



Code of Federal Regulations

50

Parts 1 to 16

Revised as of October 1, 2004

Wildlife and Fisheries

Containing a codification of documents
of general applicability and future effect

As of October 1, 2004

With Ancillaries

Published by
Office of the Federal Register
National Archives and Records
Administration

A Special Edition of the Federal Register

**U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 2004**

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Table of Contents

	<i>Page</i>
Explanation	v
Title 50:	
Chapter I—United States Fish and Wildlife Service, Department of the Interior	3
Finding Aids:	
Material Approved for Incorporation by Reference	101
Table of CFR Titles and Chapters	103
Alphabetical List of Agencies Appearing in the CFR	121
List of CFR Sections Affected	131

Cite this Code: CFR

*To cite the regulations in
this volume use title,
part and section num-
ber. Thus, 50 CFR 1.1
refers to title 50, part 1,
section 1.*

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.....	as of January 1
Title 17 through Title 27.....	as of April 1
Title 28 through Title 41.....	as of July 1
Title 42 through Title 50.....	as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

HOW TO USE THE CODE OF FEDERAL REGULATIONS

The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, October 1, 2004), consult the "List of CFR Sections Affected (LSA)," which is issued monthly, and the "Cumulative List of Parts Affected," which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE AND EXPIRATION DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date. In those instances where a regulation published in the Federal Register states a date certain for expiration, an appropriate note will be inserted following the text.

OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires Federal agencies to display an OMB control number with their information collection request.

Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

OBSOLETE PROVISIONS

Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 2001, consult either the List of CFR Sections Affected, 1949–1963, 1964–1972, 1973–1985, or 1986–2000, published in 11 separate volumes. For the period beginning January 1, 2001, a “List of CFR Sections Affected” is published at the end of each CFR volume.

INCORPORATION BY REFERENCE

What is incorporation by reference? Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (5 U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.

What is a proper incorporation by reference? The Director of the Federal Register will approve an incorporation by reference only when the requirements of 1 CFR part 51 are met. Some of the elements on which approval is based are:

- (a) The incorporation will substantially reduce the volume of material published in the Federal Register.
- (b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.
- (c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR part 51.

Properly approved incorporations by reference in this volume are listed in the Finding Aids at the end of this volume.

What if the material incorporated by reference cannot be found? If you have any problem locating or obtaining a copy of material listed in the Finding Aids of this volume as an approved incorporation by reference, please contact the agency that issued the regulation containing that incorporation. If, after contacting the agency, you find the material is not available, please notify the Director of the Federal Register, National Archives and Records Administration, Washington DC 20408, or call (202) 741-6010.

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A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I). A list of CFR titles, chapters, and parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of “Title 3—The President” is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the “Contents” entries in the daily Federal Register.

A List of CFR Sections Affected (LSA) is published monthly, keyed to the revision dates of the 50 CFR titles.

REPUBLICATION OF MATERIAL

There are no restrictions on the republication of material appearing in the Code of Federal Regulations.

INQUIRIES

For a legal interpretation or explanation of any regulation in this volume, contact the issuing agency. The issuing agency's name appears at the top of odd-numbered pages.

For inquiries concerning CFR reference assistance, call 202-741-6000 or write to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail fedreg.info@nara.gov.

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RAYMOND A. MOSLEY,

Director,

Office of the Federal Register.

October 1, 2004.

THIS TITLE

Title 50—FISH AND WILDLIFE is composed of seven volumes. The parts in these volumes are arranged in the following order: Parts 1-16; part 17 (17.1 to 17.95), part 17 (17.96 to 17.99(h)), part 17 (17.99(i) to End and 17.100 to End), parts 18-199, parts 200-599 and part 600 to End. The first five volumes (parts 1-16, part 17 (17.1 to 17.95), part 17 (17.96 to 17.99(h)), part 17 (part 17.99(i) to End and 17.100 to End), and parts 18-199) contain the current regulations issued under chapter I—United States Fish and Wildlife Service, Department of the Interior. The sixth volume (parts 200-599) contains the current regulations issued under chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce; chapter III—International Fishing and Related Activities, chapter IV—Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee regulations; and chapter V—Marine Mammal Commission. The seventh volume (part 600 to End) contains the current regulations issued under chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce. The contents of these volumes represent all current regulations codified under this title of the CFR as of October 1, 2004.

Alphabetical listings of endangered and threatened wildlife and plants appear in part 17.

The OMB control numbers for the National Oceanic and Atmospheric Administration appear in 15 CFR 902.1.

For this volume, Cheryl E. Sirofchuck was Chief Editor. The Code of Federal Regulations publication program is under the direction of Frances D. McDonald, assisted by Alomha S. Morris.

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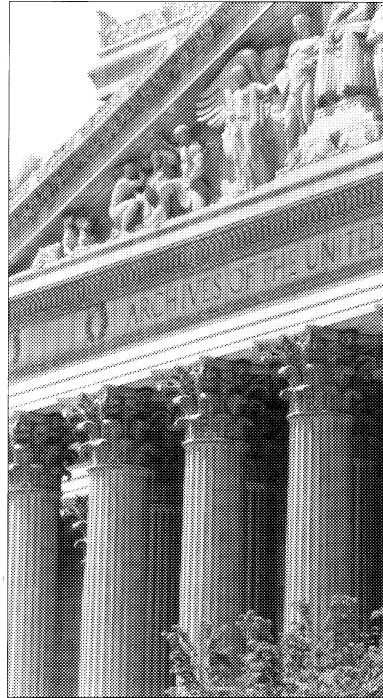
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Title 50—Wildlife and Fisheries

(This book contains parts 1 to 16)

Part

CHAPTER I—United States Fish and Wildlife Service, Department of the Interior	1
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CROSS REFERENCES: Commercial fishing on Red Lake Indian Reservation, Bureau of Indian Affairs: 25 CFR part 242.

Disposal of certain wild animals in national parks, National Park Service: 36 CFR part 10.
Exchanges of land for migratory bird or other wildlife refuges, Bureau of Land Management: 43 CFR 2200.0-1—2272.1.

Fishing in coastal waters, lakes, rivers, bays, etc., Corps of Engineers: 33 CFR part 209.

Fishing, hunting, trapping, and protection of wildlife in national forests and wildlife refuges, Forest Service: 36 CFR part 241, §§261.8, 261.9.

Fishing, hunting, trapping, and protection of wildlife in national parks, memorials, recreation areas, etc., National Park Service: 36 CFR 2.2 and 2.3, and parts 7, 20.

Fishing and hunting in reservoir areas, Corps of Engineers: 36 CFR 327.8.

Free entry of animals, birds and products of American fisheries under specified conditions, Customs Service: 19 CFR 10.70—10.83.

Grazing areas for wildlife maintenance, Bureau of Land Management: 43 CFR Subpart 4110.

Making pictures, television production, or sound tracks on areas administered by the United States Fish and Wildlife Service or the National Park Service: 43 CFR 5.1.

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER A—GENERAL PROVISIONS

<i>Part</i>		<i>Page</i>
1	Definitions	5
2	Field organization	5
3	Nondiscrimination—contracts, permits, and use of facilities	6

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PUR- CHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

10	General provisions	8
11	Civil procedures	28
12	Seizure and forfeiture procedures	31
13	General permit procedures	40
14	Importation, exportation, and transportation of wildlife	50
15	Wild Bird Conservation Act	76
16	Injurious wildlife	89

SUBCHAPTER A—GENERAL PROVISIONS

PART 1—DEFINITIONS

Sec.

- 1.1 Meaning of terms.
- 1.2 Authorized representative.
- 1.3 Service.
- 1.4 Director.
- 1.5 Officer in Charge.
- 1.6 Person.
- 1.7 Regional director.
- 1.8 Secretary.

AUTHORITY: 5 U.S.C. 301.

SOURCE: 31 FR 16002, Dec. 15, 1966, unless otherwise noted.

§ 1.1 Meaning of terms.

As used in this chapter, unless separately defined, terms shall have the meaning ascribed in this part.

§ 1.2 Authorized representative.

Authorized representative means the subordinate official to which a principal official has delegated authority to act on a particular matter or a class of matters. The Director, U.S. Fish and Wildlife Service is frequently the authorized representative of the Secretary of the Interior, as also may be a regional director or an officer in charge of a Service field installation.

§ 1.3 Service.

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

§ 1.4 Director.

Director means the Director, U.S. Fish and Wildlife Service or the authorized representative of such official.

[48 FR 44833, Sept. 30, 1983]

§ 1.5 Officer in Charge.

Officer in Charge means any person in charge of a national fish hatchery, national wildlife refuge, research center, or other U.S. Fish and Wildlife Service installation, or the authorized representative of such official.

[48 FR 44833, Sept. 30, 1983]

§ 1.6 Person.

Person means an individual, club, association, partnership, corporation, or

private or public body, any one or all, as the context requires.

§ 1.7 Regional director.

Regional director means the official in charge of a region of the U.S. Fish and Wildlife Service or the authorized representative of such official.

[48 FR 44833, Sept. 30, 1983]

§ 1.8 Secretary.

Secretary means the Secretary of the Interior or the authorized representative of such official.

[48 FR 44833, Sept. 30, 1983]

PART 2—FIELD ORGANIZATION

Sec.

- 2.1 Regional offices.
- 2.2 Locations of regional offices.

AUTHORITY: 5 U.S.C. 301.

§ 2.1 Regional offices.

The program operations of the U.S. Fish and Wildlife Service are performed at various types of field installations, such as ecological services stations, endangered species stations, fishery assistance offices, national fish hatcheries, national wildlife refuges, research laboratories and wildlife assistance offices. Generally, field installations are responsible to the regional director who has jurisdiction over Service activities in the State(s) encompassed by the region. Unless otherwise stated for a particular matter in the regulations, all persons may secure from the regional offices information or make submittals or requests, as well as obtain forms and instructions as to the scope and contents of papers or reports required of the public.

[48 FR 44833, Sept. 30, 1983]

§ 2.2 Locations of regional offices.

The geographic jurisdictions and addresses of the U.S. Fish and Wildlife regional offices are as follows:

- (a) Portland Regional Office (Region 1—comprising the States of California, Hawaii, Idaho, Nevada, Oregon, and Washington; the Commonwealth of the

Northern Mariana Islands; and American Samoa, Guam and other Pacific possessions), Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232.

(b) Albuquerque Regional Office (Region 2—comprising the States of Arizona, New Mexico, Oklahoma and Texas), 500 Gold Avenue, SW, Room 9018 (P.O. Box 1306), Albuquerque, New Mexico 87103.

(c) Twin Cities Regional Office (Region 3—comprising the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin), One Federal Drive, Bishop Henry Whipple Federal Building, Fort Snelling, MN 55111.

(d) Atlanta Regional Office (Region 4—comprising the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; the Commonwealth of Puerto Rico; and the Virgin Islands and Caribbean possessions), 1875 Century Center Boulevard, Suite 200, Atlanta, Georgia 30345.

(e) Hadley Regional Office (Region 5—comprising the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; and the District of Columbia), 300 Westgate Center Drive, Hadley, Massachusetts 01035.

(f) Denver Regional Office (Region 6—comprising the States of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming), 134 Union Boulevard (P.O. Box 25486), Denver Federal Center, Denver, Colorado 80225.

(g) Alaska Regional Office (Region 7—comprising the State of Alaska), 1011 E. Tudor Road, Anchorage, Alaska 99503.

[48 FR 44833, Sept. 30, 1983, as amended at 60 FR 40302, Aug. 8, 1995; 63 FR 52633, Oct. 1, 1998]

PART 3—NONDISCRIMINATION— CONTRACTS, PERMITS, AND USE OF FACILITIES

Sec.

3.1 Discrimination prohibited.

3.2 Federal financial assistance.

3.3 Discrimination by contractors and permittees prohibited.

AUTHORITY: 5 U.S.C. 301. Interpret or apply sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1; E.O. 10925, E.O. 11114.

SOURCE: 31 FR 16002, Dec. 15, 1966, unless otherwise noted.

§ 3.1 Discrimination prohibited.

No person shall, on the ground of race, color, creed, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to any form of discrimination or segregation under any program or activity, or in the use of any facility or accommodation of the Service.

§ 3.2 Federal financial assistance.

The provisions of 43 CFR part 17, which implements title VI of the Civil Rights Act of 1964, are applicable to any program or activity for which Federal financial assistance is provided under any law administered by the Service, including the programs and activities that are federally assisted under the laws listed in Appendix A of 43 CFR part 17.

§ 3.3 Discrimination by contractors and permittees prohibited.

The provisions of part III of Executive Order 10925 (3 CFR, 1959–1963 Comp. p. 448) and the provisions of Executive Order 11114 (3 CFR, 1959–1963 Comp. p. 774), as they may be amended, and the regulations of the President's Council on Equal Opportunity, the President's Committee on Equal Employment Opportunity, contained in 41 CFR part 60, and the Equal Employment Opportunity Commission are applicable to all agreements, or modifications thereof, between the Service and any person for supplies, services or facilities, or for the use of any Government property, services or facilities.

(a) Any person who provides public accommodations, facilities, services, or privileges upon any land under the control or administration of the Service through a permit, contract, concession contract, or other form of agreement with the Service is prohibited from discriminating by segregation or otherwise against any person because of race, color, creed, or national origin in the furnishing or refusing to furnish

U.S. Fish and Wildlife Serv., Interior

§ 3.3

such person any accommodation, facility, service, or privilege which is offered to or enjoyed by the general public, and will agree to abide by the prohibitions against discrimination contained in the permit, contract, or agreement.

(b) Any person who uses, occupies, or possesses any land under the administration or control of the Service through a permit, contract, concession contract, or other form of agreement

with the Bureau is prohibited, in conjunction with the acts or activities authorized or permitted by such permit, contract, or agreement, from discriminating against any employee or applicant for employment or maintaining any employment practice which discriminates in any manner because of race, color, creed, or national origin, and will agree to abide by the prohibitions against discrimination contained in the permit, contract, or agreement.

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 10—GENERAL PROVISIONS

Subpart A—Introduction

Sec.

- 10.1 Purpose of regulations.
- 10.2 Scope of regulations.
- 10.3 Other applicable laws.
- 10.4 When regulations apply.

Subpart B—Definitions

- 10.11 Scope of definitions.
- 10.12 Definitions.
- 10.13 List of Migratory Birds.

Subpart C—Addresses

- 10.21 Director.
- 10.22 Law enforcement offices.

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-1; 16 U.S.C. 3371-3378.

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

Subpart A—Introduction

§ 10.1 Purpose of regulations.

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

- Lacey Act, 18 U.S.C. 42.
- Lacey Act Amendments of 1981, 16 U.S.C. 3371-3378.
- Migratory Bird Treaty Act, 16 U.S.C. 703-712.
- Bald and Golden Eagle Protection Act, 16 U.S.C. 668a-668d.
- Endangered Species Act of 1973, 16 U.S.C. 1531-1543.
- Tariff Classification Act of 1962, 19 U.S.C. 1202, [Schedule 1, Part 15D, Headnote 2(d), T.S.U.S.].
- Fish and Wildlife Act of 1956, 16 U.S.C. 742a-742j-1.
- 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 man-

ufactured 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,

U.S. Fish and Wildlife Serv., Interior

§ 10.13

the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

Whoever means the same as person.

Wildlife means the same as fish or wildlife.

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

§ 10.13 List of Migratory Birds.

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

I. ALPHABETICAL LISTING

Accentor, Siberian, *Prunella montanella*

Albatross:

Black-footed, *Diomedea nigripes*

Laysan, *Diomedea immutabilis*

Short-tailed, *Diomedea albatrus*

Yellow-nosed, *Diomedea chlororhynchos*

Anhinga, *Anhinga anhinga*

Ani:

Groove-billed, *Crotophaga sulcirostris*

Smooth-billed, *Crotophaga ani*

Auklet:

Cassin's, *Ptychoramphus aleuticus*

Crested, *Aethia cristatella*

Least, *Aethia pusilla*

Parakeet, *Cyclorhynchus psittacula*

Rhinoceros, *Cerorhinca monocerata*

Whiskered, *Aethia pygmaea*

Avocet, American, *Recurvirostra americana*

Barn-Owl, Common, *Tyto alba*

Beardless-Tyrannulet, Northern,

Camptostoma imberbe

Becard, Rose-throated, *Pachyramphus aglaiae*

Bittern:

American, *Botaurus lentiginosus*

Chinese, *Ixobrychus sinensis*

Least, *Ixobrychus exilis*

Schrenk's, *Ixobrychus eurhythmus*

Black-Hawk, Common, *Buteogallus*

anthracinus

Blackbird:

Brewer's, *Euphagus cyanocephalus*

Red-winged, *Agelaius phoeniceus*

Rusty, *Euphagus carolinus*

Tawny-shouldered, *Agelaius humeralis*

Tricolored, *Agelaius tricolor*

Yellow-headed, *Xanthocephalus*

xanthocephalus

Yellow-shouldered, *Agelaius xanthomus*

Bluebird:

Eastern, *Sialia sialis*

Mountain, *Sialia currucoides*

Western, *Sialia mexicana*

Bluethroat, *Luscinia svecica*

Bobolink, *Dolichonyx oryzivorus*

Booby:

Blue-footed, *Sula nebouxii*

Brown, *Sula leucogaster*

Masked, *Sula dactylatra*

Red-footed, *Sula sula*

Brambling, *Fringilla montifringilla*

Brant, *Branta bernicla*

Bufflehead (see DUCKS)

Bullfinch:

Eurasian, *Pyrrhula pyrrhula*

Puerto Rican, *Loxigilla portoricensis*

Bunting:

Indigo, *Passerina cyanea*

Lark, *Calamospiza melanocorys*

Lazuli, *Passerina amoena*

McKay's, *Plectrophenax hyperboreus*

Painted, *Passerina ciris*

Reed (see Reed-Bunting)

Rustic, *Emberiza rustica*

Snow, *Plectrophenax nivalis*

Varied, *Passerina versicolor*

Bushtit, *Psaltriparus minimus*

Canvasback (see DUCKS)

Caracara, Crested, *Polyborus plancus*

Cardinal, Northern, *Cardinalis cardinalis*

Carib, Green-throated, *Eulampis holosericeus*

Catbird, Gray, *Dumetella carolinensis*

Chat, Yellow-breasted, *Icteria virens*

Chickadee (see Tit):

Black-capped, *Parus atricapillus*

Boreal, *Parus hudsonicus*

Carolina, *Parus carolinensis*

§ 10.13

50 CFR Ch. I (10–1–04 Edition)

Chestnut-backed, *Parus rufescens*
 Mexican, *Parus sclateri*
 Mountain, *Parus gambeli*
 Chuck-will's-widow, *Caprimulgus carolinensis*
 Condor, California, *Gymnogyps californianus*
 Coot:
 American, *Fulica americana*
 Caribbean, *Fulica caribaea*
 Eurasian, *Fulica atra*
 Cormorant:
 Brandt's, *Phalacrocorax penicillatus*
 Double-crested, *Phalacrocorax auritus*
 Great, *Phalacrocorax carbo*
 Olivaceous, *Phalacrocorax olivaceus*
 Pelagic, *Phalacrocorax pelagicus*
 Red-faced, *Phalacrocorax urile*
 Cowbird:
 Bronzed, *Molothrus aeneus*
 Brown-headed, *Molothrus ater*
 Shiny, *Molothrus bonariensis*
 Crane:
 Corn, *Crex crex*
 Yellow-breasted, *Porzana flaviventer*
 Crane:
 Common, *Grus grus*
 Sandhill, *Grus canadensis*
 Whooping, *Grus americana*
 Creeper, Brown, *Certhia americana*
 Crossbill:
 Red, *Loxia curvirostra*
 White-winged, *Loxia leucoptera*
 Crow:
 American, *Corvus brachyrhynchos*
 Fish, *Corvus ossifragus*
 Hawaiian, *Corvus hawaiiensis*
 Mexican, *Corvus imparatus*
 Northwestern, *Corvus caurinus*
 White-necked, *Corvus leucognaphalus*
 Cuckoo:
 Black-billed, *Coccyzus erythrophthalmus*
 Common, *Cuculus canorus*
 Hawk (see Hawk-Cuckoo)
 Lizard (see Lizard-Cuckoo)
 Mangrove, *Coccyzus minor*
 Oriental, *Cuculus saturatus*
 Yellow-billed, *Coccyzus americanus*
 Curlew (see Whimbrel):
 Bristle-thighed, *Numenius tahitiensis*
 Eskimo, *Numenius borealis*
 Far Eastern, *Numenius madagascariensis*
 Least, *Numenius minutus*
 Long-billed, *Numenius americanus*
 Dickcissel, *Spiza americana*
 Dipper, American, *Cinclus mexicanus*
 Dotterel, Eurasian, *Charadrius morinellus*
 Dove:
 Ground (see Ground-Dove)
 Inca, *Columbina inca*
 Mourning, *Zenaida macroura*
 Quail (see Quail-Dove)
 White-tipped, *Leptotila verreauxi*
 White-winged, *Zenaida asiatica*
 Zenaida, *Zenaida aurita*
 Dovekie, *Alle alle*
 Dowitcher:
 Long-billed, *Limnodromus scolopaceus*
 Short-billed, *Limnodromus griseus*

DUCKS

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

END OF DUCKS

Dunlin, *Calidris alpina*
 Eagle:
 Bald, *Haliaeetus leucocephalus*
 Golden, *Aquila chrysaetos*
 Sea (see Sea-Eagle)
 White-tailed, *Haliaeetus albicilla*

U.S. Fish and Wildlife Serv., Interior

§ 10.13

- Egret:
 Cattle, *Bubulcus ibis*
 Chinese, *Egretta eulophotes*
 Great, *Casmerodius albus*
 Plumed, *Egretta intermedia*
 Reddish, *Egretta rufescens*
 Snowy, *Egretta thula*
- Eider (see DUCKS)
- Elaenia, Caribbean, *Elaenia martinica*
- Emerald, Puerto Rican, *Chlorostilbon maugaeus*
- Euphonia, Antillean, *Euphonia musica*
- Falcon:
 Aplomado, *Falco femoralis*
 Peregrine, *Falco peregrinus*
 Prairie, *Falco mexicanus*
- Fieldfare, *Turdus pilaris*
- Finch:
 Cassin's, *Carpodacus cassinii*
 House, *Carpodacus mexicanus*
 Purple, *Carpodacus purpureus*
 Rosy, *Leucosticte arctoa*
- Flamingo, Greater, *Phoenicopterus ruber*
- Flicker, Northern, *Colaptes auratus*
- Flycatcher:
 Acadian, *Empidonax virescens*
 Alder, *Empidonax alnorum*
 Ash-throated, *Myiarchus cinerascens*
 Brown-crested, *Myiarchus tyrannulus*
 Buff-breasted, *Empidonax fulvifrons*
 Dusky, *Empidonax oberholseri*
 Dusky-capped, *Myiarchus tuberculifer*
 Fork-tailed, *Tyrannus savana*
 Gray, *Empidonax wrightii*
 Gray-spotted, *Muscicapa griseisticta*
 Great Crested, *Myiarchus crinitus*
 Hammond's, *Empidonax hammondi*
 Least, *Empidonax minimus*
 Narcissus, *Muscicapa narcissina*
 Nutting's, *Myiarchus nuttingi*
 Olive-sided, *Contopus borealis*
 Puerto Rican, *Myiarchus antillarum*
 Scissor-tailed, *Tyrannus forficatus*
 Sulphur-bellied, *Myiodynastes luteiventris*
 Vermilion, *Pyrocephalus rubinus*
 Western, *Empidonax difficilis*
 Willow, *Empidonax traillii*
 Yellow-bellied, *Empidonax flaviventris*
- Frigatebird:
 Great, *Fregata minor*
 Magnificent, *Fregata magnificens*
 Lesser, *Fregata ariel*
- Fulmar, Northern, *Fulmarus glacialis*
- Gadwall (see DUCKS)
- Gallinule, Purple, *Porphyryla martinica*
- Gannet, Northern, *Sula bassanus*
- Garganey (see DUCKS)
- Gnatcatcher:
 Black-capped, *Poliophtila nigriceps*
 Black-tailed, *Poliophtila melanura*
 Blue-gray, *Poliophtila caerulea*
- Godwit:
 Bar-tailed, *Limosa lapponica*
 Black-tailed, *Limosa limosa*
 Hudsonian, *Limosa haemastica*
 Marbled, *Limosa fedoa*
- Golden-Plover, Lesser, *Pluvialis dominica*
- Goldeneye (see DUCKS)
- Goldfinch:
 American, *Carduelis tristis*
 Lawrence's, *Carduelis lawrencei*
 Lesser, *Carduelis psaltria*
- Goose:
 Barnacle, *Branta leucopsis*
 Bean, *Anser fabalis*
 Canada, *Branta canadensis*
 Emperor, *Chen canagica*
 Greater White-fronted, *Anser albifrons*
 Hawaiian, *Nesochen sandvicensis*
 Ross', *Chen rossii*
 Snow, *Chen caerulescens*
- Goshawk, Northern, *Accipiter gentilis*
- Goshawk:
 Boat-tailed, *Quiscalus major*
 Common, *Quiscalus quiscula*
 Great-tailed, *Quiscalus mexicanus*
 Greater Antillean, *Quiscalus niger*
- Grasshopper-Warbler, Middendorff's, *Locustella ochotensis*
- Grassquit:
 Black-faced, *Tiaris bicolor*
 Yellow-faced, *Tiaris olivacea*
- Grebe:
 Eared, *Podiceps nigricollis*
 Horned, *Podiceps auritus*
 Least, *Tachybaptus dominicus*
 Pied-billed, *Podilymbus podiceps*
 Red-necked, *Podiceps grisegena*
 Western, *Aechmophorus occidentalis*
- Greenfinch, Oriental, *Carduelis sinica*
- Greenshank, Common, *Tringa nebularia*
- Grosbeak:
 Black-headed, *Pheucticus melanocephalus*
 Blue, *Guiraca caerulea*
 Crimson-collared, *Rhodothraupis celaeno*
 Evening, *Coccothraustes vespertinus*
 Pine, *Pinicola enucleator*
 Rose-breasted, *Pheucticus ludovicianus*
 Yellow, *Pheucticus chrysopleps*
- Ground-Dove:
 Common, *Columbina passerina*
 Ruddy, *Columbina talpacoti*
- Guillemot:
 Black, *Cepphus grylle*
 Pigeon, *Cepphus columba*
- Gull:
 Bonaparte's, *Larus philadelphia*
 California, *Larus californicus*
 Common Black-headed, *Larus ridibundus*
 Franklin's, *Larus pipixcan*
 Glaucous, *Larus hyperboreus*
 Glaucous-winged, *Larus glaucescens*
 Great Black-backed, *Larus marinus*
 Heermann's, *Larus heermanni*
 Herring, *Larus argentatus*
 Iceland, *Larus glaucoides*
 Ivory, *Pagophila eburnea*
 Laughing, *Larus atricilla*
 Lesser Black-backed, *Larus fuscus*
 Little, *Larus minutus*
 Mew, *Larus canus*
 Ring-billed, *Larus delawarensis*
 Ross', *Rhodostethia rosea*
 Sabine's, *Xema sabini*

§ 10.13

50 CFR Ch. I (10–1–04 Edition)

- Slaty-backed, *Larus schistisagus*
 Thayer's, *Larus thayeri*
 Western, *Larus occidentalis*
 Yellow-footed, *Larus livens*
 Gyrfalcon, *Falco rusticolus*
 Harrier, Northern, *Circus cyaneus*
 Hawfinch, *Coccothraustes coccothraustes*
 Hawk:
 Asiatic Sparrow, *Accipiter gularis*
 Black (see Black-Hawk)
 Broad-winged, *Buteo platypterus*
 Cooper's, *Accipiter cooperii*
 Ferruginous, *Buteo regalis*
 Gray, *Buteo nitidus*
 Harris', *Parabuteo unicinctus*
 Hawaiian, *Buteo solitarius*
 Red-shouldered, *Buteo lineatus*
 Red-tailed, *Buteo jamaicensis*
 Rough-legged, *Buteo lagopus*
 Sharp-shinned, *Accipiter striatus*
 Short-tailed, *Buteo brachyurus*
 Swainson's, *Buteo swainsoni*
 White-tailed, *Buteo albicaudatus*
 Zone-tailed, *Buteo albonotatus*
 Hawk-Cuckoo, Hodgson's, *Cuculus fugax*
 Hawk-Owl, Northern, *Surnia ulula*
 Heron:
 Great Blue, *Ardea herodias*
 Green-backed, *Butorides striatus*
 Little Blue, *Egretta caerulea*
 Night (see Night-Heron)
 Pacific Reef, *Egretta sacra*
 Tricolored, *Egretta tricolor*
 Hoopoe, *Upupa epops*
 House-Martin, Common, *Delichon urbica*
 Hummingbird (see Carib, Emerald, Mango,
 Starthroat, Woodstar, Violet-ear):
 Allen's, *Selasphorus sasin*
 Anna's, *Calypte anna*
 Antillean Crested, *Orthorhynchus cristatus*
 Berylline, *Amazilia beryllina*
 Black-chinned, *Archilochus alexandri*
 Blue-throated, *Lampornis clemenciae*
 Broad-billed, *Cyananthus latirostris*
 Broad-tailed, *Selasphorus platycercus*
 Buff-bellied, *Amazilia yucatanensis*
 Calliope, *Stellula calliope*
 Costa's, *Calypte costae*
 Lucifer, *Calothorax lucifer*
 Magnificent, *Eugenes fulgens*
 Ruby-throated, *Archilochus colubris*
 Rufous, *Selasphorus rufus*
 Violet-crowned, *Amazilia violiceps*
 White-eared, *Hylocharis leucotis*
 Ibis:
 Glossy, *Plegadis falcinellus*
 Scarlet, *Eudocimus ruber*
 White, *Eudocimus albus*
 White-faced, *Plegadis chihii*
 Jabiru, *Jabiru mycteria*
 Jacana, Northern, *Jacana spinosa*
 Jaeger:
 Long-tailed, *Stercorarius longicaudus*
 Parasitic, *Stercorarius parasiticus*
 Pomarine, *Stercorarius pomarinus*
 Jay:
 Blue, *Cyanocitta cristata*
 Brown, *Cyanocorax morio*
 Gray, *Perisoreus canadensis*
 Gray-breasted, *Aphelocoma ultramarina*
 Green, *Cyanocorax yncas*
 Pinyon, *Gymnorhinus cyanocephalus*
 Scrub, *Aphelocoma coerulescens*
 Steller's, *Cyanocitta stelleri*
 Junco:
 Dark-eyed, *Junco hyemalis*
 Yellow-eyed, *Junco phaeonotus*
 Kestrel:
 American, *Falco sparverius*
 Eurasian, *Falco tinnunculus*
 Killdeer, *Charadrius vociferus*
 Kingbird:
 Cassin's, *Tyrannus vociferans*
 Couch's, *Tyrannus couchii*
 Eastern, *Tyrannus tyrannus*
 Gray, *Tyrannus dominicensis*
 Loggerhead, *Tyrannus caudifasciatus*
 Thick-billed, *Tyrannus crassirostris*
 Tropical, *Tyrannus melancholicus*
 Western, *Tyrannus verticalis*
 Kingfisher:
 Belted, *Ceryle alcyon*
 Green, *Chloroceryle americana*
 Ringed, *Ceryle torquata*
 Kinglet:
 Golden-crowned, *Regulus satrapa*
 Ruby-crowned, *Regulus calendula*
 Kiskadee, Great, *Pitangus sulphuratus*
 Kite:
 American Swallow-tailed, *Elanoides forficatus*
 Black, *Milvus migrans*
 Black-shouldered, *Elanus caeruleus*
 Hook-billed, *Chondrohierax uncinatus*
 Mississippi, *Ictinia mississippiensis*
 Snail, *Rostrhamus sociabilis*
 Kittiwake:
 Black-legged, *Larus tridactyla*
 Red-legged, *Larus brevirostris*
 Knot:
 Great, *Calidris tenuirostris*
 Red, *Calidris canutus*
 Lapwing, Northern, *Vanellus vanellus*
 Lark, Horned, *Eremophila alpestris*
 Limpkin, *Aramus guarauna*
 Lizard-Cuckoo, Puerto Rican, *Saurothera vieilloti*
 Longspur:
 Chestnut-collared, *Calcarius ornatus*
 Lapland, *Calcarius lapponicus*
 McCown's, *Calcarius mccownii*
 Smith's, *Calcarius pictus*
 Loon:
 Arctic, *Gavia arctica*
 Common, *Gavia immer*
 Red-throated, *Gavia stellata*
 Yellow-billed, *Gavia adamsii*
 Magpie:
 Black-billed, *Pica pica*
 Yellow-billed, *Pica nuttalli*
 Mallard (see DUCKS)
 Mango:
 Antillean, *Anthracothorax dominicus*
 Green, *Anthracothorax viridis*

- Martin:
 Caribbean, *Progne dominicensis*
 Cuban, *Progne cryptoleuca*
 Gray-breasted, *Progne chalybea*
 House (see House-Martin)
 Purple, *Progne subis*
- Meadowlark:
 Eastern, *Sturnella magna*
 Western, *Sturnella neglecta*
- Merganser (see DUCKS)
- Merlin, *Falco columbarius*
- Mockingbird, Northern, *Mimus polyglottos*
- Moorhen, Common, *Gallinula chloropus*
- Murre:
 Common, *Uria aalge*
 Thick-billed, *Uria lomvia*
- Murrelet:
 Ancient, *Synthliboramphus antiquus*
 Craveri's, *Synthliboramphus craveri*
 Kittlitz's, *Brachyramphus brevirostris*
 Marbled, *Brachyramphus marmoratus*
 Xantus', *Synthliboramphus hypoleucus*
- Needletail, White-throated, *Hirundapus caudacutus*
- Night-Heron:
 Black-crowned, *Nycticorax nycticorax*
 Japanese, *Nycticorax goisagi*
 Malay, *Nycticorax melanolophus*
 Yellow-crowned, *Nycticorax violaceus*
- Nighthawk:
 Antillean, *Chordeiles gundlachii*
 Common, *Chordeiles minor*
 Lesser, *Chordeiles acutipennis*
- Nightjar:
 Buff-collared, *Caprimulgus ridgwayi*
 Jungle, *Caprimulgus indicus*
 Puerto Rican, *Caprimulgus noctitherus*
- Noddy:
 Black, *Anous minutus*
 Blue-gray, *Procelsterna cerulea*
 Brown, *Anous stolidus*
 Lesser, *Anous tenuirostris*
- Nutcracker, Clark's, *Nucifraga columbiana*
- Nuthatch:
 Brown-headed, *Sitta pusilla*
 Pygmy, *Sitta pygmaea*
 Red-breasted, *Sitta canadensis*
 White-breasted, *Sitta carolinensis*
- Oldsquaw (see DUCKS)
- Oriole:
 Altamira, *Icterus gularis*
 Audubon's, *Icterus graduacauda*
 Black-cowled, *Icterus dominicensis*
 Black-vented, *Icterus wagleri*
 Hooded, *Icterus cucullatus*
 Northern, *Icterus galbula*
 Orchard, *Icterus spurius*
 Scott's, *Icterus parisorum*
 Streak-backed, *Icterus pustulatus*
- Osprey, *Pandion haliaetus*
- Ovenbird, *Seiurus aurocapillus*
- Owl:
 Barn (see Barn-Owl)
 Barred, *Strix varia*
 Boreal, *Aegolius funereus*
 Burrowing, *Athene cunicularia*
 Elf, *Micrathene whitneyi*
 Flammulated, *Otus flammeolus*
 Great Gray, *Strix nebulosa*
 Great Horned, *Bubo virginianus*
 Hawk (see Hawk-Owl)
 Long-eared, *Asio otus*
 Pygmy (see Pygmy-Owl)
 Saw-whet (see Saw-Whet Owl)
 Screech (see Screech-Owl)
 Short-eared, *Asio flammeus*
 Snowy, *Nyctea scandiaca*
 Spotted, *Strix occidentalis*
- Oystercatcher:
 American, *Haematopus palliatus*
 Black, *Haematopus bachmani*
- Parula:
 Northern, *Parula americana*
 Tropical, *Parula pitiayumi*
- Pauraque, Common, *Nyctidromus albigollis*
- Pelican:
 American White, *Pelecanus erythrorhynchos*
 Brown, *Pelecanus occidentalis*
- Petrel:
 Black-capped, *Pterodroma hasitata*
 Bonin, *Pterodroma hypoleuca*
 Bulwer's, *Bulweria bulwerii*
 Cook's, *Pterodroma cookii*
 Dark-rumped, *Pterodroma phaeopygia*
 Herald, *Pterodroma arminjoniana*
 Kermadec, *Pterodroma neglecta*
 Mottled, *Pterodroma inexpectata*
 Murphy's, *Pterodroma ultima*
 Storm (see Storm-Petrel)
 White-necked, *Pterodroma externa*
- Pewee:
 Greater, *Contopus pertinax*
 Lesser Antillean, *Contopus latirostris*
 Wood (see Wood-Pewee)
- Phainopepla, *Phainopepla nitens*
- Phalarope:
 Red, *Phalaropus fulicaria*
 Red-necked, *Phalaropus lobatus*
 Wilson's, *Phalaropus tricolor*
- Phoebe:
 Black, *Sayornis nigricans*
 Eastern, *Sayornis phoebe*
 Say's, *Sayornis saya*
- Pigeon:
 Band-tailed, *Columba fasciata*
 Plain, *Columba inornata*
 Red-billed, *Columba flavirostris*
 Scaly-naped, *Columba squamosa*
 White-crowned, *Columba leucocephala*
- Pintail (see DUCKS)
- Pipit:
 Pechora, *Anthus gustavi*
 Red-throated, *Anthus cervinus*
 Sprague's, *Anthus spragueii*
 Tree (see Tree-Pipit)
 Water, *Anthus spinoletta*
- Plover:
 Black-bellied, *Pluvialis squatarola*
 Common Ringed, *Charadrius hiaticula*
 Golden (see Golden-Plover)
 Great Sand, *Charadrius leschenaultii*
 Little Ringed, *Charadrius dubius*
 Mongolian, *Charadrius mongolus*
 Mountain, *Charadrius montanus*

§ 10.13

50 CFR Ch. I (10–1–04 Edition)

Piping, *Charadrius melodus*
 Semipalmated, *Charadrius semipalmatus*
 Snowy, *Charadrius alexandrinus*
 Wilson's, *Charadrius wilsonia*
 Pochard (see DUCKS)
 Poorwill, Common, *Phalaenoptilus nuttallii*
 Puffin:
 Atlantic, *Fratercula arctica*
 Horned, *Fratercula corniculata*
 Tufted, *Fratercula cirrhata*
 Pygmy-Owl:
 Ferruginous, *Glaucidium brasilianum*
 Northern, *Glaucidium gnoma*
 Pyrrhuloxia, *Cardinalis sinuatus*
 Quail-Dove:
 Bridled, *Geotrygon mystacea*
 Key West, *Geotrygon chrysia*
 Ruddy, *Geotrygon montana*
 Rail:
 Black, *Laterallus jamaicensis*
 Clapper, *Rallus longirostris*
 King, *Rallus elegans*
 Sora (see Sora)
 Virginia, *Rallus limicola*
 Yellow, *Coturnicops noveboracensis*
 Raven:
 Chihuahuan, *Corvus cryptoleucus*
 Common, *Corvus corax*
 Razorbill, *Alca torda*
 Redhead (see DUCKS)
 Redpoll:
 Common, *Carduelis flammea*
 Hoary, *Carduelis hornemanni*
 Redshank, Spotted, *Tringa erythropus*
 Redstart:
 American, *Setophaga ruticilla*
 Painted, *Myioborus pictus*
 Slaty-throated, *Myioborus miniatus*
 Reed-Bunting:
 Common, *Emberiza schoeniculus*
 Pallas', *Emberiza pallasii*
 Roadrunner, Greater, *Geococcyx californianus*
 Robin:
 American, *Turdus migratorius*
 Clay-colored, *Turdus grayi*
 Rufous-backed, *Turdus rufopalliatus*
 Rosefinch, Common, *Carpodacus erythrinus*
 Rough-winged Swallow, Northern, *Stelgidopteryx serripennis*
 Rubythroat, Siberian, *Luscinia calliope*
 Ruff, *Philomachus pugnax*
 Sanderling, *Calidris alba*
 Sandpiper:
 Baird's, *Calidris bairdii*
 Broad-billed, *Limicola falcinellus*
 Buff-breasted, *Tryngites subruficollis*
 Common, *Actitis hypoleucos*
 Curlew, *Calidris ferruginea*
 Least, *Calidris minutilla*
 Marsh, *Tringa stagnatilis*
 Pectoral, *Calidris melanotos*
 Purple, *Calidris maritima*
 Rock, *Calidris ptilocnemis*
 Semipalmated, *Calidris pusilla*
 Sharp-tailed, *Calidris acuminata*
 Solitary, *Tringa solitaria*
 Spoonbill, *Eurynorhynchus pygmeus*

