

Washington, DC, as well as in the informational docket locations in New Mexico. A letter of approval will allow DOE to ship transuranic waste from Hanford to the WIPP. The EPA will not make a determination of compliance prior to the inspection or before the 30-day comment period has closed.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A-93-02 and is available for review in Washington, DC, and at three EPA WIPP informational docket locations in New Mexico. The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: August 28, 2003.

**Jeffrey R. Holmstead,**

*Assistant Administrator for Air and Radiation.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Parts 13 and 21

RIN 1018-A164

#### Migratory Bird Permits; Eiderdown From Iceland

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

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (we or us) proposes changes in the regulations governing the import into the United States of parts of protected migratory birds. We propose to specify the requirements for importing down of nesting common eiders that breed in Iceland and list the procedures required to harvest, import, possess, and manufacture finished eiderdown products. We are requesting comments on information collection associated with the proposed rule.

**DATES:** Comments on this proposed rule will be accepted through December 4, 2003 to the address below.

Comments on the information collection aspects of this proposed rule will be considered if received by November 4, 2003. The Office of Management and Budget (OMB) has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, your

comments should be received by OMB by October 6, 2003.

**ADDRESSES:** You may mail or deliver written comments on this proposal to: RIN 1018-A164, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, MS MBSP 4107, Arlington, Virginia 22203-1610. Alternatively, you may submit your comments via the Internet: [eiderdown@fws.gov](mailto:eiderdown@fws.gov).

You may submit comments on the information collection aspects of the proposed rule to the Desk Officer for the Department of Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile or e-mail using the following fax number and e-mail address: 202/395-6566 (fax);

[OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov) (e-mail). Please provide a copy of your comments to the Fish and Wildlife Service's Information Collection Clearance Officer, 4401 North Fairfax Drive, MS 222 ARLSQ, Arlington, Virginia 22203; 703/358-2269 (fax); or

[Anissa\\_Craghead@fws.gov](mailto:Anissa_Craghead@fws.gov) (e-mail).

In your written comments to the Division of Migratory Bird Management, please reference "RIN 1018-A164" at the top of your letter. Include your name and return address. Anonymous comments will not be accepted. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Include your name and return address in your e-mail message. If you do not receive a confirmation that we have received your message, contact us directly at 703/358-1714.

The complete file for this proposed rule, including electronic and written comments received, will be available for public inspection by appointment, during normal business hours at the Division of Migratory Bird Management address listed above. You may call 703/358-1714 to make an appointment to view the files.

**FOR FURTHER INFORMATION CONTACT:** Brian Millsap, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703/358-1714.

#### SUPPLEMENTARY INFORMATION:

##### Background

The U.S. Fish and Wildlife Service is the Federal agency with the primary responsibility for managing migratory birds. We propose changes in the regulations governing the import into the United States of parts of protected migratory birds. We propose to specify the requirements for importing down of nesting common eiders that breed in Iceland and list the procedures required

to harvest, import, possess, and manufacture finished eiderdown products. Our authority is based on the Migratory Bird Treaty Act of 1918 (MBTA) (16 U.S.C. 703 *et seq.*), which implements conventions with Great Britain (for Canada), the United Mexican States (=Mexico), Japan, and the Soviet Union (=Russia). Sea ducks including the common eider are afforded Federal protection by the Convention for the Protection of Migratory Birds and Game Animals, February 7, 1936, United States—Mexico; the Convention Between the United States of America and the Union of Soviet Socialist Republics [=Russia] Concerning the Conservation of Migratory Birds and Their Environment, November 26, 1976; and the Protocol Amending the 1916 Convention for the Protection of Migratory Birds, August 2, 1996.

