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Revision of Regulations Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Updates Following the Fifteenth Meeting of the Conference of the Parties to CITES; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13, 17, and 23, and Appendix A to Chapter I

[Docket No. FWS–R9–IA–2010–0083; 96300–1671–0000–R4]

RIN 1018–AW82

Revision of Regulations Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Updates Following the Fifteenth Meeting of the Conference of the Parties to CITES

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS or Service), are revising the regulations that implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Treaty or Convention) by incorporating certain provisions adopted at the fourteenth and fifteenth meetings of the Conference of the Parties (CoP14 and CoP15) to CITES and clarifying and updating certain other provisions. These changes will bring U.S. regulations in line with new resolutions and revisions to resolutions adopted at meetings of the Conference of the Parties that took place in June 2007 (CoP14) and March 2010 (CoP15). The revised regulations will help us more effectively promote species conservation, help us continue to fulfill our responsibilities under the Treaty, and help those affected by CITES to understand how to conduct lawful international trade.

DATES: This rule is effective June 26, 2014. The incorporation by reference of the material listed in this rule is approved by the Director of the Federal Register as of June 26, 2014.

FOR FURTHER INFORMATION CONTACT: Robert R. Gabel, Chief, Division of Management Authority; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 212; Arlington, VA 22203 (telephone, (703) 358–2093; fax, (703) 358–2280).

SUPPLEMENTARY INFORMATION:

Executive Summary

Why We Need To Publish a Final Rule

As a Party to CITES, the United States is obligated to implement the Convention effectively. Over the 40-year history of CITES, online markets and other technological advances have made it possible to sell and ship wildlife anywhere in the world, and issues of wildlife use have grown more complex. As international wildlife trade evolves, so does implementation of the Convention. The CITES Parties meet every 2 to 3 years to vote on resolutions and decisions that interpret and implement the text of the Treaty and on amendments to the lists of species in the CITES Appendices. To keep pace with these changes, and ensure that U.S. businesses and individuals understand the requirements for lawful international trade in CITES specimens, it is necessary for us to periodically update our CITES-implementing regulations.

What is the effect of this final rule?

The final rule will bring U.S. regulations in line with new resolutions and revisions to resolutions adopted at meetings of the Conference of the Parties that took place in June 2007 (CoP14) and March 2010 (CoP15). Updates include: New or revised definitions for certain specimens in trade; clarified marking requirements for certain specimens in trade; amended restrictions for export of Appendix-I specimens bred in captivity for commercial purposes; eased restrictions on the allowed use of CITES specimens after import into the United States; updated requirements for humane transport of live specimens; and streamlined requirements for registered operations breeding Appendix-I animals for commercial purposes. The revised regulations will help us more effectively promote conservation of wildlife and plants in trade, help us continue to fulfill our responsibilities under the Treaty, and help those affected by CITES to understand how to conduct lawful international trade.

The Basis for Our Action

The Endangered Species Act designates responsibility for CITES implementation to the Secretary of the Interior, acting through the U.S. Fish and Wildlife Service. As the lead agency for implementation of CITES in the United States, the Service has promulgated regulations (50 CFR part 23) to inform the public about CITES requirements. We revise our CITES-implementing regulations as needed to ensure they are as up-to-date and accurate as possible.

Background

CITES was negotiated in 1973 in Washington, DC, at a conference attended by delegations from 80 countries. The United States ratified the Treaty on September 13, 1973, and it entered into force on July 1, 1975, after it had been ratified by 10 countries. Currently 180 countries have ratified, accepted, approved, or acceded to CITES; these countries are known as Parties.

Section 8A of the Endangered Species Act, as amended in 1982 (16 U.S.C. 1531 *et seq.*) (ESA), designates the Secretary of the Interior as the U.S. Management Authority and U.S. Scientific Authority for CITES. These authorities have been delegated to the U.S. Fish and Wildlife Service. The original U.S. regulations implementing CITES took effect on May 23, 1977 (42 FR 10462, February 22, 1977), after the first meeting of the Conference of the Parties (CoP) was held. The CoP meets every 2 to 3 years to vote on proposed resolutions and decisions that interpret and implement the text of the Treaty and on amendments to the lists of species in the CITES Appendices. The last major revision of U.S. CITES regulations was in 2007 (72 FR 48402, August 23, 2007) and incorporated provisions from applicable resolutions and decisions adopted at meetings of the Conference of the Parties up to and including the thirteenth meeting (CoP13), which took place in 2004. In 2008, through a direct final rule, we incorporated certain provisions adopted at CoP14 regarding international trade in sturgeon caviar (73 FR 40983, July 17, 2008).

Proposed rule and comments received: We published a proposed rule on March 8, 2012 (77 FR 14200), to revise the regulations that implement CITES. We accepted public comments on the proposed rule for 60 days, until May 7, 2012.

We received 37 comments in response to the proposed rule, 34 of which were substantive. We received comments from individuals, organizations, and State natural resource agencies. Of the substantive comments we received, 22 were from falconers and falconer organizations, 3 were from State natural resource agencies and regional associations, and 9 were from non-governmental organizations not associated with falconry.

General comments: A number of commenters provided general comments on U.S. CITES-implementing regulations, including the proposed revisions, and also provided comments on specific sections of the proposed rule. General comments are discussed here; we have addressed comments specific to a particular section of the regulations in the corresponding section of this preamble (see Section-by-Section Analysis).

Several commenters recognized the importance of harmonizing U.S.

regulations with provisions adopted by the Parties to CITES. One commenter believed that the proposed changes would promote species conservation and facilitate legal possession and trade of CITES wildlife while providing means to better detect and reduce illicit possession and trade. Two commenters appreciated that we have relaxed what they considered to be overly restrictive regulation of international trade in the revision of 50 CFR part 23 published in 2007.

One commenter stated that, given our obligations under the ESA and CITES, the Service should take a conservative and precautionary approach in promulgating CITES regulations and generally choose protective measures over expanding trade. Another commenter stated that the original basis for CITES was that sustainable trade was a positive force for conservation of wildlife but that today this is no longer the case. The purpose of CITES is to ensure that international trade in wildlife and plants does not threaten the survival of species. We work with other CITES Parties to guard against over-exploitation of listed species due to international trade and believe that use of natural resources in a biologically sustainable and legal manner can support conservation efforts. We have developed our CITES-implementing regulations on this basis.

One commenter asserted that some of the proposed changes, if adopted, will have serious negative consequences for the safari-based conservation system in developing countries. The same commenter stated that the regulations are difficult to navigate and should be more user friendly and that some of the proposed changes are likely to result in technical violations and, therefore, seizure and forfeiture of trophies. We can see no basis for the commenter's assertions regarding impacts of the final rule in developing countries. We strive to make our regulations as clear and straightforward as possible and believe that this final rule lays out, in a user-friendly manner, what is required for lawful international trade in CITES specimens. However, we welcome specific suggestions for making the regulations easier to navigate.

We also received a number of general comments regarding international trade in raptors. One commenter stated that the Service has wrongfully treated domestically bred raptors as ''wild taken'' when they are in fact private property. Another commenter stated that the purpose of CITES is to control trade in wild specimens and that, except for the California condor, there are no wild Appendix-I raptors currently endangered or threatened with extinction. The commenter recommended that regulation of trade in Appendix-I raptors and all raptors from captive populations should be lessened or eliminated entirely.

As a Party to CITES we are obligated to regulate international trade in specimens of CITES-listed species (including Appendix-I raptors) in accordance with the provisions of the Convention. CITES regulates international trade in wildlife and plants, including parts, products, and derivatives, to ensure that trade is legal and does not threaten the survival of species in the wild. This does not mean that only wild-caught specimens are, or should be, regulated. Both wild-caught and captive-bred specimens are subject to CITES provisions, including provisions that specifically pertain to specimens that are bred in captivity.

Several commenters noted that possession of raptors in the United States is regulated at both State and Federal levels and is monitored by the Service's Migratory Bird Program. Therefore, they believe that U.S. regulation of international trade in raptors should be no more restrictive than what is required by CITES. Several commenters stated that unnecessarily restricting trade in captive-bred raptors increases the incentive to take raptors from the wild illegally, reduces genetic exchange, discourages captive breeding and conservation, increases costs, and makes U.S. breeders less competitive in the world market. One commenter noted that the falconry community has demonstrated great responsibility and value to the conservation of wild raptors.

We recognize and appreciate the contribution that the falconry community has made to the conservation of wild raptors. Our regulations do not go beyond what is required by CITES, and we do not believe that we are unnecessarily restricting trade in captive-bred raptors. With this final rule we have, in fact, eased restrictions on trade in Appendix-I specimens bred in captivity (see the preamble discussions for §§ 23.5 and 23.18) by revising the definition of ''bred for noncommercial purposes'' and allowing for the possibility of noncommercial trade from a commercial breeding operation whether or not it is registered with the CITES Secretariat.

One commenter asked why he is required to have a CITES permit to travel from the United States to Canada to hunt with his personally owned, captive-bred hybrid falcon since there is no trade or commerce involved. He also objected to having to cross at specific ports, pay fees, and have his bird inspected by FWS at border crossings. The activity described by the commenter is ''trade'' under CITES. ''Trade'' is defined in the Treaty as ''export, re-export, import, and introduction from the sea.'' Regulation of international trade in CITES species, including captive-bred and hybrid specimens, is required whether or not the export, re-export, import, or introduction from the sea is commercial. CITES regulates trade through a system of permits and certificates, and Parties establish an inspection process at ports of entry and exit as part of this system. Inspection officials at ports of entry and exit verify that CITES specimens are accompanied by valid CITES documents and take enforcement action when trade does not comply with the Convention. Inspection fees are outside the scope of this regulation and are therefore not addressed here.

Section-by-Section Analysis

In the following parts of the preamble, we discuss the substantive issues in sections for which we received public comments, and we provide responses to those comments. For an explanation of the changes to sections for which we did not receive comments, please see the preamble to the proposed rule (77 FR 14200, March 8, 2012).

What are the changes to 50 CFR Part 13?

Application procedures (§ 13.11): This section describes application procedures for Service permits. One commenter asserted that the statement in § 13.11(c) indicating that the Service ''will process all applications as quickly as possible'' is not specific enough and should be amended to say that the Service has 15 working days from receipt of applications to process and issue permits. This section (§ 13.11) contains information about application procedures not just for CITES permits but also for other types of permits issued by the Service, including, for example, injurious wildlife permits and permits under the ESA, the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), the Wild Bird Conservation Act (16 U.S.C. 4901–4916), and the Migratory Bird Treaty Act (16 U.S.C. 703–712). Some of these applications are more complex and require more extensive review than others. For some applications under the ESA and the Marine Mammal Protection Act, we are required to publish a notice in the **Federal Register** and seek public comment before making a decision on a permit application. While we strive to process all applications as quickly as

possible, not all applications can be processed within the timeframe suggested by the commenter.

What are the changes to 50 CFR Part 17?

50 CFR part 17 contains special rules for some species classified as ''threatened'' under the ESA. Most of the special rules that pertain to species that are also listed under CITES were written before the publication of our 2007 CITES regulations. Some of the rules included detailed CITES requirements because those requirements were not contained in 50 CFR part 23 prior to 2007. We believe it is more appropriate to include CITES requirements in 50 CFR part 23. Therefore, we have removed specific CITES requirements from the special rules in 50 CFR part 17 and, if they were not there already, inserted them into our CITES regulations in 50 CFR part 23. These changes, with a few exceptions described in our proposed rule (77 FR 14200, March 8, 2012), do not alter the requirements of the special rules because the requirements added to or already contained in 50 CFR part 23 are functionally the same as those currently contained in the special rules. Under the special rules, specimens may only be imported into the United States if the requirements in 50 CFR part 23 have been met.

One commenter supported the removal of detailed information on CITES provisions for personal and household effects from the special rules in part 17 and pointing the readers instead to the appropriate sections in part 23. Another commenter stated that he objected to the proposal to ''shift some of the special rules in part 17 to part 23'' and noted that part 17 and part 23 have different mandates and part 23 should only implement CITES provisions, nothing more. The commenter is correct that the regulations in part 17 implement provisions of the ESA and the regulations in part 23 implement CITES. This is, in fact, the reason we have made the changes proposed. We removed components of the special rules in part 17 that are CITES requirements and inserted them into the CITES regulations in part 23. The special rules will remain in part 17; only the CITES components of those rules have been moved to part 23. We believe this will make clear what is required under CITES (in 50 CFR part 23) for trade in a particular specimen and what is required under the ESA (in 50 CFR part 17). As stated above, these changes do not alter the requirements of the special rules because the special rules require that the provisions in 50 CFR part 23 must also be met. Likewise, as detailed in § 23.3, trade in specimens of CITES species that are also listed under the ESA or covered by other U.S. laws must meet both the CITES requirements in 50 CFR part 23 and requirements in other applicable U.S. regulations.

What are the changes to 50 CFR Part 23?

Deciding if the regulations apply to your proposed activity (§ 23.2): We had proposed adding a paragraph to the table in § 23.2 to clarify that if a CITES specimen you possess or want to enter into intrastate or interstate commerce is subject to restrictions on its use after import then the regulations in part 23 apply. One commenter objected to this clarification and stated that adding restrictions to this section for intrastate or interstate commerce would be going beyond the intent of CITES and the mandate of part 23. The restrictions on the use after import of certain CITES specimens are described in § 23.55 and have been in place since 2007. We were merely referring the reader to § 23.55 to determine whether the specimen in question is subject to restrictions on its use after import, and highlighting that if it is subject to such restrictions, then the regulations in part 23 apply. We note that, in fact, this rule narrows appropriately the restrictions contained in § 23.55 (see the preamble discussion and the regulatory text for § 23.55).

Upon further evaluation, we have decided to remove the table from § 23.2 and replace it with a simple statement. Although the table was intended to assist the reader in determining whether the regulations in part 23 apply to his or her activity we believe it may be causing confusion. Therefore, we are removing the table and adding in its place the following sentence: ''If you are engaging in activities with specimens of CITES-listed species these regulations apply to you.''

Definitions (§ 23.5): Whenever possible we define terms using the wording of the Treaty and the resolutions.

Definitions of ''bred for noncommercial purposes'' and ''cooperative conservation program'': Article VII, paragraph 4, of the Treaty states that specimens of Appendix-I wildlife species bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II. Such specimens can therefore be traded without the need for an import permit (see §§ 23.18 and 23.46). It also provides in Article VII, paragraph 5, that specimens that are bred in captivity may be traded under an exemption certificate (see §§ 23.18 and 23.41). Although the Treaty does not use the term ''bred for noncommercial purposes'' in Article VII, paragraph 5, the Parties have agreed to use this term as the intended meaning of paragraph 5 because Article VII, paragraph 4, addresses specimens bred for commercial purposes.

Our current regulations contain definitions of ''bred for noncommercial purposes'' and ''cooperative conservation program.'' These terms were defined based on the interpretation of Article VII, paragraph 5, adopted at CoP11 in Resolution Conf. 11.14 and subsequently (until CoP14) contained in Resolution Conf. 12.10. Our definition of ''bred for noncommercial purposes'' specifies that a specimen only qualifies to be treated as bred for noncommercial purposes, and therefore eligible for an exemption certificate, if every donation, exchange, or loan of the specimen is between facilities that are involved in a cooperative conservation program. At CoP14, the Parties removed the definition of ''bred for noncommercial purposes'' from Resolution Conf. 12.10 (including the reference to cooperative conservation programs) because it was considered to be outside the scope of the resolution, which addresses the procedure for registering and monitoring operations that breed Appendix-I animal species for commercial purposes. The deletion of this paragraph from the resolution leaves it to Parties to adopt their own interpretation of Article VII, paragraph 5.

The changes adopted at CoP14, and our experiences since publication of our current regulations, led us to reconsider our definition of ''bred for noncommercial purposes.'' We are amending our definition of ''bred for noncommercial purposes'' by removing the requirement that the trade be conducted between facilities that are involved in a cooperative conservation program and, consequently, removing from our regulations the definition of ''cooperative conservation program,'' consistent with recent amendments to CITES resolutions. The change allows an Appendix-I specimen that was bred in captivity to be traded under a CITES exemption certificate when each donation, exchange, or loan of the specimen is noncommercial, including situations where the donation, exchange, or loan is not between two facilities that are participating in a cooperative conservation program. Our amendment to the definition is consistent with current CITES resolutions. (See also the discussion in the preamble for § 23.18.)

Several commenters opposed the removal of the definition of ''cooperative conservation program'' and the requirement that, to qualify for an exemption certificate, trade in a specimen bred for noncommercial purposes must be between facilities participating in a cooperative conservation program. One commenter believed this provision should be retained to promote species conservation and argued that we had not provided a sufficient explanation or justification for its removal. Another stated that linking breeding operations to conservation efforts is the least that should be required of those engaged in trade of captive-bred specimens of Appendix-I species.

We are removing this requirement because we believe it is overly restrictive. While we agree with the commenters that it is important to promote species conservation, we understand that it is not always feasible for a breeding operation to participate in or support a recovery activity in cooperation with a range country, sometimes due to political realities or civil unrest, for example. In addition, there are circumstances under which Appendix-I animals may be bred-in-captivity for noncommercial purposes (including, for example, noncommercial breeding by hobbyists) where we do not believe it is reasonable to prohibit trade under Article VII, paragraph 5, solely because the breeding facility is not participating in a cooperative conservation program. We will continue to scrutinize this trade carefully, to ensure that each donation, exchange, or loan of a specimen traded under Article VII, paragraph 5, is noncommercial. Another commenter asked that, if we delete the reference to cooperative conservation programs as proposed, that we amend the definition of ''bred for noncommercial purposes'' by adding to the end the phrase ''where the purpose is directed towards noncommercial use.'' We have declined to accept this suggestion as we consider it to be redundant.

Another commenter stated that we should remove both the definition of ''cooperative conservation program'' and ''bred for noncommercial purposes'' since neither of these terms is currently defined by CITES, and retaining or modifying a definition not used by CITES goes beyond CITES provisions and the part 23 mandate. We disagree that we should only provide definitions for terms defined by CITES and that doing so is beyond the part 23 ''mandate.'' The purpose of part 23 is to explain, as clearly as possible, how we implement the Treaty and what is required for legal international trade in CITES-listed species. Where we feel it is useful, we have provided definitions for terms used in the regulations to clarify the intended meaning in this context.

Two commenters suggested that falconry be specifically cited as an example of an activity that would qualify as ''bred for noncommercial purposes.'' We have not accepted this suggestion. Although there may be situations in which falconry birds are bred for noncommercial purposes, this is not always the case. Birds used in falconry are also bred and traded for economic gain, including for profit.