Spotted, *Actitis macularia*
 Stilt, *Calidris himantopus*
 Terek, *Xenus cinereus*
 Upland, *Bartramia longicauda*
 Western, *Calidris mauri*
 White-rumped, *Calidris fuscicollis*
 Wood, *Tringa glareola*
 Sapsucker:
 Red-breasted, *Sphyrapicus ruber*
 Williamson's, *Sphyrapicus thyroideus*
 Yellow-bellied, *Sphyrapicus varius*
 Saw-whet Owl, Northern, *Aegolius acadicus*
 Scaup (see DUCKS)
 Scoter (see DUCKS)
 Screech-Owl:
 Eastern, *Otus asio*
 Puerto Rican, *Otus nudipes*
 Western, *Otus kennicottii*
 Whiskered, *Otus trichopsis*
 Sea-Eagle, Steller's, *Haliaeetus pelagicus*
 Seedeater, White-collared, *Sporophila torqueola*
 Shearwater:
 Audubon's, *Puffinus lherminieri*
 Black-vented, *Puffinus opisthomelas*
 Buller's, *Puffinus bulleri*
 Christmas, *Puffinus nativitatus*
 Cory's, *Calonectris diomedea*
 Flesh-footed, *Puffinus carneipes*
 Greater, *Puffinus gravis*
 Little, *Puffinus assimilis*
 Manx, *Puffinus puffinus*
 Pink-footed, *Puffinus creatopus*
 Short-tailed, *Puffinus tenuirostris*
 Sooty, *Puffinus griseus*
 Townsend's, *Puffinus auricularis*
 Wedge-tailed, *Puffinus pacificus*
 Shoveler (see DUCKS)
 Shrike:
 Loggerhead, *Lanius ludovicianus*
 Northern, *Lanius excubitor*
 Siskin, Pine, *Carduelis pinus*
 Skimmer, Black, *Rhynchops niger*
 Skua:
 Great, *Catharacta skua*
 South Polar, *Catharacta maccormicki*
 Skylark, Eurasian, *Alauda arvensis*
 Smew (see DUCKS)
 Snipe:
 Common, *Gallinago gallinago*
 Jack, *Lymnocyptes minimus*
 Pin-tailed, *Gallinago stenura*
 Swinhoe's, *Gallinago megala*
 Solitaire, Townsend's, *Myadestes townsendi*
 Sora, *Porzana carolina*
 Sparrow:
 American Tree, *Spizella arborea*
 Bachman's, *Aimophila aestivalis*
 Baird's, *Ammodramus bairdii*
 Black-chinned, *Spizella atrogularis*
 Black-throated, *Amphispiza bilineata*
 Botteri's, *Aimophila botterii*
 Brewer's, *Spizella breweri*
 Cassin's, *Aimophila cassinii*
 Chipping, *Spizella passerina*
 Clay-colored, *Spizella pallida*
 Field, *Spizella pusilla*

- Five-striped, *Amphispiza quinquestrata*
 Fox, *Passerella iliaca*
 Golden-crowned, *Zonotrichia atricapilla*
 Grasshopper, *Ammodramus savannarum*
 Harris', *Zonotrichia querula*
 Henslow's, *Ammodramus henslowii*
 Lark, *Chondestes grammacus*
 Le Conte's, *Ammodramus leconteii*
 Lincoln's, *Melospiza lincolni*
 Olive, *Arremonops rufivirgatus*
 Rufous-crowned, *Aimophila ruificeps*
 Rufous-winged, *Aimophila carpalis*
 Sage, *Amphispiza belli*
 Savannah, *Passerculus sandwichensis*
 Seaside, *Ammodramus maritimus*
 Sharp-tailed, *Ammodramus caudacutus*
 Song, *Melospiza melodia*
 Swamp, *Melospiza georgiana*
 Vesper, *Poocetes gramineus*
 White-crowned, *Zonotrichia leucophrys*
 White-throated, *Zonotrichia albicollis*
 Worthen's, *Spizella wortheni*
 Spoonbill, Roseate, *Ajaia ajaja*
 Starling:
 Ashy, *Sturnus cineraceus*
 Violet-backed, *Sturnus philippensis*
 Starthroat, Plain-capped *Helimaster constantii*,
 Stilt, Black-necked, *Himantopus mexicanus*
 Stint:
 Little, *Calidris minuta*
 Long-toed, *Calidris subminuta*
 Rufous-necked, *Calidris ruficollis*
 Temminck's, *Calidris temminckii*
 Stork, Wood, *Mycteria americana*
 Storm-Petrel:
 Ashy, *Oceanodroma homochroa*
 Band-rumped, *Oceanodroma castro*
 Black, *Oceanodroma melania*
 Fork-tailed, *Oceanodroma furcata*
 Leach's, *Oceanodroma leucorhoa*
 Least, *Oceanodroma microsoma*
 Sooty, *Oceanodroma tristrami*
 Wedge-rumped, *Oceanodroma tethys*
 White-faced, *Pelagodroma marina*
 Wilson's, *Oceanites oceanicus*
 Surfbird, *Aphriza virgata*
 Swallow:
 Bahama, *Tachycineta cyaneoviridis*
 Bank, *Riparia riparia*
 Barn, *Hirundo rustica*
 Cave, *Hirundo fulva*
 Cliff, *Hirundo pyrrhonota*
 Rough-winged (see Rough-winged Swallow)
 Tree, *Tachycineta bicolor*
 Violet-green, *Tachycineta thalassina*
 Swan:
 Trumpeter, *Cygnus buccinator*
 Tundra, *Cygnus columbianus*
 Whooper, *Cygnus cygnus*
 Swift:
 Antillean Palm, *Tachornis pheonicobia*
 Black, *Cypseloides niger*
 Chimney, *Chaetura pelagica*
 Common, *Apus apus*
 Fork-tailed, *Apus pacificus*
 Needle-tailed (see Needle-tail)
 Vaux's, *Chaetura vauxi*
 White-collared, *Streptoprocne zonaris*
 White-throated, *Aeronautes saxatalis*
 Tanager:
 Hepatic, *Piranga flava*
 Puerto Rican, *Neospingus speculiferus*
 Scarlet, *Piranga olivacea*
 Stripe-headed, *Spindalis zena*
 Summer, *Piranga rubra*
 Western, *Piranga ludoviciana*
 Tattler:
 Gray-tailed, *Heteroscelus brevipes*
 Wandering, *Heteroscelus incanus*
 Teal (see DUCKS)
 Tern:
 Aleutian, *Sterna aleutica*
 Arctic, *Sterna paradisaea*
 Black, *Chlidonias niger*
 Black-naped, *Sterna sumatrana*
 Bridled, *Sterna anaethetus*
 Caspian, *Sterna caspia*
 Common, *Sterna hirundo*
 Elegant, *Sterna elegans*
 Forster's, *Sterna forsteri*
 Gray-backed, *Sterna lunata*
 Gull-billed, *Sterna nilotica*
 Least, *Sterna antillarum*
 Little, *Sterna albifrons*
 Roseate, *Sterna dougallii*
 Royal, *Sterna maxima*
 Sandwich, *Sterna sandvicensis*
 Sooty, *Sterna fuscata*
 White, *Gygis alba*
 White-winged, *Chlidonias leucopterus*
 Thrasher:
 Bendire's, *Toxostoma bendirei*
 Brown, *Toxostoma rufum*
 California, *Toxostoma redivivum*
 Crissal, *Toxostoma crissale*
 Curve-billed, *Toxostoma curvirostre*
 Le Conte's, *Toxostoma lecontei*
 Long-billed, *Toxostoma longirostre*
 Pearly-eyed, *Margarops fuscatus*
 Sage, *Oreoscoptes montanus*
 Thrush:
 Aztec, *Ridgwayia pinicola*
 Blue Rock, *Monticola solitarius*
 Dusky, *Turdus naumanni*
 Eye-browed, *Turdus obscurus*
 Gray-cheeked, *Catharus minimus*
 Hawaiian, *Phaeornis obscurus*
 Hermit, *Catharus guttatus*
 Red-legged, *Turdus plumbeus*
 Small Kauai, *Phaeornis palmeri*
 Swainson's, *Catharus ustulatus*
 Varied, *Ixoreus naevius*
 Wood, *Hylocichla minima*
 Tit, Siberian, *Parus cinctus*
 Titmouse:
 Bridled, *Parus wollweberi*
 Plain, *Parus inornatus*
 Tufted, *Parus bicolor*
 Towhee:
 Abert's, *Pipilo aberti*
 Brown, *Pipilo fuscus*
 Green-tailed, *Pipilo chlorurus*
 Rufous-sided, *Pipilo erythrophthalmus*

§ 10.13

50 CFR Ch. I (10–1–04 Edition)

Tree-Pipit, Olive, *Anthus hodgsoni*

Trogon:

Eared, *Euptilotus neoxenus*

Elegant, *Trogon elegans*

Tropicbird:

Red-billed, *Phaethon aethereus*

Red-tailed, *Phaethon rubricauda*

White-tailed, *Phaethon lepturus*

Turnstone:

Black, *Arenaria melanocephala*

Ruddy, *Arenaria interpres*

Veery, *Catharus fuscescens*

Verdin, *Auriparus flaviceps*

Violet-Ear, Green, *Colibri thalassinus*

Vireo:

Bell's, *Vireo bellii*

Black-capped, *Vireo atricapillus*

Black-whiskered, *Vireo altiloquus*

Gray, *Vireo vicinior*

Hutton's, *Vireo huttoni*

Philadelphia, *Vireo philadelphicus*

Puerto Rican, *Vireo latimeri*

Red-eyed, *Vireo olivaceus*

Solitary, *Vireo solitarius*

Warbling, *Vireo gilvus*

White-eyed, *Vireo griseus*

Yellow-throated, *Vireo flavifrons*

Vulture:

Black, *Coragyps atratus*

Turkey, *Cathartes aura*

Wagtail:

Black-backed, *Motacilla lugens*

Gray, *Motacilla cinerea*

White, *Motacilla alba*

Yellow, *Motacilla flava*

Warbler:

Adelaide's, *Dendroica adelaidae*

Arctic, *Phylloscopus borealis*

Bachman's, *Vermivora bachmanii*

Bay-breasted, *Dendroica castanea*

Black-and-white, *Mniotilta varia*

Black-throated Blue, *Dendroica caerulescens*

Black-throated Gray, *Dendroica nigrescens*

Black-throated Green, *Dendroica virens*

Blackburnian, *Dendroica fusca*

Blackpoll, *Dendroica striata*

Blue-winged, *Vermivora pinus*

Canada, *Wilsonia canadensis*

Cape May, *Dendroica tigrina*

Cerulean, *Dendroica cerulea*

Chestnut-sided, *Dendroica pensylvanica*

Colima, *Vermivora crissalis*

Connecticut, *Oporornis agilis*

Elfin Woods, *Dendroica angelae*

Golden-cheeked, *Dendroica chrysoparia*

Golden-crowned, *Basileuterus culicivorus*

Golden-winged, *Vermivora chrysoptera*

Grace's, *Dendroica graciae*

Grasshopper (see Grasshopper-Warbler)

Hermit, *Dendroica occidentalis*

Hooded, *Wilsonia citrina*

Kentucky, *Oporornis formosus*

Kirtland's, *Dendroica kirtlandii*

Lucy's, *Vermivora luciae*

MacGillivray's, *Oporornis tolmiei*

Magnolia, *Dendroica magnolia*

Mourning, *Oporornis philadelphia*

Nashville, *Vermivora ruficapilla*

Olive, *Peucedramus taeniatus*

Orange-crowned, *Vermivora celata*

Palm, *Dendroica palmarum*

Parula (see Parula)

Pine, *Dendroica pinus*

Prairie, *Dendroica discolor*

Prothonotary, *Protonotaria citrea*

Red-faced, *Cardellina rubrifrons*

Rufous-capped, *Basileuterus rufifrons*

Swainson's, *Limnothlypis swainsonii*

Tennessee, *Vermivora peregrina*

Townsend's, *Dendroica townsendi*

Virginia's, *Vermivora virginiae*

Willow, *Phylloscopus trochilus*

Wilson's, *Wilsonia pusilla*

Worm-eating, *Helmitheros vermivorus*

Yellow, *Dendroica petechia*

Yellow-rumped, *Dendroica coronata*

Yellow-throated, *Dendroica dominica*

Waterthrush:

Louisiana, *Seiurus motacilla*

Northern, *Seiurus noveboracensis*

Waxwing:

Bohemian, *Bombycilla garrulus*

Cedar, *Bombycilla cedrorum*

Wheatear, Northern, *Oenanthe oenanthe*

Whimbrel, *Numenius phaeopus*

Whip-poor-will, *Caprimulgus vociferus*

Whistling-Duck (see DUCKS)

Wigeon (see DUCKS)

Willet, *Catoptrophorus semipalmatus*

Wood-Pewee:

Eastern, *Contopus virens*

Western, *Contopus sordidulus*

Woodcock:

American, *Scolopax minor*

Eurasian, *Scolopax rusticola*

Woodpecker:

Acorn, *Melanerpes formicivorus*

Black-backed, *Picoides arcticus*

Downy, *Picoides pubescens*

Gila, *Melanerpes uropygialis*

Golden-fronted, *Melanerpes aurifrons*

Hairy, *Picoides villosus*

Ivory-billed, *Campephilus principalis*

Ladder-backed, *Picoides scalaris*

Lewis', *Melanerpes lewis*

Nuttall's, *Picoides nuttallii*

Pileated, *Dryocopus pileatus*

Puerto Rican, *Melanerpes portoricensis*

Red-bellied, *Melanerpes carolinus*

Red-cockaded, *Picoides borealis*

Red-headed, *Melanerpes erythrocephalus*

Strickland's, *Picoides stricklandi*

Three-toed, *Picoides tridactylus*

White-headed, *Picoides albolarvatus*

Woodstar, Bahama, *Calliphlox evelynae*

Wren:

Bewick's, *Thryomanes bewickii*

Cactus, *Campylorhynchus brunneicapillus*

Canyon, *Catherpes mexicanus*

Carolina, *Thryothorus ludovicianus*

House, *Troglodytes aedon*

Marsh, *Cistothorus palustris*

Rock, *Salpinctes obsoletus*

Sedge, *Cistothorus platensis*

U.S. Fish and Wildlife Serv., Interior

§ 10.13

Winter, *Troglodytes troglodytes*
 Wryneck, Eurasian, *Jynx torquilla*
 Yellowlegs:
 Greater, *Tringa melanoleuca*
 Lesser, *Tringa flavipes*
 Yellowthroat:
 Common, *Geothlypis trichas*
 Gray-crowned, *Geothlypis poliocephala*

II. TAXONOMIC LISTING

ORDER GAVIIFORMES

FAMILY GAVIIDAE

Gavia stellata, Red-throated Loon
Gavia arctica, Arctic 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 griseogenus, Red-necked Grebe
Podiceps nigricollis, Eared Grebe
Aechmophorus occidentalis, Western Grebe

ORDER PROCELLARIIFORMES

FAMILY DIOMEDEIDAE

Diomedea albatrus, Short-tailed Albatross
Diomedea nigripes, Black-footed Albatross
Diomedea immutabilis, Laysan Albatross
Diomedea chlororhynchus, Yellow-nosed Albatross

FAMILY PROCELLARIIDAE

Fulmarus glacialis, Northern Fulmar
Pterodroma hasitata, Black-capped Petrel
Pterodroma phaeopygia, Dark-rumped Petrel
Pterodroma externa, White-necked Petrel
Pterodroma inexpectata, Mottled Petrel
Pterodroma ultima, Murphy's Petrel
Pterodroma neglecta, Kermadec Petrel
Pterodroma arminjoniana, Herald Petrel
Pterodroma cookii, Cook's Petrel
Pterodroma hypoleuca, Bonin Petrel
Bulweria bulwerii, Bulwer's Petrel
Calonectris diomedea, Cory's Shearwater
Puffinus creatopus, Pink-footed Shearwater
Puffinus carneipes, Flesh-footed Shearwater
Puffinus gravis, Greater Shearwater
Puffinus pacificus, Wedge-tailed Shearwater
Puffinus bulleri, Buller's Shearwater
Puffinus griseus, Sooty Shearwater
Puffinus tenuirostris, Short-tailed Shearwater
Puffinus nativitatis, Christmas Shearwater
Puffinus puffinus, Manx Shearwater
Puffinus opisthomelas, Black-vented Shearwater
Puffinus auricularis, Townsend's Shearwater
Puffinus assimilis, Little Shearwater
Puffinus lherminieri, Audubon's Shearwater

FAMILY HYDROBATIDAE

Oceanites oceanicus, Wilson's Storm-Petrel

Pelagodroma marina, White-faced Storm-Petrel
Oceanodroma furcata, Fork-tailed Storm-Petrel
Oceanodroma leucorhoa, Leach's Storm-Petrel
Oceanodroma homochroa, Ashy Storm-Petrel
Oceanodroma castro, Band-rumped Storm-Petrel
Oceanodroma tethys, Wedge-rumped Storm-Petrel
Oceanodroma melania, Black Storm-Petrel
Oceanodroma tristrami, Sooty Storm-Petrel
Oceanodroma microsoma, Least Storm-Petrel

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 nebouxii, Blue-footed Booby
Sula leucogaster, Brown Booby
Sula sula, Red-footed Booby
Sula bassanus, Northern Gannet

FAMILY PELECANIDAE

Pelecanus erythrorhynchus, American White Pelican
Pelecanus occidentalis, Brown Pelican

FAMILY PHALACROCORACIDAE

Phalacrocorax carbo, Great Cormorant
Phalacrocorax auritus, Double-crested Cormorant
Phalacrocorax olivaceus, Olivaceous Cormorant
Phalacrocorax penicillatus, Brandt's Cormorant
Phalacrocorax pelagicus, Pelagic Cormorant
Phalacrocorax urile, Red-faced Cormorant

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 exilis, Least Bittern
Ixobrychus sinensis, Chinese Bittern
Ixobrychus eurhythmus, Schrenk's Bittern
Ardea herodias, Great Blue Heron
Casmerodius albus, Great Egret
Egretta eulophotes, Chinese Egret
Egretta sacra, Pacific Reef Heron
Egretta intermedia, Plumed Egret
Egretta thula, Snowy Egret
Egretta caerulea, Little Blue Heron
Egretta tricolor, Tricolored Heron
Egretta rufescens, Reddish Egret

§ 10.13

50 CFR Ch. I (10–1–04 Edition)

Bubulcus ibis, Cattle Egret
Butorides striatus, Green-backed Heron
Nycticorax nycticorax, Black-crowned Night-Heron
Nycticorax melanolophus, Malay Night-Heron
Nycticorax goisagi, Japanese Night-Heron
Nycticorax violaceus, Yellow-crowned Night-Heron

FAMILY THRESKIORNITHIDAE

Eudocimus albus, White Ibis
Eudocimus ruber, Scarlet Ibis
Plegadis falcinellus, Glossy Ibis
Plegadis chihi, White-faced Ibis
Ajaia ajaja, Roseate Spoonbill

FAMILY CICONIIDAE

Jabiru mycteria, Jabiru
Mycteria americana, Wood Stork

ORDER PHOENICOPTERIFORMES

FAMILY PHOENICOPTERIDAE

Phoenicopterus ruber, Greater Flamingo

ORDER ANSERIFORMES

FAMILY ANATIDAE

Dendrocygna bicolor, Fulvous Whistling-Duck
Dendrocygna autumnalis, Black-bellied Whistling-Duck
Dendrocygna arborea, West Indian Whistling-Duck
Cygnus columbianus, Tundra Swan
Cygnus cygnus, Whooper Swan
Cygnus buccinator, Trumpeter Swan
Anser fabalis, Bean Goose
Anser albifrons, Greater White-fronted Goose
Chen caerulescens, Snow Goose
Chen rossii, Ross' Goose
Chen canagica, Emperor Goose
Branta bernicla, Brant
Branta leucopsis, Barnacle Goose
Branta canadensis, Canada Goose
Nesochen sandvicensis, Hawaiian Goose
Aix sponsa, Wood Duck
Anas crecca, Green-winged Teal
Anas formosa, Baikal Teal
Anas falcata, Falcated Teal
Anas rubripes, American Black Duck
Anas fulvigula, Mottled Duck
Anas platyrhynchos, Mallard
Anas wyvilliana, Hawaiian Duck
Anas laysanensis, Laysan Duck
Anas bahamensis, White-cheeked Pintail
Anas acuta, Northern Pintail
Anas querquedula, Garganey
Anas discors, Blue-winged Teal
Anas cyanoptera, Cinnamon Teal
Anas clypeata, Northern Shoveler
Anas strepera, Gadwall
Anas penelope, Eurasian Wigeon
Anas americana, American Wigeon
Aythya ferina, Common Pochard
Aythya valisineria, Canvasback
Aythya americana, Redhead
Aythya baeri, Baer's Pochard

Aythya collaris, Ring-necked Duck
Aythya fuligula, Tufted Duck
Aythya marila, Greater Scaup
Aythya affinis, Lesser Scaup
Somateria mollissima, Common Eider
Somateria spectabilis, King Eider
Somateria fischeri, Spectacled Eider
Polysticta stelleri, Steller's Eider
Histrionicus histrionicus, Harlequin Duck
Clangula hyemalis, Oldsquaw
Melanitta nigra, Black Scoter
Melanitta perspicillata, Surf Scoter
Melanitta fusca, White-winged Scoter
Bucephala clangula, Common Goldeneye
Bucephala islandica, Barrow's Goldeneye
Bucephala albeola, Bufflehead
Mergellus albellus, Smew
Lophodytes cucullatus, Hooded Merganser
Mergus merganser, Common Merganser
Mergus serrator, Red-breasted Merganser
Oxyura jamaicensis, Ruddy Duck
Oxyura dominica, Masked Duck

ORDER FALCONIFORMES

FAMILY CATHARTIDAE

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

FAMILY ACCIPITRIDAE

Pandion haliaetus, Osprey
Chondrohierax uncinatus, Hook-billed Kite
Elanoides forficatus, American Swallow-tailed Kite
Elanus caeruleus, Black-shouldered Kite
Rostrhamus sociabilis, Snail Kite
Ictinia mississippiensis, Mississippi Kite
Milvus migrans, Black Kite
Haliaeetus leucocephalus, Bald Eagle
Haliaeetus albicilla, White-tailed Eagle
Haliaeetus pelagicus, Steller's Sea-Eagle
Circus cyaneus, Northern Harrier
Accipiter gularis, Asiatic Sparrow Hawk
Accipiter striatus, Sharp-shinned Hawk
Accipiter cooperii, Cooper's Hawk
Accipiter gentilis, Northern Goshawk
Buteogallus anthracinus, Common Black-Hawk
Parabuteo unicinctus, Harris' Hawk
Buteo nitidus, Gray Hawk
Buteo lineatus, Red-shouldered Hawk
Buteo platypterus, Broad-winged Hawk
Buteo brachyurus, Short-tailed Hawk
Buteo swainsoni, Swainson's Hawk
Buteo albicaudatus, White-tailed Hawk
Buteo albonotatus, Zone-tailed Hawk
Buteo solitarius, Hawaiian Hawk
Buteo jamaicensis, Red-tailed Hawk
Buteo regalis, Ferruginous Hawk
Buteo lagopus, Rough-legged Hawk
Aquila chrysaetos, Golden Eagle

FAMILY FALCONIDAE

Polyborus plancus, Crested Caracara
Falco tinnunculus, Eurasian Kestrel
Falco sparverius, American Kestrel
Falco columbarius, Merlin
Falco femoralis, Aplomado Falcon

U.S. Fish and Wildlife Serv., Interior

§ 10.13

Falco peregrinus, Peregrine Falcon
Falco rusticolus, Gyrfalcon
Falco mexicanus, Prairie Falcon

ORDER GRUIFORMES

FAMILY RALLIDAE

Coturnicops noveboracensis, Yellow Rail
Laterallus jamaicensis, Black Rail
Crex crex, Corn Crake
Rallus longirostris, Clapper Rail
Rallus elegans, King Rail
Rallus limicola, Virginia Rail
Porzana carolina, Sora
Porzana flaviventer, Yellow-breasted Crake
Porphyryla martinica, Purple Gallinule
Gallinula chloropus, Common Moorhen
Fulica atra, Eurasian Coot
Fulica americana, American Coot
Fulica caribaea, Caribbean Coot

FAMILY ARAMIDAE

Aramus guarauna, Limpkin

FAMILY GRUIDAE

Grus canadensis, Sandhill Crane
Grus grus, Common Crane
Grus americana, Whooping Crane

ORDER CHARADRIIFORMES

FAMILY CHARADRIIDAE

Vanellus vanellus, Northern Lapwing
Pluvialis squatarola, Black-bellied Plover
Pluvialis dominica, Lesser Golden-Plover
Charadrius mongolus, Mongolian Plover
Charadrius leschenaultii, Great Sand Plover
Charadrius alexandrinus, Snowy Plover
Charadrius wilsonia, Wilson's Plover
Charadrius hiaticula, Common Ringed Plover
Charadrius semipalmatus, Semipalmated Plover
Charadrius melodus, Piping Plover
Charadrius dubius, Little Ringed Plover
Charadrius vociferus, Killdeer
Charadrius montanus, Mountain Plover
Charadrius morinellus, Eurasian Dotterel

FAMILY HAEMATOPODIDAE

Haematopus palliatus, American Oystercatcher
Haematopus bachmani, Black Oystercatcher

FAMILY RECURVIROSTRIDAE

Himantopus mexicanus, Black-necked Stilt
Recurvirostra americana, American Avocet

FAMILY JACANIDAE

Jacana spinosa, Northern Jacana

FAMILY SCOLOPACIDAE

Tringa nebularia, Common Greenshank
Tringa melanoleuca, Greater Yellowlegs
Tringa flavipes, Lesser Yellowlegs
Tringa stagnatilis, Marsh Sandpiper
Tringa erythropus, Spotted Redshank
Tringa glareola, Wood Sandpiper
Tringa solitaria, Solitary Sandpiper
Catoptrophorus semipalmatus, Willet
Heteroscelus incanus, Wandering Tattler
Heteroscelus brevipes, Gray-tailed Tattler

Actitis hypoleucos, Common Sandpiper
Actitis macularia, Spotted Sandpiper
Xenus cinereus, Terek Sandpiper
Bartramia longicauda, Upland Sandpiper
Numenius minutus, Least Curlew
Numenius borealis, Eskimo Curlew
Numenius phaeopus, Whimbrel
Numenius tahitiensis, Bristle-thighed Curlew

Numenius madagascariensis, Far Eastern Curlew

Numenius americanus, Long-billed Curlew

Limosa limosa, Black-tailed Godwit

Limosa haemastica, Hudsonian Godwit

Limosa lapponica, Bar-tailed Godwit

Limosa fedoa, Marbled Godwit

Arenaria interpres, Ruddy Turnstone

Arenaria melanocephala, Black Turnstone

Aphriza virgata, Surfbird

Calidris tenuirostris, Great Knot

Calidris canutus, Red Knot

Calidris alba, Sanderling

Calidris pusilla, Semipalmated Sandpiper

Calidris mauri, Western Sandpiper

Calidris ruficollis, Rufous-necked Stint

Calidris minuta, Little Stint

Calidris temminckii, Temminck's Stint

Calidris subminuta, Long-toed Stint

Calidris minutilla, Least Sandpiper

Calidris fuscicollis, White-rumped Sandpiper

Calidris bairdii, Baird's Sandpiper

Calidris melanotos, Pectoral Sandpiper

Calidris acuminata, Sharp-tailed Sandpiper

Calidris maritima, Purple Sandpiper

Calidris ptilocnemis, Rock Sandpiper

Calidris alpina, Dunlin

Calidris ferruginea, Curlew Sandpiper

Calidris himantopus, Stilt Sandpiper

Eurynorhynchus pygmeus, Spoonbill Sandpiper

Limicola falcinellus, Broad-billed Sandpiper

Tryngites subruficollis, Buff-breasted Sandpiper

Philomachus pugnax, Ruff

Limnodromus griseus, Short-billed Dowitcher

Limnodromus scolopaceus, Long-billed Dowitcher

Lymnocyptes minimus, Jack Snipe

Gallinago gallinago, Common Snipe

Gallinago stenura, Pin-tailed Snipe

Gallinago megala, Swinhoe's Snipe

Scolopax rusticola, Eurasian Woodcock

Scolopax minor, American Woodcock

Phalaropus tricolor, Wilson's Phalarope

Phalaropus lobatus, Red-necked Phalarope

Phalaropus fulicaria, Red Phalarope

FAMILY LARIDAE

Stercorarius pomarinus, Pomarine Jaeger

Stercorarius parasiticus, Parasitic Jaeger

Stercorarius longicaudus, Long-tailed Jaeger

Catharacta skua, Great Skua

Catharacta maccormicki, South Polar Skua

Larus atricilla, Laughing Gull

Larus pipixcan, Franklin's Gull

Larus minutus, Little Gull

§ 10.13

50 CFR Ch. I (10–1–04 Edition)

Larus ridibundus, Common Black-headed Gull
Larus philadelphia, Bonaparte's Gull
Larus heermanni, Heermann's Gull
Larus canus, Mew Gull
Larus delawarensis, Ring-billed Gull
Larus californicus, California Gull
Larus argentatus, Herring Gull
Larus thayeri, Thayer's Gull
Larus glaucoides, Iceland Gull
Larus fuscus, Lesser Black-backed Gull
Larus schistisagus, Slaty-backed Gull
Larus livens, Yellow-footed Gull
Larus occidentalis, Western Gull
Larus glaucescens, Glaucous-winged Gull
Larus hyperboreus, Glaucous Gull
Larus marinus, Great Black-backed Gull
Rissa tridactyla, Black-legged Kittiwake
Rissa brevirostris, Red-legged Kittiwake
Rhodostethia rosea, Ross' Gull
Xema sabini, Sabine's Gull
Pagophila eburnea, Ivory Gull
Sterna nilotica, Gull-billed Tern
Sterna caspia, Caspian Tern
Sterna maxima, Royal Tern
Sterna elegans, Elegant Tern
Sterna sandvicensis, Sandwich Tern
Sterna dougallii, Roseate Tern
Sterna hirundo, Common Tern
Sterna paradisaea, Arctic Tern
Sterna aleutica, Aleutian Tern
Sterna forsteri, Forster's Tern
Sterna antillarum, Least Tern
Sterna albifrons, Little Tern
Sterna sumatrana, Black-naped Tern
Sterna lunata, Gray-backed Tern
Sterna anaethetus, Bridled Tern
Sterna fuscata, Sooty Tern
Chlidonias leucopterus, White-winged Tern
Chlidonias niger, Black Tern
Anous stolidus, Brown Noddy
Anous minutus, Black Noddy
Anous tenuirostris, Lesser Noddy
Procelsterna cerulea, Blue-Gray Noddy
Gygis alba, White Tern
Rynchops niger, Black Skimmer

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 marmoratus, Marbled Murrelet
Brachyramphus brevirostris, Kittlitz's Murrelet
Synthliboramphus hypoleucus, Xantus' Murrelet
Synthliboramphus craveri, Craveri's Murrelet
Synthliboramphus antiquus, Ancient Murrelet
Ptychoramphus aleuticus, Cassin's Auklet
Cyclorhynchus psittacula, Parakeet Auklet
Aethia pusilla, Least Auklet

Aethia pygmaea, Whiskered Auklet
Aethia cristatella, Crested Auklet
Cerorhinca monocerata, Rhinoceros Auklet
Fratercula cirrhata, Tufted Puffin
Fratercula arctica, Atlantic Puffin
Fratercula corniculata, Horned Puffin

ORDER COLUMBIFORMES
FAMILY COLUMBIDAE
Columba squamosa, Scaly-naped Pigeon
Columba leucocephala, White-crowned Pigeon
Columba flavirostris, Red-billed Pigeon
Columba inornata, Plain Pigeon
Columba fasciata, Band-tailed Pigeon
Zenaida asiatica, White-winged Dove
Zenaida aurita, Zenaida Dove
Zenaida macroura, Mourning Dove
Columbina inca, Inca Dove
Columbina passerina, Common Ground-Dove
Columbina talpacoti, Ruddy Ground-Dove
Leptotila verreauxi, White-tipped Dove
Geotrygon chrysis, Key West Quail-Dove
Geotrygon mystacea, Bridled Quail-Dove
Geotrygon montana, Ruddy Quail-Dove

ORDER CUCULIFORMES
FAMILY CUCULIDAE
Cuculus canorus, Common Cuckoo
Cuculus saturatus, Oriental Cuckoo
Cuculus fugax, Hodgson's Hawk-Cuckoo
Coccyzus erythrophthalmus, Black-billed Cuckoo
Coccyzus americanus, Yellow-billed Cuckoo
Coccyzus minor, Mangrove Cuckoo
Geococcyx californianus, Greater Roadrunner
Saurothera vieilloti, Puerto Rican Lizard-Cuckoo
Crotophaga ani, Smooth-billed Ani
Crotophaga sulcirostris, Groove-billed Ani

ORDER STRIGIFORMES
FAMILY TYTONIDAE
Tyto alba, Common Barn-Owl

FAMILY STRIGIDAE
Otus flammeolus, Flammulated Owl
Otus asio, Eastern Screech-Owl
Otus kennicottii, Western Screech-Owl
Otus trichopsis, Whiskered Screech-Owl
Otus nudipes, Puerto Rican Screech-Owl
Bubo virginianus, Great Horned Owl
Nyctea scandiaca, Snowy Owl
Surnia ulula, Northern Hawk-Owl
Glaucidium gnoma, Northern Pygmy-Owl
Glaucidium brasilianum, Ferruginous Pygmy-Owl
Micrathene whitneyi, Elf Owl
Athene cunicularia, Burrowing Owl
Strix occidentalis, Spotted Owl
Strix varia, Barred Owl
Strix nebulosa, Great Gray Owl
Asio otus, Long-eared Owl
Asio flammeus, Short-eared Owl
Aegolius funereus, Boreal Owl
Aegolius acadicus, Northern Saw-whet Owl

ORDER CAPRIMULGIFORMES

U.S. Fish and Wildlife Serv., Interior

§ 10.13

FAMILY CAPRIMULGIDAE

Chordeiles acutipennis, Lesser Nighthawk
Chordeiles minor, Common Nighthawk
Chordeiles gundlachii, Antillean Nighthawk
Nyctidromus albicollis, Common Pauraque
Phalaenoptilus nuttallii, Common Poorwill
Caprimulgus carolinensis, Chuck-will's-widow
Caprimulgus ridgwayi, Buff-collared Nightjar
Caprimulgus vociferus, Whip-poor-will
Caprimulgus noctitherus, Puerto Rican Nightjar
Caprimulgus indicus, Jungle Nightjar

ORDER APODIFORMES

FAMILY APODIDAE

Cypseloides niger, Black Swift
Streptoprocne zonaris, White-collared Swift
Chaetura pelagica, Chimney Swift
Chaetura vauxi, Vaux's Swift
Hirundapus caudacutus, White-throated Needletail
Apus apus, Common Swift
Apus pacificus, Fork-tailed Swift
Aeronautes saxatalis, White-throated Swift
Tachornis phoenicobia, Antillean Palm Swift

FAMILY TROCHILIDAE

Colibri thalassinus, Green Violet-ear
Anthracothorax dominicus, Antillean Mango
Anthracothorax viridis, Green Mango
Eulampis holosericeus, Green-throated Carib
Orthorhynchus cristatus, Antillean Crested Hummingbird
Chlorostilbon maugaeus, Puerto Rican Emerald
Cyananthus latirostris, Broad-billed Hummingbird
Hylocharis leucotis, White-eared Hummingbird
Amazilia beryllina, Berylline Hummingbird
Amazilia yucatanensis, Buff-bellied Hummingbird
Amazilia violiceps, Violet-crowned Hummingbird
Lampornis clemenciae, Blue-throated Hummingbird
Eugenes fulgens, Magnificent Hummingbird
Heliomaster constantii, Plain-capped Starthroat
Calliphlox evelynae, Bahama Woodstar
Calothorax lucifer, Lucifer Hummingbird
Archilochus colubris, Ruby-throated Hummingbird
Archilochus alexandri, Black-chinned Hummingbird
Calypte anna, Anna's Hummingbird
Calypte costae, Costa's Hummingbird
Stellula calliope, Calliope Hummingbird
Selasphorus platycercus, Broad-tailed Hummingbird
Selasphorus rufus, Rufous Hummingbird
Selasphorus sasin, Allen's Hummingbird

ORDER TROGONIFORMES

FAMILY TROGONIDAE

Trogon elegans, Elegant Trogon
Euptilotus neoxenus, Eared Trogon

ORDER CORACIIFORMES

FAMILY UPUPIDAE

Upupa epops, Hoopoe

FAMILY ALCEDINIDAE

Ceryle torquata, Ringed Kingfisher
Ceryle alcyon, Belted Kingfisher
Chloroceryle americana, Green Kingfisher

ORDER PICIFORMES

FAMILY PICIDAE

Jynx torquilla, Eurasian Wryneck
Melanerpes lewis, Lewis' Woodpecker
Melanerpes erythrocephalus, Red-headed Woodpecker
Melanerpes formicivorus, Acorn Woodpecker
Melanerpes uropygialis, Gila Woodpecker
Melanerpes aurifrons, Golden-fronted Woodpecker
Melanerpes carolinus, Red-bellied Woodpecker
Melanerpes portoricensis, Puerto Rican Woodpecker
Sphyrapicus varius, Yellow-bellied Sapsucker
Sphyrapicus ruber, Red-breasted Sapsucker
Sphyrapicus thyroideus, Williamson's Sapsucker
Picoides scalaris, Ladder-Backed Woodpecker
Picoides nuttallii, Nuttall's Woodpecker
Picoides pubescens, Downy Woodpecker
Picoides villosus, Hairy Woodpecker
Picoides stricklandi, Strickland's Woodpecker
Picoides borealis, Red-cockaded Woodpecker
Picoides albolarvatus, White-headed Woodpecker
Picoides tridactylus, Three-toed Woodpecker
Picoides arcticus, Black-backed Woodpecker
Colaptes auratus, Northern Flicker
Dryocopus pileatus, Pileated Woodpecker
Campephilus principalis, Ivory-billed Woodpecker

ORDER PASSERIFORMES

FAMILY TYRANNIDAE

Elaenia martinica, Caribbean Elaenia
Camptostoma imberbe, Northern Beardless-Tyrannulet
Contopus borealis, Olive-sided Flycatcher
Contopus pertinax, Greater Pewee
Contopus sordidulus, Western Wood-Pewee
Contopus virens, Eastern Wood-Pewee
Contopus latirostris, Lesser Antillean Pewee
Empidonax flaviventris, Yellow-bellied Flycatcher
Empidonax virescens, Acadian Flycatcher
Empidonax alnorum, Alder Flycatcher
Empidonax traillii, Willow Flycatcher
Empidonax minimus, Least Flycatcher
Empidonax hammondi, Hammond's Flycatcher
Empidonax oberholseri, Dusky Flycatcher
Empidonax wrightii, Gray Flycatcher

- Empidonax difficilis*, Western Flycatcher
Empidonax fulvifrons, Buff-breasted Flycatcher
Sayornis nigricans, Black Phoebe
Sayornis phoebe, Eastern Phoebe
Sayornis saya, Say's Phoebe
Pyrocephalus rubinus, Vermilion Flycatcher
Myiarchus tuberculifer, Dusky-capped Flycatcher
Myiarchus cinerascens, Ash-throated Flycatcher
Myiarchus nuttingi, Nutting's Flycatcher
Myiarchus crinitus, Great Crested Flycatcher
Myiarchus tyrannulus, Brown-crested Flycatcher
Myiarchus antillarum, Puerto Rican Flycatcher
Pitangus sulphuratus, Great Kiskadee
Myiodynastes luteiventris, Sulphur-bellied Flycatcher
Tyrannus melancholicus, Tropical Kingbird
Tyrannus couchii, Couch's Kingbird
Tyrannus vociferans, Cassin's Kingbird
Tyrannus crassirostris, Thick-billed Kingbird
Tyrannus verticalis, Western Kingbird
Tyrannus tyrannus, Eastern Kingbird
Tyrannus dominicensis, Gray Kingbird
Tyrannus caudifasciatus, Loggerhead Kingbird
Tyrannus forficatus, Scissor-tailed Flycatcher
Tyrannus savana, Fork-tailed Flycatcher
Pachyrhamphus aglaiae, Rose-throated Becard
- FAMILY ALAUDIDAE
Alauda arvensis, Eurasian Skylark
Eremophila alpestris, Horned Lark
- FAMILY HIRUNDINIDAE
Progne subis, Purple Martin
Progne cryptoleuca, Cuban Martin
Progne dominicensis, Caribbean Martin
Progne chalybea, Gray-breasted Martin
Tachycineta bicolor, Tree Swallow
Tachycineta thalassina, Violet-green Swallow
Tachycineta cyaneoviridis, Bahama Swallow
Stelgidopteryx serripennis, Northern Rough-winged Swallow
Riparia riparia, Bank Swallow
Hirundo pyrrhonota, Cliff Swallow
Hirundo fulva, Cave Swallow
Hirundo rustica, Barn Swallow
Delichon urbica, Common House-Martin
- 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, Scrub Jay
Aphelocoma ultramarina, Gray-breasted Jay
Gymnorhinus cyanocephalus, Pinyon Jay
Nucifraga columbiana, Clark's Nutcracker
Pica pica, Black-billed Magpie
Pica nuttalli, Yellow-billed Magpie
Corvus brachyrhynchos, American Crow
Corvus caurinus, Northwestern Crow
Corvus leucognaphalus, White-necked Crow
Corvus imparatus, Mexican Crow
Corvus ossifragus, Fish Crow
Corvus hawaiiensis, Hawaiian Crow
Corvus cryptoleucus, Chihuahuan Raven
Corvus corax, Common Raven
- FAMILY PARIDAE
Parus atricapillus, Black-capped Chickadee
Parus carolinensis, Carolina Chickadee
Parus sclateri, Mexican Chickadee
Parus gambeli, Mountain Chickadee
Parus cinctus, Siberian Tit
Parus hudsonicus, Boreal Chickadee
Parus rufescens, Chestnut-backed Chickadee
Parus wollweberi, Bridled Titmouse
Parus inornatus, Plain Titmouse
Parus bicolor, Tufted Titmouse
- FAMILY REMIZIDAE
Auriparus flaviceps, Verdin
- FAMILY AEGITHALIDAE
Psaltriparus minimus, Bushtit
- FAMILY SITTIDAE
Sitta canadensis, Red-breasted Nuthatch
Sitta carolinensis, White-breasted Nuthatch
Sitta pygmaea, Pygmy Nuthatch
Sitta pusilla, Brown-headed Nuthatch
- FAMILY CERTHIIDAE
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 MUSCICAPIDAE
SUBFAMILY SYLVIINAE
Locustella ochotensis, Middendorff's Grass-hopper Warbler
Phylloscopus borealis, Arctic Warbler
Phylloscopus trochilus, Willow Warbler
Regulus satrapa, Golden-crowned Kinglet
Regulus calendula, Ruby-crowned Kinglet
Polioptila caerulea, Blue-gray Gnatcatcher
Polioptila melanura, Black-tailed Gnatcatcher
Polioptila nigriceps, Black-capped Gnatcatcher
- SUBFAMILY MUSCICAPINAE
Muscicapa griseisticta, Gray-spotted Flycatcher

