

2. Amend § 520.2 by revising the definition of motor vehicle to read as follows:

**§ 520.2 Definitions.**

\* \* \* \* \*

*Motor vehicle* means a wheeled vehicle whose primary purpose is ordinarily the non-commercial transportation of passengers, including an automobile, pickup truck, minivan, or sport utility vehicle.

\* \* \* \* \*

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 99-10783 Filed 4-28-99; 8:45 am]

BILLING CODE 6730-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 98-173; RM-9361]

**Radio Broadcasting Services; Condon, OR**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of John L. Zolkoske, allots Channel 228A to Condon, OR, as the community's first local aural service. See 63 FR 53008, October 2, 1998. Channel 228A can be allotted to Condon in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 45-14-18 NL; 120-11-06 WL. With this action, this proceeding is terminated.

**DATES:** Effective May 24, 1999. A filing window for Channel 228A at Condon, OR, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 98-173, adopted March 31, 1999, and released April 9, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services,

Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Condon, Channel 228A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 99-10751 Filed 4-28-99; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 14**

RIN 1018-AE08

**Importation, Exportation, and Transportation of Wildlife (User Fee Exemptions for Qualified Fur Trappers)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) are revising our regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. We provide a fee exemption to trappers of fur-bearing wildlife operating small, low volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow, to individuals who trap fur-bearing wildlife from the wild as a hobby or to supplement their income and who do not deal in manufactured products or live animals as a primary means of income. The exemption from our inspection fee will apply to commercial importers and exporters based upon specific criteria, including country of origin, numbers of items, and permitting requirements. We therefore modify our user fee regulations to grant this relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fees, non-designated port administrative fees, and hourly

minimums only. This rule still allows us to continue to collect data on fee collections in order to analyze the impact of user fees on small business for future decision making.

**DATES:** This rule is effective June 1, 1999.

**ADDRESSES:** Send correspondence concerning this rule to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203-3247. The complete file for this final rule is available for public inspection, by appointment, during normal business hours.

**FOR FURTHER INFORMATION CONTACT:** Kevin R. Adams, Chief, Office of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, (703) 358-1949.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Summary of Public Participation*

We received 39 comments on the proposed rule published on January 22, 1998 (63 FR 3298) 13 of which were submitted by individuals who we classified as non-consumptive users, i.e., those that do not hunt or trap wildlife. In addition, 11 comments were received from non-consumptive organizations such as the Animal Welfare Institute, Animal Protection Institute, International Primate Protection League, The Humane Society of the United States, and The American Society For The Prevention Of Cruelty To Animals.

We received four comments from individuals who were consumptive users of wildlife and four from consumptive user organizations such as the International Association of Fish and Wildlife Agencies, the Safari Club International, the Alaska Trappers Association, and the National Trappers Association. The states of Alaska, Illinois, Louisiana, and Nebraska also sent in comments to the proposed rule. We received three comments soliciting exemptions for tropical fish imports, and commercially raised quail and pheasant imports from Canada. We did not address these comments; they did not pertain to this rule.

*Issues Raised in Public Comments, and Service Responses*

**Comment:** The Service needs the current fee structure as it is designed to allow the Service to pay for the inspection program. Any exemptions would begin to erode the Service's ability to conduct critical inspections of wildlife being imported and exported.

**Response:** We acknowledge that the Service utilizes collected fees to support

its inspection program. However, the amounts charged for inspections on certain small businesses, such as low volume subsistence trappers in Alaska, may be prohibitive and cause an undue burden. We believe that proposed exemptions will allow low volume trappers to continue their business without undue hardship.

*Comment:* Giving an exemption to low volume trappers of fur-bearing wildlife will only "open the door" for other small businesses to demand an exemption, thereby jeopardizing further the Service's ability to recoup inspection costs.

*Response:* It is likely that other people who have businesses may feel the need to also ask for an exemption. We believe, however, that in the case of the low-volume trapper, the exemptions may be warranted due to:

- The nature of their small low-volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow;
- Individuals who trap fur-bearing wildlife from the wild as a hobby or to supplement their income;
- Those who do not deal in manufactured products or live animals as a primary means of income.