The MBTA requires that any regulations authorizing activities otherwise prohibited by 16 U.S.C. 703 are "[s]ubject to the provisions and in order to carry out the purposes of the conventions." 16 U.S.C. 704. This rule is consistent with each of the applicable treaties. Most importantly, this rule is consistent with the conservation intent of the treaties, as it builds in sufficient safeguards to ensure that the activities it allows will not have a negative impact on the conservation of common eiders or other birds protected by the conventions. It is also consistent with the expressed intent of the parties that migratory birds be conserved, in part, to allow their economic utilization. *See* Canada treaty, Article II ("migratory bird populations shall be managed \* \* \* [t]o ensure a variety of sustainable uses."); Mexico treaty, Article I (migratory birds shall be protected so as to "permit, in so far as the \* \* \* parties may see fit, the utilization of such birds rationally for purposes of sport, food, commerce, and industry"); Japan treaty ("Considering that birds constitute a natural resource of great value for \* \* \* economic purposes, and that this value can be increased with proper management"); Russia treaty ("Considering that migratory birds are a natural resource of great \* \* \* economic \* \* \* value and that this value can be increased under proper management"). This rule is likewise consistent with the particular operative language of each of the conventions.

First, the treaty with Canada (as amended by the 1995 Protocol) prohibits, with some exceptions not relevant here, the sale of "migratory birds, their nests, or eggs." Article II, para. 2. However, this prohibition does

not apply to parts of migratory birds, such as down. The only requirement under the treaty with Canada applicable to parts is the marking requirement of Article VI. See also Article II, para. 4(a)(i) (indicating down may be sold without restriction, in contrast to birds and eggs taken by Aboriginal peoples of Canada, which may be sold only within and between Aboriginal communities). Moreover, the only prohibition in the treaty with Canada that relates to import is the prohibition on unlawfully taken birds and eggs, not applicable here. See Article VI.

Second, the treaty with Mexico (as amended by the 1997 Protocol) prohibits the sale of products or parts of migratory birds during the close[d] season, and mandates a particular close[d] season for wild ducks (which include common eiders). Article II, paras. A and D. However, exceptions to this prohibition include "when proceeding, with appropriate authorization, from private game farms." The Icelandic eider farms are "private game farms" within the meaning of this provision. There are no applicable restrictions on import of the eider down, as long as it does not enter the United States via Mexico. See Article III.

Third, the treaty with Russia prohibits the sale or importation of the parts or products of protected birds, but allows exceptions to these prohibitions by law or regulation for any "specific purposes not inconsistent with the principles of this Convention." Article II, para. 1(a). As discussed above, this rule is consistent with the principles of all the treaties, and therefore falls within this broad exception.

Finally, the treaty with Japan, unlike the other three treaties, does not apply to the common eider. See Annex to the treaty.

Federal regulations prohibit the commercial use of feathers from migratory birds to prevent the large-scale take of protected birds for profit and to insure the future viability of those species. Under the Act's implementing regulations found in Title 50, Code of Federal Regulations, migratory birds or their parts, nests, or eggs may not be imported or sold except as permitted under the terms of a valid permit issued pursuant to the provisions of Parts 13, 17, 20, and 21. Current regulations, specifically Sections 20.61 (importation limits), 20.91 (commercial use of feathers), 21.21 (import and export permits), and 21.25 (waterfowl sale and disposal permits) of 50 CFR do not allow the importation of eiderdown. The only migratory bird feathers that can be sold are those taken from

waterfowl that have been legally hunted (Section 20.91) or are captive bred (Section 21.25). The feathers from legally hunted birds can only be fashioned into fishing flies, bed pillows, and mattresses or used for similar commercial items. Feathers may not be used for millinery or ornamental purposes. Captive-bred waterfowl that are properly marked may be sold, but because the feathers of wild-reared common eiders in Iceland cannot meet this marking requirement, individual feathers cannot be sold under current regulations.

The wild, breeding common eider in Iceland is unique among the hundreds of MBTA-protected migratory birds. The hen of the common eider produces a breast down that has exceptional insulating qualities and is naturally shed during nesting to insulate the eggs and hatchlings. While other down from geese (*Anser* and other genera) and ducks (*Anas* genus) may be sold as "eiderdown," only the down from the common eider is true eiderdown. Common eiders in Iceland have been afforded special protection since 1847 when hunting of this species in Iceland was banned. Icelanders have used eiderdown for over 11 centuries and have exported it since the 14th century. From May to July, Icelanders most frequently collect down twice, initially during the midpoint of incubation when birds are still on the nest, and following hatching after nestlings have left. Some farmers will only make one late-season acquisition, while others make multiple collections. Collectors take great care to avoid disturbing brooding hens, replacing down removed from the nest (15–20 g/nest) with dry grass or hay. Recent studies conducted by the Icelandic Museum of Natural History show no evidence that down collection has a negative impact on the eiders or on their ability to reproduce successfully. Iceland eider farmers actively control resident MBTA-protected birds, including native predatory birds (e.g., black-backed gulls and ravens), native non-predatory birds (e.g., common puffins), and nonresident mammalian predators (e.g., Arctic foxes and mink) by lethal and nonlethal means during the nesting season.

