

by UTC, API, or AAR, respectively (or, at their discretion, with their written concurrence). The stay will be in effect until the Commission resolves their Petitions for Reconsideration of the *Second Memorandum and Order* in this proceeding.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

In the final rule published on July 6, 1999, in amendatory instruction 4 on page 36262 beginning in the second column the following amendments to § 90.35 are stayed effective August 5, 1999: 153.035 MHz through 153.4025 MHz, 153.4025 MHz through 153.4625 MHz, 153.485 MHz through 153.5225 MHz, 153.545 MHz through 153.5825 MHz, 153.605 MHz through 153.6425 MHz, 153.665 MHz through 153.6675 MHz, 158.145 MHz through 158.1825 MHz, 158.205 MHz through 158.2425 MHz, 158.265 MHz through 158.3325 MHz, 158.355 MHz through 158.3775 MHz, 158.415 MHz through 158.4375 MHz, 173.250 MHz, 173.300 MHz, 173.350 MHz, 451.175 MHz, 451.225 MHz, 451.275 MHz, 451.375 MHz, 451.425 MHz, 451.475 MHz, 451.525 MHz, 451.550 MHz, 451.575 MHz, 451.600 MHz, 451.625 MHz, 451.650 MHz, 451.675 MHz, 451.700 MHz, 451.750 MHz, 452.325 MHz, 452.375 MHz, 452.425 MHz, 452.475 MHz, 452.775 MHz, 452.825 MHz, 452.875 MHz, 456.175 MHz, 456.225 MHz, 456.275 MHz, 456.375 MHz, 456.425 MHz, 456.475 MHz, 456.525 MHz, 456.550 MHz, 456.575 MHz, 456.600 MHz, 456.625 MHz, 456.650 MHz, 456.675 MHz, 456.700 MHz, 456.750 MHz, 457.325 MHz, 457.375 MHz, 457.425 MHz, 457.475 MHz, 457.775 MHz, 457.825 MHz, 457.875 MHz, 462.475 MHz, 462.525 MHz, 467.475 MHz, and 467.525 MHz of paragraph (b)(3), and paragraphs (c)(80) and (c)(81).

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 22

RIN 1018-AB81

Eagle Transportation Permits for American Indians and Public Institutions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule revises the general eagle permit restrictions applicable to American Indians and public institutions. This final regulation provides for the issuance of eagle permits for transportation of lawfully possessed eagle parts into or out of the United States only when the eagle parts have a religious purpose, or when a public institution transports eagle parts for scientific or exhibition purposes. In these cases, we will require that the eagle parts be returned to the country of origin. We make this revision to address concerns expressed by American Indians and public institutions who have sought our permission to allow international travel of lawfully possessed eagle parts or items containing eagle parts. We have carefully considered the needs of science and education, the religious protections guaranteed by the United States Constitution, and the recommendations made by those responding to the proposed rule providing for Eagle Transportation Permits for American Indians and Public Institutions published Thursday, June 16, 1994 (**Federal Register** (59 FR 30892)).

EFFECTIVE DATE: This rule is effective September 17, 1999.

ADDRESSES: Comments received are available for public inspection between the hours of 8 a.m. and 4 p.m., Monday through Friday, in Room 500, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia 22203-3247, (703) 358-1949.

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

SUPPLEMENTARY INFORMATION:

Background

We, the U.S. Fish and Wildlife Service, will issue permits of limited duration and conditions to American Indians and public institutions for the transportation into or out of the United States of lawfully possessed dead bald eagles (*Haliaeetus leucocephalus*) or dead golden eagles (*Aquila Chrysaetos*), or their parts, nests, or dead eggs. The movement of dead eagles, their parts, nests, or dead eggs across the border of the United States without a permit will still be considered an import or export and will be unlawful. We will not issue a permit under this part that authorizes the transportation into or out of the United States of any live bald or golden eagles, or any live eggs of these birds. We will not issue permits for one of these live eagle species if any population of that species is listed as

endangered under the Endangered Species Act.

We have the authority and responsibility for enforcing the provisions of the Bald and Golden Eagle Protection Act (Eagle Act), 16 U.S.C. 668-668d, and related regulations in 50 CFR part 22. The Act prohibits certain activities including the import and export of bald or golden eagles on their parts, nests, or eggs. The Act also authorizes us to issue permits for otherwise prohibited activities, including transporting bald and golden eagles, or their parts, nests, or eggs.

Since the adoption of the Eagle Act, its amendments, and its regulations, we have received requests to allow the transportation of dead bald and golden eagles, their parts, nests, or dead eggs into or out of the United States for scientific or exhibition purposes or for religious use by American Indian tribes. There were, however, no provisions within our regulations to allow such activity and the scientific and educational community and the Indian tribes effectively were prevented from crossing international borders with such items. We recognize that this situation creates some problems both in the sharing of science and in the exercise of religious freedoms. We intend to allow American Indians meeting the certification requirements in § 22.22 and public scientific or educational institutions to transport into or out of the United States on a temporary basis dead bald and golden eagles, their parts, nests, or dead eggs. We do not intend this "transportation into or out of the United States" provision to apply to members of foreign aboriginal, indigenous, or other tribal groups. Those individuals are unable to meet the tribal certification requirements applying to a member of an Indian entity recognized and eligible to receive services from the United States Bureau of Indian Affairs listed pursuant to 25 U.S.C. 479a-1.

