

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 21**

RIN 1018-AF93

Migratory Bird Permits; Determination That the State of Delaware Meets Federal Falconry Standards and Amended List of States Meeting Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds the State of Delaware to the list of States whose falconry laws meet or exceed Federal falconry standards. This action enables residents of the State of Delaware to apply for a Federal/State falconry permit and to practice falconry in that State. This rule also amends the list of States that participate in the cooperative Federal/State permit system by adding Delaware and Vermont. The State of Vermont has recently begun to participate in the cooperative program.

DATES: This rule is effective August 14, 2000.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, telephone 703/358-1714.

SUPPLEMENTARY INFORMATION: On April 14, 2000, we published a proposed rule in the *Federal Register* (65 FR 20125) proposing to add the State of Delaware to the list of States whose falconry laws meet or exceed Federal falconry standards. We also proposed to amend the list of States that participate in the cooperative Federal/State permit system by adding Delaware and Vermont.

Regulations in 50 CFR part 21 provide for review and approval of State falconry laws by the Fish and Wildlife Service. A list of States that allow the practice of falconry and whose falconry laws are approved by the Service is found in 50 CFR 21.29(k). As provided in 50 CFR 21.29 (a) and (c), the Director has reviewed certified copies of the falconry regulations adopted by the State of Delaware and has determined that they meet or exceed Federal falconry standards. Federal falconry standards contained in 50 CFR 21.29 (d) through (i) include permit requirements,

classes of permits, examination procedures, facilities and equipment standards, raptor marking, and raptor taking restrictions. Delaware regulations also meet or exceed all restrictions or conditions found in 50 CFR 21.29(j), which includes requirements on the number, species, acquisition, and marking of raptors. Therefore, this rule adds the State of Delaware under § 21.29(k) as a State that meets Federal falconry standards. Inclusion of Delaware in this list eliminates the previous restriction that prohibited falconry within that State. The practice of falconry is now authorized in those States.

We are publishing the entire list of States that have met the Federal falconry standards, including the State of Delaware. We believe that publishing this list in its entirety will eliminate any confusion concerning which States have approval for falconry and further indicate which States participate in a cooperative Federal/State permit system program. We are adding asterisks to both Delaware and Vermont to identify them as participants in the cooperative permit program as explained below.

We are making this rule effective immediately. The Administrative Procedure Act (5 U.S.C. 553(d)(1)) allows us to do so because this final rule relieves a restriction that prohibited the State of Delaware from allowing the practice of falconry.

Why Is This Rulemaking Needed?

The need for these changes to 50 CFR 21.29(k) arose from the expressed desire of the State of Delaware to institute a falconry program for the benefit of citizens interested in the sport of falconry and to participate in a cooperative Federal/State permit system. Accordingly, the State has promulgated regulations that meet or exceed Federal requirements protecting migratory birds. These changes to 50 CFR 21.29(k) were necessary to allow, by inclusion of Delaware within the listing of authorized falconry States, persons in the State of Delaware to practice falconry. This rule also identifies the State of Vermont as a participant in a cooperative Federal/State permit system following that State's addition to the list of approved falconry States on September 7, 1999 (64 FR 48565).

Did Anyone Comment on the Proposed Rule?

We received two comments on the proposed rule. One comment was from a private individual and the other was from the Director, Division of Fish and Wildlife, Department of Natural

Resources and Environmental Control, State of Delaware. Both supported the proposed action.

NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)), and the Council on Environmental Quality's regulations for implementing NEPA (40 CFR parts 1500-1508), the Service prepared an Environmental Assessment (EA) in July 1988 to support establishment of simpler, less restrictive regulations governing the use of most raptors. This EA is available to the public at the location indicated under the **ADDRESSES** caption. Based on review and evaluation of the proposed rule to amend 50 CFR 21.29(k) by adding Delaware to the list of States whose falconry laws meet or exceed Federal falconry standards, and Delaware and Vermont as participants in the cooperative application program, we have determined that the issuance of this final rule is categorically excluded from NEPA documentation under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1.10.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531, *et seq.*), provides that, "The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] shall "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *". Our review pursuant to section 7 concluded that this action is not likely to adversely affect listed species. A copy of this determination is available by contacting us at the address indicated under the **ADDRESSES** caption.

Other Required Determinations

This rule was not subject to the Office of Management and Budget (OMB) review under Executive Order 12866. The Department of the Interior has determined that this rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act; it will not have an annual effect on the economy of \$100 million or more, will

not cause a major increase in costs or prices, and will not adversely affect competition, employment, investment, productivity, or innovation.