Muscicapa narcissina, Narcissus Flycatcher

SUBFAMILY TURDINAE

Luscinia calliope, Siberian Rubythroat
Luscinia svecica, Bluethroat
Monticola solitarius, Blue Rock Thrush
Oenanthe oenanthe, Northern Wheatear
Sialis sialis, Eastern Bluebird
Sialis mexicana, Western Bluebird
Sialis currucoides, Mountain Bluebird
Myadestes townsendi, Townsend's Solitaire
Phaeornis obscurus, Hawaiian Thrush
Phaeornis palmeri, Small Kauai Thrush
Catharus fuscescens, Veery
Catharus minimus, Gray-cheeked Thrush
Catharus ustulatus, Swainson's Thrush
Catharus guttatus, Hermit Thrush
Hylocichla mustelina, Wood Thrush
Turdus plumbeus, Red-legged Thrush
Turdus obscurus, Eye-browed Thrush
Turdus naumanni, Dusky Thrush
Turdus pilaris, Fieldfare
Turdus grayi, Clay-colored Robin
Turdus rufopalliatus, Rufous-backed Robin
Turdus migratorius, American Robin
Ixoreus naevius, Varied Thrush
Ridgwayia pinicola, Aztec Thrush

FAMILY MIMIDAE

Dumetella carolinensis, Gray Catbird
Mimus polyglottos, Northern Mockingbird
Oreoscoptes montanus, Sage Thrasher
Toxostoma rufum, Brown Thrasher
Toxostoma longirostre, Long-billed Thrasher
Toxostoma bendirei, Bendire's Thrasher
Toxostoma curvirostre, Curve-billed Thrasher
Toxostoma redivivum, California Thrasher
Toxostoma crissale, Crissal Thrasher
Toxostoma lecontei, Le Conte's Thrasher
Margarops fuscatus, Pearly-eyed Thrasher

FAMILY PRUNELLIDAE

Prunella montanella, Siberian Accentor

FAMILY MOTACILLIDAE

Motacilla flava, Yellow Wagtail
Motacilla cinerea, Gray Wagtail
Motacilla alba, White Wagtail
Motacilla lugens, Black-backed Wagtail
Anthus hodgsoni, Olive Tree-Pipit
Anthus gustavi, Pechora Pipit
Anthus cervinus, Red-throated Pipit
Anthus spinoletta, Water Pipit
Anthus spragueii, Sprague's Pipit

FAMILY BOMBYCILLIDAE

Bombycilla garrulus, Bohemian Waxwing
Bombycilla cedrorum, Cedar Waxwing

FAMILY PTILOGONATIDAE

Phainopepla nitens, Phainopepla

FAMILY LANIIDAE

Lanius excubitor, Northern Shrike
Lanius ludovicianus, Loggerhead Shrike

FAMILY STURNIDAE

Sturnus philippensis, Violet-backed Starling
Sturnus cineraceus, Ashy Starling

FAMILY VIREONIDAE

Vireo griseus, White-eyed Vireo
Vireo latimeri, Puerto Rican Vireo
Vireo bellii, Bells' Vireo
Vireo atricapillus, Black-capped Vireo
Vireo vicinior, Gray Vireo
Vireo solitarius, Solitary Vireo
Vireo flavifrons, Yellow-throated Vireo
Vireo huttoni, Hutton's Vireo
Vireo gilvus, Warbling Vireo
Vireo philadelphicus, Philadelphia Vireo
Vireo olivaceus, Red-eyed Vireo
Vireo altiloquus, Black-whiskered Vireo

FAMILY EMBERIZIDAE

SUBFAMILY PARULINAE

Vermivora bachmanii, Bachman's Warbler
Vermivora pinus, Blue-winged Warbler
Vermivora chrysoptera, Golden-winged Warbler
Vermivora peregrina, Tennessee Warbler
Vermivora celata, Orange-crowned Warbler
Vermivora ruficapilla, Nashville Warbler
Vermivora virginiae, Virginia's Warbler
Vermivora crissalis, Colima Warbler
Vermivora luciae, Lucy's Warbler
Parula americana, Northern Parula
Parula pitiayumi, Tropical Parula
Dendroica petechia, Yellow Warbler
Dendroica pensylvanica, Chestnut-sided Warbler
Dendroica magnolia, Magnolia Warbler
Dendroica tigrina, Cape May Warbler
Dendroica caerulescens, Black-throated Blue Warbler
Dendroica coronata, Yellow-rumped Warbler
Dendroica nigrescens, Black-throated Gray Warbler
Dendroica townsendi, Townsend's Warbler
Dendroica occidentalis, Hermit Warbler
Dendroica virens, Black-throated Green Warbler
Dendroica chrysoparia, Golden-cheeked Warbler
Dendroica fusca, Blackburnian Warbler
Dendroica dominica, Yellow-throated Warbler
Dendroica graciae, Grace's Warbler
Dendroica adelaidae, Adelaide's Warbler
Dendroica pinus, Pine Warbler
Dendroica kirtlandii, Kirtland's Warbler
Dendroica discolor, Prairie Warbler
Dendroica palmarum, Palm Warbler
Dendroica castanea, Bay-breasted Warbler
Dendroica striata, Blackpoll Warbler
Dendroica cerulea, Cerulean Warbler
Dendroica angelae, Elfin Woods Warbler
Mniotilta varia, Black-and-White Warbler
Setophaga ruticilla, American Redstart
Protonotaria citrea, Prothonotary Warbler
Helmitheros vermivorus, Worm-eating Warbler
Limnithlypis swainsonii, Swainson's Warbler
Seiurus aurocapillus, Ovenbird
Seiurus noveboracensis, Northern Waterthrush
Seiurus motacilla, Louisiana Waterthrush

Oporornis formosus, Kentucky Warbler
Oporornis agilis, Connecticut Warbler
Oporornis philadelphia, Mourning Warbler
Oporornis tolmiei, MacGillivray's Warbler
Geothlypis trichas, Common Yellowthroat
Geothlypis poliocephala, Gray-crowned Yellowthroat
Wilsonia citrina, Hooded Warbler
Wilsonia pusilla, Wilson's Warbler
Wilsonia canadensis, Canada Warbler
Cardellina rubrifrons, Red-faced Warbler
Myioborus pictus, Painted Redstart
Myioborus miniatus, Slaty-throated Redstart
Basileuterus culicivorus, Golden-crowned Warbler
Basileuterus rufifrons, Rufous-capped Warbler
Icteria virens, Yellow-breasted Chat
Peucedramus taeniatus, Olive Warbler

SUBFAMILY THRAUPINAE

Spindalis zena, Stripe-headed Tanager
Neospingus speculiferus, Puerto Rican Tanager
Piranga flava, Hepatic Tanager
Piranga rubra, Summer Tanager
Piranga olivacea, Scarlet Tanager
Piranga ludoviciana, Western Tanager
Euphonia musica, Antillean Euphonia

SUBFAMILY CARDINALINAE

Rhodothraupis celaeno, Crimson-collared Grosbeak
Cardinalis cardinalis, Northern Cardinal
Cardinalis sinuatus, Pyrrhuloxia
Phoebastria chrysopleura, Yellow Grosbeak
Phoebastria ludovicianus, Rose-breasted Grosbeak
Phoebastria melanocephala, Black-headed Grosbeak
Guiraca caerulea, Blue Grosbeak
Passerina amoena, Lazuli Bunting
Passerina cyanea, Indigo Bunting
Passerina versicolor, Varied Bunting
Passerina ciris, Painted Bunting
Spiza americana, Dickcissel

SUBFAMILY EMBERIZINAE

Arremonops rufivirgatus, Olive Sparrow
Pipilo chlorurus, Green-tailed Towhee
Pipilo erythrophthalmus, Rufous-sided Towhee
Pipilo fuscus, Brown Towhee
Pipilo aberti, Abert's Towhee
Sporophila torqueola, White-collared Seedeater
Tiaris olivacea, Yellow-faced Grassquit
Tiaris bicolor, Black-faced Grassquit
Loxigilla portoricensis, Puerto Rican Bullfinch
Aimophila aestivalis, Bachman's Sparrow
Aimophila botterii, Botteri's Sparrow
Aimophila cassinii, Cassin's Sparrow
Aimophila carpalis, Rufous-winged Sparrow
Aimophila ruficeps, Rufous-crowned Sparrow
Spizella arborea, American Tree Sparrow

Spizella passerina, Chipping Sparrow
Spizella pallida, Clay-colored Sparrow
Spizella breweri, Brewer's Sparrow
Spizella pusilla, Field Sparrow
Spizella wortheni, Worthen's Sparrow
Spizella atrogularis, Black-chinned Sparrow
Poocetes gramineus, Vesper Sparrow
Chondestes grammacus, Lark Sparrow
Amphispiza bilineata, Black-throated Sparrow
Amphispiza belli, Sage Sparrow
Amphispiza quinquestriata, Five-striped Sparrow
Calamospiza melanocorys, Lark Bunting
Passerculus sandwichensis, Savannah Sparrow
Ammodramus bairdii, Baird's Sparrow
Ammodramus savannarum, Grasshopper Sparrow
Ammodramus henslowii, Henslow's Sparrow
Ammodramus leconteii, Le Conte's Sparrow
Ammodramus caudacutus, Sharp-tailed Sparrow
Ammodramus maritimus, Seaside Sparrow
Passerella iliaca, Fox Sparrow
Melospiza melodia, Song Sparrow
Melospiza lincolni, Lincoln's Sparrow
Melospiza georgiana, Swamp Sparrow
Zonotrichia albicollis, White-throated Sparrow
Zonotrichia atricapilla, Golden-crowned Sparrow
Zonotrichia leucophrys, White-crowned Sparrow
Zonotrichia querula, Harris' Sparrow
Junco hyemalis, Dark-eyed Junco
Junco phaeonotus, Yellow-eyed Junco
Emberiza rustica, Rustic Bunting
Emberiza pallasii, Pallas' Reed-Bunting
Emberiza schoeniculus, Common Reed-Bunting
Calcarius mccownii, McCown's Longspur
Calcarius lapponicus, Lapland Longspur
Calcarius pictus, Smith's Longspur
Calcarius ornatus, Chestnut-collared Longspur
Plectrophenax nivalis, Snow Bunting
Plectrophenax hyperboreus, McKay's Bunting

SUBFAMILY ICTERINAE

Dolichonyx oryzivorus, Bobolink
Agelaius phoeniceus, Red-winged Blackbird
Agelaius tricolor, Tricolored Blackbird
Agelaius humeralis, Tawny-shouldered Blackbird
Agelaius xanthomus, Yellow-shouldered Blackbird
Sturnella magna, Eastern Meadowlark
Sturnella neglecta, Western Meadowlark
Xanthocephalus xanthocephalus, Yellow-headed Blackbird
Euphagus carolinus, Rusty Blackbird
Euphagus cyanocephalus, Brewer's Blackbird
Quiscalus mexicanus, Great-tailed Grackle
Quiscalus major, Boat-tailed Grackle

U.S. Fish and Wildlife Serv., Interior

§ 10.22

Quiscalus quiscula, Common Grackle
Quiscalus niger, Greater Antillean Grackle
Molothrus bonariensis, Shiny Cowbird
Molothrus aeneus, Bronzed Cowbird
Molothrus ater, Brown-headed Cowbird
Icterus dominicensis, Black-cowled Oriole
Icterus wagleri, Black-vented Oriole
Icterus spurius, Orchard Oriole
Icterus cucullatus, Hooded Oriole
Icterus pustulatus, Streak-backed Oriole
Icterus gularis, Altamira Oriole
Icterus graduacauda, Audubon's Oriole
Icterus galbula, Northern Oriole
Icterus parisorum, Scott's Oriole

FAMILY FRINGILLIDAE

SUBFAMILY FRINGILLINAE

Fringilla montifringilla, Brambling

SUBFAMILY CARDUELINAE

Leucosticte arctoa, Rosy Finch
Pinicola enucleator, Pine Grosbeak
Carpodacus erythrinus, Common Rosefinch
Carpodacus purpureus, Purple Finch
Carpodacus cassinii, Cassin's Finch
Carpodacus mexicanus, House Finch
Loxia curvirostra, Red Crossbill
Loxia leucoptera, White-winged Crossbill
Carduelis flammea, Common Redpoll
Carduelis hornemanni, Hoary Redpoll
Carduelis pinus, Pine Siskin
Carduelis psaltria, Lesser Goldfinch
Carduelis lawrencei, Lawrence's Goldfinch
Carduelis tristis, American Goldfinch
Carduelis sinica, Oriental Greenfinch
Pyrrhula pyrrhula, Eurasian Bullfinch
Coccothraustes vespertinus, Evening Grosbeak
Coccothraustes coccothraustes, Hawfinch

[50 FR 13710, Apr. 5, 1985]

Subpart C—Addresses

§ 10.21 Director.

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

(b) Mail sent to the Director regarding permits for the Convention on International Trade in Endangered Species of Wild Fauna and Fauna (CITES), injurious wildlife, Wild Bird Conservation Act species, international movement of all ESA-listed endangered or threatened species, and scientific research on, exhibition of, or interstate commerce in nonnative ESA-listed endangered and threatened species should be addressed to: Director, U.S. Fish and Wildlife Service, (Attention: Office of Management Authority), 4401 N. Fair-

fax 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]

PART 11—CIVIL PROCEDURES

Subpart A—Introduction

Sec.

- 11.1 Purpose of regulations.
- 11.2 Scope of regulations.
- 11.3 Filing of documents.

Subpart B—Assessment Procedure

- 11.11 Notice of violation.
- 11.12 Petition for relief.
- 11.13 Decision by the Director.
- 11.14 Notice of assessment.
- 11.15 Request for a hearing.
- 11.16 Final administrative decision.
- 11.17 Payment of final assessment.

Subpart C—Hearing and Appeal Procedures

- 11.21 Commencement of hearing procedures.
- 11.22 Appearance and practice.
- 11.23 Hearings.
- 11.24 Final administrative action.
- 11.25 Appeal.
- 11.26 Reporting service.

AUTHORITY: Lacey Act, 83 Stat. 279-281, 18 U.S.C. 42-44; Lacey Act Amendments of 1981, 95 Stat. 1073-1080, 16 U.S.C. 3371 *et seq.*; Bald Eagle Protection Act, sec. 2, 54 Stat. 251, 16 U.S.C. 668a; Endangered Species Act of 1973, sec. 11(f), 87 Stat. 884, 16 U.S.C. 1540(f); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, 16 U.S.C. 1382.

SOURCE: 39 FR 1159, Jan. 4, 1974, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 11 appear at 67 FR 38208, June 3, 2002.

Subpart A—Introduction

§ 11.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the assessment of civil penalties in connection with violations of

certain laws and regulations enforced by the Service.

§ 11.2 Scope of regulations.

The regulations contained in this part apply only to actions arising under the following laws and regulations issued thereunder:

Lacey Act, 18 U.S.C. 43;

Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*;

Bald Eagle Protection Act, 16 U.S.C. 668-668d; Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*; and Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1384 and 1401-1407.

[47 FR 56860, Dec. 21, 1982]

§ 11.3 Filing of documents.

(a) Whenever a document or other paper is required to be filed under this part within a certain time, such document or paper will be considered filed as of the date of the postmark if mailed, or the date actually delivered to the office where filing is required. The time periods set forth in this part shall begin to run as of the day following the date of the document or other paper.

(b) If an oral or written application is made to the Director up to 10 calendar days after the expiration of a time period established in this part for the required filing of documents or other papers, the Director may permit a late filing within a fixed period where reasonable grounds are found for an inability or failure to file within the time period required. All such extensions shall be in writing. Except as provided in this subsection, no other requests for an extension of time may be granted.

Subpart B—Assessment Procedure

§ 11.11 Notice of violation.

(a) A notice of violation (hereinafter “notice”), shall be issued by the Director and served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to a civil penalty (the respondent). The notice shall contain: (1) A concise statement of the facts believed to show a violation, (2) a specific reference to the provisions of the statute or regulation allegedly violated,

and (3) the amount of penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the case. The notice shall also advise the respondent of his right to file a petition for relief pursuant to § 11.12, or to await the Director's notice of assessment.

(b) The respondent shall have 45 days from the date of the notice of violation in which to respond. During this time he may:

(1) Undertake informal discussions with the Director;

(2) Accept the proposed penalty, or the compromise, if any, offered in the notice;

(3) File a petition for relief; or

(4) Take no action, and await the Director's decision, pursuant to § 11.13.

(c) Acceptance of the proposed penalty or the compromise shall be deemed to be a waiver of the notice of assessment required by § 11.14, and of the opportunity for a hearing. Any counter offer of settlement shall be deemed a rejection of the proposed offer of compromise.

§ 11.12 Petition for relief.

If the respondent so chooses he may ask that no penalty be assessed or that the amount be reduced, and he may admit or contest the legal sufficiency of the charge and the Director's allegations of facts, by filing a petition for relief (hereinafter "petition") with the Director at the address specified in the notice within 45 days of the date thereof. The petition shall be in writing and signed by the respondent. If the respondent is a corporation, the petition must be signed by an officer authorized to sign such documents. It must set forth in full the legal or other reasons for the relief.

§ 11.13 Decision by the Director.

Upon expiration of the period required or granted for filing of a petition for relief, the Director shall proceed to make an assessment of a civil penalty, taking into consideration information available to him and such showing as may have been made by the respondent, either pursuant to § 11.11 or § 11.12, or upon further request of the Director.

§ 11.14 Notice of assessment.

The Director shall notify the respondent by a written notice of assessment, by personal service or by registered or certified mail, return receipt requested, of his decision pursuant to § 11.13. He shall set forth therein the facts and conclusions upon which he decided that the violation did occur and appropriateness of the penalty assessed.

§ 11.15 Request for a hearing.

Except where a right to request a hearing is deemed to have been waived as provided in § 11.11, the respondent may, within 45 calendar days from the date of the notice of assessment referred to in § 11.14, file a dated, written request for a hearing with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. The request should state the respondent's preference as to the place and date for a hearing. The request must enclose a copy of the notice of violation and notice of assessment. A copy of the request shall be served upon the Director personally or by registered or certified mail, return receipt requested, at the address specified in the notice.

§ 11.16 Final administrative decision.

(a) Where no request for a hearing is filed as provided in § 11.15 the Director's assessment shall become effective and shall constitute the final administrative decision of the Secretary on the 45th calendar day from the date of the notice of assessment.

(b) If a request for a hearing is timely filed in accordance with § 11.15, the date of the final administrative decision in the matter shall be as provided in subpart C of this part.

§ 11.17 Payment of final assessment.

When a final administrative decision becomes effective in accordance with this part 11, the respondent shall have 20 calendar days from the date of the final administrative decision within which to make full payment of the penalty assessed. Payment will be timely only if received in Office of the Director during normal business hours, on or

§ 11.21

before the 20th day. Upon a failure to pay the penalty, the Solicitor of the Department may request the Attorney General to institute a civil action in the U.S. District Court to collect the penalty.

Subpart C—Hearing and Appeal Procedures

§ 11.21 Commencement of hearing procedures.

Proceedings under this subpart are commenced upon the timely filing with the Hearings Division of a request for a hearing, as provided in § 11.15 of subpart B. Upon receipt of a request for a hearing, the Hearings Division will assign an administrative law judge to the case. Notice of assignment will be given promptly to the parties, and thereafter, all pleadings, papers, and other documents in the proceeding shall be filed directly with the administrative law judge, with copies served on the opposing party.

§ 11.22 Appearance and practice.

(a) Subject to the provisions of 43 CFR 1.3, the respondent may appear in person, by representative, or by counsel, and may participate fully in these proceedings.

(b) Department counsel designated by the Solicitor of the Department shall represent the Director in these proceedings. Upon notice to the Director of the assignment of an administrative law judge to the case, said counsel shall enter his appearance on behalf of the Director and shall file all petitions and correspondence exchanged by the Director and the respondent pursuant to subpart B of this part, which shall become part of the hearing record. Thereinafter, service upon the Director in these proceedings shall be made to his counsel.

§ 11.23 Hearings.

(a) The administrative law judge shall have all powers accorded by law and necessary to preside over the parties and the proceedings and to make decisions in accordance with 5 U.S.C. 554-557. Failure to appear at the time set for hearing shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the

50 CFR Ch. I (10-1-04 Edition)

record made at the hearing. Copies of the transcript may be inspected or copied.

(b) The transcript of testimony, the exhibits, and all papers, documents, and requests filed in the proceedings, shall constitute the record for decision. The judge will render a written decision upon the record, which shall set forth his findings of fact and conclusions of law, and the reasons and basis therefor, and an assessment of a penalty, if any.

§ 11.24 Final administrative action.

Unless a notice of request for an appeal is filed in accordance with § 11.25 of this subpart C, the administrative law judge's decision shall constitute the final administrative determination of the Secretary in the matter and shall become effective 30 calendar days from the date of the decision.

§ 11.25 Appeal.

(a) Either the respondent or the Director may seek an appeal from the decision of an administrative law judge rendered subsequent to January 1, 1974, by the filing of a "Notice of Request for Appeal" with the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203, within 30 calendar days of the date of the administrative law judge's decision. Such notice shall be accompanied by proof of service on the administrative law judge and the opposing party.

(b) Upon receipt of such a request, the Director, Office of Hearings and Appeals, shall appoint an ad hoc appeals board to determine whether an appeal should be granted, and to hear and decide an appeal. To the extent they are not inconsistent herewith, the provisions of subpart G of the Department Hearings and Appeals Procedures in 43 CFR part 4 shall apply to appeal proceedings under this subpart. The determination of the board to grant or deny an appeal, as well as its decision on the merits of an appeal, shall be in writing and become effective as the final administrative determination of the Secretary in the proceeding on the date it is rendered, unless otherwise specified therein.

U.S. Fish and Wildlife Serv., Interior

§ 12.2

§ 11.26 Reporting service.

Copies of decisions in civil penalty proceedings instituted under statutes referred to in subpart A of this part and rendered subsequent to June 3, 1970, may be obtained by letter of request addressed to the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. Fees for this service shall be as established by the Director of that Office.

PART 12—SEIZURE AND FORFEITURE PROCEDURES

Subpart A—General Provisions

- Sec.
- 12.1 Purpose of regulations.
 - 12.2 Scope of regulations.
 - 12.3 Definitions.
 - 12.4 Filing of documents.
 - 12.5 Seizure by other agencies.
 - 12.6 Bonded release.

Subpart B—Preliminary Requirements

- 12.11 Notification of seizure.
- 12.12 Appraisement.

Subpart C—Forfeiture Proceedings

- 12.21 Criminal prosecutions.
- 12.22 Civil actions to obtain forfeiture.
- 12.23 Administrative forfeiture proceedings.
- 12.24 Petition for remission of forfeiture.
- 12.25 Transfers in settlement of civil penalty claims.

Subpart D—Disposal of Forfeited or Abandoned Property

- 12.30 Purpose.
- 12.31 Accountability.
- 12.32 Effect of prior illegality.
- 12.33 Disposal.
- 12.34 Return to the wild.
- 12.35 Use by the Service or transfer to another government agency for official use.
- 12.36 Donation or loan.
- 12.37 Sale.
- 12.38 Destruction.
- 12.39 Information on property available for disposal.

Subpart E—Restoration of Proceeds and Recovery of Storage Costs

- 12.41 Petition for restoration of proceeds.
- 12.42 Recovery of certain storage costs.

Subpart F—Return of Property

- 12.51 Return procedure.

AUTHORITY: Act of September 6, 1966, 5 U.S.C. 301; Bald and Golden Eagles Protection Act, 16 U.S.C. 668-668b; National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd(e)-(f); Migratory Bird Treaty Act, 16 U.S.C. 704, 706-707, 712; Migratory Bird Hunting and Conservation Stamp Act, 16 U.S.C. 718f-718g; Fish and Wildlife Act of 1956 [Airborne Hunting Amendments], 16 U.S.C. 742j-1(d)-(f); Black Bass Act, 16 U.S.C. 852d-853; Marine Mammal Protection Act of 1972, 16 U.S.C. 1375-1377, 1382; Endangered Species Act of 1973, 16 U.S.C. 1540; Lacey Act, 18 U.S.C. 43, 44; Lacey Act Amendments of 1981, 95 Stat. 1073-1080, 16 U.S.C. 3371 *et seq.*; Tariff Act of 1930, 19 U.S.C. 1602-1624; Fish and Wildlife Improvement Act of 1978, 16 U.S.C. 742l; Exotic Organisms, E.O. 11987, 42 FR 26949; American Indian Religious Freedom Act, 42 U.S.C. 1996.

SOURCE: 45 FR 17864, Mar. 19, 1980, unless otherwise noted.

Subpart A—General Provisions

§ 12.1 Purpose of regulations.

The regulations of this part establish procedures relating to property seized or subject to forfeiture under various laws enforced by the Service.

§ 12.2 Scope of regulations.

Except as hereinafter provided, the regulations of this part apply to all property seized or subject to forfeiture under any of the following laws:

- (a) The Eagle Protection Act, 16 U.S.C. 668 *et seq.*;
- (b) The National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd *et seq.*;
- (c) The Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*;
- (d) The Migratory Bird Hunting Stamp Act, 16 U.S.C. 718 *et seq.*;
- (e) The Airborne Hunting Act, 16 U.S.C. 742j-1;
- (f) The Black Bass Act, 16 U.S.C. 851 *et seq.*;
- (g) The Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*;
- (h) The Endangered Species Act, 16 U.S.C. 1531 *et seq.*; and
- (i) The Lacey Act, 18 U.S.C. 43-44.
- (j) The Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*

[45 FR 17864, Mar. 19, 1980; 45 FR 31725, May 14, 1980, as amended at 47 FR 56860, Dec. 21, 1982]

§ 12.3

§ 12.3 Definitions.

(a) As used in this part:

(1) *Attorney General* means the Attorney General of the United States or an authorized representative;

(2) *Disposal* includes, but is not limited to, remission, return to the wild, use by the Service or transfer to another government agency for official use, donation or loan, sale, or destruction.

(3) *Domestic value* means the price at which the seized property or similar property is freely offered for sale at the time and place of appraisal, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisal, such value in the principal market nearest to the place of appraisal shall be reported.

(4) *Solicitor* means the Solicitor of the Department of the Interior or an authorized representative.

(b) The definitions of paragraph (a) of this section are in addition to, and not in lieu of, those contained in §§1.1 through 1.8 and 10.12 of this title.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 17525, Apr. 23, 1982]

§ 12.4 Filing of documents.

(a) Whenever any document is required by this part to be filed or served within a certain period of time, such document will be considered filed or served as of the date of receipt by the party with or upon whom filing or service is required. The time periods established by this part shall begin to run on the day following the date of filing or service.

(b) If an oral or written application is made before the expiration of a time period established by this part, an extension of such period for a fixed number of days may be granted where there are reasonable grounds for the failure to file or serve the document within the period required. Any such extension shall be in writing. Except as provided in this paragraph, no other requests for an extension shall be granted.

50 CFR Ch. I (10–1–04 Edition)

§ 12.5 Seizure by other agencies.

Any authorized employee or officer of any other Federal agency who has seized any wildlife or other property under any of the laws listed in §12.2 will, if so requested, deliver such seizure to the appropriate Special Agent in Charge designated in §10.22 of this title, or to an authorized designee, who shall either hold such seized wildlife or other property or arrange for its proper handling and care.

§ 12.6 Bonded release.

(a) Subject to the conditions set forth in paragraphs (b) and (c) of this section, and to such additional conditions as may be appropriate, the Service, in its discretion, may accept an appearance bond or other security (including, but not limited to, payment of the value as determined under §12.12) in place of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; Lacey Act, 18 U.S.C. 43; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1; or Eagle Protection Act, 16 U.S.C. 668 *et seq.*

(b) Property may be released under this section only to the owner or consignee.

(c) Property may be released under this section only if possession thereof will not violate or frustrate the purpose or policy of any applicable law or regulation.

[45 FR 17864, Mar. 19, 1980; 45 FR 31725, May 14, 1980, as amended at 47 FR 56860, Dec. 21, 1982]

Subpart B—Preliminary Requirements

§ 12.11 Notification of seizure.

Except where the owner or consignee is personally notified or seizure is made pursuant to a search warrant, the Service shall, as soon as practicable following the seizure or other receipt of seized wildlife or other property, mail a notification of seizure by registered or certified mail, return receipt requested, to the owner or consignee, if known or easily ascertainable. Such notification shall describe the seized wildlife or other property, and shall

state the time, place, and reason for the seizure.

§ 12.12 Appraisalment.

The Service shall determine the value of any cargo, of a vessel or other conveyance employed in unlawful taking, seized under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and the value of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1, *et seq.*; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.* If the seized property may lawfully be sold in the United States, its domestic value shall be determined in accordance with § 12.3. If the seized property may not lawfully be sold in the United States, its value shall be determined by other reasonable means.

[47 FR 56860, Dec. 21, 1982]

Subpart C—Forfeiture Proceedings

§ 12.21 Criminal prosecutions.

If property is subject to criminal forfeiture, such forfeiture will be obtained in accordance with the *Federal Rules of Criminal Procedure*.

§ 12.22 Civil actions to obtain forfeiture.

The Solicitor may request the Attorney General to file a civil action to obtain forfeiture of any property subject to forfeiture under the Airborne Hunting Act, 16 U.S.C. 742j-1; Lacey Act, 18 U.S.C. 43-44; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Black Bass Act, 16 U.S.C. 851 *et seq.*; Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*; Migratory Bird Hunting Stamp Act, 16 U.S.C. 718 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; or Endangered Species Act, 16 U.S.C. 1531 *et seq.*. Before any such action is filed against property subject to forfeiture under the Lacey Act, 18 U.S.C. 43, or against property, other than the cargo of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, a civil penalty must first be as-

sessed in accordance with the statute and applicable regulations, and no such action may be filed more than 30 days after the conclusion of civil penalty assessment proceedings.

[47 FR 56860, Dec. 21, 1982]

§ 12.23 Administrative forfeiture proceedings.

(a) *When authorized.* Whenever any property subject to forfeiture under the Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Airborne Hunting Act, 16 U.S.C. 742j-1, or any wildlife or plant subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, or any fish, wildlife or plant subject to forfeiture under the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, is determined under § 12.12 to have a value not greater than \$100,000, the Solicitor may obtain forfeiture of such property in accordance with this section.

(b) *Procedure*—(1) *Notice of proposed forfeiture.* As soon as practicable following seizure, the Solicitor shall issue a notice of proposed forfeiture.

(A) *Publication.* The notice shall be published once a week for at least three successive weeks in a newspaper of general circulation in the locality where the property was seized. If the value of the seized property as determined under § 12.12 does not exceed \$1000, the notice may be published by posting, instead of newspaper publication, for at least three successive weeks in a conspicuous place accessible to the public at the Service's enforcement office, the U.S. District Court or the U.S. Customhouse nearest the place of seizure. In cases of posting, the date of initial posting shall be indicated on the notice. In addition to newspaper publication or posting, a reasonable effort shall be made to serve the notice personally or by registered or certified mail, return receipt requested, on each person whose whereabouts and interest in the seized property are known or easily ascertainable.

(B) *Contents.* The notice shall be in substantially the same form as a complaint for forfeiture filed in United States District Court. The notice shall describe the property, including, in the case of motor vehicles, the license, registration, motor, and serial numbers. The notice shall state the time and

§ 12.23

place of seizure, as well as the reason therefor, and shall specify the value of the property as determined under §12.12. The notice shall contain a specific reference to the provisions of the laws or regulations allegedly violated and under which the property is subject to forfeiture. The notice shall state that any person desiring to claim the property must file a claim and a bond in accordance with paragraph (b)(2) of this section, and shall state that if a proper claim and bond are not received by the proper office within the time prescribed by such paragraph, the property will be declared forfeited to the United States and disposed of according to law. The notice shall also advise interested persons of their right to file a petition for remission of forfeiture in accordance with § 12.24.

(2) *Filing a claim and bond.* Upon issuance of the notice of proposed forfeiture, any person claiming the seized property may file with the Solicitor's office indicated in the notice a claim to the property and a bond in the penal sum of \$5,000, or ten per centum of the value of the claimed property, whichever is lower, but not less than \$250. Any claim and bond must be received in such office within 30 days after the date of first publication or posting of the notice of proposed forfeiture. The claim shall state the claimant's interest in the property. The bond filed with the claim shall be on a United States Customs Form 4615 or on a similar form provided by the Department. There shall be endorsed on the bond a list or schedule in substantially the following form which shall be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses:

List or schedule containing a particular description of seized article, claim for which is covered by the within bond, to wit:

The foregoing list is correct.
Claimant _____
Attest: _____

The claim and bond referred to in this paragraph shall not entitle the claimant or any other person to possession of the property.

(3) *Transmittal to Attorney General.* As soon as practicable after timely receipt

by the proper office of a proper claim and bond in accordance with paragraph (b)(2) of this section, the Solicitor shall transmit such claim and bond to the Attorney General for institution of forfeiture proceedings in U.S. District Court.

(4) *Motion for stay.* Upon issuance of the notice of proposed forfeiture, any person claiming the seized property may file with the Solicitor's regional or field office indicated in the notice a motion to stay administrative forfeiture proceedings. Any motion for stay must be filed within 30 days after the date of first publication or posting of the notice of the proposed forfeiture. Each motion must contain:

(i) The claimant's verified statement showing that he or she holds absolute, fee simple title to the seized property, free and clear of all liens, encumbrances, security interests, or other third-party interests, contingent or vested; and (ii) the claimant's offer to pay in advance all reasonable costs anticipated to be incurred in the storage, care, and maintenance of the seized property for which administrative forfeiture is sought. Where a stay of administrative forfeiture proceedings would not injure or impair the rights of any third parties and where the claimant has agreed to pay in advance anticipated, reasonable storage costs associated with the granting of a stay, the Regional or Field Solicitor as appropriate may, in his discretion, grant the motion for stay and specify reasonable and prudent conditions therefor, including but not limited to the duration of the stay, a description of the factors which would automatically terminate the stay, and any requirement for a bond (including amount) to secure the payment of storage and other maintenance costs. If a motion for stay is denied, or if a stay is terminated for any reason, the claimant must file, if he or she has not already done so, a claim and bond in accordance with paragraph (b)(2) of this section not later than 30 days after receipt of the Solicitor's Office denial or termination order. Failure to file the claim and bond within 30 days will result in summary forfeiture under paragraph (c) of this section.

(c) *Summary forfeiture.* If a proper claim and bond are not received by the proper office within 30 days as specified in paragraph (b)(2) of this section, the Solicitor shall declare the property forfeited. The declaration of forfeiture shall be in writing, and shall be sent by registered or certified mail, return receipt requested, to the Service and to each person whose whereabouts and prior interest in the seized property are known or easily ascertainable. The declaration shall be in substantially the same form as a default judgment of forfeiture entered in United States District Court. The declaration shall describe the property and state the time, place, and reason for its seizure. The declaration shall identify the notice of proposed forfeiture, describing the dates and manner of publication of the notice and any efforts made to serve the notice personally or by mail. The declaration shall state that in response to the notice a proper claim and bond were not timely received by the proper office from any claimant, and that therefore all potential claimants are deemed to admit the truth of the allegations of the notice. The declaration shall conclude with an order of condemnation and forfeiture of the property to the United States for disposition according to law.

[45 FR 17864, Mar. 19, 1980, as amended at 46 FR 44759, Sept. 8, 1981; 47 FR 56860, Dec. 21, 1982; 50 FR 6350, Feb. 15, 1985]

§ 12.24 Petition for remission of forfeiture.

(a) Any person who has an interest in cargo, of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, or any person who has an interest in any property subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, or any person who has incurred or is alleged to have incurred a forfeiture of any such property, may file with the Solicitor or, when forfeiture proceedings have been brought in U.S. District Court, the At-

torney General, a petition for remission of forfeiture.

(b) A petition filed with the Solicitor need not be in any particular form, but it must be received before disposition of the property and must contain the following:

- (1) A description of the property;
- (2) The time and place of seizure;
- (3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title, and other satisfactory evidence; and
- (4) A statement of all facts and circumstances relied upon by the petitioner to justify remission of the forfeiture.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition must be signed by an authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under title 18, U.S. Code, section 1001.

(e) Upon receiving the petition, the Solicitor shall decide whether or not to grant relief. In making a decision, the Solicitor shall consider the information submitted by the petitioner, as well as any other available information relating to the matter.

(f) If the Solicitor finds the existence of such mitigating circumstances as to justify remission or mitigation of the forfeiture or alleged forfeiture, the Solicitor may remit or mitigate the same upon such terms and conditions as may be reasonable and just or may order discontinuance of any proceeding under § 12.23

(g) If the Solicitor decides that relief should not be granted, the Solicitor shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Solicitor's notification denying the original petition.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 56861, Dec. 21, 1982]

§ 12.25 Transfers in settlement of civil penalty claims.

In the discretion of the Solicitor, an owner of wildlife or plants who may be liable for civil penalty under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Lacey Act, 18 U.S.C. 43; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; or Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, may be given an opportunity to completely or partially settle the civil penalty claim by transferring to the United States all right, title, and interest in any wildlife or plants that are subject to forfeiture. Such transfer may be accomplished by the owner's execution and return of a U.S. Customs Form 4607 or a similar compromise transfer of property instrument provided by the Department.

[47 FR 56861, Dec. 21, 1982]

Subpart D—Disposal of Forfeited or Abandoned Property

SOURCE: 47 FR 17525, Apr. 23, 1982, unless otherwise noted.

§ 12.30 Purpose.

Upon forfeiture or abandonment of any property to the United States under this part the Director shall dispose of such property under the provisions of this subpart D.

§ 12.31 Accountability.

All property forfeited or abandoned under this part must be accounted for in official records. These records must include the following information:

- (a) A description of the item.
- (b) The date and place of the item's seizure (if any) and forfeiture or abandonment.
- (c) The investigative case file number with which the item was associated.
- (d) The name of any person known to have or to have had an interest in the item.
- (e) The date, place, and manner of the item's initial disposal.
- (f) Name of the official responsible for the initial disposal.
- (g) Domestic value of the property.

§ 12.32 Effect of prior illegality.

The effect of any prior illegality on a subsequent holder of any wildlife or plant disposed of or subject to disposal is terminated upon forfeiture or abandonment, but the prohibitions, restrictions, conditions, or requirements which apply to a particular species of wildlife or plant under the laws or regulations of the United States or any State, including any applicable conservation, health, quarantine, agricultural, or Customs laws or regulations remain in effect as to the conduct of such holder.

§ 12.33 Disposal.

(a) The Director shall dispose of any wildlife or plant forfeited or abandoned under the authority of this part, subject to the restrictions provided in this subpart, by one of the following means, unless the item is the subject of a petition for remission of forfeiture under § 12.24 of this part, or disposed of by court order:

- (1) Return to the wild;
- (2) Use by the Service or transfer to another government agency for official use;
- (3) Donation or loan;
- (4) Sale; or
- (5) Destruction.

In the exercise of the disposal authority, the Director ordinarily must dispose of any wildlife or plant in the order in which the disposal methods appear in this paragraph (a) of this section.

(b) The Director shall dispose of any other property forfeited or abandoned under the authority of this part (including vehicles, vessels, aircraft, cargo, guns, nets, traps, and other equipment), except wildlife or plants, in accordance with current Federal Property Management Regulations (41 CFR chapter 101) and Interior Property Management Regulations (41 CFR chapter 114), unless the item is the subject of a petition for remission of forfeiture under § 12.24 of this part, or disposed of by court order.