In changing the applicable regulations, we strive to eliminate unreasonable restrictions placed on the scientific community and American Indians while continuing to prevent any adverse effect on eagle populations. By allowing the transportation of dead bald and golden eagles, or their parts, nests, or dead eggs into or out of the United States, we believe that both of these goals can satisfactorily be met. Other rationales for these changes are: To update part 22 to reflect official title changes of our employees, to correct minor typographical errors, and to incorporate several changes suggested by respondents.

In §§ 22.1, 22.2, 22.11, 22.21, and 22.22, we add the term "transportation into or out of the United States" to existing wording to allow dead bald and golden eagles, or their parts, nests, or dead eggs to be moved across United States borders under strict guidelines. We will not issue a permit under this part that authorizes the transportation into or out of the United States of any live bald and golden eagles, or any live eggs of these birds. We modified § 22.3 to define "Transportation into or out of the United States," as well as §§ 22.21 and 22.22 to provide for the issuance of one permit to meet the requirements of several laws under our jurisdiction and to identify the offices responsible for permit application review. Sections 22.21 and 22.22 are further clarified to require a showing of lawful acquisition and possession prior to granting a permit to transport eagle parts outside the United States and, with respect to § 22.22, to impose time limits on permits for transportation of dead bald and golden eagles, or their nests, or dead eggs into or out of the United States. We correct typographical errors in §§ 22.11 and 22.12. In addition, we are modifying §§ 22.21, 22.22, 22.23, and 22.25 to direct permit applications and required reports to the appropriate Regional Director—Attention: Migratory Bird Permit Office. In § 22.11, we add wording to clarify that conditions included in a permit are enforceable as terms of a permit. Finally, we are revising § 22.22 to clarify certification requirements for members of Indian tribes and to delete paragraph (a)(6), which required a separate certification from an official of the individual's religious group. Although the latter change was not specifically addressed in the proposed rule, we do not view it as significant deviation from the proposed rule. The certification by a religious official is largely duplicative of the separate requirements of tribal membership certification and the individual's statement on the application form itself, under penalty of perjury, of the individual's religious need for the permit. We believe the sole effect of this change will be to reduce the administrative burden placed on individuals.

Summary of Comments and Information Received

We received six written comments to the proposed rule: One from a Confederation of Tribes; two from scientific associations; two from representatives of Federal government agencies; and one from a private citizen. We have carefully considered all comments received in response to the

June 16, 1994, **Federal Register** Notice proposing these changes to part 22.

General Comments and Responses

We received a number of suggestions for changes that we found suitable for inclusion in the regulations. Many of these suggestions were incorporated into this revision of the regulation and the discussions follow.

Comment

A representative of a scientific association expressed support of the proposed rule. This individual commended our efforts in authorizing permits to transport eagle specimens into or out of the United States for scientific and exhibition purposes. The person explained that natural history museums have reason to transport such materials in the ordinary course of their work when mounting exhibits or transacting loans with other institutions for scientific study. It was also noted that until now scientists could not transport exhibits when eagles or eagle parts were involved. It was noted that for the first time since adoption of the Eagle Act, it will be possible for public institutions to borrow specimens from institutions in other countries and to send abroad exhibits containing eagle parts for educational purposes.

Response

We support the contention that the changes to be made in the regulations are a positive development. We also appreciate the assurance that allowing the transportation of bald and golden eagle specimens into or out of the United States will serve the public interest without harming wildlife resources. We agree that this change is a positive response to what generally is recognized as a real need in the science and education fields. It is our intent, by permitting public institutions to make such transportation, to promote the sharing of information, specimens, and exhibits within the international community for educational and scientific purposes whenever possible without harming wildlife resources.

Comment

Several comments expressed concern that the Endangered Species Act (ESA), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the Migratory Bird Treaty Act (MBTA) have requirements affecting both bald and golden eagles. It was noted that we require qualified individuals wishing to transport bald or golden eagle parts into or out of the United States to obtain additional permits under regulations

implementing the ESA, MBTA, and CITES. It was also noted that we issue these different permits from separate offices. One suggestion was that a single office should issue all permits, and one permit meeting the requirements of all three Acts would simplify the process for the applicant and for us. Another suggestion was that any permit issued in this fashion should include language stating the requirements being met.

Response

We agree that having a single document meeting the requirements of the several laws benefits both the individual or public institution and us. We currently authorize a single permit under 50 CFR 13.1. In addition, under 50 CFR 21.2(b), we do not require part 21 permits for bald and golden eagles except for banding or marking. However, we will continue to require a part 21 permit if an artifact containing eagle feathers also contains feathers of a non-eagle species protected by the MBTA. This provision of part 21 is not changed in this final rule.

