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PART II



DEPARTMENT OF THE INTERIOR Fish and Wildlife Service

■

TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

Proposed Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Subchapter B]

TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

Notice of Proposed Rulemaking

The Fish and Wildlife Service proposes to reorganize its regulations contained in subchapter B and restructure the various parts into appropriate subparts and sections for clarity and ease of understanding. This proposed rulemaking consists mainly in the presentation of existing regulations in a more logical arrangement and format, however, editorial and substantive changes are proposed.

A general description of the proposed new parts and how they relate to current regulations follows:

"Subchapter A—General Provisions, Part I—Definitions", is amended by deleting §§ 1.9, 1.10, and 1.11. These three sections define the terms "take," "wildlife," and "migratory birds" respectively. Each of these three terms are separately defined in new § 10.12 of this proposed rulemaking.

Part 10.—Definitions that relate to all parts in this subchapter are grouped together in this part. Included are some definitions which are in current part 10 which is redesignated part 20. A list of migratory birds is provided for reference purposes. Mailing addresses for certain permit applications or for information concerning law enforcement is included.

Part 11.—Administrative procedures and guidelines for assessment of civil penalties and holding property seized under certain statutes are proposed in this part. These are redrafts of current 50 CFR 17.13, 17.14, and 17.15 with some substantive modifications, including a voluntary abandonment provision to expedite administration and relieve persons from the more formal procedure in cases where the individual desires to follow this procedure.

Part 12.—Uniform rules and procedures for all permits issuable under this subchapter B, are proposed in this part. Portions of current parts which are common have been incorporated to provide standard rules and improve administration of the various permit systems. Certain sections refer to permit fees; however, no additional fees are proposed except for marine mammal permits.

Part 13.—Uniform rules and procedures for the importation, exportation, and interstate transportation of wildlife are proposed in this part. Most of these rules are revisions of current part 17 that relate to this area. Current part 15 is deleted and included in proposed subpart G of this part.

Part 14.—Proposed part 14 is the same as current part 14 with the exception of a change in the title and certain provisions to conform with the proposed part 12 and overall concept of this proposal.

Part 15.—[Reserved].

Part 16.—Under this proposal current "Part 13—Importation of Wildlife or Eggs Thereof", would be redesignated "Part 16—Injurious Wildlife", and section numbers changed accordingly. Conforming modifications in this part will be proposed at a later date.

Part 17.—Under this proposal current "Part 17—Conservation of Endangered Species and Other Fish and Wildlife", would be redesignated "Part 17—Endangered Wildlife". In addition to the title change, certain proposed conforming provisions and permit standards and criteria are made, but no additions or deletions to the lists of endangered wildlife are included.

Part 18.—No changes are proposed at this time. Part 18 will be included in the republication of subchapter B.

Part 19.—[Reserved]. (This part will be published at a later date.)

Part 20.—Current "Part 10—Migratory Birds", is proposed to be redesignated "Part 20—Migratory Bird Hunting". Certain conforming modifications are also proposed at this time.

Part 21.—Current "Part 16—Migratory Bird Permits", is proposed to be redesignated "Part 21" with the same title. In addition to certain conforming modifications, it is proposed to clarify the Bureau's policy with regard to migratory birds acquired prior to Federal protection under the Migratory Bird Treaty Act, 16 U.S.C. 703-711.

Part 22.—Current "Part 11—Protection of Bald Eagles and Golden Eagles", is proposed to be redesignated "Part 22—Eagle Permits", along with certain conforming modifications.

Accordingly it is proposed to reorganize and retitle subchapter B as follows:

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

Part 10—General Provisions.

Part 11—Civil Procedures.

Part 12—General Permit Procedures.

Part 13—Import, Export and Interstate Transportation of Wildlife.

Part 14—Feather Import Quotas.

Part 15—[Reserved].

Part 16—Injurious Wildlife.

Part 17—Endangered Wildlife.

Part 18—Marine Mammals.

Part 19—[Reserved].

Part 20—Migratory Bird Hunting.

Part 21—Migratory Bird Permits.

Part 22—Eagle Permits.

Part 23—[Reserved].

Part 24—[Reserved].

PART 10—GENERAL PROVISIONS

Subpart A—Introduction

- Sec.
10.1 Purpose of regulations.
10.2 Other applicable laws.

Subpart B—Definitions

- 10.11 Scope of definitions.
10.12 Definitions.
10.13 List of migratory birds.

Subpart C—Addresses

- 10.21 Director.
10.22 Law enforcement districts.

AUTHORITY.—Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281; Black Bass Act, sec. 5, 44 Stat. 576, as amended, 46 Stat. 846; Migratory Bird Treaty Act, sec. 3, 40 Stat. 755, Bald Eagle

Protection Act, sec. 2, 54 Stat. 251; Tariff Classification Act of 1962, sec. 102, 76 Stat. 73-74, 19 U.S.C. 1202, Schedule 1, Part 15D, Headnote. 2(d), "Tariff Schedules of the United States"; Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278; Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480; Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042.

Subpart A—Introduction

§ 10.1 Purpose of regulations.

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

Lacey Act, 18 U.S.C. 42-44.

Black Bass Act, 16 U.S.C. 851-856.

Migratory Bird Treaty Act, 16 U.S.C. 703-711.

Bald Eagle Protection Act, 16 U.S.C. 668-668d.

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

Endangered Species Conservation Act of 1969, 16 U.S.C. 668aa-668cc-6.

Fish and Wildlife Act of 1956, 16 U.S.C. 742a-1.

Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1364, 1401-1407.

§ 10.2 Other applicable laws.

Nothing in this subchapter B, nor any permit issued under this subchapter B, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of any State or of the United States, including any applicable health, quarantine, agricultural, or customs laws or regulations, or other Bureau enforced statutes or regulations. The various parts of this subchapter B are interrelated, and particular note should be taken that the parts must be construed with reference to each other.

Subpart B—Definitions

§ 10.11 Scope of definitions.

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

§ 10.12 Definitions.

"Aircraft" means any contrivance used for flight in the air.

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

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

manufactured product or in a processed food product.

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

"Bureau" means the Bureau of Sport Fisheries and Wildlife of the Fish and Wildlife Service of the U.S. Department of the Interior.

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

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

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

"Director" means the Director of the Bureau of Sport Fisheries and Wildlife of the Fish and Wildlife Service of the U.S. Department of the Interior or his authorized representative.

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

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

"Fish or wildlife" means any wild mammal, bird, fish, amphibian, reptile, mollusk, or crustacean, whether or not raised in captivity, and including any part, product, egg, or offspring thereof, or the dead body or parts thereof, whether or not included in a manufactured product or in a processed food product.

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

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

"Injurious wildlife" means any wildlife which is subject to regulation under part 16 of this chapter.

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

"Migratory birds" means all birds, whether or not raised in captivity, included in the terms of conventions between the United States and any foreign country for the protection of migratory birds and the Migratory Bird Treaty Act, 16 U.S.C. 703-711. (For reference purposes a list of migratory birds by species appears in § 10.13.)

"Migratory game birds": See § 20.11 of this chapter.

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

"Permit" means any document so designated as a permit by the Bureau and signed by an authorized official of the Bureau.

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

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

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

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

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

"Shellfish" means an aquatic invertebrate animal having a shell, including,

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

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

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

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

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

"Whoever" means the same as person.

"Wildlife" means the same as fish or wildlife.

§ 10.13 List of migratory birds.

The following is a list of migratory birds by species, shown by the most widely used common name or names followed by the scientific name in italic. The birds are listed alphabetically by common name in two categories, "Game Birds" and "Nongame Birds," except that all ducks are groups under the heading "Ducks" in "Game Birds" and are alphabetical within that group.

GAME BIRDS

- Avocet: American *Recurvirostra americana*.
 Brant:
Branta bernicla (173).
 Black *Branta nigricans* (174).
 Coot: American *Fulica americana* (221).
 Crane:
 Sandhill (Greater, Lesser or Little Brown, and Florida) *Grus canadensis* (205).
 Whooping *Grus americana* (204).
 Curlew:
 Bristle-thighed *Numenius tahitiensis* (268).
 Eskimo *Numenius borealis* (266).
 Long-billed *Numenius americanus*.
 Dotterel *Eudromias morinellus* (269.1).
 Dove:
 Ground *Columbigallina passerina*.
 Inca *Scardafella inca* (321).
 Mourning *Zenaidura macroura* (31).
 White-fronted *Leptotilla verreauxi* (318).
 White-winged *Zenaida asiatica* (319).
 Zenaida *Zenaida aurita* (317).
 Dowitcher:
 Long-billed *Limnodromus scolopaceus*.
 Short-billed *Limnodromus griseus* (231).
 Ducks:
 Black Duck *Anas rubripes* (133a).
 Buffhead *Bucephala albeola* (153).
 Canvasback *Aythya valisineria* (147).
 Eider:
 Common (Northern, American, and Pacific) *Somateria mollissima* (159).
 King *Somateria spectabilis* (162).
 Spectacled *Lampronetta fischeri* (158).
 Steller's *Polysticta stelleri* (157).
 Gadwall *Anas strepera* (135).

- Goldeneye:**
 Barrow's *Bucephala islandica* (152).
 Common *Bucephala clangula* (151).
- Harlequin Duck** *Histrionicus histrionicus* (155).
- Hawaiian Duck** (Koloa) *Anas wyvilliana*
- Laysan Duck** (Laysan teal) *Anas laysanensis*.
- Mallard** *Anas platyrhynchos* (132).
- Masked Duck** *Oxyura dominica* (168).
- Merganser:**
 Common (American) *Mergus merganser* (129).
 Hooded *Lophodytes cucullatus* (131).
 Red-breasted *Mergus serrator* (130).
- Mexican Duck** (New Mexican) *Anas diazi* (133.1).
- Mottled Duck** (Florida and Louisiana) *Anas fulvigula* (134).
- Oldsquaw** *Clangula hyemalis* (154).
- Pintail** *Anas acuta* (143).
- Redhead** *Aythya americana* (146).
- Ring-necked Duck** *Aythya collaris* (150).
- Ruddy Duck** *Oxyura jamaicensis* (167).
- Scap:**
 Greater *Aythya marila* (148).
 Lesser *Aythya affinis* (149).
- Scoter:**
 Common *Oidemia nigra* (163).
 Surf *Melanitta perspicillata* (166).
 White-winged *Melanitta deglandi* (165).
- Shoveler** *Spatula clypeata* (142):
- Teal:**
 Blue-winged *Anas discors* (140).
 Cinnamon *Anas cyanoptera* (141).
 Common (European) *Anas crecca*.
 Green-winged *Anas carolinensis* (139).
- Tree Duck:**
 Black-bellied *Dendrocygna autumnalis*.
 Fulvous *Dendrocygna bicolor* (178).
- Widgeon:**
 American *Mareca americana* (137).
 European *Mareca penelope* (136).
 Wood Duck *Aix sponsa* (144).
- Dunlin** (Red-backed Sandpiper) *Erolia alpina*.
- Gallinule:**
 Common *Gallinula chloropus* (219).
 Purple *Porphyryla martinica* (218).
- Godwit:**
 Bar-tailed *Limosa lapponica* (250).
 Hudsonian *Limosa haemastica*.
 Marbled *Limosa fedoa* (2—).
- Goose:**
 Barnacle *Branta leucopsis* (—).
 Blue *Chen caerulescens* (169.1).
 Canada (Lesser and Cackling) *Branta canadensis* (—).
 Emperor *Phalacrocorax auritus* (176).
 Hawaiian (Nene) *Branta sandvicensis*.
 Ross' *Chen rossii* (170).
 Snow *Chen hyperborea* (169).
 White-fronted (Tule) *Anser albifrons*.
- Jacana** *Jacana spinosa*.
- Killdeer** *Charadrius vociferus*.
- Knot** *Calidris canutus* (234).
- Oystercatcher:**
 American *Haematopus palliatus* (—).
 Black *Haematopus bachmani* (28—).
- Phalarope:**
 Northern *Lobipes lobatus* (223).
 Red *Phalaropus fulicarius* (222).
 Wilson's *Steganopus tricolor* (224).
- Pigeon:**
 Band-tailed *Columba fasciata* (312).
 Red-billed *Columba flavirostris*.
 White-crowned *Columba leucocephala*.
- Plover:**
 American Golden (Atlantic and Pacific) *Pluvialis dominica*.
 Black-bellied *Squatarola squatarola* (270).
 Mongolian *Charadrius mongolus* (279).
 Mountain *Eupoda montana* (281).
 Piping *Charadrius melodus* (277).
 Semipalmated *Charadrius semipalmatus*.
 Snowy *Charadrius alexandrinus* (278).
 Upland *Bartramia longicauda* (261).
 Wilson's *Charadrius wilsonia* (280).
- Rail:**
 Black *Laterallus jamaicensis* (216).
 Clapper *Rallus longirostris* (210).
 King *Rallus elegans* (208).
 Sora *Porzana carolina* (214).
 Virginia *Rallus limicola* (212).
 Yellow *Coturnicops noveboracensis* (215).
 Ruff *Philomachus pugnax* (260).
 Sanderling *Crocethia alba* (248).
- Sandpiper:**
 Baird's *Erolia bairdii* (241).
 Buff-breasted *Tryngites subruficollis*.
 Curlew *Erolia ferruginea* (244).
 Least *Erolia minutilla* (242).
 Pectoral *Erolia melanotos* (239).
 Purple *Erolia maritima* (235).
 Rock (Aleutian) *Erolia pitlochemis* (—).
 Semipalmated *Ereunetes pusillus* (—).
 Sharp-tailed *Erolia acuminata* (23—).
 Solitary *Tringa solitaria* (256).
 Spotted *Actitis macularia* (263).
 Stilt *Micropalama himantopus* (—).
 Western *Ereunetes mauri* (247).
 White-rumped *Erolia fuscicollis*.
- Snipe: Common** (Wilson's) *Capella galinago*.
- Stilt: Black-necked** *Himantopus mexicanus* (—).
- Surfbird: Aphriza virgata**.
- Swan:**
 Trumpeter *Olor buccinator* (181).
 Whistling *Olor columbianus* (180).
 Whooper *Olor cygnus* (179).
- Tattler:**
 Polynesian *Heteroscelus brevipes* (259.1).
 Wandering *Heteroscelus incanum* (259).
- Turnstone:**
 Black *Arenaria melanocephala* (284).
 Ruddy *Arenaria interpres* (283).
- Whimbrel** (Hudsonian curlew) *Numentus phaeopus*.
- Willet** *Catoptrophorus semipalmatus* (258).
- Woodcock:**
 American *Philohela minor* (228).
 European *Scolopax rusticola* (227).
- Yellowlegs:**
 Greater *Totanus melanoleucus* (254).
 Lesser *Totanus flavipes* (255).
- NONGAME BIRDS**
- Albatross:**
 Black-footed *Diomedea nigripes*.
 Laysan *Diomedea immutabilis*.
 Short-tailed *Diomedea albatrus*.
- Anhinga** *Anhinga anhinga*.
- Ani:**
 Groove-billed *Crotophaga sulcirostris*.
 Smooth-billed *Crotophaga ani* (383).
- Auklet:**
 Cassin's *Ptychoramphus aleutica* (—).
 Crested *Aethia cristatella* (18).
 Least *Aethia pusilla* (20).
 Parakeet *Cyclorhynchus psittacula*.
 Rhinoceros *Cerorhinca monocerata*.
 Whiskered *Aethia pygmaea* (19).
- Beard:** Rose-throated *Platyparis aglaiae*.
- Bittern:**
 American *Botaurus lentiginosus* (190).
 Least *Irobychus exilis* (191).
- Blackbird:**
 Brewer's *Euphagus cyanocephalus* (510).
 Red-winged *Agelaius phoeniceus* (498).
 Rusty *Euphagus carolinus* (509).
 Tricolored *Agelaius tricolor* (500).
 Yellow-headed *Xanthocephalus xanthocephalus*.
- Bluebird:**
 Eastern *Sialia sialis* (766).
 Mountain *Sialia currucoides* —.
 Western *Sialia mexicana* (767).
- Bluethroat** *Luscinia svecica* (764).
- Bobolink:** *Dolichonyx oryzivorus* (494).
- Booby:**
 Blue-faced *Sula dactylatra* (114).
 Blue-footed *Sula nebouxi*.
 Brown *Sula leucogaster*.
 Red-footed *Sula sula* (—).
- Bunting:**
 Indigo *passerina cyanea* (598).
 Lark *Calamospiza melanocorys* (605).
 Lazuli *passerina amoena* (599).
 McKay's *Plectrophenax hyperboreus*.
 Painted *Passerina ciris* (601).
 Snow *Plectrophenax nivalis* (534).
 Varied *Passerina versicolor* (600).
- Bushtit:**
 Black-eared (Lloyd's) *Psaltriparus melanotis* (745).
 Common (Coast, California, and other subspecies) *Psaltriparus minimus* (743).
- Caracara** *Caracara chertway*.
- Cardinal** *Richmondia cardinalis*.
- Catbird** *Dumetella carolinensis* (704).
- Chat, Yellow-breasted** *Icteria virens* (683).
- Chickadee:**
 Black-capped *Parus atricapillus* (735).
 Boreal (Hudsonian) *Parus hudsonicus*.
 Carolina *Parus carolinensis* (736).
 Chestnut-backed *Parus rufescens* (741).
 Gray-headed (Alaska) *Parus cinctus* (—).
 Mexican *Parus sclateri* (737).
 Mountain *Parus gambeli* (738).
 Chuck-will's-widow *Caprimulgus carolinensis* (416).
- Condor, California** *Gymnogyps californianus*.
- Cormorant:**
 Brandt's *Phalacrocorax penicillatus*.
 Double-crested *Phalacrocorax auritus*.
 Great *Phalacrocorax carbo*.
 Olivaceous *Phalacrocorax olivaceus*.
 Pelagic *Phalacrocorax pelagicus*.
 Red-faced *Phalacrocorax urile*.
- Cowbird:**
 Bronzed (Red-eyed) *Tangavitus aeneus* (496).
 Brown-headed (Eastern, Nevada, California, and Dwarf) *Molothrus ater* (495).
 Creeper, Brown *Certhia familiaris* (726).
- Crossbill:**
 Red (Bendire's and other subspecies) *Loxia curvirostra*.
 White-winged *Loxia leucoptera* (522).
- Crow:**
 Common *Corvus brachyrhynchos*.
 Fish *Corvus ossifragus*.
 Hawaiian *Corvus tropicalis*.
 Northwestern *Corvus caurinus*.
- Cuckoo:**
 Black-billed *Coccyzus erythrophthalmus*.
 Mangrove (Maynard's) *Coccyzus minor*.
 Yellow-billed *Coccyzus americanus*.
- Dickcissel** *Spiza americana* (604).
- Dipper** (Water Ouzel) *Cinclus mexicanus* (7).
- Dovekie** *Plautus alle* (34).
- Eagle:**
 Bald *Haliaeetus leucocephalus* (352).
 Golden *Aquila chrysaetos* (349).
- Egret:**
 Cattle *Bubulcus ibis* (200.1).
 Common *Casmerodius albus* (196).
 Little *Egretta garzetta* (196.1).
 Reddish *Dichromanassa rufescens* (198).
 Snowy *Leucopoyx thula* (197).
- Finch:**
 Black Rosy *Leucosticte atrata* (525).
 Brown-capped Rosy *Leucosticte australis* (—).
 Cassin's *Carpodacus cassinii* (518).
 Gray-crowned Rosy *Leucosticte tephrocotis*.
 House *Carpodacus mexicanus* (519).
 Purple *Carpodacus purpureus* (517).
- Falcon:**
 Plumbeous *Falco femoralis*.
 Peregrine *Falco peregrinus*.
 Prairie *Falco mexicanus*.
- Flamingo, American** *Phoenicopterus ruber*.
- Flicker:**
 Gilded *Colaptes chrysoides* (414).
 Red-shafted *Colaptes cafer* (413).
 Yellow-shafted (Northern and Southern) *Colaptes auratus*.