Before raw down is exported from Iceland, it is cleaned to remove extraneous materials such as moss, grass, and soil. The raw down is then heated (processed) for at least 8 hours at minimum sustained temperatures of 100 °C to kill any ectoparasites and diseases that may be carried by the feathers.

Two other species of eider in the genus *Somateria* are the king eider (*S.*

*spectabilis*) and the spectacled eider (*S. fischeri*). The status of the king eider is essentially unknown, although periodic and limited spring migration counts suggest declines in bird numbers since 1976. Spectacled eiders are in severe decline and are listed as threatened under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), as are the more distantly related Steller's eiders (*Polysticta stelleri*). The common eider is the only eider species known to occur in Iceland. Of the four eider species in the Northern Hemisphere, only the common eider in Iceland has experienced a long-term population increase likely due in part to a ban on hunting, improvements in eider nesting habitat, and predator control. Populations of common eider are variable throughout their range, which includes Northern Europe, Northern Russia, Alaska, Northern Canada, Greenland, and Iceland, but have declined in areas where hunting is allowed (e.g., Spitsbergen and Siberia). The Circumpolar Eider Conservation Strategy and Action Plan, adopted by the Arctic Council in 1997, recognizes that an international approach is needed to manage eiders and endorses development of down harvesting as a sustainable use of eiders.

Icelanders have practiced "eider farming" for centuries. Although birds are not captive, they have developed a mutualistic association with humans. All nesting colonies are located on private lands. Some 650 colonies are currently registered with the Icelandic Ministry of the Environment. Landowners maintain legal rights to collect down from eider nests. Icelandic law allows landowners to have their eider nesting grounds declared "legally protected" during the breeding season from April 15 to July 14, which gives farmers the right to deny public access to nest sites and prohibit any shooting within 1.6 miles of nesting colony boundaries or prohibit any net fishing within 0.16 miles of the colony.

True eiderdown from the common eider is a scarce luxury item, with annual worldwide production averaging less than 3 metric tons, at a total annual average price of less than \$2.2 million (U.S.). Iceland currently exports eiderdown primarily to Denmark, Germany, and Japan where it may be re-exported elsewhere. The high cost and limited quantity of true eiderdown may be an incentive for false labeling of eiderdown which may actually have been acquired from another waterfowl species. The eiderdown may also have been obtained using unsustainable methods outside of Iceland. Large populations of common eider are found

in Russia, where they are not farmed, but declines have been documented in Siberia due to over-hunting.

#### Eiderdown Import Permit Fee

The general statutory authority to charge fees for applications for permits and certificates is found in 31 U.S.C. 9701, which states that services provided by Federal agencies are to be "self-sustaining to the extent possible." Federal user fee policy, as stated in Office of Management and Budget Circular No. A-25, requires Federal agencies to recoup the costs of "special services" that provide benefits to identifiable recipients. Permits are special services, authorizing identifiable recipients to engage in activities not otherwise authorized for the general public.

We propose to amend 50 CFR 13.11(d), the nonstandard fee schedule, to charge a \$100 application processing fee (user fee) for an eiderdown import permit. For migratory bird permits, these fees are reallocated to the seven Service Regional Offices where all the permit processing work is done to offset the cost of processing applications.