Coral definitions: We are amending our definitions of ''coral (dead),'' ''coral fragments,'' ''coral (live),'' and ''coral sand'' in § 23.5 to more closely align with the definitions in the Annex to Resolution Conf. 11.10 (Rev. CoP15). Due to problems we have encountered in the implementation of the requirements for trade in stony corals, we are further revising the definitions of ''coral fragments'' and ''coral sand'' to clarify the size of a specimen that meets the definition of ''coral fragments'' or ''coral sand'' and may therefore be considered exempt from the provisions of CITES. The same clarification regarding ''coral fragments'' was adopted by the Parties at CoP15.

Two commenters expressed concern that the proposed changes to the definition of ''coral fragments'' will allow a broadening of the subset of coral specimens that could be considered fragments, and therefore exempt from CITES provisions. The commenters suggested that we substitute the word ''all'' for ''any'' in the definition, so that it reads ''. . . between 2 and 30 mm measured in all directions.'' It was our intent, and the intent of the Parties at CoP15, to limit ''coral fragments'' to specimens smaller than 30 mm. We believe that the change proposed by the commenters further clarifies that intent. We agree that ''all'' is more precise and, to be consistent, have made the suggested change to the definitions of both ''coral fragments'' and ''coral sand.''

Definition of ''ranched wildlife'': The United States participated in a working group established to evaluate the use of source code ''R'' (for ''specimens originating from a ranching operation'') for species other than crocodilians and, if necessary, propose a revised definition of source code ''R'' for consideration at CoP15. At CoP15, based on the recommendations of the working group, the Parties adopted a revised definition of source code ''R.'' In our proposed rule (77 FR 14200, March 8, 2012), we indicated our intention to incorporate the new definition into § 23.5, consistent with the change to Resolution Conf. 12.3 (Rev. CoP15) adopted at CoP15.

Two individual State natural resource agencies and one State natural resource agency organization endorsed this change and stated that the new definition more closely describes the way in which their alligator programs operate and will allow them to export alligator skins produced in their States under the ''R'' source code. Two commenters strongly objected to the incorporation of the new definition into U.S. regulations and stated that ranching is merely a subset of wild take. Another commenter asked us to provide further rationale for incorporating the new definition into our regulations and noted that it is unclear how adoption of the new definition may impact protected species in the wild and, in addition, that allowing wild-sourced specimens to be traded as ''ranched'' will make it impossible to track the full impact of wild collection. The commenter urged us to maintain a clear distinction between specimens derived from a ranching operation in accordance with Resolution Conf. 11.16 (Rev. CoP15) and wild-sourced specimens.

We agree with those commenters who supported incorporation of the new definition of source code ''R'' into our regulations because it more accurately describes production systems often employed for certain species, such as the American alligator. We also agree with the comment suggesting that ranching production is associated with wild harvest. We note that, before a permit can be issued for specimens entering international trade as a result of either ranching production or wild harvest, a non-detriment finding must be made. Thus, the Scientific Authority will evaluate the impact of both of these activities on wild populations. We also believe it is important to have consistent application and implementation of CITES terms, which we intend to achieve by incorporation of the revised definition.

Incorporation by reference (§ 23.9): We are adding this new section to contain information on materials incorporated by reference, currently located in § 23.23. We believe that moving the information regarding materials incorporated by reference into its own section will make it easier for readers to locate and reference, and easier for us to update, as needed, in the future.

Prohibitions (§ 23.13): We are adding text to this section to clarify that violation of any of the provisions of 50 CFR part 23, including use of CITES

specimens imported into the United States contrary to what is allowed under § 23.55, is unlawful. One commenter expressed support for this clarification.

Another commenter stated that this provision would make it unlawful to use any CITES specimen for any purposes contrary to conditions imposed under § 23.55 and that this is too broad, as § 23.55 only applies to Appendix-I and certain Appendix-II specimens. The commenter seems to have misinterpreted the provisions in § 23.55. The table in § 23.55 lays out the allowed use of any CITES specimen after it has been imported into the United States. The vast majority of CITES specimens (including most Appendix-II and -III specimens) may be used for any lawful purpose after import, and this is stated in paragraphs (d), (e), and (f) of § 23.55. However, the import and subsequent use of many Appendix-I specimens and certain Appendix-II specimens may be only for noncommercial purposes, and this information is also provided in § 23.55. We are not adding new prohibitions here. The restrictions on use after import of certain CITES specimens have been in place since 2007. We simply want to clarify that violation of any of the provisions of 50 CFR part 23 is unlawful.

One commenter stated that, if an imported raptor was injured or for some reason unable to perform as a falconry bird, these changes would prevent the use of the raptor for breeding because FWS considers breeding to be commercial. We reiterate that we are not adding new prohibitions with regard to use after import. In fact, this final rule appropriately narrows the current restrictions that have been in place since 2007 (see the preamble discussion and the regulatory text for § 23.55). In addition, we do not consider all breeding to be commercial and refer the commenter to the discussions in the preamble for §§ 23.5 and 23.18 with regard to trade in Appendix-I specimens bred for commercial and noncommercial purposes.

Documents for the export of Appendix-I wildlife and plants (§ 23.18): Sections 23.18 and 23.19 contain decision trees to help readers determine what type of CITES document is needed for export of an Appendix-I specimen and where in the regulations they can find information regarding the different types of documents. We have reevaluated our requirements for export of Appendix-I wildlife and are amending the decision tree in § 23.18 accordingly. (See also the preamble discussion for § 23.5 regarding the definition of ''bred for noncommercial purposes.'')

As noted previously, Article VII, paragraph 4, of the Treaty states that specimens of Appendix-I wildlife species bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II. Such specimens can therefore be traded without the need for an import permit. Our regulations required commercial breeders of Appendix-I wildlife to be registered with the CITES Secretariat in order to export Appendix-I specimens, regardless of the purpose of the import. The decision tree in § 23.18 asks, at several points, whether the export of the specimen is for noncommercial purposes. However, because of the way the decision tree is structured, export of specimens bred in captivity (according to CITES criteria) at commercial operations that are not registered with the CITES Secretariat was prohibited, even in small numbers when the intended use of the specimens in the importing country is noncommercial.

Based on our experience since publication of our regulations in 2007, we have concluded that this interpretation is overly restrictive. The exemptions contained in Article VII allow alternatives to the procedures contained in Articles III, IV, and V for trade in CITES-listed species when certain criteria are met. However, if an Appendix-I specimen does not qualify for an exemption under Article VII, it should not, solely on that basis, also be deemed ineligible for a permit or certificate under Article III. For this reason, we are amending our regulations to allow for this possibility. We are amending the decision tree in § 23.18 by eliminating the boxes that ask if the export is for noncommercial purposes, which eliminates the requirement that commercial operations breeding Appendix-I species must be registered with the Secretariat to export specimens under any circumstances. We believe this change reflects the appropriate implementation of Articles III and VII.

One commenter stated that the CITES Secretariat has confirmed that an Appendix-I specimen can be exported from a commercial breeding facility, not registered with the Secretariat, for a noncommercial purpose. We agree with this interpretation and note that our revisions to this section remove the requirement that commercial operations breeding Appendix-I species must, in all cases, be registered with the Secretariat to export their specimens.

Several commenters opposed this change and asserted that commercial breeders should not be allowed to participate in noncommercial trade. They expressed concern that allowing such trade would cause enforcement difficulties by blurring the distinction between commercial and noncommercial facilities. One commenter stated that all facilities breeding Appendix-I specimens should be registered with the CITES Secretariat to facilitate national and international oversight and that commercial facilities that are not registered should not be allowed to export Appendix-I specimens. The commenter argued that our proposed revisions seem to be contrary to the intent of CITES, which is to limit the trade in Appendix-I specimens for commercial purposes.

We agree that trade in Appendix-I specimens must be subject to particularly strict regulation, as stated in the Treaty, and we will continue to monitor the trade in Appendix-I specimens very carefully. The Treaty does allow for trade in Appendix-I specimens that are bred in captivity for commercial purposes, and we implement this provision by requiring that operations breeding Appendix-I specimens for commercial purposes are registered with the CITES Secretariat, as agreed by the Parties in Resolution Conf. 12.10 (Rev. CoP15). The Treaty also allows for trade in Appendix-I specimens bred in captivity for noncommercial purposes, and we recognize that there are circumstances under which a commercial breeding operation may engage in trade where each donation, exchange, or loan of a specimen is noncommercial. We will continue to scrutinize such trade and will exercise our right and responsibility under the Treaty to verify whether the Management Authority of the importing country has made the appropriate determination of whether an import is not for primarily commercial purposes.

Several commenters suggested that language be added to the decision tree to indicate that falconry and propagation for falconry are considered ''primarily noncommercial.'' We do not agree that falconry and breeding of birds for use in falconry can always be considered activities that are ''primarily noncommercial'' and have therefore declined to accept this suggestion. Some commenters also recommended that we adopt a policy that five or fewer birds exported for falconry purposes will generally be considered noncommercial trade. We have not adopted this suggestion. Determinations regarding the commercial or noncommercial nature of a proposed activity are made on a case-by-case basis after review of all relevant factors (see § 23.62).

Several commenters expressed their belief that birds bred for falconry should qualify for a bred-in-captivity certificate and be traded under the source code ''C'' and not ''F.'' They stated that source code ''F'' is not appropriate for U.S. captive-bred raptors because it implies possible impacts to wild populations. One commenter also noted that use of source code ''F'' creates conflict with other countries, particularly in Europe, that do not implement Resolution Conf. 12.10 (Rev. CoP15).

The Parties have agreed, in Resolution Conf. 12.10 (Rev. CoP15), that the exemption in Article VII, paragraph 4, should be implemented through the registration by the Secretariat of operations that breed specimens of Appendix-I species in captivity for commercial purposes. Such specimens are ''deemed to be specimens of species included in Appendix II'' and therefore can be traded under an export permit, without the need for an import permit. Resolution Conf. 12.3 (Rev. CoP15) states that source code ''D'' should be used on permits for Appendix-I animals originating at an operation registered with the Secretariat and exported under the provisions of Article VII, paragraph 4.

Article VII, paragraph 5, of the Treaty provides that specimens that are bred in captivity may be traded under an exemption certificate (see § 23.41). As noted previously, although the Treaty does not use the term ''bred for noncommercial purposes'' in Article VII, paragraph 5, the Parties have agreed to use this term as the intended meaning of paragraph 5 because Article VII, paragraph 4, addresses specimens bred for commercial purposes. Resolution Conf. 12.3 (Rev. CoP15) states that source code ''C'' should be used on permits for Appendix-I animals bred in captivity and exported under the provisions of Article VII, paragraph 5.

We implement these provisions as follows. The exemptions provided in Article VII, paragraphs 4 and 5, allow for trade in Appendix-I specimens without the need for an import permit when the specimens have been bred in captivity and certain conditions are met. To qualify for these exemptions, an Appendix-I animal must have been bred in captivity, in accordance with CITES criteria in Resolution Conf. 10.16 (Rev.) and U.S. regulations in § 23.63, and it must have been either: (1) Bred for commercial purposes at a facility registered with the CITES Secretariat (Article VII, paragraph 4); or (2) bred for noncommercial purposes (Article VII, paragraph 5). Specimens exported under Article VII, paragraph 4 (i.e., those bred for commercial purposes at a facility registered with the CITES Secretariat), are ''deemed to be'' Appendix-II specimens, and we therefore issue an export permit with the source code ''D.'' For specimens exported under Article VII, paragraph 5 (i.e., those bred in captivity for noncommercial purposes), we issue a bred-in-captivity certificate with the source code ''C.'' When an Appendix-I specimen bred in captivity is exported under an exemption document (an export permit with a source code ''D'' or a bred-in-captivity certificate with a source code ''C''), no import permit is required.

We also allow for trade in Appendix-I specimens produced in captivity that do not qualify for the exemptions in Article VII. However, such specimens must be traded under Article III of the Treaty, and an import permit is required. These specimens are given the source code ''F,'' because neither source code ''C'' nor ''D'' applies.

One commenter noted that Article VII, paragraph 4, of the Treaty states that specimens of Appendix-I species bred or propagated for commercial purposes shall be deemed to be specimens of species included in Appendix II and questioned why we stated in the proposed rule that such specimens are still included in Appendix I. The commenter stated that there is no CITES provision that a specimen bred at a registered facility and ''deemed to be'' Appendix II for export reverts back to Appendix I on arrival in the importing country.

The language in Article VII, paragraph 4, stating that Appendix-I specimens bred in captivity are deemed to be specimens of species included in Appendix II allows such specimens to be traded commercially. It means that a Management Authority may grant an export permit or a re-export certificate without requiring the prior issuance of an import permit. It does not mean that the species has been transferred from Appendix I to Appendix II. As we indicated in the proposed rule, the species remains listed in Appendix I, and therefore the specimens are not eligible for any exemption limited specifically to an Appendix-II species or taxon, such as less-restrictive provisions for personal and household effects.

Information required on CITES documents (§ 23.23): This section details information that must be included on CITES documents. We require that CITES export and re-export documents for live wildlife contain a specific condition that the document is only valid if the transport complies with certain humane-transport standards. The CITES *Guidelines for transport and preparation for shipment of live wild animals and plants* (CITES *Guidelines*) and the International Air Transport Association (IATA) *Live Animals Regulations* were incorporated by reference into our regulations at § 23.23(c)(7) in 2007. At CoP14, recognizing that IATA regulations are amended annually and are therefore more responsive to changing needs, and that it is important to provide humane transport conditions for plants as well as wildlife, the Parties agreed to promote the full and effective use of IATA's *Live Animals Regulations* (for animals) and *Perishable Cargo Regulations* (for plants) as the standards for the preparation and transport of live specimens. Therefore, we are removing reference to the outdated CITES *Guidelines* and incorporating by reference the 13th edition of the IATA *Perishable Cargo Regulations* as the standard for the transport of CITES-listed plants. We are further updating our regulations by incorporating by reference the 40th edition of the IATA *Live Animals Regulations* to replace the 33rd edition that is incorporated by reference in our current regulations. One commenter supported the updating of our humane-transport standards. For the convenience of the reader, we have moved the information on materials incorporated by reference into a new section, § 23.9 (please see the preamble text for § 23.9). Another commenter supported our proposal to amend § 23.23(c)(16) to allow the use of official signature stamps on CITES documents, in recognition of this global practice.

Validity of CITES documents (§ 23.26): We are adding three additional circumstances in § 23.26(d) for which we may request verification of a CITES document. When the CITES Secretariat receives information about a quota for publication, there may be technical problems or questions about technical or administrative aspects of the quota that need clarification. Under guidelines contained in Resolution Conf. 14.7 (Rev. CoP15), if the Secretariat is unable to resolve these issues with the Party concerned, the Secretariat is directed to publish the quota with an annotation to indicate its concerns. We may request verification of a CITES document if it is issued for a species with an annotated quota that raises concerns about the validity of the shipment. We may also request verification of a CITES document for a shipment of captive-bred Appendix-I wildlife when the specimens did not originate from a breeding operation that is registered with the CITES Secretariat and we have reason to believe the import is for

commercial purposes. In addition, if we receive a CITES export document on which the actual quantity exported has not been validated or certified at the time of export, we may request verification of the document.

Two commenters strongly supported inclusion of the three additional circumstances under which we may seek verification of a CITES document. Another commenter urged us to include two more circumstances related to permits authorizing the export of specimens subject to a quota. Another commenter did not see a reason to restrict the Management Authority to a formal list of circumstances under which it may request verification of a CITES document and noted that any indication of wrongdoing should give the Management Authority the authority to verify the authenticity of a permit. We agree that there may be more circumstances, in addition to those listed in § 23.26(d), under which we may request verification of a CITES document from the CITES Secretariat or a foreign Management Authority. The circumstances listed in § 23.26(d) are provided as common examples, and the list is not intended to be exhaustive. We direct the commenters to the first sentence of that paragraph (d), which indicates that such circumstances include, but are not limited to, those listed in § 23.26(d).

One commenter was concerned that the proposed changes regarding permits where the quantity had not been validated upon export do not go far enough. He suggested that we incorporate the language adopted at CoP15, in Resolution Conf. 12.3 (Rev. CoP15), which states that Parties ''should liaise'' with the exporting country's Management Authority and consider any ''extenuating circumstances'' to determine the acceptability of the document in question. We have declined to accept this suggestion as we consider it to be redundant. The text in § 23.26(d) informs the public of circumstances under which we may request verification of a CITES document; lack of validation is one of those circumstances.

Requirements for a bred-in-captivity certificate (§ 23.41): Although we did not propose changes to this text, one commenter objected to the language in § 23.41(d)(2), which states that to qualify for a bred-in-captivity certificate a specimen must be bred for noncommercial purposes or be part of a traveling exhibition. The commenter believes this provision is contrary to Article VII, paragraph 5, of the Treaty and to Resolution Conf. 10.16 (Rev.). To clarify, the requirement in § 23.41(d)(2) that a specimen must be bred for noncommercial purposes or be part of a traveling exhibition to qualify for a bred-in-captivity certificate applies only to Appendix-I specimens and not to specimens of species listed in Appendix II or III. For Appendix-I specimens, we will only issue bred-in-captivity certificates for specimens bred in captivity for noncommercial purposes, in accordance with Article VII, paragraph 5, of the Treaty, including specimens that are part of a traveling exhibition, as provided in Article VII, paragraph 7. Article VII, paragraph 7, allows for the issuance of an exemption document for Appendix-I specimens that form part of a traveling exhibition in certain circumstances, including that they are either pre-Convention specimens (Article VII, paragraph 2) or bred in captivity for noncommercial purposes (Article VII, paragraph 5). We refer the commenter to the discussion in the preamble for § 23.18, where we describe in detail the way in which we implement the various CITES provisions related to trade in Appendix-I specimens under the exemption in Article VII, paragraph 5.

Wildlife hybrids (§ 23.43): Section 23.43 allows for an exemption from CITES document requirements for hybrid wildlife specimens that meet specific criteria. We are adding language to clarify that an individual who is unable to clearly demonstrate that his or her wildlife specimen meets the criteria for an exempt hybrid must obtain a CITES document. One commenter expressed support for this clarification.

International travel with personally owned live wildlife (§ 23.44): Since publication of our current regulations in 2007, there has been some confusion regarding the purpose and appropriate use of certificates of ownership for personally owned live wildlife (also known as ''pet passports''). We are clarifying that such documents are to be used for frequent, short-term travel by an individual when accompanied by his or her personally owned live wildlife (e.g., for vacations, to attend competitions, or for similar purposes of relatively short duration) and that this individual is to return with the wildlife to his or her country of usual residence at the end of the trip. We received one comment in support of this clarification.

One commenter expressed dissatisfaction with the process for renewing a certificate of ownership for personally owned, live wildlife. The commenter objected to having to complete an entire application when only a few items needed to be updated and to having to submit his original certificate along with the application for renewal, thus preventing cross-border travel while awaiting issuance of the new certificate. In addition, the commenter noted that having the renewed certificate issued before the end of the period of validity of his existing certificate effectively shortens the period of validity to less than 3 years. He also considered the estimated time of 30 minutes for completion of Form 3–200–64 to be ''overly conservative'' and stated that ''a more realistic, but still conservative estimate'' would be at least 60 minutes.