Flycatcher:

- Acadian *Empidonax vireescens* (465).
 Ash-throated *Myiarchus cinerascens* (464).
 Beardless *Campyloma imberbe* (472).
 Buff-breasted *Empidonax fulvifrons* (470a).
 Coues' *Contopus pertinax* (460).
 Dusky *Empidonax oberholseri* (469).
 Gray *Empidonax wrightii*.
 Great Crested (Northern and Southern) *Myiarchus crinitus*.
 Hammond's *Empidonax hammondi* (468).
 Kiskadee (Derby) *Pitangus sulphuratus* (449).
 Least *Empidonax minimus* (467).
 Nutting's *Myiarchus nuttingi*.
 Oliveaceous *Myiarchus tuberculifer*.
 Olive-sided *Nuttallornis borealis* (—).
 Scissor-tailed *Muscivora forficata* (—).
 Sulphur-bellied *Myiodynastes luteiventris* (461).
 Traill's (Little and Alder) *Empidonax traillii*.
 Vermilion *Pyrocephalus rubinus* (471).
 Western *Empidonax difficilis* (464).
 Wied's Crested *Myiarchus tyrannulus* (463).
 Yellow-bellied *Empidonax flaviventris* (463).

Frigatebird:

- Great *Fregata minor*.
 Magnificent *Fregata magnificens*.
 Fulmar (Atlantic and Pacific) *Fulmarus glacialis*.

Gannet *Morus bassanus* (117).

Gnatcatcher:

- Black-capped *Polioptila nigriceps*.
 Black-tailed (Plumbeous and other subspecies) *Polioptila melanura* (752).
 Blue-gray *Polioptila caerulea* (751).

Goldfinch:

- American *Spinus tristis* (529).
 Lawrence's *Spinus lawrencei* (531).
 Lesser (Arkansas) *Spinus psaltria* (530).
 Goshawk *Accipiter gentilis*.

Grackle:

- Boat-tailed *Cassidix mexicanus* (513).
 Common (Purple, Bronzed, and Florida) *Quiscalus quiscula*.

Grebe:

- Eared *Podiceps caspicus* (4).
 Horned *Podiceps auritus* (3).
 Least (Tigua) *Podiceps dominicus* (5).
 Pied-billed *Podilymbus podiceps* (6).
 Red-necked (Holboell's) *Podiceps grise-gena* (—).
 Western *Aechmophorus occidentalis* (1).

Grosbeak:

- Black-headed *Pheucticus melanocephalus*.
 Blue *Guitaca caerulea* (597).
 Evening *Hesperiphona vespertina* (514).
 Pine *Pinicola enucleator* (515).
 Rose-breasted *Pheucticus ludovicianus* (5).

Ground-chat *Chamaethlypis poliocephala* (682.1).

Gull:

- Black *Cephus grylle* (27).
 Pigeon *Cephus columba* (29).
 Gull:
 Bonaparte's *Larus philadelphia* (60).
 California *Larus californicus* (53).
 Franklin's *Larus pipizcan* (59).
 Glaucous *Larus hyperboreus* (42).
 Glaucous-winged *Larus glaucescens*.
 Great Black-backed *Larus marinus*.
 Heermann's *Larus heermanni* (57).
 Herring *Larus argentatus* (51a).
 Iceland *Larus glaucoides* (43).
 Ivory *Pagophila eburnea* (39).
 Laughing *Larus atricilla* (58).
 Lesser Black-backed *Larus fuscus* (—).
 Little *Larus minutus* (60.1).
 Mew *Larus canus* (55).
 Ring-billed *Larus delawarensis* (54).
 Ross' *Rhodostethia rosea* (61).
 Sabine's *Xema sabini* (62).
 Slaty-backed *Larus schistisagus* (48).
 Western *Larus occidentalis* (49).
 Gyrfalcon *Falco rusticolus*.

Hawk:

- Black *Buteogallus anthracinus*.
 Board-winged *Buteo platypterus*.
 Cooper's *Accipiter cooperii*.
 Ferruginous *Buteo regalis*.
 Gray *Buteo nitidus*.
 Harlan's *Buteo harlani*.
 Harris' *Parabuteo unicinctus*.
 Hawaiian *Buteo solitarius*.
 Marsh *Circus cyaneus*.
 Red-shouldered *Buteo lineatus*.
 Red-tailed *Buteo jamaicensis*.
 Rough-legged *Buteo lagopus*.
 Sharp-shinned *Accipiter striatus*.
 Short-tailed *Buteo brachyurus*.
 Sparrow *Falco sparverius*.
 Swainson's *Buteo swainsoni*.
 White-tailed *Buteo albicaudatus*.
 Zone-tailed *Buteo albonotatus*.

Heron:

- Black-crowned Night *Nycticorax nycticorax*.
 Great Blue *Ardea herodias* (194).
 Great White *Ardea occidentalis* (192).
 Green *Butorides virescens* (201).
 Little Blue Florida *caerulea* (200).
 Louisiana *Hydranassa tricolor* (199).
 Yellow-crowned Night *Nyctanassa violacea*.

Hummingbird:

- Allen's *Selasphorus sasin* (—).
 Anna's *Calypte anna* (431).
 Black-chinned *Archilochus alexandri* (—).
 Blue-throated *Lampornis clemenciae* (—).
 Broad-billed *Cyanthura latirostris* (44—).
 Broad-tailed *Selasphorus platycercus* (—).
 Buff-billed *Amazilia yucatanensis* (4—).
 Calliope *Stellula calliope* (436).
 Costa's *Calypte costae* (430).
 Heloise's *Atthis heloise* (435).
 Lucifer *Calothorax lucifer* (437).
 Rivoli's *Eugenes fulgens* (426).
 Ruby-throated *Archilochus colubris* (—).
 Rufous *Selasphorus rufus* (433).
 Violet-crowned *Amazilia verticalis* (4—).
 White-eared *Hylocharis leucotis* (440).

Ibis:

- Glossy *Plegadis falcinellus* (—).
 White *Eudocimus albus* (—).
 White-faced *Plegadis chihi* (—).
 Wood *Mycteria americana* (—).

Jaeger:

- Long-tailed *Stercorarius longicaudus* (—).
 Parasitic *Stercorarius parasiticus* (37—).
 Pomarine *Stercorarius pomarinus* (36—).

Jay:

- Blue *Cyanocitta cristata*.
 Gray *Perisoreus canadensis*.
 Green *Aphelocoma ynes*.
 Mexican *Aphelocoma ultramarina*.
 Pinon *Gymnorhinus cyanocephalus*.
 San Blas *Cissilopha san-blasiensis*.
 Scrub *Aphelocoma coerulescens*.
 Steller's *Oyanocitta stelleri*.

Junco:

- Gray-headed *Junco caniceps* (570b).
 Mexican *Junco phaeonotus* (570).
 Oregon (Shufeldt's, Pink-sided, and other subspecies) *Junco oregonus* (567a).
 Slate-colored *Junco hyemalis* (567).
 White-winged *Junco aikenii* (566).

Kingbird:

- Cassin's *Tyrannus vociferans* (448).
 Eastern *Tyrannus tyrannus* (444).
 Gray *Tyrannus dominicensis* (445).
 Tropical (Couch's) *Tyrannus melancholicus*.
 Western (Arkansas) *Tyrannus verticalis* (447).

Kingfisher:

- Belted *Megascyle alcyon*.
 Green *Chloroceryle americana*.

Kinglet:

- Golden-crowned *Regulus satrapa*.
 Ruby-crowned *Regulus calendula*.

Kite:

- Everglade *Rostrhamus sociabilis*.
 Mississippi *Ictinia mississippiensis*.
 Swallow-tailed *Elanoides forficatus*.
 White-tailed *Elanus leucurus*.

Kittiwake:

- Black-legged (Atlantic and Pacific) *Rissa tridactyla*.
 Red-legged *Rissa brevirostris* (41).

Lark:

- Horned *Eremophila alpestris* (474).
 Limpkin *Aramus guarana*.

Longspur:

- Chestnut-collared *Calcarius ornatus*.
 Lapland *Calcarius lapponicus* (536).
 McCown's *Rhynchophanes mccownii*.
 Smith's *Calcarius pictus* (537).

Loon:

- Arctic (Pacific) *Gavia arctica* (10).
 Common *Gavia immer* (7).
 Red-throated *Gavia stellata* (11).
 Yellow-billed *Gavia adamsti* (8).

Magpie:

- Black-billed *Pica pica*.
 Yellow-billed *Pica nuttalli*.

Martin:

- Gray-breasted *Progne chalybea* (611.2).
 Purple *Progne subis* (611).

Meadowlark:

- Eastern (Southern and Rio Grande) *Sturnella magna*.
 Western *Sturnella neglecta* (501.1).

Merlin *Falco columbarius*.

- Millerbird *Acrocephalus familiaris*.
 Mockingbird *Mimus polyglottos* (703).

Murre:

- Common (Atlantic and California) *Uria aalge*.
 Thick-billed (Brünnich's) *Uria lomvia* (31).

Murrelet:

- Ancient *Synthliboramphus antiquum* (21).
 Craveri's *Endomychura craveri* (26).

- Kittlitz's *Brachyramphus brevirostre* (24).
 Marbled *Brachyramphus marmoratum* (23).

- Xantus' *Endomychura hypoleuca* (25).

Nighthawk:

- Common (Eastern) *Chordeiles minor* (420).
 Lesser (Texas) *Chordeiles acutipennis* (421).

Nutcracker, Clark's *Nucifraga columbiana*.

- Nuthatch:

- Brown-headed *Sitta pusilla* (729).
 Pigmy *Sitta pygmaea* (730).
 Red-breasted *Sitta canadensis* (7—).
 White-breasted *Sitta carolinensis*.

Oriole:

- Baltimore, *Icterus galbula* (507).
 Black-headed (Audubon's) *Icterus gradu-cauda*.
 Bullock's *Icterus bullockii* (508).
 Fuertes' *Icterus fuertes*.
 Hooded (Sennett's) *Icterus cucullatus* (505).

Lichtenstein's (Altamira) *Icterus gularis* (503.1).

- Orchard *Icterus spurius* (506).
 Scott's *Icterus parisorum*.

Osprey *Pandion haliaetus*.

Owl:

- Barn *Tyto alba*.
 Barred *Strix varia*.
 Boreal *Aegolius junereus*.
 Burrowing *Speotyto cunicularia*.
 Elf *Micrathene whitneyi*.
 Ferruginous *Glaucidium brasilianum*.
 Flammulated *Otus flammeolus*.
 Great Gray *Strix nebulosa*.
 Great Horned *Bubo virginianus*.
 Hawk *Surnia ulula*.
 Long-eared *Asio otus*.
 Pygmy *Glaucidium gnoma*.
 Saw-whet *Aegolius acadicus*.
 Screech *Otus asio*.
 Short-eared, *Asio flammeus*.
 Snowy *Nyctea scandiaca*.
 Spotted *Strix occidentalis*.
 Whiskered *Otus trichopsis*.

Ovenbird *Seturus aurocapillus* (674).

- Pauraque *Nyctidromus albigollis* (419).

- Petrel:**
 Ashy *Oceanodroma homochroa* —.
 Black *Loomelania melania* (10).
 Bonin *Pterodroma hypoleuca* —.
 Bulwer's *Bulweria bulwerii* —.
 Dark-rumped (Uau) *Pterodroma phaeopygia* —.
 Fork-tailed *Oceanodroma furcata* (105).
 Harcourt's (Hawaiian) *Oceanodroma castro* —.
 Leach's *Oceanodroma leucochoa*.
 Least *Halocyptena microsoma* —.
 Scaled *Pterodroma inexpectata* (99).
 Sooty Storm *Oceanodroma markhami*.
 Wilson's *Oceanites oceanicus* (109).
- Pewee:**
 Eastern Wood *Contopus virens* (461).
 Western Wood *Contopus sordidulus*.
- Pelican:**
 Brown *Pelecanus occidentalis*.
 White *Pelecanus erythrorhynchos*.
- Phainopepla** *Phainopepla nitens* —.
- Phoebe:**
 Black *Sayornis nigricans*.
 Eastern *Sayornis phoebe*.
 Say's *Sayornis saya* (457).
- Pipit:**
 Sprague's *Anthus spraguei* (700).
 Water (American) *Anthus spinoletta*.
- Poor-will** *Phalaenoptilus nuttallii* (418).
- Puffin:**
 Common *Fratercula arctica* (13).
 Horned *Fratercula corniculata* (14).
 Tufted *Lunda cirrhata* (12).
- Pyrrhuloxia** *Pyrrhuloxia sinuata* (294).
- Raven:**
 Common *Corvus corax*.
 White-necked *Corvus cryptoleucus*.
- Razorbill** *Alca torda*.
- Redpoll:**
 Common *Acanthis flammea* —.
 Hoary *Acanthis hornemanni* —.
- Redstart:**
 American *Setophaga ruticilla*.
 Painted *Setophaga picta* (688).
- Roadrunner**, *Geococcyx californianus* (385).
- Robin:**
Turdus migratorius (761).
 Rufous-backed *Turdus rufopalliatus*.
 Ruby-throat, Siberian *Luscinia calliope* (764.1).
- Sapsucker:**
 Williamson's *Sphyrapicus thyroideus* (404).
 Yellow-bellied (Red-naped and Red-breasted) *Sphyrapicus varius* (402).
- Seedeater:** White-collared *Sporophila torqueola* (602).
- Shearwater:**
 Audubon's *Puffinus lherminieri* (92).
 Christmas Island *Puffinus nativitatus*.
 Cory's *Puffinus diomedea* (88).
 Greater *Puffinus gravis* (89).
 Manx *Puffinus puffinus* (90).
 New Zealand *Puffinus bulleri* (96.2).
 Pale-footed *Puffinus carneipes* (95.1).
 Pink-footed *Puffinus creatopus* (91).
 Slender-billed *Puffinus tenuirostris* (96).
 Sooty *Puffinus griseus* (95).
 Wedge-tailed *Puffinus pacificus* (96.1).
- Shrike:**
 Loggerhead *Lanius ludovicianus* (622).
 Northern *Lanius excubitor* (621).
- Siskin Pine** *Spinus pinus*.
- Skua** *Catharacta skua* (35).
- Skimmer:** Black *Rynchops nigra*.
- Solitaire:** Townsend's *Myadestes townsendi*.
- Sparrow:**
 Bachman's *Aimophila aestivalis* (575).
 Baird's *Ammodramus bairdi* (545).
 Black-chinned *Spizella atrogularis* (565).
 Black-throated *Amphispiza bilineata* (57—).
 Botteri's *Aimophila doti* (576).
 Brewer's *Spizella breweri* (562).
 Cape Sable *Ammodramus mirabilis* (551.1).
 Cassin's *Aimophila cassini* (578).
 Chipping *Spizella passerina* (560).
 Clay-colored *Spizella pallida* (561).
 Dusky Seaside *Ammodramus nigrescens* (5—).
 Field *Spizella pusilla* (563).
 Fox *Passerella iliaca* (585).
 Golden-crowned *Zonotrichia atricapilla*.
 Grasshopper *Ammodramus savannarum*.
 Harris' *Zonotrichia querula* (553).
 Henslow's *Passerherbulus henslowii* (547).
 Ipswich *Passerculus princeps* (541).
 Lark *Chondestes grammacus* (552).
 Le Conte's *Passerherbulus caudatus* —.
 Lincoln's *Melospiza lincolni* (583).
 Olive (Texas) *Arremonops rufivirgata* (586).
 Rufous-crowned *Aimophila ruficeps* (580).
 Rufous-winged *Aimophila carpalis* (579).
 Sage (Bell's) *Amphispiza belli* (574).
 Savannah (Beidling's and Large-billed) *Passerculus sandwichensis* (542).
 Seaside *Ammodramus maritima* (550).
 Sharp-tailed *Ammodramus caudatus* (549).
 Song *Melospiza melodia* (581).
 Swamp *Melospiza georgiana* (584).
 Tree *Spizella arborea* (569).
 Vesper *Poocetes gramineus* (540).
 White-crowned *Zonotrichia leucophrys* (554).
 White-throated *Zonotrichia albicollis* (558).
 Worthen's *Spizella wortheni* (564).
- Spoonbill:** Roseate *Ajaja ajaja*.
- Swallow:**
 Bahama *Callipepla cyaneoviridis* (615.1).
 Bank *Riparia riparia* (616).
 Barn *Hirundo rustica* (613).
 Cave *Petrochelidon fulva*.
 Cliff *Petrochelidon pyrrhonota* (612).
 Rough-winged *Stelgidopteryx ruficollis* (617).
 Tree *Iridoprocne bicolor* (614).
 Violet-green *Tachycineta thalassina* (615).
- Swift:**
 Black *Cypseloides niger* (422).
 Chimney *Chaetura pelagica* (423).
 Vaux's *Chaetura vauxi*.
 White-throated *Aeronautes saxatalis*.
- Tanager:**
 Hepatic *Piranga flava* (609).
 Scarlet *Piranga olivacea*.
 Summer *Piranga rubra* (610).
 Western *Piranga ludoviciana* (607).
- Tern:**
 Aleutian *Sterna aleutica* (73).
 Artic *Sterna paradisaea* (71).
 Black *Chlidonias niger* (77).
 Blue-gray Noddy *Procelsterna cerulea*.
 Bridled (Gaviota Oscura) *Sterna anaethetus*.
 Caspian *Hydroprogne caspia* (64).
 Common *Sterna hirundo* (70).
 Elegant *Thalasseus elegans* (66).
 Fairy (White) *Gygis alba*.
 Forster's *Sterna forsteri* (69).
 Gray-backed *Sterna lunata*.
 Gull-billed *Gelochelidon nitotica* (63).
 Least *Sterna albifrons* (74).
 Noddy (Nolo Koha) *Anous stolidus* (79).
 Roseate *Sterna dougallii* (72).
 Royal *Thalasseus maximus* (65).
 Sandwich (Cabot's) *Thalasseus sandwichensis*.
 Sooty *Sterna fuscata* (75).
 White-capped Noddy (Hawaiian Tern, Nolo) *Anous minutus*.
- Thrasher:**
 Bendire's *Toxostoma bendirei* (706).
 Brown *Toxostoma refulum* (705).
 California *Toxostoma redivivum* (710).
 Crissal *Toxostoma dorsale* (712).
 Curve-billed *Toxostoma curvirostre* (707).
 Le Conte's *Toxostoma lecontei* (711).
 Long-billed (Sennett's) *Toxostoma longirostre*.
 Sage *Oreoscoptes montanus*.
- Thrush:**
 Gray-checked *Hylocichla minima* (757).
 Hawaiian (Omao) *Phaeornis obscurus*.
 Hermit *Hylocichla guttata* (759).
 Small Kauai (Pualohi) *Phaeornis palmeri*.
 Swainson's (Russet-backed and Olive-backed) *Hylocichla ustulata* (758).
 Varied *Ixoreus naevius* (763).
 Wood *Hylocichla mustelina* (755).
- Titmouse:**
 Black-crested *Parus atricristatus* (732).
 Bridled *Parus wollweberi* (734).
 Plain *Parus inornatus* (733).
 Tufted *Parus bicolor* (731).
- Towhee:**
 Abert's *Pipilo aberti* (592).
 Brown *Pipilo fuscus* (591).
 Green-tailed *Chlorura chlorura* (592.1).
 Rufous-sided *Pipilo erythrophthalmus* (587).
- Trogon:**
 Coppery-tailed *Trogon elegans*.
- Tropicbird:**
 Red-billed *Phaethon aethereus*.
 Red-tailed *Phaethon rubricauda*.
 White-tailed *Phaethon lepturus*.
 Veery *Hylocichla fuscescens* (756).
 Verdin *Auriparus flaviceps* (746).
- Vireo:**
 Bell's *Vireo bellii* (633).
 Black-whiskered *Vireo altilloquus* —.
 Black-capped *Vireo atricapilla* (63 —).
 Gray *Vireo vicinior* (634).
 Hutton's *Vireo huttoni* (632).
 Philadelphia *Vireo philadelphicus*.
 Red-eyed *Vireo olivaceus* (624).
 Solitary (Blue-headed and other subspecies) *Vireo solitarius*.
 Warbling *Vireo gilvus* (627).
 White-eyed *Vireo griseus* (631).
 Yellow-throated *Vireo flavifrons*.
- Vulture:**
 Black *Coragyps atratus*.
 Turkey *Cathartes aura*.
- Wagtail:**
 White *Motacilla alba*.
 Yellow *Motacilla flava*.
- Warbler:**
 Arctic *Phylloscopus borealis* (747).
 Audubon's *Dendroica auduboni* —.
 Bachman's *Vermivora bachmanii*.
 Bay-breasted *Dendroica castanea*.
 Black-and-white *Mniotilta varia*.
 Blackburnian *Dendroica fusca* (6—).
 Blackpoll *Dendroica striata* (661).
 Black-throated Blue *Dendroica caerulescens*.
 Black-throated Gray *Dendroica nigrescens* —.
 Black-throated Green *Dendroica virens* (667).
 Blue-winged *Vermivora pinus* (641).
 Canada *Wilsonia canadensis* (686).
 Cape May *Dendroica tigrina* (650).
 Cerulean *Dendroica cerulea* (658).
 Chestnut-sided *Dendroica pensylvanica* (659).
 Collina *Vermivora crissalis* (647.1).
 Connecticut *Oporornis agilis* (678).
 Golden-cheeked *Dendroica chrysoparia*.
 Golden-winged *Vermivora chrysoptera* —.
 Grace's *Dendroica graciae* (664).
 Hermit *Dendroica occidentalis* (669).
 Hooded *Wilsonia citrina* (684).
 Kentucky *Oporornis formosus* (677).
 Kirtland's *Dendroica kirtlandii* (670).
 Lucy's *Vermivora luciae* (643).
 MacGillivray's *Oporornis tolmiei* (680).
 Magnolia *Dendroica magnolia* (657).
 Mourning *Oporornis philadelphia* (679).
 Myrtle *Dendroica coronata* (655).
 Nashville *Vermivora ruficapilla* (645).