(c) The Director shall dispose of property according to the following schedule, unless the property is the subject of a petition for remission of forfeiture under § 12.24 of this part:

U.S. Fish and Wildlife Serv., Interior

§ 12.36

(1) Any live wildlife or plant and any wildlife or plant that the Director determines is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping is disproportionate to its value may be disposed of immediately after forfeiture or abandonment; and

(2) All other property may be disposed of no sooner than 60 days after forfeiture or abandonment.

(d) If the property is the subject of a petition for remission of forfeiture under § 12.24 of this part, the Director may not dispose of the property until the Solicitor or Attorney General makes a final decision not to grant relief.

§ 12.34 Return to the wild.

(a) Any live member of a native species of wildlife which is capable of surviving may be released to the wild in suitable habitat within the historical range of the species in the United States with the permission of the landowner, unless release poses an imminent danger to public health or safety.

(b) Any live member of a native species of plant which is capable of surviving may be transplanted in suitable habitat on Federal or other protected lands within the historical range of the species in the United States with the permission of the landowner.

(c) Any live member of an exotic species of wildlife (including injurious wildlife) or plant may not be returned to the wild in the U.S., but may be returned to one of the following countries for return to suitable habitat in accordance with the provisions of § 12.35 of this part if it is capable of surviving:

(1) The country of export (if known) after consultation with and at the expense of the country of export, or

(2) A country within the historic range of the species which is party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249) after consultation with and at the expense of such country.

§ 12.35 Use by the Service or transfer to another government agency for official use.

(a) Wildlife and plants may be used by the Service or transferred to another government agency (including foreign agencies) for official use including, but not limited to, one or more of the following purposes:

(1) Training government officials to perform their official duties;

(2) Identifying protected wildlife or plants, including forensic identification or research;

(3) Educating the public concerning the conservation of wildlife or plants;

(4) Conducting law enforcement operations in performance of official duties;

(5) Enhancing the propagation or survival of a species or other scientific purposes;

(6) Presenting as evidence in a legal proceeding involving the wildlife or plant; or

(7) Returning to the wild in accordance with § 12.34 of this part.

(b) Each transfer and the terms of the transfer must be documented.

(c) The agency receiving the wildlife or plants may be required to bear all costs of care, storage, and transportation in connection with the transfer from the date of seizure to the date of delivery.

§ 12.36 Donation or loan.

(a) Except as otherwise provided in this section, wildlife and plants may be donated or loaned for scientific, educational, or public display purposes to any person who demonstrates the ability to provide adequate care and security for the item.

(b) Any donation or loan may be made only after execution of a transfer document between the Director and the donee/borrower, which is subject to the following conditions:

(1) The purpose for which the wildlife or plants are to be used must be stated on the transfer document;

(2) Any attempt by the donee/borrower to use the donation or loan for any other purpose except that stated on the transfer document entitles the Director to immediate repossession of the wildlife or plants;

§ 12.37

(3) The donee/borrower must pay all costs associated with the transfer, including the costs of care, storage, transportation, and return to the Service (if applicable);

(4) The donee/borrower may be required to account periodically for the donation or loan;

(5) The donee/borrower is not relieved from the prohibitions, restrictions, conditions, or requirements which may apply to a particular species of wildlife or plant imposed by the laws or regulations of the United States or any State, including any applicable health, quarantine, agricultural, or Customs laws or regulations.

(6) Any attempt by a donee to retransfer the donation during the time period specified in the transfer document within which the donee may not retransfer the donation without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(7) Any attempt by a borrower to retransfer the loan without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(8) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the place where the donation or loan is kept and an opportunity to inspect it;

(9) Any donation is subject to conditions specified in the transfer document, the violation of which causes the property to revert to the United States;

(10) Any loan is for an indefinite period of time unless a date on which the loan must be returned to the Service is stated on the transfer document; and

(11) Any loan remains the property of the United States, and the Director may demand its return at any time.

(c) Wildlife and plants may be donated to individual American Indians for the practice of traditional American Indian religions. Any donation of the parts of bald or golden eagles to American Indians may only be made to individuals authorized by permit issued in accordance with §22.22 of this title to possess such items.

(d) Edible wildlife, fit for human consumption, may be donated to a non-

50 CFR Ch. I (10–1–04 Edition)

profit, tax-exempt charitable organization for use as food, but not for barter or sale.

(e) Wildlife and plants may be loaned to government agencies (including foreign agencies) for official use. Each transfer and the terms of the transfer must be documented.

§ 12.37 Sale.

(a) Wildlife and plants may be sold or offered for sale, except any species which at the time it is to be sold or offered for sale falls into one of the following categories:

(1) Listed in §10.13 of this title as a migratory bird protected by the Migratory Bird Treaty Act (16 U.S.C. 703–712);

(2) Protected under the Eagle Protection Act (16 U.S.C. 668–668d);

(3) Listed in §23.33 of this title as “Appendix I” under the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(4) Listed in §17.11 of this title as “endangered” or “threatened” under the Endangered Species Act of 1973 (16 U.S.C. 1533), unless the item or species may be lawfully traded in interstate commerce; and

(5) Protected under the Marine Mammal Protection Act (16 U.S.C. 1361–1407), unless the item or species may be lawfully traded in interstate commerce.

(b) Wildlife and plants must be sold in accordance with current Federal Property Management Regulations (41 CFR chapter 101) and Interior Property Management Regulations (41 CFR chapter 114) or U.S. Customs laws and regulations, except the Director may sell any wildlife or plant immediately for its fair market value if the Director determines that it is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping it is disproportionate to its value.

(c) Wildlife or plants which may not be possessed lawfully by purchasers under the laws of the State where held may be moved to a State where possession is lawful and may be sold.

(d) Wildlife or plants purchased at sale are subject to the prohibitions, restrictions, conditions, or requirements which apply to a particular species of wildlife or plant imposed by the laws or

regulations of the United States or any State, including any applicable conservation, health, quarantine, agricultural, or Customs laws or regulations, except as provided by § 12.32 of this part.

(e) The Director may use the proceeds of sale to reimburse the Service for any costs which by law the Service is authorized to recover or to pay any rewards which by law may be paid from sums the Service receives.

§ 12.38 Destruction.

(a) Wildlife and plants not otherwise disposed of must be destroyed.

(b) When destroyed, the fact, manner, and date of destruction and the type and quantity destroyed must be certified by the official actually destroying the items.

§ 12.39 Information on property available for disposal.

Persons interested in obtaining information on property which is available for disposal should contact the appropriate Special Agent in Charge listed in § 10.22 of this title.

Subpart E—Restoration of Proceeds and Recovery of Storage Costs

§ 12.41 Petition for restoration of proceeds.

(a) Any person claiming any property or interest therein which has been forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, and sold according to law, or any person claiming cargo or an interest therein, of a vessel or other conveyance employed in unlawful taking which has been forfeited under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and sold according to law, may file with the Solicitor or, where forfeiture proceedings have been brought in U.S. District Court, the Attorney General, a petition for restoration of proceeds.

(b) A petition filed with the Solicitor need not be in any particular form, but it must be received within three months after the date of sale of the

property and must contain the following:

- (1) A description of the property;
- (2) The time and place of seizure;
- (3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title, and other satisfactory evidence;
- (4) A request for restoration of the proceeds or such part thereof as is claimed by the petitioner; and
- (5) A statement of all facts and circumstances relied upon by the petitioner to justify restoration of the proceeds, including proof that the petitioner did not know of the seizure before the declaration or order of forfeiture and was in such circumstances as prevented the petitioner from knowing of the same.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition must be signed by an authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under title 18, U.S. Code, section 1001.

(e) Upon receiving the petition, the Solicitor shall decide whether or not to grant relief. In making a decision, the Solicitor shall consider the information submitted by the petitioner, as well as any other available information relating to the matter.

(f) If the Solicitor finds the existence of such mitigating circumstances as to justify restoration of the proceeds or any part thereof and that the petitioner did not know of the seizure before the declaration or order of forfeiture and was in such circumstances as prevented the petitioner from knowing of the same, the Solicitor may order the proceeds or any part thereof restored to the petitioner, after deducting from such proceeds the costs of seizure, storage, forfeiture and disposition, the duties, if any, accruing on the seized property, and any sum due on a lien for freight, charges, or contribution in general average, notice of which has been filed with the Solicitor according to law.

§ 12.42

(g) If the Solicitor decides that relief should not be granted, the Solicitor shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Solicitor's notification denying the original petition.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 56861, Dec. 21, 1982]

§ 12.42 Recovery of certain storage costs.

If any wildlife, plant, or evidentiary item is seized and forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, any person whose act or omission was the basis for the seizure may be charged a reasonable fee for expenses to the United States connected with the transfer, board, handling, or storage of such property. If any fish, wildlife or plant is seized in connection with a violation of the Lacey Act Amendments of 1981, 16 U.S.C. 3371, *et seq.*, any person convicted thereof, or assessed a civil penalty therefor, may be assessed a reasonable fee for expenses of the United States connected with the storage, care and maintenance of such property. Within a reasonable time after forfeiture, the Service shall send to such person by registered or certified mail, return receipt requested, a bill for such fee. The bill shall contain an itemized statement of the applicable costs, together with instructions on the time and manner of payment. Payment shall be made in accordance with the bill. The recipient of any assessment of costs under this section who has an objection to the reasonableness of the costs described in the bill may, within 30 days of the date on which he received the bill, file written objections with the Regional Director of the Fish and Wildlife Service for the Region in which the seizure occurred. Upon receipt of the written objections, the appropriate Regional Director will promptly review them and within 30 days mail his final decision to the party who filed objections. In all cases, the Regional Director's decision

50 CFR Ch. I (10-1-04 Edition)

shall constitute final administrative action on the matter.

[47 FR 56861, Dec. 21, 1982]

Subpart F—Return of Property

§ 12.51 Return procedure.

If, at the conclusion of the appropriate proceedings, seized property is to be returned to the owner or consignee, the Solicitor or Service shall issue a letter or other document authorizing its return. This letter or other document shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by the Service, the seized property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements.

PART 13—GENERAL PERMIT PROCEDURES

Subpart A—Introduction

- Sec.
- 13.1 General.
 - 13.2 Purpose of regulations.
 - 13.3 Scope of regulations.
 - 13.4 Emergency variation from requirements.
 - 13.5 Information collection requirements.

Subpart B—Application for Permits

- 13.11 Application procedures.
- 13.12 General information requirements on applications for permits.

Subpart C—Permit Administration

- 13.21 Issuance of permits.
- 13.22 Renewal of permits.
- 13.23 Amendment of permits.
- 13.24 Right of succession by certain persons.
- 13.25 Transfer of permits and scope of permit authorization.
- 13.26 Discontinuance of permit activity.
- 13.27 Permit suspension.
- 13.28 Permit revocation.
- 13.29 Review procedures.

Subpart D—Conditions

- 13.41 Humane conditions.

U.S. Fish and Wildlife Serv., Interior

§ 13.5

- 13.42 Permits are specific.
- 13.43 Alteration of permits.
- 13.44 Display of permit.
- 13.45 Filing of reports.
- 13.46 Maintenance of records.
- 13.47 Inspection requirement.
- 13.48 Compliance with conditions of permit.
- 13.49 Surrender of permit.
- 13.50 Acceptance of liability.

AUTHORITY: 16 U.S.C. 668(a), 704, 712, 742j-1, 1374(g), 1382, 1538(d), 1539, 1540(f), 3374, 4901-4916; 18 U.S.C. 42; 19 U.S.C. 1202; 31 U.S.C. 9701.

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

Subpart A—Introduction

§ 13.1 General.

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

§ 13.2 Purpose of regulations.

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

[54 FR 38147, Sept. 14, 1989]

§ 13.3 Scope of regulations.

The provisions in this part are in addition to, and are not in lieu of, other permit regulations of this subchapter and apply to all permits issued thereunder, including "Import and Marking" (part 14), "Feather Imports" (part

15), "Injurious Wildlife" (part 16), "Endangered Wildlife and Plants" (part 17), "Marine Mammals" (part 18), "Migratory Birds" (part 21), "Eagles" (part 22) and "Endangered Species Convention" (part 23). As used in this part 13, the term "permit" shall refer to either a license, permit, or certificate as the context may require.

[42 FR 10465, Feb. 22, 1977, as amended at 42 FR 32377, June 24, 1977; 45 FR 56673, Aug. 25, 1980]

§ 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

§ 13.11

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 the applicant has filed an application in accordance with the following procedures. Applicants do not have to submit a separate application for each permit unless otherwise required by this subchapter.

(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) Migratory bird banding permits (50 CFR 21.22)—Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. (Special application forms must be used for bird banding permits. They may be obtained by writing to the Bird Banding Laboratory).

(2) Exception to designated port (50 CFR part 14), import/export license (50 CFR 14.93), migratory bird permit, other than banding (50 CFR part 21) and Bald or Golden eagle permits (50 CFR part 22)—Assistant Regional Director for Law Enforcement of District in which the applicant resides (see 50 CFR 10.22 for addresses and boundaries of the Law Enforcement Districts).

(3) Feather quota (50 CFR part 15), injurious wildlife (50 CFR part 16), endangered and threatened species (50 CFR part 17), marine mammal (50 CFR part 18) and permits and certificates for the Convention on International Trade in Endangered Species (CITES) (50 CFR part 23)—U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203.

(c) Time notice. The Service will process all applications as quickly as possible. However, it cannot guarantee final action within the time limits the

applicant requests. Applicants for endangered species and marine mammal permits should submit applications to the Office of Management Authority which are postmarked at least 90 calendar days prior to the requested effective date. Applicants for all other permits should submit applications to the issuing office which are postmarked at least 60 days prior to the requested effective date.

(d) Fees. (1) Unless otherwise exempted by this paragraph, applicants for issuance or renewal of permits must pay the required permit processing fee at the time of application. Applicants should pay fees by check or money order made payable to "U.S. Fish and Wildlife Service." The Service will not refund any application fee under any circumstances if the Service has processed the application. However, the Service may return the application fee if the applicant withdraws the application before the Service has significantly processed it.

(2) Except as provided in paragraph (d)(4) of this section the fee for processing any application is \$25.00. 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. The issuing office may charge only the highest single fee for the activity permitted.

(3) A fee shall not be charged to any Federal, State or local government agency, nor to any individual or institution under contract to such agency for the proposed activities. The fee may be waived or reduced for public institutions (see 50 CFR 10.12). Proof of such status must accompany the application.

(4) Nonstandard fees.

Type of permit	Fee
Import/Export License (Section 14.93)	\$50.
Marine Mammal (Section 18.31)	\$100.
Migratory Bird-Banding or Marking (21.22)	None.
Bald or Golden Eagles (Part 22)	None.

(e) Abandoned or incomplete applications. Upon receipt of an incomplete or improperly executed application, or if the applicant does not submit the proper fees, the issuing office will notify the applicant of the deficiency. If the

applicant fails to supply the correct information to complete the application or to pay the required fees within 45 calendar days of the date of notification, the Service will consider the application abandoned. The Service will not refund any fees for an abandoned application.

[47 FR 30785, July 15, 1982, as amended at 50 FR 52889, Dec. 26, 1985; 54 FR 4031, Jan. 27, 1989; 54 FR 38147, Sept. 14, 1989; 61 FR 31868, June 21, 1996]

§ 13.12 General information requirements on applications for permits.

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

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

(i) If the applicant is an individual, the date of birth, height, weight, hair color, eye color, sex, and any business or institutional affiliation of the applicant related to the requested permitted activity; or

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

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

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

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

(5) Certification in the following language:

I hereby certify that I have read and am familiar with the regulations contained in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in sub-

chapter 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.

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

Type of permit	Section
Importation at nondesignated ports:	
Scientific	14.31
Deterioration prevention	14.32
Economic hardship	14.33
Marking of package or container:	
Symbol marking	14.83
Import/export license	14.93
Feather import quota: Importation or entry	15.21
Injurious wildlife: Importation or shipment	16.22
Endangered wildlife and plant permits:	
Similarity of appearance	17.52
Scientific, enhancement of propagation or survival, incidental taking for wildlife	17.22
Scientific, propagation, or survival for plants	17.62
Economic hardship for wildlife	17.23
Economic hardship for plants	17.63
Threatened wildlife and plant permits:	
Similarity of appearance	17.52
General for wildlife	17.32
American alligator-buyer or tanner	17.42(a)
General for plants	17.72
Marine mammals permits:	
Scientific research	18.31
Public display	18.31
Migratory bird permits:	
Banding or marking	21.22
Scientific collecting	21.23
Taxidermist	21.24
Waterfowl sale and disposal	21.25
Special aviculturist	21.26
Special purpose	21.27
Falconry	21.28
Raptor propagation permit	21.30
Depredation control	21.41
Eagle permits:	
Scientific or exhibition	22.21
Indian religious use	22.22
Depredation control	22.23
Falconry purposes	22.24

§ 13.21

Type of permit	Section
Take of golden eagle nests	22.25
Endangered Species Convention permits	23.15

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

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) 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.

(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]

§ 13.22 Renewal of permits.

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

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

(c) *Continuation of permitted activity.* Any person holding a valid, renewable permit, who has complied with this section, may continue the activities authorized by the expired permit until

the Service has acted on such person's application for renewal.

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

[54 FR 38148, Sept. 14, 1989]

§ 13.23 Amendment of permits.

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

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

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

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

§ 13.24 Right of succession by certain persons.

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

(1) The surviving spouse, child, executor, administrator, or other legal

§ 13.25

50 CFR Ch. I (10-1-04 Edition)

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

§ 13.29

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 which set forth specific times, dates, places, methods of taking, numbers and kinds of wildlife or plants, location of activity, authorize certain circumscribed transactions, or otherwise permit a specifically limited matter, are to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.

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

§ 13.43 Alteration of permits.

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

§ 13.44 Display of permit.

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

§ 13.45 Filing of reports.

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

§ 13.46 Maintenance of records.

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

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

§ 13.47 Inspection requirement.

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

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

§ 13.48

§ 13.48 Compliance with conditions of permit.

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

[54 FR 38150, Sept. 14, 1989]

§ 13.49 Surrender of permit.

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

[54 FR 38150, Sept. 14, 1989]

§ 13.50 Acceptance of liability.

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

[64 FR 32711, June 17, 1999]

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Subpart A—Introduction

Sec.

- 14.1 Purpose of regulations.
- 14.2 Scope of regulations.
- 14.3 Information collection requirements.
- 14.4 What terms do I have to understand?

Subpart B—Importation and Exportation at Designated Ports

- 14.11 General restrictions.
- 14.12 Designated ports.
- 14.13 Emergency diversion.
- 14.14 In-transit shipments.
- 14.15 Personal baggage and household effects.
- 14.16 Border ports.
- 14.17 Personally owned pet birds.
- 14.18 Marine mammals.
- 14.19 Special ports.
- 14.20 Exceptions by permit.
- 14.21 Shellfish and fishery products.
- 14.22 Certain antique articles.

50 CFR Ch. I (10–1–04 Edition)

- 14.23 Live farm-raised fish and farm-raised fish eggs.
- 14.24 Scientific specimens.

Subpart C—Designated Port Exception Permits

- 14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.
- 14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.
- 14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

Subpart D [Reserved]

Subpart E—Inspection and Clearance of Wildlife

- 14.51 Inspection of wildlife.
- 14.52 Clearance of imported wildlife.
- 14.53 Detention and refusal of clearance.
- 14.54 Unavailability of Service officers.
- 14.55 Exceptions to clearance requirements.

Subpart F—Wildlife Declarations

- 14.61 Import declaration requirements.
- 14.62 Exceptions to import declaration requirements.
- 14.63 Export declaration requirements.
- 14.64 Exceptions to export declaration requirements.

Subpart G [Reserved]

Subpart H—Marking of Containers or Packages

- 14.81 Marking requirement.
- 14.82 Alternatives and exceptions to the marking requirement.

Subpart I—Import/Export Licenses

- 14.91 License requirement.
- 14.92 Exceptions to license requirement.
- 14.93 License application procedure, conditions, and duration.
- 14.94 What fees apply to me?

Subpart J—Standards for the Humane and Healthful Transport of Wild Mammals and Birds to the United States

- 14.101 Purposes.
- 14.102 Definitions.
- 14.103 Prohibitions.
- 14.104 Translations.
- 14.105 Consignment to carrier.
- 14.106 Primary enclosures.
- 14.107 Conveyance.
- 14.108 Food and water.
- 14.109 Care in transit.
- 14.110 Terminal facilities.

U.S. Fish and Wildlife Serv., Interior

§ 14.4

- 14.111 Handling.
- 14.112 Other applicable provisions.

SPECIFICATIONS FOR NONHUMAN PRIMATES

- 14.121 Primary enclosures.
- 14.122 Food and water.
- 14.123 Care in transit.

SPECIFICATIONS FOR MARINE MAMMALS (CETACEANS, SIRENIANS, SEA OTTERS, PINNIPEDS, AND POLAR BEARS)

- 14.131 Primary enclosures.
- 14.132 Food and water.
- 14.133 Care in transit.

SPECIFICATIONS FOR ELEPHANTS AND UNGULATES

- 14.141 Consignment to carrier.
- 14.142 Primary enclosures.

SPECIFICATIONS FOR SLOTHS, BATS, AND FLYING LEMURS (CYNOCEPHALIDAE)

- 14.151 Primary enclosures.

SPECIFICATIONS FOR OTHER TERRESTRIAL MAMMALS

- 14.161 Primary enclosures.

SPECIFICATIONS FOR BIRDS

- 14.171 Consignment to carrier.
- 14.172 Primary enclosures.

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

SOURCE: 45 FR 56673, Aug. 25, 1980, unless otherwise noted.

Subpart A—Introduction

§ 14.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the importation, exportation, and transportation of wildlife.

§ 14.2 Scope of regulations.

The provisions in this part are in addition to, and do not supersede other regulations of this subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and transportation of wildlife.

§ 14.3 Information collection requirements.

The Office of Management and Budget approved the information collection requirements contained in this part 14 under 44 U.S.C. 3507 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 about wildlife imports or exports, including product and parts, and to facilitate enforcement of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*) and to carry out the provisions of the convention on International Trade in Endangered Species of Wild Fauna and Flora. We estimate the public reporting burden for these reporting requirements to vary from 10 to 15 minutes per response. 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]

§ 14.4 What terms do I have to understand?

In addition to definitions contained in part 10 of this subchapter, in this part:

Accompanying personal baggage means all hand-carried items and all checked baggage of a person entering into or departing from the United States.

Accredited scientist means any individual associated with, employed by, or under contract to and accredited by an accredited scientific institution for the purpose of conducting biological or medical research, and whose research activities are approved and sponsored by the scientific institution granting accreditation.

Accredited scientific institutions means any public museum, public zoological park, accredited institution of higher education, accredited member of the American Zoo and Aquarium Association, accredited member of the American Association of Systematic Collections, or any State or Federal government agency that conducts biological or medical research.

Commercial means related to the offering for sale or resale, purchase, trade, barter, or the actual or intended transfer in the pursuit of gain or profit,

of any item of wildlife and includes the use of any wildlife article as an exhibit for the purpose of soliciting sales, without regard to quantity or weight. There is a presumption that eight or more similar unused items are for commercial use. The Service or the importer/exporter/owner may rebut this presumption based upon the particular facts and circumstances of each case.

Domesticated animals includes, but is not limited to, the following domesticated animals that are exempted from the requirements of this subchapter B (except for species obtained from wild populations).

Mammals: Alpaca—*Lama alpaca*; Camel—*Camelus dromedarius*; Camel (Boghdi)—*Camelus bactrianus*; Cat (domestic)—*Felis domesticus*; Cattle—*Bos taurus*; Dog (domestic)—*Canis familiaris*; European rabbit—*Ortyctolagus cuniculus*; Ferret (domestic)—*Mustela putorius*; Goat—*Capra hircus*; Horse—*Equus caballus*; Llama—*Lama glama*; Pig—*Sus scrofa*; Sheep—*Ovis aries*; Water buffalo—*Bubalus bubalus*; White lab mice—*Mus musculus*; White lab rat—*Rattus norvegicus*.

Fish (For export purposes only): Carp (koi)—*Cyprinus carpio*; Goldfish—*Carassius auratus*.

Birds: Chicken—*Gallus domesticus*; Ducks & geese—domesticated varieties; Guinea fowl—*Numida meleagris*; Peafowl—*Pavo cristatus*; Pigeons (domesticated)—*Columba livia domestica*; Turkey—*Meleagris gallopavo*; Domesticated or Barnyard Mallards include: Pekin; Aylesbury; Bouen; Cayuga; Gray Call; White Call; East Indian; Crested; Swedish; Buff Orpington; Indian Runner; Campbell; Duclair; Merchtem; Termonde; Magpie; Chinese; Khaki Campbell.

Insects: Crickets, mealworms, honeybees (not to include Africanized varieties), and similar insects that are routinely farm raised.

Other Invertebrates: Earthworms and similar invertebrates that are routinely farm raised.

Export means to depart from, to send from, to ship from, or to carry out of, or attempt to depart from, to send from, to ship from, or to carry out of, or to consign to a carrier in any place subject to the jurisdiction of the United States with an intended des-

tinuation of any place not subject to the jurisdiction of the United States, whether or not such departure, sending, or carrying, or shipping constitutes an exportation within the meaning of the Custom laws of the United States. When a passenger leaving the jurisdiction of the United States enters the designated international area of embarkation of an airport, all accompanying personal hand-carried items and checked baggage will be regarded as exports.

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.

We means Fish and Wildlife Service or Service.

You means licensee, or importer/exporter of record.

[61 FR 31868, June 21, 1996, as amended at 64 FR 23025, Apr. 29, 1999]

Subpart B—Importation and Exportation at Designated Ports

§ 14.11 General restrictions.

Except as otherwise provided in this part, no person may import or export any wildlife at any place other than a Customs port of entry designated in § 14.12.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980]

§ 14.12 Designated ports.

The following ports of entry are designated for the importation and exportation of wildlife and are referred to hereafter as “designated ports:”

- (a) Los Angeles, California.
- (b) San Francisco, California.
- (c) Miami, Florida.
- (d) Honolulu, Hawaii.
- (e) Chicago, Illinois.
- (f) New Orleans, Louisiana.
- (g) New York, New York.
- (h) Seattle, Washington.
- (i) Dallas/Fort Worth, Texas.
- (j) Portland, Oregon.
- (k) Baltimore, Maryland.
- (l) Boston, Massachusetts.

U.S. Fish and Wildlife Serv., Interior

§ 14.17

- (m) Atlanta, Georgia.
- (n) Anchorage, Alaska.

[67 FR 11262, Mar. 13, 2002]

§ 14.13 Emergency diversion.

Wildlife which has been imported into the United States at any port or place other than a designated port solely as a result of a diversion due to an aircraft or vessel emergency must proceed as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful importation.

§ 14.14 In-transit shipments.

(a) Wildlife destined for a point within the United States may be imported into the United States at any port if such wildlife proceeds as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful importation.

(b) Wildlife moving in-transit through the United States from one foreign country to another foreign country is exempt from the designated port requirements of this part, if such wildlife is not unloaded within the United States.

§ 14.15 Personal baggage and household effects.

(a) Any person may import into or export from the United States at any Customs port wildlife products or manufactured articles that are not intended for commercial use and are used as clothing or contained in accompanying personal baggage. However, this exception to the designated port requirement does not apply to any raw or dressed fur; raw, salted, or crusted hide or skin; game trophy; or to wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B.

(b) Wildlife products or manufactured articles, including mounted game trophies or tanned hides, which are not intended for sale and are part of a shipment of the household effects of persons moving their residence to or from the United States may be imported or exported at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw fur; raw, salted, or

crusted hide or skin; or to wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B.

[45 FR 56673, Aug. 25, 1980, as amended at 61 FR 31868, June 21, 1996]

§ 14.16 Border ports.

(a) Except for wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B, wildlife whose country of origin is Canada or the United States may be imported or exported at any of the following Customs ports of entry:

- (1) Alaska—Alcan;
- (2) Idaho—Eastport;
- (3) Maine—Calais, Houlton, Jackman;
- (4) Massachusetts—Boston;
- (5) Michigan—Detroit, Port Huron, Sault Sainte Marie;
- (6) Minnesota—Grand Portage, International Falls, Minneapolis-St. Paul;
- (7) Montana—Raymond, Sweetgrass;
- (8) New York—Buffalo-Niagara Falls, Champlain;
- (9) North Dakota—Dunseith, Pembina, Portal;
- (10) Ohio—Cleveland;
- (11) Vermont—Derby Line, Highgate Springs; and
- (12) Washington—Blaine, Sumas.

(b) Except for wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B, wildlife whose country of origin is Mexico or the United States may be imported or exported at any of the following Customs ports of entry:

- (1) Arizona—Lukeville, Nogales;
- (2) California—Calexico, San Diego-San Ysidro; and
- (3) Texas—Brownsville, El Paso, Laredo.

(c) Except for wildlife requiring a permit pursuant to part 16, 17, 18, or 21 of this subchapter B, wildlife lawfully taken by U.S. residents in the United States, Canada, or Mexico and imported or exported for noncommercial purposes, may be imported or exported at any Customs port of entry.

§ 14.17 Personally owned pet birds.

Any person may import a personally owned pet bird at any port designated under, and in accordance with, 9 CFR part 92.

§ 14.18

§ 14.18 Marine mammals.

Any person subject to the jurisdiction of the United States who has lawfully taken a marine mammal on the high seas and who is authorized to import such marine mammal in accordance with the Marine Mammal Protection Act of 1972 and implementing regulations (50 CFR parts 18 and 216) may import such marine mammal at any port or place.

§ 14.19 Special ports.

(a) Except for wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B, wildlife which is imported for final destination in Alaska, Puerto Rico, or the Virgin Islands, may be imported through those Customs ports of entry named hereafter for the respective State or Territory of final destination:

- (1) Alaska—Alcan, Anchorage, Fairbanks, Juneau;
- (2) Puerto Rico—San Juan; and
- (3) Virgin Islands—San Juan, Puerto Rico.

(b) Except for wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B, wildlife which originates in Alaska, Puerto Rico, or the Virgin Islands, may be exported through the following Customs ports for the respective State or Territory:

- (1) Alaska—Alcan, Anchorage, Fairbanks, Juneau;
- (2) Puerto Rico—San Juan; and
- (3) Virgin Islands—San Juan, Puerto Rico.

(c) Except for wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B, wildlife which has a final destination of Guam or which originates in Guam may be imported or exported, as appropriate, through the port of Agana, Guam.

§ 14.20 Exceptions by permit.

Wildlife may be imported into or exported from the United States at any Customs port of entry designated in the terms of a valid permit issued pursuant to subpart C of this part.

§ 14.21 Shellfish and fishery products.

(a)(1) *General.* Except for wildlife requiring a permit pursuant to part 17 or 23 of this subchapter, shellfish and fishery products imported or exported for

50 CFR Ch. I (10–1–04 Edition)

purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes may enter or exit at any Customs port.

(2) Except for wildlife requiring a permit pursuant to part 17 or part 23 of this subchapter, live aquatic invertebrates of the Class Pelecypoda (commonly known as oysters, clams, mussels, and scallops) and the eggs, larvae, or juvenile forms thereof may be exported for purposes of propagation, or research related to propagation, at any Customs port.

(b) *Pearls.* Except for wildlife requiring a permit pursuant to part 17 or 23 of this subchapter, pearls imported or exported for commercial purposes may enter or exit the United States at any Customs port of entry. For the purposes of this part, all references to the term shellfish and fishery products will include pearls.

[61 FR 31868, June 21, 1996]

§ 14.22 Certain antique articles.

Any person may import at any Customs Service port designated for such purpose, any article (other than scrimshaw, defined in 16 U.S.C 1539(f)(1)(B) and 50 CFR 217.12 as any art form that involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea) that is at least 100 years old, is composed in whole or in part of any endangered or threatened species listed under § 17.11 or § 17.12 of this subchapter, and has not been repaired or modified with any part of any endangered or threatened species on or after December 28, 1973.

[61 FR 31868, June 21, 1996]

§ 14.23 Live farm-raised fish and farm-raised fish eggs.

Live farm-raised fish and farm-raised fish eggs meet the definition of “bred in captivity” as stated in 50 CFR 17.3. Except for wildlife requiring a permit pursuant to parts 17 or 23 of this subchapter, live farm-raised fish and farm-raised fish eggs may be exported from any U.S. Customs port.

[59 FR 41714, Aug. 15, 1994]

§ 14.24 Scientific specimens.

Except for wildlife requiring a permit pursuant to parts 16, 17, 18, 21, 22 or 23 of this subchapter, dead, preserved, dried, or embedded scientific specimens or parts thereof, imported or exported by accredited scientists or accredited scientific institutions for taxonomic or systematic research purposes may enter or exit through any U.S. Customs port, or may be shipped through the international mail system. *Provided*, that this exception will not apply to any specimens or parts thereof taken as a result of sport hunting.

[61 FR 31869, June 21, 1996]

Subpart C—Designated Port Exception Permits

§ 14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife for scientific purposes at one or more named Customs port(s) of entry not otherwise authorized by subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port for scientific purposes must be submitted to the Director. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

- (1) The scientific purpose or uses of the wildlife to be imported or exported;
- (2) The number and kinds of wildlife described by scientific and common names to be imported or exported where such number and kinds can be determined;
- (3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port; and

(5) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are subject to the following condition: Permittee shall file such reports as specified on the permit, if any.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Benefit to a *bona fide* scientific research project, other scientific purpose, or facilitation of the exchange of preserved museum specimens;

(2) The kind of wildlife involved and its place of origin;

(3) The reasons why the exception is requested; and

(4) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

§ 14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife, in order to minimize deterioration or loss, at one or more named Customs port(s) of entry not otherwise authorized by subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

§ 14.33

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port to minimize deterioration or loss must be submitted to the Director. Each application must contain the general information and certification required in §13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife described by scientific and common names to be imported or exported where such number and kinds can be determined;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (information must be included to show that an importation or exportation at a designated port would result in a substantial deterioration or loss of the wildlife); and

(4) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are to be subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit, if any; and

(2) Permittee must pay fees in accordance with §14.94.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Likelihood of a substantial deterioration or loss of the wildlife involved;

(2) The kind of wildlife involved and its place of origin; and

(3) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid

50 CFR Ch. I (10–1–04 Edition)

more than 2 years from the date of issuance.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980, as amended at 61 FR 31869, June 21, 1996]

§14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife in order to alleviate undue economic hardship at one or more named Customs port(s) of entry not otherwise authorized by subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port to alleviate undue economic hardship must be submitted to the Director. Each application must contain the general information and certification required in §13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife described by scientific and common names to be imported or exported, where such number and kinds can be determined, and a description of the form in which it is to be imported, such as "live," "frozen," "raw hides," or a full description of any manufactured product;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The name and address of the supplier or consignee;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (information must be included to show the monetary difference between the cost of importation or exportation at the port requested and the lowest cost of importation or exportation at the port through

which importation or exportation is authorized by subpart B without a permit); and

(5) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are subject to the following conditions:

(1) Permittee shall file such reports as specified on the permit, if any; and

(2) Permittee must pay fees in accordance with §14.94.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) The difference between the cost of importing or exporting the wildlife at the port requested and the lowest cost of importing or exporting such wildlife at a port authorized by these regulations without a permit;

(2) The severity of the economic hardship that likely would result should the permit not be issued;

(3) The kind of wildlife involved, including its form and place of origin; and

(4) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980, as amended at 61 FR 31869, June 21, 1996]

Subpart D [Reserved]

Subpart E—Inspection and Clearance of Wildlife

§ 14.51 Inspection of wildlife.

Subject to applicable limitations of law, Service officers and Customs officers may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon impor-

tation or exportation. The Director may charge reasonable fees, including salary, overtime, transportation and per diem of Service officers, for wildlife import or export inspections specially requested by the importer or exporter at times other than regular work hours or locations other than usual for such inspections at the port.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980, as amended at 50 FR 52889, Dec. 26, 1985]

§ 14.52 Clearance of imported wildlife.

(a) Except as otherwise provided by this subpart, a Service officer must clear all wildlife imported into the United States prior to release from detention by Customs officers. A Service officer must clear all wildlife to be exported from the United States prior to the physical loading of the merchandise on a vehicle or aircraft, or the containerization or palletizing of such merchandise for export, unless a Service officer expressly authorizes otherwise. Such clearance does not constitute a certification of the legality of an importation or exportation under the laws or regulations of the United States.

(b) An importer/exporter or his/her agent may obtain clearance by a Service officer only at designated ports (§14.12), at border ports (§14.16), at special ports (§14.19), or at a port where importation or exportation is authorized by a permit issued under subpart C of this part. An importer/exporter must return forthwith any wildlife released without a Service officer's clearance or clearance by Customs for the Service under authority of §14.54 to a port where clearance may be obtained pursuant to this subpart.

(c) To obtain clearance, the importer, exporter, or the importer's or exporter's agent will make available to a Service officer or a Customs officer acting under §14.54:

(1) All shipping documents (including bills of lading, waybills and packing lists or invoices);

(2) All permits, licenses or other documents required by the laws or regulations of the United States;

(3) All permits or other documents required by the laws or regulations of any foreign country;

§ 14.53

(4) The wildlife being imported or exported; and

(5) Any documents and permits required by the country of export or re-export for the wildlife.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980, as amended at 50 FR 52889, Dec. 26, 1985; 61 FR 31869, June 21, 1996]

§ 14.53 Detention and refusal of clearance.

(a) *Detention.* Any Service officer, or Customs officer acting under §14.54, may detain imported or exported wildlife and any associated property. As soon as practicable following the importation or exportation and decision to detain, the Service will mail a notice of detention by registered or certified mail, return receipt requested, to the importer or consignee, or exporter, if known or easily ascertainable. Such notice must describe the detained wildlife or other property, indicate the reason for the detention, describe the general nature of the tests or inquiries to be conducted, and indicate that if the releasability of the wildlife has not been determined within 30 days after the date of the notice, or a longer period if specifically stated, that the Service will deem the wildlife to be seized and will issue no further notification of seizure.

(b) *Refusal of clearance.* Any Service officer may refuse clearance of imported or exported wildlife and any Customs officer acting under §14.54 may refuse clearance of imported wildlife when there are responsible grounds to believe that:

(1) A Federal law or regulation has been violated;

(2) The correct identity and country of origin of the wildlife has not been established (in such cases, the burden is upon the owner, importer, exporter, consignor, or consignee to establish such identity by scientific name to the species level or, if any subspecies is protected by the laws of this country or the country of origin to the subspecies level);

(3) Any permit, license, or other documentation required for clearance of such wildlife is not available, is not currently valid, has been suspended or revoked, or is not authentic;

50 CFR Ch. I (10-1-04 Edition)

(4) The importer, exporter, or the importer's or exporter's agent has filed an incorrect or incomplete declaration for importation or exportation as provided in § 14.61 or § 14.63; or

(5) The importer, exporter, or the importer's or exporter's agent has not paid any fee or portion of balance due for inspection fees required by § 14.93 or § 14.94, or penalties assessed against the importer or exporter under 50 CFR part 11. This paragraph does not apply to penalty assessments on appeal in accordance with the provisions of part 11.

[61 FR 31869, June 21, 1996]

§ 14.54 Unavailability of Service officers.

(a) *Designated ports.* All wildlife arriving at a designated port must be cleared by a Service officer prior to Customs clearance and release. When importers or their agents expect live or perishable shipments of wildlife or wildlife products or request inspection at the time of arrival, they must notify the Service at least 48 hours prior to the estimated time of arrival. However, where a Service officer is not available within a reasonable time, Customs Officers may clear live or perishable wildlife subject to post-clearance inspection and investigation by the Service.

(b) *Border and special ports.* Wildlife lawfully imported at Canadian or Mexican border ports under §14.16, or into Alaska, Puerto Rico, or the Virgin Islands, under §14.19, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(c) *Permit imports.* Wildlife imported at a nondesignated port in accordance with the terms of a valid permit issued under subpart C of this part, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(d) *Personal baggage and household effects.* Wildlife lawfully imported at any port of entry under §14.15, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

U.S. Fish and Wildlife Serv., Interior

§ 14.62

(e) *Personally owned pet birds.* Personally owned pet birds lawfully imported at a port of entry under § 14.17, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(f) *Exports.* Exporters or their agents must notify the Service and make the shipment available for inspection at least 48 hours prior to the estimated time of exportation of any wildlife.

[45 FR 56673, Aug. 25, 1980, as amended at 61 FR 31869, June 21, 1996]

§ 14.55 Exceptions to clearance requirements.

Except for wildlife requiring a permit pursuant to part 17 or 23 of this subchapter B, clearance is not required for the importation of the following wildlife:

(a) Shellfish and fishery products imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Marine mammals lawfully taken on the high seas by United States residents and imported directly into the United States; and

(c) Certain antique articles as specified in § 14.22 which have been released from custody by Customs officers under 19 U.S.C. 1499.

(d) Dead, preserved, dried, or embedded scientific specimens or parts thereof, imported or exported by accredited scientists or accredited scientific institutions for taxonomic or systematic research purposes. *Except:* That this exception will not apply to any specimens or parts thereof taken as a result of sport hunting.