Form 3–200–64, the application form for issuance of a certificate of ownership for personally owned live wildlife, asks for detailed information regarding the animal to be covered under the certificate. When a certificate holder wishes to renew a certificate of ownership, however, he or she should complete and submit Form 3–200–52, the application for re-issuance or renewal of a permit. This is a simplified application on which the applicant can certify that there have been no changes to the original application or that there have been changes as noted on an attached page. We ask that individuals allow 30 to 60 days for processing of applications, and we do require submission of the original certificate before we will issue a new one. If applying well in advance (more than 60 days before expiration of the certificate), an applicant could submit a copy and continue to use the original certificate, keeping in mind that he or she must return to the United States before the certificate expires. Once travel is completed and the animal has re-entered the United States, the original certificate must be returned to the Management Authority. As stated above, we will not issue a new certificate until we have received the original certificate. We thank the commenter for his input regarding the length of time needed to complete Form 3–200–64. We are in the process of reviewing all of our application forms and will take his comments into consideration during that process.

Registration of a commercial breeding operation for Appendix-I wildlife (§ 23.46): Article VII, paragraph 4, of the Treaty states that specimens of Appendix-I animal species bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II. For such specimens, a Management Authority may grant an export permit or a re-export certificate without requiring the prior issuance of an import permit, thus allowing the specimens to be traded commercially. However, the species

remains listed in Appendix I, and therefore the specimens are not eligible for any exemption limited specifically to an Appendix-II species or taxon.

Resolution Conf. 12.10 (Rev. CoP15) provides guidelines for registering and monitoring operations that breed Appendix-I animals for commercial purposes. Section 23.46 implements the resolution by establishing a procedure for operations that breed Appendix-I animals for commercial purposes to become registered with the CITES Secretariat. At CoP15, the Parties adopted changes to the registration process to address the sometimes lengthy delays that can occur when an objection is raised regarding an application to register a breeding facility. We are revising § 23.46(b) to incorporate changes to the registration process adopted at CoP15, and we expect that these changes will significantly reduce potential delays.

Under Resolution Conf. 12.10 (Rev. CoP15), registered commercial breeding operations are to be monitored by the Management Authority, in collaboration with the Scientific Authority, and the Management Authority is to advise the CITES Secretariat of any major change in the nature of an operation or in the products it is producing for export. Our regulations include an annual reporting requirement to facilitate monitoring of registered operations. We are eliminating the annual reporting requirement in § 23.46 and establishing instead a process for renewal of registrations every 5 years. The registration renewal is intended to be less burdensome for the registrants, yet will allow us to monitor these facilities and identify major changes in their operating practices. One commenter supported these changes.

We received a number of comments from falconers and falconry organizations regarding our proposed requirement for renewal of registrations for commercial breeding operations for Appendix-I wildlife. Many of these commenters expressed either opposition or very limited support for requiring renewal of registrations. Five commenters noted that there is no requirement under CITES for renewal of registrations and expressed their belief that, once a facility is registered, the registration should not expire. While Resolution Conf. 12.10 (Rev. CoP15) does not specifically recommend renewal of registrations or expiration dates for registrations, it does state that Parties should monitor the management of each registered captive-breeding operation under its jurisdiction and advise the CITES Secretariat of any major changes in the operation. It is left to the Parties to determine how they will accomplish such monitoring. Our regulations (§ 23.46(e)(3)) require annual reporting by registered facilities to allow us to monitor the management of these operations to ensure that they continue to meet the criteria for registration. We are eliminating the annual reporting requirement and establishing in its place a 5-year renewal process that we believe will reduce the burden on both the registered operations and the Service while providing for the monitoring that is required under CITES. We also note that there is a provision in Resolution Conf. 12.10 (Rev. CoP15) for removing breeding operations from the Secretariat's registry, particularly if they fail to continue to meet requirements, so registrations are not necessarily meant to continue in perpetuity.

Some of the commenters stated that the renewal requirement would create a significant burden on registered operations. They noted that raptor breeders are already monitored by the Service, through the Migratory Bird Program (MBP), and therefore the process for renewal of a registration would be redundant. They argued that the annual report and individual transactions forms provided to MBP should suffice for any monitoring requirement for CITES. Two commenters were more supportive of a simple registration update form and associated fee, if the required data submission was simply a reference to the current MBP data. One commenter suggested that if renewal of a registration is mandated by the Service, a one-page application with accompanying photocopies of the past five annual reports from the operation to the MBP should be all that is required.

The regulations in § 23.46, regarding the process for registering a commercial breeding operation for Appendix-I wildlife, apply to operations breeding any Appendix-I species, not just raptors and other falconry birds. Although it is true, as one commenter has noted, that all of the U.S. facilities currently registered with the CITES Secretariat are breeding raptors, we do not anticipate that this will always be the case. Therefore, we need to establish registration and reporting procedures that will work not just for facilities breeding raptors, but for any commercial breeding operation that may be registered in the future. It is not our intention, however, to increase the burden for raptor breeders.

We understand that U.S. raptor breeders are regulated under the Migratory Bird Treaty Act (MBTA) and must provide reports to the MBP on specific activities related to the breeding of native raptors (as defined in part 21 of this subchapter). It is also true, however, that not all CITES-listed, Appendix-I raptors are covered by the MBTA. There is no requirement for an operation breeding birds that are not covered by the MBTA (including raptors that are not native raptors under the definition in part 21) to provide reports to the MBP on activities associated with those birds. We agree that, for operations breeding native raptors, documents submitted to the MBP would include most, if not all, of the information needed for the renewal of a CITES registration. If an applicant requesting renewal of a registration is breeding native raptors and reporting to the MBP, he or she can inform us on the application for renewal, and we will obtain copies of the relevant documents, covering the past 5-year period, from MBP. A registered operation that is breeding Appendix-I species that are not covered by the MBTA, and therefore not covered in reports provided to the MBP, will need to include updated information relevant to those species in its renewal application.

Four commenters that opposed renewal of registrations expressed concern about whether the Management Authority could process registration applications in a consistent and timely manner. They asserted that the Service has underestimated the cost and negative effect this requirement will have on both the breeders and the Management Authority and stated their belief that registration renewal will put registered breeding operations at risk every 5 years due to potential delays in the renewal application process.

We are establishing a simplified renewal process that will be much less burdensome and take much less time than the initial registration process. We expect that most renewals will be completed within 30 to 60 days, provided that the renewal application contains all of the information requested. The criteria for renewal are the same as the criteria for registration of a new operation. However, unlike the process for initially registering a commercial breeding operation, the renewal process does not require us to contact the CITES Secretariat, and there will therefore be no consultation with other CITES Parties, as required for the initial registration. The same application used to request registration (Form 3–200–65) will be used for renewals. Applicants for renewal will not need to respond to all of the questions. Instead, they will be asked to identify any changes in their operation, such as new breeding facilities or

changes in breeding stock, that have occurred over the last 5 years. Operations breeding only U.S. native raptors, that have no updates to report beyond the information included in the annual reports and transfer documents they have submitted to the MBP, can state as much on their renewal application and we will obtain copies from MBP of their reports covering the relevant 5-year period. We consider that this process will allow us to meet our obligations under CITES and will cause only a minimal burden on registered operations. If necessary, upon renewal or at any time we receive significant new information on a registered operation, we will provide the updated information to the CITES Secretariat.

One commenter was opposed to the language in § 23.46(f), which states that requests for renewal of a registration should be submitted at least 3 months before the registration expires. The commenter asserted that, in the absence of such a provision, the registration would remain in effect until renewed or denied, if the application was received at any time before expiration.

Although we recommend, in § 23.46(f), that applicants submit requests for renewal at least 3 months before the registration expires, we do not require that they do so. We included this language to encourage registrants to apply for renewal early enough so that their registration does not expire while we are reviewing their renewal request, thus disrupting their ability to export specimens for which they are registered. The commenter may be referring to language in the Service's general permitting regulations in 50 CFR part 13. Under § 13.22, if an application to renew a permit is submitted at least 30 days before the permit expires, continuation of some permitted activity is allowed, subject to certain conditions, until the Service acts on the request for renewal. However, this provision does not apply to any permitted activities authorized under CITES (see § 13.22(c)(3)). Registrations will now have an expiration date and will be void after that date. To avoid disruption of permitted activities, registrations must be renewed before the expiration date. As stated earlier, we do not anticipate that the renewal process will take longer than 30 to 60 days, provided we have received all of the necessary documentation. The recommendation that an application for renewal of a registration be submitted 3 months before the registration expires is intended to allow us time to make sure the application is complete, including obtaining information from MBP (if necessary), to help ensure that the facility can continue operations without disruptions or delays.

One commenter questioned why the Service was proposing to eliminate the annual reporting requirement for CITES-registered operations breeding Appendix-I specimens and replace it with a 5-year renewal process. The commenter stated that we had not explained why the information currently required on an annual basis was no longer relevant. Another commenter supported a requirement that registrations be renewed, but urged us to limit the length of time a registration is valid to 3 years, instead of 5, stating that conditions at captive breeding facilities can change dramatically over a 5-year period. A third commenter asserted that neither the current annual reporting requirement nor the proposed registration renewal are sufficient to monitor registered facilities and urged us to engage in ''unannounced compliance checks'' on a regular basis.

We expect that the same information provided in an annual report will be provided, for a 5-year period, in a renewal application. Consolidation and submission of information on a 5-year cycle will give us with the information necessary for monitoring activities at registered operations while at the same time reducing the time and resources needed both by the Service, for collecting and reviewing reports, and by the registered operations, for preparing and submitting reports. Further, by establishing a renewal process, and therefore an expiration date, for registration of commercial operations, we will be able to more easily and formally address any potential problems that might be identified.

We are establishing a 5-year registration (instead of a 3-year registration as recommended by the commenter) based on our experience, since 2007, with trade from CITES-registered breeding operations in the United States. Once registered, an operation must still obtain CITES documents for any specimens it wishes to export. The information provided in an application for an export permit gives us an indication of changes that may be occurring at a registered operation and gives us some understanding of the current status of operations at the facility. If, in reviewing permit applications, we believe that further evaluation of the operation is warranted, we have the authority to do so, including conducting inspections of the facility. Under newly designated § 23.46(e)(3) and § 13.21(e)(2), anyone obtaining a CITES permit or authorization agrees, as a condition of their permitted activity, to allow the Service to enter their operation at any reasonable hour to inspect wildlife held or to inspect, audit, or copy applicable records. However, due to the likelihood that we will be in contact with a registered operation multiple times over the course of their registration, we do not believe the additional burden on the Service or the registrant of a 3-year renewal cycle is necessary or beneficial. If we encounter problems or difficulties associated with the 5-year renewal cycle for registrations, we will reevaluate the process and propose changes.

We also received comments on this section that were not related to the changes we had proposed regarding the process for initial registration or the renewal of existing registrations. Two commenters expressed concern about the way in which we implement the requirement in § 23.46(d)(2) that a breeding operation must provide sufficient information for us to determine that its parental stock was legally acquired. They stated that the Service asks for documentation that founding stock, not the parental (breeding) stock, at the facility was legally removed from the wild or imported into the United States. These commenters argued that Resolution Conf. 12.10 (Rev. CoP15) does not require this level of documentation and that it is an unreasonable burden on breeding operations, especially since ''there is no laundering of wild-taken young raptors going through breeding projects.''

The terms ''parental stock'' and ''founder stock'' are sometimes used interchangeably. We define ''parental stock'' in § 23.5 as ''the original breeding or propagating specimens that produced the subsequent generations of captive or cultivated specimens.'' We believe that this definition is consistent with the Treaty and with CITES resolutions. When an applicant is asked to provide documentation on the legal acquisition of the parental stock, we are asking that they show that the specimens that were either removed from the wild or imported into the United States to establish a breeding operation were legally obtained. We agree with the commenters that breeding operations are not likely to be laundering illegally obtained specimens. We attribute this, at least in part, to the oversight and documentation requirements that have been established to ensure that such activities do not occur.

Two commenters stated that we should eliminate the existing requirement for a registered facility to

provide an import permit. It is not clear from the comments what requirement they are referencing. Once a breeding operation is registered for certain Appendix-I species, specimens of those species that are bred at the facility are treated as if they are specimens of a species listed in Appendix II for permitting purposes. This means that, under CITES, only an export permit is required; there is no requirement for the issuance of an import permit. However, some Parties have stricter domestic measures and require import permits in situations where an import permit is not required under the Treaty. For example, countries in the European Union routinely require import permits for Appendix-II species, and the Russian Federation has recently notified the CITES Parties (see Notification to the Parties No. 2013/008) that, regardless of the origin of the birds, it will only allow the import of certain falcons if the Russian Management Authority has issued an import permit. For this reason, we advise exporters to communicate with the Management Authority of the importing country well in advance of export to make sure they understand and comply with all requirements. It is the responsibility of the exporter to ensure that all legal requirements (not just for CITES) in both the importing and exporting country have been met before exporting any CITES-listed specimen.

Replacement documents (§ 23.52): A Management Authority may issue a replacement CITES document when the original document has been lost, damaged, stolen, or accidentally destroyed. Section 23.52 contains provisions for issuance and acceptance of replacement CITES documents. We are clarifying the procedures and amending the criteria for issuance and acceptance of replacement CITES documents by the United States. We are more closely aligning the criteria for issuance and acceptance of replacement CITES documents by the United States with those for issuance and acceptance of retrospective documents found at § 23.53. Amendments to the criteria include: Requirements that specimens are presented to the appropriate official at the time of import and that the request for a replacement document is made at that time; the need for proof of original valid documents; and a statement of responsibility. We are also clarifying that an individual who qualifies to receive multiple single-use CITES documents under a master file or annual program may not use one of the documents issued under a master file or annual program as a replacement document, but must apply for and receive a separate replacement document.

One commenter supported the proposed changes to § 23.52. Another commenter was opposed to all of the changes proposed for this section and disagreed with our suggestion that the criteria for issuance and acceptance of replacement documents should be more closely aligned with the criteria for issuance and acceptance of retrospective documents. The commenter expressed concern that for replacement permits for recreational hunting trophies ''the conditions and timelines will be challenging to fulfill'' and stated that we should propose regulations to facilitate the issuance of retrospective and replacement permits instead of making it an ''onerous undertaking.''

We agree that the criteria for issuance and acceptance of replacement CITES documents are, and should be, different from those for retrospective CITES documents, and our regulations reflect those differences. We note that in the preamble to Resolution Conf. 12.3 (Rev. CoP15), the Parties recognize that ''the efforts of importing countries to fulfill their obligations under Article VIII, paragraph 1 (b), may be seriously obstructed by the retrospective issuance of permits or certificates for specimens having left the exporting or re-exporting country without such documents'' and that ''the retrospective issuance of permits and certificates has an increasingly negative impact on the possibilities for properly enforcing the Convention and leads to the creation of loopholes for illegal trade.'' With regard to replacement documents, the resolution states that, when a permit or certificate has been cancelled, lost, stolen, or destroyed, the issuing Management Authority should ''immediately'' inform the Management Authority of the country of destination (as well as the Secretariat for commercial shipments). Based on our experience since the publication of our 2007 CITES regulations, we identified a need to clarify what is required for issuance and acceptance of a replacement document. As we noted in our proposed rule, we have experienced situations in which importers or their agents have attempted to submit ''replacement'' documents when no document had ever been issued or when the original document was invalid. In addition, individuals have significantly delayed submission of required documents for clearance of a shipment while they tried to obtain a replacement document without our knowledge. We believe the revised provisions in this section will help individuals understand the process for obtaining a replacement document if their CITES document has been lost, damaged, stolen, or accidentally destroyed and will help us to meet our obligations under the Treaty.

Retrospective CITES documents (§ 23.53): In certain limited circumstances, CITES documents may be issued and accepted to authorize an export or re-export that has already occurred or to correct technical errors on a document accompanying a shipment that has already occurred. We are adding text to clarify that we may issue or accept a retrospective document in circumstances where a technical error was made by the issuing Management Authority at the time the original document was issued. As we have for replacement documents, we clarify in this section that an individual may not use a CITES document issued under a master file or an annual program as a retrospective document, but must apply for and receive a separate retrospective document (see the discussion in the preamble for replacement documents, § 23.52). We also clarify that ''personal or household effects'' in § 23.53(d)(7)(i) means specimens that meet the definition of ''personal effect'' or ''household effect'' in § 23.5. One commenter supported these changes.

Use of CITES specimens after import into the United States (§ 23.55): This section provides conditions for the import and subsequent use of certain CITES specimens. Its purpose is to prevent commercial use of specimens after import into the United States when the trade allowed under CITES is only for a noncommercial purpose. Under Article II of the Treaty, trade in Appendix-I specimens ''must only be authorized in exceptional circumstances.'' Unless an Appendix-I wildlife or plant specimen qualifies for an exemption under Article VII of the Treaty, it can be imported only when the use is not for primarily commercial purposes. The import and subsequent use of Appendix-I specimens and certain Appendix-II specimens, including transfer, donation, or exchange, may be only for noncommercial purposes. Other Appendix-II specimens and any Appendix-III specimen may be used for any otherwise lawful purpose after import, unless the trade allowed under CITES is only for noncommercial purposes. See the preambles in our previous rulemaking documents, 71 FR 20167, April 19, 2006 (proposed rule), and 72 FR 48402, August 23, 2007 (final rule), for further discussion.

Since publication of our regulations in 2007, we have given further

consideration to the allowed use of a specimen within the United States when the listing status of the species changes after a specimen has been imported. We are amending this section to clarify that the allowed use after import into the United States is determined by the status of the specimen under CITES and the ESA at the time it is imported, except for a CITES specimen that was imported before the species was listed in Appendix I, or listed in Appendix II with an annotation disallowing commercial use, or listed in Appendix II or III and threatened under the ESA. Where an individual can clearly demonstrate that his or her specimen was imported with no restrictions on its use after import, prior to the species being listed under CITES with restrictions on its use after import, we will continue to allow use of the specimens as allowed at the time of import.

We have considered the individual who may, for example, have imported Appendix-II specimens that had no restrictions on their domestic use and be lawfully utilizing the specimens as part of a commercial breeding operation. Under our current regulations, he or she may be precluded from continuing such activities if the species is subsequently listed in Appendix I. We do not believe it is necessary for ensuring the conservation and sustainable use of the species to retroactively apply current import/export restrictions to domestic activities involving specimens that were legally imported prior to the imposition of those restrictions. Therefore, where an individual can clearly demonstrate that his or her specimens were legally imported prior to the Appendix-I listing, we will not treat those specimens as specimens of an Appendix-I species with regard to their use within the United States.