We estimate that 20 individuals would obtain falconry permits as a result of this rule, and many of the expenditures of those permittees would accrue to small businesses. The maximum number of birds allowed by a falconer is 3, so the maximum number of birds likely to be possessed is 60. Some birds would be taken from the wild, but captive-bred raptors could be purchased. Using one of the more expensive birds, the northern goshawk, as an estimate, the cost to procure a single bird is less than \$5,000, which, with an upper limit of 60 birds, translates into \$300,000. Expenditures for building facilities would be less than \$32,000 for 60 birds, and for care and feeding less than \$60,000. These expenditures, totaling less than \$400,000, represent an upper limit of potential economic impact from the addition of Delaware to the list of approved States.

This rule has no potential takings implications for private property as defined in Executive Order 12630. The only effect of this rule on the constituent community is to allow falconers in the State of Delaware to apply for falconry permits. We estimate that no more than 20 people would apply for falconry permits in Delaware. This rule contains information collection requirements that are approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection is covered by an existing OMB approval for licenses/permit applications, number 1018-0022. For further details concerning the information collection approval, see 50 CFR 21.4.

We have determined, and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The rule does not have significant Federalism effects pursuant to Executive Order 13132. We also have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988 for civil justice reform, and that the rule does not unduly burden the judicial system.

Regarding Government-to-Government relationships with Tribes, this rulemaking will have no effect on federally recognized Tribes. There are no federally recognized Tribes in the State of Delaware. Furthermore, the revisions to the regulations are of a

purely administrative nature affecting no Tribal trust resources.

List of Subjects in 50 CFR Part 21

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

Regulation Promulgation

For the reasons described in the preamble, part 21, subchapter B, chapter 29 of title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 21—MIGRATORY BIRD PERMITS

1. The authority citation for part 21 continues to read as follows:

Authority: Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712(2)).

2. Amend § 21.29 by revising paragraph (k) as follows:

§ 21.29 Federal falconry standards.

* * * * *

(k) *States meeting Federal falconry standards.* We have determined that the following States meet or exceed the minimum Federal falconry standards established in this section for regulating the taking, possession, and transportation of raptors for the purpose of falconry. The States that are participants in a cooperative Federal/State permit system are designated by an asterisk (*).

*Alabama, *Alaska, Arizona, *Arkansas, *California, *Colorado, *Delaware, *Florida, *Georgia, *Idaho, *Illinois, *Indiana, *Iowa, *Kansas, *Kentucky, *Louisiana, Maine, Maryland, Massachusetts, *Michigan, *Minnesota, *Mississippi, Missouri, *Montana, *Nebraska, *Nevada, *New Hampshire, *New Jersey, New Mexico, New York, *North Carolina, *North Dakota, *Ohio, Oklahoma, *Oregon, Pennsylvania, Rhode Island, *South Carolina, *South Dakota, *Tennessee, Texas, Utah, *Vermont, *Virginia, *Washington, West Virginia, *Wisconsin, *Wyoming.

Dated: July 14, 2000.

Stephen C. Saunders,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

[I.D. 062700B]

Whaling Provisions: Aboriginal Subsistence Whaling Quotas

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

ACTION: Notice of aboriginal subsistence whaling quota.

SUMMARY: NMFS announces the aboriginal subsistence whaling quota for bowhead whales, and other limitations deriving from regulations adopted at the 1997 Annual Meeting of the International Whaling Commission (IWC). For 2000, the quota is 75 bowhead whales struck. This quota and other limitations will govern the harvest of bowhead whales by members of the Alaska Eskimo Whaling Commission (AEWC).

DATES: Effective August 14, 2000.

ADDRESSES: Office of Protected Resources, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Cathy Campbell, (202) 482-2652.

SUPPLEMENTARY INFORMATION: Aboriginal subsistence whaling in the United States is governed by the Whaling Convention Act (16 U.S.C. 916 *et seq.*), which requires the Secretary of Commerce (Secretary) to publish, at least annually, aboriginal subsistence whaling quotas and any other limitations on aboriginal subsistence whaling deriving from regulations of the IWC.

At the 1997 Annual Meeting of the IWC, the Commission set quotas for aboriginal subsistence use of bowhead whales from the Bering-Chukchi-Beaufort Seas stock. The bowhead quota was based on a joint request by the United States and the Russian Federation, accompanied by documentation concerning the needs of 2 Native groups, Alaska Eskimos and Chukotka Natives in the Russian Far East.

This action by the IWC thus authorized aboriginal subsistence whaling by the AEWC for bowhead whales. This aboriginal subsistence harvest is conducted in accordance with a cooperative agreement between NOAA and the AEWC.

The IWC set a 5-year block quota of 280 bowhead whales landed. For each