[45 FR 56673, Aug. 25, 1980, as amended at 61 FR 31869, June 21, 1996]

Subpart F—Wildlife Declarations

§ 14.61 Import declaration requirements.

Except as otherwise provided by the regulations of this subpart, importers or their agents must file with the Service a completed Declaration for Importation or Exportation of Fish or Wild-

life (Form 3-177), signed by the importer or the importer's agent, upon the importation of any wildlife at the place where Service clearance under § 14.52 is requested. However, wildlife may be transshipped under bond to a different port for release from custody by Customs Service officers under 19 U.S.C. 1499. For certain antique articles as specified in § 14.22, importers or their agents must file a Form 3-177 with the District Director of Customs at the port of entry prior to release from Customs custody. Importers or their agents must furnish all applicable information requested on the Form 3-177 and the importer, or the importer's agent, must certify that the information furnished is true and complete to the best of his/her knowledge and belief.

[61 FR 49980, Sept. 24, 1996]

§ 14.62 Exceptions to import declaration requirements.

(a) Except for wildlife requiring a permit pursuant to part 17 or 23 of this subchapter B, an importer or his/her agent does not have to file a Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) for importation of shellfish and fishery products imported for purposes of human or animal consumption, or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Except for wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) does not have to be filed for importation of the following:

(1) Fish taken for recreational purposes in Canada or Mexico;

(2) Wildlife products or manufactured articles that are not intended for commercial use and are used as clothing or contained in accompanying personal baggage, except that an importer or his/her agent must file a Form 3-177 for raw or dressed furs; for raw, salted, or crusted hides or skins; and for game or game trophies; and

§ 14.63

(3) Wildlife products or manufactured articles that are not intended for commercial use and are a part of a shipment of the household effects of persons moving their residence to the United States, except that an importer or his/her agent must file a declaration for raw or dressed furs and for raw, salted, or crusted hides or skins.

(c) *General declarations for certain specimens.* Notwithstanding the provisions of 14.61 and except for wildlife included in paragraph (d) of this section, an importer or his/her agent may describe in general terms on a Declaration for the Importation or Exportation of Fish or Wildlife (Form 3-177) scientific specimens imported for scientific institutions for taxonomic, systematic research, or faunal survey purposes. An importer or his/her agent must file an amended Form 3-177 within 180 days after filing of the general declaration with the Service. The declaration must identify specimens to the most accurate taxonomic classification reasonably practicable using the best available taxonomic information. The Director may grant extensions of the 180-day period.

(d) Except for wildlife requiring a permit pursuant to part 16, 17, 18, 21, 22 or 23 of this subchapter, an importer or his/her agent does not have to file a Declaration for the Importation or Exportation of Fish or Wildlife (Form 3-177) at the time of importation for shipments of dead, preserved, dried, or embedded scientific specimens or parts thereof, imported by accredited scientists or accredited scientific institutions for taxonomic or systematic research purposes. An importer or his/her agent must file a Form 3-177 within 180 days of importation with the appropriate Assistant Regional Director—Law Enforcement in the Region where the importation occurs. The declaration must identify the specimens to the most accurate taxonomic classification reasonably practicable using the best available taxonomic information, and must declare the country of origin. *Except:* That this exception will not apply to any specimens or parts thereof taken as a result of sport hunting.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980, as amended at 61 FR 31870, June 21, 1996]

50 CFR Ch. I (10-1-04 Edition)

§ 14.63 Export declaration requirements.

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) signed by the exporter, or the exporter's agent, shall be filed with the Service prior to the export of any wildlife at the port of exportation as authorized in subpart B of this part. All applicable information requested on the Form 3-177 shall be furnished, and the exporter or the exporter's agent shall certify that the information furnished is true and complete to the best of his/her knowledge and belief.

§ 14.64 Exceptions to export declaration requirements.

(a) Except for wildlife requiring a permit pursuant to part 17 or 23 of this subchapter B, an exporter or his/her agent does not have to file a Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) for the exportation of shellfish and fishery products exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes, and does not have to file for the exportation of live aquatic invertebrates of the Class Pelecypoda (commonly known as oysters, clams, mussels, and scallops) and the eggs, larvae, or juvenile forms thereof exported for purposes of propagation, or research related to propagation.

(b) Except for wildlife requiring a permit pursuant to part 16, 17, 18, 21, or 23 of this subchapter B, a Declaration for the Importation or Exportation of Fish or Wildlife (Form 3-177) does not have to be filed for the exportation of the following:

(1) Wildlife that is not intended for commercial use where the value of such wildlife is under \$250;

(2) Wildlife products or manufactured articles, including game trophies, that are not intended for commercial use and are used as clothing or contained in accompanying personal baggage or are part of a shipment of the household effects of persons moving their residence from the United States; and

(3) Shipments of dead, preserved, dried, or embedded scientific specimens or parts thereof, exported by accredited scientists or accredited scientific institutions for taxonomic or systematic research purposes. An exporter or his/her agent must file a Form 3-177 within 180 days of exportation with the appropriate Assistant Regional Director—Law Enforcement in the Region where the exportation occurs. The declaration must identify the specimens to the most accurate taxonomic classification reasonably practicable using the best available taxonomic information, and must declare the country of origin. *Except*: That this exception will not apply to any specimens or parts thereof taken as a result of sport hunting.

(c) Except for wildlife requiring a period pursuant to parts 17 or 23 of this subchapter, a Declaration for the Importation or Exportation of Fish or Wildlife (Form 3-177) does not have to be filed for the exportation of live farm-raised fish and farm-raised fish eggs as defined in § 14.23.

[45 FR 56673, Aug. 25, 1980, as amended at 59 FR 41714, Aug. 15, 1994; 61 FR 31870, June 21, 1996]

Subpart G [Reserved]

Subpart H—Marking of Containers or Packages

SOURCE: 52 FR 45341, Nov. 27, 1987, unless otherwise noted.

§ 14.81 Marking requirement.

Except as otherwise provided in this subpart, no person may import, export, or transport in interstate commerce any container or package containing any fish or wildlife (including shellfish and fishery products) unless he/she marks each container or package conspicuously on the outside with both the name and address of the shipper and consignee. An accurate and legible list of its contents by species scientific name and the number of each species and whether or not the listed species are venomous must accompany the entire shipment.

[61 FR 31870, June 21, 1996]

§ 14.82 Alternatives and exceptions to the marking requirement.

(a) The requirements of § 14.81 may be met by complying with one of the following alternatives to the marking requirement:

(1)(i) Conspicuously marking the outside of each container or package containing fish or wildlife with the word “fish” or “wildlife” as appropriate for its contents, or with the common name of its contents by species, and

(ii) Including an invoice, packing list, bill of lading, or similar document to accompany the shipment which accurately states the name and address of the shipper and consignee, states the total number of packages or containers in the shipment, and for each species in the shipment specifies:

(A) The common name that identifies the species (examples include: Chinook (or king) salmon; bluefin tuna; and whitetail deer) and whether or not the listed species is venomous; and

(B) The number of that species (or other appropriate measure of quantity such as gross or net weight).

The invoice, packing list, bill of lading, or equivalent document must be securely attached to the outside of one container or package in the shipment or otherwise physically accompany the shipment in a manner which makes it readily accessible for inspection; or

(2) Affixing the shipper's wildlife import/export license number preceded by the three letters “FWS” on the outside of each container or package containing fish or wildlife, if the shipper has valid wildlife import/export license issued under authority of 50 CFR part 14. For each shipment marked in accordance with this paragraph, the records maintained under § 14.93(c) must include a copy of the invoice, packing list, bill of lading, or other similar document that accurately states the information required by paragraph (a)(1)(ii) of this section.

(3) In the case of subcontainers or packages within a larger packing container, only the outermost container must be marked in accordance with this section. *Except*, that for live fish or

§ 14.91

wildlife that are packed in subcontainers within a larger packing container, if the subcontainers are numbered or labeled, the packing list, invoice, bill or lading, or other similar document, must reflect that number or label. However, each subcontainer containing a venomous species must be clearly marked as venomous.

(4) A conveyance (truck, plane, boat, etc.) is not considered a container for purposes of requiring specific marking of the conveyance itself, provided that:

(i) The fish or wildlife within the conveyance is carried loosely or is readily identifiable, and is accompanied by the document required by paragraph (a)(1)(ii) of this section, or

(ii) The fish or wildlife is otherwise packaged and marked in accordance with this subpart.

(b) The requirements of § 14.81 do not apply to containers or packages containing—

(1) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul that have been bred and born in captivity, or their products, if a signed statement certifying that the animals were bred and born in captivity accompanies the shipping documents;

(2) Fish or shellfish contained in retail consumer packages labeled pursuant to the Food, Drug and Cosmetic Act, 21 U.S.C. 301 *et seq.*; or

(3) Fish or shellfish that are landed by, and offloaded from, a fishing vessel (whether or not the catch has been carried by the fishing vessel interstate), as long as the fish or shellfish remain at the place where first offloaded.

(Approved by the Office of Management and Budget under control number 1018-0022)

[52 FR 45341, Nov. 27, 1987, as amended at 61 FR 31871, June 21, 1996]

Subpart I—Import/Export Licenses

§ 14.91 License requirement.

(a) *Prohibition.* Except as otherwise provided in this subpart, it is unlawful for any person to engage in business as an importer or exporter of wildlife without first having obtained a valid import/export license from the Director.

50 CFR Ch. I (10-1-04 Edition)

(b) *Definition.* As used in this subpart, the phrase *engage in business as an importer or exporter of wildlife* means for a person to devote time, attention, labor, or effort to any activity for gain or profit that involves the importation or exportation of wildlife whether or not such person is an importer or exporter within the meaning of the customs laws of the United States.

(c) *Certain persons required to be licensed.* The definition in paragraph (b) of this section includes, but is not limited to, persons who import or export wildlife for commercial purposes:

(1) For trade, sale, or resale, such as animal dealers, animal brokers, pet dealers, pet suppliers, and laboratory research suppliers;

(2) In the form of fur for tanning, manufacture, or sale, such as fur trappers, dealers, brokers, and manufacturers;

(3) In the form of hides and skins for tanning, manufacture, or sale, such as hide, skin, and leather dealers, brokers, manufacturers, and processors;

(4) In the form of products (such as garments, bags, shoes, boots, jewelry, rugs, or curios) for sale, such as wholesalers, retailers, distributors, and brokers;

(5) As taxidermists in connection with the mounting processing, or storage of trophies or specimens;

(6) As freight forwarders; and

(7) In the form of food products taken from populations of non-domesticated animals.

[45 FR 56673, Aug. 25, 1980, as amended at 61 FR 31871, June 21, 1996]

§ 14.92 Exceptions to license requirement.

(a) *Certain wildlife.* Any person may engage in business as an importer or exporter of the following wildlife without procuring an import/export license:

(1) Shellfish and fishery products that do not require a permit under part 17 or 23 of this subchapter B and that are imported or exported for purposes of human or animal consumption;

(2) Shellfish and fishery products that do not require a permit under part 17 or 23 of this subchapter B and that are taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(3) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul and their products if the animals have been bred and born in captivity;

(4) Live farm-raised fish and farm-raised eggs of species not requiring a permit under part 17 or 23 of this subchapter B that are being exported;

(5) Live aquatic invertebrates of the Class Pelecypoda (commonly known as oysters, clams, mussels, and scallops) and the eggs, larvae, or juvenile forms thereof exported for purposes of propagation or research related to propagation; and

(6) Pearls imported or exported for commercial purposes.

(b) *Certain persons.* The following persons may engage in business as importers or exporters of wildlife without procuring an import/export license: *Provided*, That such persons keep such records as will fully and correctly disclose each importation or exportation of wildlife made by them and the subsequent disposition made by them with respect to the wildlife, and that subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to such persons' places of business, an opportunity to examine their inventory of imported wildlife and the records required above, and an opportunity to copy such records:

(1) Common carriers when engaged as transporters and not as importers or exporters of record;

(2) Custom house brokers when engaged as agents and not as importers or exporters of record;

(3) Public museums, or other public, scientific or educational institutions, importing or exporting wildlife for research or educational purposes and not for resale;

(4) Federal, State, or municipal agencies; and

(5) Circuses importing or exporting wildlife for exhibition purposes only and not for purchase, sale, barter, or transfer of such wildlife.

[45 FR 56673, Aug. 25, 1980, as amended at 45 FR 86497, Dec. 31, 1980; 50 FR 52890, Dec. 26, 1985; 61 FR 31871, June 21, 1996]

§ 14.93 License application procedure, conditions, and duration.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, issue a license authorizing the applicant to engage in business as an importer or exporter of wildlife.

(b) *Application procedure.* Applications for import/export licenses must be submitted to the appropriate Special Agent in Charge (see § 10.22 of this subchapter). Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) A brief description of the nature of the applicant's business as it relates to the importation or exportation of wildlife, e.g., "live animal dealer," "fur broker," "taxidermist," "retail department store," and "pet shop;"

(2) If the application is in the name of a business, a statement disclosing the names and addresses of all partners and principal officers;

(3) A statement of where books or records concerning wildlife imports or exports will be kept;

(4) A statement of where inventories of wildlife will be stored; and

(5) Name, address, and telephone number of the officer, manager, or other person authorized to make records or wildlife inventories available for examination by Service officials.

(c) *Additional license conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, import/export licenses are subject to the following special conditions:

(1) The licensee shall, from the effective date of the license, keep such records as will fully and correctly disclose each importation or exportation of wildlife made by the licensee and the subsequent disposition made by the licensee with respect to such wildlife. The records must include a general description of the form of the wildlife, such as "live," "raw hides," or "fur garments;" the quantity of wildlife, in numbers, weight, or other appropriate measure; the common and scientific names; the country or place of origin of the wildlife, if known; the date and place of import or export; the date of

§ 14.94

the subsequent disposition of the wildlife; the manner of disposition, whether by sale, barter, consignment, loan, delivery, destruction, or other means; and the name and address of the person who received the wildlife pursuant to such disposition, if applicable;

(2) Licensees shall include and retain in their records copies of all permits required by the laws and regulations of the United States and any country of export or origin;

(3) Licensees shall maintain such books and records for a period of five years;

(4) Subject to applicable limitations of law, licensees must provide duly authorized Service officers at all reasonable times, upon notice, access to the licensee's places of business and give an opportunity to examine the licensee's inventory of imported wildlife and the records required to be kept under paragraph (c)(1) of this section, and give an opportunity to copy such records;

(5) Licensees must, upon written request by the Director, submit within 30 days of such request a report containing the information required to be maintained by paragraph (c)(1) of this section.

(6) An import/export license is only permission to engage in business as an importer or exporter of wildlife. Such a license is in addition to, and does not supersede, any other requirement established by law for the importation or exportation of wildlife.

(7) Licensees agree to pay, as a condition of the license, reasonable user fees for inspections of commercial wildlife shipments imported or exported under the authorization of the license.

(d) *Duration of license.* Any license issued under this section expires on the date designated on the face of the license. In no case will the license be valid for more than 1 year from the date of issuance.

(e) *Issuance, denial, suspension, revocation, or renewal of license.* Payment of all license and inspection fees shall be a condition of the license. It shall be grounds for suspension or revocation of any license, or for denial or renewal of a license, or of grant of a new import/export license to any person named as the holder, or a principal officer or

50 CFR Ch. I (10-1-04 Edition)

agent of a holder, of a previous license issued pursuant to this subpart, that any license fees or any fees owing for inspections of wildlife shipments remain unpaid at the time of application for renewal or of new application. Additional provisions governing the issuance, denial, suspension, revocation, and renewal of an import/export license are found in part 13 of this subchapter B.

[45 FR 56673, Aug. 25, 1980, as amended at 50 FR 52890, Dec. 26, 1985; 61 FR 31871, June 21, 1996]

§ 14.94 What fees apply to me?

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

(b) *Designated port overtime fees.* The Service may charge importers or exporters of wildlife, regardless of being licensed as a commercial importer or exporter, a fee for overtime for inspections that begin before normal working hours, that extend beyond normal working hours, or are on a holiday, Saturday, or Sunday if the importer/exporter requested that the inspection be performed outside normal work hours. Overtime fees consist of an increased hourly rate equal to 1½ times the average hourly rate of a journeyman level wildlife inspector. Overtime fees will be in addition to inspection fees imposed for license holders at designated ports. If an importer/exporter presents a shipment for inspection during normal work hours but the Service cannot perform the inspection during normal work hours on that day, the service will give the importer/exporter the option of performing the inspection later during normal work hours or charging for overtime. The Service's ability to perform inspections during overtime hours will depend on the

U.S. Fish and Wildlife Serv., Interior

§ 14.94

availability of Service personnel. The Service will use the following parameters when calculating the overtime fee:

(1) Inspection overtime commences when a Service officer departs that officer's residence or official duty station enroute to the inspection site or at the end of normal work hours. Inspection overtime terminates when the officer returns to the point of departure or official duty station or when the inspection is completed, whichever occurs later.

(2) For an inspection at a designated port beginning less than 1 hour before normal work hours, the Service will charge 1 hour of time, at an hourly rate of 1½ times the average hourly rate of a journeyman level Wildlife Inspector. For all other overtime inspections at a designated port the Service will charge a minimum of 2 hours of time, at an hourly rate of 1½ times the average hourly rate of a journeyman level Wildlife Inspector, *except* that for all inspections performed on a federal holiday the Service will charge a minimum of 2 hours at twice the average hourly rate of a journeyman level Wildlife Inspector.

(3) The Service will charge any inspection time in excess of the 2-hour minimum in quarter hour increments at the same hourly rate as the first 2 hours. The Service will round up inspection time of 10 minutes or more to the next quarter hour and will disregard any time less than 10 minutes.

(4) The fee schedule will apply to all inspections regardless of importer/exporter of record, *except*, that the Service will charge multiple shipments consigned to the same importer/exporter and inspected at one location one 2-hour minimum or actual time, whichever is greater.

(c) *Nondesignated port fees.* The Service will charge permittees issued permits under subpart C of this part, and licensed commercial importers and exporters a fee for inspections at nondes-

ignated ports. The fees consist of a flat administrative fee plus a minimum of two hours of time at staffed nondesignated ports. The Service will use the following parameters when calculating fees:

(1) During normal working hours the Service will charge permittees issued permits under subpart C of this part, regardless of being licensed as a commercial importer or exporter, an administrative fee plus a minimum of 2 hours of time at the average hourly rate of a journeyman level wildlife inspector. The Service will charge permittees requesting clearance outside normal working hours, including Saturday and Sunday, an administrative fee plus a minimum of 2 hours of time at 1½ times the average hourly rate of a journeyman level wildlife inspector, *except* that for all inspections performed on a federal holiday the Service will charge a minimum of 2 hours at twice the average hourly rate of a journeyman level wildlife inspector.

(2) The Service will charge any inspection time in excess of the 2-hour minimum in quarter hour increments at the same hourly rate as the first 2 hours. The Service will round up inspection time of 10 minutes or more to the next quarter hour and will disregard any time less than 10 minutes.

(3) The Service will not charge importers or exporters who are not required to have a permit under subpart C of this part, *except* that the Service will charge licensed importers or exporters an administrative fee only during normal working hours, and overtime hourly rates and minimums will apply outside normal working hours.

(4) For inspections performed under a permit issued under subpart C of this part at nondesignated ports with no permanent Service law enforcement staff, the Service will charge all costs associated with inspection and clearance, including, salary, travel and transportation costs, and per diem.

(d) *Schedule.*

General Fees

Import/Export license fee	\$50 per year.
Inspection fee	\$55 per shipment.

Inspection Fee Schedule	
Designated ports: Licensees:	
Inspections during normal work hours	\$55 Inspection fee.
Inspections beginning less than 1 hour before normal work hours	\$55 Inspection fee plus \$30.
Inspections beginning more than 1 hour before normal work hours	\$55 Inspection fee plus 2 hour minimum at \$30/hr.
Inspections after normal work hours (including Saturdays and Sundays)	\$55 Inspection fee plus 2 hour minimum at \$30/hr.
Inspections on federal holidays	\$55 Inspection fee plus 2 hour minimum at \$40/hr.
Designated ports: Nonlicensees:	
Inspection during normal work hours	No charge.
Inspections beginning outside normal work hours	2 hour minimum at \$30/hr.
Staffed nondesignated ports: Subpart C permit holders, regardless of license status:	
Inspections during normal work hours	\$55 Administrative fee plus 2 hour minimum at \$20/hr.
Inspections beginning outside normal work hours (including Saturdays and Sundays)	\$55 Administrative fee plus 2 hour minimum at \$30/hr.
Inspections on federal holidays	\$55 Administrative fee plus 2 hour minimum at \$40/hr.
Nonstaffed nondesignated ports:	\$55 Administrative fee plus all costs associated with inspection and clearance.
Staffed nondesignated ports: No subpart C permit required (Border/Special Ports):	
Import/export license holders	\$55 Administrative fee.
All others	No charge.

(1) The Service will not refund any fee or any portion of any license or inspection fee or excuse payment of any fee because importation or clearance of wildlife shipment is refused for any reason.

(2) [Reserved]

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

(1) The wildlife you are shipping does not require permits under parts 16, 17, 18, 21, 22, or 23 of this subchapter;

(2) You are importing or exporting wildlife between the United States and Canada or Mexico;

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

(4) You, as the importer or exporter of record, or a member of your immediate family (your spouse, parents, siblings, and children), took the wildlife from the wild;

(5) You are licensed in accordance with § 14.91;

(6) You have not previously bought or sold the wildlife or any part thereof being shipped;

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

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

(9) You certify that your shipment meets the criteria in this paragraph.

[61 FR 31871, June 21, 1996, as amended at 64 FR 23025, Apr. 29, 1999]

Subpart J—Standards for the Humane and Healthful Transport of Wild Mammals and Birds to the United States

SOURCE: 57 FR 27108, June 17, 1992, unless otherwise noted.

§ 14.101 Purposes.

The purpose of this subpart is to prescribe requirements necessary to ensure that live wild mammals and birds shipped to the United States arrive alive, healthy, and uninjured, and that transportation of such animals occurs

under humane and healthful conditions. These regulations implement section 9(d) of the Lacey Act Amendments of 1981.

§ 14.102 Definitions.

In addition to the definitions contained in part 10 of subchapter B of this chapter, in this subpart—

Ambient air temperature means the temperature of the air surrounding a primary enclosure containing a wild mammal or bird.

Auxiliary ventilation means cooling or air circulation provided by such means as vents, fans, blowers, or air conditioning.

Carrier means any person operating an airline, railroad, motor carrier, shipping line, or other enterprise engaged in the business of transporting any wild mammal or bird for any purpose including exhibition and for any person, including itself.

Communicable disease means any contagious, infectious, or transmissible disease of wild mammals or birds.

Conveyance means any vehicle, vessel, or aircraft employed to transport an animal between its origin and destination.

Do not tip means do not excessively rock or otherwise move from a vertical to a slanting position, knock over, or upset.

Handle means feed, manipulate, crate, shift, transfer, immobilize, restrain, treat, or otherwise control the movement or activities of any wild mammal or bird.

Holding area means a designated area at or within a terminal facility that has been specially prepared to provide shelter and other requirements of wild mammals or birds being transported to the United States and in which such mammals or birds are maintained prior to, during, or following such shipment.

Kept clean means maintained free from dirt, trash, refuse, excreta, remains from other cargo, and impurities of any type.

Marine mammal means an individual of a species of the orders Cetacea, Pinnipedia, or Sirenia, or a polar bear (*Ursus maritimus*) or sea otter (*Enhydra lutris*).

Noncompatible means not capable of existing together in harmony.

Nonhuman primate means any nonhuman member of the order Primates.

Normal rigors of transportation means the stress that a wild animal can be expected to experience as a result of exposure to unaccustomed surroundings, unfamiliar confinement, caging, unfamiliar sounds, motion, and other conditions commonly encountered during transport.

Primary enclosure means any structure used to restrict a mammal or bird to a limited amount of space, such as a cage, room, pen, run, stall, pool, or hutch.

Professionally accepted standards means a level of practice established as acceptable by a body of qualified persons of the veterinary medical profession.

Psychological trauma means an episode of exposure to stressful conditions resulting in significant behavioral abnormality including, but not limited to, manifestations of unaccustomed aggressiveness, self-mutilation, or refusal of food or water.

Raptor means a live migratory bird of the order Falconiformes or the order Strigiformes.

Sanitize means to make physically clean and, as far as possible, free of toxic or infectious agents injurious to the health of wild mammals or birds.

Scheduled departure time means the time listed on a timetable of departures and arrivals or, in the absence of a timetable, the time of departure agreed to by a carrier and shipper.

Shipper means any person, other than a carrier, involved in the transport of wild animals to the United States regardless of the purpose of such transport; e.g., exporter, importer, or agent.

Terrestrial mammals means mammals other than marine mammals.

Transport means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, carriage, or shipment, by air, land, or sea.

Transporting device means any vehicle or device used to transport an animal between a conveyance and a terminal facility, in and around a terminal facility of a carrier, or within a conveyance.

§ 14.103

Unweaned means a bird or mammal incapable of feeding itself independently.

Wild means the same as fish or wildlife, as defined in § 10.12 of this chapter.

§ 14.103 Prohibitions.

Unless the requirements of this subpart are fully satisfied and all other legal requirements are met, it is unlawful for any person to transport to the United States, cause to be transported to the United States, or allow to be transported to the United States any live wild mammal or bird. It shall be unlawful for any person to import, to transport, or to cause or permit to be transported to the United States any wild mammal or bird under inhumane or unhealthful conditions or in violation of this subpart J.

§ 14.104 Translations.

Any certificate or document required by this subpart to accompany a mammal or bird transported to the United States and written in a foreign language must be accompanied by an accurate English translation.

§ 14.105 Consignment to carrier.

(a) No carrier shall accept any live wild mammal or bird for transport to the United States that has not been examined within 10 days prior to commencement of transport to the United States by a veterinarian certified as qualified by the national government of the initial country from which the mammal or bird is being exported. If the national government of such country does not certify veterinarians, then the veterinarian must be certified or licensed by a local government authority designated by the national government as authorized to certify veterinarians.

(b)(1) A certificate of veterinary medical inspection, signed by the examining veterinarian, stating that the animal has been examined, is healthy, appears to be free of any communicable disease, and is able to withstand the normal rigors of transport must accompany the mammal or bird; the certificate should include the veterinarian's license number, certification number, or equivalent. A mammal in the last third of its pregnancy, if this

50 CFR Ch. I (10-1-04 Edition)

is detectable using professionally accepted standards, shall not be accepted for transport to the United States except for medical treatment and unless the examining veterinarian certifies in writing that the animal has been examined, the state of pregnancy has been evaluated, and that, despite the medical condition requiring treatment, the animal is physically able to withstand the normal rigors of transportation to the United States.

(2) A nursing mother with young, an unweaned mammal unaccompanied by its mother, or an unweaned bird shall be transported only if the primary purpose is for needed medical treatment and upon certification in writing by the examining veterinarian that the treatment is necessary and the animal is able to withstand the normal rigors of transport. Such an unweaned mammal or bird shall not be transported to the United States for medical treatment unless it is accompanied at all times by and completely accessible to a veterinary attendant.

(c) A sick or injured wild mammal or bird shall be permitted transport to the United States only if the primary purpose of such transport is for needed medical treatment and upon certification in writing by the examining veterinarian that the treatment is necessary and the animal is able to withstand the normal rigors of travel in its present condition. A sick or injured animal shall be accompanied at all times throughout the transport process by a veterinary attendant qualified to care for and treat it, with continuous access to the animal. This individual shall be in possession of or have ready access to all medications to be administered during the transport.

(d) No carrier shall accept any wild mammal or bird for transport to the United States presented by the shipper less than 2 hours or more than 6 hours prior to the scheduled departure of the conveyance on which it is to be transported. The carrier shall notify the crew of the presence of live animal shipments.

§ 14.106 Primary enclosures.

No carrier shall accept for transport to the United States any live mammal or bird in a primary enclosure

that does not conform to the following requirements:

(a) The Container Requirements of the Live Animal Regulations (LAR), 20th edition, October 1, 1993, published by the International Air Transport Association (IATA) shall be complied with by all parties transporting wild mammals or birds to the United States. The incorporation by reference of the LAR was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from IATA, 2000 Peel St., Montreal, Quebec, Canada H3A 2R4. Copies may be inspected at the U.S. Fish and Wildlife Service, 4401 N. Fairfax Dr., Arlington, VA 22203 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) A primary enclosure shall be constructed so that—

(1) The strength of the enclosure is sufficient to contain the mammal or bird and to withstand the normal effects of transport;

(2) The interior of the enclosure is free from any protrusion that could be injurious to the mammal or bird within;

(3) No part of the animal can extend or protrude outside of the primary enclosure which may result in injury to the contained animal, to nearby persons or animals, or to handlers of the primary enclosure;

(4) Access to the primary enclosure is closed and secured with an animal-proof device designed to prevent accidental opening and release of the mammal or bird;

(5) The opening of the enclosure is easily accessible for either emergency removal or inspection of the mammal or bird by authorized personnel without the risk of escape of the mammal or bird;

(6) The enclosure has sufficient openings to ensure adequate circulation of air at all times.

(7) The material of which the primary enclosure is constructed is not treated with any paint, preservative, or

other chemical that is injurious or otherwise harmful to the health or well-being of mammals and birds.

(c) Unless the enclosure is permanently affixed in the conveyance or has an open top for certain large mammals, spacer bars allowing circulation of air around the enclosure shall be fitted to the exterior of its top, sides, and base. Spacer bars on an enclosure need extend no more than 6 inches (15 centimeters) from the surface of the enclosure. Within this 6 inch limit, the spacers on an enclosure containing one animal shall extend a distance equal to at least 10 percent of the longer dimension of the surface to which they are attached, and the spacers on an enclosure containing more than one animal shall extend a distance equal to at least 20 percent of the longer dimension of the surface to which they are attached. Hand-holds may serve as spacer bars for the sides of the enclosure to which they are attached. A primary enclosure constructed with one or more slanted or curved walls containing ventilation openings need not be fitted with spacer bars on such walls.

(d) An enclosure that is not permanently affixed within the conveyance shall have adequate hand-holds or other devices for lifting by hand or to facilitate lifting and carrying by machine. Such hand-holds or other devices shall be made an integral part of the enclosure, shall enable it to be lifted without excessive tipping, and shall be designed so that the person handling the enclosure will not come in contact with the animals contained therein.

(e) An enclosure shall have a solid, leak-proof bottom or removable, leak-proof collection tray under a slatted or wire mesh floor. The slatted or wire mesh floor shall be designed and constructed so that the spaces between the slats or the holes in the mesh cannot trap the limbs of animals contained within the enclosure. An enclosure for mammals shall contain unused absorbent litter on the solid bottom or in the leak-proof tray in sufficient quantity to absorb and cover excreta. This litter shall be safe and nontoxic and shall not resemble food normally consumed by the mammals. An enclosure used to transport marine mammals in water,

§ 14.107

in a waterproof enclosure, a sling, or on foam is exempt from the requirement to contain litter. An enclosure used to transport birds shall not contain litter, unless it is specified in writing by the examining veterinarian as medically necessary.

(f) If an enclosure has been previously used to transport or store wild mammals or birds, it shall have been cleaned and sanitized in a manner that will destroy pathogenic agents and pests injurious to the health of mammals and birds before the enclosure can be re-used.

(g) An enclosure that is not permanently affixed in the conveyance shall be clearly marked in English on the outside of the top and one or more sides of the enclosure, in letters not less than 2.5 centimeters (1 inch) in height, "Live Animals" or "Wild Animals", "Do Not Tip," "Only Authorized Personnel May Open Container," and other appropriate or required instructions. All enclosure sides shall also be conspicuously marked on the outside with arrows to indicate the correct upright position of the enclosure. These arrows should extend up the sides of the enclosure so that the point of the arrow is visible and clearly indicates the top of the enclosure.

(h) Food and water instructions as specified in § 14.108, information regarding what constitutes obvious signs of stress in the species being transported, and information about any drugs or medication to be administered by the accompanying veterinary attendant shall be securely attached to each enclosure. Copies of shipping documents accompanying the shipment shall also be securely attached to the primary enclosure. Original documents shall be carried in the carrier's pouch or manifest container or by the shipper's attendant accompanying the wild mammal or bird.

(i) Any food and water troughs shall be securely attached to the interior of the enclosure in such a manner that the troughs can be filled from outside the enclosure. Any opening providing access to a trough shall be capable of being securely closed with an animal-proof device. A water trough in an enclosure containing birds shall contain a foam or sponge insert, a perforated

50 CFR Ch. I (10-1-04 Edition)

wooden block, or other suitable device to prevent spillage or drowning.

(j) When a primary enclosure is permanently affixed within a conveyance so that its front opening is the only source of ventilation, the opening shall face the outside of the conveyance or an unobstructed aisle or passageway within the conveyance. Such an aisle or passageway shall be at least 12 inches (30 centimeters) wide. The opening in the primary enclosure shall occupy at least 90 percent of the total surface area of the front wall of the enclosure and be covered with bars or wire mesh.

[57 FR 27108, June 17, 1992, as amended at 59 FR 36719, July 19, 1994; 69 FR 18803, Apr. 9, 2004]

§ 14.107 Conveyance.

(a) The animal cargo space of a conveyance used to transport wild mammals or birds to the United States shall be designed, constructed, and maintained so as to ensure the humane and healthful transport of the animals.

(b) The cargo space shall be constructed and maintained so as to prevent the harmful ingress of engine exhaust fumes and gases produced by the conveyance.

(c) No wild mammal or bird shall be placed in a cargo space of a conveyance that does not provide sufficient air for it to breathe normally. Primary enclosures shall be positioned in a cargo space in such a manner that each animal has access to sufficient air for normal breathing.

(d) The interior of an animal cargo space shall be kept clean of disease-causing agents.

(e) A wild mammal or bird shall not be transported in a cargo space that contains any material, substance, or device that may reasonably be expected to result in inhumane conditions or be injurious to the animal's health unless all reasonable precautions are taken to prevent such conditions or injury.

§ 14.108 Food and water.

(a) No carrier shall accept any wild mammal or bird for transport to the United States unless written instructions from the shipper concerning the animal's food and water requirements

are securely affixed to the outside of its primary enclosure. Such instructions shall be consistent with professionally accepted standards of care and include specifically the quantity of water required, the amount and type of food required, and the frequency of feeding and watering necessary to ensure that the animal is transported humanely and healthfully.

(b) A mammal or bird requiring drinking water shall have uncontaminated water suitable for drinking made available to it at all times prior to commencement of transport to the United States, during intermediate stopovers, and upon arrival in the United States, or as directed by the shipper's written instructions.

(c) A mammal or bird that obtains moisture from fruits or other food shall be provided such food prior to commencement of transport to the United States, during stopovers, and upon arrival in the United States, or as directed by the shipper's written instructions.

(d) During a stopover or while still in the custody of the carrier after arrival in the United States, a mammal or bird in transit shall be observed no less frequently than once every four hours and given food and water according to the instructions required by § 14.108(a).

(e) Suitable and sufficient food shall be made available during transport.

(f) Additional requirements for feeding and watering particular kinds of animals are found below in the specifications for the various groups.

§ 14.109 Care in transit.

(a) During transportation to the United States, including any stopovers during transport, the carrier shall visually inspect each primary enclosure not less than once every 4 hours, or in the case of air transport, every 4 hours whenever the cargo hold is accessible. During such inspections, the carrier shall verify that the ambient air temperature is within allowable limits (see § 14.109(b)), that enclosures have not been damaged, that adequate ventilation is being provided, and when transport is by air, that air pressure suitable to support live animals is maintained within the cargo area (pressure equivalent to a maximum altitude of

8000 feet). During these observations the carrier shall also determine whether any animals are in obvious distress as described in documents attached to the enclosure. The absence of such a document or the absence of information as to signs of distress shall not remove this responsibility. The carrier shall attempt to correct any condition causing distress and shall consult the shipper concerning any possible need for veterinary care if no veterinary attendant is traveling with the shipment; if the shipper cannot be reached in the case of an emergency, qualified veterinary care should be provided. A veterinarian or qualified attendant traveling with the shipment shall be provided access to the animal.

(b) Unless otherwise specified in writing by the examining veterinarian the ambient air temperature in a holding area, transporting device, conveyance or terminal facility containing mammals or birds shall not be allowed to fall below 12.8 degrees C (55 degrees F) nor to exceed 26.7 degrees C (80 degrees F). Auxiliary ventilation shall be provided when the ambient air temperature is 23.9 degrees C (75 degrees F) or higher. In the case of penguins and auks, the ambient air temperature shall not be allowed to exceed 18.3 degrees C (65 degrees F) at any time, and auxiliary ventilation shall be provided when the ambient air temperature exceeds 15.6 degrees C (60 degrees F). In the case of polar bears and sea otters, ambient air temperature shall not be allowed to exceed 10 degrees C (50 degrees F).

§ 14.110 Terminal facilities.

(a) Any terminal facility used for wild mammal or bird transport in the country of export, stopover countries, or the United States shall contain an animal holding area or areas. No carrier or shipper shall co-mingle live animal shipments with inanimate cargo in an animal holding area.

(b) A carrier or shipper holding any wild mammal or bird in a terminal facility shall provide the following:

(1) A holding area cleaned and sanitized so as to destroy pathogenic agents, maintained so that there is no accumulation of debris or excreta, and

§ 14.111

in which vermin infestation is minimized;

(2) An effective program for the control of insects, ectoparasites, and pests of mammals or birds;

(3) Sufficient fresh air to allow the animals to breathe normally with ventilation maintained so as to minimize drafts, odors, and moisture condensation;

(4) Ambient air temperatures maintained within prescribed limits as specified in § 14.109(b).

§ 14.111 Handling.

(a) Care shall be exercised to avoid handling the primary enclosure in a manner likely to cause physical or psychological trauma to the mammal or bird.

(b) A primary enclosure used to move any mammal or bird shall not be dropped, tipped excessively, or otherwise mishandled, and shall not be stacked or placed in a manner that may reasonably be expected to result in its falling or being tipped.

(c) Animals incompatible with one another shall not be crated together or held in close proximity.

(d) Transport of mammals or birds to the United States shall be accomplished by the carrier in the most expeditious manner, with the fewest stopovers possible, and without unnecessary delays.

(e) Consistent with other procedures and requirements of the carrier, live wild mammals or birds shall be last loaded and first unloaded from a conveyance.

(f) A carrier shall not allow mammals or birds to remain for extended periods of time outside a holding area and shall move them between a holding area and a conveyance as expeditiously as possible. A carrier or shipper maintaining mammals or birds in a holding area, or transporting them to or from a holding area or between a holding area and a conveyance, shall provide the following:

(1) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect animals from the direct rays of the sun.

(2) Shelter from precipitation. Animals shall be provided protection so

50 CFR Ch. I (10-1-04 Edition)

that they remain dry during rain, snow, or other forms of precipitation.

(3) Shelter from cold. Animals shall be provided protection from cold. Protection shall include, but not be limited to, that provided by covering and/or heating of transporting devices, holding areas, conveyances or terminal facilities.

(4) Protection from harassment. Animals shall be protected from disturbances, including, but not limited to, harassment by humans, other animals, or machinery that makes noise, emits fumes, heat, or light, or causes vibration.

§ 14.112 Other applicable provisions.

In addition to the provisions of §§ 14.101-14.111, the requirements of §§ 14.121-14.172 applicable for particular groups of animals shall be met for all shipments of wild mammals and birds covered by this part.

SPECIFICATIONS FOR NONHUMAN PRIMATES

§ 14.121 Primary enclosures.

(a) No more than one primate shall be transported in a primary enclosure. However, a mother and her nursing young being transported to the United States for medical treatment, an established male-female pair, a family group, a pair of juvenile animals that have not reached puberty, or other pairs of animals that have been habitually housed together may be shipped in the same primary enclosure. Primates of different species shall not be shipped together in the same enclosure.

(b) A primary enclosure used to transport a primate shall be large enough to ensure that the animal has sufficient space to turn around freely in a normal manner, lie down, stand up (as appropriate for the species), and sit in a normal upright position without its head touching the top of the enclosure. However, a primate may be restricted in its movements according to professionally accepted standards of care when greater freedom of movement would constitute a danger to the primate or to its handler or other persons.

(c) Except as provided in § 14.106(j), ventilation openings must be located

on at least two walls of a primary enclosure. When the required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 30 percent of the total surface area of the ventilated wall and be situated above the midline of the enclosure. If ventilation openings are located on all four walls of the enclosure, the openings on each wall shall comprise at least 20 percent of the total surface area of the wall and be situated above the midline of the primary enclosure.

§ 14.122 Food and water.

(a) A nonhuman primate shall be provided water suitable for drinking within 4 hours prior to commencement of transport to the United States unless the shipper's written instructions direct otherwise. A carrier shall provide suitable drinking water to any primate at least every 12 hours after acceptance for transport to the United States, unless instructed in writing to do so more frequently by the shipper.

(b) After acceptance for transport, and unless otherwise instructed in writing by the shipper, a carrier shall provide suitable food to any nonhuman primate at least once every 12 hours.

§ 14.123 Care in transit.

(a) A primate shall be observed for signs of distress and given food and water according to the shipper's instructions during any intermediate stop that lasts more than 4 hours.

(b) Care shall be taken to keep enclosures containing primates sufficiently separated in the conveyance or holding area to minimize the risk of spread of disease from one species or shipment to another.