- Olive *Peucedramus taeniatus* (651).
- Olive-backed (Sennett's) *Parula pitaiyumi* (649).
- Orange-crowned *Vermivora celata* (646).
- Palm *Dendroica palmarum* (672).
- Parula *Parula americana* (648).
- Pine *Dendroica pinus* (671).
- Prairie *Dendroica discolor* (673).
- Prothonotary *Protonotaria citrea* (637).
- Red-faced *Cardellina rubrifrons* (690).
- Swainson's *Limnoithlypis swainsonii* (638).
- Tennessee *Vermivora peregrina* (647).
- Townsend's *Dendroica townsendi* (668).
- Virginia's *Vermivora virginiae* (644).
- Wilson's *Wilsonia pusilla* (685).
- Worm-eating *Helmitheros vermivorus* (639).
- Yellow *Dendroica petechia* (652).
- Yellow-throated *Dendroica dominica* (663).
- Waterthrush:
 - Louisiana *Seiurus motacilla* (676).
 - Northern (Grinnell's) *Seiurus noveboracensis*.
- Waxwing:
 - Bohemian *Bombycilla garrulus* (618).
 - Cedar *Bombycilla cedrorum* (619).
- Wheatear *Oenanthe oenanthe* (765).
- Whip-poor-will *Caprimulgus vociferus* (417).
- Woodpecker:
 - Acorn (California and other subspecies) *Melanerpes formicivorus* (407).
 - Arizona *Dendrocopos arizonae* (398).
 - Black-backed Three-toed *Picoides arcticus* (400).
 - Downy *Dendrocopos pubescens* (394).
 - Gila *Centurus uropygialis* (411).
 - Golden-fronted *Centurus aurifrons* (410).
 - Hairy *Dendrocopos villosus* (393).
 - Ivory-billed *Campophilus principalis* (392).
 - Ladder-backed (Texas, Cactus, and other subspecies) *Dendrocopos scalaris* (396).
 - Lewis' *Asyndesmus lewis* (408).
 - Northern Three-toed *Picoides tridactylus* (401).
 - Nuttall's *Dendrocopos nuttallii* (397).
 - Pileated *Dryocopus pileatus* (405).
 - Red-bellied *Centurus carolinus* (409).
 - Red-cockaded *Dendrocopos borealis* (395).
 - Red-headed *Melanerpes erythrocephalus*.
 - White-headed *Dendrocopos albolarvatus*.
- Wren:
 - Bewick's *Thryomanes bewickii* (719).
 - Brown-throated *Troglodytes brunneicollis* (721.1).
 - Cactus *Campylorhynchus brunneicapillus* (713).
 - Cañon *Catherpes mexicanus* (717).
 - Carolina *Thryothorus ludovicianus* (718).
 - House *Troglodytes aedon* (721).
 - Long-billed Marsh *Telematodytes palustris* (725).
 - Rock *Salpinctes obsoletus* (715).
 - Short-billed Marsh *Cistothorus platensis* (724).
 - Winter *Troglodytes troglodytes* (722).
 - Wrentit *Chamaea fasciata*.
 - Yellowthroat *Geothlypis trichas*.

Subpart C—Addresses

§ 10.21 Director.

Mail forwarded to the Director with reference to law enforcement or permits should be addressed:

Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Washington, D.C. 20240.

§ 10.22 Law enforcement districts.

Bureau law enforcement districts and their area of jurisdiction follow. Mail should be addressed:

Special Agent in Charge, Bureau of Sport Fisheries and Wildlife (appropriate address below).

Area of jurisdiction:

- Alabama -----
- Alaska: Except that portion lying in election districts 1-6. -----
- Alaska: Southeastern part of State which includes only election districts 1-6. -----
- Arizona -----
- Arkansas -----
- California: That part of the State lying north of a line forming the southern boundaries of the counties of: Alpine, Calaveras, San Joaquin, and Santa Clara. -----
- California: That part of the State lying south of a line forming the southern boundaries of the counties of: Alpine, Calaveras, San Joaquin, and Santa Clara and north of a line forming the southern boundaries of the counties of Mono, Fresno, and Monterey. -----
- California: That part of the State lying south of the southern boundaries of the counties of Mono, Fresno, and Monterey. -----
- Colorado -----
- Connecticut and Rhode Island -----
- Delaware -----
- Florida -----
- Georgia -----
- Hawaii -----
- Idaho -----
- Illinois -----
- Indiana -----
- Iowa -----
- Kansas -----
- Kentucky -----
- Louisiana -----
- Maine -----
- Maryland -----
- Massachusetts, New Hampshire, and Vermont. -----
- Michigan -----
- Minnesota -----
- Mississippi -----
- Missouri -----
- Montana and Wyoming -----
- Nebraska -----
- Nevada -----
- New Jersey -----
- New Mexico -----
- New York -----
- North Carolina -----
- North Dakota -----
- Ohio -----
- Oklahoma -----
- Oregon -----
- Pennsylvania and West Virginia -----
- The Commonwealth of Puerto Rico and all of the Virgin Islands of the United States. -----
- South Carolina -----
- South Dakota -----
- Tennessee -----
- Texas: That part of the State of Texas lying north of the northern boundaries of the counties of Winkler, Ector, Midland, Glasscock, Sterling, Coke, Runnels, Coleman, and Brown and lying east of the eastern boundaries of the counties of Brown, Mills, Lampasas, Burnet, Blanco, Comal, Guadalupe, Gonzales, DeWitt, Victoria, and Calhoun. -----

Address

- 474 South Court St., Montgomery, Ala. 36104.
- 813 D St., Anchorage, Alaska 99501.
- P.O. Box 1287, Juneau, Alaska 99801.
- 2721 North Central Ave., Phoenix, Ariz. 95004.
- 311 Post Office and Courts Bldg., Little Rock, Ark. 72201.
- 650 Capitol Mall, Sacramento, Calif. 95814.
- 1130 O St., Fresno, Calif. 93721.
- 125 South Grand Ave., Pasadena, Calif. 91105.
- Building 45, Denver Federal Center, Denver, Colo. 80225.
- 450 Main Street, Hartford, Conn. 06103.
- P.O. Box 692, Dover, Del. 19901.
- P.O. Box 190, Tallahassee, Fla. 32302.
- 17 Executive Park Dr. NE., Atlanta, Ga. 30329.
- 337 Uluniu St., Kailua, Oahu, Hawaii 96734.
- P.O. Box 031, Boise, Idaho 83702.
- 600 East Monroe, Springfield, Ill. 62704.
- 36 South Pennsylvania St., Indianapolis, Ind. 46204.
- 627 New Federal Bldg., Des Moines, Iowa 50309.
- P.O. Box 10, Hutchinson, Kans. 67501.
- P.O. Box 1003, Paducah, Ky. 42001.
- P.O. Box 3473, Baton Rouge, La. 70821.
- P.O. Box 800, Augusta, Maine 04364.
- 1409 Forest Dr., Annapolis, Md. 21403.
- U.S. Post Office and Courthouse, Boston, Mass. 02109.
- 106 Manly Miles Bldg., 1405 South Harrison Rd., East Lansing, Mich. 48823.
- 568 Federal Building and Courthouse, St. Paul, Minn. 55101.
- P.O. Box 1104, Jackson, Miss. 39205.
- P.O. Box 815, Jefferson City, Mo. 65101.
- P.O. Box 897, Helena, Mont. 59601.
- P.O. Box 7, Lincoln, Nebr. 68505.
- 300 Booth St., Reno, Nev. 89502.
- P.O. Box 232, Trenton, N.J. 08602.
- P.O. Box 14324, Albuquerque, N. Mex. 87111.
- P.O. Box 717, Albany, N.Y. 12201.
- P.O. Box 506, Washington, N.C. 27889.
- P.O. Box 1612, Bismarck, N. Dak. 58501.
- P.O. Box 15002, Columbus, Ohio 43215.
- 200 Northwest Fourth St., Oklahoma City, Okla. 73102.
- 1775 32d Place NE., Salem, Ore. 97303.
- P.O. Box 1154, Harrisburg, Pa. 17108.
- G.P.O. 3708, San Juan, Puerto Rico 00936.
- 1100 Laurel St., Columbia, S.C. 29201.
- P.O. Box 254, Pierre, S. Dak. 57501.
- P.O. Box 1033, Nashville, Tenn. 37202.
- P.O. Box 61161, Houston, Tex. 77061.

Area of Jurisdiction—Continued

Texas: That part of the State of Texas other than above.
 Utah -----
 Virginia -----
 Washington -----
 Wisconsin -----

Address—Continued

P.O. Box 518, Corpus Christi, Tex. 78403.
 125 South State St., Salt Lake City, Utah 84111.
 301 Parcel Post Bldg., Richmond, Va. 23219.
 496 Tyee Dr., Tumwater, Wash. 98502.
 1406 East Washington Ave., Madison, Wis. 53703.

PART 11—CIVIL PROCEDURES

Subpart A—Introduction

- Sec.
 11.1 Purpose of regulations.
 11.2 Scope of regulations.
 11.3 Filing deadlines and extensions of time.
 11.4 Definitions.

Subpart B—Assessment Procedure

- 11.11 Notice of proposed assessment.
 11.12 Petitions for remission or mitigation of a proposed assessment.
 11.13 Decision by the Director.
 11.14 Request for a hearing.
 11.15 Assignment of an administrative law judge.
 11.16 Hearing procedure.
 11.17 Payment of final assessment.

Subpart C—Holding, Return, and Disposal of Seized Property

- 11.21 Notification of seizure.
 11.22 Bonded release of certain seized property.
 11.23 Return of seized property.
 11.24 Abandonment and forfeiture of property subject to seizure.

AUTHORITY.—Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281; Bald Eagle Protection Act, sec. 2, 54 Stat. 251; Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278; Marine Mammal Protection Act of 1972, sec. 112 (a), 86 Stat. 1042.

Subpart A—Introduction

§ 11.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the assessment of civil penalties and the handling of seized property in connection with violations of certain laws and regulations enforced by the U.S. Fish and Wildlife Service.

§ 11.2 Scope of regulations.

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

Lacey Act, 18 U.S.C. 43.
 Bald Eagle Protection Act, 16 U.S.C. 668–668d.
 Endangered Species Conservation Act of 1969, 16 U.S.C. 668cc–1 to 668cc–6.
 Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1384 and 1401–1407.

§ 11.3 Filing deadlines and extensions of time.

(a) Whenever a document or other paper is required in this part to be filed within a certain time, the postmark or the date of personal service upon the Director shall constitute the date of filing.

(b) If an oral or written application is made to the Director up to 10 calendar days after the expiration of a time period established in this part for the required filing of documents or other papers, the Director may permit a late filing within a fixed period where reasonable grounds are found for an inability

or failure to file within the time period required: *Provided*, That, the time period fixed by § 11.14 for filing of a request for a hearing may not be extended. All such grants shall be in writing. Except as provided in this subsection, no other requests for an extension of time may be granted.

§ 11.4 Definitions.

“Seized property” means anything seized under the authority of statutes referred to in § 11.2.

Subpart B—Assessment Procedure

§ 11.11 Notice of proposed assessment.

(a) A Notice of Proposed Assessment (hereinafter “notice”), shall be issued by the Director and served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to liability for a civil penalty (the respondent). The notice shall contain: (1) A concise statement of the facts believed to show a violation, (2) a specific reference to the provisions of the statute or regulation allegedly violated, and (3) the amount of penalty proposed to be assessed. The notice shall inform the respondent that he shall have 30 calendar days from the date of receipt of the notice within which to file a petition with the Director for the remission or mitigation of the proposed assessment, in the manner set forth in § 11.12. The notice shall inform the respondent that if he does not file a petition within the 30 days allowed, he shall be deemed thereby to have waived his right to request a hearing, and to have agreed that the decision of the Director, made pursuant to § 11.13, shall be the final decision of the Secretary in the case. The notice shall advise the respondent that, subject to the foregoing waiver, and upon receipt of the Director’s decision as provided in § 11.13, he is entitled to request a hearing before the assessment is made final.

(b) Nothing in this section shall preclude the Director from referring a case to an administrative law judge for a hearing, despite the waiver of a hearing by the respondent, where the Director believes there are material facts at issue which cannot otherwise be satisfactorily resolved.

§ 11.12 Petitions for remission or mitigation of a proposed assessment.

If the respondent chooses to contest either the legal sufficiency of the charge or the amount of the proposed assessment set forth in the notice, he shall petition the Director for remission or mitigation of said charge or proposed assessment. The petition for remission or mitigation shall be in writing and addressed to the Director at the address specified in the notice. He may submit his

objections to the proposed assessment, and he may ask that no penalty be assessed or that the amount be reduced. He must set forth in full the reasons for the relief that he seeks, including a statement of all facts supporting his request, which shall not be considered privileged admissions.

§ 11.13 Decision by the Director.

Upon expiration of the period required or granted for filing of a petition for remission or mitigation, the Director shall proceed to make an assessment of a civil penalty, taking into consideration information available to him and such showing as may have been made by the respondent, either pursuant to § 11.12, or upon further request of the Director. The Director shall notify the respondent in writing, by personal service or by registered or certified mail, return receipt requested, of any rescission of the proposed assessment, or of any change in the amount proposed to be assessed, or that the proposed assessment remains unchanged. Where no request for a hearing is filed as provided in § 11.14, the Director’s assessment or revised assessment shall become effective and shall constitute the final administrative decision of the Secretary on the 30th calendar day from the date of respondent’s receipt of notice thereof: *Provided*, That where a right to request a hearing is deemed to have been waived, as provided in § 11.11, the Director’s decision shall become effective and shall constitute the final administrative decision of the Secretary upon the date of respondent’s receipt of notice thereof.

§ 11.14 Request for a hearing.

Except in cases where the proposed assessment is rescinded by the Director pursuant to § 11.13, or where a right to request a hearing is deemed to have been waived as provided in § 11.11, the respondent may, within 30 calendar days of the date of receipt of notice of the Director’s decision referred to in § 11.13, file a dated, written request for a hearing with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. The request must enclose a copy of the notice. A copy of the request shall be served upon the Director personally or by registered or certified mail, return receipt requested, at the address specified in the notice. Upon receipt of such service, the Director shall enter his appearance as “petitioner” and file all petitions or correspondence exchanged with the respondent pursuant to this subpart, which shall become part of the hearing record.

§ 11.15 Assignment of an administrative law judge.

Where a request for a hearing has been timely made pursuant to § 11.14, the Hearings Division shall assign an administrative law judge appointed pursuant to 5 U.S.C. 3105. Notice of the assignment will be given promptly to the parties and thereafter all pleadings, papers, and other documents in the proceeding shall be filed directly with the

Administrative Law Judge with copies served on all parties in the case.

§ 11.16 Hearing procedure.

(a) Promptly after conclusion of the hearing, the Administrative Law Judge shall render a written decision, a copy of which shall be served personally or by registered or certified mail, upon each party unless appealed in accordance with paragraph (b) of this section. The said judge's decision shall constitute the final administrative decision of the Secretary in the case and shall become effective upon the date of the respondent's receipt of notice thereof.

(b) All hearings shall be conducted in accordance with the administrative procedure provisions of chapter 5 of title 5 of the United States Code, and procedures set forth in 43 CFR, "Part 4, Department Hearings and Appeals Procedures." Decisions of administrative law judges in such proceedings shall be subject to a right of appeal to the Director, Office of Hearings and Appeals, in accordance with subpart G of Department Hearings and Appeals Procedures in 43 CFR part 4. The determination of the Director, Office of Hearings and Appeals, on an appeal from a decision of an administrative law judge, shall become effective and shall constitute the final administrative determination of the Secretary in the proceeding upon the expiration of 30 days from the date of receipt of notice of the determination by the respondent.

§ 11.17 Payment of final assessment.

When a final administrative decision becomes effective in accordance with this subpart, the respondent shall have 20 calendar days from the effective date of the decision within which to pay the penalty to the Director. Upon a failure to pay the penalty, the Secretary may request the Attorney General to institute a civil action in the U.S. District Court to collect the penalty.

Subpart C—Holding, Return, and Disposal of Seized Property

§ 11.21 Notification of seizure.

Except where the owner or consignee is personally notified, the Director shall, as soon as practicable following his receipt of seized property, mail a notification of seizure by registered or certified mail, return receipt requested, to the owner or consignee. Such notification shall describe the seized property, and shall state the time, place, and reason for the seizure.

§ 11.22 Bonded release of certain seized property.

The Director may, upon the request of any person or persons suspected of a civil penalty violation of the Lacey Act, 18 U.S.C. 43, or a criminal or civil penalty violation of the Endangered Species Conservation Act of 1969, 16 U.S.C. 668cc-4, accept an appearance and judgment bond in place of property seized, under authority of these provisions. Said bond or surety may contain such additional conditions as may be

appropriate. Such bond or surety may be in an amount up to \$10,000 per offense and shall only be allowed where the Director reasonably believes either that the health or safety of any wildlife so requires, or that the seized property is of such a nature that its release will not hamper the aims of the statute.

§ 11.23 Return of seized property.

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

§ 11.24 Abandonment and forfeiture of property subject to seizure.

When any wildlife, product, property, or item is subject to seizure in connection with a violation of the statutes set forth in § 11.2, a blank assent to forfeiture form (Customs form 4607, or a similar form) may be given, or sent with the notification required by § 11.21, to the owner thereof. Upon receipt of the assent to forfeiture duly executed by the owner, the case shall be closed.

PART 12—GENERAL PERMIT PROCEDURES

Subpart A—Introduction

- Sec. 12.1 General.
- 12.2 Purpose of regulations.
- 12.3 Scope of regulations.
- 12.4 Emergency variation from requirements.

Subpart B—Application for Permits

- 12.11 Procedure for obtaining a permit.
- 12.12 Information requirements on permit applications.
- 12.13 Abandoned application.
- 12.14 Insufficient fee.

Subpart C—Permit Administration

- 12.21 Issuance of permits.
- 12.22 Duration of permit.
- 12.23 Amendment of applications or permits.
- 12.24 Renewal of permit.
- 12.25 Permits not transferable.
- 12.26 Right of succession by certain persons.
- 12.27 Change of mailing address.
- 12.28 Change in name.
- 12.29 Official endorsement of changes required.
- 12.30 Certain continuance of activity.
- 12.31 Discontinuance of activity.

Subpart D—Conditions

- 12.41 Recall and amendment of permit during its term.
- 12.42 Permits are specific.
- 12.43 Alteration of permits.
- 12.44 Display of permit.
- 12.45 Filing of reports.
- 12.46 Maintenance of records.
- 12.47 Inspection requirement.

Subpart E—Violations of the Permit

- Sec. 12.51 Penalties for violation of a permit.