In addition to workload-related cost, the Service considered several other factors in developing the new permit application fee schedule for import of eiderdown in accordance with 31 U.S.C. 9701, which states that changes for services provided by the Government shall be based on (1) the costs to the Government; (2) the value of the service or thing to the recipient; (3) public policy or interest served; and (4) other relevant factors. Thus, the Service took into consideration such factors as whether the permit serves the public interest, and whether the type of permit to be issued typically provides a commercial benefit, either directly or indirectly, to the recipient. Eiderdown is generally used for commercial purposes. The Service therefore feels this fee is appropriate for a commercial use. While the Service's proposed \$100 fee will more closely conform to the Federal user fee policy by recovering a greater proportion of the direct and indirect costs of providing special services than is currently being required, this proposed permit fee allowing importation of eiderdown from Iceland is not great enough to recover the full cost of administering this permit. Administration costs include research and analysis, policy development, consultation, outreach, publication of notices in the **Federal Register**, and overall management of this permit. Remaining costs not captured through permit application fees must be met with money

appropriated for base funding of Service programs.

#### Additions to the Regulations Governing Import and Export

We have written the new regulation in plain language. We seek comment on this proposed regulation, particularly the following issues:

1. Appropriate down collection procedures, verification standards, and enforcement procedures;
2. Measures to ensure that exportation of down from Iceland does not encourage illegal importation of any other waterfowl species into the United States;
3. Record-keeping and annual reporting requirements;
4. Avian control of MBTA-protected species;
5. Reasonableness of the permit conditions; and
6. Reasonableness of the permit application fee.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. Under limited circumstances, as allowable by law, we can withhold from the rulemaking record a respondent's identity. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from individuals and organizations or businesses, and from individuals identifying themselves as representing an organization or business, available for public inspection in their entirety.

#### Endangered Species Act Considerations

Section 7(a)(2) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531, *et seq.*), requires all Federal agencies to "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." The Division of Endangered Species concurs that this proposed rule will have "no effect" on endangered species pursuant to section 7 of the ESA.

#### Required Determinations

*Regulatory Planning and Review.* In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action.

a. This rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis are not required. Currently less than 3 metric tons of Icelandic eiderdown are exported annually, primarily to Denmark, Germany, and Japan, for a total annual sale that does not exceed \$2.2 million (U.S.) on average. If a U.S. market is opened, very little eiderdown will likely be imported resulting in virtually no effect on the economy, productivity, jobs, the environment, or government.

b. This rule will not create inconsistencies with other agencies' actions. The rule deals solely with importation of Icelandic eiderdown into the United States. No other Federal agency has any role in regulating bird feather importation.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. There are no entitlements, grants, user fees, or loan programs associated with the regulation of eiderdown importation.

d. This rule will not raise novel legal or policy issues. This rule is primarily an amendment to and plain language rewrite of the existing regulations. Provisions to import Icelandic eiderdown proposed in the rule are in compliance with other laws, policies, and regulations.

*Regulatory Flexibility Act.* This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Currently less than 3 metric tons of Icelandic eiderdown are exported annually, primarily to Denmark, Germany, and Japan, for a total annual sale that does not exceed \$2.2 million (U.S.) on average. If a U.S. market is opened, very little eiderdown will likely be imported resulting in virtually no effect on the economy, productivity, jobs, the environment, or government. An initial Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. There is a very limited supply of Icelandic eiderdown available each year. We anticipate that very few individuals and/or entities will request import permits to acquire some of this down.

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

a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

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

a. This rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is not required. Enforcement of the MBTA is solely the responsibility of the Federal Government.

b. This rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act. It will not produce a Federal mandate of \$100 million or greater in any year.

*Takings.* This rule has no potential takings implications for private property as defined in Executive Order 12630. This rule will not significantly affect private property.

*Federalism.* In accordance with Executive Order 13132, the rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment. This rule will not interfere with the States’ ability to manage themselves or their funds.

*Civil Justice Reform.* In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act and Information Collection.* This proposed rule includes many new information collection requirements, including a completed eiderdown import permit application, written preconditions, certification of inspection, labeling requirements, recordkeeping requirements, and reporting.

Simultaneous with the publication of this proposed rule, we have submitted an application for information collection approval to OMB. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), information collections must be approved by OMB. Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This proposed rule would institute new information collection burden hours, as described below. We will notify the public of OMB’s response

to our application in the final rule for this regulation.