We are taking additional steps to simplify permitting requirements. We published a Special Rule under the Endangered Species Act for bald eagles in the July 12, 1995 **Federal Register** (60 FR 36000), in which we changed 50 CFR 17.41(a)(1). The final rule states that "any permit issued under § 21.22 or part 22, will be deemed to satisfy all requirements of § 17.31 (prohibitions) and 17.32 (permits) for that authorized activity and a second permit will not be required under § 17.32." In this final rule we amend § 22.21, for the purpose of uniformity, to acceptance issuance of a single permit application that satisfies permit requirements of the MBTA, the Eagle Act, CITES, and the ESA. However, issuance of a single permit may not always be possible. Applicants for permits to transport eagle parts into or out of the United States under the provisions of § 22.21, permits for scientific or exhibition purposes, must submit applications to the Office of Management Authority in order to comply with the relevant sections of part 23 and CITES, and they must demonstrate lawful possession. Since CITES requires that original permits be surrendered upon import, the CITES permit could not authorize possession. Possession requires a separate permit issued by the Migratory Bird Permit Office in a respective Regional Office that is retained by the applicant.

American Indians applying for permits for the transportation into or out of the United States under the Indian religious purposes section, 22.22, will submit a single application to the

appropriate Regional Director— Attention: Migratory Bird Permit Office, because applicants must initially be certified as meeting the enrolled tribal member criteria established in this section. The Migratory Bird permit office will then forward the application to the Office of Management Authority for issuance of a CITES permit. This single permit application must also contain all the necessary information for issuance of a CITES permit.

Comment

One comment from an individual representing the interests of a Confederation of Tribes noted that because their Tribes are near the border with Canada, families frequently must travel between the two countries to maintain tribal and family relationships with members living in Canada. The individual also noted that tribal members often will possess eagle parts when crossing the border. The individual suggested that we delegate permitting authority to possess and transport eagle parts, especially miscellaneous feathers, to the Tribes. This person was of the opinion that the proposed transport permit requirements and the Federal permit process are too cumbersome.

Response

We recognize that the process of obtaining permits can be a burden especially for those individuals unfamiliar with the procedures or the reasons why such procedures are necessary. Under 16 U.S.C. 668a, we may issue permits only “Whenever, after investigation, the Secretary of the Interior shall determine that it is compatible with the preservation of the bald eagle or the golden eagle * * *.” We must comply with the duties placed on us by the Eagle Act, and we have no plans to delegate our permitting responsibilities. However, we attempted to eliminate any unintended or unreasonable permit burden in this final rule.

Comment

One representative of a Federal agency suggested that the proposed regulation should consider repatriation of objects containing bald or golden eagle parts to Indian Tribes or lineal descendants as mandated by the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 *et seq.* The individual noted that although transportation of most repatriated items occurs within the United States, foreign museums or persons also send items containing bald

or golden eagle parts to the United States for repatriation.

Response

We acknowledge the concerns expressed by this individual. NAGPRA presents special circumstances that will ultimately have to be dealt with on a case by case basis; however, we expect this revision to reduce the problem of transporting items subject to the Eagle Act into the United States for repatriation under NAGPRA. One of the conditions of permits issued under this final rule authorizing transportation into the United States is that the permitted item or items do not change ownership. According to the statutory provisions found in 25 U.S.C. 3002, “funerary objects” subject to repatriation under NAGPRA are owned or controlled by the lineal descendants of a Native American or the Indian tribe. Using this definition, a “change of ownership” would not apply to these objects; therefore, the amendment could allow us to issue a permit authorizing transportation into the United States for religious purposes. Although incidents involving repatriation from outside the United States may be few, we intend to make every effort to assist in implementing NAGPRA rules that fall within our jurisdiction.

Comment

One individual noted several reasons for opposing the proposed revision of part 22. The first reason was that the Eagle Act prohibits the import or export of bald and golden eagles. The second reason was that the Eagle Act also explicitly prohibits the taking, possession, sale, purchase, barter, or transport of bald and golden eagles.

This individual also noted that because the Eagle Act prohibits transport and import or export, the latter two terms are not meant to be included within the meaning of “Transportation.”

Response

With respect to this individual’s concerns on the Eagle Act prohibiting import and export, we regard this assertion as correct as it pertains to “import” or “export.” We point out that the statutory authority in 16 U.S.C. 668a allows the Secretary of the Interior (Secretary) to issue permits for activities prohibited by the Eagle Act. This authority, delegated to us by the Secretary, provides for our oversight and enforcement and does not require Congressional administration of our day-to-day responsibilities. In making this change, we do not intend to include activities defined as “import” or “export” within the meaning of

“transport.” Our intent is to distinguish between import/export activities and “transport into or out of the United States” for very specific purposes as it applies to the Eagle Act. The intent of this change is to remove any unreasonable and unintended regulatory restrictions previously imposed upon American Indians and public institutions. By allowing transportation into or out of the United States on a restricted basis, we are ensuring that bald and golden eagle populations are not harmed and lawfully possessed eagle parts are utilized in ways consistent with the intent of the law.