AUTHORITY.—Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281; Black Bass Act, sec. 5, 44 Stat. 576, as amended, 46 Stat. 846; Migratory Bird Treaty Act, sec. 3, 40 Stat. 755, Bald Eagle Protection Act, sec. 2, 54 Stat. 251; Tariff Classification Act of 1962, 19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States"; 54 Stat. 251; Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278; Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480; Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042.

Subpart A—Introduction

§ 12.1 General.

Each person intending to engage in an activity for which a permit is required by this subchapter B shall, before commencing such activity, obtain a valid permit authorizing such activity. Each person who desires to obtain the permit privileges authorized by this subchapter B must make application for such permit in accordance with the requirements of this part 12 and those regulations which set forth the additional requirements for the specific permit desired.

§ 12.2 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for application, issuance, renewal, conditions, revocation, and general administration of permits issuable pursuant to this subchapter B.

§ 12.3 Scope of regulations.

The provisions in this part are in addition to, and are not in lieu of, other permit regulations of this subchapter B and apply to all permits issued thereunder, including "Import and Marking" (part 13), "Feather Imports" (part 14), "Injurious Wildlife" (part 16), "Endangered Wildlife" (part 17), "Marine Mammals" (part 18), "Migratory Birds" (part 21), and "Eagles" (part 22).

§ 12.4 Emergency variation from requirements.

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

Subpart B—Application for Permits

§ 12.11 Procedure for obtaining a permit.

The following general procedures apply to applications for permits:

(a) *Forms.*—Applications must be submitted on an appropriate Bureau application form, except for those applications for which the regulations provide that a letter application which contains all necessary information, attachments, certification, and signature is acceptable. In no case will oral or telephoned applications be accepted.

(b) *Forwarding instructions.*—Applications must be submitted to the Special Agent in Charge of the Law Enforce-

ment District in which the applicant resides, unless otherwise required in the section which applies to the specific permit desired. Persons not residing in the United States must submit applications to the Director. The address of such officials are listed in §§ 10.21 and 10.22 of this subchapter.

(c) *Time requirement.*—Unless otherwise required, applications must be received by the appropriate official of the Bureau at least 30 calendar days prior to the date on which the applicant desires to have the permit made effective. The Bureau will, in all cases, attempt to process applications in the shortest possible time, and most complete and properly addressed applications will be acted on within 30 days. The Bureau does not, however, guarantee 30 day issuance and some permits cannot be issued within that time frame.

(d) *Permit fees.*—Applications must be accompanied by a permit fee in the form of a check or money order made payable to "Bureau of Sport Fisheries and Wildlife" for those permits for which a fee is shown on the following schedule. Such permit fees shall be refunded if that application is denied.

| Type of permit: | Fee |
|--|-------------------|
| Feather import quota (part 14 of this subchapter): | |
| Importation or entry..... | \$10 |
| Marine mammals permits (part 18 of this subchapter): | |
| Scientific research..... | Individual basis. |
| Public display..... | Individual bases. |

§ 12.12 Information requirements on permit applications.

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

(1) Applicant's name, mailing address, and phone number;

(2) Where the applicant is an individual, his date of birth, height, weight, color of hair, color of eyes, and sex; and business or institutional affiliation, if any, having to do with the wildlife to be covered by the permit;

(3) Where the applicant is a corporation, firm, partnership, institution, or agency, either private or public, the name and address of the president or principal officer;

(4) Location where the permitted activity is to be conducted;

(5) Part and section of this subchapter B under which the permit is requested and such additional information and justification, including supporting documents from appropriate authorities, as required by that section (Paragraph (b) of this section hereinafter contains a list of sections of this subchapter B where the additional information needed on applications for various permits may be found.)

(6) Certification in the following language: "I hereby certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief, I understand that any false statement hereon

may subject me to the criminal penalties of 18 U.S.C. 1001."

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

(8) Date;

(9) Signature of the applicant; and

(10) Such other information as the Director may request.

(b) *Additional information required on permit applications.*—As stated in paragraph (a) (5) of this section certain additional information is required on all applications. These additional requirements may be found by referring to the section of this subchapter B cited after the type of permit for which application is being made:

| Type or permit: | Section |
|--|---------|
| Importation at nondesignated ports: | |
| Scientific..... | 13.31 |
| Deterioration prevention..... | 13.32 |
| Economic hardship..... | 13.33 |
| Marking of package or container: | |
| Symbol marking..... | 13.83 |
| Feather import quota: | |
| Importation or entry..... | 14.21 |
| Injurious wildlife: | |
| Importation..... | 16.— |
| Endangered wildlife permits: | |
| Importation for zoological, educational, scientific or propagation purposes..... | 17.23 |
| Economic hardship..... | 17.22 |
| Marine mammals permits: | |
| Scientific research..... | 18.31 |
| Public display..... | 18.32 |
| Migratory bird permits: | |
| Import or export..... | 21.21 |
| Banding or marking..... | 21.22 |
| Scientific collecting..... | 21.23 |
| Taxidermy..... | 21.24 |
| Waterfowl sale and disposal..... | 21.25 |
| Special aviculturist..... | 21.26 |
| Special purpose..... | 21.27 |
| Depredation control..... | 21.41 |
| Eagle permits: | |
| Scientific or exhibition..... | 22.21 |
| Indian religious use..... | 22.22 |
| Depredation control..... | 22.23 |

§ 12.13 Abandoned application.

Upon receipt of an incomplete or improperly executed application, the applicant shall be notified of the deficiency in the application. If the applicant fails to supply the deficient information or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered as having been abandoned and the permit fee returned.

§ 12.14 Insufficient fee.

Upon receipt of an application filed with an insufficient fee, or without fee where one is required, the application and any fee submitted will be returned to the applicant.

Subpart C—Permit Administration

§ 12.21 Issuance of permits.

(a) Upon receipt of a properly executed application for a permit, the Director may issue the appropriate permit if—

(1) The applicant has not been convicted of any civil or criminal provision of any statute or regulation relating to the activity for which the application is filed;

(2) It has not been determined that the applicant has knowingly failed to disclose any material information required, or has not knowingly made any false statement as to any material fact, in connection with his application;

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

(4) The authorization requested, in the judgment of the issuing official, does not potentially threaten a wildlife population, or otherwise portend damage in an area of legitimate government responsibility; and

(5) The official issuing the permit finds through further inquiry or investigation, or otherwise, that the applicant is entitled thereto.

(b) Each permit shall bear a serial number. Such number may be reassigned to the permittee to whom issued so long as he maintains continuity of renewal.

§ 12.22 Duration of permit.

Permits shall entitle the person to whom issued to engage in the activity specified in the permit, within the limitations of the applicable statute and regulations contained in this subchapter B, for the period stated on the permit, unless sooner terminated.

§ 12.23 Amendment of applications or permits.

Where circumstances have changed so that an applicant or permittee desires to have any term or condition of his application or permit modified, he must submit in writing full justification and supporting information in conformance with the provisions of this part and the part under which the permit has been issued or requested. Such applications for modification are subject to the same issuance criteria as are original applications, as provided in § 12.21.

§ 12.24 Renewal of permit.

Where the permit is renewable and a permittee intends to continue the activity described in the permit during any portion of the year ensuing its expiration, he shall, unless otherwise notified in writing by the Director, file a request for permit renewal, together with a certified statement that the information in his original application is still currently correct, or a statement of all changes in the original application, accompanied by any required fee at least 30 days prior to the expiration of his permit. Any person holding a valid renewable permit, who has complied with the foregoing provision of this section, may continue such activities as were authorized by his expired permit until his renewal application is acted upon.

§ 12.25 Permits not transferable.

Permits issued under this part are not transferable or assignable. Some permits authorize certain activities in connection with a business or commercial enterprise, and in the event of any lease, sale, or transfer of such business entity, the successor must obtain a permit prior to continuing the permitted activity. However,

certain limited rights of succession are provided by § 12.26.

§ 12.26 Right of succession by certain persons.

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

- (1) The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee; and
- (2) A receiver or trustee in bankruptcy or a court designated a signee for the benefit of creditors.

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

§ 12.27 Change of mailing address.

During the term of his permit, a permittee may change his mailing address without procuring a new permit. However, in every case notification of the new mailing address must be forwarded to the issuing official within 30 days after such change. This section does not authorize the change of location of the permitted activity for which an amendment must be obtained in accordance with § 12.23.

§ 12.28 Change in name.

A permittee continuing to conduct a permitted activity is not required to obtain a new permit by reason of a mere change in trade name under which a business is conducted or a change of name by reason of marriage or legal decree: *Provided*, That such permittee must furnish his permit to the issuing official for endorsement within 30 days from the date the permittee begins conducting the permitted activity under the new name.

§ 12.29 Official endorsement of changes required.

Any change in a permit must be made by endorsement of the Director or issuing officer. Any modification or change in an issued permit, other than those specifically provided for in this subpart, may be granted or denied in the discretion of the Director.

§ 12.30 Certain continuancy of activity.

A permittee who furnishes his permit to the issuing official for endorsement or correction in compliance with the provisions of this subpart may continue his operations pending its return.

§ 12.31 Discontinuance of activity.

When any permittee discontinues his activity, he shall, within 30 days thereof, mail his permit and a request for cancellation to the issuing officer, and said permit shall be deemed void upon receipt. No refund of any part of an amount paid as a permit fee shall be made where the operations of the permittee are, for

any reason, discontinued during the tenure of an issued permit.

Subpart D—Conditions

§ 12.41 Recall and amendment of permit during its term.

All permits are issued subject to the condition that the Bureau reserves the right to recall and amend the provisions of a permit for just cause at any time during its term. Such amendments take effect on the date of notification, unless otherwise specified.

§ 12.42 Permits are specific.

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

§ 12.43 Alteration of permits.

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

§ 12.44 Display of permit.

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

§ 12.45 Filing of reports.

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

§ 12.46 Maintenance of records.

From the date of issuance of the permit, the permittee shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of wildlife pursuant to such permit. Such records shall be kept current and shall include names and addresses of persons with whom any wildlife has been purchased, sold, bartered, or otherwise transferred, and the date of such transaction, and such other information as may be required or appropriate. Such records, unless otherwise specified, shall be entered in books, legibly written in the English language. Such records shall be retained for 5 years from the date of issuance of the permit.

§ 12.47 Inspection requirement.

Any person holding a permit under this subchapter B shall allow the Direc-

tor's agent to enter his premises at any reasonable hour to inspect any wildlife held or to inspect, audit, or copy any permits, books, or records required to be kept by regulations of this subchapter B.

Subpart E—Violations of the Permit

§ 12.51 Penalties for violation of a permit.

Any violation of the regulations of this part 12, or of the statute or regulations under which the permit was issued, or of a condition or time which appears in a permit, may subject the permittee to liability for the following penalties:

- (1) The penalty provided in the act under which the permit was issued;
- (2) Temporary suspension of the permit for a specified period of time; or during a hearing; and
- (3) Revocation of the permit for an indefinite period of time, but in no case less than any period specifically provided for elsewhere in this subchapter B. When revoked, permits must be surrendered to the Director on demand.

PART 13—IMPORT, EXPORT, AND INTERSTATE TRANSPORTATION OF WILDLIFE

Subpart A—Introduction

- Sec. 13.1 Purpose of regulations.
- 13.2 Scope of regulations.

Subpart B—Importation at Designated Ports

- 13.11 General restrictions.
- 13.12 Designated ports.
- 13.13 Emergency diversion.
- 13.14 In-transit shipments.
- 13.15 Personal and household effects.
- 13.16 Canadian and Mexican wildlife.
- 13.17 Oceanic sport fishermen.
- 13.18 Marine mammals.
- 13.19 Imports into Alaska, Puerto Rico, or the Virgin Islands.
- 13.20 Exceptions by permit.
- 13.21 Shellfish and fishery products.
- 13.22 Tropical, ornamental, and aquarium fish.

Subpart C—Designated Port Exception Permits

- 13.31 Permits to import wildlife at non-designated port for scientific purposes.
- 13.32 Permits to import wildlife at non-designated ports to minimize deterioration or loss.
- 13.33 Permits to import wildlife at non-designated ports to alleviate undue economic hardship.

Subpart D—Foreign Documentation

- 13.41 Foreign documentation requirement.
- 13.42 Definition of foreign documentation.
- 13.43 Exceptions to foreign documentation requirement.

Subpart E—Inspection and Clearance of Importations

- 13.51 Inspection of imported wildlife.
- 13.52 Clearance of imported wildlife.
- 13.53 Clearance procedure.
- 13.54 Unavailability of Bureau agents.
- 13.55 Exceptions to clearance requirements.

Subpart F—Declaration for Importation of Wildlife

- 13.61 Declaration requirement.
- 13.62 Exceptions to declaration requirement.

Subpart H—Making Requirements for Certain

- 13.71 Permit to export game mammals to the United Mexican States.

Subpart H—Making Requirements for Certain Shipments

Sec.

- 13.81 Marking package or container.
13.82 Exceptions to the marking requirement.
13.83 Symbol marking permit.

AUTHORITY.—Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281; Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278; Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042; Eagle Act, sec. 254 Stat. 251.

Subpart A—Introduction

§ 13.1 Purpose of regulations.

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

§ 13.2 Scope of regulations.

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

Subpart B—Importation at Designated Ports

§ 13.11 General restrictions.

Except as otherwise provided in this part, no person shall import or cause to be imported any wildlife into the United States at any place other than a Customs port of entry designated in § 13.12.

§ 13.12 Designated ports.

The following Customs ports of entry are designated for the importation of wildlife and shall be referred to hereinafter as "designated ports":

- (a) New York, N.Y.;
- (b) Miami, Fla.;
- (c) Chicago, Ill.;
- (d) San Francisco, Calif.;
- (e) Los Angeles, Calif.;
- (f) New Orleans, La.;
- (g) Seattle, Wash.; and
- (h) Honolulu, Hawaii.

§ 13.13 Emergency diversion.

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

§ 13.14 In-transit shipments.

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

§ 13.15 Personal and household effects.

(a) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal bag-

gage may be imported into the United States at any Customs port of entry, *Provided*, That this exception to the designated port requirement shall not apply to any raw, green, salted or crusted fur, hide or skin, game trophy, or to any item of endangered wildlife.

(b) Wildlife products or manufactured articles, including mounted game trophies or tanned hides, which are not intended for sale and are part of a shipment of the household effects of persons moving their residence to the United States may be imported at any Customs port of entry, *Provided*, That this exception to the designated port requirement shall not apply to raw, green, salted or crusted fur, hides, skins, or to any item of endangered wildlife.

§ 13.16 Canadian and Mexican wildlife.

(a) Except for endangered or injurious wildlife, wildlife lawfully taken by U.S. sportsmen in Canada or Mexico, and imported for noncommercial purposes, may be imported at any Customs port of entry.

(b) In addition to the other exceptions contained in this part, wildlife, other than endangered or injurious wildlife, whose country of origin is Canada, or which was previously exported from the United States to Canada, may be imported into the United States at any of the following Customs ports of entry:

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

or

- (12) State of Massachusetts—Boston.
- (c) In addition to the other exceptions contained in this part, wildlife, other than endangered or injurious wildlife, whose country of origin is Mexico, or which was previously exported from the United States to Mexico, may be imported into the United States at any of the following Customs ports of entry:

- (1) State of California—Calxico, San Diego-San Ysidro;
- (2) State of Arizona—Nogales, San Luis; or
- (3) State of Texas—El Paso, Laredo, Brownsville.

§ 13.17 Oceanic sport fishermen.

Fish lawfully taken by sport fishermen on the high seas, or within the territorial seas or fisheries zones of any country may be imported into the United States at any port or place.

§ 13.18 Marine mammals.

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

§ 13.19 Imports into Alaska, Puerto Rico, or the Virgin Islands.

In addition to the other exceptions contained in this part, wildlife, other than endangered or injurious wildlife, which is imported for final destination in Alaska, Puerto Rico, or the Virgin Islands may be imported through those Customs ports of entry named hereinafter for the respective State or territory:

- (a) Alaska—Juneau, Anchorage, Fairbanks, Tok Junction;
- (b) Puerto Rico—San Juan;
- (c) Virgin Islands—San Juan, Puerto Rico.

§ 13.20 Exceptions by permit.

Wildlife may be imported into the United States at any Customs port of entry designated in the terms of a valid permit issued pursuant to subpart C of this part 13.

§ 13.21 Shellfish and fishery products.

Except for endangered wildlife, the following shellfish and fishery products, as further defined in the "Tariff Schedules of the United States," imported for commercial purposes, may enter the United States at any Customs port of entry:

- (a) Frogs (T.S.U.S. No. 106.60).
- (b) Frog meat (T.S.U.S. No. 107.65).
- (c) Fish, fresh, chilled, or frozen (T.S.U.S. Nos. 110.10-110.70)—trout and salmon to conform to § 13.61, concerning form 3-177, and part 16 of this subchapter, concerning injurious species.
- (d) Fish, dried, salted, pickled, smoked, or kippered (T.S.U.S. Nos. 111.10-111.92).
- (e) Fish in airtight containers (T.S.U.S. Nos. 112.01-112.94).
- (f) Other fish products (T.S.U.S. Nos. 113.01-113.60).
- (g) Shellfish (T.S.U.S. Nos. 114.01-114.55).
- (h) Fish oils (T.S.U.S. Nos. 177.02-177.26).
- (i) Sod oil (T.S.U.S. No. 178.05).
- (j) Products of American fisheries (T.S.U.S. Nos. 180.00-180.20).
- (k) Edible preparations (T.S.U.S. Nos. 182.05, 182.11, 182.48, 182.50).
- (l) Animal feeds (T.S.U.S. Nos. 184.54, 184.55).

§ 13.22 Tropical, ornamental and aquarium fish.

In addition to the other exceptions contained in this part, other than endangered or injurious wildlife, tropical, ornamental, and aquarium fish may be imported at the Customs port of entry at Tampa, Fla.

Subpart C—Designated Port Exception Permits

§ 13.31 Permits to import wildlife at nondesignated port for scientific purposes.

The Director may, upon receipt of an application which shows a valid and substantial cause, issue a permit authorizing a scientist to import wildlife, other than endangered wildlife, for scientific purposes at any Customs port of entry. Such permits may authorize a single importation, a series of importations, or importation into the United States over a specific period of time, and such authorization may, in the discretion of the Director, be incorporated into the terms of another type of importation permit.

(a) *Application procedure.*—Applications for permits to import wildlife, other than endangered wildlife, at a nondesignated port for scientific purposes shall be submitted by letter of application to the Director. Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following additional information:

- (1) Description of purpose or uses of the scientific specimens to be imported.
- (2) Number and kinds of wildlife to be imported, described by species and subspecies.
- (3) Country or place of origin.
- (4) Method of shipment.
- (5) Port or ports of entry at which importation is requested.
- (6) Whether exception is being requested for a single shipment, a series of shipments, or importations over a specific period of time.

(7) Statement of the reasons why importation should be allowed at the requested port or ports of entry rather than at a designated port.

(b) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following condition:

(1) Permittee shall file such reports as may be specified on the permit, and if no report is specified on the permit shall file an annual report for each calendar year or portion thereof ending December 31. Such reports shall be filed not later than March 31 for the preceding year and shall itemize importations by: Date, port, method of shipment, country of origin, and numbers and kinds of wildlife.

(c) *Tenure of permits.*—The tenure of permits to import wildlife, other than endangered wildlife, at nondesignated ports for scientific purposes shall be that which is designated on the face of the permit, but shall in no case extend beyond December 31 of the second full calendar year following the year of issue.

§ 13.32 Permits to import wildlife at nondesignated ports to minimize deterioration or loss.

The Director may, upon a finding that importation at a designated port will result in a substantial deterioration or loss to wildlife, issue a permit authorizing any person to import wildlife at any

Customs port of entry. Such permits may authorize a single importation, a series of importations, or importations into the United States over a specific period of time, and such authorization may, in the discretion of the Director, be incorporated into the terms of another type of importation permit required with respect to that wildlife.

(a) *Application procedure.*—Applications for permits issuable under this section shall be submitted by letter of application to the Director. Each such application shall contain the general information and certification set forth in § 12.12(a) of this subchapter plus the following information:

- (1) Number and kinds of wildlife to be imported, described by species and subspecies;
- (2) Country or place of origin;
- (3) Date or dates of intended importation;
- (4) Method of shipment, including names of carriers, if any;
- (5) Port or ports of entry which importation is requested;
- (6) Purpose for which wildlife is being imported;
- (7) Statement as to whether exception is being requested for a single shipment, a series of shipments, or importations over a specified period of time; and
- (8) Statement of the reasons why the importation should be allowed at the requested port or ports of entry rather than at a designated port, including evidence that an importation at a designated port by any method at the time in question would result in a substantial deterioration or loss to the wildlife.