Consistent with our current regulations, we continue to believe that restrictions on the allowed use after import of specimens of Appendix-I species may be relaxed if the status of the species improves and it is subsequently listed in Appendix II or removed from the Appendices. If the status of a species has changed so that it no longer requires the strict protections (including the prohibition on commercial trade) provided by an Appendix-I listing, and it is not listed under the ESA, we see no conservation need for requiring that specimens imported when the species was listed in Appendix I continue to be used only for noncommercial purposes. Other applicable laws, however, may continue to restrict use of the specimen.

Under this final rule, if an Appendix-II specimen is imported with no restrictions on its use (i.e., it is not protected under the ESA and it is not subject to an annotation requiring that it be used only for noncommercial purposes) and the species is subsequently transferred to Appendix I, if you can clearly demonstrate that your specimen was imported prior to the Appendix-I listing, use of the specimen within the United States will not change (i.e., it will not be restricted to noncommercial use) with the change in the status of the species under CITES. As is currently the case, the allowed use of an Appendix-I specimen imported for noncommercial purposes may change if the species is subsequently transferred to Appendix II or removed from the Appendices. In such a case, the allowed use of the specimen within the United States will be determined by the current listing status of the species, not the status of the species at the time it was imported.

One commenter opposed any regulation of the use after import of CITES specimens, stating that it is beyond the control of CITES. The same commenter suggested that trophy trade ''deserves preferential treatment'' because of its conservation value and lack of biological consequence after lawful import. The commenter stated that ''unnecessary restrictions on long-term use have a negative effect on the trade and the benefits of the trade.''

Other commenters expressed support for restricting the use after import of certain specimens and for some of the proposed changes. One commenter stated that we should retain the current restriction on domestic trade of all Appendix-I specimens, including those that were imported into the United States as Appendix-II specimens. Another commenter expressed support for our current treatment of specimens imported when the species was listed in Appendix I and then subsequently transferred to Appendix II (which we did not propose to revise). The commenter stated that allowing a change in treatment of such specimens within the United States was pragmatic from an enforcement point of view and noted that the change in listing status would mean that the previous conservation concerns would no longer exist. However, the same commenter was opposed to our proposed change in treatment for specimens imported when the species was listed in Appendix II and subsequently transferred to Appendix I, stating that it does not make sense to change the rules for one category on the basis of conservation and enforcement and then not apply the same logic to another category. The commenter believes that allowing an individual to demonstrate that a specimen was imported before the species was transferred to Appendix I creates a loophole for illegal use of wildlife. One commenter, although not necessarily opposed to the proposed revisions, questioned the logistics of implementing and enforcing the changes. Two commenters urged us to retain the option of restricting domestic commercial use of specimens if there are reasonable grounds to conclude that doing so is necessary for the conservation of the species. One of them cautioned that domestic markets for specimens of Appendix-I species can be strong drivers of poaching and illegal trade.

This issue has been the subject of considerable discussion. The changes to this section are intended to be a balance of fairness to individuals who have complied with the law in their acquisition of CITES-listed specimens and the conservation needs of listed species. We recognized in our 2007 regulations that there is no conservation benefit to be derived from a prohibition on the commercial use of specimens imported when the species was listed in Appendix I or in Appendix II with an annotation prohibiting commercial use after the species has been transferred to Appendix II or the annotation removed—or possibly delisted altogether. We did not propose changes to the regulations with regard to these specimens because it is not reasonable to prohibit the commercial use of such specimens, but allow the import and commercial use of other specimens of the same species, as would be possible under an Appendix-II listing or if the species has been removed from the Appendices altogether.

Upon further reflection, we conclude that it would similarly not result in a conservation benefit to disallow the commercial use within the United States of specimens imported when the species was listed in Appendix II if the species is subsequently transferred to Appendix I. We have further evaluated this section since publication of our 2007 regulations and do not believe there is a basis to retrospectively apply restrictions on the use of specimens imported when the species was listed in Appendix II because the required findings for allowing the trade in those specimens were made prior to import and did not include a determination regarding commerciality. We consider this to be comparable to the exemption in Article VII, paragraph 2, for pre-Convention specimens, which allows a specimen of an Appendix-I species to be

traded for commercial purposes if it was acquired prior to listing under the Convention. Allowing specimens imported when the species was listed in Appendix II to continue to be used for commercial purposes within the United States, even after the species has been transferred to Appendix I or has an annotation added to the Appendix-II listing that prohibits commercial trade, recognizes the legal framework that applied to the specimens at the time they were traded. The arguments for prohibiting commercial use of specimens imported when the species was listed in Appendix II, after it has been listed in Appendix I or annotated to prohibit commercial use, could be as aptly applied to pre-Convention specimens, but the Convention allows that pre-Convention specimens are not subject to its requirements (if the Management Authority issues a certificate to that effect), whether the species is listed in Appendix I, II, or III.

It is important to emphasize that our regulations in § 23.55 apply only to use within the United States. If a species has been transferred from Appendix II to Appendix I, specimens imported when the species was listed in Appendix II become Appendix-I specimens and international trade in such specimens must be in accordance with the Treaty requirements for trade in Appendix-I specimens. It is only the allowed use within the United States that does not change under our revised regulations.

We do not believe that it should be difficult for individuals engaged in commercial activities to provide the documentation necessary to demonstrate that their specimens were acquired prior to the Appendix-I listing. However, we will assess these situations carefully to determine if this change results in undue enforcement challenges.

We are making minor changes to the text in the proposed rule for the table in § 23.55, for clarity and precision. We added the phrase ''without an annotation for noncommercial purposes'' immediately following ''Appendix II'' in paragraph (c) of § 23.55, to draw a clear distinction between the Appendix-II specimens covered by paragraph (b) and those covered by paragraph (c). We also further revised the text in the right-hand column of the table in § 23.55 associated with paragraphs (a), (b), and (c) to make it easier to read and understand.

Factors considered in making a finding of not for primarily commercial purposes (§ 23.62): We did not propose changes to this section, but one commenter has expressed concern that, although the determination of whether or not an Appendix-I specimen is to be used for ''primarily commercial purposes'' is to be made by the importing country, the U.S. Management Authority considers it is also a duty of the exporting country, which is contrary to CITES provisions. We agree with the commenter that it is the responsibility of the Management Authority in the importing country, prior to issuing an import permit, to determine whether an Appendix-I specimen is to be used for primarily commercial purposes. However, as noted previously, we will exercise our right and responsibility under the Treaty to verify whether the Management Authority of the importing country has made the appropriate determination of whether an import is not for primarily commercial purposes.

Trade in native CITES furbearer species (§ 23.69): Our previous regulations at § 23.69 defined ''CITES furbearers'' to mean bobcat (*Lynx rufus*), river otter (*Lontra canadensis*), Canada lynx (*Lynx canadensis*), and the Alaskan populations of gray wolf (*Canis lupus*) and brown bear (*Ursus arctos*). For consistency and clarity, we have further amended our definition of ''CITES furbearers'' to include all U.S. populations of gray wolf and brown bear. All five of the species included in our definition of ''CITES furbearers'' are listed in CITES Appendix II. Certain populations of three of these species, Canada lynx, gray wolf, and brown bear, are also listed under the ESA. We initially considered that only the Alaskan populations of gray wolf and brown bear should be included in our definition of ''CITES furbearers'' because the Alaskan populations are not ESA-listed. However, the same is true for the Canada lynx, which is included in our definition throughout its U.S. range. Upon further review, we believe it is more appropriate to base the definition of ''CITES furbearers'' on the CITES listings of these species. The definition in § 23.69 includes those native furbearers for which States may request approval of a CITES export program. Although the State of Alaska is the only State that currently has CITES export approval for gray wolf or brown bear, we do not want to prohibit other States from seeking export approval for these species in the future if the legal and conservation status of their populations change. Section 23.69 details the CITES requirements for import, export, or re-export of fur skins from CITES furbearers and the requirements that must be met for export approval of State or tribal programs for CITES furbearers. We remind readers that activities involving specimens from populations of CITES furbearers that are protected under the ESA must also meet the requirements for ESA-listed species in part 17 and elsewhere in this title (see § 23.3).

We received support for the amendment of our definition of ''CITES furbearers'' from two commenters who believed it to be a sensible change and noted that it would facilitate possible future requests from States for CITES export approvals if the legal and conservation status of listed species changes. One of these commenters recommended that we also include the American black bear in our definition of ''CITES furbearer'' in this section. Although we are not necessarily opposed to this suggestion, we have not received requests from States wishing to develop a CITES export program for black bear. If there are States interested in developing such a program in the future, we will work with them to explore the possibility of including the American black bear in our definition of ''CITES furbearers'' and creating a CITES export program for black bear.

Tagging of CITES fur skins and crocodilian skins (§§ 23.69 and 23.70): We are amending § 23.70 to incorporate changes to the tagging requirements for crocodilian skins adopted by the Parties at CoP15. We are also amending §§ 23.69 and 23.70 to clarify the appropriate use of CITES replacement tags for CITES fur skins and crocodilian skins. These sections specify that skins with broken, cut, or missing tags may not be exported and provide a procedure for obtaining replacement tags where this is the case. However, the regulations are not intended to allow for the use of CITES replacement tags in place of tags that have been deliberately removed to facilitate processing or for other reasons. Replacement tags are intended to be used to replace CITES tags that have been inadvertently cut or damaged, or where the original CITES tags are lost. Although CITES tags sometimes break during transport or processing and may sometimes fail as a result of a defect, it has been our experience that the failure rate is very low (less than 5 percent) and that replacement tags are needed infrequently. We are also amending the phrases in § 23.69, paragraphs (c)(3) and (c)(3)(i), and in § 23.70, paragraphs (d)(3) and (d)(3)(i), referring to ''broken, cut, or missing'' tags to be more consistent with the terminology used in Resolution Conf. 11.12 (Rev. CoP15).

Two commenters supported the amendments to this section consistent with the changes to Resolution Conf. 11.12 (Rev. CoP15). However, they and

another commenter expressed concern about our clarifications regarding the proper use of replacement tags. They noted that tags are sometimes deliberately removed for processing and asked that we develop a policy to recognize that ''lawfully acquired and documented hides'' whose tags have been removed for finishing should qualify for replacement tags. One of these commenters also noted that the current process for obtaining replacement tags is time-consuming and ''frequently negatively impacts business transactions,'' and asked that a protocol be developed to allow tanners to obtain replacement tags from FWS in a timely manner. The commenter stated that, when a tanner attempts to export skins from which he has removed the tags due to the particular processing used, he is limited as to the proportion of skins with replacement tags that can be included in an individual shipment. The commenter believes this limitation is arbitrary.

As for all CITES species, before we can issue a CITES document to allow export of CITES furbearer skins or crocodilian skins, we must find that the specimens were legally acquired and that the export is not detrimental to the survival of the species. We have worked with States and Tribes to develop procedures that allow us to make the necessary findings for native species programmatically (i.e., at the State or tribal level) rather than on a permit-by-permit basis. When States and Tribes have established a management program that ensures sustainable harvest and they have the means to identify or mark specimens that have been legally taken under their system, we are able to make findings for specimens harvested within their jurisdiction, thereby approving their program. A tag issued by the State or Tribe demonstrates that a particular specimen was harvested under an approved program and that the appropriate findings have been made. As noted previously, the regulations are not intended to allow for the use of CITES replacement tags in place of tags that have been deliberately removed to facilitate processing. We are always willing, however, to work with State and tribal governments to explore ways to improve our established procedures. The comment regarding limitations on the proportion of skins with replacement tags in a particular shipment appears to be a reference to the special rule for threatened crocodilians (50 CFR 17. 42(c)) under the ESA. The special rule states that, if a shipment of threatened crocodilian skins contains more that 25 percent replacement tags, the U.S. Management Authority will consult with the Management Authority of the re-exporting country before clearing the shipment (see 50 CFR 17.42(c)(3)(i)(C)). We note that this provision applies only to threatened crocodilians (as defined in § 17.42(c)(1)(i)) and not to the American alligator.

The same two commenters suggested that we delete the second sentence in § 23.70(e)(2), which describes information to be included on a marked American alligator skull. With this sentence deleted, § 23.70(e)(2) would read, ''Each American alligator skull must be marked as required by State and tribal law or regulation.'' They argue that this would allow each State or Tribe to determine whether marking of individual skulls is necessary. We fully support this suggestion. Marking of skulls is not a CITES requirement, and it was included in our regulations because we were aware that some States and Tribes required that American alligator skulls be marked. We agree that it is appropriate to allow each State and Tribe to decide whether or not to require marking of skulls and are incorporating the recommended revision into this rule.

These commenters also requested that we remove the requirement in § 23.70(f)(1) that crocodilian parts, other than meat and skulls, must be packed in transparent, sealed containers. They note that certain parts, particularly alligator backstrips, are large and heavy and would be more easily transported in sealed wooden crates or cardboard boxes that would be less likely than transparent plastic or vinyl containers to crack or split during handling. We believe that this is a reasonable suggestion. However, the recommendation that tails, feet, backstrips, and other parts be exported in transparent, sealed containers was accepted by the CITES Parties at CoP9 (1994) and is currently contained in Resolution Conf. 11.12 (Rev. CoP15). Because it is not just a U.S. requirement, changing this provision, both in terms of what the United States allows on export and what other countries allow upon import, cannot be achieved by simply revising our regulations. We will, however, explore with other Parties the possibility of revising Resolution Conf. 11.12 (Rev. CoP15) at CoP17 to update the provisions for transport of crocodilian parts.

Sport-hunted trophies (§ 23.74): At the time our current regulations were written, the CITES Parties had not defined ''sport-hunted trophy.'' We therefore developed the definition in § 23.74(b) based on our experience with international trade in these items and the commonly understood meaning of the term from the dictionary and other wildlife regulations. (See 72 FR 48402, August 23, 2007, for further background.)

Prior to CoP15, as part of its regular review of resolutions, the Secretariat suggested that the Parties consider developing a definition of ''hunting trophy'' that could be added to a CITES resolution. The United States participated in discussions through an online forum prior to CoP15 and in a working group established at CoP15 to consider a CITES definition of ''hunting trophy.'' At CoP15, the Parties adopted a definition of ''hunting trophy'' in Resolution Conf. 12.3 (Rev. CoP15). The major difference between the definition in our CITES regulations and the definition adopted by the Parties is that the definition in Resolution Conf. 12.3 (Rev. CoP15) allows manufactured items derived from the hunted animal to be considered part of a hunting trophy, whereas our definition in 50 CFR part 23 specifically excludes such items. We continue to have concerns about the possible import of fully manufactured products as part of a hunting trophy that were actually purchased at a store or from a taxidermist, for example, and were not made from the sport-hunted trophy animal. Therefore, we have incorporated into § 23.74(b) the definition contained in Resolution Conf. 12.3 (Rev. CoP15) with some additional text to clarify the conditions under which we will allow the import into the United States of manufactured items as part of a hunting trophy.

Five commenters expressed strong opposition to incorporating the definition of ''hunting trophy'' adopted at CoP15 because they do not believe that manufactured items should be considered part of a trophy. Some noted that the Parties have not yet agreed on the treatment of hunting trophies with respect to CITES provisions for personal and household effects and purpose codes on permits, and they argued that we should wait for those discussions to be concluded before revising our definition. Others pointed to the ''rise of sport-hunting as a loophole for illegal trade'' and expressed concern that the proposed change would present enforcement challenges and could allow laundering of commercial items as sport-hunted trophies. One commenter did not believe that we had provided sufficient justification for including products manufactured from the trophy animal in the definition of ''sport-hunted trophy.'' Another commenter noted that the United States has the

authority to adopt stricter domestic measures and should do so in this case.

Although it is true that discussions regarding CITES provisions for treatment of personal and household effects and the use of purpose codes on CITES documents are ongoing, the definition of ''hunting trophy'' is not dependent on the outcome of those discussions. We share the concern that adopting the definition of ''hunting trophy'' in Resolution Conf. 12.3 (Rev. CoP15) could result in enforcement challenges and trade in commercial products as hunting trophies. For these reasons, we are adding the provisions in § 23.74(b)(4) to describe the conditions under which we will allow import of manufactured or handicraft items as part of a sport-hunted trophy. Our new definition is consistent with the definition adopted by CITES Parties, but provides us additional measures to ensure that this trade is limited to items made from the sport-hunted animal for the personal use of the hunter.

Two commenters expressed support for the definition of ''hunting trophy'' adopted at CoP15 and for incorporation of the new definition into U.S. regulations. These commenters objected, however, to the additional text we have proposed to clarify the circumstances under which we would allow import into the United States of manufactured items as part of a hunting trophy.

Both commenters objected to the requirement in § 23.74(b)(4)(i) that items manufactured from the sport-hunted animal be contained in the same shipment as raw or tanned parts of the animal, noting that the definition in Res. Conf. 12.3 (Rev. CoP15) allows for the possibility that manufactured items made from a sport-hunted animal are the only items a hunter wishes to export and import. As we have stated previously, we have concerns about the import of fully manufactured products as a hunting trophy when the items were not actually made from the sport-hunted trophy animal. Requiring that manufactured items be contained in the same shipment as raw or tanned parts helps provide assurance that these items were, in fact, manufactured from the sport-hunted trophy animal. One commenter objected to the requirement that these manufactured items must be for the personal use of the hunter. To meet both the CITES definition of ''hunting trophy'' in Res. Conf. 12.3 (Rev. CoP15) and our definition of ''sport-hunted trophy'' in § 23.74, the animal must have been killed by the hunter for his or her personal use. If we are to consider items manufactured from the trophy animal to be part of the sport-hunted trophy, they must therefore also be for the personal use of the hunter.

Both commenters objected to the text in § 23.74(b)(4)(ii), which states that the quantity of manufactured items imported as a sport-hunted trophy must be no more than could ''reasonably be expected given the number of animals taken by the hunter.'' One felt this provision was too broad and the other felt that it provides too much discretion for inspectors to determine ''reasonable quantities.'' These same commenters also objected to the text in § 23.74(b)(4)(iii) requiring that the accompanying CITES document contain a complete itemization and description of all items included in the sport-hunted trophy shipment. We disagree with these comments and believe that the provisions in § 23.74(b)(4) provide reasonable measures for us to ensure that the expansion of our existing definition of ''sport-hunted trophy,'' to include items manufactured from the trophy animal, will not result in negative impacts to populations subject to sport hunting.

The definition of ''sport-hunted trophy'' has been the subject of considerable discussion and debate both here in the United States and at CITES meetings. We have been active participants in those discussions and have carefully considered whether and how to change our existing definition in § 23.74. As we indicated in the preamble to our proposed rule, we will carefully monitor imports of sport-hunted trophies, particularly imports of manufactured items as parts of sport-hunted trophies, to evaluate the impact of this change. If we identify problems with implementation of the new definition that result in increased conservation risks to these species, we will revisit our definition of ''sport-hunted trophy'' and propose revisions as needed.