Comment

The same individual also noted that the Act specifically authorizes “the taking, possession, and transportation of specimens * * * for scientific or exhibition purposes by public museums, scientific societies and zoological parks, or for the religious purposes of Indian tribes, * * *” but as the individual noted, nowhere is there any provision for permits or other relief from the specific prohibitions of import and export of bald and golden eagles or relevant specimens thereof.

This individual expressed the opinion that Congress specified the acts it intended to prohibit and those for which it intended to provide exceptions and believes Congress intended to prohibit import/export of eagles because those activities are not included within the specified exceptions. The individual also expressed the point of view that Congress did not intend “import” or “export” to be included within the meaning of the term “transportation,” nor did it intend to provide any exception for “import” or “export” either directly or within the context of the term “transport.” The individual asserted that, in regards to the Indian religious right to “import” or “export” eagles, Congress intended to abrogate any such Indian Treaty rights that may have existed.

Response

We do not agree with this person’s interpretation of the Act. The Act, as codified in 16 U.S.C. 668a, expressly authorizes the Secretary to issue permits for certain activities. One of the permitted activities is transportation for scientific or exhibition purposes; another is transportation for the religious purposes of Indian tribes. We interpret the term “transportation” to include the transportation of bald and golden eagles, or their parts, nests, or eggs within the United States or, under limited circumstances, the

transportation of dead bald and golden eagles, or their parts, nests, or dead eggs into and out of the United States on a temporary basis. As previously stated, we will not issue a permit under this part that authorizes the transportation into or out of the United States of any live bald or golden eagles or any live eggs of these birds. We also disagree with this individual's interpretation of the intent of Congress with respect to the Eagle Act. It is not our position that the terms "import" or "export," as used in the Eagle Act, are included in the term "transportation." Rather, it is our position that Congress intended "import" or "export," as used in the Act, to refer to activities of a permanent nature with a commercial component and that the Eagle Act allows the Secretary to permit the temporary and conditional transportation of eagle parts across national borders for activities covered by this proposal. Regardless of what rights may or may not have been abrogated by the Eagle Act, the transportation activities authorized in this final rule are not importations or exportations for the purposes of the Eagle Act.

Comment

The same individual additionally noted that the term "import," as defined in the ESA, is also applicable to restrictions on bald eagles. The ESA, as the individual noted, defines "import" as "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." Therefore, in this person's opinion, it was unreasonable to expect an individual to understand how actions proposed to be included within the term "transportation into or out of the United States" for purposes of the Eagle Act would be treated as "imports" or "exports" under other treaties, statutes, or regulations. The person further expressed the point of view that neither administrative agencies nor the courts are free to substitute their own standards for standards imposed by statute. Another characterization made by this person was that the proposed regulations fail to contain any provision to either detect or prevent circumvention of the law.

Response

We disagree with the conclusion that the definition of "import" as it appears in the ESA is applicable to the Eagle Act. To define terms applying to a law within the law itself or within the implementing regulations of that law is both reasonable and customary. We define the term "transport" and clarify

the definitions of "import" and "export" as they apply to the Eagle Act in the implementing regulations in 50 CFR 22.3. We strive to use regulatory terms in an invariable fashion; however, in certain cases it is necessary for the regulations to clarify terminology used within a specific statute. In the present case, we have chosen to define certain limited kinds of permitted transportation activities as transportation into or out of the United States. This is a special case where the use of a term has no application to any activity other than those specifically stated in the regulations of part 22. This distinction is necessary for the proper administration of the Eagle Act, in a manner consistent with the intent of Congress. We will make every effort to explain to permit applicants the impact that various statutes may have on a proposed activity and will seek to resolve any continuing confusion on the part of applicants when processing applications.

We believe the characterization of the changes made as a substitution of standards is inaccurate. The court system in the United States is founded on principles of judicial review and interpretation and, when necessary, the courts void laws in order to guarantee reasonableness and compliance with constitutional provisions. We believe that we share responsibility with the courts for ensuring that these laws are reasonably interpreted and constitutionally enforced. The changes to part 22 in this final rule are not a substitution of standards. The Eagle Act provides the authority to make changes in the way we administer eagle permits, and we seek to provide the reader with an interpretation and clarification of statutory and regulatory terminology. In making these changes we hope to prevent any abridgement of constitutional rights while continuing to provide for enforcement of the law within the standards and intent established by Congress.

We believe that we have adequate enforcement mechanisms in place to deter circumvention of the law and to ensure the return of eagle parts to the United States. In the case of transports, the permit conditions will require the permit holder to return the eagle parts to the country of origin. In addition, we may require submission of reports, inventories, or photographic records of items transported outside the United States in order to ensure those items' eventual return. Permit holders must comply with all permit conditions.

We believe that regulations have general application and do not only serve as a means of deterrence.