(b) *Additional permit conditions.*—In addition to the general condition set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit and if no report is specified on the permit shall file an annual report for each calendar year or portion thereof ending December 31. Such reports shall be filed not later than March 31 of the preceding year and shall itemize importations by: Date, port of entry, method of shipment, country or origin, and numbers and kinds of wildlife.

(2) Permittee shall pay any reasonable costs incurred by the Director in inspecting permittees importations at nondesignated ports.

(c) *Tenure of permits.*—The tenure of permits to import wildlife at nondesignated ports to minimize injury or deterioration shall be that which is designated on the face of the permit, but shall in no case extend beyond December 31 of the second full calendar year following the year of issue.

§ 13.33 Permits to import wildlife at nondesignated ports to alleviate undue economic hardship.

The Director may, upon receipt of an application which demonstrates to the satisfaction of the Director that importation of wildlife at the ports required by the regulations of this part

would subject the applicant to undue economic hardship, issue a permit authorizing the importation of wildlife, other than endangered wildlife, at any Customs port of entry. Such permits may authorize a single importation, a series of importations, or importation into the United States over a specific period of time, and such authorization may, in the discretion of the Director, be incorporated into the terms of another type of importation permit.

(a) *Application procedures.*—Applications for permits to import wildlife other than endangered wildlife, at a nondesignated port to alleviate undue economic hardship shall be submitted by letter of application to the Director. Each such application shall contain the general information and certification set forth in § 12.12(a) of this subchapter, plus the following additional information:

- (1) Number and kinds of wildlife to be imported, described by species and subspecies, and a description of the form in which it is to be imported, as "live," "frozen," "raw hides," or a full description of any manufactured product;
- (2) Country or place of origin;
- (3) Name and address of supplier;
- (4) Method of shipment;
- (5) Port or ports of entry at which importation is requested;
- (6) Purpose for which wildlife is being imported;
- (7) Statement as to whether exception is being requested for a single shipment, a series of shipments, or for importations over a specified period of time. If the permit is being requested for a series of shipments over a period of time include a narrative statement of circumstances including the attachment of documentary evidence showing a pattern of such importations for a period of at least 1 year, or other documentary evidence to support the need for period requested; and

(8) Cost data showing the monetary difference between the cost of importation at the port requested and the lowest cost of importation at the port through which importation is permitted by these regulations without a permit.

(b) *Permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits to import wildlife at nondesignated ports to alleviate undue economic hardship are subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit, and if no report is specified on the permit shall file an annual report for each calendar year or portion thereof ending December 31. Such reports shall be filed not later than March 31 for the preceding year and shall itemize importations by: Date, port, method of shipment, country of origin, and numbers and kinds of wildlife.

(2) Permittee shall pay any reasonable costs incurred by the Director in inspecting permittees importations at nondesignated ports.

(c) *Issuance criteria.*—Application for permits to import wildlife at nondesignated ports to alleviate undue economic

hardship shall be denied where the applicant fails to demonstrate to the satisfaction of the Director, that the difference between the cost of importing wildlife at the port requested and the lowest cost of importing such wildlife at a port permitted by these regulations without a permit would amount to an unreasonable economic hardship on the importer.

(d) *Tenure of permits.*—The tenure of permits to import wildlife at non-designated ports to alleviate undue economic hardship beyond that already contemplated by the requirements of 16 U.S.C. 668cc-4(d) shall be that which is designated on the face of the permit, but shall in no case extend beyond December 31 of the second full calendar year following the year of issue.

Subpart D—Foreign Documentation

§ 13.41 Foreign documentation requirement.

If the laws or regulations of the country of origin, the country of export, or a subdivision thereof, restrict the taking, possession, transportation, exportation, or sale of wildlife, no such wildlife shall be imported into the United States unless accompanied by foreign documentation showing that such laws or regulations have not been violated.

§ 13.42 Definition of foreign documentation.

The foreign documentation which will satisfy the requirements of § 13.41 may be either of the following:

(a) Official permits or other documents showing legal taking, possession, transportation, exportation, and sale issued by an appropriate agency or official of the country of origin, and where applicable, from the country of export; if such permits and documents are not written in English, the original documents and certified English translations thereof; or

(b) A consular certificate from the appropriate U.S. consul which shows that an appropriate foreign government official has certified to the U.S. consul the information required in paragraph (a) of this section for the country of origin and, where applicable, the country of export; or

(c) For wildlife lawfully taken in Canada or the United Mexican States by sportsmen, valid Canadian or Mexican export permits, fishing, or hunting licenses.

§ 13.43 Exceptions to foreign documentation requirement.

Notwithstanding the provisions of § 13.41, except for endangered wildlife, foreign documentation shall not be required for importation of the following wildlife:

(a) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage, except raw, green, salted, or crusted furs, hides, or skins, game, or game trophies;

(b) Wildlife products or manufactured articles which are not intended for sale and are a part of a shipment of the

household effects of persons moving their residence to the United States, except raw, green, salted, or crusted furs, hides, or skins; and

(c) Shellfish and fishery products as defined in § 13.21.

Subpart E—Inspection and Clearance of Importations

§ 13.51 Inspection of imported wildlife.

All wildlife shall be subject to inspection by Bureau agents and Customs officers upon importation into the United States. Such inspection may include examination of the wildlife, the package or container in which such wildlife was shipped or transported, foreign documentation, declarations, Bureau or other permits, and invoices, waybills, manifests, or other documents relating to such wildlife importation.

§ 13.52 Clearance of imported wildlife.

Except as otherwise provided by this subpart, all wildlife imported into the United States must be cleared by a Bureau agent prior to final clearance by Customs officers for entry into the United States for domestic consumption or use. Such clearance shall not be construed as a certification of the legality of an importation under the laws or regulations of the United States.

§ 13.53 Clearance procedure.

(a) Bureau agents, or Customs officers, pursuant to § 13.54, may refuse clearance of imported wildlife when they have reasonable grounds to believe:

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

(2) That the correct identity of the wildlife has not been established. In such cases the burden shall be upon the owner, importer, or consignee to prove such identity.

(3) That any foreign documentation required to accompany such wildlife is not authentic.

(4) That the importer or his broker has filed an incorrect or incomplete declaration for importation as provided in subpart F of this part 13.

(b) Where clearance of imported wildlife has been refused, the wildlife may be:

(1) Seized;

(2) Returned by the owner to the country of export or the country of origin, at his expense;

(3) Abandoned pursuant to the provisions of § 11.24 of this subchapter; or

(4) Released to the owner, at the discretion of the Bureau agent or Customs officer, under such bond as may be required, and/or subject to recall until clearance requirements have been satisfied. If the owner fails to meet such requirements within 60 days of a release subject to recall, the wildlife may be disposed of in accordance with paragraphs (b) (1) through (3) of this section.

§ 13.54 Unavailability of Bureau agents.

Whenever Bureau agents are not available, within a reasonable time, to inspect and clear imported wildlife at a designated port or other port at which wildlife may be imported pursuant to the

regulations of this part, any Customs officer may inspect and clear such wildlife subject to recall, and, in the case of in-transit shipments, may do so at either the port of entry or the port of destination.

§ 13.55 Exceptions to clearance requirements.

Except for endangered wildlife, the clearance procedures of § 13.53 shall not be required for importation of the following wildlife:

(a) Shellfish and fishery products as defined in § 13.21;

(b) Fish lawfully taken by fishermen on the high seas, or within the territorial seas or fishery zones of any country;

(c) Marine mammals lawfully taken on the high seas by U.S. residents.

Subpart F—Declaration for Importation of Wildlife

§ 13.61 Declaration requirement.

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation of Fish or Wildlife (form 3-177) shall be filed with the District Director of Customs at the Customs port of entry where inspection or clearance occurs. The Declaration for Importation of Fish or Wildlife shall include the following information:

(1) Name and address of the importer;

(2) Name and address of the consignor or shipper;

(3) Name of broker, if any;

(4) Name of the carrier, if any;

(5) Permit number under which the wildlife is imported, if any;

(6) Common name, scientific name, country of origin, and number of each species or subspecies imported;

(7) Form in which imported, i.e., live, fully mounted, trophy, hide, manufactured product, freshly killed, etc.; and

(8) Certification in the following language: "I hereby certify that the information submitted for the importation of wildlife is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001."

§ 13.62 Exceptions to declaration requirement.

Except for endangered or injurious wildlife, a Declaration for Importation of Fish or Wildlife (form 3-177) shall not be required to be filed for importation of the following wildlife:

(a) Fish lawfully taken by sport fishermen on the high seas or within the territorial seas or the fishery zones of any country;

(b) Fish taken by U.S. sport fishermen in Canada or Mexico;

(c) Shellfish or fishery products imported for commercial purposes as defined in § 13.21;

(d) Game mammals or birds from Canada or Mexico on which a Declaration for Free Entry of Game Mammals or Birds Killed by United States Residents (Customs form 3315) has been filed;

(e) Marine mammals lawfully taken on the high seas by U.S. residents;

(f) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage, except that a declaration will be required for raw, green, salted, or crusted furs, hides, or skins; and game or game trophies where the exception in paragraph (d) of this section does not apply; and

(g) Wildlife products or manufactured articles which are not intended for sale and are a part of a shipment of the household effects of persons moving their residence to the United States, except that a declaration will be required for raw, green, salted, or crusted furs, hides, or skins.

Subpart G—Export of Wildlife to Mexico

§ 13.71 Permit to export game mammals to the United Mexican States.

Persons exporting to the United Mexican States, antelope, mountain sheep, deer, bear, peccary, squirrel, rabbit, or hare, or the dead body or parts thereof, whether or not included in a manufactured product or a processed food product, shall be required to present to the U.S. Customs official at the port of exit, on request, a certificate of a warden, agent, or other official of the State game department of the State of origin. Such certificate shall list the game animals by species and number, or other appropriate specific description, and certify they were taken or acquired and are being exported in compliance with the statutes and regulations of the State of origin.

Subpart H—Marking Requirements for Certain Shipments

§ 13.81 Marking package or container.

Except as otherwise provided in this subpart, no person shall import, export, or otherwise transport any wildlife in interstate or foreign commerce unless the package or container in which such wildlife is contained has the name and address of the shipper and the consignee and an accurate statement of the contents by species and numbers of each species of wildlife therein contained clearly and conspicuously marked on the outside thereof.

§ 13.82 Exceptions to the marking requirement.

(a) *Commercial shellfish or fishery products.*—The requirements of § 13.81 do not apply to packages or containers holding shellfish or fishery products imported for commercial purposes as defined in § 13.21.

(b) *Mink, chinchilla, silver fox, blue fox, rabbit, and nutria.*—The requirements of § 13.81 do not apply to packages or other containers holding mink, chinchilla, silver fox, blue fox, rabbit, and nutria that have been bred and born in captivity: *Provided*, That a separate signed statement certifying the animals were bred and born in captivity accompanies the shipping document.

(c) *Furs, hides, and skins—interstate commerce.*—The requirements of § 13.81

do not apply to packages or containers holding furs, hides, and skins shipped interstate: *Provided*, That the names and addresses of the shipper and consignee are clearly marked on the outside thereof.

(d) *Symbol markings.*—The requirements of § 13.81 do not apply to packages or containers holding furs, hides, or skins imported, exported, or otherwise transported in foreign commerce where such packages are clearly marked with a symbol in accordance with the terms of a valid permit issued pursuant to § 13.83.

§ 13.83 Symbol marking permit.

The Director may, upon a finding that the marking or other identification required by § 13.81 would create a significant possibility of the theft of the package or its contents, issue a permit authorizing the use of an identification symbol in lieu of the marking required by § 13.81.

(a) *Application procedures.*—Applications for permits issuable under this section shall be submitted by letter of application to the Director. Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter, plus the following additional information:

(1) Common and scientific names, and estimated numbers of wildlife to be shipped;

(2) Form in which imported or exported, as "raw skins," "fur garments," etc.;

(3) Type of packaging method of shipment, and carrier or carriers, if known;

(4) Country or countries of origin for imports, and country or countries of destination for exports.

(5) Port or ports of importation and export;

(6) Estimated frequency of shipments;

(7) Detailed statements of the reasons why the marking required by § 13.81 would create a significant possibility of theft of the package or its contents;

(8) Description of and evidence showing actual thefts incurred by applicant which can be ascribed to marking requirements of § 13.81, including dates, description of goods, place if known, value, including affidavits, invoices, correspondence, and insurance claims relative thereto to conclusively show actual losses by applicant; and

(9) At the option of the applicant, a suggested symbol which is desired with the understanding that such suggested symbol may or may not be assigned at the discretion of the Director.

(b) *Permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions:

(1) When using the symbol in lieu of another marking required in § 13.81, the entire symbol must be plainly marked on the outside of every package and the symbol, together with other identifying numbers or characters, must also appear on all shipping documents relating

to such packages or containers and on all documents required by §§ 13.41 and 13.61.

(2) The permittee shall, from the effective date of the permit maintain complete and accurate records of all furs, hides, and skins which are imported, exported, or otherwise transported in foreign commerce and which are identified by means of such symbol. The records shall include the number, species or subspecies, description of the package or container, method of shipment, time and place of shipment, including the air waybill or bill of lading number, and general description of the items. Such records shall be open to inspection, auditing, or copying by any authorized employe of the Bureau at any time during regular business hours.

(c) *Tenure of permits.*—The tenure of permits to use symbol marking shall be from the date of issue to June 30 of the first full year following the year of issue.

PART 14—FEATHER IMPORT QUOTAS

Subpart A—Introduction

- Sec. 14.1 Purpose of regulations.
- 14.2 Scope of regulations.

Subpart B—Import Quotas and Permit Requirement

- 14.11 Import quotas established.
- 14.12 Permit requirement.

Subpart C—Application for and Allocation of Quotas

- 14.21 Application for quota allocation and permit.
- 14.22 Filing dates for applications.
- 14.23 Allocation of calendar year quotas.
- 14.24 Reallocation of unused calendar year quotas.
- 14.25 Issuance of permits.
- 14.26 Tenure of importation permits.

AUTHORITY.—Tariff Classification Act of 1962, sec. 102, 76 Stat. 73-74, 19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States."

Subpart A—Introduction

§ 14.1 Purpose of regulations.

The regulations contained in this part establish annual quotas on importation of skins bearing feathers of the mandarin duck, and five species of pheasants. These regulations also govern applications for and issuance of permits for the entry of such birdskins and establish the method which will be used to allocate and reallocate any unused portions of the annual quotas among the several applicants.

§ 14.2 Scope of regulations.

(a) The regulations of this part apply only to the feathers or skins of those species of birds named in § 14.11:

- (1) Whether raw or processed;
- (2) Whether the whole plumage or skin or any part of either;
- (3) Whether or not attached to a whole bird or any part thereof; and
- (4) Whether or not forming part of another article.

(b) The regulations of this part 14 do not apply:

- (1) To any importation for scientific or educational purposes.

(2) To the importation of fully manufactured artificial flies used for fishing.

(3) To the importation of game birds killed by United States hunters abroad, and imported by such persons for non-commercial purposes.

(4) To the importation of live birds.

Subpart B—Import Quotas and Permit Requirement

§ 14.11 Import quotas established.

During any calendar year, beginning January 1 and ending December 31, the following quotas are established for the entry of skins bearing feathers. For the purpose of these quotas any part of a skin which has been severed shall be considered a whole skin.

(a) For use in the manufacture of artificial flies used for fishing:

| | |
|---|------|
| Mandarin duck (<i>Dendronessa galericulata</i>) | 1000 |
|---|------|

(b) For use in the manufacture of artificial flies used for fishing or for millinery purposes:

| | |
|--|------------------|
| Lady Amherst pheasant (<i>Chrysolophus amherstiae</i>) | |
| Golden pheasant (<i>Chrysolophus pictus</i>) | 45,000 |
| Silver pheasant (<i>Lophura nycthemera</i>) | in the aggregate |
| Reeves pheasant (<i>Syrmatiscus reevesi</i>) | |
| Blue-eared pheasant (<i>Crossoptilon aurotitum</i>) | |

§ 14.12 Permit requirement.

Except as otherwise provided in this section, no person shall import, enter, or cause to be imported or entered, feathers, skins, or skins bearing feathers of any species listed in § 14.11 without a permit issued pursuant to this part: *Provided*, That any person may import without a permit, for storage in warehouse under customs bond, skins bearing feathers of species for which a quota is provided in the preceding § 14.11. When so imported and stored, such skins shall not be removed from the warehouse or entered into the United States for use without a permit issued pursuant to this part. No person shall import for warehouse storage or other purpose skins bearing feathers of any species on which the quota has been eliminated.

Subpart C—Application for and Allocation of Quotas

§ 14.21 Application for quota allocation and permit.

All persons desiring to share in the allocation of annual import quotas and to obtain a permit to enter skins bearing feathers shall submit an application to the Director during the period set forth by § 14.22. Each such application shall contain the general information and certification required by § 12.12(a) of this subchapter plus the following additional information:

(a) Quantity of each species of birdskin or part thereof for which an importation permit is requested;

(b) Port at which entry will be made, or in the case of warehouse storage under bond, port at which importation was

made and location and amount of birdskins presently in storage;

(c) Statement of the purpose (use) for which the skins bearing feathers are sought to be imported or entered; and

(d) Statement as to whether application is being made for an initial allocation of a calendar year quota, or for reallocation of an unused portion of a calendar year quota.

§ 14.22 Filing dates for applications.

Each application for a quota allocation and permit must be postmarked during the dates set forth in paragraphs (a) and (b) of this section in order to be considered.

(a) Applicants desiring to participate in the allocation of calendar year quotas shall submit applications from September 1 through September 30 of the year preceding the calendar year for which quota allocations are to be made.

(b) Applicants desiring to participate in the reallocation of such portions of the established annual quotas as may become available for reallocation, shall submit applications from July 1 through July 31 of the calendar year during which the unused portion of the quota becomes available for reallocation.

§ 14.23 Allocation of calendar year quotas.

As promptly as possible after the closing date for filing, all applications timely filed will be considered and tentative quotas allocated by the method set forth in paragraphs (a) through (e) of this section. For the purposes of this section, the species of pheasants for which quotas have been provided shall be grouped together and considered as one species.

(a) The number of eligible applicants for skins of mandarin duck and pheasants, respectively, shall be divided into the quotas of skins available for the ensuing calendar year for the respective species, to determine the number of skins of each species the several applicants would be entitled to import on an equal basis.

(b) Any applicant for an allocation in an amount equal to or less than the average quantity established for all applicants pursuant to paragraph (a) of this section is entitled to receive an allocation of the quantity for which he applied.

(c) After the allocations are made under paragraph (b) of this section, all remaining unallocated quantities of skins of the respective species shall be allocated equally among those applicants who applied for more than the average quantities determined under paragraph (a) of this section. However, no applicant shall be allocated a quantity of skins in excess of the number applied for.

(d) Each applicant shall then be furnished a tabulation by registered or certified mail, return receipt requested, of the quantities of each species requested and the quantities proposed to be allocated to each applicant. Each applicant must then report by letter addressed to the Director, postmarked not later than 30 days after date of receipt of the notice of proposed allocations, that

he accepts the proposed allocation. The letter must contain satisfactory proof, such as a copy of a currently confirmed order, that orders have been placed for the importing of his allocation of bird skins and must be accompanied by the prescribed fee in the form of a postal money order or a check made payable to the Bureau of Sport Fisheries and Wildlife. Applicants failing to respond to the notice of proposed allocations or failing to furnish the prescribed fee shall be deemed to have withdrawn their applications. Applicants who submit the required showing and fee by other than registered or certified mail, do so at their own risk.

(e) Any quantities of birdskins of the respective species which become available for allocation through the failure of applicants to submit the proper showing as required in paragraph (d) of this section, shall promptly be allocated among those applicants whose requests were not satisfied in full, using the methods prescribed in paragraphs (a) through (c) of this section to determine the additional quantity of skins allowable to each such applicant.

§ 14.24 Reallocation of unused calendar year quotas.