We intend to collect information associated with the importation of Icelandic eiderdown from those U.S. citizens and U.S. companies that are granted an Icelandic eiderdown import permit, from representatives of the Government of Iceland (GOI), and from representatives of the Icelandic Eider Farmers’ Association.

Because it is difficult to identify the species of eider from which down is collected, and because it is difficult if not impossible to identify the source and type of down used in finished products, the requirements for information collection are key to monitoring common eider population stability, eiderdown harvest, down availability, down export from Iceland, government-certified collection procedures, possible down laundering, and possible false labeling. With less than 3 metric tons on average of eiderdown annually harvested from common eiders in Iceland, information collection will help track continuing harvests, alerting the U.S. Fish and Wildlife Service’s (Service) Office of Law Enforcement and the Service’s Division of Migratory Bird Management to possible problems including alleged violations of the Migratory Bird Treaty Act. Without this information collection, it would not be possible to assess population stability and down harvest sustainability.

Information collections associated with this proposed rule are found in sections 21.33 (a) and (c) (completing an eiderdown import permit application), 21.33(b) (preconditions required of the GOI), 21.33(e)(2) (certification of inspection by a GOI inspector), 21.33(e)(3) (labeling requirements), and 21.33(e)(5) and (6) (recordkeeping requirements).

The breakdown of the information collection burden for U.S. citizens is as follows: We estimate that 21.33(a) and (c) will have 25 annual respondents with 25 total annual burden hours valued at \$750; we estimate that 21.33(e)(5) and (6) will have 25 annual respondents with 25 total burden hours valued at \$750. Overall, we estimate that a total of 25 U.S. respondents will annually submit a total of 50 responses to the recordkeeping and reporting requirements associated with the importation of Icelandic eiderdown. We estimate that the average wage of U.S. citizens and representatives of U.S. companies importing eiderdown is \$30 per hour, and we estimate that each response will require an average of 1 hour to complete, for a total 50 hours per year valued at \$1,500 for all of the

information collection and recordkeeping requirements in this proposed rule for U.S. citizens and U.S. companies.

For GOI and members of the Icelandic Eider Farmers’ Association, many of the information collection requirements in this proposed rule are already standard business practice for exporting eiderdown from Iceland to countries other than the United States. Certain additional burden hours for these entities would be newly required by the proposed rule, however, and they are described below.

We estimate that 21.33(b)(3) will require the following information collection burden for GOI: The GOI will need an average of 25 hours per year to locate, photocopy, maintain records, and mail copies of all the veterinary certificates related to export of eiderdown to the United States; 25 hours to locate, photocopy, maintain records, and mail copies of all labeling certificates related to eiderdown export to the United States; 100 hours to visit randomly selected eider colonies to verify that preconditions are being met; 1 hour to locate, photocopy, maintain records, and mail information regarding preconditions to exporting eiderdown; and 1 hour to locate, photocopy, maintain records, and mail information for annual reporting, including information on the amounts of eiderdown exported to countries other than the United States. This amounts to a total of 152 hours per year for GOI to comply with the information collection requirements associated with the export of eiderdown to the United States and to other countries. We estimate that the average wage of GOI officials collecting the information is \$30 per hour (U.S.), and thus, the dollar value of the total annual hour burden is \$4,560.

We estimate that 21.33(b)(3)(v) and (e)(3) will require the following information collection burden for representatives of the Icelandic Eider Farmers’ Association: 50 representatives of the Eider Farmers’ Association will each need 1 hour to photocopy and mail records regarding the processing and export of eiderdown to GOI. This amounts to a total of 50 hours per year for Icelandic eider farmers to comply with the information collection requirements associated with the export of eiderdown to the United States. We estimate that the average wage of eider farmers collecting the information is \$30 per hour (U.S.), and thus, the dollar value of the total annual hour burden is \$1,500.

OMB regulations at 5 CFR part 1320 require that interested members of the public and affected agencies have an

opportunity to comment on information collection and recordkeeping activities. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden of the information collection; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the information collection on respondents; and (5) the appropriateness of the application fee. See the **DATES** and **ADDRESSES** sections of this document for information on submitting your comments on this information collection.