We are moving the CITES marking requirements for African elephant trophies and the definition of ''lip mark area'' from the African elephant special rule (50 CFR 17.40(e)) into § 23.74. (See the discussion in the preamble on proposed changes to 50 CFR part 17.) In addition, at CoP15, the Parties adopted a change to the accepted methods for marking of elephant ivory to allow the use of new technologies for permanent marking, including the use of lasers. We are incorporating this change and clarifying the marking requirements for elephant ivory consistent with Resolution Conf. 10.10 (Rev. CoP15). Two commenters expressed support for these changes.

One commenter noted the difference between requirements for reporting the year on marks or tags for different species and suggested that the year on a mark or tag should represent the year of harvest in all cases, as recommended in Resolution Conf. 14.7. We agree with the commenter that it would be helpful to standardize the marking requirements for sport-hunted trophies, to the extent possible. However, we note that Resolution Conf. 14.7 provides general guidance with regard to nationally established export quotas. The marking requirements in § 23.74 are for specimens of species for which the Parties have adopted resolutions specific to trade in those species (i.e., elephant, leopard, markhor, and black rhinoceros, each of which contains marking requirements). The marking requirements in § 23.74 mirror the requirements in the various resolutions specific to trade in these specimens. In response to the comment, we are adding a clarification to the marking requirements for African elephant hunting trophies to indicate that the year included in the formula for marking (in Resolution Conf. 10.10 (Rev. CoP15)) is the year in which the elephant was harvested for export. We will continue to work with other CITES Parties to clarify and standardize marking requirements for sport-hunted trophies, where practicable.

Trade in vicuña (§ 23.75): We are adding a new section to the regulations to address the requirements for international trade in specimens of vicuña. Certain populations of vicuña are listed in Appendix II for the exclusive purpose of allowing international trade in wool sheared from live animals, cloth made from that wool, and products made from the cloth or wool. The CITES Parties have adopted specific requirements for labeling of these vicuña products in international trade. These requirements are currently contained in our special rule for threatened vicuña in 50 CFR part 17. We believe it is more appropriate to include these specific CITES requirements in our CITES regulations, and therefore we are removing them from part 17 and inserting them into a new section (§ 23.75) in part 23. (See the discussion in the preamble regarding changes to part 17.) One commenter expressed support for these proposed changes.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563): Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act: Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 *et seq.*). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The U.S. Small Business Administration (SBA) defines a small business as one with annual revenue or employment that meets or is below an established size standard. We expect that the majority of the entities involved with international trade in CITES specimens would be considered small as defined by the SBA. The declared value for U.S. international trade in CITES wildlife (not including plants) was $819 million in 2000, $428 million in 2001, $345 million in 2002, $394 million in 2003, $1.5 billion in 2004 (including one export of a single panda to China with a declared value of $1 billion), $737 million in 2005, $748 million in 2006, $1.0 billion in 2007, $846 million in 2008, $637 million in 2009, $665 million in 2010, and $871 million in 2011.

These new regulations create no substantial fee or paperwork changes in the permitting process. The regulatory changes are not major in scope and will create only a modest financial or paperwork burden on the affected members of the general public. The change from the current annual reporting requirement for registered facilities breeding Appendix-I wildlife to a 5-year renewal requirement actually reduces the paperwork burden for these facilities.

This final rule will benefit businesses engaged in international trade by providing updated and clearer regulations for the international trade of CITES specimens. We do not expect these benefits to be significant under the Regulatory Flexibility Act. The authority to enforce CITES requirements already exists under the ESA and is carried out by regulations contained in 50 CFR part 23. The requirements that must be met to import, export, and re-export CITES species are based on the text of CITES, which has been in effect in the United States since 1975.

We therefore certify that this final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act: This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more. This rule provides the importing and exporting community in the United States with updated and more clearly written regulations implementing CITES. This rule will not have a negative effect on this part of the economy. It will affect all importers, exporters, and re-exporters of CITES specimens equally, and the benefits of having updated guidance on complying with CITES requirements will be evenly spread among all businesses, whether large or small. There is not a disproportionate share of benefits for small or large businesses.

b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, tribal, or local government agencies; or geographic regions. This final rule will result in a small increase in fees for registered operations breeding Appendix-I species due to the requirement for renewal of registrations every 5 years.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule will assist U.S. businesses and individuals traveling abroad in ensuring that they are meeting all current CITES requirements, thereby decreasing the possibility that shipments may be delayed or even seized in another country that has implemented CITES resolutions not yet incorporated into U.S. regulations.

Unfunded Mandates Reform Act: Under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This final rule will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required. As the lead agency for implementing CITES in the United States, we are responsible for monitoring import and export of CITES wildlife and plants, including their parts, products, and derivatives, and issuing import and export documents under CITES. The structure of the program imposes no unfunded mandates. Therefore, this rule will have no effect on small governments' responsibilities.

b. This rule will not produce a Federal requirement of $100 million or greater in any year and is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings: Under Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required because this final rule will not further restrict the import, export, or re-export of CITES specimens. Rather, the rule updates and clarifies the regulations for the import, export, and re-export of CITES specimens, which will assist the importing and exporting community in conducting international trade in CITES specimens.

Federalism: These revisions to part 23 do not contain significant Federalism implications. A federalism summary impact statement under Executive Order 13132 is not required.

Civil Justice Reform: Under Executive Order 12988, the Office of the Solicitor has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. Specifically, this rule has been reviewed to eliminate errors and ensure clarity, has been written to minimize potential disagreements, provides a clear legal

standard for affected actions, and specifies in clear language the effect on existing Federal law or regulation.

Paperwork Reduction Act: This rule contains a collection of information that OMB has approved under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

OMB approved the information collection requirements associated with CITES permit applications and reports and assigned OMB Control Number 1018–0093, which expires May 31, 2017. This approval includes the application for the initial registration of commercial facilities that breed CITES Appendix-I animals (FWS Form 3–200–65) as well as other CITES requirements. This rule does not change the information collection requirements currently approved under 1018–0093. OMB has reviewed the following new requirements and assigned OMB Control Number 1018–0150, which expires April 30, 2017. When this final rule is effective, we will incorporate burden for the new information collections into OMB Control No. 1018–0093 and discontinue OMB Control Number 1018–0150.

• *Renewal of Registration for Commercial Breeding Operations (§ 23.46).* We are limiting the length of time a registration is valid to no more than 5 years. Applicants will use FWS Form 3–200–65, the same form used to request the initial registration, to request renewal of a registration. We will use the information collected through the renewal process to determine if an operation still meets the requirements for registration under CITES.

• *Reporting take of grizzly bears (§ 17.40(b)(1)(i)(B)).* Grizzly bears may be taken in self-defense or in defense of others, but such taking must be reported by the individual who has taken the bear or his designee within 5 days of occurrence to the appropriate Service Law Enforcement Office and to appropriate State and tribal authorities.

• *Reporting take of mountain lions (§ 17.40(h)(5)).* Free-living mountain lions in Florida may be taken for human safety reasons. Such take must be reported in writing within 5 days to the Service's Office of Law Enforcement.

• *Marking of vicuña products (§ 23.75(f)), beluga sturgeon caviar (§ 23.71), and African elephant sport-hunted trophies (§ 23.74(e)(2)).* CITES requires that specimens of these species in international trade are marked or labeled in a specific manner. Export permits, issued by the range countries for these species, must include the required marking/labeling information in order for the documents to be considered valid and for the United States to allow the import. Foreign export permits are reviewed by U.S. Fish and Wildlife inspectors at the time of import. These marking requirements are not new. All were contained in special rules in 50 part 17 (17.40 and 17.44). They are CITES marking requirements that were included in the special rules in part 17 at a time when we did not have such detailed information in our CITES regulations (prior to publication of the 2007 revisions to part 23). We are moving them from part 17 into part 23 to make a clear distinction between CITES requirements and ESA requirements.

• *Beluga sturgeon exemption (§ 17.44(y)(5)).* Our regulations allow for aquaculture facilities in countries where beluga sturgeon do not naturally occur to request an exemption from ESA permitting requirements for trade in beluga sturgeon caviar if they meet certain conditions. The facility must provide information demonstrating that it meets these conditions (i.e.; they are using best management practices, they do not rely on wild beluga sturgeon for brood stock, and they have entered into a formal agreement with a beluga sturgeon range State to enhance the survival of wild beluga sturgeon). Facilities granted such an exemption must file biennial reports with the Service documenting continued compliance with these conditions.

• *Exempt wildlife hybrids (§ 23.43(f)(2)).* Our regulations allow the international trade of certain wildlife hybrids without CITES documents, if an individual can provide documentation at the port of entry/exit that his or her animal meets the criteria for the exemption. This provision has been in place since 2007. With this final rule we have provided examples of the type of documentation an individual could use to demonstrate that his/her animal qualifies for the exemption. The information provided must clearly identify the specimen and demonstrate its recent lineage. Such information may include, but is not limited to, the following:

(1) Records that identify the name and address of the breeder and identify the specimen by birth or hatch date and by sex, band number, microchip number, or other mark.

(2) A certified pedigree issued by an internationally recognized association that contains scientific names of the animals in the specimen's recent lineage and clearly illustrates its genetic history. If the pedigree contains codes, a key or guide that explains the meaning of the codes must be provided.

• *Exception to use of CITES specimens after import (§ 23.55).* Our regulations provide an exception to the restrictions on use after import into the United States of certain CITES specimens. To take advantage of this exception, documentation (written records or other documentary evidence) must be provided that clearly demonstrates the specimen was imported prior to the CITES listing, with no restrictions on its use after import. If documentation does not clearly demonstrate that this exception applies, the specimen may be used only for noncommercial purposes. OMB Control No.: 1018–0150.

Title: Renewal of Registration for Appendix I Commercial Breeding Operations (CITES) and Other CITES Requirements, 50 CFR 17 and 23.

Service Form Number(s): 3–200–65.

Description of Respondents: Registered commercial facilities that breed Appendix-I (CITES) animals; individuals; businesses; and State, local, and tribal government agencies.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once every 5 years for renewal of registration; on occasion for other requirements.

Activity	Number of annual respondents	Number of annual responses	Completion time per response (hours)	Total annual burden hours*
Renewal of Registration (FWS Form 3–200–65)	5	5	20	100
Report Take—Grizzly Bears	25	25	.25	6
Report Take—Mountain Lions	15	15	.25	4
Marking/Labeling:				
Vicuna products	20	150	.5	75
African Elephant Sport-Hunted Trophies	450	450	.5	225
Beluga Sturgeon Caviar	1	1	.5	1

Activity	Number of annual respondents	Number of annual responses	Completion time per response (hours)	Total annual burden hours*
Beluga Sturgeon Exemption	1	1	16	16
Exempt Wildlife Hybrids	75	150	.5	75
Exception to Restrictions on Use of Certain CITES Specimens After Import into the United States	500	500	.5	250
Totals	1,092	1,297		752

*rounded.

Total Annual Non-hour Cost Burden: $250 (application fee of $50 for each renewal of registration for commercial breeding facilities).

During the proposed rule stage, we solicited comments on the new information collection (FWS Form 3–200–65). We received 9 comments, all from falconers and raptor breeders, regarding information collection requirements for renewal of registrations for breeding facilities. We responded to all comments in the preamble (see the sections on *International travel with personally owned live wildlife (§ 23.44)* and *Registration of a commercial breeding operation for Appendix-I wildlife (§ 23.46)*), and provide a summary here.

One falconer expressed dissatisfaction with the process for renewing a certificate of ownership for personally owned, live wildlife (§ 23.44). The commenter objected to having to complete an entire application when only a few items needed to be updated. He also considered the estimated time of 30 minutes for completion of Form 3–200–64 to be ''overly conservative'' and stated that ''a more realistic, but still conservative estimate'' would be at least 60 minutes.

Form 3–200–64, the application form for issuance of a certificate of ownership for personally owned live wildlife, asks for detailed information regarding the animal to be covered under the certificate. When a certificate holder wishes to renew a certificate of ownership, however, he or she should complete and submit Form 3–200–52, the application for re-issuance or renewal of a permit. This is a simplified application on which the applicant can certify that there have been no changes to the original application or that there have been changes as noted on an attached page. We thank the commenter for his input regarding the length of time needed to complete Form 3–200–64. We have reviewed all of our application forms and took his comments into consideration during the renewal process for OMB Control Number 1018–0093.

Some of the commenters stated that the new requirement for renewal of commercial breeding operation for Appendix-I wildlife (§ 23.46) would create a significant burden on registered operations. They noted that raptor breeders are already monitored by the Service, through the Migratory Bird Program (MBP), and therefore the process for renewal of a registration would be redundant. They argued that the annual report and individual transactions forms provided to MBP should suffice for any monitoring requirement for CITES. Two commenters were more supportive of a simple registration update form and associated fee, if the required data submission was simply a reference to the current MBP data. One commenter suggested that if renewal of a registration is mandated by the Service, a one-page application with accompanying photocopies of the past five annual reports from the operation to the MBP should be all that is required.

The regulations in § 23.46, regarding the process for registering a commercial breeding operation for Appendix-I wildlife, apply to operations breeding any Appendix-I species, not just raptors and other falconry birds. Although it is true, as one commenter has noted, that all of the U.S. facilities currently registered with the CITES Secretariat are breeding raptors, we do not anticipate that this will always be the case. Therefore, we need to establish registration and reporting procedures that will work not just for facilities breeding raptors, but for any commercial breeding operation that may be registered in the future. It is not our intention, however, to increase the burden for raptor breeders.

We understand that U.S. raptor breeders are regulated under the Migratory Bird Treaty Act (MBTA) and must provide reports to the MBP on specific activities related to the breeding of native raptors (as defined in part 21 of this subchapter). It is also true, however, that not all CITES-listed, Appendix-I raptors are covered by the MBTA. There is no requirement for an operation breeding birds that are not covered by the MBTA (including raptors that are not native raptors under the definition in part 21) to provide reports to the MBP on activities associated with those birds. We agree that, for operations breeding native raptors, documents submitted to the MBP would include most, if not all, of the information needed for the renewal of a CITES registration. If an applicant requesting renewal of a registration is breeding native raptors and reporting to the MBP, he or she can inform us on the application for renewal, and we will obtain copies of the relevant documents, covering the past 5-year period, from MBP. A registered operation that is breeding Appendix-I species that are not covered by the MBTA, and therefore not covered in reports provided to the MBP, will need to include updated information relevant to those species in its renewal application.

You may send comments on any aspect of these information collection requirements to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop 2042–PDM, Arlington, VA 22203.

National Environmental Policy Act (NEPA): This final rule has been analyzed under the criteria of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Department of the Interior procedures for compliance with NEPA (Departmental Manual (DM) and 43 CFR part 46), and Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 CFR 1500–1508). This final rule does not amount to a major Federal action significantly affecting the quality of the human environment. An environmental impact statement or evaluation is not required. This final rule is a regulation that is of an administrative, legal, technical, or procedural nature, and its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis under NEPA. The FWS has determined that this final rule is categorically excluded from further NEPA review as provided by 516 DM 2, Appendix 1.9,

of the Department of the Interior National Environmental Policy Act Revised Implementing Procedures and 43 CFR 46.210(i). No further documentation will be made.

Government-to-Government Relationship with Tribes: Under the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian Tribes and have determined that there are no effects. Individual tribal members must meet the same regulatory requirements as other individuals who trade internationally in CITES species.

Energy Supply, Distribution, or Use: On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This rule revises the current regulations in 50 CFR part 23 that implement CITES. The regulations provide procedures to assist individuals and businesses that import, export, and re-export CITES wildlife and plants, and their parts, products, and derivatives, to meet international requirements. This final rule will not significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

List of Subjects

50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 17

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

50 CFR Part 23

Animals, Endangered and threatened species, Exports, Fish, Foreign trade, Forest and forest products, Imports, Incorporation by reference, Marine mammals, Plants, Reporting and recordkeeping requirements, Transportation, Treaties, Wildlife.

Regulation Promulgation

For the reasons given in the preamble, under the authority of 16 U.S.C. 1531 et seq., we amend title 50, chapter I, of the Code of Federal Regulations as follows:

PART 13—[AMENDED]

■ 1. The authority citation for part 13 continues to read as follows:

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

§ 13.3 [Amended]

■ 2. Section 13.3 is amended by removing the words '' 'Endangered Species Convention' (the Convention on International Trade in Endangered Species of Wild Fauna and Flora)'' from the first sentence and adding in their place the words '' 'Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)'.''

■ 3. Section 13.11 is amended by:

■ a. Adding the words ''the Service's permits Web page at *http://www.fws.gov/permits/;* and the'' immediately following the colon in the first sentence of paragraph (b)(3);

■ b. Removing the words ''Room 700'' from the first sentence of paragraph (b)(3) and adding in their place the words ''Room 212'';

■ c. Adding the word ''street'' immediately before the word ''address'' in the last sentence of paragraph (b)(3); and

■ d. Adding an entry to the table in paragraph (d)(4) under the section titled ''Endangered Species Act/CITES/Lacey Act'' immediately following the entry for ''CITES Registration of Commercial Breeding Operations for Appendix-I Wildlife'' to read as set forth below.

§ 13.11 Application procedures.

* * * * *

(d) * * *

(4) * * *

Type of permit	CFR Citation	Permit application fee	Amendment fee
* * * *	*	*	*
Endangered Species Act/CITES/Lacey Act			
* * * *	*	*	*
—Renewal of Registration of Commercial Breeding Operations for Appendix-I wildlife ..	50 CFR 23	50	.....
* * * *	*	*	*

■ 4. Section 13.12(b) is amended by:

■ a. Revising the introductory text to read as set forth below;

■ b. In the table, under the heading ''Threatened wildlife and plant permits:'' removing the entry for ''American alligator—buyer or tanner''; and

■ c. In the table, removing the final entry, ''Endangered Species Convention permits.''

§ 13.12 General information requirements on applications for permits.

* * * * *

(b) *Additional information required on permit applications.* As stated in paragraph (a)(3) of this section, certain additional information is required on all permit applications. For CITES permit applications, see part 23 of this subchapter. Additional information required on applications for other types of permits may be found by referring to the sections of this subchapter cited in the following table:

* * * * *

PART 17—[AMENDED]

■ 5. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.9 [Amended]

■ 6. Section 17.9(a)(2) is amended by:

■ a. Removing the words ''Office of'' and adding in their place the words ''Division of''; and

■ b. Removing the words ''Room 700'' and adding in their place the words ''Room 212''.

§ 17.21 [Amended]

■ 7. Section 17.21(g)(2) is amended by:
■ a. Removing the words ''Office of'' in the first sentence and adding in their place the words ''Division of''; and
■ b. Adding the words ''Room 212,'' in the first sentence immediately following the words ''Fairfax Drive,''.