Regulations also serve to provide notice to law-abiding citizens of how to conform their activities to comply with the requirements of applicable law. It is primarily the responsibility of the individual to abide by the requirements of applicable law and the requirements of the agency charged with implementing the law. We believe that the changes made to these regulations will neither increase nor decrease the underlying difficulty of detecting or preventing wildlife violations. The proposed changes are important because they allow a segment of our society the ability to exercise their religious freedoms without undue infringement. Additionally, the ability for the scientific and educational communities to share specimens and exhibits is important to encourage the protection and enhancement of the species.

Comment

The individual raised another issue by saying that the proposed regulation will not satisfy the requirements of other relevant treaties and statutes and the laws of foreign countries. Examples of this are the requirements of the ESA, MBTA, and CITES. In the individual's opinion, this would create several kinds of "innocent violator" situations. The person suggests several hypothetical scenarios to illustrate this assertion. In the first scenario, an individual trying to comply with the law receives a "transportation" permit and is of the belief that he or she is in full compliance with the law. Later, however, the same individual encounters difficulties upon learning he or she has not complied with the requirements of other applicable laws. The second scenario concerns an individual who succeeds in obtaining a new "transportation" permit, but finds he or she does not qualify for one or more required permits. In the third scenario an individual possessing a permit authorizing possession and transportation of eagle specimens within the United States mistakenly assumes that he or she can lawfully export and/or re-export his or her specimen.

Response

We are sympathetic to the concerns of this individual, but we believe that these hypothetical situations illustrate worst case scenarios that this revision to part 22 protects against. The changes made to part 22 will have exactly the opposite effect. As described above, the changes made in 50 CFR 22.11 reiterate that we may issue one permit, when possible, that will meet the separate requirements of the applicable laws.

This fact will help prevent the problems suggested in the first two scenarios from arising.

Regarding the third scenario, we do not wish to penalize a good faith applicant who misunderstands what a permit authorizes. We seek to minimize the chance of error or misunderstanding in the permitting process; however, permit conditions are very explicit as to what activities they authorize, and we must hold applicants accountable for activity outside those allowed. This revision does not change our position on the necessary compliance with applicable foreign laws as it pertains to the third scenario. It will continue to remain the primary responsibility of the individual seeking to transport items outside the United States, or to return such items to the United States, to ensure that he or she is in compliance with all applicable foreign laws and the CITES requirements for exiting a foreign country, or entering additional foreign countries while abroad.

Comment

Finally, the individual suggested that instead of making changes in the regulations, we should request that Congress amend the Eagle Act, and further suggested that by inserting "import, export" between the words "possession," and "and transportation" in the first paragraph of 16 U.S.C. 668a, all questions of meaning would be resolved.

Response

We do not believe that such measures are necessary in order to correct the limitations in the existing regulations. We believe that Congress already has provided adequate authority to respond to the needs of American Indians and public institutions. We also believe the terms defined in 50 CFR 22.3 are compatible with 50 CFR 14.4 or those in other sections of Title 50. We have clarified the definitions in these regulations within the scope of this Act and in accordance with the intentions of Congress for enforcement of the Eagle Act.

Required Determinations

Executive Order 12866

This rule was not subject to Office of Management and Budget (OMB) review under Executive Order 12866. We conducted a review of economic impacts and determined that the rule affects about 11,000 public zoological and scientific societies, public museums, and Native Americans who have permits under part 22. As commercial trade in eagles and eagle

parts is illegal, there is no related commercial activity. The rule will not induce any new economic transactions. The ability to transport eagle parts across borders will generate benefits by permitting activities to occur without regard to political boundaries. Native American religious rites may be held at the appropriate places, and zoos and museums may be able to reach new audiences. These efficiency benefits will improve the welfare of the individual but will not be reflected in measures of economic activity.

Regulatory Flexibility Act—5 U.S.C. 601 et seq.

The Department of the Interior (Department) has determined that this final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This revision will have a beneficial effect upon small entities for the reasons stated above and by simplifying general permit procedures.

Small Business Enforcement Fairness Act—5 U.S.C.

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

Paperwork Reduction Act of 1995—44 U.S.C. 3507(d)

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the U.S. Fish and Wildlife Service has, in the past, received approval for this collection of information using form 3-200 with approval number 1018-0022. This information is used to determine whether or not the applicant is qualified to take, possess, or transport bald and golden eagles, or their parts, nests, or eggs. The likely respondents to this collection of information are public zoological or scientific societies, public museums, and American Indians for religious purposes. The information is needed by us to determine whether an applicant meets the criteria established in this part and in part 13 of this subchapter B, allowing for the taking, possession, and transportation, of bald and golden eagles, or their parts, nests, or eggs. The annual burden of reporting and recordkeeping is estimated to be two hours or less per response. The estimated number of likely respondents is less than 2,600, yielding a total current annual reporting and recordkeeping burden of 5,200 hours or less.

