activity meets the requirements of paragraph (a)(1) of this section;
- (2) The direct and indirect effects of the take and required mitigation, together with the cumulative effects of other permitted take and additional factors affecting eagle populations;
- (3) Whether there is a practicable alternative to nest removal that will protect the interest to be served;
- (4) Whether issuing the permit would preclude the Service from authorizing another take necessary to protect an interest of higher priority, as set forth in paragraph (e)(5) of this section;
- (5) For take that is not necessary to alleviate an immediate safety emergency, whether suitable nesting and foraging habitat is available to accommodate eagles displaced by the nest removal; and
- (6) Any additional factors that may be relevant to our decision whether to issue the permit, including, but not limited to, the cultural significance of a local eagle population.

(e) *Required determinations* . Before issuing a permit under this section, we must find that:

- (1) The direct and indirect effects of the take and required mitigation, together with the cumulative effects of other permitted take and additional factors affecting eagle populations, are compatible with the preservation of the bald eagle or the golden eagle;
- (2) For inactive nests:
 - (i) The take is necessary to ensure public health and safety;
 - (ii) The nest is built on a human-engineered structure and creates a functional hazard that renders the structure inoperable for its intended use; or
 - (iii) The take is necessary to protect a legitimate interest in a particular locality, and the activity necessitating the take or the mitigation for the take will, with reasonable certainty, provide a clear and substantial benefit to eagles;
- (3) For active nests, the take is necessary to alleviate an immediate threat to human safety or eagles;
- (4) There is no practicable alternative to nest removal that would protect the interest to be served; and
- (5) Issuing the permit will not preclude the Service from authorizing another take necessary to protect an interest of higher priority, according to the following prioritization order:
 - (i) Safety emergencies;
 - (ii) Native American religious use for rites and ceremonies that require eagles be taken from the wild;
 - (iii) Renewal of programmatic nest-take permits;

- (iv) Non-emergency activities necessary to ensure public health and safety;
- (v) Resource development or recovery operations (under §22.25, for golden eagle nests only);
- (vi) Other interests.

(6) For take that is not necessary to alleviate an immediate threat to human safety or eagles, we additionally must find that suitable nesting and foraging habitat is available to the area nesting population of eagles to accommodate any eagles displaced by the nest removal.

(f) *Tenure of permits* . The tenure of any permit to take eagle nests under this section is set forth on the face of the permit and will not be longer than 5 years.

[74 FR 46877, Sept. 11, 2009]

§ 22.28 Permits for bald eagle take exempted under the Endangered Species Act.



(a) *Purpose and scope* . This permit authorizes take of bald eagles (*Haliaeetus leucocephalus*) in compliance with the terms and conditions of a section 7 incidental take statement under the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531 *et seq.* ; 50 CFR 402, Subpart B) issued prior to the effective date of 50 CFR 22.26.

(b) *Issuance criteria* . Before issuing you a permit under this section, we must find that you are in full compliance with the terms and conditions contained in the applicable ESA incidental take statement issued prior to the effective date of 50 CFR 22.26 for take of eagles, based on your certification and any other relevant information available to us, including, but not limited to, monitoring or progress reports required pursuant to your incidental take statement. The terms and conditions of the Eagle Act permit under this section, including any modified terms and conditions, must be compatible with the preservation of the bald eagle.

(c) *Permit conditions* . (1) You must comply with all terms and conditions of the incidental take statement issued under section 7 of the ESA, or modified measures specified in the terms of your permit issued under this section. At permit issuance or at any time during its tenure, the Service may modify the terms and conditions that were included in your ESA incidental take statement, based on one or more of the following factors:

(i) You requested and received modified measures because some of the requirements for take authorization under the ESA were not necessary for take authorization under the Eagle Act;

(ii) The amount or extent of incidental take authorized under the take statement is exceeded;

(iii) New information reveals effects of the action that may affect eagles in a manner or to an extent not previously considered, and requires modification of the terms and conditions to ensure the preservation of the bald eagle or the golden eagle; or

(iv) The activity will be modified by the permittee in a manner that causes effects to eagles that were not previously considered and which requires modification of the terms and conditions in the incidental take statement in order to ensure the preservation of the bald eagle or the golden eagle.

(2) During any period when the eagles covered by your incidental take statement are listed under the ESA, you must comply with the terms and conditions of both the incidental take statement and the permit issued under this section.

(d) *Permit duration* . The permit will be valid until the action that will take eagles, as described in the incidental take statement or modified to condition the permit issued under this section, is completed, as long as the permittee complies with the terms and conditions of the permit, including any modified terms and conditions.

(e) *Applying for an eagle take permit* . (1) Your application must consist of a copy of the applicable

section 7 incidental take statement issued pursuant to the Endangered Species Act (ESA), and a signed certification that you are in full compliance with all terms and conditions of the ESA incidental take statement.

(2) If you request reevaluation of the terms and conditions required under your previously granted ESA incidental take statement for eagles, you must include a description of the modifications you request, and an explanation for why you believe the original conditions or measures are not reasonably justified to offset the detrimental impact of the permitted activity on eagles.

(3) Send completed permit applications to the Regional Director of the Region in which the disturbance would occur—Attention: Migratory Bird Permit Office. You can find the current addresses for the Regional Directors in §2.2 of subchapter A of this chapter.

[73 FR 29083, May 20, 2008; 74 FR 46879, Sept. 11, 2009]

Subpart D—Depredation Control Orders on Golden Eagles



§ 22.31 Golden eagle depredations control order on request of Governor of a State.



(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.



(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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