*Comment:* The Service's criteria of 100 skins or less is meaningless because large volume shippers will manipulate numbers of furs and skins per shipment to illegally qualify for the exemption.

*Response:* We have the ability to monitor the volume of importing and exporting by a business or individual and feel that we will be able to detect attempts to subvert the fee system by manipulating shipments.

*Comment:* Why does the Service inspect Convention on International Trade of Endangered Species (CITES) furs that have already been inspected and tagged by the State of Alaska. Inspecting shipments of these furs upon export is redundant and does not need to be done.

*Response:* We inspect shipments containing wildlife protected under CITES upon export and import to ensure that the proper permits are present, the shipment is properly declared, and for record keeping and reporting purposes. The State of Alaska places CITES tags on pelts taken in Alaska because most pelts are exported to Canada. However, having a CITES tag affixed to a pelt and the act of exporting are two separate issues requiring different actions. We also inspect imports and exports to ensure compliance with Service regulations.

*Comment:* Why doesn't the Service maintain the old system of a \$25,000

dollar value exemption for small businesses?

*Response:* Since 1988, there have been four major studies of our import/export user fee policies. One recommendation consistently made in these studies was to revise our user fee policies and rates to recover the full cost of services provided to individuals and businesses. We therefore adjusted our fees for certain activities in order to recover the actual costs of services provided for all commercial import/export activities.

*Comment:* The Service's proposed rule does not go far enough in exempting user fees. The Service should also remove the commercial import/export license requirement for trappers.

*Response:* The studies that analyzed our import/export policies also recommended that we license all commercial importers and exporters of wildlife and wildlife products. As a result, we decided to license all commercial importers and exporters. We believe the \$50 per year licensing requirement is fair and affordable and will not be waived.

*Comment:* The upper limit of 100 furs per shipment is arbitrary and should be increased to 1000 per shipment because the price a trapper gets for furs and pelts is not high enough to offset the costs of inspection.

*Response:* We chose the upper limit of 100 furs per shipment because we feel this number adequately represents a low volume of shipping activity. Accordingly, small businesses and individuals who qualify will not have to pay inspection fees in certain situations. Therefore, we believe the upper limit of 100 furs per shipment is appropriate.

### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 establishes as a principle of regulatory issuance that " \* \* agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." Therefore, in order to address the immediate concerns of small business and maintain consistency with the Regulatory Flexibility Act, we will initiate a new licensing and inspection fee system that will accomplish two objectives. First, the new system contained in this rule would grant immediate relief from the economic burden of the increased inspection fees, and/or administrative fees and hourly minimums, to importers and exporters of wildlife and wildlife products at designated ports, border or

special ports, and nondesignated ports that meet specific criteria. Second, by continuing to require that all commercial importers and exporters be licensed, the new system would allow the Service to continue to monitor wildlife import/export activity in order to gather the data necessary to make future decisions on the true impact of our user fees on small businesses and certain individuals.

### Authority Citation

We will update the authority citation for this part to delete an obsolete reference at 31 U.S.C. 483(a) and to reflect the current United States Code citation of 31 U.S.C. 9701 regarding fees and charges for Government services.

### Inspection Fee Exemption Criteria

We amend the inspection fee system to establish specific criteria that we will use to determine if the inspection fee applies at the time of import or export. The revision uses distinctions that are already established in the regulation. We will use these distinctions to establish if the inspection fee applies to wildlife shipments at the time of import to or export from the United States. Shipments will have to meet several basic criteria in order to qualify for the inspection fee exemption.

The basic exemption criteria are outlined as follows:

- The inspection fee exemption will only apply to shipments that do NOT require permits under 50 CFR parts 16 (Injurious wildlife), 17 (Endangered and threatened wildlife and plants), 18 (Marine mammals), 21 (Migratory bird permits), or 23 (Endangered species convention). Those shipments that contain wildlife that require permits will not be eligible for any inspection fee exemption.

• The wildlife must have been lawfully taken from the wild in the United States, Canada, or Mexico, and imported or exported between the United States and Canada or Mexico. Shipments containing wildlife taken in any other country and imported or exported between any countries other than the United States, Canada, or Mexico will not be eligible for the inspection fee exemption. The wildlife shipment must be imported or exported by the person who took the wildlife from the wild, or by a member of that person's immediate family, provided, that the importer or exporter of record is licensed in accordance with 50 CFR 14.91.