**SPECIFICATIONS FOR MARINE MAMMALS
(CETACEANS, SIRENIANS, SEA OTTERS,
PINNIPEDS, AND POLAR BEARS)**

§ 14.131 Primary enclosures.

(a) A primary enclosure that is not open on top shall have air inlets situated at heights that provide cross ventilation at all levels and that are located on all four sides of the enclosure. Such ventilation openings shall comprise not less than 20 percent of the

total surface area of each side of the enclosure.

(b) Straps, slings, harnesses, or other such devices used for body support or restraint when transporting marine mammals such as cetaceans or sirenians shall meet the following requirements:

(1) The devices shall not prevent attendants from having access to the mammal to administer care during transportation;

(2) The devices shall be equipped with sufficient padding to prevent trauma or injury at points of contact with the mammal's body;

(3) Slings or harnesses shall allow free movement of flippers outside of the harness or sling;

(4) The devices shall be capable of preventing the mammal from thrashing about and causing injury to itself, handlers, or other persons, but shall be designed so as not to cause injury to the mammal.

(c) A primary enclosure used to transport marine mammals shall be large enough to assure the following:

(1) A sea otter or polar bear has sufficient space to turn about freely with all four feet on the floor and to sit in an upright position, stand, or lie in a natural position;

(2) A pinniped has sufficient space to lie in a natural position;

(3) If a sling, harness, or other supporting device is used, there are at least 3 inches (7.5 centimeters) of clearance between any body part and the primary enclosure;

(d) A marine mammal may be restricted in its movements according to professionally accepted standards of care when freedom of movement would constitute a danger to the animal or to handlers or other persons.

(e) All marine mammals contained in a given primary enclosure shall be of the same species and be maintained in compatible groups. A marine mammal that has not reached puberty shall not be transported in the same primary enclosure with an adult marine mammal other than its mother. Socially dependent animals (e.g., siblings, mother, and offspring) transported in the same conveyance shall be allowed visual and,

§ 14.132

when appropriate for the species, olfactory contact. A female marine mammal shall not be transported in the same primary enclosure with any mature male marine mammal.

§ 14.132 Food and water.

A marine mammal shall not be transported for more than a period of 36 hours without being offered suitable food unless the shipper's written instructions or the shipper's attendant travelling with the mammal direct otherwise. After feeding, a marine mammal shall be rested for 6 hours prior to resuming transport.

§ 14.133 Care in transit.

(a) Any marine mammal shall be accompanied, in the same conveyance, by the shipper or an authorized representative of the shipper knowledgeable in marine mammal care to provide for the animal's health and well-being. The shipper or representative shall observe such marine mammals to determine whether or not they need veterinary care and shall provide or obtain any needed veterinary care as soon as possible. Care during transport shall include the following (on a species-specific basis):

(1) Keeping the skin moist or preventing the drying of the skin by such methods as covering with wet cloths, spraying it with water or applying a nontoxic emollient;

(2) Assuring that the pectoral flippers (when applicable) are allowed freedom of movement at all times;

(3) Making adjustments in the position of the mammal when necessary to prevent necrosis of the skin at weight pressure points; and

(4) Calming the mammal to prevent struggling, thrashing, and other activity that may cause overheating or physical trauma.

(b) Unless otherwise directed by a shipper or authorized representative, at least one-half of the floor area in a primary enclosure used to transport sea otters to the United States shall contain sufficient crushed ice or ice water to provide each otter with moisture necessary to maintain its hair coat by preventing it from drying and to minimize soiling of the hair coat with urine and fecal material.

50 CFR Ch. I (10-1-04 Edition)

(c) A marine mammal exhibiting excited or otherwise dangerous behavior shall not be taken from its primary enclosure except under extreme emergency conditions and then only by the shipper or other authorized individual who is capable of handling the animal safely.

SPECIFICATIONS FOR ELEPHANTS AND UNGULATES

§ 14.141 Consignment to carrier.

Species that grow antlers shall not be accepted for transport unless the antlers have been shed or surgically removed.

§ 14.142 Primary enclosures.

(a) Except as provided in §14.106(j), ventilation openings must be located on at least two walls of a primary enclosure. When the required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 16 percent of the total surface area of each ventilated wall. When ventilation openings are located on all four walls of the primary enclosure, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the minimum area required for ventilation shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation shall be located on the upper one-half of the primary enclosure.

(b) No more than one elephant or ungulate shall be transported in a primary enclosure, except that: a mother and nursing young may be shipped in the same primary enclosure if the shipment complies with the provisions of §14.105(b); in the case of land or sea transport, a pair of juvenile elephants or ungulates or other pairs that have been habitually housed together may be shipped in the same primary enclosure.

(c) A primary enclosure used to transport an elephant or ungulate shall be large enough to allow the animal to lie or stand in a natural upright position with the head extended, but not large enough for the animal to roll over.

U.S. Fish and Wildlife Serv., Interior

§ 14.161

(d) A primary enclosure used to transport an elephant or ungulate with horns or tusks shall be designed and constructed to prevent the horns or tusks from becoming trapped or injuring the animal itself, other animals nearby, attendants, or cargo handlers.

(e) A primary enclosure for an elephant or ungulate shall be equipped with a removable water trough that can be securely hung within the enclosure above the floor and can be filled from outside the enclosure.

SPECIFICATIONS FOR SLOTHS, BATS, AND FLYING LEMURS (CYNOCEPHALIDAE)

§ 14.151 Primary enclosures.

(a) Except as provided in §14.106(j), ventilation openings must be located on at least two walls of a primary enclosure. When the required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 16 percent of the total surface area of the ventilated wall. When ventilation openings are located on all four walls, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure.

(b) No more than one sloth, bat, or flying lemur (Cynocephalidae) shall be transported in a primary enclosure. However, a mother and her nursing young being transported for medical reasons, an established male-female pair, a family group, a pair of juvenile animals that have not reached puberty, or other small groups of animals that have been habitually housed together may be shipped in the same primary enclosure.

(c) A primary enclosure used to transport sloths, bats, or flying lemurs shall be large enough to ensure that each animal has sufficient space to move freely and in a normal manner and shall have a wide perch, bar, or mesh of suitable strength fitted under the top of the enclosure and spaced from it in such a way that the animals

may hang from it freely in a natural position.

SPECIFICATIONS FOR OTHER TERRESTRIAL MAMMALS

§ 14.161 Primary enclosures.

(a) Except as provided in §14.106(j), ventilation openings must be located on at least two walls of a primary enclosure. When the required ventilation openings are located on two opposite walls of the primary enclosure, these ventilation openings shall comprise at least 16 percent of the total surface area of each ventilated wall. When openings are located on all four walls of the enclosure, the openings shall comprise at least 8 percent of the total surface area of each wall. At least one-third of the minimum area required for ventilation shall be located on the lower one-half of the enclosure, and at least one-third of the total minimum area required for ventilation shall be located on the upper one-half of the enclosure.

(b) No more than one terrestrial mammal (other than rodents) shall be transported in a primary enclosure. However, a mother and her nursing young may be shipped in the same primary enclosure if the shipment complies with the provisions of §14.105(b).

(c) More than one rodent may be transported in the same primary enclosure if they are members of the same species and are maintained in compatible groups. Rodents that are incompatible shall be transported in individual primary enclosures that are stored and transported so they are visually separated. A female with young being transported for medical reasons shall not be placed in a primary enclosure with other animals. The following chart specifies maximum densities minimum space for transporting rodents that fall within the specified weight limitations. Max. No. refers to maximum number per primary enclosure; Space/animal refers to minimum area of floor space per animals. Rodents weighing more than 5,000 grams shall be transported in individual enclosures.

§ 14.171

DENSITY GUIDELINES FOR RODENTS

	Max. No.	Space/Animal		Ht. of Box	
		cm /2/	in /2/	cm	in
		wt. in grams of rodent:			
220 or less	20	194	30	15	6
220–450	12	388	60	20	8
450–1000	6	770	120	25	10
1,000–5,000	2	2,310	360	30	12

(d) A primary enclosure used to transport terrestrial mammals shall be large enough to ensure that each animal has sufficient space to turn around freely in a normal manner. The height of the primary enclosure shall provide adequate space for the animal to stand upright in a normal posture with space above its head. The length of the primary enclosure shall be great enough to enable the animal to lie in a full prone position.

SPECIFICATIONS FOR BIRDS

§ 14.171 Consignment to carrier.

(a) A personally owned pet bird originally transported from the United States and being returned to this country with its original United States certificate of veterinary inspection within 60 days of departure may be accepted by a carrier without a new veterinary examination.

(b) No carrier shall accept for transport to the United States any bird that was captured in the wild unless a qualified veterinarian, authorized by the national government of the country from which the bird is being exported, certifies that the bird has been held in captivity for at least 14 days.

§ 14.172 Primary enclosures.

(a) A primary enclosure for birds shall have ventilation openings on two vertical sides that comprise at least 16 percent of the surface area of each side and are positioned so as to decrease the likelihood of creating a draft.

(b) Perches shall be provided for birds that rest by perching. The diameter of the perch shall be sufficient to permit the birds to maintain a firm, comfortable grip. Perches shall be placed so that droppings do not fall into food or water troughs or onto other perched birds. There shall be enough head room to allow the birds to move onto and off

the perches without touching the top of the enclosure.

(c) An enclosure used to transport one or more birds that rest by perching shall be large enough to ensure that sufficient perch space is available for all birds to perch comfortably at the same time. No more than 50 birds that rest by perching shall be transported in one primary enclosure, with the exception of large birds (longer than 23 cm, or 9 inches), which are limited to a maximum of 25 per primary enclosure.

(d) A primary enclosure used to transport a raptorial bird shall be large enough to transport the bird comfortably and to permit it to turn around without stretching its wings to the fullest extent. Only one raptorial bird shall be contained in a primary enclosure.

(e) A primary enclosure containing nonraptorial birds that do not rest by perching shall be large enough for the birds to turn around, to lie down, to stand erect, and to change posture in a normal manner.

(f) Nectar-feeding birds shall either be transported in a primary enclosure equipped with feeding bottles accessible from outside the enclosure for replenishment or hand-carried and fed in accordance with the written instructions of the shipper.

(g) Birds transported in the same primary enclosure shall be of the same species and be compatible with one another. Birds that are incompatible shall be placed in individual primary enclosures and these enclosures shall not be stored or transported in visual proximity to one another.

PART 15—WILD BIRD CONSERVATION ACT

Subpart A—Introduction and General Provisions

- Sec.
- 15.1 Purpose of regulations.
- 15.2 Scope of regulations.
- 15.3 Definitions.
- 15.4 Information collection requirements.

Subpart B—Prohibitions and Requirements

- 15.11 Prohibitions.
- 15.12 Requirements.

Subpart C—Permits and Approval of Cooperative Breeding Programs

- 15.21 General application procedures.
- 15.22 Permits for scientific research.
- 15.23 Permits for zoological breeding or display programs.
- 15.24 Permits for cooperative breeding.
- 15.25 Permits for personal pets.
- 15.26 Approval of cooperative breeding programs.

Subpart D—Approved List of Species Listed in the Appendices to the Convention

- 15.31 Criteria for including species in the approved list for captive-bred species.
- 15.32 Criteria for including species in the approved list for non-captive-bred species.
- 15.33 Species included in the approved list.

Subpart E—Qualifying Facilities Breeding Exotic Birds in Captivity

- 15.41 Criteria for including facilities as qualifying for imports. [Reserved]
- 15.42 List of foreign qualifying breeding facilities. [Reserved]

Subpart F—List of Prohibited Species Not Listed in the Appendices to the Convention

- 15.51 Criteria for including species and countries in the prohibited list. [Reserved]
- 15.52 Species included in the prohibited list. [Reserved]
- 15.53 Countries of export included in the prohibited list. [Reserved]

AUTHORITY: 61 U.S.C. 4901-4916.

SOURCE: At 58 FR 60536, Nov. 16, 1993, unless otherwise noted.

Subpart A—Introduction and General Provisions**§ 15.1 Purpose of regulations.**

The regulations in this part implement the Wild Bird Conservation Act of 1992, Pub. L. 102-440, 16 U.S.C. 4901-4916.

§ 15.2 Scope of regulations.

(a) The regulations in this part apply to all species of exotic birds, as defined in section 15.3.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this subchapter B that may require a permit or prescribe additional restrictions or conditions

for the import, export, reexport, and transportation of wildlife.

§ 15.3 Definitions.

In addition to the definitions contained in parts 10 and 23 of this subchapter B, and unless the context requires otherwise, in this part:

Documentation means a description of how scientific information was collected, including the methodologies used; names and institutions of individuals conducting the work; dates and locations of any study; and any published results or reports from the work.

Exotic bird means any live or dead member of the Class Aves that is not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof, but does not include domestic poultry, dead sport-hunted birds, dead museum specimens, dead scientific specimens, products manufactured from such birds, or birds in any of the following families: Phasianidae, Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae, Rheidae, Dromaiinae, and Gruidae.

Indigenous means a species that is naturally occurring, not introduced as a result of human activity, and that currently regularly inhabits or breeds in the 50 States or the District of Columbia.

Life cycle means the annual processes involved with breeding, migration, and all other non-breeding activities.

Person means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

Species means any species, any subspecies, or any district population segment of a species or subspecies, and includes hybrids of any species or subspecies. Hybrids will be treated according to the more restrictive appendix or category in which either parental species is listed.

§ 15.4

Status means a qualitative measure of the vulnerability to extinction or extirpation of a population at a given time (e.g., endangered, threatened, vulnerable, non-threatened, or insufficiently known).

Sustainable use means the use of a species in a manner and at a level such that populations of the species are maintained at biologically viable levels for the long term and involves a determination of the productive capacity of the species and its ecosystem, in order to ensure that utilization does not exceed those capacities or the ability of the population to reproduce, maintain itself and perform its role or function in its ecosystem.

Trend means a long-term assessment of any change in the absolute or relative size of a species' population or habitat over time (e.g., increasing, decreasing, at equilibrium, insufficiently known).

United States means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

[58 FR 60536, Nov. 16, 1993, as amended at 61 FR 2091, Jan. 24, 1996]

§ 15.4 Information collection requirements.

(a) The Office of Management and Budget approved the information collection requirements contained in this part 15 under 44 U.S.C. 3507 and assigned OMB Control Number 1018-0093. 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 of permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 1 to 4 hours per re-

50 CFR Ch. I (10-1-04 Edition)

sponse, with an average of 2 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 (1018-0093), Washington, DC 20603.

[63 FR 52634, Oct. 1, 1998]

Subpart B—Prohibitions and Requirements

§ 15.11 Prohibitions.

(a) Except as provided under a permit issued pursuant to subpart C of this part, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, to solicit another to commit, or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any exotic bird.

(b) It is unlawful to import into the United States any exotic bird species listed in the Appendices to the Convention that is not included in the approved list of species, pursuant to subpart D of this part, except that this paragraph (b) does not apply to any exotic bird that was bred in a foreign breeding facility listed as qualifying pursuant to subpart E of this part.

(c) It is unlawful to import into the United States any exotic bird species not listed in the Appendices to the Convention that is listed in the prohibited species list, pursuant to subpart F of this part.

(d) It is unlawful to import into the United States any exotic bird species from any country included in the prohibited country list, pursuant to subpart F of this part.

(e) It is unlawful to import into the United States any exotic bird species from a qualifying facility breeding exotic birds in captivity, listed pursuant to subpart E of this part, if the exotic bird was not captive-bred at the listed facility.

(f) It is unlawful for any person subject to the jurisdiction of the United States to engage in any activity with an exotic bird imported under a permit issued pursuant to this part that violates a condition of said permit.

[58 FR 60536, Nov. 16, 1993, as amended at 59 FR 62255, Dec. 2, 1994]

§ 15.12 Requirements.

(a) No person shall import into the United States any exotic bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of subpart C of this part and 50 CFR part 13, or in accordance with the provisions of subparts D-F of this part 15, or in accordance with the provisions of paragraph (b) of this section.

(b) Any exotic bird can be imported to the United States if it was legally exported from the United States with a permit issued by the Service's Office of Management Authority, provided that the import is by the same person who exported the bird, the import is accompanied by a copy of the cleared CITES export permit or certificate issued by the Service that was used to export the exotic bird, and the Service is satisfied that the same bird is being imported as is indicated on the aforementioned permit or certificate.

Subpart C—Permits and Approval of Cooperative Breeding Programs

§ 15.21 General application procedures.

(a) The Director may issue a permit authorizing the importation of exotic birds otherwise prohibited by § 15.11, in accordance with the issuance criteria of this subpart, for the following purposes only: Scientific research; zoological breeding or display programs; cooperative breeding programs designed to promote the conservation and maintenance of the species in the wild; or personally owned pets accompanying persons returning to the United States after being out of the country for more than 1 year.

(b) Additional requirements as indicated in parts 13, 14, 17, 21, and 23 of this subchapter must also be met.

(c) A person wishing to obtain a permit under this subpart or approval of cooperative breeding programs under this subpart submits an application to the Director, U.S. Fish and Wildlife Service (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and all of the information specified in the applicable section §§ 15.22 through 15.26.

[58 FR 60536, Nov. 16, 1993, as amended at 63 FR 52634, Oct. 1, 1998]

§ 15.22 Permits for scientific research.

(a) Application requirements for permits for scientific research. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird(s) to be imported, including:

(i) The common and scientific names of the species, number, age or age class, and, when known, sex; and

(ii) A statement as to whether, at the time of the application, the exotic bird is still in the wild, has already been removed from the wild, or was bred in captivity;

(2) If the exotic bird is in the wild or was taken from the wild, include:

(i) The country and region where the removal will occur or occurred;

(ii) A description of the status of the species in the region of removal; and

(iii) A copy of any foreign collecting permit or authorizing letter, if applicable;

(3) If the exotic bird was bred in captivity, include:

(i) Documents or other evidence that the bird was bred in captivity, including the name and address of the breeder, and when known, hatch date and identity of the parental birds; and

(ii) If the applicant is not the breeder, documentation showing the bird was acquired from a breeder and a history of multiple transactions, if applicable;

(4) A statement of the reasons the applicant is justified in obtaining a permit, and a complete description of the scientific research to be conducted on the exotic bird requested, including:

§ 15.23

- (i) Formal research protocol with timetable;
- (ii) The relationship of such research to the conservation of the species in the wild;
- (iii) A discussion of possible alternatives and efforts to obtain birds from other sources; and
- (iv) Plans for disposition of the exotic birds and any progeny upon completion of the research project;
- (5) Qualifications of the scientific personnel conducting the proposed research, including applicable experience and a description of relevant past research conducted;
- (6) A description of the care and maintenance of the exotic bird, and how the facility meets professionally recognized standards, including:
 - (i) The name and address of the facility where the exotic bird will be maintained;
 - (ii) Dimensions of existing enclosures for the birds to be imported and number of birds to be housed in each; and
 - (iii) Husbandry practices.
- (b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in part 13 of this subchapter, the following factors:
 - (1) Whether the purpose of the scientific research is adequate to justify removing the exotic bird from the wild or otherwise changing its status;
 - (2) Whether the proposed import would be detrimental to the survival of the exotic bird species in the wild, including whether the exotic bird was bred in captivity or was (or will be) taken from the wild, taking into consideration the conservation status of the species in the wild;
 - (3) Whether the permit, if issued, would conflict with any known program intended to enhance the survival of the population from which the exotic bird was or would be removed;
 - (4) Whether the research for which the permit is required has scientific merit;
 - (5) Whether the expertise, facilities, or other resources available to the applicant appear adequate for proper care

50 CFR Ch. I (10–1–04 Edition)

- and maintenance of the exotic bird and to successfully accomplish the research objectives stated in the application.
- (c) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this section shall be subject to special conditions as the Director may deem appropriate.
 - (d) Duration of permits. The duration of the import permits issued under this section shall be designated on the face of the permit, but in no case will these permits be valid for longer than one year.
- § 15.23 Permits for zoological breeding or display programs.**
- (a) Application requirements for permits for zoological breeding or display programs. Each application shall provide the following information and such other information that the Director may require:
 - (1) A description of the exotic bird(s) to be imported, including:
 - (i) The common and scientific names of the species, number, age or age class, and, when known, sex; and
 - (ii) A statement as to whether, at the time of the application, the exotic bird is still in the wild, has already been removed from the wild, or was bred in captivity;
 - (2) If the exotic bird is in the wild or was taken from the wild include:
 - (i) The country and region where the removal will occur or occurred;
 - (ii) A description of the status of the species in the region of removal; and
 - (iii) A copy of any foreign collecting permit or authorizing letter, if applicable;
 - (3) If the exotic bird was bred in captivity, include:
 - (i) Documents or other evidence that the bird was bred in captivity, including the name and address of the breeder, and when known, identity of the parental birds, and hatch date; and
 - (ii) If the applicant is not the breeder, documentation showing the bird was acquired from a breeder and a history of multiple transactions, if applicable;
 - (4) A statement of the reasons the applicant is justified in obtaining a permit, and a complete description of the

breeding or display program to be conducted with the exotic bird requested, including:

(i) A breeding or education protocol that provides information on educational materials on the ecology and/or conservation status of the species provided to the general public;

(ii) Plans, if any, for developing or maintaining a self-sustaining population of the exotic bird species in captivity;

(iii) A statement on efforts to obtain birds from alternative sources or sources within the United States;

(iv) The relationship of such a breeding or display program to the conservation of the species in the wild; and

(v) Plans for disposition of the exotic birds and any progeny.

(5) A description of the care and maintenance of the exotic bird, and how the facility meets professionally recognized standards of the public display community, including:

(i) The name and address of the facility where the exotic bird will be maintained;

(ii) Dimensions of existing enclosures for the birds to be imported and number of birds to be housed in each;

(iii) Husbandry practices;

(6) A history of the zoological facility's breeding programs with the same or similar species, including:

(i) Participation in any cooperative breeding programs;

(ii) Breeding and inventory records for the last two years, including hatching, survival, and mortality records; and

(iii) Causes of any mortalities and efforts made to correct any problems.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in part 13 of this subchapter, the following factors:

(1) Whether the zoological breeding or display program is adequate to justify removing the exotic bird from the wild or otherwise changing its status;

(2) Whether the proposed import would be detrimental to the survival of the exotic bird species in the wild, in-

cluding whether the exotic bird was bred in captivity or was (or will be) taken from the wild, taking into consideration the conservation status of the species in the wild;

(3) Whether the permit, if issued, would conflict with any known program intended to enhance the survival of the population from which the exotic bird was or would be removed;

(4) Whether the breeding or display program for which the permit is required has conservation merit; and

(5) Whether the expertise, facilities or other resources available to the applicant appear adequate for proper care and maintenance of the exotic bird and to successfully accomplish the zoological breeding or display objectives stated in the application.

(c) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this section shall be subject to special conditions as the Director may deem appropriate.

(d) Duration of permits. The duration of the import permits issued under this section shall be designated on the face of the permit, but in no case will these permits be valid for longer than one year.

§ 15.24 Permits for cooperative breeding.

(a) Application requirements for permits for cooperative breeding. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird(s) to be imported, including:

(i) The common and scientific names of the species, number, age or age class, and, when known, sex; and

(ii) A statement as to whether, at the time of the application, the exotic bird is still in the wild, has already been removed from the wild, or was bred in captivity;

(2) If the exotic bird is still in the wild or was taken from the wild include:

(i) The country and region where the removal will occur or occurred;

(ii) A description of the status of the species in the region of removal; and

§ 15.24

50 CFR Ch. I (10-1-04 Edition)

(iii) A copy of any foreign collecting permit or authorizing letter, if applicable;

(3) If the exotic bird was bred in captivity, include;

(i) Documents or other evidence that the bird was bred in captivity, including the name and address of the breeder, when known, the identity of the parental birds and hatch date; and

(ii) If the applicant is not the breeder, documentation showing the bird was acquired from the breeder and a history of multiple transactions, if applicable;

(4) A statement of the reasons the applicant is justified in obtaining a permit, and a statement detailing the applicant's participation in a cooperative breeding program approved under section 15.26 of this chapter, including;

(i) Copies of any signed agreements or protocols with the monitoring avicultural, conservation, or zoological organization overseeing the program; and

(ii) Applicable records of the cooperative breeding program of any other birds imported, their progeny, and their disposition;

(5) A complete description of the relationship of the exotic bird to the approved cooperative breeding program, including;

(i) A statement of the role of the exotic bird in a breeding protocol;

(ii) A plan for maintaining a self-sustaining captive population of the exotic bird species;

(iii) Details on recordkeeping; and

(iv) Plans for disposition of the exotic birds and any progeny produced during the course of this program.

(6) A statement outlining the applicant's attempts to obtain the exotic bird in a manner that would not cause its removal from the wild, and attempts to obtain the specimens of the exotic bird species from stock available in the United States;

(7) A description of the care and maintenance of the exotic bird, and how the facility meets professionally recognized standards, including;

(i) The name and address of the facility where the exotic bird will be maintained;

(ii) Dimensions of existing enclosures for birds to be imported and number of birds to be housed in each; and

(iii) Husbandry practices;

(8) A history of the applicant's past participation in cooperative breeding programs with the same or similar species, including;

(i) Breeding and inventory records for at least the last two years;

(ii) Hatching, survival, and mortality records;

(iii) Causes of any mortalities and efforts made to correct any problems.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in part 13 of this subchapter, the following factors;

(1) Whether the cooperative breeding program is adequate to justify removing the exotic bird from the wild or otherwise changing its status;

(2) Whether the proposed import would be detrimental to the survival of the exotic bird species in the wild, including whether the exotic bird was bred in captivity or was (or will be) taken from the wild, taking into consideration the conservation status of the species in the wild;

(3) Whether the cooperative breeding program for which the permit is required would be likely to enhance or promote the conservation of the exotic bird species in the wild or result in a self-sustaining population of the exotic bird species in captivity; and

(4) Whether the expertise, facilities, or other resources available to the applicant appear adequate for proper care and maintenance of the exotic birds and to successfully accomplish the cooperative breeding objectives stated in the application.

(c) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this section shall be subject to special conditions as the Director may deem appropriate.

(d) Duration of permits. The duration of the import permits issued under this section shall be designated on the face of the permit, but in no case will these

U.S. Fish and Wildlife Serv., Interior

§ 15.26

permits be valid for longer than one year.

§ 15.25 Permits for personal pets.

(a) Application requirements for personal pets not intended for sale. No individual may import more than two exotic birds as pets in any year. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird to be imported, including;

(i) The common and scientific names, number, age, and, when known, sex;

(ii) A band number, house name, or any other unique identifying feature; and

(iii) A statement as to whether the exotic bird was bred in captivity or taken from the wild;

(2) A statement of the reasons the applicant is justified in obtaining a permit;

(3) Documentation showing that the applicant has continually resided outside of the United States for a minimum of one year;

(4) A statement of the number of exotic birds imported during the previous 12 months as personal pets by the applicant;

(5) Information on the origin of the exotic bird, including;

(i) Country of origin; and

(ii) A description and documentation of how the exotic bird was acquired, including a copy of any Convention permit under which the bird was re-exported or exported. If there is no such permit, a sales receipt or signed statement from seller with name and address of seller, date of sale, species, and other identifying information on the bird or signed breeder's certificate or statement with name and address of breeder, date of sale or transfer, species and hatch date.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in part 13 of this subchapter, the following factors:

(1) Whether the proposed import would be detrimental to the survival of the exotic bird species in the wild;

(2) Whether the exotic bird to be imported is a personal pet owned by the applicant, who has continuously resided outside the United States for a minimum of one year, and who has no intention to sell the bird; and

(3) Whether the number of exotic birds imported in the previous 12 months by the applicant does not exceed two.

(c) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this section shall be subject to special conditions that no individual may import more than two exotic birds as personal pets in any year, the exotic birds cannot be sold after importation into the United States, and any other conditions as the Director may deem appropriate.

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

§ 15.26 Approval of cooperative breeding programs.

Upon receipt of a complete application, the Director may approve cooperative breeding programs. Such approval will allow individuals to import exotic birds otherwise prohibited by section 15.11, with permits under section 15.24. Such approval for cooperative breeding programs shall be granted in accordance with the issuance criteria of this section.

(a) Application requirements for approval of cooperative breeding programs. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird(s) to be imported or to be covered under the program, including the common and scientific names of the species, number, sex ratio (if applicable), and age class;

(2) A statement of the reasons the applicant is justified in obtaining this approval, and a description of the cooperative breeding program requested for the exotic bird species, including:

§ 15.26

50 CFR Ch. I (10–1–04 Edition)

(i) A breeding protocol, including a genetic management plan and breeding methods;

(ii) A statement on the plans for developing and maintaining a self-sustaining population in captivity of the exotic bird species;

(iii) Details on the system of record-keeping and tracking of birds and their progeny, including how individual specimens will be marked or otherwise identified;

(iv) A statement on the relationship of such a breeding program to the conservation of the exotic bird species in the world;

(v) Details on the funding of this program; and

(vi) Plans for disposition of the exotic birds and any progeny;

(3) A qualification statement for each individual who will be overseeing the cooperative breeding program. This statement should include information on the individual's prior experience with the same or similar bird species. Individuals overseeing the program will be required to demonstrate an affiliation with an avicultural, conservation, or zoological organization;

(4) A statement of the oversight of the program by the avicultural, zoological, or conservation organization, including their monitoring of participation in the program, criteria for acceptance of individuals into the program, and the relationship of the cooperative breeding program to enhancing the propagation and survival of the species; and

(5) A history of the cooperative breeding program, including an annual report for the last 3 years (if applicable), mortality records, breeding records, and a studbook if one has been developed for the species.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a cooperative breeding program should be approved. In making this decision, the Director shall consider, in addition to the general criteria in part 13 of this subchapter, the following factors:

(1) Whether the cooperative breeding program for which the approval is requested is adequate to justify removing

the exotic bird from the wild or otherwise changing its status;

(2) Whether the granting of this approval would be detrimental to the survival of the exotic bird species in the wild, including whether the exotic birds were bred in captivity or will be taken from the wild, taking into consideration the conservation status of the species in the wild;

(3) Whether the granting of this approval would conflict with any known program intended to enhance the survival of the population from which the exotic bird species was or would be removed;

(4) Whether the cooperative breeding program for which the permit is requested would be likely to enhance or promote the conservation of the exotic bird species in the wild or result in a self-sustaining population of the exotic bird species in captivity; and

(5) Whether the expertise or other resources available to the program appear adequate to successfully accomplish the objectives stated in the application.

(c) Publication in the FEDERAL REGISTER. The Director shall publish notice in the FEDERAL REGISTER of each application submitted under § 15.26(a). Each notice shall invite the submission from interested parties of written data, views, or arguments with respect to the application. The Director shall publish periodically a notice as appropriate in the FEDERAL REGISTER of the list of approved cooperative breeding programs.

(d) Approval conditions. In addition to the general conditions set forth in part 13 of this subchapter, every approval issued under this paragraph shall be subject to the special condition that the cooperative breeding program shall maintain records of all birds imported under permits issued under this subpart and their progeny, including their sale or transfer, death, or escape, and breeding success. These records shall be made available to the Service on request and when renewing an approval.

(e) Duration of approval. Cooperative breeding programs shall be approved for two years, at which time applicants may apply to the Service for renewal of a program's approval. Applications for

renewal of approval shall comply with the general conditions set forth in part 13 of this subchapter.

Subpart D—Approved List of Species Listed in the Appendices to the Convention.

SOURCE: 59 FR 62262, Dec. 2, 1994, unless otherwise noted.

§ 15.31 Criteria for including species in the approved list for captive-bred species.

The Director will periodically review the list of captive-bred exotic bird species in paragraph 15.33(a), for which importation into the United States is approved. Any exotic bird species listed in paragraph 15.33(a) pursuant to this section must meet all of the following criteria:

- (a) All specimens of the species known to be in trade (legal or illegal) are captive-bred;
- (b) No specimens of the species are known to be removed from the wild for commercial purposes;
- (c) Any importation of specimens of the species would not be detrimental to the survival of the species in the wild; and
- (d) Adequate enforcement controls are in place to ensure compliance with paragraphs (a) through (c) of this section.

§ 15.32 Criteria for including species in the approved list for non-captive-bred species.

Upon receipt of a completed sustainable use management plan for a country of export, the Director may approve a species listed in Appendices II or III of the Convention for importation from that country. Such approval shall be granted in accordance with the issuance criteria of this section. All approved species and countries of export will be listed in section 15.33.

(a) *Requirements for scientifically-based sustainable use management plans.* Sustainable use management plans developed by the country of export should be submitted for species which breed in the country of export. If the species does not breed in the country of export, the Service will consider sustainable use management plans only when the

plan is scientifically valid and nesting (breeding) information can be provided from countries in which the species breeds. Sustainable use management plans shall include the following information, and any other information that may be appropriate:

- (1) Background information, including the following:
 - (i) The scientific and common name of the species;
 - (ii) Letters from the country of export's Management and Scientific Authorities transmitting the management plan of this species;
 - (iii) A summary of the country of export's legislation related to this species and legislation implementing the Convention, and, where appropriate, a summary of implementing regulations;
 - (iv) A summary, from the country of export's Management Authority, of the country's infrastructure and law enforcement and monitoring mechanisms designed to ensure both enforcement of and compliance with the requirements of the management plan, and that the number of birds removed from the wild or exported will be consistent with the management plan;
 - (v) Recent information on the distribution of the species within the country of export, including scientific references and maps, and historical information on distributions, if relevant; and
 - (vi) The species' status and its current population trend in the country of export, including scientific references and copies of the most recent non-detriment findings made by the exporting country's Scientific Authority.

(2) Habitat information, including:

- (i) A general description of habitats used by the species for each portion of the life cycle completed within the country of export;
- (ii) Recent information on the size and distribution of these habitats throughout the country of export and in each area or region of take, including scientific references and maps. The approximate location of any reserves that provide protection for this species should be indicated on the accompanying map(s), along with a brief description of how reserves are protected and how that protection is enforced;

§ 15.32

50 CFR Ch. I (10–1–04 Edition)

(iii) Status and trends of the important habitats used by the species in the country of export as a whole whenever available and within each area or region of take, including scientific references;

(iv) Factors, including management activities, favoring or threatening the species' habitat in the foreseeable future within each area or region of take, and throughout the country of export whenever available, including scientific references; and

(v) A list of management plans that have been or are being planned, developed, or implemented for the species' important habitats, if any.

(3) Information on the role of the species in its ecosystem, including:

(i) A description of the part(s) of the species' life cycle completed within the country of export;

(ii) A description of nest sites and/or plant communities that are most frequently used for placement of nests and, if applicable, nesting habits;

(iii) A general description of the species' diet and where the species forages (aerial feeder, tree canopy, tree trunk, midstory, understory, open water or other), and seasonal changes in foraging habits, including, when available, scientific references; and

(iv) Information on any species or plant community which is dependent on the occurrence of the exotic bird species.

(4) Population dynamics of the species, including:

(i) Recent population data for the population of the species in the country of export, as derived from indices of relative abundance or population estimates, along with documentation for each estimate;

(ii) Within each area or region of take, documentation for recent population data or estimates, conducted for at least 3 separate years or 1 year with a description of survey plans for future years. These population assessments should have been conducted during the same season (breeding or non-breeding) of each year for which documentation is submitted (i.e., be methodologically comparable—both temporally and spatially);

(iii) Within each area or region of take, a scientific assessment (with doc-

umentation) of recent reproductive (nesting) success. This assessment should include information on the number of young produced per egg-laying female per year or per nesting pair, or if scientifically appropriate for the species to be exported, estimates on the number of young produced per year from pre-breeding and post-breeding surveys conducted within the same annual cycle;

(iv) Within each area or region of take, estimation (with documentation) of annual mortality or loss including natural mortality and take for subsistence use, export trade, and domestic trade in each area of take; or

(v) When appropriate, information (with documentation) on the number of young which can be taken from the area, as a result of a conservation enhancement program.

(5) Determination of biologically sustainable use:

(i) Estimation of the number exported from the country during the past 2 years, and the number of birds removed from the wild for export, domestic trade, illegal trade, subsistence use, and other purposes (specify) for the country of export during the past 2 years;

(ii) The estimated number of birds that will be removed from the wild from each area of take each year for all purposes (export trade, domestic trade, illegal trade, and subsistence use), including a description of age-classes (nestlings, fledglings, sub-adults, adults, all classes), when applicable;

(iii) For the projected take addressed in the management plan, a description of the removal process, including, but not limited to, locations, time of year, capture methods, means of transport, and pre-export conditioning;

(iv) Documentation of how each projected level of take was determined;

(v) Explanation of infrastructure and law enforcement and monitoring mechanisms that ensure compliance with the methodology in the management plan and that the species will be removed at a level that ensures sustainable use; and

(vi) Description of how species in each area or region of take will be monitored in order to determine

whether the number and age classes of birds taken is sustainable.

(6)(i) For species that are considered “pests” in the country of origin: documentation that such a species is a pest, including a description of the type of pest,—e.g., agricultural, disease carrier; a description of the damage the pest species causes to its ecosystem; and a description of how the sustainable use management plan controls population levels of the pest species.

(ii) For non-pest species: A description of how the sustainable use management plan promotes the value of the species and its habitats. Incentives for conservation may be generated by environmental education, cooperative efforts or projects, development of cooperative management units, and/or activities involving local communities.

(7) Additional factors:

(i) Description of any existing enhancement activities developed for the species, including, but not limited to, annual banding programs, nest watching/guarding, and nest improvement; and

(ii) Description, including photographs or diagrams, of the shipping methods and enclosures proposed to be used to transport the exotic birds, including but not limited to feeding and care during transport, densities of birds in shipping enclosures, and estimated consignment sizes.

(b) *Approval criteria.* Upon receiving a sustainable use management plan in accordance with paragraph (a) of this section, the Director will decide whether or not an exotic bird species should be listed as an approved species for importation from the country of export, under section 15.33. In making this decision, the Director shall consider in addition to the general criteria in part 13 of this subchapter, all of the following factors for the species:

(1) Whether the country of export is effectively implementing the Convention, particularly with respect to:

(i) Establishment of a functioning Scientific Authority;

(ii) The requirements of Article IV of the Convention;

(iii) Remedial measures recommended by the Parties to the Convention with respect to this and similar species, including recommendations

of permanent committees of the Convention; and

(iv) Article VIII of the Convention, including but not limited to establishment of legislation and infrastructure necessary to enforce the Convention, and submission of annual reports to the Convention’s Secretariat;

(2) Whether the country of export has developed a scientifically-based management plan for the species that:

(i) Provides for the conservation of the species and its habitat(s);

(ii) Includes incentives for conservation unless the species is a documented pest species;

(iii) Is adequately implemented and enforced;

(iv) Ensures that the use of the species is:

(A) Sustainable;

(B) Maintained throughout its range at a level that is consistent with the species’ role in its ecosystem; and

(C) Is well above the level at which the species might become threatened;

(v) Addresses illegal trade, domestic trade, subsistence use, disease, and habitat loss; and

(vi) Ensures that the methods of capture, transport, and maintenance of the species minimize the risk of injury, damage to health, and inhumane treatment; and

(3) If the species has a multi-national distribution:

(i) Whether populations of the species in other countries in which it occurs will not be detrimentally affected by exports of the species from the country requesting approval;

(ii) Whether factors affecting conservation of the species, including export from other countries, illegal trade, domestic use, or subsistence use are regulated throughout the range of the species so that recruitment and/or breeding stocks of the species will not be detrimentally affected by the proposed export;

(iii) Whether the projected take and export will not detrimentally affect breeding populations; and

(iv) Whether the projected take and export will not detrimentally affect existing enhancement activities, conservation programs, or enforcement efforts throughout the species’ range.

§ 15.33

50 CFR Ch. I (10–1–04 Edition)

(4) For purposes of applying the criterion in paragraph (b)(2)(iv) of this section, the Director may give positive consideration to plans wherein very conservative capture and export quotas are implemented prior to being able to obtain all of the biological information necessary for a more large-scale management plan, if the country can demonstrate that such conservative capture and export quotas are non-detrimental to the species survival in the wild under the criterion in paragraph (b)(2)(iv) of this section.

(c) *Publication in the Federal Register.* The Director shall publish notice in the FEDERAL REGISTER of the availability of each complete sustainable use management plan received under paragraph (a) of this section. Each notice shall in-

vite the submission from interested parties of written data, views, or arguments with respect to the proposed approval.

(d) *Duration of approval.* A species and country of export listed in section 15.33 as approved shall be approved for 3 years, at which time renewal of approval shall be considered by the Service.

[61 FR 2091, Jan. 24, 1996]

§ 15.33 Species included in the approved list.

(a) *Captive-bred species.* The list in this paragraph includes species of captive-bred exotic birds for which importation into the United States is not prohibited by section 15.11. The species are grouped taxonomically by order.