■ 8. Section 17.40 is amended by:
■ a. Revising paragraph (b)(1)(i)(B) to read as set forth below;
■ b. Removing the words ''Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service'' from paragraphs (b)(1)(i)(C)(*3*), (b)(1)(i)(D), and (b)(1)(ii)(A) and adding in their place the words ''U.S. Fish and Wildlife Service law enforcement office'';
■ c. Removing paragraph (e)(1)(iv);
■ d. Revising paragraph (e)(3)(iii)(D) to read as set forth below;
■ e. Revising the heading of paragraph (f) to read as set forth below;
■ f. Revising the first sentence of paragraph (h)(5) to read as set forth below;
■ g. Revising the heading of paragraph (m) to read as set forth below;
■ h. Removing the first sentence following the heading of paragraph (m);
■ i. Revising paragraphs (m)(1)(ii) and (m)(1)(iii) to read as set forth below;
■ j. Revising paragraph (m)(2) to read as set forth below;
■ k. Removing the words ''an information notice'' from the introductory text of paragraph (m)(3) and adding in their place the words ''a public bulletin'';
■ l. Removing paragraphs (m)(3)(i) and (m)(3)(iv); and
■ m. Redesignating paragraphs (m)(3)(ii) and (m)(3)(iii) as paragraphs (m)(3)(i) and (m)(3)(ii).

§ 17.40 Special rules—mammals.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) Grizzly bears may be taken in self-defense or in defense of others, but such taking shall be reported by the individual who has taken the bear or his designee within 5 days of occurrence to the Resident Agent in Charge, Office of Law Enforcement, U.S. Fish and Wildlife Service, 2900 4th Avenue North, Suite 301, Billings, MT 59101 (406–247–7355), if occurring in Montana or Wyoming, or the Special Agent in Charge, Office of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 9, Sherwood, OR 97140 (503–521–5300), if occurring in Idaho or Washington, and to appropriate State and Tribal authorities. Grizzly bears taken in self-defense or in defense of others, including the parts of such bears, shall not be possessed, delivered, carried, transported, shipped, exported, received, or sold, except by Federal, State, or Tribal authorities.

* * * * *

(e) * * *

(3) * * *

(iii) * * *

(D) The trophy is legibly marked in accordance with part 23 of this subchapter.

* * * * *

(f) Leopard (*Panthera pardus*) * * *

* * * * *

(h) * * *

(5) Any take pursuant to paragraph (h)(4) of this section must be reported in writing to the U.S. Fish and Wildlife Service, Office of Law Enforcement, 4401 N. Fairfax Drive, LE–3000, Arlington, VA 22203, within 5 days.

* * *

* * * * *

(m) Vicuña (*Vicugna vicugna*).

(1) * * *

(ii) *Import, export, and re-export.* Except as provided in paragraph (m)(2) of this section, it is unlawful to import, export, or re-export, or present for export or re-export without valid permits as required under parts 17 and 23 of this subchapter, any vicuña or vicuña parts and products. For import of embryos, blood, other tissue samples, or live vicuña, permits required under § 17.32 and part 23 will be issued only for bona fide scientific research contributing to the conservation of the species in the wild.

(iii) *Other activities.* Except as provided in paragraph (m)(2) of this section, it is unlawful to sell or offer for sale, deliver, receive, carry, transport, or ship in interstate or foreign commerce and in the course of a commercial activity any vicuña or vicuña parts and products.

* * * * *

(2) *What activities involving vicuña are allowed by this rule?* You may import, export, or re-export, or conduct interstate or foreign commerce in raw wool sheared from live vicuñas, cloth made from such wool, or manufactured or handicraft products and articles made from or consisting of such wool or cloth without a threatened species permit issued according to § 17.32 only when the following provisions have been met:

(i) The specimens originated from a population listed in CITES Appendix II.

(ii) The provisions in parts 13, 14, and 23 of this subchapter are met, including the specific labeling provisions in part 23.

(iii) *Personal and household effects.* Under the provisions of this special rule, raw wool sheared from live vicuñas, cloth made from such wool, or manufactured or handicraft products and articles made from or consisting of such wool or cloth are not granted the personal or household effects exemption described in part 23 of this subchapter. In addition to the provisions of this paragraph (m)(2), such specimens may only be imported, exported, or re-exported when accompanied by a valid CITES document.

(iv) *Labeling of wool sheared from live vicuñas.* Any shipment of raw wool sheared from live vicuñas must be sealed with a tamper-proof seal and have the following:

(A) An identification tag with a code identifying the country of origin of the raw vicuña wool and the CITES export permit number; and

(B) The vicuña logotype as defined in 50 CFR part 23 and the words ''VICUÑA—COUNTRY OF ORIGIN'', where country of origin is the name of the country from which the raw vicuña wool was first exported.

(v) At the time of import, the country of origin and each country of re-export involved in the trade of a particular shipment have not been identified by the CITES Conference of the Parties, the CITES Standing Committee, or in a Notification from the CITES Secretariat as a country from which Parties should not accept permits.

* * * * *

■ 9. Section 17.44 is amended by:
■ a. Revising the heading of paragraph (y) to read as set forth below;
■ b. Removing the first sentence following the heading of paragraph (y);
■ c. Revising paragraph (y)(3)(i)(A) to read as set forth below;
■ d. Revising paragraph (y)(3)(ii) to read as set forth below;
■ e. Removing paragraph (y)(4)(iii);
■ f. Redesignating paragraphs (y)(4)(iv) through (y)(4)(vi) as (y)(4)(iii) through (y)(4)(v);
■ g. Revising newly redesignated paragraph (y)(4)(iii) to read as set forth below;
■ h. Revising the fourth sentence of paragraph (y)(5) introductory text to read as set forth below;
■ i. Removing the words ''an information bulletin'' from the introductory text of paragraph (y)(6) and adding in their place the words ''a public bulletin''; and
■ j. Removing the words ''Room 700'' in the NOTE to paragraph (y)(6) and adding in their place the words ''Room 212''.

§ 17.44 Special rules—fishes.

* * * * *

(y) Beluga sturgeon *(Huso huso).*

* * *

(3) * * *

(i) * * *

(A) Beluga sturgeon caviar, including beluga sturgeon caviar in interstate commerce in the United States, must be labeled in accordance with the CITES labeling requirements in 50 CFR part 23.

* * * * *

(ii) *Personal and household effects.* You may import, export, or re-export, or conduct interstate or foreign commerce in beluga sturgeon specimens that qualify as personal or household effects under 50 CFR part 23 without a threatened species permit otherwise required under § 17.32. Trade suspensions or trade restrictions administratively imposed by the Service under paragraphs (y)(6) or (y)(7) of this section may also apply to personal and household effects of beluga sturgeon caviar.

* * * * *

(4) * * *

(iii) *CITES compliance.* Trade in beluga sturgeon specimens must comply with CITES requirements in 50 CFR part 23. Except for specimens that qualify as personal or household effects under 50 CFR part 23, all beluga sturgeon specimens, including those exempted from threatened species permits under this special rule, must be accompanied by valid CITES documents upon import, export, or re-export. Beluga sturgeon caviar, including beluga sturgeon caviar in interstate commerce in the United States, must be labeled in accordance with the CITES labeling requirements in 50 CFR part 23.

(5) * * * Facilities outside the littoral states wishing to obtain such exemptions must submit a written request to the Division of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 212, Arlington, VA 22203, and provide information that shows at a minimum, all of the following: * * *

* * * * *

■ 10. Section 17.62 is amended by:

■ a. Revising paragraph (a)(4), and removing the undesignated paragraph and paragraphs (1) through (8) following paragraph (a)(4); and

■ b. Revising the third sentence of paragraph (c)(3), and adding a sentence to the end of that paragraph, to read as set forth below.

§ 17.62 Permits for scientific purposes or for the enhancement of propagation or survival.

* * * * *

(a) * * *

(4) When the activity applied for involves a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements in part 23 of this subchapter must be met.

* * * * *

(c) * * *

(3) * * * If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, specific information must be entered on the Customs declaration label affixed to the outside of each shipping container or package. See part 23 of this subchapter for requirements for trade in CITES specimens between registered scientific institutions.

* * * * *

■ 11. Section 17.72 is amended by:

■ a. Revising paragraph (a)(4), and removing the undesignated paragraph and paragraphs (1) through (8) following paragraph (a)(4); and

■ b. Revising the third sentence of paragraph (c)(3), and adding a sentence to the end of that paragraph, to read as set forth below.

§ 17.72 Permits—general.

* * * * *

(a) * * *

(4) When the activity applied for involves a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements in part 23 of this subchapter must be met.

* * * * *

(c) * * *

(3) * * * If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, specific information must be entered on the Customs declaration label affixed to the outside of each shipping container or package. See part 23 of this subchapter for requirements for trade in CITES specimens between registered scientific institutions.

* * * * *

PART 23—[AMENDED]

■ 12. The authority citation for part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora (March 3, 1973), 27 U.S.T. 1087; and Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

■ 13. Section 23.2 is revised to read as follows:

§ 23.2 How do I decide if these regulations apply to my shipment or me?

If you are engaging in activities with specimens of CITES-listed species these regulations apply to you.

■ 14. Section 23.5 is amended by:

■ a. Amending the definition of *Bred for noncommercial purposes* by removing the words ''and is conducted between facilities that are involved in a cooperative conservation program'' from the end of the sentence;

■ b. Removing the definition of *Cooperative conservation program;*

■ c. Revising the definitions of *Coral (dead), Coral fragments, Coral (live),* and *Coral sand* to read as set forth below;

■ d. Revising the first sentence, and adding a sentence to the end, of the definition of *Coral rock* to read as set forth below;

■ e. Adding, in alphabetical order, a definition of *Coral (stony)* to read as set forth below;

■ f. Revising the definition of *Cultivar* to read as set forth below;

■ g. Revising the definition of *Introduction from the sea* to read as set forth below; and

■ h. Adding, in alphabetical order, a definition of *Ranched wildlife* to read as set forth below.

§ 23.5 How are the terms used in these regulations defined?

* * * * *

Coral (dead) means pieces of stony coral that contain no living coral tissue and in which the structure of the corallites (skeletons of the individual polyps) is still intact and the specimens are therefore identifiable to the level of species or genus. See also § 23.23(c)(13).

Coral fragments, including coral gravel and coral rubble, means loose pieces of broken finger-like stony coral between 2 and 30 mm measured in all directions that contain no living coral tissue and are not identifiable to the level of genus (see § 23.92 for exemptions).

Coral (live) means pieces of stony coral that are alive and are therefore identifiable to the level of species or genus. See also § 23.23(c)(13).

Coral rock means hard consolidated material greater than 30 mm measured in any direction that consists of pieces of stony coral that contain no living coral tissue and possibly also cemented sand, coralline algae, or other sedimentary rocks. * * * See also § 23.23(c)(13).

Coral sand means material that consists entirely or in part of finely crushed stony coral no larger than 2 mm measured in all directions that contains no living coral tissue and is not

identifiable to the level of genus (see § 23.92 for exemptions).

Coral (stony) means any coral in the orders Helioporacea, Milleporina, Scleractinia, Stolonifera, and Stylasterina.

* * * * *

Cultivar means a horticulturally derived plant variety that: has been selected for a particular character or combination of characters; is distinct, uniform, and stable in these characters; and when propagated by appropriate means, retains these characters. The cultivar name and description must be formally published in order to be recognized under CITES.

* * * * *

Introduction from the sea means transportation into a country of specimens of any species that were taken in the marine environment not under the jurisdiction of any country, i.e., taken in those marine areas beyond the areas subject to the sovereignty or sovereign rights of a country consistent with international law, as reflected in the United Nations Convention on the Law of the Sea.

* * * * *

Ranched wildlife means specimens of animals reared in a controlled environment that were taken from the wild as eggs or juveniles where they would otherwise have had a very low probability of surviving to adulthood. See also § 23.34.

* * * * *

§ 23.7 [Amended]

■ 15. Section 23.7 is amended by:

■ a. In paragraph (a) under the ''Office to contact'' table heading, removing the words ''Room 700'' and adding in their place the words ''Room 212''; and

■ b. In paragraph (b) under the ''Office to contact'' table heading, removing the words ''Room 750'' and adding in their place the words ''Room 110''.

§ 23.8 [Amended]

■ 16. Section 23.8 is amended by removing the words ''Numbers 1018–0093 and 1018–0137'' from the end of the first sentence and adding in their place the words ''Number 1018–0093''.

■ 17. Section 23.9 is added to subpart A to read as set forth below:

§ 23.9 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect copies at the U.S. Management Authority, Fish and Wildlife Service, 4401 N. Fairfax Dr., Room 212, 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) International Air Transport Association (IATA), 800 Place Victoria, P.O. Box 113, Montreal, Quebec, Canada H4Z 1M1, 1–800–716–6326, *http://www.iata.org.*

(1) Live Animals Regulations (LAR) 40th edition, effective October 1, 2013, into §§ 23.23, 23.26, and 23.56.

(2) Perishable Cargo Regulations (PCR) 13th edition, effective July 1, 2013, into §§ 23.23, 23.26, and 23.56.

■ 18. Section 23.13 is amended by:

■ a. Redesignating paragraph (d) as paragraph (f);

■ b. Adding a new paragraph (d) and a new paragraph (e) to read as set forth below; and

■ c. In the newly redesignated paragraph (f), removing the words ''(a) through (c)'' and adding in their place the words ''(a) through (e)''.

§ 23.13 What is prohibited?

* * * * *

(d) Use any specimen of a species listed in Appendix I, II, or III of CITES for any purpose contrary to what is allowed under § 23.55.

(e) Violate any other provisions of this part.

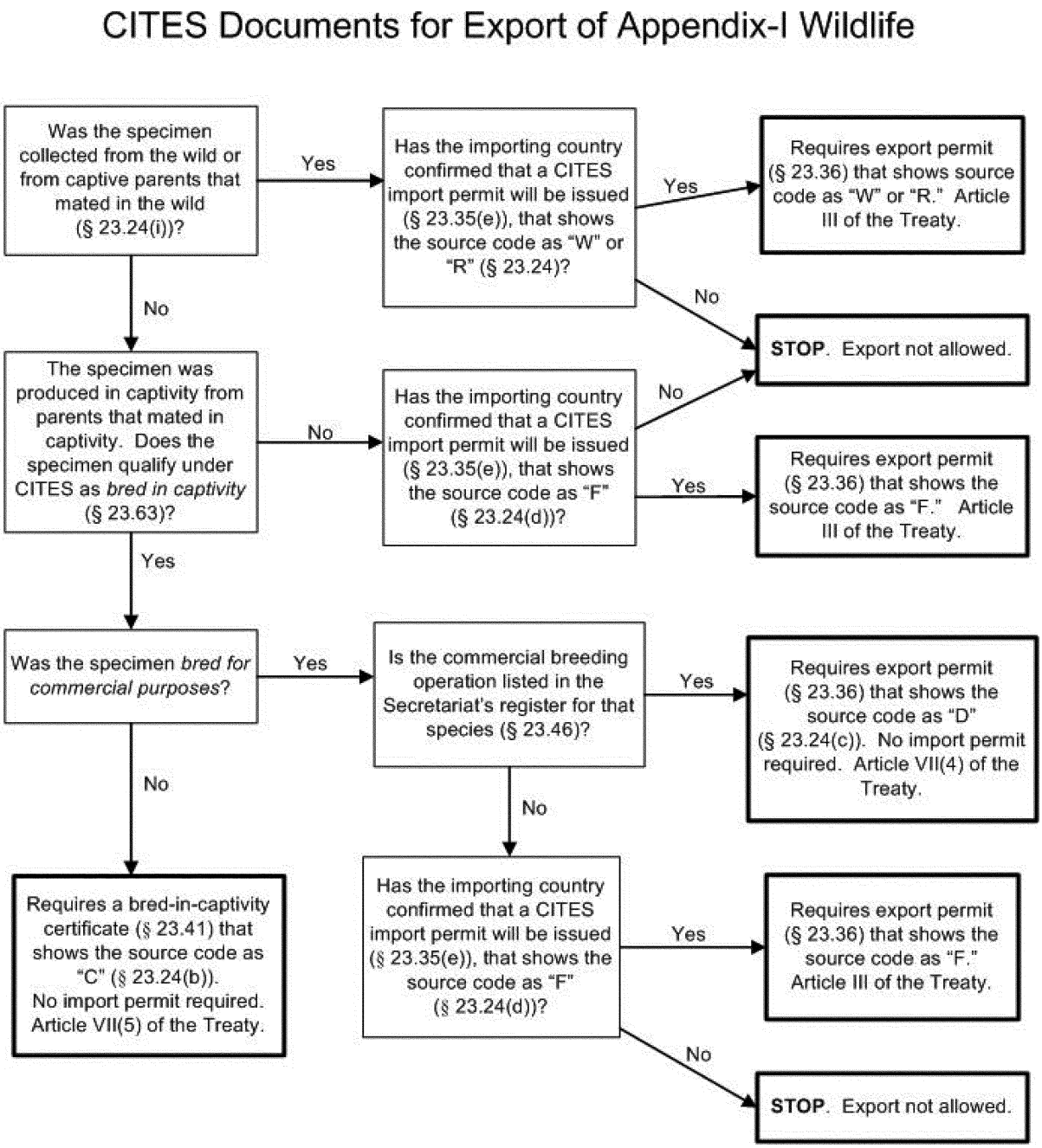
* * * * *

■ 19. Section 23.18 is amended by revising the decision tree to read as follows:

§ 23.18 What CITES documents are required to export Appendix-I wildlife?