- The shipment must consist of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, and the shipment cannot exceed 100 raw furs,

raw, salted, crusted, hides or skins or separate parts thereof. We intend that this rulemaking provide financial relief from the burden of the inspection fees for small business and certain individuals who may be disproportionately affected.

We believe a cutoff point of 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof will adequately distinguish between small shippers disproportionately affected and those commercial wildlife dealers less impacted by the user fee.

All of the primary criteria for the user fee exemption outlined above serve as a means of limiting the exemption application to certain individuals or small business, while at the same time maintaining the integrity and intent of the user fee rulemaking published on June 21, 1996 (62 FR 31850). By using distinctions already drawn in the regulation, we believe that the criteria represent a balance between maintaining user fee revenues and providing small business economic relief.

In addition to the primary criteria, we will use additional criteria, outlined below, to ensure that the user fee exemption is utilized by those intended and to allow for statistical tracking of the exemption's use. As stated, the importer or exporter of record who is shipping wildlife that otherwise meets the inspection fee exemption criteria will still have to obtain an Import/Export License from the Service at a cost of \$50 annually (see 50 CFR part 14, subpart I). The raw fur, raw, salted or crusted hides or skins, or separate parts thereof cannot have been previously bought or sold if the inspection fee exemption is to apply. The fee exemption will not apply to manufactured products or live animals of any kind.

The reason for the latter two criteria is that the fee exemption is intended to apply to small, low volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow, or to individuals who take wildlife from the wild as a hobby or to supplement their income and who do

not deal in manufactured products or live animals as a primary means of income. We believe that wildlife traders buying and selling imported wildlife in the United States and those dealing in manufactured products or live animals require a higher level of oversight and are less impacted by the inspection fee.

The importer or exporter whose wildlife shipments meet the user fee exemption criteria will still be required to pay overtime fees or designated port exception permit fees if applicable. If wildlife being shipped requires a Convention on International Trade in Endangered Species (CITES) permit, we will not exempt the shipment from the user fee due to the higher level of oversight we require on these shipments.

**Certification**

In order for us to have some means of verifying that the raw furs, raw, salted or crusted hides or skins, or separate parts thereof are, in fact, taken from the wild by the licensee who is acting as importer/exporter of record, or taken from the wild by a member of his or her immediate family, the licensee must sign a certification statement supplied by us at the time clearance is requested. The certification statement will ask that the licensee certify, subject to the penalties provided for under 18 U.S.C. 1001 for false or fraudulent statements, that he or she took the raw furs, raw, salted, or crusted hides or skins, or separate parts thereof from the wild or that they were taken from the wild by a member of that person's immediate family. We will consider the term "immediate family" to mean a licensee's spouse, parents, siblings, and children. We believe that extending the meaning to include grandparents, cousins, aunts, or uncles would compromise the intent of this rule. This signed certification statement will have to be presented to a Service officer at the time clearance is requested.

We intend that this inspection fee exemption framework utilize existing regulatory language that grants various exemptions to 50 CFR part 14, including § 14.15 and § 14.62. In addition, 50 CFR

part 14 already exempts certain "classes" of wildlife from various regulatory requirements, including farm-raised fish from the designated port requirement on export, aquatic invertebrates of the Class Pelecypoda from the designated port and declaration requirement, and captive-bred furbearers from the marking requirement. We believe that these distinctions are consistent with the intent of the regulation.

In summary, we will exempt commercial wildlife shipments from the designated port inspection fee and/or the nondesignated port administrative fee and hourly minimums, whichever applies, for shipments meeting the following criteria: no permits are required under 50 CFR parts 16, 17, 18, 21, or 23; imports or exports are between the United States and Canada or Mexico of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico; imported or exported by the person taking the wildlife from the wild, or taken from the wild by a member of the importer or exporters' immediate family; provided, the importer or exporter of record is licensed; the shipment or any part thereof has not been previously bought or sold; the shipment does not exceed 100 raw furs, raw, salted, or crusted, hides or skins, or separate parts thereof; the shipment does not contain any manufactured products or live animals; overtime fees, if applicable, have been paid; and the importer or exporter has attached a certification statement stating that the shipment contains items taken from the wild by the importer/exporter of record or by a member of that person's immediate family.