Executive Order 12988, NEPA, and Endangered Species Consideration

The Department has determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988. These changes in the regulations in part 22 are regulatory and enforcement actions encompassed in a categorical exclusion from National Environmental Policy Act procedures under section 516 of the Department Manual. An Environmental Action Memorandum is on file in the U.S. Fish and Wildlife Service office in Arlington, Virginia. A determination has been made pursuant to section 7 of the Endangered Species Act that the revision of part 22 will not adversely affect federally-listed species.

Unfunded Mandates Reform Act—2 U.S.C. 1531 et seq.

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Executive Order 12630

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule does not alter the ownership rights associated with eagles and their parts.

Executive Order 12612

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Effective Date of Rule

This rule relieves current restrictions on Native Americans and qualifying public institutions and has no impact on wild populations of eagles. Accordingly, as provided by 5 U.S.C. 553(d) we have determined that the rule become effective immediately upon publication in the **Federal Register**.

List of Subjects in 50 CFR Part 22

Exports, Imports, Reporting and recordkeeping requirements, Transportation, and Wildlife.

Regulation Promulgation

For reasons explained in the preamble, Title 50, Chapter I, subchapter B, of the Code of Federal Regulations is amended as follows:

PART 22—[AMENDED]

1. The authority citation for part 22 is revised to read as follows:

Authority: 16 U.S.C. 668a; 16 U.S.C. 703-712; 16 U.S.C. 1531-1544.

2. Revise § 22.1 to read as follows:

§ 22.1 What is the purpose of this part?

This part controls the taking, possession, and transportation within the United States of bald and golden eagles for scientific, educational, and depredation control purposes and for the religious purposes of American Indian tribes. This part also governs the transportation into or out of the United States of bald and golden eagle parts for scientific, educational, and Indian religious purposes. The import, export, purchase, sale, trade, or barter of bald and golden eagles, or their parts, nests, or eggs is prohibited.

3. Amend § 22.2 by revising the heading and paragraph (a) to read as follows:

§ 22.2 What activities does this part apply to?

(a)(1) You can possess or transport within the United States, without a Federal permit:

(i) Any live or dead bald eagles, or their parts, nests, or eggs that were lawfully acquired before June 8, 1940; and

(ii) Any live or dead golden eagles, or their parts, nests, or eggs that were lawfully acquired before October 24, 1962.

(2) You may not transport into or out of the United States, import, export, purchase, sell, trade, barter, or offer for purchase, sale, trade, or barter bald or golden eagles, or their parts, nests, or eggs of these lawfully acquired pre-act birds. However, you may transport into or out of the United States any lawfully acquired dead bald or golden eagles, their parts, nests, or dead eagles, if you acquire a permit issued under § 22.22 of this part.

(3) No exemption from any statute or regulation will apply to any offspring of these pre-act birds.

(4) You must mark all shipments containing bald or golden eagles, alive or dead, their parts, nests, or eggs as directed in § 14.81 of this subchapter. The markings must contain the name and address of the person the shipment is going to, the name and address of the person the shipment is coming from, an accurate list of contents by species, and the number of each species.

* * * * *

4. Amend § 22.3 by revising the heading and adding in alphabetical order definitions for “ export,”

“import,” and “transportation into and out of the United States” to read as follows:

§ 22.3 What definitions do you need to know?

* * * * *

Export for the purpose of this part does not include the transportation of any dead bald or golden eagles, or their parts, nests, or dead eggs out of the United States when accompanied with a valid transportation permit.

* * * * *

Import for the purpose of this part does not include the transportation of any dead bald or golden eagles, or their parts, nests, or dead eggs into the United States when accompanied with a valid transportation permit.

* * * * *

Transportation into or out of the United States for the purpose of this part means that the permitted item or items transported into or out of the United States do not change ownership at any time, they are not transferred from one person to another in the pursuit of gain or profit, and they are transported into or out of the United States for Indian religious purposes, or for scientific or exhibition purposes under the conditions and during the time period specified on a transportation permit for the items.

5. Revise § 22.11 to read as follows:

§ 22.11 What is the relationship to other permit requirements?

You may not take, possess, or transport any bald eagle (*Haliaeetus leucocephalus*) or any golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of such birds, except as allowed by a valid permit issued under this part, part 13, and/or § 21.22 of this subchapter, or authorized under a depredation order issued under subpart D of this part. We will accept a single application for a permit under this part and any other parts of this subchapter B if it includes all of the information required for an application under each applicable part.

(a) You do not need a permit under parts 17 and 21 of this subchapter B for any activity permitted under this part 22 with respect to bald or golden eagles or their parts, nests, or eggs.

(b) You must obtain a permit under part 21 of this subchapter for any activity that also involves migratory birds other than bald and golden eagles, and a permit under part 17 of this subchapter for any activity that also involves threatened or endangered species other than the bald eagle.

(c) If you are transporting dead bald or golden eagles, or their parts, nests, or

dead eggs into or out of the United States, you will also need a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) permit under part 23 of this subchapter.

6. Revise § 22.12 to read as follows:

§ 22.12 What activities are illegal?