Any portion of the calendar year quotas which may become available for reallocation through surrender or nonuse, in whole or in part, of permits expiring on June 30 of any year, shall be reallocated as promptly as possible after the closing date for filing among applicants who have submitted proper applications in accordance with § 14.21. Such reallocations shall be made by the method prescribed in § 14.23 (a) through (c). If the quantities of the respective species of birdskins are insufficient to permit reallocation among all applicants by such method, preference shall be given to those applications bearing the earliest postmark.

§ 14.25 Issuance of permits.

As soon as practicable after the annual quota allocations or reallocations have been determined, the quotas allocated to successful applicants shall be evidenced by permits issued to the applicant with copies forwarded to the respective District Directors of Customs at the ports of entry specified in the applications. Such permits shall authorize the importation and entry for limited use, of the quantities of birdskins allocated to each applicant. Until such time as it shall be found necessary to reduce the import quota established for pheasants, permits will authorize the entry of a stated number in the aggregate of those species of pheasant for which a quota is provided.

§ 14.26 Tenure of importation permits.

(a) Permits covering the calendar year quota allocations are issued as of January 1 and remain in effect through June 30 of the year of issue. No extension of time shall be granted on such permits and any portion of the quota allocations which become available through surrender or nonuse, in whole

or in part, of a permit expiring on June 30, shall be reallocated among applicants who submit proper applications.

(b) Permits covering the reallocations made pursuant to § 14.24 shall be issued as promptly as possible after July 31 and remain in effect through December 31 of the year of issue. No extension of time shall be granted on such permits, and any portion of the quotas so reallocated which are not imported through surrender or nonuse of reallocation permits, in whole or in part, on or before December 31 of the year of issue, shall lapse and no further allocation thereof shall be made.

PART 15—[RESERVED]

PART 16—INJURIOUS WILDLIFE¹

PART 17—ENDANGERED WILDLIFE

Subpart A—Introduction

Sec.

- 17.1 Purpose of regulations.
- 17.2 Scope of regulations.

Subpart B—Endangered Wildlife Lists

- 17.11 Endangered foreign wildlife.
- 17.12 Endangered native wildlife.
- 17.13 Amendments of the lists of endangered wildlife.

Subpart C—Endangered Wildlife Importation Permits

- 17.21 General permit requirement.
- 17.22 Economic hardship permits.
- 17.23 Zoological, educational, scientific, or propagation permits.

AUTHORITY.—Endangered Species Conservation Act of 1969, sec. 4(e), 83 Stat. 278.

Subpart A—Introduction

§ 17.1 Purpose of regulations.

The regulations contained in this part identify the species or subspecies of native and foreign wildlife determined by the Secretary to be threatened with extinction, establish procedures and criteria for issuance of permits for importation of endangered foreign wildlife, and provide for public participation in the amendment of the endangered wildlife lists. The regulations of this part implement the Endangered Species Preservation Act of 1966 (16 U.S.C. 668aa-cc) and the Endangered Species Conservation Act of 1969 (16 U.S.C. 668-cc-1-6).

§ 17.2 Scope of regulations.

The regulations of this part apply only to endangered wildlife.

Subpart B—Endangered Wildlife Lists

§ 17.11 Endangered foreign wildlife.

After reviewing scientific and commercial data available to him, and after consulting with representatives of the governments of nations in which such wildlife normally are found and, to the extent practicable, with interested persons, organizations, and other Federal agencies, the Secretary has determined that the species or subspecies of wildlife listed below are threatened with worldwide extinction due to one or more of the fac-

¹ Will be proposed at a later date.

tors listed in 16 U.S.C. 668-cc-3(a). The presence of a trinomial (third word) in the "scientific name" column identifies that animal as a subspecies. If one or more subspecies of a species are listed, it indicates that the species as a whole is not endangered although the named subspecies are. The "common and commercial name" column contains the most generally accepted common or commercial name or names in the English language; the public should be aware that local names may vary.

NOTE.—The U.S. list of endangered foreign fish and wildlife appearing in present appendix A of part 17 of title 50, CFR, will appear here except that the "where found" column will be eliminated because it is not required by 16 U.S.C. 668cc-3(a) and has caused confusion regarding importation requirements.

§ 17.12 Endangered native wildlife.

After consultation with the appropriate States and after having reviewed the advice and recommendations of interested persons and organizations as appropriate, the Secretary has determined, in accordance with the provisions of 16 U.S.C. 668aa(c), the following species or subspecies of native wildlife to be threatened with extinction within the territory of the United States. The presence of a trinomial (third word) in the "scientific name" column identifies that animal as a subspecies. If one or more subspecies of a species are listed, it indicates that the species as a whole is not endangered although the named subspecies are.

NOTE.—The U.S. list of endangered native fish and wildlife appearing in present appendix D of part 17 of title 50, CFR, will appear here.

§ 17.13 Amendments of the lists of endangered wildlife.

(a) The lists of endangered foreign wildlife (§ 17.11) and endangered native wildlife (§ 17.12) may be revised from time to time as additional data become available which show, to the Secretary's satisfaction, that a species or subspecies should be added to or removed from either list.

(b) The Director shall receive and maintain data regarding endangered species and subspecies of wildlife and at least once every 5 years, will conduct a thorough review of the lists of endangered wildlife. Any revisions of the lists which are proposed by the Secretary as the result of such review or otherwise will be published in the FEDERAL REGISTER, which notice shall give interested persons not less than 30 days to submit written comments and suggestions.

(1) At any time any interested person may submit a request for a review of any particular listed or nonlisted species or subspecies. Such requests must be dated and in writing, and should be submitted to the Director. The request must contain the following information:

- (i) Name and address of the person making the request;
- (ii) Association, organization, or business, if any, represented by the person making the request;

(iii) Reasons why the person making the request, or the person he represents, should be considered to be an "interested person;"

(iv) Designation of the particular species or subspecies in question by common and scientific name;

(v) Narrative explanation of the request for review and justification for a change in the status of the species or subspecies as aforesaid in question;

(vi) Scientific, commercial, or other data believed to support the request; and

(vii) Signature of the person making the request.

(2) If it is determined that substantial evidence has been presented which warrants a review, a finding to that effect shall be published in the FEDERAL REGISTER. Such notice shall give all interested persons an opportunity to submit information on the status of the species or subspecies under review in such form or manner as may be specified.

Subpart C—Endangered Wildlife Importation Permits

§ 17.21 General permit requirement.

No person shall import from any foreign country any species or subspecies of wildlife which the Secretary has determined to be threatened with worldwide extinction, as evidenced by its inclusion on the list of endangered foreign wildlife (§ 17.11, as amended), without a valid permit issued pursuant to this subpart C.

§ 17.22 Economic hardship permits.

Upon receipt of an application which demonstrates to his satisfaction that the applicant will suffer an undue economic hardship, the Director may issue a permit authorizing importation of endangered foreign wildlife.

(a) **Application procedure.**—Applications for permits to import endangered foreign wildlife to prevent undue economic hardship shall be submitted by letter of application to the Director. Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following additional information:

(1) Common and scientific names of the species or subspecies, number, and description (e.g., tanned hides), of the wildlife to be covered in the permit;

(2) Purpose of the importation;

(3) A full statement of the facts, circumstances and reasons why failure to grant a permit under this section would lead to undue economic hardship, together with all supporting documents, including certified copies of all relevant contracts, correspondence, financial commitments, and current and historical financial data which show the dollar amount of anticipated loss or economic hardship;

(4) A full statement of the applicant's involvement with the importation of the same or similar species or subspecies of wildlife during the calendar year immediately preceding the date the proposal to list such species or subspecies as endangered was published in the FEDERAL REGISTER and the same information

for the period between the date the proposed listing was published in the FEDERAL REGISTER and the date the actual determination that the species or subspecies was endangered. This statement should include certified copies of all relevant contract, correspondence, and financial data pertaining to such importations;

(5) The economic and legal alternatives available to the applicant;

(6) Method of shipment;

(7) If live wildlife is involved, a detailed description of the type, size, and construction of the container; arrangements for feeding, watering, and otherwise caring for the wildlife in transit; and the arrangements for caring for the wildlife on importation into the United States must be included;

(8) Date the importation is expected to occur; and

(9) Designated port of entry through which the importation will be made.

(b) *Permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits to import endangered wildlife to prevent undue economic hardship shall be subject to the following conditions:

(1) In addition to any reporting requirements set forth in the permit, a report of the importations made under authority of such permit shall be submitted in writing to the Director within 10 days following such importation.

(2) The death or escape of any living wildlife imported under the authority of such permit shall be reported to the Bureau's Office of Endangered Species and International Activities (phone 202-343-5687) immediately. The carcass of any such wildlife which die or are killed shall be retained in such a manner as not to impair their use as a scientific specimen.

(c) *Issuance criteria.*—The Director shall consider, among other criteria, the following in determining whether to issue a permit to import endangered foreign wildlife to prevent undue economic hardship:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of the wildlife;

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

(3) Evidence that the applicant had entered into a valid, binding contract to import into the United States the wildlife in question and that such contract had been concluded prior to the date on which the wildlife was listed as endangered pursuant to § 17.11;

(4) Whether the contract referred to in paragraph (c) (3) of this section had been entered into during the period between publication in the FEDERAL REGISTER of the proposal to list such species as endangered and the date of actual determination that the species or subspecies was endangered or during a period when the applicant would otherwise likely have known the wildlife in question would be determined to be endangered;

(5) Whether it appears the applicant can reasonably effect the importation within 1 year from the date on which the wildlife in question was listed as endangered pursuant to § 17.11; and

(6) The economic, legal or other alternatives or relief available to the applicant.

(d) *Tenure of permits.*—The tenure of permits to import endangered foreign wildlife to prevent undue economic hardship shall be designated on the face of the permit, but in no case shall extend beyond 1 year following the addition of that species or subspecies to the list of endangered foreign wildlife pursuant to § 17.11.

§ 17.23 Zoological, educational, scientific, or propagation permits.

The Director may issue permits authorizing the importation of endangered foreign wildlife for zoological, scientific, or educational purposes, or for the propagation of such wildlife in captivity.

(a) *Application procedures.*—Application for permits to import endangered foreign wildlife for zoological, educational, scientific, or propagational purposes shall be submitted by letter of application to the Director. Each such application shall contain the general information and certification set forth in § 12.12(a) of this subchapter plus the following additional information:

(1) Common and scientific names of the species or subspecies, number, age, and sex of the wildlife to be covered by the permit;

(2) Copy of the contract or other agreement under which such wildlife is to be imported, showing the country of origin, name and address of the seller or consignor, date of the contract, number and weight (if available), and description of the wildlife;

(3) A full statement of justification for the permit, including details of the project or other plans on utilization of the wildlife in relation to zoological, educational, scientific, or propagational purposes as appropriate and planned disposition of the wildlife upon termination of the project;

(4) A description and the address of the institution or other facility where the wildlife will be used or maintained;

(5) A statement that at the time of application the wildlife to be imported is still in the wild, bred and born in captivity, or has been removed from the wild;

(6) A resume of attempts to obtain the wildlife to be imported from sources which would not cause the death or removal of additional animals from the wild, if appropriate; and

(7) If live wildlife is to be imported, include:

(i) A complete description, including photographs or diagrams, of the area and facilities in which the wildlife will be housed;

(ii) A brief resume of the technical expertise available, including any experience the applicant or his personnel have had in propagating the species or closely related species to be imported; and

(iii) A statement of willingness to participate in a cooperative breeding program and maintain or contribute data to a studbook.

(b) *Permit condition.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits to import endangered foreign wildlife for scientific, educational, or zoological purposes or for the purpose of captive propagation shall be subject to the following conditions:

(1) In addition to any reporting requirements set forth in the permit, a report of the importation made under authority of any such permit shall be submitted in writing to the Director within 10 days following such importation.

(2) The death or escape of any living wildlife imported under the authority of such permit shall be reported to the Bureau's Office of Endangered Species and International Activities (phone 202-343-5687) immediately. The carcass of any such wildlife which die or are killed shall be retained in such a manner as not to impair their use as a scientific specimen.

(c) *Issuance criteria.*—The Director shall consider, among other criteria, the following in determining whether to issue a permit to import endangered foreign wildlife for scientific, educational, or zoological purposes or for the purpose of captive propagation:

(1) The direct or indirect effect which issuing such a permit would be likely to have upon the wild populations of the wildlife;

(2) Whether the purpose for which the permit is being requested would likely reduce the severity of the threat to extinction facing the subject species or subspecies;

(3) Opinions or views of scientists or other persons or organizations knowledgeable of the wildlife to be imported or of other matters germane to the application;

(4) Whether the expertise, facilities or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application; and

(5) Whether the purpose for which the permit is being requested is adequate to justify the removal of the wildlife from the wild or otherwise change its status.

(d) *Tenure of permits.*—The tenure of permits to import endangered foreign wildlife for scientific, educational, or zoological purposes or for the purpose of captive propagation shall be designated on the face of the permit.

PART 19—[RESERVED]

PART 20—MIGRATORY BIRD HUNTING

Subpart A—Introduction

| | |
|-----------|-------------------------------|
| Sec. 20.1 | Scope of regulations. |
| 20.2 | Relation to other provisions. |

Subpart B—Definitions

| | |
|-------|-------------------|
| 20.11 | Meaning of terms. |
|-------|-------------------|

- Subpart C—Taking**
- 20.21 Hunting methods.
 20.22 Closed seasons.
 20.23 Shooting hours.
 20.24 Daily limit.
 20.25 Wanton waste of migratory game birds.
- Subpart D—Possession**
- 20.31 Prohibited if taken in violation of subpart C.
 20.32 During closed season.
 20.33 Possession limit.
 20.34 Opening day of a season.
 20.35 Field possession limit.
 20.36 Tagging requirement.
 20.37 Custody of birds of another.
 20.38 Possession of live birds.
 20.39 Termination of possession.
- Subpart E—Transportation Within the United States**
- 20.41 Prohibited if taken in violation of subpart C.
 20.42 Transportation of birds of another.
 20.43 Species identification requirement.
 20.44 Marking package or container.
- Subpart F—Exportation**
- 20.51 Prohibited if taken in violation of subpart C.
 20.52 Species identification requirement.
 20.53 Marking package or container.
- Subpart G—Importations**
- 20.61 Importation limits.
 20.62 Species identification requirement.
 20.63 Foreign export permits.
 20.64 Processing requirement.
 20.65 Marking of package or container.
- Subpart H—Federal, State, and Foreign Law**
- 20.71 Violation of Federal law.
 20.72 Violation of State law.
 20.73 Violation of foreign law.
- Subpart I—Commercial Preservation Facilities**
- 20.81 Tagging requirement.
 20.82 Records required.
 20.83 Inspection of premises.
- Subpart J—Feathers or Skins**
- 20.91 Commercial use of feathers.
 20.92 Personal use of feathers or skins.
- Subpart K—Annual Season, Limit, and Shooting Hour Schedules [Reserved]**
- Subpart L—Administrative and Miscellaneous Provisions**
- 20.131 Extension of seasons.
 20.132 Native use in Alaska.
 20.133 Hunting regulations for common crows.
- Subpart M—Wildlife Development Areas**
- 20.141 Approval of area development program.
 20.142 Revocation of program approval.
 20.143 Notice and hearing.
- AUTHORITY.—Migratory Bird Treaty Act, section 3, 40 Stat. 755.
- As redesignated, part 20 reads as follows:

Subpart A—Introduction

§ 20.1. Scope of regulations.

(a) *In general.*—The regulations contained in this part relate to the hunting of migratory game birds, and common crows (*Corvus brachyrhynchos*).

(b) *Procedural and substantive requirements.*—Migratory game birds may be taken, possessed, transported, shipped, exported, or imported only in accordance with the restrictions, conditions, and requirements contained in this part. Com-

mon crows (*Corvus brachyrhynchos*) may be taken, possessed, transported, exported, or imported only in accordance with subpart H of this part and the restrictions, conditions, and requirements prescribed in § 20.133.

(c) *Authority.*—The regulations in this part are promulgated under authority of the Migratory Bird Treaty Act (40 Stat. 755, as amended; 16 U.S.C. 703–711).

§ 20.2 Relation to other provisions.

(a) *Migratory bird permits.*—The provisions of this part shall not be construed to alter the terms of any permit or other authorization issued pursuant to part 16 of this chapter.

(b) *Migratory bird hunting stamps.*—The provisions of this part are in addition to the provisions of the Migratory Bird Hunting Stamp Act of 1934 (48 Stat. 451, as amended; 16 U.S.C. 718a).

(c) *National wildlife refuges.*—The provision of law respecting migratory to, and are not in lieu of, any other provision of law respecting migratory game birds under the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927, as amended; 16 U.S.C. 668dd) or any regulation made pursuant thereto.

(d) *State laws for the protection of migratory birds.*—Nothing in this part shall be construed to prevent the several States from making and enforcing laws or regulations not inconsistent with the conventions between the United States and any foreign country for the protection of migratory birds or with the Migratory Bird Treaty Act, or which shall give further protection to migratory game birds.

Subpart B—Definitions

§ 20.11 Meaning of terms.

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Migratory game birds.*—Those game birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which open seasons are prescribed, are listed as follows:

- (1) Anatidae (wild ducks, geese, brant, and swans);
- (2) Columbidae (wild doves and pigeons);
- (3) Gruidae (little brown cranes);
- (4) Rallidae (ralls, coots, and gallinules); and
- (5) Scolopacidae (woodcock and snipe).

A list of migratory birds protected by the international conventions and the Migratory Bird Treaty Act appears in § 10.13 of this chapter.

(b) *Open season.*—Calendar days on which migratory game birds may lawfully be taken. Each period prescribed as an open season shall be construed to include the first and last days thereof.

(c) *Closed season.*—Calendar days on which migratory game birds shall not be taken.

(d) *Daily bag limit.*—The maximum number permitted to be taken by one

person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

(e) *Aggregate daily bag limit.*—The maximum number permitted to be taken by one person in any one day during the open season when such person hunts in more than one specified geographic area for which a daily bag limit is prescribed. The aggregate daily bag limit is equal to, but shall not exceed, the largest daily bag limit prescribed for any one of the specified geographic areas in which taking occurs.

(f) *Possession limit.*—The maximum number permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

(g) *Aggregate possession limit.*—The maximum number, lawfully taken in the United States, permitted to be possessed by any one person when taking and possession occurs in more than one specified geographic area for which a possession limit is prescribed. The aggregate possession limit is equal to, but shall not exceed, the largest possession limit prescribed for any one of the specified geographic areas in which taking and possession occurs.

(h) *Personal abode.*—One's principal or ordinary home or dwelling place, as distinguished from his temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, tent, or trailer house used as a hunting club, or any hotel, motel, or rooming house used during a hunting, pleasure, or business trip.

(i) *Commercial preservation facility.*—Any person, place, establishment, or cold-storage or locker plant that, for hire or other consideration, receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage, or shipment.

Subpart C—Taking

§ 20.21 Hunting methods.

Migratory birds on which open seasons are prescribed in this part may be taken by any method except those prohibited in this section. No person shall take migratory game birds:

(a) With a trap, snare, net, crossbow, rifle, pistol, swivel gun, shotgun larger than 10 gauge, pump gun, battery gun, machinegun, fish hook, poison, drug, explosive, or stupefying substance;

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

(c) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;

(d) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind;

PROPOSED RULES

(e) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased: *Provided*, That a hunter may retrieve dead or crippled birds from a craft under power, and may shoot crippled birds from such craft under power.

(f) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this paragraph for any person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl.

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds;

(h) By means or aid of any motor-driven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird; or

(i) By the aid of baiting, or on or over any baited area. As used in this paragraph, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this paragraph shall prohibit:

(1) The taking of all migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(2) The taking of all migratory game birds, except waterfowl, on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered solely as the result of valid agricultural operations or procedures.

§ 20.22 Closed seasons.

No person shall take migratory game birds during the closed season.

§ 20.23 Shooting hours.

No person shall take migratory game birds except during the hours open to shooting as prescribed in subpart K of this part.

§ 20.24 Daily limit.

No person shall take in any 1 day, more than the daily bag limit or aggregate daily bag limit, whichever applies.

§ 20.25 Wanton waste of migratory game birds.