Species	Common name
Order Falconiiformes:	
<i>Buteo buteo</i>	Common European buzzard.
Order Columbiformes:	
<i>Columba livia</i>	Rock dove.
Order Psittaciformes:	
<i>Agapornis personata</i>	Masked lovebird.
<i>Agapornis roseicollis</i>	Peach-faced lovebird.
<i>Aratinga jandaya</i>	Jendaya conure.
<i>Barnardius barnardi</i>	Mallee ringneck parrot.
<i>Bolborhynchus lineola</i> (blue form)	Lineolated parakeet (blue form).
<i>Bolborhynchus lineola</i> (yellow form)	Lineolated parakeet (yellow form).
<i>Bolborhynchus lineola</i> (white form)	Lineolated parakeet (white form).
<i>Cyanoramphus auriceps</i>	Yellow-fronted Parakeet.
<i>Cyanoramphus novaezelandiae</i>	Red-fronted parakeet.
<i>Forpus coelestis</i> (lutino form)	Pacific parrotlet (lutino form).
<i>Forpus coelestis</i> (yellow form)	Pacific parrotlet (yellow form).
<i>Forpus coelestis</i> (blue form)	Pacific parrotlet (blue form).
<i>Forpus coelestis</i> (cinnamon form)	Pacific parrotlet (cinnamon form).
<i>Melopsittacus undulatus</i>	Budgerigar.
<i>Neophema bourkii</i>	Bourke's parrot.
<i>Neophema chrysostoma</i>	Blue-winged Parrot.
<i>Neophema elegans</i>	Elegant Parrot.
<i>Neophema pulchella</i> ¹	Turquoise parrot.
<i>Neophema splendida</i> ¹	Scarlet-chested parrot.
<i>Nymphicus hollandicus</i>	Cockatiel.
<i>Platycercus adelaide</i>	Adelaide rosella.
<i>Platycercus adscitus</i>	Pale-headed rosella.
<i>Platycercus elegans</i>	Crimson rosella.
<i>Platycercus eximius</i>	Eastern rosella.
<i>Platycercus icterotis</i>	Western (stanley) rosella.
<i>Platycercus venustus</i>	Northern rosella.
<i>Polytelis alexandrae</i>	Princess parrot.
<i>Polytelis anthopeplus</i>	Regent parrot.
<i>Polytelis swainsonii</i>	Superb parrot.
<i>Psephotus chrysopterygius</i> ¹	Golden-shouldered parakeet.
<i>Psephotus haematonotus</i>	Red-rumped parakeet.
<i>Psephotus varius</i>	Mulga parakeet.
<i>Psittacula eupatria</i> (blue form)	Alexandrine parakeet (blue form).
<i>Psittacula eupatria</i> (lutino form)	Alexandrine parakeet (lutino form).
<i>Psittacula krameri manillensis</i>	Indian ringneck parakeet.
<i>Purpureicephalus spurius</i>	Red-capped parrot.
<i>Trichoglossus chlorolepidotus</i>	Scaly-breasted lorikeet.
Order Passeriformes:	
<i>Aegintha temporalis</i>	Red-browed Finch.
<i>Aidemosyne modesta</i>	Cherry Finch.
<i>Chloebia gouldiae</i>	Gouldian finch.
<i>Emblema guttata</i>	Diamond Sparrow.

Species	Common name
<i>Emblema picta</i>	Painted finch.
<i>Lonchura castaneothorax</i>	Chestnut-breasted finch.
<i>Lonchura domestica</i>	Society (=Bengalese) finch.
<i>Lonchura pectoralis</i>	Pictorella finch.
<i>Neochmia ruficauda</i>	Star finch.
<i>Poephila acuticauda</i>	Long-tailed grassfinch.
<i>Poephila bichenovii</i>	Double-barred finch.
<i>Poephila cincta</i>	Parson finch.
<i>Poephila guttata</i>	Zebra finch.
<i>Poephila personata</i>	Masked finch.
<i>Serinus canaria</i>	Common Canary.

¹ **Note:** Permits are still required for these species under part 17 (species listed as endangered or threatened under the Endangered Species Act (ESA)) of this chapter.

(b) *Non-captive-bred species.* The list in this paragraph includes species of non-captive-bred exotic birds and countries for which importation into the United States is not prohibited by section 15.11. The species are grouped taxonomically by order, and may only be imported from the approved country, except as provided under a permit issued pursuant to subpart C of this part.

[59 FR 62262, Dec. 2, 1994, as amended at 61 FR 2093, Jan. 24, 1996]

Subpart E—Qualifying Facilities Breeding Exotic Birds in Captivity

§ 15.41 **Criteria for including facilities as qualifying for imports.** [Reserved]

§ 15.42 **List of foreign qualifying breeding facilities.** [Reserved]

Subpart F—List of Prohibited Species Not Listed in the Appendices to the Convention

§ 15.51 **Criteria for including species and countries in the prohibited list.** [Reserved]

§ 15.52 **Species included in the prohibited list.** [Reserved]

§ 15.53 **Countries of export included in the prohibited list.** [Reserved]

PART 16—INJURIOUS WILDLIFE

Subpart A—Introduction

- Sec.
- 16.1 Purpose of regulations.
- 16.2 Scope of regulations.
- 16.3 General restrictions.

Subpart B—Importation or Shipment of Injurious Wildlife

- 16.11 Importation of live wild mammals.
- 16.12 Importation of live wild birds or their eggs.
- 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.
- 16.14 Importation of live amphibians or their eggs.
- 16.15 Importation of live reptiles or their eggs.

Subpart C—Permits

- 16.22 Injurious wildlife permits.

Subpart D—Additional Exemptions

- 16.32 Importation by Federal agencies.
- 16.33 Importation of natural-history specimens.

AUTHORITY: 18 U.S.C. 42.

SOURCE: 39 FR 1169, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 16.1 **Purpose of regulations.**

The regulations contained in this part implement the Lacey Act (18 U.S.C. 42).

§ 16.2 **Scope of regulations.**

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).

§ 16.3 **General restrictions.**

Any importation or transportation of live wildlife or eggs thereof, or dead fish or eggs or salmonids of the fish

§ 16.11

family Salmonidae into the United States or its territories or possessions is deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interest of forestry, agriculture, and horticulture, and to the welfare and survival of the wildlife or wildlife resources of the United States; and any such importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever, is prohibited except for certain purposes and under certain conditions as hereinafter provided in this part: *Provided*, That the provisions of this section shall not apply to psittacine birds (see also §§ 16.32 and 16.33 for other exemptions).

Subpart B—Importation or Shipment of Injurious Wildlife

§ 16.11 Importation of live wild mammals.

(a) The importation, transportation, or acquisition is prohibited of live specimens of: (1) Any species of so-called “flying fox” or fruit bat of the genus *Pteropus*; (2) any species of mongoose or meerkat of the genera *Atilax*, *Cynictis*, *Helogale*, *Herpestes*, *Ichneumia*, *Mungos*, and *Suricata*; (3) any species of European rabbit of the genus *Oryctolagus*; (4) any species of Indian wild dog, red dog, or dhole of the genus *Cuon*; (5) any species of multimammate rat or mouse of the genus *Mastomys*; (6) any raccoon dog, *Nyctereutes procyonoides*; and (7) any brushtail possum, *Trichosurus vulpecula*: *Provided*, that the Director shall issue permits authorizing the importation, transportation, and possession of such mammals under the terms and conditions set forth in § 16.22.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all other species of live wild mammals may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live wild mammals or any progeny thereof may

50 CFR Ch. I (10–1–04 Edition)

be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency: *Provided*, That the provisions of this paragraph shall not apply to live game mammals from Mexico, the importation of which is governed by regulations under part 14 of this chapter.

[39 FR 1169, Jan. 4, 1974, as amended at 47 FR 56362, Dec. 16, 1982; 67 FR 39868, June 11, 2002]

§ 16.12 Importation of live wild birds or their eggs.

(a) The importation, transportation, or acquisition is prohibited of any live specimen or egg of (1) the species of so-called “pink starling” or “rosy pastor” *Sturnus roseus*; (2) the species of dioch (including the subspecies black-fronted, red-billed, or Sudan dioch) *Quelea quelea*; (3) any species of Java sparrow, *Padda oryzivora*; (4) the species of red-whiskered bul-bul, *Pycnonotus jocosus*: *Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such live birds under the terms and conditions set forth in § 16.22.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live wild game, birds may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, and the eggs of such birds may be imported, transported, and possessed, without a permit, for propagating or scientific collection purposes, but no such live wild game birds or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

(c) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live, wild nongame birds (other than those listed in paragraph (a) of this section) may be imported, transported, and possessed in captivity, without a permit,

for scientific, medical, educational, exhibition, or propagating purposes, but no such live, wild nongame birds or any progeny thereof may be released into the wild except by or under the direction of State wildlife conservation agencies when such agencies have received prior written permission from the Director for such release: *Provided*, That the provisions of this paragraph shall not apply to live bald and golden eagles or to live migratory birds, the importation of which is governed by regulations under parts 22 and 21 of this chapter, respectively, or to birds of the Family *Psittacidae* (parrots, macaws, cockatoos, parakeets, lorries, lovebirds, etc.), the importation and transportation of which is governed by U.S. Public Health Service regulations under 42 CFR parts 71 and 72.

(d) The importation of the eggs of wild nongame birds is prohibited except as permitted under § 16.33.

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a) Upon an exporter filing a written declaration with the District Director of Customs at the port of entry as required under § 14.61 of this chapter, live or dead fish, mollusks, and crustaceans, or parts thereof, or their gametes or fertilized eggs, may be imported, transported, and possessed in captivity without a permit except as follows:

(1) No such live fish, mollusks, crustacean, or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission from such agency.

(2) The importation, transportation, or acquisition of any of the species listed in this paragraph is prohibited except as provided under the terms and conditions set forth in § 16.22:

- (i) Live fish or viable eggs of walking catfish, family Clariidae;
- (ii) Live mitten crabs, genus *Eriocheir*, or their viable eggs;
- (iii) Live mollusks, veligers, or viable eggs of zebra mussels, genus *Dreissena*; and
- (iv) Any live fish or viable eggs of snakehead fishes of the genera *Channa*

and *Parachanna* (or their generic synonyms of *Bostrychoides*, *Ophicephalus*, *Ophiocephalus*, and *Parophiocephalus*) of the Family Channidae, including but not limited to:

(A) *Channa amphibeus* (Chel or Borna snakehead).

(B) *Channa argus* (Northern or Amur snakehead).

(C) *Channa asiatica* (Chinese or Northern Green snakehead).

(D) *Channa aurantimaculata*.

(E) *Channa bankanensis* (Bangka snakehead).

(F) *Channa baramensis* (Baram snakehead).

(G) *Channa barca* (barca or tiger snakehead).

(H) *Channa bleheri* (rainbow or jewel snakehead).

(I) *Channa cyanospilos* (bluespotted snakehead).

(J) *Channa gachua* (dwarf, gaucha, or frog snakehead).

(K) *Channa harcourbutleri* (Inle snakehead).

(L) *Channa lucius* (shiny or splendid snakehead).

(M) *Channa maculata* (blotched snakehead).

(N) *Channa marulius* (bullseye, murrel, Indian, great, or cobra snakehead).

(O) *Channa maruloides* (emperor snakehead).

(P) *Channa melanoptera*.

(Q) *Channa melasoma* (black snakehead).

(R) *Channa micropeltes* (giant, red, or redline snakehead).

(S) *Channa nox*.

(T) *Channa orientalis* (Ceylon or Ceylonese Green snakehead).

(U) *Channa panaw*.

(V) *Channa pleurophthalmus* (ocelated, spotted, or eyespot snakehead).

(W) *Channa punctata* (dotted or spotted snakehead).

(X) *Channa stewartii* (golden snakehead).

(Y) *Channa striata* (chevron or striped snakehead).

(Z) *Parachanna africana* (Niger or African snakehead).

(AA) *Parachanna insignis* (Congo, square-spotted African or light African snakehead).

§ 16.13

50 CFR Ch. I (10-1-04 Edition)

(BB) *Parachanna obscura* (dark African, dusky, or square-spotted snakehead).

(3) Notwithstanding §16.32, all Federal agencies shall be subject to the requirements stated within this section. Live or dead unviscerated salmonid fish (family Salmonidae), live fertilized eggs, or gametes of salmonid fish are prohibited entry into the United States for any purpose except by direct shipment accompanied by a certification that: as defined in paragraph (e)(1) of this section, the fish lots, from which the shipments originated, have been sampled; virus assays have been conducted on the samples according to methods described in paragraphs (e)(2) through (4); of this section; and *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia, infectious hematopoietic necrosis, and infectious pancreatic necrosis have not been detected in the fish stocks from which the samples were taken. In addition, live salmonid fish can be imported into the United States only upon written approval from the Director of the U.S. Fish and Wildlife Service.

(4) All live fish eggs of salmonid fish must be disinfected within 24 hours prior to shipment to the United States. Disinfection shall be accomplished by immersion for 15 minutes in a 75 part per million (titratable active iodine) non-detergent solution of polyvinylpyrrolidone iodine (iodophor) buffered to a pH of 6.0 to 7.0. Following disinfection, the eggs shall be rinsed and maintained in water free of fish pathogens until packed and shipped. Any ice or water used for shipping shall be from pathogen-free water.

(b)(1) The certification to accompany importations as required by this section shall consist of a statement in the English language, printed or typewritten, stating that this shipment of dead unviscerated salmonid fish, live salmonid fish, or live, disinfected fertilized eggs or gametes of salmonid fish has been tested, by the methods outlined in this section, and none of the listed viruses were detected. The certification shall be signed in the country of origin by a qualified fish pathologist designated as a certifying official by the Director.

(2) The certification must contain:

- (i) The date and port of export in the country of origin and the anticipated date of arrival in the United States and port of entry;
- (ii) Surface vessel name or number or air carrier and flight number;
- (iii) Bill of lading number or airway bill number;
- (iv) The date and location where fish, tissue, or fluid samples were collected;
- (v) The date and location where virus assays were completed; and
- (vi) The original handwritten signature, in ink, of the certifying official and his or her address and telephone number.

(3) Certification may be substantially in the following form:

I, _____, designated by the Director of the U.S. Fish and Wildlife Service on _____ (date), as a certifying official for _____ (country), as required by Title 50, CFR 16.13, do hereby certify that the fish lot(s) of origin for this shipment of _____ (weight in kilograms) dead unviscerated salmonid fish, live salmonid fish, live salmonid fish eggs disinfected as described in §16.13, or live salmonid gametes to be shipped under _____ (bill of lading number or airway bill number), were sampled at _____ (location of fish facility) on _____ (sampling date) and the required viral assays were completed on _____ (date assays were completed) at _____ (location where assays were conducted) using the methodology described in §16.13. I further certify that *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia, infectious hematopoietic necrosis, and infectious pancreatic necrosis have not been detected in viral assays of the fish lot(s) of origin.

The shipment is scheduled to depart _____ (city and country) on _____ (date), via _____ (name of carrier) with anticipated arrival at the port of _____ (city), U.S.A., on _____ (date).

(Signature in ink of certifying official)

(Printed name of certifying official)

Date: _____
 Organization employing certifying official: _____
 Mailing address: _____
 City: _____
 State/Province: _____
 Zip Code/Mail Code: _____
 Country: _____
 Office telephone number: International code _____
 Telephone number _____
 Fax number _____

(c) Nothing in this part shall restrict the importation and transportation of dead salmonid fish when such fish have been eviscerated (all internal organs removed, gills may remain) or filleted or when such fish or eggs have been processed by canning, pickling, smoking, or otherwise prepared in a manner whereby the *Oncorhynchus masou* virus and the viruses causing viral hemorrhagic septicemia, infectious hematopoietic necrosis, and infectious pancreatic necrosis have been killed.

(d) Any fish caught in the wild in North America under a valid sport or commercial fishing license shall be exempt from sampling and certification requirements and from filing the Declaration for Importation of Wildlife. The Director may enter into formal agreements allowing the importation of gametes, fertilized eggs, live fish, or dead, uneviscerated fish without inspection and certification of pathogen status, if the exporting Nation has an acceptable program of inspection and pathogen control in operation, can document the occurrence and distribution of fish pathogens within its boundaries, and can demonstrate that importation of salmonid fishes into the United States from that National will not pose a substantial risk to the public and private fish stocks of the United States.

(e) *Fish sampling requirements, sample processing, and methods for virus assays*—(1) *Fish sampling requirements.* (i) Sampling for virus assays required by this section must be conducted within the six (6) months prior to the date of shipment of dead uneviscerated salmonid fish, live salmonid fish, live salmonid eggs, or salmonid gametes to the United States. Sampling shall be on a lot-by-lot basis with the samples from each lot distinctively marked, maintained, and processed for virus assay separately. A fish lot is defined as a group of fish of the same species and age that originated from the same discrete spawning population and that always have shared a common water supply. In the case of adult broodstock, various age groups of the same fish species may be sampled as a single lot, provided they meet the other conditions previously stated and have shared the same container(s) for at least 1 year prior to the sampling date.

(ii) In a sample, or sub-sample of a given lot, collection of 10 or more moribund fish shall be given first preference. The remainder of fish required for collection shall be randomly selected live fish from all containers occupied by the lot being sampled. Moribund fish shall be collected and processed separately from randomly selected fish. In the event the sample is taken from adult broodstock of different ages that share the same container, first preference shall be given to collecting samples from the older fish.

(iii) The minimum sample numbers collected from each lot must be in accordance with a plan that provides 95 percent confidence that at least one fish, with a detectable level of infection, will be collected and will be present in the sample if the assumed minimum prevalence of infection equals or exceeds 2 percent. A total of 150 fish collected proportionately from among all containers shared by the lot usually meets this requirement. A sampling strategy based on a presumed pathogen prevalence of 5 percent (60 fish) may be used to meet sampling requirements for shipments of gametes, fertilized eggs, or uneviscerated dead fish; provided that in the previous 2 years no disease outbreaks caused by a pathogen of concern have occurred at the facility from which the shipment originated and all stocks held at the facility have been inspected at least four times during that period (at intervals of approximately 6 months) and no pathogens of concern detected.

(iv) Fish must be alive when collected and processed within 48 hours after collection. Tissue and fluid samples shall be stored in sealed, aseptic containers and kept at 4° Celsius (C.) or on ice but not frozen.

(v) Tissue collection shall be as follows:

(A) Sac Fry and fry to 4 centimeter (cm): Assay entire fish. If present, remove the yolk sac.

(B) Fish 4–6 cm: Assay entire visceral mass including kidney.

(C) Fish longer than 6 cm: Assay kidney and spleen in approximately equal weight proportions.

(D) Spawning adult broodstock: Assay kidney and spleen tissues from

males and/or females and ovarian fluid from females. Ovarian fluid may comprise up to 50 percent of the samples collected.

(2) *General sample processing requirements.* (i) Ovarian fluid samples shall be collected from each spawning female separately. All samples from individual fish shall be measured to ensure that similar quantities from each fish are combined if samples are pooled. Ovarian fluid samples from no more than five fish may be combined to form a pool.

(ii) Whole fry (less yolk sacs), viscera, and kidney and spleen tissues from no more than five fish may be similarly pooled.

(iii) Antibiotics and antifungal agents may be added to ovarian fluid or tissue samples to control microbial contaminant growth at the time of sample collection. Final concentrations shall not exceed 200-500 micrograms/milliliter (μ g/ml) of Gentamycin, 800 international units/milliliter (IU/ml) of penicillin, or 800 μ g/ml of streptomycin. Antifungal agent concentrations should not exceed 200 IU/ml of mycostatin (Nystatin) of 20 μ g/ml of amphotericin B (Fungizone).

(iv) Sample temperature must be maintained between 4 at 15 °C. during processing. Use separate sets of sterile homogenization and processing equipment to process fluids or tissues from each fish lot sampled. Processing equipment need not be sterilized between samples within a single lot.

(v) Homogenized tissue samples may be diluted 1:10 with buffered cell culture medium (pH 7.4-7.8) containing antibiotics and antifungal agents not exceeding the concentrations described in paragraph (e)(2)(iii) of this section. Centrifuge tissue suspensions and ovarian fluid samples 4 °C. at 2,500 × gravity (g) (relative centrifugal force) for 15 minutes. Resulting supernatant solutions can be stored overnight at 4 °C.

(vi) At the time of inoculation onto cell cultures, total dilution of processed tissue samples must not exceed 1:100 ((volume to volume) (v/v)); total dilution of ovarian fluid samples must not exceed 1:20 (v/v). In samples inoculated onto cell cultures, the final antibiotic concentration shall not exceed 100 μ g/ml of Gentamicin, 100 IU/ml of

penicillin, or 100 μ g/ml of streptomycin and antifungal agent concentrations should not exceed 25 IU/ml of mycostatin (Nystatin) or 2.5 μ g/ml of amphotericin B (Fungizone).

(3) *Cell culture procedures.* (i) Both epithelioma papulosum cyprini (EPC) and chinook salmon embryo (CHSE-214) cell lines must be maintained and used in all virus assays. Susceptible, normal appearing, and rapidly dividing cell cultures shall be selected. Penicillin (100 IU/ml), streptomycin (100 μ g/ml), and antifungal agents, such as mycostatin/Nystatin (25 IU/ml) or amphotericin B/Fungizone (2.5 μ g/ml), are permitted in media used for cell culture and virus assay work.

(ii) Cell cultures shall be seeded and grown, at optimum temperatures, to 80-90 percent confluence in 24-well plates for virus assay work.

(iii) Decant the medium from the required number of 24-well plates of each cell line, and inoculate four replicate wells per cell line with .10 ml per well of each processed sample. When all wells have been inoculated, tilt plates to spread the inocula evenly. Incubate inoculated plates for 1 hour at 15 °C. for sample contact. After the 1 hour contact add cell culture medium. Medium shall be buffered or cells incubated so that a pH between 7.4 and 7.8 is maintained. All cell culture assays shall be incubated, without overlays, at 15 °C. for 21 days.

(4) *Virus identification by serological methods.* All cell cultures showing cytopathic effects (CPE) must be sub-cultured onto fresh cell cultures. If CPE is observed, determine the presence and identity the virus by serum neutralization, dot blot, enzyme-linked immunosorbent assay, or other equivalent serological technique.

(f) Information concerning the importation requirements of this section and application requirements for designation as a certifying official for purposes of this section may be obtained by contacting: U.S. Department of the Interior, U.S. Fish and Wildlife Service, Division of Fish Hatcheries (820 Arlington Square), 1849 C Street, NW., Washington, DC 20240. Telephone 703-358-1878.

(g) The information collection requirements contained in this part have

U.S. Fish and Wildlife Serv., Interior

§ 16.22

been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0078. The information is being collected to inform U.S. Customs and USFWS inspectors of the contents, origin, routing, and destination of fish and eggs shipments and to certify that the fish lots were inspected for listed pathogens. The information will be used to protect the health of the fishery resource. Response is required to obtain a benefit.

[58 FR 58979, Nov. 5, 1993, as amended at 65 FR 37063, June 13, 2000; 67 FR 62203, Oct. 4, 2002]

§ 16.14 Importation of live amphibians or their eggs.

Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live amphibians or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, education, exhibition, or propagating purposes, but no such live amphibians or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

§ 16.15 Importation of live reptiles or their eggs.

(a) The importation, transportation, or acquisition is prohibited of any live specimen or egg of the brown tree snake (*Boiga irregularis*): Provided, that the Director shall issue permits authorizing the importation, transportation, and possession of such live snakes or viable eggs under the terms and conditions set forth in § 16.22.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all other species of live reptiles or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibitional or propagating purposes, but no such live reptiles or any progeny or eggs thereof may be released into the wild except by the

State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

[55 FR 17441, Apr. 25, 1990]

Subpart C—Permits

§ 16.22 Injurious wildlife permits.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the importation into or shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States of injurious wildlife (See subpart B of this part) for zoological, educational, medical, or scientific purposes.

(a) *Application requirements.* Submit applications for permits to import, transport or acquire injurious wildlife for such purposes to the Director, U.S. Fish and Wildlife Service, (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Submit applications in writing on a Federal Fish and Wildlife License/Permit application (Form 3-200) and attach all of the following information:

(1) The number of specimens and the common and scientific names (genus and species) of each species of live wildlife proposed to be imported or otherwise acquired, transported and possessed;

(2) The purpose of such importation or other acquisition, transportation and possession;

(3) The address of the premises where such live wildlife will be kept in captivity;

(4) A statement of the applicant's qualifications and previous experience in caring for and handling captive wildlife.

(b) *Additional permit conditions.* In addition to the general conditions set forth in part 13 of this subchapter B, permits to import or ship injurious wildlife for zoological, educational, medical, or scientific purposes shall be subject to the following conditions:

§ 16.32

50 CFR Ch. I (10–1–04 Edition)

(1) All live wildlife acquired under permit and all progeny thereof, must be confined in the approved facilities on the premises authorized in the permit.

(2) No live wildlife, acquired under permit, or any eggs or progeny thereof, may be sold, donated, traded, loaned, or transferred to any other person unless such person has a permit issued by the Director under §16.22 authorizing him to acquire and possess such wildlife or the eggs or progeny thereof.

(3) Permittees shall notify the nearest Special Agent-in-Charge (see §10.22 of this chapter) by telephone or other expedient means within 24 hours following the escape of any wildlife imported or transported under authority of a permit issued under this section, or the escape of any progeny of such wildlife, unless otherwise specifically exempted by terms of the permit.

(c) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit to import or ship injurious wildlife for zoological, educational, medical, or scientific purposes:

(1) Whether the wildlife is being imported or otherwise acquired for a bona fide scientific, medical, educational, or zoological exhibition purpose;

(2) Whether the facilities for holding the wildlife in captivity have been inspected and approved, and consist of a basic cage or structure of a design and material adequate to prevent escape which is maintained inside a building or other facility of such structure that the wildlife could not escape from the building or other facility after escaping from the cage or structure maintained therein;

(3) Whether the applicant is a responsible person who is aware of the potential dangers to public interests posed by such wildlife, and who by reason of his knowledge, experience, and facilities reasonably can be expected to provide adequate protection for such public interests; and

(4) If such wildlife is to be imported or otherwise acquired for zoological or aquarium exhibition purposes, whether such exhibition or display will be open to the public during regular appropriate hours.

(d) The Office of Management and Budget approved the information collection requirements contained in this part 16 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0093. 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 of permits. You must respond to obtain or retain a permit. We estimate the public reporting burden for these reporting requirements to average 2 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 (1018–0093), Washington, DC 20603.

[39 FR 1169, Jan. 4, 1974, as amended at 47 FR 30786, July 15, 1982; 63 FR 52634, Oct. 1, 1998]

Subpart D—Additional Exemptions

§ 16.32 Importation by Federal agencies.

Nothing in this part shall restrict the importation and transportation, without a permit, of any live wildlife by Federal agencies solely for their own use, upon the filing of a written declaration with the District Director of Customs at the port of entry as required under §14.61: *Provided*, That the provisions of this section shall not apply to bald and golden eagles or their eggs, or to migratory birds or their eggs, the importations of which are governed by regulations under parts 22 and 21 of this chapter, respectively.

U.S. Fish and Wildlife Serv., Interior

§ 16.33

§ 16.33 Importation of natural-history specimens.

Nothing in this part shall restrict the importation and transportation, without a permit, of dead natural-history specimens of wildlife or their eggs for museum or scientific collection purposes: *Provided*, That the provisions of this section shall not apply to dead mi-

gratory birds, the importation of which is governed by regulations under parts 20 and 21 of this chapter; to dead game mammals from Mexico, the importation of which is governed by regulations under part 14 of this chapter; or to dead bald and golden eagles or their eggs, the importation of which is governed by regulations under part 22 of this chapter.

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

Material Approved for Incorporation by Reference
Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
List of CFR Sections Affected

Material Approved for Incorporation by Reference

(Revised as of October 1, 2004)

The Director of the Federal Register has approved under 5 U.S.C. 552(a) and 1 CFR part 51 the incorporation by reference of the following publications. This list contains only those incorporations by reference effective as of the revision date of this volume. Incorporations by reference found within a regulation are effective upon the effective date of that regulation. For more information on incorporation by reference, see the preliminary pages of this volume.

50 CFR (PARTS 1-16)

UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR
50 CFR

International Air Transport Association

2000 Peel St., Montreal, Quebec, Canada H3A 2R4
Live Animal Regulations, 20th Edition, October 1, 1993 14.106

Table of CFR Titles and Chapters

(Revised as of October 1, 2004)

Title 1—General Provisions

- I Administrative Committee of the Federal Register (Parts 1—49)
- II Office of the Federal Register (Parts 50—299)
- IV Miscellaneous Agencies (Parts 400—500)

Title 2—Grants and Agreements

SUBTITLE A—OFFICE OF MANAGEMENT AND BUDGET GUIDANCE FOR GRANTS AND AGREEMENTS

- I [Reserved]
- II Office of Management and Budget Circulars and Guidance [Reserved]

SUBTITLE B—FEDERAL AGENCY REGULATIONS FOR GRANTS AND AGREEMENTS [RESERVED]

Title 3—The President

- I Executive Office of the President (Parts 100—199)

Title 4—Accounts

- I General Accounting Office (Parts 1—99)

Title 5—Administrative Personnel

- I Office of Personnel Management (Parts 1—1199)
- II Merit Systems Protection Board (Parts 1200—1299)
- III Office of Management and Budget (Parts 1300—1399)
- V The International Organizations Employees Loyalty Board (Parts 1500—1599)
- VI Federal Retirement Thrift Investment Board (Parts 1600—1699)
- VIII Office of Special Counsel (Parts 1800—1899)
- IX Appalachian Regional Commission (Parts 1900—1999)
- XI Armed Forces Retirement Home (Part 2100)
- XIV Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

Title 5—Administrative Personnel—Continued

Chap.	
XV	Office of Administration, Executive Office of the President (Parts 2500—2599)
XVI	Office of Government Ethics (Parts 2600—2699)
XXI	Department of the Treasury (Parts 3100—3199)
XXII	Federal Deposit Insurance Corporation (Part 3201)
XXIII	Department of Energy (Part 3301)
XXIV	Federal Energy Regulatory Commission (Part 3401)
XXV	Department of the Interior (Part 3501)
XXVI	Department of Defense (Part 3601)
XXVIII	Department of Justice (Part 3801)
XXIX	Federal Communications Commission (Parts 3900—3999)
XXX	Farm Credit System Insurance Corporation (Parts 4000—4099)
XXXI	Farm Credit Administration (Parts 4100—4199)
XXXIII	Overseas Private Investment Corporation (Part 4301)
XXXV	Office of Personnel Management (Part 4501)
XL	Interstate Commerce Commission (Part 5001)
XLI	Commodity Futures Trading Commission (Part 5101)
XLII	Department of Labor (Part 5201)
XLIII	National Science Foundation (Part 5301)
XLV	Department of Health and Human Services (Part 5501)
XLVI	Postal Rate Commission (Part 5601)
XLVII	Federal Trade Commission (Part 5701)
XLVIII	Nuclear Regulatory Commission (Part 5801)
L	Department of Transportation (Part 6001)
LII	Export-Import Bank of the United States (Part 6201)
LIII	Department of Education (Parts 6300—6399)
LIV	Environmental Protection Agency (Part 6401)
LV	National Endowment for the Arts (Part 6501)
LVI	National Endowment for the Humanities (Part 6601)
LVII	General Services Administration (Part 6701)
LVIII	Board of Governors of the Federal Reserve System (Part 6801)
LIX	National Aeronautics and Space Administration (Part 6901)
LX	United States Postal Service (Part 7001)
LXI	National Labor Relations Board (Part 7101)
LXII	Equal Employment Opportunity Commission (Part 7201)
LXIII	Inter-American Foundation (Part 7301)
LXV	Department of Housing and Urban Development (Part 7501)
LXVI	National Archives and Records Administration (Part 7601)
LXVII	Institute of Museum and Library Services (Part 7701)
LXIX	Tennessee Valley Authority (Part 7901)
LXXI	Consumer Product Safety Commission (Part 8101)
LXXIII	Department of Agriculture (Part 8301)
LXXIV	Federal Mine Safety and Health Review Commission (Part 8401)

Title 5—Administrative Personnel—Continued

- Chap.
- LXXVI Federal Retirement Thrift Investment Board (Part 8601)
- LXXVII Office of Management and Budget (Part 8701)

Title 6—Homeland Security

- I Department of Homeland Security, Office of the Secretary (Parts 0—99)

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE (PARTS 0—26)

SUBTITLE B—REGULATIONS OF THE DEPARTMENT OF AGRICULTURE

- I Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)
- II Food and Nutrition Service, Department of Agriculture (Parts 210—299)
- III Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)
- IV Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)
- V Agricultural Research Service, Department of Agriculture (Parts 500—599)
- VI Natural Resources Conservation Service, Department of Agriculture (Parts 600—699)
- VII Farm Service Agency, Department of Agriculture (Parts 700—799)
- VIII Grain Inspection, Packers and Stockyards Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)
- IX Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)
- X Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)
- XI Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)
- XIV Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)
- XV Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)
- XVI Rural Telephone Bank, Department of Agriculture (Parts 1600—1699)
- XVII Rural Utilities Service, Department of Agriculture (Parts 1700—1799)
- XVIII Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)
- XX Local Television Loan Guarantee Board (Parts 2200—2299)

Title 7—Agriculture—Continued

Chap.	
XXVI	Office of Inspector General, Department of Agriculture (Parts 2600—2699)
XXVII	Office of Information Resources Management, Department of Agriculture (Parts 2700—2799)
XXVIII	Office of Operations, Department of Agriculture (Parts 2800—2899)
XXIX	Office of Energy, Department of Agriculture (Parts 2900—2999)
XXX	Office of the Chief Financial Officer, Department of Agriculture (Parts 3000—3099)
XXXI	Office of Environmental Quality, Department of Agriculture (Parts 3100—3199)
XXXII	Office of Procurement and Property Management, Department of Agriculture (Parts 3200—3299)
XXXIII	Office of Transportation, Department of Agriculture (Parts 3300—3399)
XXXIV	Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499)
XXXV	Rural Housing Service, Department of Agriculture (Parts 3500—3599)
XXXVI	National Agricultural Statistics Service, Department of Agriculture (Parts 3600—3699)
XXXVII	Economic Research Service, Department of Agriculture (Parts 3700—3799)
XXXVIII	World Agricultural Outlook Board, Department of Agriculture (Parts 3800—3899)
XLI	[Reserved]
XLII	Rural Business-Cooperative Service and Rural Utilities Service, Department of Agriculture (Parts 4200—4299)

Title 8—Aliens and Nationality

I	Department of Homeland Security (Immigration and Naturalization) (Parts 1—499)
V	Executive Office for Immigration Review, Department of Justice (Parts 1000—1399)

Title 9—Animals and Animal Products

I	Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)
II	Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture (Parts 200—299)
III	Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

Title 10—Energy

I	Nuclear Regulatory Commission (Parts 0—199)
II	Department of Energy (Parts 200—699)

Title 10—Energy—Continued

- Chap.
- III Department of Energy (Parts 700—999)
 - X Department of Energy (General Provisions) (Parts 1000—1099)
 - XVII Defense Nuclear Facilities Safety Board (Parts 1700—1799)
 - XVIII Northeast Interstate Low-Level Radioactive Waste Commission (Part 1800)

Title 11—Federal Elections

- I Federal Election Commission (Parts 1—9099)

Title 12—Banks and Banking

- I Comptroller of the Currency, Department of the Treasury (Parts 1—199)
- II Federal Reserve System (Parts 200—299)
- III Federal Deposit Insurance Corporation (Parts 300—399)
- IV Export-Import Bank of the United States (Parts 400—499)
- V Office of Thrift Supervision, Department of the Treasury (Parts 500—599)
- VI Farm Credit Administration (Parts 600—699)
- VII National Credit Union Administration (Parts 700—799)
- VIII Federal Financing Bank (Parts 800—899)
- IX Federal Housing Finance Board (Parts 900—999)
- XI Federal Financial Institutions Examination Council (Parts 1100—1199)
- XIV Farm Credit System Insurance Corporation (Parts 1400—1499)
- XV Department of the Treasury (Parts 1500—1599)
- XVII Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)
- XVIII Community Development Financial Institutions Fund, Department of the Treasury (Parts 1800—1899)

Title 13—Business Credit and Assistance

- I Small Business Administration (Parts 1—199)
- III Economic Development Administration, Department of Commerce (Parts 300—399)
- IV Emergency Steel Guarantee Loan Board, Department of Commerce (Parts 400—499)
- V Emergency Oil and Gas Guaranteed Loan Board, Department of Commerce (Parts 500—599)

Title 14—Aeronautics and Space

- I Federal Aviation Administration, Department of Transportation (Parts 1—199)
- II Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

Title 14—Aeronautics and Space—Continued

Chap.

- III Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)
- V National Aeronautics and Space Administration (Parts 1200—1299)
- VI Air Transportation System Stabilization (Parts 1300—1399)

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE (PARTS 0—29)

SUBTITLE B—REGULATIONS RELATING TO COMMERCE AND FOREIGN TRADE

- I Bureau of the Census, Department of Commerce (Parts 30—199)
- II National Institute of Standards and Technology, Department of Commerce (Parts 200—299)
- III International Trade Administration, Department of Commerce (Parts 300—399)
- IV Foreign-Trade Zones Board, Department of Commerce (Parts 400—499)
- VII Bureau of Industry and Security, Department of Commerce (Parts 700—799)
- VIII Bureau of Economic Analysis, Department of Commerce (Parts 800—899)
- IX National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)
- XI Technology Administration, Department of Commerce (Parts 1100—1199)
- XIII East-West Foreign Trade Board (Parts 1300—1399)
- XIV Minority Business Development Agency (Parts 1400—1499)

SUBTITLE C—REGULATIONS RELATING TO FOREIGN TRADE AGREEMENTS

- XX Office of the United States Trade Representative (Parts 2000—2099)

SUBTITLE D—REGULATIONS RELATING TO TELECOMMUNICATIONS AND INFORMATION

- XXIII National Telecommunications and Information Administration, Department of Commerce (Parts 2300—2399)

Title 16—Commercial Practices

- I Federal Trade Commission (Parts 0—999)
- II Consumer Product Safety Commission (Parts 1000—1799)

Title 17—Commodity and Securities Exchanges

- I Commodity Futures Trading Commission (Parts 1—199)
- II Securities and Exchange Commission (Parts 200—399)
- IV Department of the Treasury (Parts 400—499)

Title 18—Conservation of Power and Water Resources

Chap.

- I Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)
- III Delaware River Basin Commission (Parts 400—499)
- VI Water Resources Council (Parts 700—799)
- VIII Susquehanna River Basin Commission (Parts 800—899)
- XIII Tennessee Valley Authority (Parts 1300—1399)

Title 19—Customs Duties

- I Bureau of Customs and Border Protection, Department of Homeland Security; Department of the Treasury (Parts 0—199)
- II United States International Trade Commission (Parts 200—299)
- III International Trade Administration, Department of Commerce (Parts 300—399)
- IV Bureau of Immigration and Customs Enforcement, Department of Homeland Security (Parts 400—599)

Title 20—Employees' Benefits

- I Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)
- II Railroad Retirement Board (Parts 200—399)
- III Social Security Administration (Parts 400—499)
- IV Employees Compensation Appeals Board, Department of Labor (Parts 500—599)
- V Employment and Training Administration, Department of Labor (Parts 600—699)
- VI Employment Standards Administration, Department of Labor (Parts 700—799)
- VII Benefits Review Board, Department of Labor (Parts 800—899)
- VIII Joint Board for the Enrollment of Actuaries (Parts 900—999)
- IX Office of the Assistant Secretary for Veterans' Employment and Training, Department of Labor (Parts 1000—1099)

Title 21—Food and Drugs

- I Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)
- II Drug Enforcement Administration, Department of Justice (Parts 1300—1399)
- III Office of National Drug Control Policy (Parts 1400—1499)

Title 22—Foreign Relations

- I Department of State (Parts 1—199)
- II Agency for International Development (Parts 200—299)
- III Peace Corps (Parts 300—399)

Title 22—Foreign Relations—Continued

Chap.

- IV International Joint Commission, United States and Canada (Parts 400—499)
- V Broadcasting Board of Governors (Parts 500—599)
- VII Overseas Private Investment Corporation (Parts 700—799)
- IX Foreign Service Grievance Board Regulations (Parts 900—999)
- X Inter-American Foundation (Parts 1000—1099)
- XI International Boundary and Water Commission, United States and Mexico, United States Section (Parts 1100—1199)
- XII United States International Development Cooperation Agency (Parts 1200—1299)
- XIV Foreign Service Labor Relations Board; Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel (Parts 1400—1499)
- XV African Development Foundation (Parts 1500—1599)
- XVI Japan-United States Friendship Commission (Parts 1600—1699)
- XVII United States Institute of Peace (Parts 1700—1799)

Title 23—Highways

- I Federal Highway Administration, Department of Transportation (Parts 1—999)
- II National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)
- III National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (PARTS 0—99)

SUBTITLE B—REGULATIONS RELATING TO HOUSING AND URBAN DEVELOPMENT

- I Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)
- II Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)
- III Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)
- IV Office of Housing and Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development (Parts 400—499)
- V Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)
- VI Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600—699) [Reserved]

Title 24—Housing and Urban Development—Continued

Chap.