(a) You may not sell, purchase, barter, trade, import, or export, or offer for sale, purchase, barter, or trade, at any time or in any manner, any bald eagle (*Haliaeetus leucocephalus*), or any golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of these birds, and we will not issue a permit to authorize these acts.

(b) You may not transport into or out of the United States any *live* bald or golden eagle, or any *live* egg of those birds, and we will not issue a permit to authorize these acts.

7. Amend § 22.21 as follows:

a. By revising the heading and the introductory text,

b. By redesignating paragraphs (a)(1) through (a)(6) as (a)(3)(i) through (a)(3)(vi),

c. By revising paragraphs (a) introductory text, (b), and paragraph (c) introductory text, and

d. By adding paragraphs (a)(1), (a)(2), and (a)(3) introductory text, to read as follows:

§ 22.21 What are the requirements concerning scientific and exhibition purpose permits?

We may, under the provisions of this Section, issue a permit authorizing the taking, possession, transportation within the United States, or transportation into or out of the United States of lawfully possessed bald eagles or golden eagles, or their parts, nests, or eggs for the scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks. We will not issue a permit under this section that authorizes the transportation into or out of the United States of any live bald or golden eagles, or any live eggs of these birds.

(a) *How do I apply if I want a permit for scientific and exhibition purposes?*

(1) You must submit applications for permits to take, possess, or transport within the United States lawfully acquired live or dead bald or golden eagles, or their parts, nests, or live or dead eggs for scientific or exhibition purposes to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the Regional Directors in 50 CFR 2.2.

(2) If you want a permit to *transport into or out of the United States* any lawfully acquired dead bald or golden

eagles or their parts, nests, or dead eggs for scientific or exhibition purposes, you must submit your application to the Office of Management Authority. Your application must contain all the information necessary for the issuance of a CITES permit. You must also comply with all the requirements in part 23 of this subchapter before international travel. Mail should be addressed to: Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, VA, 22203.

(3) Your application for any permit under this section must also contain the information required under this section, § 13.12(a) of this subchapter, and the following information:

* * * * *

(b) *What are the conditions?* In addition to the general conditions in part 13 of this subchapter B, permits to take, possess, transport within the United States, or transport into or out of the United States bald or golden eagles, or their parts, nests, or eggs for scientific or exhibition purposes, are also subject to the following condition: In addition to any reporting requirement specifically noted in the permit, you must submit a report of activities conducted under the permit to the Regional Director—Attention: Migratory Bird Permit Office, within 30 days after the permit expires.

(c) *How do we evaluate your application for a permit?* We will conduct an investigation and will only issue a permit to take, possess, transport within the United States, or transport into or out of the United States bald or golden eagles, or their parts, nests, or eggs for scientific or exhibition purposes when we determine that the taking, possession, or transportation is compatible with the preservation of the bald eagle and golden eagle. In making this determination, we will consider, among other criteria, the following:

* * * * *

8. Amend § 22.22 as follows:
 - a. By removing paragraph (a)(6).
 - b. Revising the heading, the introductory text to the section, paragraph (a) introductory text, paragraph (a)(5), paragraph (b) introductory text, paragraph (b)(2), paragraph (c) introductory text, and paragraph (d) to read as follows:

§ 22.22 What are the requirements concerning permits for Indian religious purposes?

We will issue a permit only to members of Indian entities recognized and eligible to receive services from the United States Bureau of Indian Affairs listed under 25 U.S.C. 479a-1 engaged

in religious activities who satisfy all the issuance criteria of this section. We may, under the provisions of this section, issue a permit authorizing the taking, possession, and transportation within the United States, or transportation into or out of the United States of lawfully acquired bald eagles or golden eagles, or their parts, nests, or eggs for Indian religious use. We will not issue a permit under this section that authorizes the transportation into or out of the United States of any *live* bald or golden eagles, or any *live* eggs of these birds.

(a) *How do I apply if I want a permit for Indian religious purposes?* You must submit applications for permits to take, possess, transport within the United States, or transport into or out of the United States lawfully acquired bald or golden eagles, or their parts, nests, or eggs for Indian religious use to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in 50 CFR 2.2. If you are applying for a permit to *transport into or out of the United States*, your application must contain all the information necessary for the issuance of a CITES permit. You must comply with all the requirements in part 23 of this subchapter before international travel. Your application for any permit under this section must also contain the information required under this section, § 13.12(a) of this subchapter, and the following information:

* * * * *

(5) You must attach a certification of enrollment in an Indian tribe that is federally recognized under the Federally Recognized Tribal List Act of 1994, 25 U.S.C. 479a-1, 108 Stat. 4791 (1994). The certificate must be signed by the tribal official who is authorized to certify that an individual is a duly enrolled member of that tribe, and must include the official title of that certifying official.