* * * * *

BILLING CODE 4310–55–P

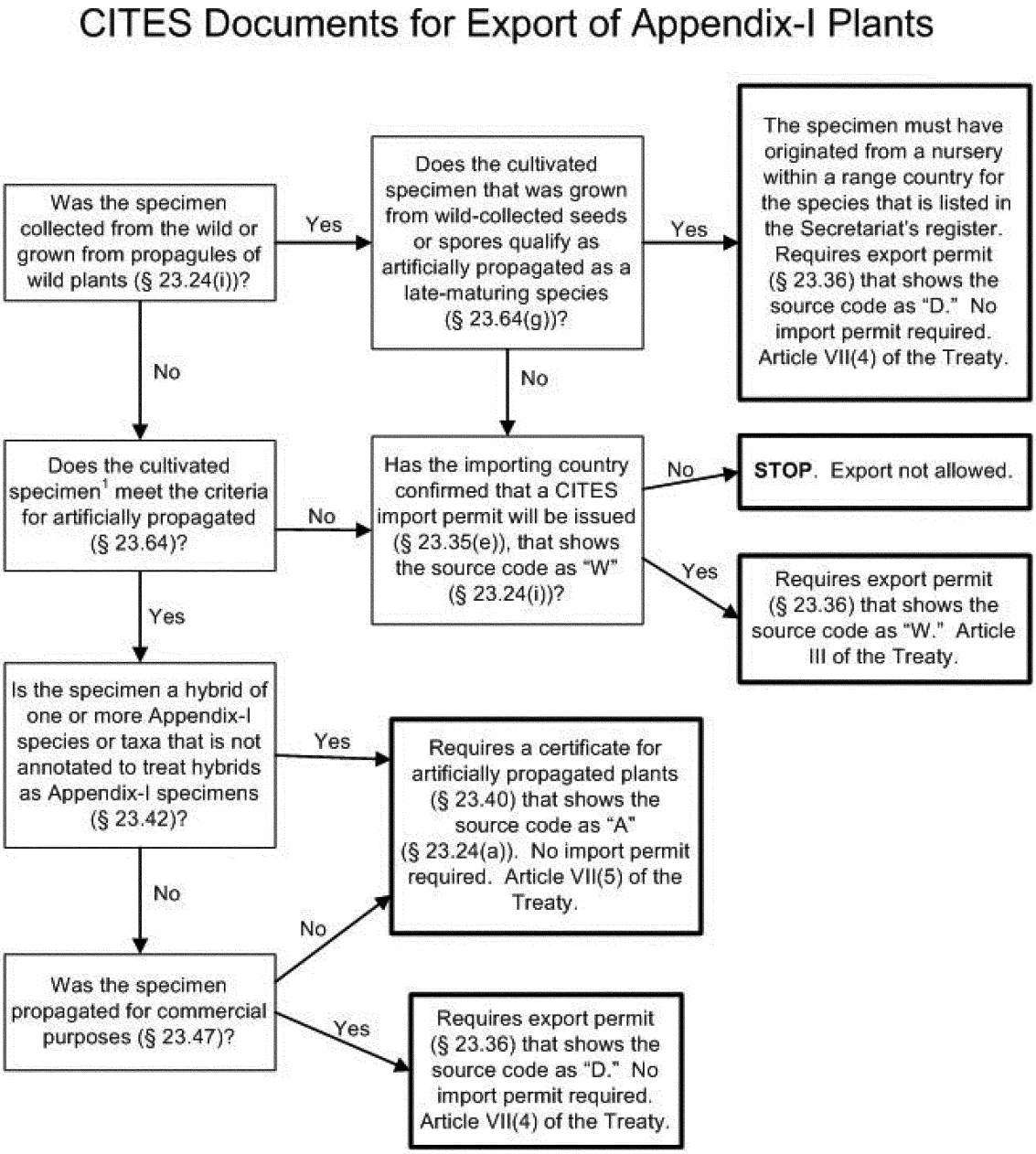


■ 20. Section 23.19 is amended by revising the decision tree to read as follows:

§ 23.19 What CITES documents are required to export Appendix-I plants?

* * * * *

BILLING CODE 4310–55–C



[1] Cultivated specimens (see §23.5) that do not meet the criteria as artificially propagated are treated as wild.

■ 21. Section 23.23 is amended by:

■ a. Removing the words ''on a form printed'' in the first sentence of paragraph (b) and adding in their place the word ''issued'';

■ b. Revising paragraph (c)(1) to read as set forth below;

■ c. Revising paragraph (c)(7) to read as set forth below;

■ d. Revising the introductory text of paragraph (c)(12) to read as set forth below;

■ e. Revising the introductory text of paragraph (c)(13) to read as set forth below;

■ f. Redesignating paragraphs (c)(13)(i)(B) and (c)(13)(i)(C) as (c)(13)(i)(C) and (c)(13)(i)(D);

■ g. Revising paragraph (c)(13)(i)(B) to read as set forth below;

■ h. Adding the words ''or signature stamp'' immediately following the words ''original handwritten signature'' in the first sentence of paragraph (c)(16);

■ i. Revising paragraph (c)(18) to read as set forth below;

■ j. Revising the introductory text of paragraph (c)(21) to read as set forth below;

■ k. Removing the word ''calendar'' from paragraph (e)(5)(i);

■ l. Adding a new paragraph (e)(10)(iv) to read as set forth below; and

■ m. Removing the words ''include hybrids'' from paragraph (f)(2)(ii) and

adding in their place the words ''treat hybrids as Appendix-I specimens''.

§ 23.23 What information is required on U.S. and foreign CITES documents?

* * * * *

(c) * * *

Required information	Description
(1) Appendix	The CITES Appendix in which the species, subspecies, or population is listed (see § 23.21 when a Party has taken a reservation on a listing). For products that contain or consist of more than one CITES species, the Appendix in which each species is listed must be indicated on the CITES document.
* * * * * * *	
(7) Humane transport of live specimens.	If the CITES document authorizes the export or re-export of live specimens, a statement that the document is valid only if the transport conditions comply with the *International Air Transport Association Live Animals Regulations* or the *International Air Transport Association Perishable Cargo Regulations* (incorporated by reference, see § 23.9). A shipment containing live animals must comply with the requirements of the *Live Animals Regulations* (LAR). A shipment containing live plants must comply with the requirements for plants in the *Perishable Cargo Regulations* (PCR).
* * * * * * *	
(12) Quantity	The quantity of specimens authorized in the shipment and, if appropriate, the unit of measurement using the metric system. For products that contain or consist of more than one CITES species, the quantity of each species must be indicated on the CITES document.
* * * * * * *	
(13) Scientific name	The scientific name of the species, including the subspecies when needed to determine the level of protection of the specimen under CITES. For products that contain or consist of more than one CITES species, the scientific name of each species must be indicated on the CITES document. Scientific names must be in the standard nomenclature as it appears in the CITES Appendices or the references adopted by the CoP. A list of current references is available from the CITES website or us (see § 23.7). A CITES document may contain higher-taxon names in lieu of the species name only under one of the following circumstances: (i) * * * (B) If the species cannot be determined for worked specimens of black coral, specimens may be identified at the genus level. If the genus cannot be determined for worked specimens of black coral, the scientific name to be used is the order Antipatharia. Raw black coral and live black coral must be identified to the level of species.
* * * * * * *	
(18) Source	The source of the specimen. For products that contain or consist of more than one CITES species, the source code of each species must be indicated on the CITES document. For re-export, unless there is information to indicate otherwise, the source code on the CITES document used for import of the specimen must be used. See § 23.24 for a list of codes.
* * * * * * *	
(21) Validation or certification	Except as provided for replacement (§ 23.52(f)) or retrospective (§ 23.53(f)) CITES documents, the actual quantity of specimens exported or re-exported: * * *

* * * * *

(e) * * *

Type of document	Additional required information
* * * * * * *	
(10) * * *	(iv) For products that contain or consist of more than one CITES species, the information in paragraphs (e)(10)(i) through (iii) of this section for each species must be indicated on the CITES document.
* * * * * * *	

§ 23.24 [Amended]

■ 22. Section 23.24 is amended by:

■ a. Removing the words ''which should be'' in the first sentence of the introductory text and adding in their place the words ''which may be'';

■ b. Adding the words ''(see § 23.5)'' immediately following the words ''Captive-bred'' in paragraph (d)(2)(i);

■ c. Removing paragraph (d)(2)(iii);

■ d. Removing the words ''to be used'' in paragraph (f) and adding in their place the words ''may be used''; and

■ e. Removing the words ''(wildlife that originated from a ranching operation).'' in paragraph (g) and adding in their place the words ''(*see § 23.5*).''.

■ 23. Section 23.26 is amended by:

■ a. Revising paragraph (c)(8) to read as set forth below;

■ b. Redesignating paragraphs (d)(4) through (d)(8) as (d)(5) through (d)(9);

■ c. Adding new paragraph (d)(4) to read as set forth below;

■ d. Further redesignating newly designated paragraphs (d)(7) through (d)(9) as paragraphs (d)(8) through (d)(10);

■ e. Adding new paragraph (d)(7) to read as set forth below; and

■ f. Adding new paragraph (d)(11) to read as set forth below.

§ 23.26 When is a U.S. or foreign CITES document valid?

* * * * *

(c) * * *

Key phrase	Conditions for an acceptable CITES document
*	*
(8) Humane transport	Live wildlife or plants were transported in compliance with the *International Air Transport Association Live Animals Regulations* (for animals) or the *International Air Transport Association Perishable Cargo Regulations* (for plants) (incorporated by reference, see § 23.9).
*	*

(d) * * *

(4) The CITES document includes a species for which the Secretariat has published an annotated quota.

* * * * *

(7) We know or have reasonable grounds to believe that an Appendix-I specimen was not bred at a facility registered with the CITES Secretariat and that the purpose of the import is commercial.

* * * * *

(11) The export permit or re-export certificate does not contain validation or certification by an inspecting official at the time of export of the actual quantity exported or re-exported.

■ 24. Section 23.27 is amended by:

■ a. Adding two sentences to the end of paragraph (a) to read as set forth below; and

■ b. Adding the words ''exporting or re-exporting'' immediately following the words ''Officials in each'' in the first sentence of paragraph (c).

§ 23.27 What CITES documents do I present at the port?

(a) * * * Article VI, paragraph 6, of the Treaty requires that the Management Authority of the importing country cancel and retain the export permit or re-export certificate and any corresponding import permit presented. In the United States, for imports of CITES-listed plant specimens, CITES inspecting officials cancel and submit original CITES documents to the U.S. Management Authority.

* * * * *

■ 25. Section 23.34 is amended by:

■ a. Removing the words ''Exempt plant material'' from the left-hand column of paragraph (b)(3) and adding in their place the words ''Grown from exempt plant material'';

■ b. Redesignating paragraphs (b)(6) through (b)(8) as paragraphs (b)(7) through (b)(9);

■ c. Adding a new paragraph (b)(6) to read as set forth below; and

■ d. Revising footnote 1 at the end of paragraph (b) to read as set forth below.

§ 23.34 What kinds of records may I use to show the origin of a specimen when I apply for a U.S. CITES document?

* * * * *

(b) * * *

Source of specimen	Types of records
*	*
(6) Ranched wildlife	(i) Records, such as permits, licenses, and tags, that demonstrate that the specimen was legally removed from the wild under relevant Federal, tribal, State, or local wildlife conservation laws or regulations: (A) If taken on private or tribal land, permission of the landowner if required under applicable law. (B) If taken in a national, State, or local park, refuge or other protected area, permission from the applicable agency, if required. (ii) Records that document the rearing of specimens at the facility: (A) Number of specimens (by sex and age- or size-class) at the facility. (B) How long the specimens were reared at the facility. (C) Signed and dated statement by the owner or manager of the facility that the specimens were reared at the facility in a controlled environment. (D) Marking system, if applicable. (E) Photographs or video of the facility.
*	*

[1] If the wildlife was born in captivity from an egg collected in the wild or from parents that mated or exchanged genetic material in the wild, see paragraphs (b)(6) and (b)(9) of this section. If the plant was propagated from a non-exempt propagule collected from a wild plant, see paragraph (b)(9) of this section.

* * * * *

■ 26. Section 23.36 is amended by:

■ a. Adding, in alphabetical order, two entries to the table in paragraph (b)(1), to read as set forth below;

■ b. In paragraph (b)(1) of the table, removing the entry ''Export of Skins/Products of Bobcat, Canada Lynx, River Otter, Brown Bear, Gray Wolf, and American Alligator Taken under an Approved State or Tribal Program'' and adding in its place the entry ''Export of Skins of Bobcat, Canada Lynx, River Otter, Brown Bear, Gray Wolf, and American Alligator Taken under an Approved State or Tribal Program'';

■ c. In paragraph (b)(1) of the table, removing the entry ''Trophies by Taxidermists'' and adding in its place the entry ''Trophies by Hunters or Taxidermists''; and

■ d. In the last entry of paragraph (b)(1), adding the words ''(Live Animals/Samples/Parts/Products)'' immediately following the words ''Wildlife, Removed from the Wild''.

§ 23.36 What are the requirements for an export permit?

* * * * *

(b) * * *

Type of application for an export permit	Form No.
(1) CITES:	
* * * * * * *	
Caviar/Live Eggs/Meat of Paddlefish or Sturgeon, From an Aquaculture Facility	3–200–80
* * * * * * *	
Master File for the Export of Live Animals Bred in Captivity	3–200–85
* * * * * * *	

* * * * *

§ 23.40 [Amended]

■ 27. Section 23.40 is amended by:
■ a. Removing the words ''include hybrids in the listing'' from paragraph (d)(2)(iii) and adding in their place the words ''treat hybrids as Appendix-I specimens'';
■ b. Adding the words ''or spore'' in paragraph (e)(1) immediately following the words ''from a wild seed'';
■ c. Removing the words ''include hybrids in the listing'' from paragraph (e)(2) and adding in their place the words ''treat hybrids as Appendix-I specimens''; and
■ d. Adding the words ''(See § 23.47.)'' after the last sentence in paragraph (e)(2).

§ 23.41 [Amended]

■ 28. Section 23.41 is amended by adding the words '', 3–200–80, or 3–200–85'' immediately following the words ''Form 3–200–24'' in paragraph (c).

§ 23.42 [Amended]

■ 29. Section 23.42 is amended by removing the words ''include hybrids'' from paragraph (b) and adding in their place the words ''treat hybrids as Appendix-I specimens''.

■ 30. Section 23.43 is amended by revising paragraph (f)(2) and adding a new paragraph (f)(3) to read as set forth below.

§ 23.43 What are the requirements for a wildlife hybrid?

* * * * *

(f) * * *

(2) For import, export, or re-export of an exempt wildlife hybrid without CITES documents, you must provide information at the time of import or export to clearly demonstrate that your specimen has no purebred CITES specimens in the previous four generations of its ancestry. If you are unable to clearly demonstrate this, you must obtain CITES documents. The information you provide must clearly identify the specimen and demonstrate its recent lineage. Such information may include, but is not limited to, the following:

(i) Records that identify the name and address of the breeder and identify the specimen by birth or hatch date and by sex, band number, microchip number, or other mark.

(ii) A certified pedigree issued by an internationally recognized association that contains scientific names of the animals in the specimen's recent lineage and clearly illustrates its genetic history. If the pedigree contains codes, you must provide a key or guide that explains the meaning of the codes.

(3) Although a CITES document is not required for an exempt wildlife hybrid, you must follow the clearance requirements for wildlife in part 14 of this subchapter, including the prior notification requirements for live wildlife.

■ 31. Section 23.44 is amended by revising the section heading and adding a new paragraph (e)(7) to read as set forth below.

§ 23.44 What are the requirements for traveling internationally with my personally owned live wildlife?

* * * * *

(e) * * *

(7) You must return the wildlife to the United States before the certificate expires.

■ 32. Section 23.46 is amended by:
■ a. Removing the words ''facilitate a dialogue for resolution of the identified problems within 60 days.'' from the end of the last sentence of paragraph (b)(3) and adding in their place the words ''allow a further 30 days for resolution of the identified problems.'';
■ b. Revising paragraph (b)(4) to read as set forth below;
■ c. Removing paragraphs (b)(5) and (b)(6);
■ d. Redesignating paragraphs (b)(7) through (b)(12) as paragraphs (b)(5) through (b)(10);
■ e. Revising the first sentence of newly redesignated paragraph (b)(7), and adding a sentence following the first sentence of that paragraph to read as set forth below;
■ f. Adding a sentence immediately following the first sentence of newly redesignated paragraph (b)(8) to read as set forth below;
■ g. Amending the last sentence of newly redesignated paragraph (b)(8) by removing the words '', and the Animals Committee will review the operation to determine whether it should remain registered'';
■ h. Amending newly redesignated paragraph (b)(10) by removing the words ''bred at a commercial breeding operation that is registered with the CITES Secretariat as provided in this section'' and adding in their place the words ''bred in captivity (see § 23.63)'';
■ i. Removing paragraph (e)(3);
■ j. Redesignating paragraph (e)(4) as paragraph (e)(3);
■ k. Adding a new paragraph (e)(4) to read as set forth below;
■ l. Redesignating paragraphs (f) through (h) as paragraphs (h) through (j);
■ m. Adding a new paragraph (f) to read as set forth below;
■ n. Adding a new paragraph (g) to read as set forth below; and
■ o. Removing the words ''Form 3–200–24'' from newly designated paragraph (i) and adding in their place the words ''the appropriate form (see § 23.36)''.

§ 23.46 What are the requirements for registering a commercial breeding operation for Appendix-I wildlife and commercially exporting specimens?

* * * * *

(b) * * *

(4) If the objection is not withdrawn or the identified problems are not resolved within the 30-day period, the Secretariat will submit the application to the Standing Committee at its next regular meeting. The Standing Committee will determine whether the objection is justified and decide whether to accept the application.

* * * * *

(7) If a Party believes that a registered operation does not meet the bred-in-captivity requirements, it may, after consultation with the Secretariat and the Party concerned, propose to the Standing Committee that the operation be deleted from the register. At its following meeting, the Standing Committee will consider the concerns raised by the objecting Party, and any

comments from the registering Party and the Secretariat, and determine whether the operation should be deleted from the register. * * *

(8) * * * In the United States, we will monitor registered operations, in part, by requiring each operation to apply for renewal and demonstrate that it continues to qualify for registration at least once every 5 years. (See paragraphs (e)(4) and (f) of this section.) * * *

* * * * *

(e) * * *

(4) Registrations will be valid for a period not to exceed 5 years. Registrants who wish to remain registered must request renewal before the end of the period of validity of the registration.

(f) *U.S. application to renew a registration.* Requests for renewal of a registration should be submitted at least 3 months before the registration expires. Complete Form 3–200–65 and submit it to the U.S. Management Authority.

(g) *Criteria for renewal of U.S. registrations.* To renew your registration, you must provide sufficient information for us to find that your proposed activity continues to meet all of the criteria in paragraph (d) of this section.

* * * * *

■ 33. Section 23.47 is amended by adding a sentence to the end of paragraph (a) to read as set forth below.

§ 23.47 What are the requirements for export of an Appendix-I plant artificially propagated for commercial purposes?

(a) * * * This section does not apply to hybrids of one or more Appendix-I species or taxa that are not annotated to treat hybrids as Appendix-I specimens (see § 23.40).

* * * * *

■ 34. Section 23.52 is amended by:

■ a. Removing the last sentence of paragraph (a) and adding in its place two new sentences to read as set forth below;

■ b. Adding a new paragraph (b)(6) to read as set forth below;

■ c. Revising the introductory text of paragraph (d) to read as set forth below;

■ d. Redesignating paragraphs (d)(1) and (d)(2) as (d)(1)(i) and (d)(1)(ii);

■ e. Adding new introductory text to paragraph (d)(1) to read as set forth below;

■ f. Adding a new paragraph (d)(1)(iii) to read as set forth below; and

■ g. Adding a new paragraph (d)(2) to read as set forth below.

§ 23.52 What are the requirements for replacing a lost, damaged, stolen, or accidentally destroyed CITES document?

(a) * * * To renew a U.S. CITES document, see part 13 of this subchapter. To amend a U.S. CITES document, see part 13 of this subchapter if the activity has not yet occurred or, if the activity has already occurred, see § 23.53 of this part.