The following chart illustrates the commercial user fee charges at designated and nondesignated ports during normal working hours before the June 21, 1996, final rule, after the August 1, 1996, effective date of that final rule, and under this final rule, for comparison:

Fees	Prior to June 21, 1996 Final Rule	After August 1, 1996 effective date	After September 1, 1998 effective date
Designated Port .....	Under 25k/year No Charge .....	\$50/year License Fee .....	\$50/year License Fee.
	\$125/year License Fee .....	\$55/shipment Inspection Fee .....	\$55/shipment Inspection Fee if criteria not met.
Nondesignated Port	\$25/shipment Inspection Fee .....		No Charge if criteria met.
	Under 25K/year No Charge .....	\$50/year License Fee .....	\$50/year License Fee.
	\$125/year License Fee .....	\$55 Administrative Fee plus 2 hour minimum at \$20/hr (\$40).	\$55 Administrative Fee plus 2 hour minimum at \$20/hr (\$40) if criteria not met.
	\$25/shipment Administrative Fee plus 2 hour minimum at \$25/hr (\$50).		No Charge if criteria met.

**Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq**

This final rule affects only the requirement to pay an inspection fee for shipments and contains no information collections for which Office of Management and Budget approval is required under the Paperwork Reduction Act (44 U.S.C. 3501). Importers/exporters subject to this rule may be subject to the requirement to file a Declaration for Importation or Exportation of Fish or Wildlife (FWS form 3-177; OMB approval number 1018-0012; expiration date August 31, 2000). This rule does not change or affect the information collection requirements associated with the declaration form 3-177. An agency 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.

**Required Determinations**

The Service has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988. They do not unduly burden the judicial system. The regulations promote simplification and provide immediate relief from the economic burden of the increased inspection fees, and/or administrative fees and hourly minimums, to importers and exporters of wildlife and wildlife products at designated ports, border or special ports, and nondesignated ports that meet specific criteria.

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1501 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. In 1996, the total value of all wildlife shipments which may be eligible for the exemption was \$700,734. Fees payable to the Service on these shipments would be reduced between \$22,935 and \$39,615 under the rule. Therefore, although user fees will be effected we anticipate that they will not be substantial. The rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency because it affects only Service actions.

**Economic Effects**

The Service conducted an economic analysis of this rule. The declared value of all wildlife shipments requiring Service clearance in Fiscal Year 1995 was approximately \$860,000,000. In 1996, the total value of all wildlife shipments which may be eligible for the

proposed exemption was \$700,734. Fees payable to the Service on these shipments would be reduced between \$22,935 and \$39,615 under the rule. The effect of this rule is much less than \$100 million annually. We anticipate no substantial indirect economic effects so the effect of this rule is much less than \$100 million annually. We do not expect the shipment volume to rise to a level that would generate a \$100 million annual impact. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

Accordingly, under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), this rulemaking will not have a significant economic effect on a substantial number of small entities, which include businesses, organizations, or governmental jurisdictions. This rule exempts small shippers from the Fish and Wildlife Service inspection fee and so represents an adaptation of the current fee structure to provide relief for small shippers, therefore, this rule will have a beneficial effect on such entities.

**List of Subjects in 50 CFR Part 14**

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

**Regulation Promulgation**

For the reasons set out in the preamble, the Service amends Title 50, Chapter I, subchapter B of the Code of Federal Regulations as set forth below:

**PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE**

1. Revise the authority citation for Part 14 to read as follows:

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

2. Amend § 14.4 by revising the section heading and adding alphabetically the definitions “we” and “you” to read as follows:

**§ 14.4 What terms do I have to understand?**

\* \* \* \* \*

We means Fish and Wildlife Service or Service.

You means licensee, or importer/exporter of record.

3. Amend § 14.94 by revising the section heading and revising paragraph (a) and adding paragraph (e) to read as follows:

**§ 14.94 What fees apply to me?**

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

**Stephen C. Saunders,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 99-10543 Filed 4-28-99; 8:45 am]

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