(b) *What are the permit conditions?* In addition to the general conditions in part 13 of this subchapter B, permits to take, possess, transport within the United States, or transport into or out of the United States bald or golden eagles, or their parts, nests or eggs for Indian religious use are subject to the following conditions:

- (1) * * * * *
- (2) You must submit reports or inventories, including photographs, of eagle feathers or parts on hand as requested by the issuing office.
- (c) *How do we evaluate your application for a permit?* We will

conduct an investigation and will only issue a permit to take, possess, transport within the United States, or transport into or out of the United States bald or golden eagles, or their parts, nests or eggs, for Indian religious use when we determine that the taking, possession, or transportation is compatible with the preservation of the bald and golden eagle. In making a determination, we will consider, among other criteria, the following:

* * * * *

(d) *How long are the permits valid?* We are authorized to amend, suspend, or revoke any permit that is issued under this section (see §§ 13.23, 13.27, and 13.28 of this subchapter).

(1) A permit issued to you that authorizes you to take bald or golden eagles will be valid during the period specified on the face of the permit, but will not be longer than 1 year from the date it is issued.

(2) A permit issued to you that authorizes you to transport and possess bald or golden eagles or their parts, nests, or eggs within the United States will be valid for your lifetime.

(3) A permit authorizing you to transport dead bald eagles or golden eagles, or their parts, nests, or dead eggs into or out of the United States can be used for multiple trips to or from the United States, but no trip can be longer than 180 days. The permit will be valid during the period specified on the face of the permit, not to exceed 3 years from the date it is issued.

9. Amend § 22.23 by revising the heading, paragraph (a) introductory text, the heading of paragraph (b), and paragraph (b)(4) to read as follows:

§ 22.23 What are the requirements for permits to take depredating eagles?

* * * * *

(a) *How do I apply for a permit?* You must submit applications for permits to take depredating bald or golden eagles to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in 50 CFR 2.2. Your application must contain the information and certification required by § 13.12(a) of this subchapter, and the following additional information:

* * * * *

(b) *What are the permit conditions?*

* * *

(4) In addition to any reporting requirement on a permit, you must submit a report of activities conducted under the permit to the appropriate Regional Director—Attention: Migratory

Bird Permit Office within 10 days following completion of the taking operations or the expiration of the permit, whichever occurs first.

* * * * *

10. Amend § 22.25 by revising the heading and paragraph (a) introductory text to read as follows:

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

* * * * *

(a) *How do I apply for a permit to take golden eagle nests?* You must submit applications for permits to take golden eagle nests to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in 50 CFR 2.2. We will only accept applications if you are engaged in a resource development or recovery operation, including the planning and permitting stages of an operation. Your application must contain the general information and certification required by § 13.12(a) of this chapter plus the following additional information:

* * * * *

Dated: June 11, 1999.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99-24282 Filed 9-16-99; 8:45 am]

BILLING CODE 4316-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062-9062-01; I.D. 091099B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Statistical Area 620 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment to open directed fishing for pollock within the C fishing season in Statistical Area 620 of the Gulf of Alaska (GOA). This adjustment is necessary to manage the C seasonal allowance of the pollock total allowable catch (TAC).

DATES: Directed fishing for pollock in Statistical Area 620 will be open at 1200 hrs, A.I.t., September 14, 1999.

Comments must be received at the following address no later than 4:30 p.m., A.I.t., September 29, 1999.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS issued an inseason adjustment effective September 1, 1999, limiting the initial opening of the C season fishery in Statistical Area 620 to 24 hours in accordance with § 679.25(a)(1)(i) (64 FR 48329, September 3, 1999).

NMFS also extended the C fishing season by inseason adjustment to delay the start of the D fishing season until the agency had determined whether sufficient amounts of the C season allowance remained unharvested to allow another opening within the C fishing season prior to the harvest of the pollock authorized for the D season. NMFS has determined that 7,565 metric tons (mt) of pollock remain in the C seasonal allowance of the pollock TAC in Statistical Area 620 of the GOA.

NMFS has determined that the C seasonal allowance of pollock has not been taken and is terminating the previous C fishing season directed fishing closure in Statistical Area 620.

In accordance with § 679.25(a)(2)(iii), NMFS has determined that opening directed fishing in the C fishing season at 1200 hrs, A.I.t., September 14, 1999, is the least restrictive management adjustment to achieve the C seasonal allowance of the pollock TAC. Pursuant to § 679.25(b)(2), NMFS has considered data regarding catch per unit effort and rate of harvest in making this adjustment.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public

comment or delaying the effective date of this action is impracticable and contrary to the public interest. Without this inseason adjustment, the C seasonal allowance of the pollock TAC in Statistical Area 620 of the GOA would not be harvested in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the preceding address until September 29, 1999.

This action is required by §§ 679.20 and 679.25 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 14, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99-24284 Filed 9-14-99; 3:20 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062-9062-01; I.D. 091099A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Statistical Area 630 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment to open directed fishing for pollock within the C fishing season in Statistical Area 630 of the Gulf of Alaska (GOA). This adjustment is necessary to manage the C seasonal allowance of the pollock total allowable catch (TAC).

DATES: Directed fishing for pollock in Statistical Area 630 will be open at 1200 hrs, A.I.t., September 14, 1999.

Comments must be received at the following address no later than 4:30 p.m., A.I.t., September 29, 1999.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.