No person shall kill or cripple any migratory game bird pursuant to this part without making a reasonable effort to retrieve the bird and include it in his daily bag limit.

Subpart D—Possession

§ 20.31 Prohibited if taken in violation of subpart C.

No person shall at any time, by any means, or in any manner, possess or have in custody any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.32 During closed season.

No person shall possess any freshly killed migratory game birds during the closed season.

§ 20.33 Possession limit.

No person shall possess more migratory game birds taken in the United States than the possession limit or the aggregate possession limit, whichever applies.

§ 20.34 Opening day of a season.

No person on the opening day of the season shall possess any freshly killed migratory game birds in excess of the daily bag limit, or aggregate daily bag limit, whichever applies.

§ 20.35 Field possession limit.

No person shall possess, have in custody, or transport more than the daily bag limit or aggregate daily bag limit, whichever applies, of migratory game birds, tagged or not tagged, at or between the place where taken and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a commercial preservation facility; or (d) a post office; or (e) a common carrier facility.

§ 20.36 Tagging requirement.

No person shall put or leave any migratory game birds at any place (other than at his personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such birds have a tag attached, signed by the hunter, stating his address, the total number and species of birds, and the date such birds were killed. Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

§ 20.37 Custody of birds of another.

No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required by § 10.36.

§ 20.38 Possession of live birds.

Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit. No person shall at any time, or by any means, possess or transport live migratory game birds taken under authority of this part.

§ 20.39 Termination of possession.

Subject to all other requirements of this part, the possession of birds taken by any hunter shall be deemed to have ceased when such birds have been delivered by him to another person as a gift; or have been delivered by him to a post office, a common carrier, or a commercial preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the hunter.

Subpart E—Transportation Within the United States

§ 20.41 Prohibited if taken in violation of subpart C.

No person shall at any time, by any means, or in any manner, transport any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.42 Transportation of birds of another.

No person shall transport migratory game birds belonging to another person unless such birds are tagged as required by § 20.36.

§ 20.43 Species identification requirement.

No person shall transport within the United States any migratory game birds, except doves, unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a commercial preservation facility.

§ 20.44 Marking package or container.

No person shall transport by the Postal Service or a common carrier migratory game birds unless the package or container in which such birds are transported has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart F—Exportation

§ 20.51 Prohibited if taken in violation of subpart C.

No person shall at any time, by any means, or in any manner, export or cause to be exported any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.52 Species identification requirement.

No person shall export migratory game birds unless one fully feathered wing

remains attached to each such bird while being transported from the United States and/or any of its possessions to any foreign country.

§ 20.53 Marking package or container.

No person shall export migratory game birds via the Postal Service or a common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart G—Importations

§ 20.61 Importation limits.

No person shall import during any 1 calendar week beginning on Sunday migratory game birds in excess of the following importation limits:

(a) *Doves and pigeons.*—Not to exceed 25 doves, singly or in the aggregate of all species, and 10 pigeons, singly or in the aggregate of all species from any foreign country.

(b) *Waterfowl.*—(1) From any foreign country except Canada, not to exceed 10 ducks, singly or in the aggregate of all species, and five geese including brant, singly or in the aggregate of all species.

(2) From Canada, not to exceed the maximum number permitted to be exported by Canadian authorities.

§ 20.62 Species identification requirement.

No person shall import migratory game birds unless each such bird has one fully feathered wing attached, and such wing must remain attached while being transported between the port of entry and the personal abode of the possessor or between the port of entry and a commercial preservation facility.

§ 20.63 Foreign export permits.

No person shall import, possess or transport, any migratory game birds killed in a foreign country unless such birds are accompanied by export permits, tags, or other documentation required by applicable foreign laws or regulations.

§ 20.64 Processing requirement.

No person shall import migratory game birds killed in any foreign country, except Canada, unless such birds are dressed (except as required in § 20.62), drawn, and the head and feet are removed: *Provided*, That this shall not prohibit the importation of legally taken, fully feathered migratory game birds consigned for mounting purposes to a taxidermist who holds a current taxidermist permit issued to him pursuant to § 21.24 of this chapter and who is also licensed by the U.S. Department of Agriculture to decontaminate such birds.

§ 20.65 Marking of package or container.

No person shall import migratory game birds via the Postal Service or a common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of

each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart H—Federal, State, and Foreign Law

§ 20.71 Violation of Federal law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any act of Congress or any regulation issued pursuant thereto.

§ 20.72 Violation of State law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any applicable law or regulation of any State.

§ 20.73 Violation of foreign law.

No person shall at any time, by any means, or in any manner, import, possess, or transport, any migratory bird, or any part, nest, or egg of any such bird taken, bought, sold, transported, possessed, or exported contrary to any applicable law or regulation of any foreign country, or State or province thereof.

Subpart I—Commercial Preservation Facilities

§ 20.81 Tagging requirement.

No commercial preservation facility shall receive or have in custody any migratory game birds unless such birds are tagged as required by § 20.36.

§ 20.82 Records required.

No commercial preservation facility shall:

(a) Receive or have in custody any migratory game birds unless accurate records are maintained showing (1) the number of each species; (2) the date such birds were received; (3) the name and address of the person from whom such birds were received; (4) the date such birds were disposed of; and (5) the name and address of the person to whom such birds were delivered, or

(b) Destroy any records required to be maintained under this section for a period of 1 year following the last entry on the record.

§ 20.83 Inspection of premises.

No commercial preservation facility shall prevent any person authorized to enforce this part from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried on.

Subpart J—Feathers or Skins

§ 20.91 Commercial use of feathers.

Any person may possess, purchase, sell, barter, or transport for the making of fishing files, bed pillows, and mattresses, and for similar commercial uses the feathers of migratory waterfowl (wild ducks, geese, brant, and swans) killed by hunting pursuant to this part, or seized and condemned by Federal or State game authorities, except that:

(a) No person shall purchase, sell, barter, or offer to purchase, sell, or barter for millinery or ornamental use the feathers of migratory game birds taken under authority of this part; and

(b) No person shall purchase, sell, barter, or offer to purchase, sell, or barter mounted specimens of migratory game birds taken under authority of this part.

§ 20.92 Personal use of feathers or skins.

Any person for his own use may possess, transport, ship, import, and export without a permit the feathers and skins of lawfully taken migratory game birds.

Subpart K—Annual Season, Limit, and Shooting Hour Schedules [Reserved]

Subpart L—Administrative and Miscellaneous Provisions

§ 20.131 Extension of seasons.

Whenever the Secretary shall find that emergency State action to prevent forest fires in any extensive area has resulted in the shortening of the season during which the hunting of any species of migratory game bird is permitted and that compensatory extension or reopening the hunting season for such birds will not result in a diminution of the abundance of birds to any greater extent than that contemplated for the original hunting season, the hunting season for the birds so affected may, subject to all other provisions of this subchapter, be extended or reopened by the Secretary upon request of the chief officer of the agency of the State exercising administration over wildlife resources. The length of the extended or reopened season in no event shall exceed the number of days during which hunting has been so prohibited. The extended or reopened season will be publicly announced.

§ 20.132 Native use in Alaska.

In Alaska, Eskimos and Indians may take, possess, and transport, in any manner and at any time, auks, auklets, gullmots, murrets, and puffins and their eggs for food and their skins for clothing, but the birds and eggs so taken shall not be sold or offered for sale.

§ 20.133 Hunting regulations for common crows.

(a) Common crows (*Corvus brachyrhynchos*) may be taken, possessed, transported, exported, or imported, only in accordance with such laws or regulations as may be prescribed by a State pursuant to this section.

(b) Except in the States of Hawaii and Alaska where no crows shall be taken, States may by statute or regulation prescribe a hunting season on the common crow (*Corvus brachyrhynchos*). Such State statutes or regulations may set forth the methods of taking, the bag and possession limits, the dates and duration of the hunting season, and such other regulations as may be deemed appropriate, subject to the following limitations for each State:

(1) Crows shall not be hunted from aircraft;

PROPOSED RULES

(2) The hunting season or seasons on crows shall not exceed a total of 124 days during a calendar year;

(3) Hunting shall not be permitted during the peak crow nesting period within a State; and

(4) Crows may only be taken by firearms, bow and arrow, and faconry.

Subpart M—Wildlife Development Areas

§ 20.141 Approval of area development program.

With respect to any lands which have been or may hereafter be acquired by the United States for future use as a migratory bird sanctuary or other wildlife refuge, subject to an outstanding possessory estate, the owner of such outstanding estate may, in accordance with a program for the development of the area and the limitation of shooting during such development period, approved by the Secretary, take such measures as are calculated to maintain and increase the waterfowl population of the area in question, and engage in the shooting of migratory birds within the limitations set forth in the approved program.

§ 20.142 Revocation of program approval.

Approval of any such program may be revoked by the Secretary upon a finding that the terms of such program have been violated by the proponents thereof. Following such revocation, all rights and privileges derived from the existence of an approved area development program shall cease.

§ 20.143 Notice and hearing.

Prior to any determination by the Secretary that the terms of an approved area development program have been or are being violated by the proponent thereof, a notice shall be sent to said proponent specifying the character, time, and locality of the alleged violation and designating a representative of the Secretary with whom the proponent of the program may discuss any controverted issue of fact or interpretation in an effort to reach an amicable agreement of understanding. Thereupon, the said proponent shall cease and desist from the commission of acts specified in such notice for a period of 60 days, or if the case be finally determined during such 60-day period then only until such final determination. If, within 30 days after such notice has been received, no such agreement or understanding is reached then the Secretary may, after allowing such further opportunity for hearing as he deems proper, make and promulgate a final order revoking approval of the development area program. Thereupon, the provisions of § 20.21 shall be fully applicable to the area in question.

PART 21—MIGRATORY BIRD PERMITS

Subpart A—Introduction

- Sec.
21.1 Purpose of regulations.
21.2 Scope of regulations.

Subpart B—General Requirements

- Sec.
21.11 General permit requirements.
21.12 General exception to permit requirements.
21.13 Permit exceptions for captive-reared mallard ducks.
21.14 Permit exceptions for captive-reared migratory waterfowl other than mallard ducks.
21.15 Permit noncompliance.

Subpart C—Specific Permit Provisions

- 21.21 Import and export permits.
21.22 Bird banding or marking permits.
21.23 Scientific collecting permits.
21.24 Taxidermist permits.
21.25 Waterfowl sale and disposal permits.
21.26 Special aviculturist permit.
21.27 Special purpose permits.

Subpart D—Control of Depredating Birds

- 21.41 Depredation permits.
21.42 Authority to issue depredating orders to permit the killing of migratory game birds.
21.43 Depredation order for blackbirds, cowbirds, grackles, common crows and magpies.
21.44 Depredation order for designated species of depredating birds in California.
21.45 Depredation order for depredating purple gallinules in Louisiana.

AUTHORITY.—Migratory Bird Treaty Act, sec. 3, 40 Stat. 755.

Subpart A—Introduction

§ 21.1 Purpose of regulations.

The regulations contained in this part supplement the general permit regulations of part 12 of this subchapter with respect to permits for the taking, possession, transportation, sale, purchase, barter, export, import, banding and marking of migratory birds. This part also provides certain exceptions to permit requirements for public, scientific or educational institutions, and establishes depredation orders which provide certain limited exceptions to the Migratory Bird Treaty Act (16 U.S.C. 703-711).

§ 21.2 Scope of regulations.

(a) Migratory birds, their parts, nests, or eggs, lawfully acquired prior to the effective date of Federal protection under the Migratory Bird Treaty Act (16 U.S.C. 703-711) may be possessed or transported without a Federal permit, but may not be imported, exported, purchased, sold, bartered, or offered for purchase, sale, trade, or barter, and all shipments of such birds must be marked as provided by 18 U.S.C. 44 and § 13.81 of this subchapter: *Provided*, That no exemption from any statute or regulation shall accrue to any offspring of such birds.

(b) This part 21 does not apply to the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle (*Aquila chrysaetos*) for which regulations are provided in part 22 of this subchapter.

Subpart B—General Requirements

§ 21.11 General permit requirements.

Except as permitted by regulations under this part or under part 20 of this subchapter (the hunting regulations), a permit is required for any person to im-

port, export, take, sell, purchase, otherwise acquire, possess, transport, or dispose of migratory birds of their progeny, parts, nests, or eggs.

§ 21.12 General exception to permit requirements.

The following exceptions to the permit requirement are allowed.

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

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

§ 21.13 Permit exceptions for captive-reared mallard ducks.

Captive-reared and properly marked mallard ducks, alive or dead, or their eggs may be acquired, possessed, sold, traded, donated, transported, exported (but not imported), and disposed of by any person without a permit, subject to the following conditions, restrictions, and requirements:

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

(b) All mallard ducks possessed in captivity, without a permit, shall have been physically marked by removal of the hind toe from the right foot prior to 4 weeks of age and all such ducks hatched, raised, and retained in captivity thereafter shall be so marked prior to reaching 4 weeks of age.

(c) When so marked, such live birds may be disposed of to, or acquired from, any person and possessed and trans-

ported in any number at any time or place: *Provided*, That all such birds shall be physically marked prior to sale or disposal irregardless of whether or not they have attained 4 weeks of age.

(d) When so marked, such live birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of mallard ducks from the wild: *Provided*, That such birds may be killed by shooting, in any number, at any time, within the confines of any premises operated as a shooting preserve under State license, permit, or authorization; or they may be shot, in any number, at any time or place, by any person for bona fide dog training or field trial purposes: *Provided further*, That the provisions of the hunting regulations (part 20 of this subchapter) and the Migratory Bird Hunting Stamp Act (duck stamp requirement) shall not apply to shooting preserve operations, as provided for in this paragraph, or to bona fide dog training or field trial operations.

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

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

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

(a) Such birds, alive or dead, or their eggs may be lawfully acquired only from holders of valid Federal waterfowl sale and disposal permits except that properly marked carcasses of such birds may also be lawfully acquired as provided under paragraph (c) of this section.

(b) All progeny of such birds or eggs hatched, raised, and retained in captivity must be physically marked by removal of the hind toe from the right foot prior to reaching 4 weeks of age.

(c) No such birds or eggs or any progeny or eggs thereof may be disposed of by any means, alive or dead, to any

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

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

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot must remain attached to each carcass unless such carcasses were otherwise properly marked and the food removed prior to acquisition.

(f) When any such birds, alive or dead, or their eggs are acquired from a Federal waterfowl sale and disposal permittee, the permittee will furnish a copy of form 3-186, notice of waterfowl sale or transfer, to be retained on file by the buyer during his possession of such birds or eggs or progeny or eggs thereof.

§ 21.15 Permit noncompliance.

(a) Permits issued pursuant to this part may be revoked and the privileges granted thereunder withdrawn if the activities of the permittee, involving live birds or feed on the premises of the permittee, are an element in a violation by the permittee or other person of the migratory bird hunting regulations governing the use of live decoys or bait in the taking of migratory game birds (§ 20.21 of this subchapter) on the premises covered by the permit, or where such activities on the premises of the permittee would preclude the legal hunting of migratory game birds on adjacent premises not under control of the permittee. Any person whose permit has been revoked shall not be issued a like permit until at least 1 year after the date of revocation.

Subpart C—Specific Permit Provisions

§ 21.21 Import and export permits.

(a) *Permit requirement.*—(1) A permit from the U.S. Department of Agriculture is required before any live migratory birds or eggs of the family Anatidae (wild ducks, geese, brant, and swans) may be imported. The permit required by this paragraph may be obtained by letter of application addressed to USDA—ARS—ANH, Import-Export Animals and Products, Hyattsville, Md. 20782.

(2) An importation permit is required before any live birds, other than waterfowl or their eggs, or dead migratory birds, or their parts, nests, or eggs may be imported. Excepted from the permit required by this paragraph are: (1) Live birds of the family Anatidae, the impor-

tation of which is regulated by the preceding paragraph; and (2) migratory birds taken pursuant to the migratory bird hunting regulations, part 20 of this subchapter.

(3) A permit is required before any migratory birds, or their parts, nests, or eggs may be exported. *Provided* that pen-reared mallards may be exported without a permit as provided in § 21.13.

(b) *Application procedures.*—Applications for permits to import or export migratory birds shall be submitted to the appropriate special agent in charge (see § 12.11(b) or this subchapter). Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following additional information:

(1) Specify whether importation or exportation is requested;

(2) Species and numbers of migratory birds or their parts, nests, or eggs to be imported or exported;

(3) Name and address of the person from whom such birds are being imported or to whom they are being exported;

(4) Purpose for which importation or exportation is being made;

(5) Estimated date of arrival or departure of shipment, and the port of entry or exit through which the shipment will be imported or exported; and

(6) Federal permit number and type of permit authorizing possession, acquisition, or disposition of such birds, their parts, nests, or eggs where such a permit is required.

§ 21.22 Bird banding or marking permits.

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

(b) *Application procedures.*—Applications for banding or marking permits shall be submitted by letter of application addressed to the Bird Banding Laboratory, Migratory Bird Populations Station, Bureau of Sport Fisheries and Wildlife, Laurel, Md. 20810. Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following additional information:

(1) Species and numbers proposed to be banded;

(2) Purpose of banding;

(3) State or States in which authorization is requested;

(4) Copies of any State permits authorizing such banding where such permits are required by State law; and

(5) Name and address of the public, scientific, or educational institution to which any specimens will be donated that are salvaged pursuant to paragraphs (c) (3) and (4) of this section.

(c) *Additional permit conditions and authorizations.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions: (1) The banding of migratory birds shall be by official num-

bered leg bands issued by the Bureau. The use of any other band, clip, dye, or other method of marking is prohibited unless specifically authorized in the banding permit.

(2) All traps or nets used to capture migratory birds for banding purposes shall have attached thereto a tag or label clearly showing the name and address of the permittee and his permit number, or the area in which such traps or nets are located must be posted with notice of banding operations posters (form 3-1155, available upon request from the Bird Banding Laboratory, Migratory Bird Populations Station, Bureau of Sport Fisheries and Wildlife, Laurel, Md. 20810) which shall bear the name and address of the permittee and the number of his permit.

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

(4) Banders must keep accurate records of their operations and file reports as set forth in the U.S. Fish and Wildlife Service's Bird Banding Manual, or supplements thereto, in accordance with instructions contained therein.

(d) *Tenure of permits.*—Banding permits are valid for a period of 2 years from the date of issue, unless otherwise stated on the face of the permit.

§ 21.23 Scientific collecting permits.

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

(b) *Application procedures.*—Applications for scientific collecting permits shall be submitted to the appropriate Special Agent in Charge (See: § 12.11(b) of this subchapter). Each such application shall contain the general information and certification required by § 12.12(a) of this subchapter plus the following additional information:

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

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

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

(c) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B,

permits issued under this section shall be subject to the following conditions:

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

(d) *Tenure of permit.*—The tenure of scientific collecting permits shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue unless a different period of time is prescribed in the permit.

§ 21.24 Taxidermist permits.

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

(b) *Application procedures.*—Application for taxidermist permits shall be submitted to the appropriate Special Agent in Charge (See: § 12.11(b) of this subchapter). Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following additional information:

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

(2) A statement of the applicants qualifications and experience as a taxidermist; and

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

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

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

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

(d) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions:

(1) Permittees must keep accurate records of operations, on a calendar year basis, showing the names and addresses of persons from and to whom migratory birds or their parts, nests, or eggs were received or delivered, the number and species of such, and the dates of receipt and delivery. In addition to the other records required by this paragraph, the permittee must maintain in his files, the original of the completed form 3-186, Notice of Waterfowl Sale or Transfer, confirming his acquisition of captive reared, properly marked migratory waterfowl from the holder of a current Federal waterfowl propagating permit.

Permittees must retain such records for a period of 5 years following the end of the calendar year covered by the records.

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

(e) *Tenure of permit.*—The tenure of taxidermist permits or renewals thereof shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue.

§ 21.25 Waterfowl sale and disposal permits.

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

(b) *Application procedures.*—Applications for waterfowl sale and disposal permits shall be submitted to the appropriate Special Agent in Charge (see: § 12.11(b) of this subchapter). Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following additional information:

(1) A description of the area where waterfowl are kept;

(2) Species and numbers of waterfowl now in possession and a statement showing from whom these were obtained; and

(3) A statement as to whether or not all such waterfowl are marked as required by the provisions of this part 21.