(b) * * *

(6) In the United States, you may not use an original single-use CITES document issued under a CITES master file or CITES annual program as a replacement document for a shipment that has already left the country.

* * * * *

(d) *Criteria.* The criteria in this paragraph (d) apply to the issuance and acceptance of U.S. and foreign documents.

(1) When applying for a U.S. replacement document, you must provide sufficient information for us to find that your proposed activity meets all of the following criteria:

(i) * * *

(ii) * * *

(iii) The specimens were presented to the appropriate official for inspection at the time of import and a request for a replacement CITES document was made at that time.

(2) For acceptance of foreign CITES replacement documents in the United States, you must provide sufficient information for us to find that your proposed activity meets all of the following criteria:

(i) The specimens were presented to the appropriate official for inspection at the time of import and a request for a replacement CITES document was made at that time.

(ii) The importer or the importer's agent submitted a signed, dated, and notarized statement at the time of import that describes the circumstances that resulted in the CITES document being lost, damaged, stolen, or accidentally destroyed.

(iii) The importer or the importer's agent provided a copy of the original lost, stolen, or accidentally destroyed document at the time of import showing that the document met the requirements in §§ 23.23, 23.24, and 23.25.

* * * * *

■ 35. Section 23.53 is amended by:

■ a. Revising paragraph (a) to read as set forth below;

■ b. Adding a new paragraph (b)(8) to read as set forth below;

■ c. Revising paragraph (d)(6)(ii) to read as set forth below; and

■ d. Adding the words ''as defined in § 23.5'' to the end of the sentence in paragraph (d)(7)(i).

§ 23.53 What are the requirements for obtaining a retrospective CITES document?

(a) Retrospective CITES documents may be issued and accepted in certain limited situations after an export or re-export has occurred, but before the shipment is cleared for import. When specific conditions are met, a retrospective CITES document may be issued to authorize trade that has taken place without a CITES document or to correct certain technical errors in a CITES document after the authorized activity has occurred.

(b) * * *

(8) In the United States, you may not use a U.S. CITES document issued under a CITES master file or CITES annual program as a retrospective CITES document.

* * * * *

(d) * * *

(6) * * *

(ii) The Management Authority made a technical error when issuing the CITES document that was not prompted by information provided by the applicant.

* * * * *

■ 36. Section 23.55 is amended by:

■ a. Revising the introductory text to read as set forth below;

■ b. Revising the table's headings to read as set forth below;

■ c. Revising paragraph (c) to read as set forth below;

■ d. Revising the text in the first block of the right-hand column of the table, which corresponds to paragraphs (a), (b), and (c) in the left-hand column of the table, to read as set forth below;

■ e. Adding the word ''lawful'' immediately before the word ''purpose'' in the second block of the right-hand column of the table, which corresponds to paragraphs (d), (e), and (f) in the left-hand column of the table;

■ f. Redesignating paragraph (d)(5) as (d)(6);

■ g. Adding a new paragraph (d)(5) to read as set forth below; and

■ h. Revising paragraph (f) to read as set forth below.

§ 23.55 How may I use a CITES specimen after import into the United States?

In addition to the provisions in § 23.3, you may only use CITES specimens after import into the United States for the following purposes:

If the species is listed in	Allowed use within the United States
(a) * * *	The specimen may be used only for noncommercial purposes (see § 23.5).
(b) * * *	
(c) Appendix II without an annotation for noncommercial purposes, or Appendix III, and threatened under the ESA, except as provided in a special rule in §§ 17.40 through 17.48 or under a permit granted under §§ 17.32 or 17.52.	*Exception:* If the specimen was lawfully imported, with no restrictions on its use after import, before the species was listed as described in paragraphs (a), (b), or (c) of this section, you may continue to use the specimen as indicated for paragraphs (d), (e) and (f) of this section provided you can clearly demonstrate (using written records or other documentary evidence) that your specimen was imported prior to the CITES listing, with no restrictions on its use after import. If you are unable to clearly demonstrate that this exception applies, the specimen may be used only for noncommercial purposes.
* * * * * * *	
(d) * * *	
(5) Certificate for artificially propagated plants with a source code of ''A'' for artificially propagated hybrid specimens derived from one or more unannotated Appendix-I species or other taxa.	
* * * * * * *	
(f) Appendix III, other than those in paragraph (c) of this section.	

■ 37. Section 23.56 is amended by revising paragraph (a)(2) to read as set forth below.

§ 23.56 What U.S. CITES document conditions do I need to follow?

(a) * * *

(2) For export and re-export of live wildlife and plants, transport conditions must comply with the *International Air Transport Association Live Animals Regulations* (for animals) or the *International Air Transport Association Perishable Cargo Regulations* (for plants) (incorporated by reference, see § 23.9).

* * * * *

§ 23.64 [Amended]

■ 38. In § 23.64, paragraph (g)(4)(ii) is amended by adding the words ''or spores'' immediately following the words ''to collect seeds''.

■ 39. Section 23.69 is amended by:

■ a. Revising the heading of the section and the first sentence of paragraph (a) to read as set forth below;

■ b. Revising the first two sentences of paragraph (c)(3) to read as set forth below;

■ c. Removing the words ''broken, cut, or missing'' from the first sentence of paragraph (c)(3)(i) and adding in their place the words ''inadvertently removed, damaged, or lost'';

■ d. Removing the words ''is broken or cut'' from the third sentence of paragraph (c)(3)(i) and adding in their place the words ''has been inadvertently removed or damaged'';

■ e. Removing the word ''missing'' in the fourth sentence of paragraph (c)(3)(i) and adding in its place the word ''lost'';

■ f. Adding the words ''or to export products made from fur skins'' immediately following the words ''approved program'' in paragraph (e)(2); and

■ g. Adding the words ''or products made from fur skins'' immediately following the words ''To re-export fur skins'' in paragraph (e)(3).

§ 23.69 How can I trade internationally in fur skins and fur skin products of bobcat, river otter, Canada lynx, gray wolf, and brown bear harvested in the United States?

(a) * * * For purposes of this section, CITES furbearers means bobcat (*Lynx rufus*), river otter (*Lontra canadensis*), Canada lynx (*Lynx canadensis*), gray wolf (*Canis lupus*), and brown bear (*Ursus arctos*) harvested in the United States. * * *

* * * * *

(c) * * *

(3) Fur skins without a CITES tag permanently attached may not be exported or re-exported. If the CITES tag has been inadvertently removed, damaged, or lost you may obtain a replacement tag. * * *

* * * * *

■ 40. Section 23.70 is amended by:

■ a. Adding the word ''tamper-resistant,'' immediately following the word ''Be'' in paragraph (d)(1)(i);

■ b. Revising paragraph (d)(1)(ii) to read as set forth below;

■ c. Adding the word ''skin'' immediately before the words ''production or harvest'' in paragraph (d)(1)(iii);

■ d. Revising paragraph (d)(2) to read as set forth below;

■ e. Removing the first two sentences of paragraph (d)(3) introductory text and adding one sentence in their place to read as set forth below;

■ f. Removing the words ''broken, cut, or missing'' from the first sentence of paragraph (d)(3)(i) and adding in their place the words ''inadvertently removed, damaged, or lost'';

■ g. Removing the words ''is broken or cut'' from the fourth sentence of paragraph (d)(3)(i) and adding in their place the words ''has been inadvertently removed or damaged'';

■ h. Removing the word ''missing'' in the fifth sentence of paragraph (d)(3)(i) and adding in its place the word ''lost'';

■ i. Adding the word ''skin'' immediately before the words ''production or harvest'' in the first sentence of paragraph (d)(3)(ii);

■ j. Removing the second sentence in paragraph (e)(2);

■ k. Adding the words '', except for products made from American alligators,'' immediately following the words ''State or tribal program'' in paragraph (h)(1);

■ l. Adding the words ''or to export products made from American alligators,'' immediately following the words ''approved program,'' in paragraph (h)(2);

■ m. Redesignating paragraph (h)(3) as paragraph (h)(4); and

■ n. Adding a new paragraph (h)(3) to read as set forth below.

§ 23.70 How can I trade internationally in American alligator and other crocodilian skins, parts, and products?

* * * * *

(d) * * *

(1) * * *

(ii) Be permanently stamped with the two-letter ISO code for the country of origin, a unique serial number, a standardized species code (available on our Web site; see § 23.7), and for

specimens of species from populations that have been transferred from Appendix I to Appendix II for ranching, the year of skin production or harvest. For American alligator, the export tags include the US–CITES logo, an abbreviation for the State or Tribe of harvest, a standard species code (MIS = *Alligator mississippiensis*), the year of skin production or harvest, and a unique serial number.

* * * * *

(2) Skins, flanks, and chalecos must be individually tagged.

(3) Skins without a non-reusable tag permanently attached may not be exported or re-exported. * * *

* * * * *

(h) * * *

(3) To re-export crocodilian specimens, complete Form 3–200–73 and submit it to either FWS Law Enforcement or the U.S. Management Authority.

* * * * *

■ 41. Section 23.71 is amended by:

■ a. Revising paragraph (a) to read as set forth below;

■ b. Adding a sentence to the end of paragraphs (b)(1)(i), (b)(1)(iv), and (b)(1)(v) to read as set forth below;

■ c. Revising paragraph (b)(1)(ii) to read as set forth below;

■ d. Adding a sentence to the end of paragraph (b)(2)(iv) to read as set forth below;

■ e. Revising paragraph (b)(3)(iii) to read as set forth below;

■ f. Removing the words ''and caviar products that consist'' from paragraph (g) and adding in their place the words ''that consists'';

■ g. Adding the words ''or Form 3–200–80'' immediately following the words ''Form 3–200–76'' in the third sentence of paragraph (h);

■ h. Removing the words ''to FWS Law Enforcement'' from the end of the last sentence in paragraph (h) and adding in their place the words ''either to FWS Law Enforcement or the U.S. Management Authority''; and

■ i. Adding new paragraph (i) to read as set forth below.

§ 23.71 How can I trade internationally in sturgeon caviar?

(a) *U.S. and foreign provisions.* For the purposes of this section, *sturgeon caviar* or *caviar* means the processed roe of any species of sturgeon or paddlefish (order Acipenseriformes). It does not include sturgeon or paddlefish eggs contained in shampoos, cosmetics, lotions, or other products for topical application. The import, export, or re-export of sturgeon caviar must meet the requirements of this section and the other requirements of this part. The import, export, or re-export of Acipenseriformes specimens other than caviar must meet the other requirements of this part. See subparts B and C for prohibitions and application procedures.

(b) * * *

(1) * * *

(i) * * * In the United States, the design of the label will be determined by the labeler in accordance with the requirements of this section.

(ii) *Primary container* means any container (tin, jar, pail or other receptacle) in direct contact with the caviar.

* * * * *

(iv) * * * In the United States, this may be done by the person who harvested the roe.

(v) * * * This includes any facility where caviar is removed from the container in which it was received and placed in a different container.

* * * * *

(2) * * *

(iv) * * * This is either the calendar year in which caviar was harvested or, for caviar imported from shared stocks subject to quotas, the quota year in which it was harvested.

* * * * *

(3) * * *

(iii) Lot identification number or, for caviar that is being re-exported, the CITES document number under which it was imported may be used in place of the lot identification number.

* * * * *

(i) *CITES register of exporters and of processing and repackaging plants.* The CITES Secretariat maintains a ''Register of licensed exporters and of processing and repackaging plants for specimens of sturgeon and paddlefish species'' on its Web site. If you hold a current import-export license issued by FWS Law Enforcement and wish to be added to the CITES register, you may submit your contact information and processing or repackaging plant codes to the U.S. Management Authority for submission to the CITES Secretariat.

■ 42. Section 23.74 is amended by:

■ a. Revising paragraph (b) to read as set forth below;

■ b. Revising paragraph (d) to read as set forth below; and

■ c. Adding a new paragraph (e) to read as set forth below.

§ 23.74 How can I trade internationally in personal sport-hunted trophies?

* * * * *

(b) *Sport-hunted trophy* means a whole dead animal or a readily recognizable part or derivative of an animal specifically identified on accompanying CITES documents that meets the following criteria:

(1) Is raw, processed, or manufactured;

(2) Was legally obtained by the hunter through hunting for his or her personal use;

(3) Is being imported, exported, or re-exported by or on behalf of the hunter as part of the transfer from its country of origin ultimately to the hunter's country of usual residence; and

(4) Includes worked, manufactured, or handicraft items made from the sport-hunted animal only when:

(i) Such items are contained in the same shipment as raw or tanned parts of the sport-hunted animal and are for the personal use of the hunter;

(ii) The quantity of such items is no more than could reasonably be expected given the number of animals taken by the hunter as shown on the license or other documentation of the authorized hunt accompanying the shipment; and

(iii) The accompanying CITES documents (export document and, if appropriate, import permit) contain a complete itemization and description of all items included in the shipment.

* * * * *

(d) *Quantity.* The following provisions apply to the issuance and acceptance of U.S. and foreign documents for sport-hunted trophies originating from a population for which the Conference of the Parties has established an export quota. The number of trophies that one hunter may import in any calendar year for the following species is:

(1) No more than two leopard (*Panthera pardus*) trophies.

(2) No more than one markhor (*Capra falconeri*) trophy.

(3) No more than one black rhinoceros (*Diceros bicornis*) trophy.

(e) *Marking or tagging.* (1) The following provisions apply to the issuance and acceptance of U.S. and foreign documents for sport-hunted trophies originating from a population for which the Conference of the Parties has established an export quota. Each trophy imported, exported, or re-exported must be marked or tagged in the following manner:

(i) Leopard and markhor: Each raw or tanned skin must have a self-locking tag inserted through the skin and permanently locked in place using the locking mechanism of the tag. The tag must indicate the country of origin, the number of the specimen in relation to the annual quota, and the calendar year in which the specimen was taken in the wild. A mounted sport-hunted trophy

must be accompanied by the tag from the skin used to make the mount.

(ii) Black rhinoceros: Parts of the trophy, including, but not limited to, skin, skull, or horns, whether mounted or loose, should be individually marked with reference to the country of origin, species, the number of the specimen in relation to the annual quota, and the year of export.

(iii) Crocodilians: See marking requirements in § 23.70.

(iv) The export permit or re-export certificate or an annex attached to the permit or certificate must contain all the information that is given on the tag.

(2) African elephant (*Loxodonta africana*). The following provisions apply to the issuance and acceptance of U.S. and foreign documents for sport-hunted trophies of African elephant. The trophy ivory must be legibly marked by means of punch-dies, indelible ink, or other form of permanent marking, under a marking and registration system established by the country of origin, with the following formula: The country of origin represented by the corresponding two-letter ISO country code; the last two digits of the year in which the elephant was harvested for export; the serial number for the year in question; and the weight of the ivory in kilograms. The mark must be highlighted with a flash of color and placed on the lip mark area. The lip mark area is the area of a whole African elephant tusk where the tusk emerges from the skull and which is usually denoted by a prominent ring of staining on the tusk in its natural state.

■ 43. Section 23.75 is added to subpart E to read as set forth below:

§ 23.75 How can I trade internationally in vicuña (*Vicugna vicugna*)?

(a) *U.S. and foreign general provisions.* The import, export, or re-export of specimens of vicuña must meet the requirements of this section and the other requirements of this part (see subparts B and C of this part for prohibitions and application procedures). Certain populations of vicuña are listed in Appendix II for the exclusive purpose of allowing international trade in wool sheared from live vicuñas, cloth made from such wool, and products manufactured from such wool or cloth. All other specimens of vicuña are deemed to be specimens of a species included in Appendix I.

(b) *Vicuña Convention* means the Convenio para la Conservación y Manejo de la Vicuña, of which vicuña range countries are signatories.

(c) *Vicuña logotype* means the logotype adopted by the vicuña range countries under the Vicuña Convention.

(d) *Country of origin* for the purposes of the vicuña label means the name of the country where the vicuña wool in the cloth or product originated.

(e) *Wool sheared from live vicuñas, cloth from such wool, and products manufactured from such wool or cloth* may be imported from Appendix-II populations only when they meet the labeling requirements in paragraph (f) of this section.

(f) *Labeling requirements.* Except for cloth containing CITES pre-Convention wool of vicuña, you may import, export, or re-export vicuña cloth only when the reverse side of the cloth bears the vicuña logotype and the selvages bear the words ''VICUÑA—COUNTRY OF ORIGIN''. Specimens of other products manufactured from vicuña wool or cloth must bear a label that has the vicuña logotype and the designation ''VICUÑA—COUNTRY OF ORIGIN—ARTESANIA''. Each specimen must bear such a label. For import into the United States of raw wool sheared from live vicuña, see the labeling requirements in 50 CFR 17.40(m).

■ 44. Section 23.84 is amended by:

■ a. Removing the word ''four'' and adding in its place the word ''three'' in the first sentence of paragraph (b);

■ b. Removing the words ''assist the Nomenclature Committee in the development and maintenance of'' in paragraph (b)(2)(i) and adding in their place the words ''develop and maintain'';

■ c. Adding paragraph (b)(2)(iii) to read as set forth below; and

■ d. Removing paragraph (b)(3).

§ 23.84 What are the roles of the Secretariat and the committees?

* * * * *

(b) * * *

(2) * * *

(iii) The CoP appoints a specialist in zoological nomenclature to the Animals Committee and a specialist in botanical nomenclature to the Plants Committee. These specialists are ex officio and non-voting, and are responsible for developing or identifying standard nomenclature references for wildlife and plant taxa and making recommendations on nomenclature to Parties, the CoP, other committees, working groups, and the Secretariat.

■ 45. Section 23.92 is amended by:

■ a. Removing the words ''paragraph (b)'' and adding in their place the words ''paragraphs (b) and (c)'' in paragraph (a);

■ b. Removing the words ''and do not need CITES documents'' from the first sentence of paragraph (b);

■ c. Revising paragraph (b)(2) to read as set forth below;

■ d. Adding the introductory text of a new paragraph (c) and a paragraph (c)(1) to read as set forth below; and

■ e. Redesignating paragraphs (b)(3) through (b)(8) as paragraphs (c)(2) through (c)(7).

§ 23.92 Are any wildlife or plants, and their parts, products, or derivatives, exempt?

* * * * *

(b) * * *

(2) *Plant hybrids.* Specimens of an Appendix-II or -III plant taxon with an annotation that specifically excludes hybrids.

(c) The following are exempt from CITES document requirements when certain criteria are met.

(1) *Plant hybrids.* Seeds and pollen (including pollinia), cut flowers, and flasked seedlings or tissue cultures of hybrids that qualify as artificially propagated (see § 23.64) and that were produced from one or more Appendix-I species or taxa that are not annotated to treat hybrids as Appendix-I specimens.

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Appendix A to 50 CFR Chapter I—[Removed]

■ 46. Remove Appendix A to Chapter I.

Dated: March 27, 2014

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

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