- VII Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)
- VIII Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs, Section 202 Direct Loan Program, Section 202 Supportive Housing for the Elderly Program and Section 811 Supportive Housing for Persons With Disabilities Program) (Parts 800—899)
- IX Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1699)
- X Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Interstate Land Sales Registration Program) (Parts 1700—1799)
- XII Office of Inspector General, Department of Housing and Urban Development (Parts 2000—2099)
- XX Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)
- XXV Neighborhood Reinvestment Corporation (Parts 4100—4199)

Title 25—Indians

- I Bureau of Indian Affairs, Department of the Interior (Parts 1—299)
- II Indian Arts and Crafts Board, Department of the Interior (Parts 300—399)
- III National Indian Gaming Commission, Department of the Interior (Parts 500—599)
- IV Office of Navajo and Hopi Indian Relocation (Parts 700—799)
- V Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services (Part 900)
- VI Office of the Assistant Secretary-Indian Affairs, Department of the Interior (Parts 1000—1199)
- VII Office of the Special Trustee for American Indians, Department of the Interior (Part 1200)

Title 26—Internal Revenue

- I Internal Revenue Service, Department of the Treasury (Parts 1—899)

Title 27—Alcohol, Tobacco Products and Firearms

- I Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury (Parts 1—399)
- II Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice (Parts 400—699)

Title 28—Judicial Administration

Chap.

- I Department of Justice (Parts 0—299)
- III Federal Prison Industries, Inc., Department of Justice (Parts 300—399)
- V Bureau of Prisons, Department of Justice (Parts 500—599)
- VI Offices of Independent Counsel, Department of Justice (Parts 600—699)
- VII Office of Independent Counsel (Parts 700—799)
- VIII Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)
- IX National Crime Prevention and Privacy Compact Council (Parts 900—999)
- XI Department of Justice and Department of State (Parts 1100—1199)

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR (PARTS 0—99)

SUBTITLE B—REGULATIONS RELATING TO LABOR

- I National Labor Relations Board (Parts 100—199)
- II Office of Labor-Management Standards, Department of Labor (Parts 200—299)
- III National Railroad Adjustment Board (Parts 300—399)
- IV Office of Labor-Management Standards, Department of Labor (Parts 400—499)
- V Wage and Hour Division, Department of Labor (Parts 500—899)
- IX Construction Industry Collective Bargaining Commission (Parts 900—999)
- X National Mediation Board (Parts 1200—1299)
- XII Federal Mediation and Conciliation Service (Parts 1400—1499)
- XIV Equal Employment Opportunity Commission (Parts 1600—1699)
- XVII Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)
- XX Occupational Safety and Health Review Commission (Parts 2200—2499)
- XXV Employee Benefits Security Administration, Department of Labor (Parts 2500—2599)
- XXVII Federal Mine Safety and Health Review Commission (Parts 2700—2799)
- XL Pension Benefit Guaranty Corporation (Parts 4000—4999)

Title 30—Mineral Resources

- I Mine Safety and Health Administration, Department of Labor (Parts 1—199)
- II Minerals Management Service, Department of the Interior (Parts 200—299)
- III Board of Surface Mining and Reclamation Appeals, Department of the Interior (Parts 300—399)

Title 30—Mineral Resources—Continued

Chap.

- IV Geological Survey, Department of the Interior (Parts 400—499)
- VII Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY (PARTS 0—50)

SUBTITLE B—REGULATIONS RELATING TO MONEY AND FINANCE

- I Monetary Offices, Department of the Treasury (Parts 51—199)
- II Fiscal Service, Department of the Treasury (Parts 200—399)
- IV Secret Service, Department of the Treasury (Parts 400—499)
- V Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)
- VI Bureau of Engraving and Printing, Department of the Treasury (Parts 600—699)
- VII Federal Law Enforcement Training Center, Department of the Treasury (Parts 700—799)
- VIII Office of International Investment, Department of the Treasury (Parts 800—899)
- IX Federal Claims Collection Standards (Department of the Treasury—Department of Justice) (Parts 900—999)

Title 32—National Defense

SUBTITLE A—DEPARTMENT OF DEFENSE

- I Office of the Secretary of Defense (Parts 1—399)
 - V Department of the Army (Parts 400—699)
 - VI Department of the Navy (Parts 700—799)
 - VII Department of the Air Force (Parts 800—1099)
- SUBTITLE B—OTHER REGULATIONS RELATING TO NATIONAL DEFENSE
- XII Defense Logistics Agency (Parts 1200—1299)
 - XVI Selective Service System (Parts 1600—1699)
 - XXVIII National Counterintelligence Center (Parts 1800—1899)
 - XIX Central Intelligence Agency (Parts 1900—1999)
 - XX Information Security Oversight Office, National Archives and Records Administration (Parts 2000—2099)
 - XXI National Security Council (Parts 2100—2199)
 - XXIV Office of Science and Technology Policy (Parts 2400—2499)
 - XXVII Office for Micronesia Status Negotiations (Parts 2700—2799)
 - XXVIII Office of the Vice President of the United States (Parts 2800—2899)

Title 33—Navigation and Navigable Waters

- I Coast Guard, Department of Homeland Security (Parts 1—199)
- II Corps of Engineers, Department of the Army (Parts 200—399)

Title 33—Navigation and Navigable Waters—Continued

Chap.

- IV Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

Title 34—Education

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION (PARTS 1—99)

SUBTITLE B—REGULATIONS OF THE OFFICES OF THE DEPARTMENT OF EDUCATION

- I Office for Civil Rights, Department of Education (Parts 100—199)
 - II Office of Elementary and Secondary Education, Department of Education (Parts 200—299)
 - III Office of Special Education and Rehabilitative Services, Department of Education (Parts 300—399)
 - IV Office of Vocational and Adult Education, Department of Education (Parts 400—499)
 - V Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500—599)
 - VI Office of Postsecondary Education, Department of Education (Parts 600—699)
 - XI National Institute for Literacy (Parts 1100—1199)
- SUBTITLE C—REGULATIONS RELATING TO EDUCATION
- XII National Council on Disability (Parts 1200—1299)

Title 35—Panama Canal

- I Panama Canal Regulations (Parts 1—299)

Title 36—Parks, Forests, and Public Property

- I National Park Service, Department of the Interior (Parts 1—199)
- II Forest Service, Department of Agriculture (Parts 200—299)
- III Corps of Engineers, Department of the Army (Parts 300—399)
- IV American Battle Monuments Commission (Parts 400—499)
- V Smithsonian Institution (Parts 500—599)
- VII Library of Congress (Parts 700—799)
- VIII Advisory Council on Historic Preservation (Parts 800—899)
- IX Pennsylvania Avenue Development Corporation (Parts 900—999)
- X Presidio Trust (Parts 1000—1099)
- XI Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)
- XII National Archives and Records Administration (Parts 1200—1299)
- XV Oklahoma City National Memorial Trust (Part 1501)
- XVI Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation (Parts 1600—1699)

Title 37—Patents, Trademarks, and Copyrights

Chap.

- I United States Patent and Trademark Office, Department of Commerce (Parts 1—199)
- II Copyright Office, Library of Congress (Parts 200—299)
- IV Assistant Secretary for Technology Policy, Department of Commerce (Parts 400—499)
- V Under Secretary for Technology, Department of Commerce (Parts 500—599)

Title 38—Pensions, Bonuses, and Veterans' Relief

- I Department of Veterans Affairs (Parts 0—99)

Title 39—Postal Service

- I United States Postal Service (Parts 1—999)
- III Postal Rate Commission (Parts 3000—3099)

Title 40—Protection of Environment

- I Environmental Protection Agency (Parts 1—1099)
- IV Environmental Protection Agency and Department of Justice (Parts 1400—1499)
- V Council on Environmental Quality (Parts 1500—1599)
- VI Chemical Safety and Hazard Investigation Board (Parts 1600—1699)
- VII Environmental Protection Agency and Department of Defense; Uniform National Discharge Standards for Vessels of the Armed Forces (Parts 1700—1799)

Title 41—Public Contracts and Property Management

SUBTITLE B—OTHER PROVISIONS RELATING TO PUBLIC CONTRACTS

- 50 Public Contracts, Department of Labor (Parts 50-1—50-999)
- 51 Committee for Purchase From People Who Are Blind or Severely Disabled (Parts 51-1—51-99)
- 60 Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60-1—60-999)
- 61 Office of the Assistant Secretary for Veterans' Employment and Training Service, Department of Labor (Parts 61-1—61-999)

SUBTITLE C—FEDERAL PROPERTY MANAGEMENT REGULATIONS SYSTEM

- 101 Federal Property Management Regulations (Parts 101-1—101-99)
- 102 Federal Management Regulation (Parts 102-1—102-299)
- 105 General Services Administration (Parts 105-1—105-999)
- 109 Department of Energy Property Management Regulations (Parts 109-1—109-99)
- 114 Department of the Interior (Parts 114-1—114-99)
- 115 Environmental Protection Agency (Parts 115-1—115-99)

Title 41—Public Contracts and Property Management—Continued

Chap.

- 128 Department of Justice (Parts 128-1—128-99)
 - SUBTITLE D—OTHER PROVISIONS RELATING TO PROPERTY MANAGEMENT [RESERVED]
 - SUBTITLE E—FEDERAL INFORMATION RESOURCES MANAGEMENT REGULATIONS SYSTEM
- 201 Federal Information Resources Management Regulation (Parts 201-1—201-99) [Reserved]
 - SUBTITLE F—FEDERAL TRAVEL REGULATION SYSTEM
- 300 General (Parts 300-1—300-99)
- 301 Temporary Duty (TDY) Travel Allowances (Parts 301-1—301-99)
- 302 Relocation Allowances (Parts 302-1—302-99)
- 303 Payment of Expenses Connected with the Death of Certain Employees (Part 303-70)
- 304 Payment of Travel Expenses from a Non-Federal Source (Parts 304-1—304-99)

Title 42—Public Health

- I Public Health Service, Department of Health and Human Services (Parts 1—199)
- IV Centers for Medicare & Medicaid Services, Department of Health and Human Services (Parts 400—499)
- V Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

Title 43—Public Lands: Interior

- SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR (PARTS 1—199)
- SUBTITLE B—REGULATIONS RELATING TO PUBLIC LANDS
 - I Bureau of Reclamation, Department of the Interior (Parts 200—499)
 - II Bureau of Land Management, Department of the Interior (Parts 1000—9999)
 - III Utah Reclamation Mitigation and Conservation Commission (Parts 10000—10010)

Title 44—Emergency Management and Assistance

- I Federal Emergency Management Agency, Department of Homeland Security (Parts 0—399)
- IV Department of Commerce and Department of Transportation (Parts 400—499)

Title 45—Public Welfare

- SUBTITLE A—DEPARTMENT OF HEALTH AND HUMAN SERVICES (PARTS 1—199)
- SUBTITLE B—REGULATIONS RELATING TO PUBLIC WELFARE

Title 45—Public Welfare—Continued

- Chap.
- II Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)
 - III Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)
 - IV Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services (Parts 400—499)
 - V Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500—599)
 - VI National Science Foundation (Parts 600—699)
 - VII Commission on Civil Rights (Parts 700—799)
 - VIII Office of Personnel Management (Parts 800—899)
 - X Office of Community Services, Administration for Children and Families, Department of Health and Human Services (Parts 1000—1099)
 - XI National Foundation on the Arts and the Humanities (Parts 1100—1199)
 - XII Corporation for National and Community Service (Parts 1200—1299)
 - XIII Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)
 - XVI Legal Services Corporation (Parts 1600—1699)
 - XVII National Commission on Libraries and Information Science (Parts 1700—1799)
 - XVIII Harry S. Truman Scholarship Foundation (Parts 1800—1899)
 - XXI Commission on Fine Arts (Parts 2100—2199)
 - XXIII Arctic Research Commission (Part 2301)
 - XXIV James Madison Memorial Fellowship Foundation (Parts 2400—2499)
 - XXV Corporation for National and Community Service (Parts 2500—2599)

Title 46—Shipping

- I Coast Guard, Department of Homeland Security (Parts 1—199)
- II Maritime Administration, Department of Transportation (Parts 200—399)
- III Coast Guard (Great Lakes Pilotage), Department of Homeland Security (Parts 400—499)
- IV Federal Maritime Commission (Parts 500—599)

Title 47—Telecommunication

- I Federal Communications Commission (Parts 0—199)
- II Office of Science and Technology Policy and National Security Council (Parts 200—299)

- Chap. **Title 47—Telecommunication—Continued**
- III National Telecommunications and Information Administration,
Department of Commerce (Parts 300—399)

Title 48—Federal Acquisition Regulations System

- 1 Federal Acquisition Regulation (Parts 1—99)
- 2 Department of Defense (Parts 200—299)
- 3 Department of Health and Human Services (Parts 300—399)
- 4 Department of Agriculture (Parts 400—499)
- 5 General Services Administration (Parts 500—599)
- 6 Department of State (Parts 600—699)
- 7 United States Agency for International Development (Parts 700—799)
- 8 Department of Veterans Affairs (Parts 800—899)
- 9 Department of Energy (Parts 900—999)
- 10 Department of the Treasury (Parts 1000—1099)
- 12 Department of Transportation (Parts 1200—1299)
- 13 Department of Commerce (Parts 1300—1399)
- 14 Department of the Interior (Parts 1400—1499)
- 15 Environmental Protection Agency (Parts 1500—1599)
- 16 Office of Personnel Management, Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)
- 17 Office of Personnel Management (Parts 1700—1799)
- 18 National Aeronautics and Space Administration (Parts 1800—1899)
- 19 Broadcasting Board of Governors (Parts 1900—1999)
- 20 Nuclear Regulatory Commission (Parts 2000—2099)
- 21 Office of Personnel Management, Federal Employees Group Life Insurance Federal Acquisition Regulation (Parts 2100—2199)
- 23 Social Security Administration (Parts 2300—2399)
- 24 Department of Housing and Urban Development (Parts 2400—2499)
- 25 National Science Foundation (Parts 2500—2599)
- 28 Department of Justice (Parts 2800—2899)
- 29 Department of Labor (Parts 2900—2999)
- 30 Department of Homeland Security, Homeland Security Acquisition Regulation (HSAR) (Parts 3000—3099)
- 34 Department of Education Acquisition Regulation (Parts 3400—3499)
- 35 Panama Canal Commission (Parts 3500—3599)
- 44 Federal Emergency Management Agency (Parts 4400—4499)
- 51 Department of the Army Acquisition Regulations (Parts 5100—5199)
- 52 Department of the Navy Acquisition Regulations (Parts 5200—5299)
- 53 Department of the Air Force Federal Acquisition Regulation Supplement (Parts 5300—5399)

Title 48—Federal Acquisition Regulations System—Continued

Chap.

- 54 Defense Logistics Agency, Department of Defense (Parts 5400—5499)
- 57 African Development Foundation (Parts 5700—5799)
- 61 General Services Administration Board of Contract Appeals (Parts 6100—6199)
- 63 Department of Transportation Board of Contract Appeals (Parts 6300—6399)
- 99 Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget (Parts 9900—9999)

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION (PARTS 1—99)

SUBTITLE B—OTHER REGULATIONS RELATING TO TRANSPORTATION

- I Research and Special Programs Administration, Department of Transportation (Parts 100—199)
- II Federal Railroad Administration, Department of Transportation (Parts 200—299)
- III Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)
- IV Coast Guard, Department of Homeland Security (Parts 400—499)
- V National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)
- VI Federal Transit Administration, Department of Transportation (Parts 600—699)
- VII National Railroad Passenger Corporation (AMTRAK) (Parts 700—799)
- VIII National Transportation Safety Board (Parts 800—999)
- X Surface Transportation Board, Department of Transportation (Parts 1000—1399)
- XI Bureau of Transportation Statistics, Department of Transportation (Parts 1400—1499)
- XII Transportation Security Administration, Department of Homeland Security (Parts 1500—1699)

Title 50—Wildlife and Fisheries

- I United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)
- II National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)
- III International Fishing and Related Activities (Parts 300—399)
- IV Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations (Parts 400—499)

Title 50—Wildlife and Fisheries—Continued

Chap.

- V Marine Mammal Commission (Parts 500—599)
- VI Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

CFR Index and Finding Aids

Subject/Agency Index

List of Agency Prepared Indexes

Parallel Tables of Statutory Authorities and Rules

List of CFR Titles, Chapters, Subchapters, and Parts

Alphabetical List of Agencies Appearing in the CFR

Alphabetical List of Agencies Appearing in the CFR

(Revised as of October 1, 2004)

Agency	CFR Title, Subtitle or Chapter
Administrative Committee of the Federal Register	1, I
Advanced Research Projects Agency	32, I
Advisory Council on Historic Preservation	36, VIII
African Development Foundation	22, XV
Federal Acquisition Regulation	48, 57
Agency for International Development, United States	22, II
Federal Acquisition Regulation	48, 7
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Agriculture Department	5, LXXIII
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Animal and Plant Health Inspection Service	7, III; 9, I
Chief Financial Officer, Office of	7, XXX
Commodity Credit Corporation	7, XIV
Cooperative State Research, Education, and Extension Service	7, XXXIV
Economic Research Service	7, XXXVII
Energy, Office of	7, XXIX
Environmental Quality, Office of	7, XXXI
Farm Service Agency	7, VII, XVIII
Federal Acquisition Regulation	48, 4
Federal Crop Insurance Corporation	7, IV
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Forest Service	36, II
Grain Inspection, Packers and Stockyards Administration	7, VIII; 9, II
Information Resources Management, Office of	7, XXVII
Inspector General, Office of	7, XXVI
National Agricultural Library	7, XLI
National Agricultural Statistics Service	7, XXXVI
Natural Resources Conservation Service	7, VI
Operations, Office of	7, XXVIII
Procurement and Property Management, Office of	7, XXXII
Rural Business-Cooperative Service	7, XVIII, XLII
Rural Development Administration	7, XLII
Rural Housing Service	7, XVIII, XXXV
Rural Telephone Bank	7, XVI
Rural Utilities Service	7, XVII, XVIII, XLII
Secretary of Agriculture, Office of	7, Subtitle A
Transportation, Office of	7, XXXIII
World Agricultural Outlook Board	7, XXXVIII
Air Force Department	32, VII
Federal Acquisition Regulation Supplement	48, 53
Air Transportation Stabilization Board	14, VI
Alcohol and Tobacco Tax and Trade Bureau	27, I
Alcohol, Tobacco, Firearms, and Explosives, Bureau of	27, II
AMTRAK	49, VII
American Battle Monuments Commission	36, IV
American Indians, Office of the Special Trustee	25, VII
Animal and Plant Health Inspection Service	7, III; 9, I
Appalachian Regional Commission	5, IX

Agency	CFR Title, Subtitle or Chapter
Architectural and Transportation Barriers Compliance Board	36, XI
Arctic Research Commission	45, XXIII
Armed Forces Retirement Home	5, XI
Army Department	32, V
Engineers, Corps of	33, II; 36, III
Federal Acquisition Regulation	48, 51
Benefits Review Board	20, VII
Bilingual Education and Minority Languages Affairs, Office of	34, V
Blind or Severely Disabled, Committee for Purchase From People Who Are	41, 51
Broadcasting Board of Governors	22, V
Federal Acquisition Regulation	48, 19
Census Bureau	15, I
Centers for Medicare & Medicaid Services	42, IV
Central Intelligence Agency	32, XIX
Chief Financial Officer, Office of	7, XXX
Child Support Enforcement, Office of	45, III
Children and Families, Administration for	45, II, III, IV, X
Civil Rights, Commission on	45, VII
Civil Rights, Office for	34, I
Coast Guard	33, I; 46, I; 49, IV
Coast Guard (Great Lakes Pilotage)	46, III
Commerce Department	44, IV
Census Bureau	15, I
Economic Affairs, Under Secretary	37, V
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Emergency Management and Assistance	44, IV
Federal Acquisition Regulation	48, 13
Fishery Conservation and Management	50, VI
Foreign-Trade Zones Board	15, IV
Industry and Security, Bureau of	15, VII
International Trade Administration	15, III; 19, III
National Institute of Standards and Technology	15, II
National Marine Fisheries Service	50, II, IV, VI
National Oceanic and Atmospheric Administration	15, IX; 50, II, III, IV, VI
National Telecommunications and Information Administration	15, XXIII; 47, III
National Weather Service	15, IX
Patent and Trademark Office, United States	37, I
Productivity, Technology and Innovation, Assistant Secretary for	37, IV
Secretary of Commerce, Office of	15, Subtitle A
Technology, Under Secretary for	37, V
Technology Administration	15, XI
Technology Policy, Assistant Secretary for	37, IV
Commercial Space Transportation	14, III
Commodity Credit Corporation	7, XIV
Commodity Futures Trading Commission	5, XLI; 17, I
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Community Services, Office of	45, X
Comptroller of the Currency	12, I
Construction Industry Collective Bargaining Commission	29, IX
Consumer Product Safety Commission	5, LXXI; 16, II
Cooperative State Research, Education, and Extension Service	7, XXXIV
Copyright Office	37, II
Corporation for National and Community Service	45, XII, XXV
Cost Accounting Standards Board	48, 99
Council on Environmental Quality	40, V
Court Services and Offender Supervision Agency for the District of Columbia	28, VIII
Customs and Border Protection Bureau	19, I
Defense Contract Audit Agency	32, I
Defense Department	5, XXVI; 32, Subtitle A; 40, VII

Agency	CFR Title, Subtitle or Chapter
Advanced Research Projects Agency	32, I
Air Force Department	32, VII
Army Department	32, V; 33, II; 36, III, 48, 51
Defense Intelligence Agency	32, I
Defense Logistics Agency	32, I, XII; 48, 54
Engineers, Corps of	33, II; 36, III
Federal Acquisition Regulation	48, 2
National Imagery and Mapping Agency	32, I
Navy Department	32, VI; 48, 52
Secretary of Defense, Office of	32, I
Defense Contract Audit Agency	32, I
Defense Intelligence Agency	32, I
Defense Logistics Agency	32, XII; 48, 54
Defense Nuclear Facilities Safety Board	10, XVII
Delaware River Basin Commission	18, III
District of Columbia, Court Services and Offender Supervision Agency for the	28, VIII
Drug Enforcement Administration	21, II
East-West Foreign Trade Board	15, XIII
Economic Affairs, Under Secretary	37, V
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Economic Research Service	7, XXXVII
Education, Department of	5, LIII
Bilingual Education and Minority Languages Affairs, Office of	34, V
Civil Rights, Office for	34, I
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Federal Acquisition Regulation	48, 34
Postsecondary Education, Office of	34, VI
Secretary of Education, Office of	34, Subtitle A
Special Education and Rehabilitative Services, Office of	34, III
Vocational and Adult Education, Office of	34, IV
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Emergency Oil and Gas Guaranteed Loan Board	13, V
Emergency Steel Guarantee Loan Board	13, IV
Employee Benefits Security Administration	29, XXV
Employees' Compensation Appeals Board	20, IV
Employees Loyalty Board	5, V
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Endangered Species Committee	50, IV
Energy, Department of	5, XXIII; 10, II, III, X
Federal Acquisition Regulation	48, 9
Federal Energy Regulatory Commission	5, XXIV; 18, I
Property Management Regulations	41, 109
Energy, Office of	7, XXIX
Engineers, Corps of	33, II; 36, III
Engraving and Printing, Bureau of	31, VI
Environmental Protection Agency	5, LIV; 40, I, IV, VII
Federal Acquisition Regulation	48, 15
Property Management Regulations	41, 115
Environmental Quality, Office of	7, XXXI
Equal Employment Opportunity Commission	5, LXII; 29, XIV
Equal Opportunity, Office of Assistant Secretary for	24, I
Executive Office of the President	3, I
Administration, Office of	5, XV
Environmental Quality, Council on	40, V
Management and Budget, Office of	5, III, LXXVII; 14, VI; 48, 99
National Drug Control Policy, Office of	21, III
National Security Council	32, XXI; 47, 2
Presidential Documents	3
Science and Technology Policy, Office of	32, XXIV; 47, II

Agency	CFR Title, Subtitle or Chapter
Trade Representative, Office of the United States	15, XX
Export-Import Bank of the United States	5, LII; 12, IV
Family Assistance, Office of	45, II
Farm Credit Administration	5, XXXI; 12, VI
Farm Credit System Insurance Corporation	5, XXX; 12, XIV
Farm Service Agency	7, VII, XVIII
Federal Acquisition Regulation	48, 1
Federal Aviation Administration	14, I
Commercial Space Transportation	14, III
Federal Claims Collection Standards	31, IX
Federal Communications Commission	5, XXIX; 47, I
Federal Contract Compliance Programs, Office of	41, 60
Federal Crop Insurance Corporation	7, IV
Federal Deposit Insurance Corporation	5, XXII; 12, III
Federal Election Commission	11, I
Federal Emergency Management Agency	44, I
Federal Acquisition Regulation	48, 44
Federal Employees Group Life Insurance Federal Acquisition Regulation	48, 21
Federal Employees Health Benefits Acquisition Regulation	48, 16
Federal Energy Regulatory Commission	5, XXIV; 18, I
Federal Financial Institutions Examination Council	12, XI
Federal Financing Bank	12, VIII
Federal Highway Administration	23, I, II
Federal Home Loan Mortgage Corporation	1, IV
Federal Housing Enterprise Oversight Office	12, XVII
Federal Housing Finance Board	12, IX
Federal Labor Relations Authority, and General Counsel of the Federal Labor Relations Authority	5, XIV; 22, XIV
Federal Law Enforcement Training Center	31, VII
Federal Management Regulation	41, 102
Federal Maritime Commission	46, IV
Federal Mediation and Conciliation Service	29, XII
Federal Mine Safety and Health Review Commission	5, LXXIV; 29, XXVII
Federal Motor Carrier Safety Administration	49, III
Federal Prison Industries, Inc.	28, III
Federal Procurement Policy Office	48, 99
Federal Property Management Regulations	41, 101
Federal Railroad Administration	49, II
Federal Register, Administrative Committee of	1, I
Federal Register, Office of	1, II
Federal Reserve System	12, II
Board of Governors	5, LVIII
Federal Retirement Thrift Investment Board	5, VI, LXXVI
Federal Service Impasses Panel	5, XIV
Federal Trade Commission	5, XLVII; 16, I
Federal Transit Administration	49, VI
Federal Travel Regulation System	41, Subtitle F
Fine Arts, Commission on	45, XXI
Fiscal Service	31, II
Fish and Wildlife Service, United States	50, I, IV
Fishery Conservation and Management	50, VI
Food and Drug Administration	21, I
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Foreign Assets Control, Office of	31, V
Foreign Claims Settlement Commission of the United States	45, V
Foreign Service Grievance Board	22, IX
Foreign Service Impasse Disputes Panel	22, XIV
Foreign Service Labor Relations Board	22, XIV
Foreign-Trade Zones Board	15, IV
Forest Service	36, II
General Accounting Office	4, I
General Services Administration	5, LVII; 41, 105
Contract Appeals, Board of	48, 61
Federal Acquisition Regulation	48, 5

Agency	CFR Title, Subtitle or Chapter
Federal Management Regulation	41, 102
Federal Property Management Regulations	41, 101
Federal Travel Regulation System	41, Subtitle F
General	41, 300
Payment From a Non-Federal Source for Travel Expenses	41, 304
Payment of Expenses Connected With the Death of Certain Employees	41, 303
Relocation Allowances	41, 302
Temporary Duty (TDY) Travel Allowances	41, 301
Geological Survey	30, IV
Government Ethics, Office of	5, XVI
Government National Mortgage Association	24, III
Grain Inspection, Packers and Stockyards Administration	7, VIII; 9, II
Harry S. Truman Scholarship Foundation	45, XVIII
Health and Human Services, Department of	5, XLV; 45, Subtitle A
Centers for Medicare & Medicaid Services	42, IV
Child Support Enforcement, Office of	45, III
Children and Families, Administration for	45, II, III, IV, X
Community Services, Office of	45, X
Family Assistance, Office of	45, II
Federal Acquisition Regulation	48, 3
Food and Drug Administration	21, I
Human Development Services, Office of	45, XIII
Indian Health Service	25, V; 42, I
Inspector General (Health Care), Office of	42, V
Public Health Service	42, I
Refugee Resettlement, Office of	45, IV
Homeland Security, Department of	6, I
Coast Guard	33, I; 46, I; 49, IV
Coast Guard (Great Lakes Pilotage)	46, III
Customs and Border Protection Bureau	19, I
Federal Emergency Management Agency	44, I
Immigration and Customs Enforcement Bureau	19, IV
Immigration and Naturalization	8, I
Transportation Security Administration	49, XII
Housing and Urban Development, Department of	5, LXV; 24, Subtitle B
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Equal Opportunity, Office of Assistant Secretary for	24, I
Federal Acquisition Regulation	48, 24
Federal Housing Enterprise Oversight, Office of	12, XVII
Government National Mortgage Association	24, III
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II, VIII, X, XX
Housing, Office of, and Multifamily Housing Assistance Restructuring, Office of	24, IV
Inspector General, Office of	24, XII
Public and Indian Housing, Office of Assistant Secretary for Secretary, Office of	24, IX 24, Subtitle A, VII
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II, VIII, X, XX
Housing, Office of, and Multifamily Housing Assistance Restructuring, Office of	24, IV
Human Development Services, Office of	45, XIII
Immigration and Customs Enforcement Bureau	19, IV
Immigration and Naturalization	8, I
Immigration Review, Executive Office for	8, V
Independent Counsel, Office of	28, VII
Indian Affairs, Bureau of	25, I, V
Indian Affairs, Office of the Assistant Secretary	25, VI
Indian Arts and Crafts Board	25, II
Indian Health Service	25, V; 42, I
Industry and Security, Bureau of	15, VII
Information Resources Management, Office of	7, XXVII
Information Security Oversight Office, National Archives and Records Administration	32, XX
Inspector General	

Agency	CFR Title, Subtitle or Chapter
Agriculture Department	7, XXVI
Health and Human Services Department	42, V
Housing and Urban Development Department	24, XII
Institute of Peace, United States	22, XVII
Inter-American Foundation	5, LXIII; 22, X
Interior Department	
American Indians, Office of the Special Trustee	25, VII
Endangered Species Committee	50, IV
Federal Acquisition Regulation	48, 14
Federal Property Management Regulations System	41, 114
Fish and Wildlife Service, United States	50, I, IV
Geological Survey	30, IV
Indian Affairs, Bureau of	25, I, V
Indian Affairs, Office of the Assistant Secretary	25, VI
Indian Arts and Crafts Board	25, II
Land Management, Bureau of	43, II
Minerals Management Service	30, II
National Indian Gaming Commission	25, III
National Park Service	36, I
Reclamation, Bureau of	43, I
Secretary of the Interior, Office of	43, Subtitle A
Surface Mining and Reclamation Appeals, Board of	30, III
Surface Mining Reclamation and Enforcement, Office of	30, VII
Internal Revenue Service	26, I
International Boundary and Water Commission, United States and Mexico, United States Section	22, XI
International Development, United States Agency for Federal Acquisition Regulation	22, II 48, 7
International Development Cooperation Agency, United States	22, XII
International Fishing and Related Activities	50, III
International Investment, Office of	31, VIII
International Joint Commission, United States and Canada	22, IV
International Organizations Employees Loyalty Board	5, V
International Trade Administration	15, III; 19, III
International Trade Commission, United States	19, II
Interstate Commerce Commission	5, XL
James Madison Memorial Fellowship Foundation	45, XXIV
Japan-United States Friendship Commission	22, XVI
Joint Board for the Enrollment of Actuaries	20, VIII
Justice Department	5, XXVIII; 28, I, XI; 40, IV
Alcohol, Tobacco, Firearms, and Explosives, Bureau of	27, II
Drug Enforcement Administration	21, II
Federal Acquisition Regulation	48, 28
Federal Claims Collection Standards	31, IX
Federal Prison Industries, Inc.	28, III
Foreign Claims Settlement Commission of the United States	45, V
Immigration Review, Executive Office for	8, V
Offices of Independent Counsel	28, VI
Prisons, Bureau of	28, V
Property Management Regulations	41, 128
Labor Department	5, XLII
Benefits Review Board	20, VII
Employee Benefits Security Administration	29, XXV
Employees' Compensation Appeals Board	20, IV
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Federal Acquisition Regulation	48, 29
Federal Contract Compliance Programs, Office of	41, 60
Federal Procurement Regulations System	41, 50
Labor-Management Standards, Office of	29, II, IV
Mine Safety and Health Administration	30, I
Occupational Safety and Health Administration	29, XVII
Public Contracts	41, 50
Secretary of Labor, Office of	29, Subtitle A

Agency	CFR Title, Subtitle or Chapter
Veterans' Employment and Training Service, Office of the Assistant Secretary for	41, 61; 20, IX
Wage and Hour Division	29, V
Workers' Compensation Programs, Office of	20, I
Labor-Management Standards, Office of	29, II, IV
Land Management, Bureau of	43, II
Legal Services Corporation	45, XVI
Library of Congress	36, VII
Copyright Office	37, II
Local Television Loan Guarantee Board	7, XX
Management and Budget, Office of	5, III, LXXVII; 14, VI; 48, 99
Marine Mammal Commission	50, V
Maritime Administration	46, II
Merit Systems Protection Board	5, II
Micronesian Status Negotiations, Office for	32, XXXVII
Mine Safety and Health Administration	30, I
Minerals Management Service	30, II
Minority Business Development Agency	15, XIV
Miscellaneous Agencies	1, IV
Monetary Offices	31, I
Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation	36, XVI
National Aeronautics and Space Administration	5, LIX; 14, V
Federal Acquisition Regulation	48, 18
National Agricultural Library	7, XLI
National Agricultural Statistics Service	7, XXXVI
National and Community Service, Corporation for	45, XII, XXV
National Archives and Records Administration	5, LXVI; 36, XII
Information Security Oversight Office	32, XX
National Bureau of Standards	15, II
National Capital Planning Commission	1, IV
National Commission for Employment Policy	1, IV
National Commission on Libraries and Information Science	45, XVII
National Council on Disability	34, XII
National Counterintelligence Center	32, XVIII
National Credit Union Administration	12, VII
National Crime Prevention and Privacy Compact Council	28, IX
National Drug Control Policy, Office of	21, III
National Foundation on the Arts and the Humanities	45, XI
National Highway Traffic Safety Administration	23, II, III; 49, V
National Imagery and Mapping Agency	32, I
National Indian Gaming Commission	25, III
National Institute for Literacy	34, XI
National Institute of Standards and Technology	15, II
National Labor Relations Board	5, LXI; 29, I
National Marine Fisheries Service	50, II, IV, VI
National Mediation Board	29, X
National Oceanic and Atmospheric Administration	15, IX; 50, II, III, IV, VI
National Park Service	36, I
National Railroad Adjustment Board	29, III
National Railroad Passenger Corporation (AMTRAK)	49, VII
National Science Foundation	5, XLIII; 45, VI
Federal Acquisition Regulation	48, 25
National Security Council	32, XXI
National Security Council and Office of Science and Technology Policy	47, II
National Telecommunications and Information Administration	15, XXIII; 47, III
National Transportation Safety Board	49, VIII
National Weather Service	15, IX
Natural Resources Conservation Service	7, VI
Navajo and Hopi Indian Relocation, Office of	25, IV
Navy Department	32, VI
Federal Acquisition Regulation	48, 52
Neighborhood Reinvestment Corporation	24, XXV
Northeast Interstate Low-Level Radioactive Waste Commission	10, XVIII

Agency	CFR Title, Subtitle or Chapter
Nuclear Regulatory Commission	5, XLVIII; 10, I
Federal Acquisition Regulation	48, 20
Occupational Safety and Health Administration	29, XVII
Occupational Safety and Health Review Commission	29, XX
Offices of Independent Counsel	28, VI
Oklahoma City National Memorial Trust	36, XV
Operations Office	7, XXVIII
Overseas Private Investment Corporation	5, XXXIII; 22, VII
Panama Canal Commission	48, 35
Panama Canal Regulations	35, I
Patent and Trademark Office, United States	37, I
Payment From a Non-Federal Source for Travel Expenses	41, 304
Payment of Expenses Connected With the Death of Certain Employees	41, 303
Peace Corps	22, III
Pennsylvania Avenue Development Corporation	36, IX
Pension Benefit Guaranty Corporation	29, XL
Personnel Management, Office of	5, I, XXXV; 45, VIII
Federal Acquisition Regulation	48, 17
Federal Employees Group Life Insurance Federal Acquisition Regulation	48, 21
Federal Employees Health Benefits Acquisition Regulation	48, 16
Postal Rate Commission	5, XLVI; 39, III
Postal Service, United States	5, LX; 39, I
Postsecondary Education, Office of	34, VI
President's Commission on White House Fellowships	1, IV
Presidential Documents	3
Presidio Trust	36, X
Prisons, Bureau of	28, V
Procurement and Property Management, Office of	7, XXXII
Productivity, Technology and Innovation, Assistant Secretary	37, IV
Public Contracts, Department of Labor	41, 50
Public and Indian Housing, Office of Assistant Secretary for	24, IX
Public Health Service	42, I
Railroad Retirement Board	20, II
Reclamation, Bureau of	43, I
Refugee Resettlement, Office of	45, IV
Regional Action Planning Commissions	13, V
Relocation Allowances	41, 302
Research and Special Programs Administration	49, I
Rural Business-Cooperative Service	7, XVIII, XLII
Rural Development Administration	7, XLII
Rural Housing Service	7, XVIII, XXXV
Rural Telephone Bank	7, XVI
Rural Utilities Service	7, XVII, XVIII, XLII
Saint Lawrence Seaway Development Corporation	33, IV
Science and Technology Policy, Office of	32, XXIV
Science and Technology Policy, Office of, and National Security Council	47, II
Secret Service	31, IV
Securities and Exchange Commission	17, II
Selective Service System	32, XVI
Small Business Administration	13, I
Smithsonian Institution	36, V
Social Security Administration	20, III; 48, 23
Soldiers' and Airmen's Home, United States	5, XI
Special Counsel, Office of	5, VIII
Special Education and Rehabilitative Services, Office of	34, III
State Department	22, I; 28, XI
Federal Acquisition Regulation	48, 6
Surface Mining and Reclamation Appeals, Board of	30, III
Surface Mining Reclamation and Enforcement, Office of	30, VII
Surface Transportation Board	49, X
Susquehanna River Basin Commission	18, VIII
Technology Administration	15, XI
Technology Policy, Assistant Secretary for	37, IV

Agency	CFR Title, Subtitle or Chapter
Technology, Under Secretary for	37, V
Tennessee Valley Authority	5, LXIX; 18, XIII
Thrift Supervision Office, Department of the Treasury	12, V
Trade Representative, United States, Office of	15, XX
Transportation, Department of	5, L
Commercial Space Transportation	14, III
Contract Appeals, Board of	48, 63
Emergency Management and Assistance	44, IV
Federal Acquisition Regulation	48, 12
Federal Aviation Administration	14, I
Federal Highway Administration	23, I, II
Federal Motor Carrier Safety Administration	49, III
Federal Railroad Administration	49, II
Federal Transit Administration	49, VI
Maritime Administration	46, II
National Highway Traffic Safety Administration	23, II, III; 49, V
Research and Special Programs Administration	49, I
Saint Lawrence Seaway Development Corporation	33, IV
Secretary of Transportation, Office of	14, II; 49, Subtitle A
Surface Transportation Board	49, X
Transportation Statistics Bureau	49, XI
Transportation, Office of	7, XXXIII
Transportation Security Administration	49, XII
Transportation Statistics Bureau	49, XI
Travel Allowances, Temporary Duty (TDY)	41, 301
Treasury Department	5, XXI; 12, XV; 17, IV;
	31, IX
Alcohol and Tobacco Tax and Trade Bureau	27, I
Community Development Financial Institutions Fund	12, XVIII
Comptroller of the Currency	12, I
Customs and Border Protection Bureau	19, I
Engraving and Printing, Bureau of	31, VI
Federal Acquisition Regulation	48, 10
Federal Law Enforcement Training Center	31, VII
Fiscal Service	31, II
Foreign Assets Control, Office of	31, V
Internal Revenue Service	26, I
International Investment, Office of	31, VIII
Monetary Offices	31, I
Secret Service	31, IV
Secretary of the Treasury, Office of	31, Subtitle A
Thrift Supervision, Office of	12, V
Truman, Harry S. Scholarship Foundation	45, XVIII
United States and Canada, International Joint Commission	22, IV
United States and Mexico, International Boundary and Water Commission, United States Section	22, XI
Utah Reclamation Mitigation and Conservation Commission	43, III
Veterans Affairs Department	38, I
Federal Acquisition Regulation	48, 8
Veterans' Employment and Training Service, Office of the Assistant Secretary for	41, 61; 20, IX
Vice President of the United States, Office of	32, XXVIII
Vocational and Adult Education, Office of	34, IV
Wage and Hour Division	29, V
Water Resources Council	18, VI
Workers' Compensation Programs, Office of	20, I
World Agricultural Outlook Board	7, XXXVIII

List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations that were made by documents published in the FEDERAL REGISTER since January 1, 2001, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to FEDERAL REGISTER pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 2001, see the "List of CFR Sections Affected, 1949-1963, 1964-1972, 1973-1985, and 1986-2000" published in 11 separate volumes.

2001		2003
50 CFR	66 FR Page	(No regulations published)
Chapter I		2004
13 Affirmation of effective date	6483	(Regulations published from January 1, 2004 through October 1, 2004)
2002		50 CFR
50 CFR	67 FR Page	69 FR Page
Chapter I		Chapter I
11 Nomenclature change.....	38208	13 Authority citation revised.....
14.12 Revised	11262	13.25 (b) introductory text revised; (c) and (d) redesignated as (d) and (e); new (c) added
16.11 (a) revised.....	39868	14.106 Nomenclature change
		24092
		24092
		18803