(c) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions:

(1) Permittees may not take migratory waterfowl or their eggs from the wild, and may not acquire such birds or their eggs from any person not authorized by a valid permit issued pursuant to this part to dispose of such birds or their eggs.

(2) All live migratory waterfowl possessed in captivity under authority of a valid waterfowl sale or disposal permit shall have been, physically prior to 4 weeks of age, marked by removal of the hind toe from the right foot. All offspring of such birds hatched, raised and retained in captivity shall be so marked prior to attaining 4 weeks of age. The preceding does not apply to captive adult geese, swans, and brant which were marked previous to March 1, 1967,

by a "V" notch in the web of one foot, nor to such birds held in captivity at public zoological parks, and scientific or educational institutions.

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

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

(5) Such properly marked birds, alive or dead, or their eggs may be disposed of in any number, at any time or place, to any person: *Provided*, That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 4 weeks of age, and *Provided further*, That on each date that any such birds or their eggs are transferred to another person, the permittee must complete a form 3-186, Notice of Waterfowl Sale or Transfer. (Bureau will provide supplies of form.) The permittee will furnish the original of completed form 3-186 to the person acquiring the birds or eggs; retain one copy in his files as a record of his operations; and, on or before the last day of each month, mail three copies of each form completed during that month to the office of the Bureau of Sport Fisheries and Wildlife which issued his permit.

(d) *Tenure of permits.*—The tenure of waterfowl sale or disposal permits or renewals thereof shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue.

§ 21.26 Special aviculturist permit.

(a) *Permit requirement.*—A special aviculturist permit is required before any person may acquire, propagate, possess, exhibit, or dispose of by exchange, sale, or gift to another person captive-reared migratory waterfowl not physically marked by removal of the hind toe from the right foot.

(b) *Application procedures.*—Applications for special aviculturist permits shall be submitted to the appropriate Special Agent in Charge (see: § 12.11(b) of this subchapter). Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following information:

(1) A description of the area where such waterfowl are to be kept;

(2) Statement of number and species of non-toe-clipped waterfowl permittee now possesses, and the number of each species he requests to be authorized to possess;

(3) Statement of how, or when and from whom any non-marked waterfowl presently in possession were acquired;

(4) Statement of justification and need for such permit; and

(5) Permit number and expiration date of State permit authorizing such activity.

(c) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions:

(1) Special aviculturist permit holders may not take migratory waterfowl or their eggs from the wild.

(2) Special aviculturist permit holders may not dispose of migratory waterfowl which are not marked by physical removal of the hind toe from the right foot prior to 4 weeks of age to any person who does not hold a valid special aviculturist permit, nor acquire such unmarked waterfowl from any person who is not the holder of a valid special aviculturist permit.

(3) On each date that any such unmarked birds or their eggs are transferred to another special aviculturist permittee, the permittee transferring the birds or their eggs must complete a form 3-186, Notice of Waterfowl Sale or Transfer. The permittee will furnish the original of completed form 3-186 to the permittee acquiring the birds or eggs; retain one copy in his files as a record of his operations; and, on or before the last day of each month, mail three copies of each form completed during that month to the regional office of the Bureau of Sport Fisheries and Wildlife which issued his permit. The permittee shall clearly indicate on such form 3-186 that the waterfowl sold or transferred were "unmarked" and shall place his special aviculturist permit number on the form, and shall not report such sales under authority of any other Federal permit. The Bureau will provide form 3-186 to permittees upon request.

(4) Special aviculturist permittees shall keep records in conformance with the provisions of § 12.46 of this subchapter. Such records shall be kept separately from records of activities under any other Federal permit held by the permittee.

(5) Within 30 days following December 31 of each calendar year, permittee must file a report, negative or otherwise, on a form furnished for that purpose. This form will require each permittee to record information concerning his transactions during the year, and will include but may not be limited to, the number of each species of non-toe-clipped waterfowl and waterfowl eggs on hand at the beginning of the period covered by the report, the name, address, and aviculturist permit number of each permittee from whom he acquired and to whom he

transferred any non-toe-clipped waterfowl or waterfowl eggs, and the number of each species of non-toe-clipped waterfowl and waterfowl eggs left on hand as of December 31 of the year covered in the report.

(d) *Tenure of permit.*—The tenure of special aviculturist permits shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue unless a different period of time is prescribed in the permit.

§ 21.27 Special purpose permits.

Subject to the discretion and policies of the Bureau, permits may be issued for migratory bird activities outside the scope of the standard form permits of this part, upon a sufficient showing of benefit to the migratory bird resource, important research reasons, humane, or other compelling justification.

(a) *Permit requirement.*—A special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part.

(b) *Application procedures.*—Applications for special purpose permits shall be submitted by letter of application addressed to the appropriate special agent in charge (see § 12.11(b) of this subchapter). Each such application shall contain the general information and certification set forth by 12.12(a) of this subchapter plus the following additional information:

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

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

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

(c) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions:

(1) Any special conditions which appear on the permit.

(2) Special purpose permit holders shall file with the issuing officer an annual report of operations not later than January 31 of each year for the preceding calendar year or any portion thereof during which the permit was in force, describing in detail operations under the permit, number and species of migratory birds acquired, disposed of, and an inventory of those on hand as of December 31.

(3) Special purpose permit holders shall make such other reports as may be requested by the issuing officer.

(d) *Tenure of permits.*—The tenure of special purpose permits shall be limited

to the dates which appear on its face, but in no case shall be longer than the second full calendar year ending December 31 following the date of issue.

Subpart D—Control of Depredating Birds

§ 21.41 Depredation permits.

Upon receipt of information from the owner, tenant, sharecropper, or other person that migratory birds are injuring his crops or other property on the land on which he resides, or over which he exercises control, together with a statement of the location of the area; the nature of the crops or other interests being injured; the extent of such injury; and the particular species of birds committing the injury, an investigation will be made. If it is then determined that the injury complained of is substantial and can be abated, a permit to frighten, herd, or kill such birds may be issued. The permit shall specify the person, the time, and the method by which such birds may be frightened, herded, or killed. The permit shall further provide that all dead birds shall be disposed of as prescribed therein; that a report shall be made of the operations; and shall include such other conditions as may be appropriate in each case.

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

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

(a) That such birds may only be killed by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or areas;

(b) That shooting shall be limited to such time as may be fixed by the Director on the basis of all circumstances involved. If prior to termination of the period fixed for such shooting, the Director receives information that there no longer exists a serious threat to the area or areas involved, he shall without delay cause to be published in the FEDERAL REGISTER an order of revocation;

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

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

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

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

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

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

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

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

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

(a) That such migratory birds shall be killed only when necessary to protect agricultural or horticultural crops from depredation; that none of the above migratory birds killed, or the parts thereof, or the plumage of such birds, shall be sold or removed from the area where

killed; but that all such dead migratory birds shall be buried or otherwise destroyed within this area, except that any specimens needed for scientific purposes, as determined by the State or the Secretary, shall not be destroyed.

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

§ 21.45 Depredation order for depredating purple gallinules in Louisiana.

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

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

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

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

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

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

PART 22—EAGLE PERMITS

Subpart A—Introduction

- Sec. 22.1 Purpose of regulations.
- 22.2 Scope of regulations.
- Subpart B—General Requirements**
- 22.11 General permit requirements.
- 22.12 General restrictions.
- 22.13 Marking of package or container.
- 22.14 Disposition of eagles by the Bureau.

Subpart C—Eagle Permits

- 22.21 Permits for scientific or exhibition purposes.
- 22.22 Permits to possess and use eagles for religious purposes.
- 22.23 Permits to take depredating eagles.

Subpart D—Depredation Control Orders on Golden Eagles

- 22.31 Golden eagle depreciations control order on request of Governor of a State.
- 22.32 Conditions and limitations on taking under depreciation control order.

AUTHORITY.—Bald Eagle Protection Act, sec. 2, 54 Stat. 251.

Subpart A—Introduction

§ 22.1 Purpose of regulations.

The regulations contained in this part govern the taking, possession, and transportation of bald and golden eagles for scientific, educational, and depredations control purposes and for the religious purposes of Indian tribes. The import, export, purchase, sale, or barter of bald or golden eagles, their parts, nests, or eggs is not permitted by any regulation of this subchapter B.

§ 22.2 Scope of regulations.

Bald eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to June 8, 1940, and golden eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to October 24, 1962, may be possessed, or transported without a Federal permit, but may not be imported, exported purchased, sold, traded, bartered, or offered for purchase, sale, trade or barter; and all shipments containing such birds, parts, nests, or eggs must be marked as provided by 18 U.S.C. 44 and § 13.81 of this Subchapter; *Provided*, That no exemption from any statute or regulation shall accrue to any offspring of such birds.

Subpart B—General Requirements

§ 22.11 General permit requirements

Except as permitted by regulations under this part, a permit is required for any person to take, possess or transport the bald eagle (*Haliaeetus leucocephalus*), commonly known as the American eagle, or the golden eagle (*Aquila chrysaetos*), or their parts, nests, or eggs.

§ 22.12 General restrictions.

No bald eagle or golden eagle, or their parts, nests, or eggs may be imported, exported, purchased, sold, traded, or bartered, or offered for purchase, sale, trade, or barter in the United States.

§ 22.13 Marking of package or container.

Every package or container in which bald eagles or golden eagles or their parts,

nests, or eggs are transported by any means whatever, must be plainly and clearly marked, labeled, or tagged on the outside thereof showing the names and addresses of the consignor and consignee, the contents of the package or container, and the number of the permit, where required, under authority of which it is possessed and transported, and the purpose of the shipment.

§ 22.14 Disposition of eagles by the Bureau.

Any bald eagles or golden eagles or their parts, nest, or eggs seized for any violation under this part and forfeited to the Government, or otherwise acquired by the Bureau, may be disposed of by loan to public museums, public scientific or educational institutions, or public zoological parks, and suitable parts or plumage of such birds may be donated to individual Indians authorized by permit to possess such items for religious purposes.

Subpart C—Eagle Permits

§ 22.21 Permits for scientific or exhibition purposes.

Whenever the Secretary determines that it is compatible with the preservation of the bald eagle or the golden eagle to take, possess, or transport such birds or their parts, nests, or eggs for the scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks, a permit may be issued for such purposes.

(a) *Application procedure.*—Applications for permits to take, possess, or transport bald or golden eagles, their parts, nests, or eggs for scientific or exhibition purposes shall be submitted to the appropriate special agent in charge (See: § 12.11(b) of this subchapter). Each such application shall contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following information:

- (1) Species of eagle and number of such birds, nests, or eggs proposed to be taken, possessed, or transported;
- (2) Specific locality in which taking is proposed, if any;
- (3) Method of taking proposed, if any;
- (4) If not taken, the source of eagles and other circumstances surrounding the proposed acquisition or transportation;
- (5) Name and address of the public museum, public scientific societies, or public zoological park for which they are intended;
- (6) Complete explanation and justification of request, nature of project or study, number of specimens now at institution, reason these are inadequate, and other appropriate explanations.

(b) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following condition: Within 30 days after expiration of the permit, the permittee shall submit a report of activities conducted under the permit to the special agent in charge on a form provided for this purpose.

(c) *Tenure of permits.*—The tenure of permits to take bald or golden eagles for scientific or exhibition purposes shall be that which appears on the face of the permit but in no case shall be longer than 1 year from date of issue.

§ 22.22 Permits to possess and use eagles for religious purposes.

Whenever the Secretary determines that the taking, possession, and transportation of bald or golden eagles for the religious purposes of Indian tribes is compatible with the preservation of such birds, he may issue permits for such taking, possession, and transportation to those individual Indians who are authentic, bona fide practitioners of such religion.

(a) *Application procedure.*—Applications for permits to take, transport, and possess bald or golden eagles or their parts for the religious use of Indians shall be submitted to the appropriate special agent in charge (See: § 12.11(b) of this subchapter). Only applications from individual Indians will be accepted. Each such application shall contain the general information and certification required by § 12.12(a) of this subchapter plus the following additional information:

- (1) Species and number of eagles or feathers proposed to be taken, or acquired by gift or inheritance.
- (2) State and local area where the taking is proposed to be done, or from whom acquired.
- (3) Name of tribe with which applicant is associated.
- (4) Name of tribal religious ceremony(ies) for which required.
- (5) Applicant must attach a certification from the Bureau of Indian Affairs that the applicant is an Indian.
- (6) Applicant must attach a certification from a duly authorized official of the religious group that the applicant is authorized to participate in such ceremonies.

(b) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions:

- (1) Bald or golden eagles or their parts possessed under permits issued pursuant to this section are not transferable, except such birds or their parts may be handed down from generation to generation or from one Indian to another in accordance with tribal or religious customs.
- (2) Permittees shall make such reports or submit inventories of eagle feathers or parts on hand as may be requested by the special agent in charge.

(c) *Tenure of permits.*—Any permit issued pursuant to this section under which the applicant is authorized to take eagles shall be valid during the period specified on the face thereof which shall in no case be longer than 1 year from date of issue. Any permit issued pursuant to this part which authorizes the permittee to transport and possess eagles or their parts shall be valid for the life of the permittee unless sooner revoked.

§ 22.23 Permits to take depredating eagles.

The Secretary may issue permits to take bald eagles or golden eagles when he determines they have become seriously injurious to wildlife or to agricultural or other interests in any particular area in the United States or in any place subject to its jurisdiction, and the injury complained of is substantial and can be abated only by taking some or all of the offending birds.

(a) *Application procedure.*—Applications for permits to take depredating bald or golden eagles shall be submitted to the appropriate special agent in charge (See: § 12.11(b) of this subchapter). Each such application must contain the general information and certification set forth by § 12.12(a) of this subchapter plus the following additional information:

- (1) Species and number of eagles proposed to be taken;
- (2) Location and description of property where taking is proposed;
- (3) Inclusive dates for which permit is requested;
- (4) Method of taking proposed;
- (5) Kind and number of livestock or domestic animals owned by applicant;
- (6) Kind and amount of alleged damage; and
- (7) Name, address, age, and business relationship with applicant or any person the applicant proposes to act for him as his agent in the taking of such eagles.

(b) *Additional permit conditions.*—In addition to the general conditions set forth in part 12 of this subchapter B, permits issued under this section shall be subject to the following conditions:

- (1) Bald or golden eagles may be taken under permit by firearms, traps, or other suitable means except by poison or from aircraft;

(2) The taking of eagles under permit may be done only by the permittee or his agents name in the permit;

(3) Any eagles taken under authority of such permit will be promptly turned over to a Bureau agent or other game law enforcement officer designated in the permit;

(4) Any person holding a permit under this section shall permit at all reasonable times, including during actual operations, any Bureau agent or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information or report he may require concerning such operations.

(c) *Tenure of permits.*—The tenure of any permit to take bald or golden eagles for depredation control purposes shall be that shown on the face thereof, and shall in no case be longer than 1 year from date of issue.

Subpart D—Depredation Control Orders on Golden Eagles

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

(a) Whenever the Governor of any State requests permission to take golden eagles to seasonally protect livestock, the Secretary will authorize such taking without a permit in whatever part or parts of the State and for such periods as he determines necessary to protect those interests.

(b) Requests from the Governor of a State to take golden eagles to seasonally protect livestock must be submitted in writing to the Secretary listing the periods of time during which the taking of such birds is recommended, and including a map of the State indicating the

boundaries of the proposed area of taking. The Governor will be advised in writing concerning the request and a notice will be published in the FEDERAL REGISTER.

§ 22.32 Conditions and limitations on taking under depredation control order.

(a) Whenever the taking of golden eagles without a permit is authorized for the seasonal protection of livestock, such birds may be taken by firearms, traps, or other suitable means except by poison or from aircraft.

(b) Any person exercising any of the privileges granted by this subpart D must permit all reasonable times, including during actual operations, any Bureau agent, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require concerning such operations.

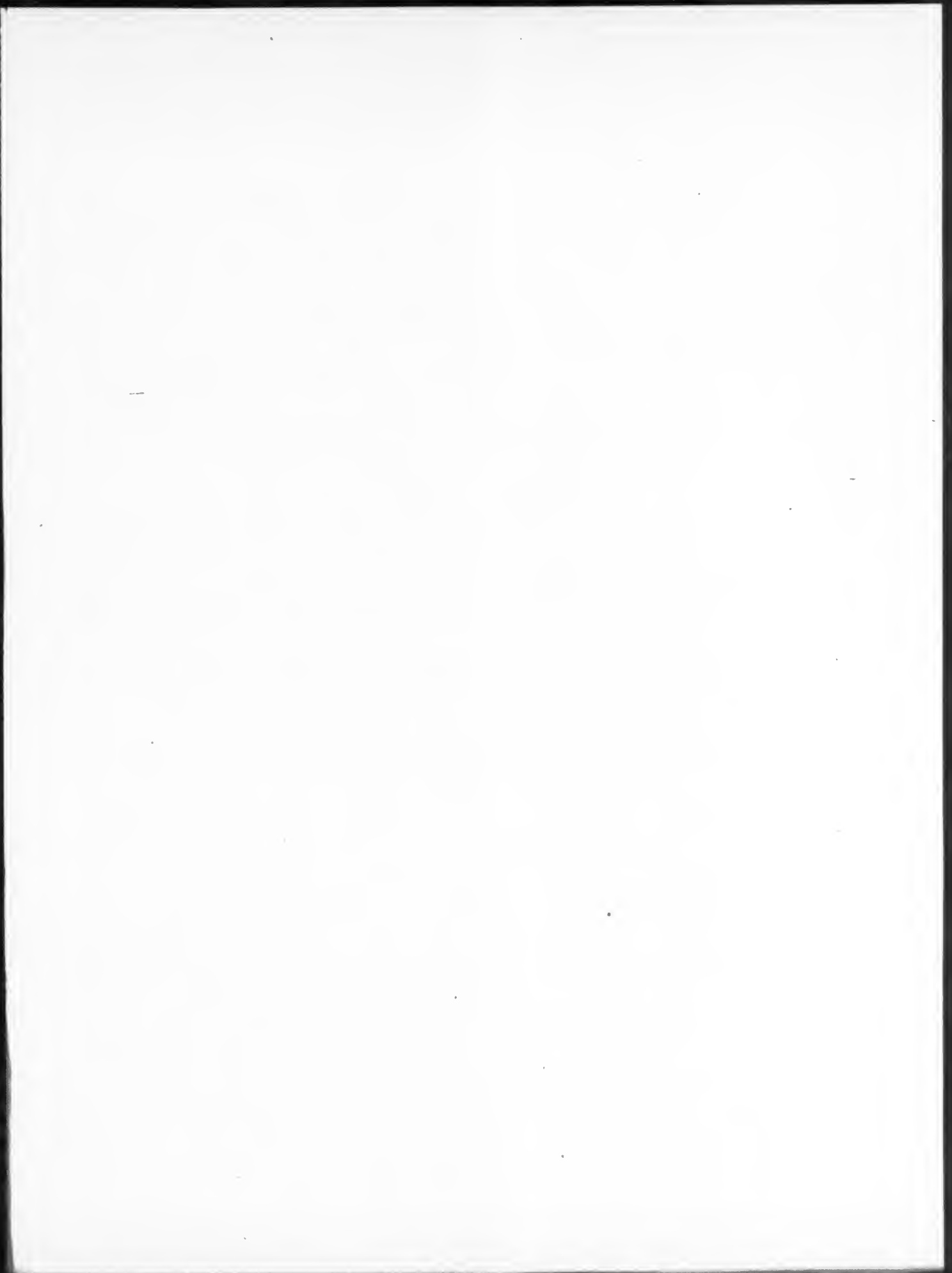
PARTS 23-24—[Reserved]

Comments received on or before May 25, 1973, will be considered for incorporation into the final regulations. Additional comments will be received until June 30, 1973, and if significant changes are warranted, the regulations will be amended accordingly. Interested persons may submit written comments, suggestions, or objections to the Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

F. V. SCHMIDT,
Acting Director, Bureau of
Sport Fisheries and Wildlife.

APRIL 16, 1973.

[FR Doc.73-7558 Filed 4-24-73;8:45 am]



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CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1973)

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| Title 12—Banks and Banking (Parts 1-299)..... | \$5. 50 |
| Title 14—Aeronautics and Space (Parts 1-59)..... | 6. 50 |
| Title 16—Commercial Practices (Parts 0-149)..... | 7. 00 |

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