*National Environmental Policy Act.* We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment, and does not require an environmental assessment.

*Government-to-Government Relationship with Tribes.* In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects.

*Energy Supply, Distribution or Use (Executive Order 13211).* On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and No Statement of Energy Effects is required.

*Clarity of Regulations.* Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements of the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the

description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any written comments about how we could make this rule easier to understand to: Office of Executive Secretariat and Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240. You may also e-mail comments to this address: *Exsec@ios.doi.gov*.

**List of Subjects in 50 CFR Part 21**

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

For the reasons stated in the preamble, we propose to amend parts 13 and 21, chapter I, title 50 of the Code of Federal Regulations, as follows.

**PART 13—[AMENDED]**

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

**Authority:** 16 U.S.C. 668a, 704, 712, 742j-1, 1382, 1538(d), 1539, 1540(f), 3374, 4901-4916; 18 U.S.C. 42; 19 U.S.C. 1202; E.O. 11911, 41 FR 15683; 31 U.S.C. 9701.

2. Amend § 13.11(d)(4) by adding the following entry to the end of the table, to read as follows:

**§ 13.11 Application procedures.**

\* \* \* \* \*  
(d) \* \* \*  
(4) *Nonstandard fees.*

Type of permit	Fee
* * * * *	*
Import permit for eiderdown from Iceland (§21.33) .....	\$100

3. Amend § 13.12(b) by adding to the table the following entry in numerical order under "Migratory bird permits" to read as follows:

**§ 13.12 General information requirements on applications for permits.**

\* \* \* \* \*  
(b) \* \* \*

Type of permit	Section
* * * * *	*
Migratory bird permits:	*
Importing eiderdown from Iceland	21.33

**PART 21—[AMENDED]**

4. 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)); Pub. L. 106-108.

5. Add § 21.33 to subpart C to read as follows:

**§ 21.33 Import and sale of Icelandic eiderdown.**

(a) *What must I do to import processed Icelandic eiderdown into the United States?* To import processed Icelandic eiderdown into the United States, you must have an eiderdown import permit issued pursuant to this part. We will issue permits for the importation of Icelandic eiderdown lawfully collected, processed, and exported by members of the Icelandic Eider Farmers' Association (most Icelandic farmers who harvest down are members of this cooperative) or their assigns, from the common eider sea duck (*Somateria mollissima borealis*) nesting in Iceland, in accordance with the provisions of this part. Because it is difficult if not impossible to identify the source and type of down used in finished products, such products are prohibited from importation.

(b) *What are the preconditions for an import permit?* The Director may permit the import of Icelandic eiderdown provided the Government of Iceland (GOI) documents, in writing and in English, satisfaction of the following preconditions:

(1) That Icelandic eiderdown is collected by sustainable means. This includes collection procedures and periods, the collection process, the quantity of down to be taken from each nest, and verification standards.

(2) That only sustainably harvested down from Iceland is being exported to the United States.

(3) At the end of each calendar year, that:

(i) The common eider population continues to be stable (If we cannot verify population sustainability, then we will not issue permits for the import of Icelandic eiderdown);

(ii) No measures are being taken to kill or injure Migratory Bird Treaty Act-protected (MBTA) species (e.g., ravens, black-backed gulls, and common puffins);

(iii) Down is not being treated with DDT or other similar compounds banned in the United States;

(iv) Hunting of common eiders continues to be banned nationwide; and

(v) The complete annual export records contain the exact weight, shipment dates, and Icelandic shipment and permit numbers of all eiderdown.

(c) *How do I apply for a permit?* Anyone wishing to import processed Icelandic eiderdown collected and prepared under the laws and regulations

of the GOI may apply for an import permit. Upon satisfaction of the Director that the preconditions of paragraph (b) of this section have been met, we will accept an application for import of Icelandic eiderdown. You must submit your completed application to the Regional Director—Attention Migratory Bird Permit Office in the Region where your business is headquartered, or, for private individuals, where you live (see § 2.2 of this chapter for the Regional boundaries and addresses).

(1) Each application must contain the information required under § 13.12(a) of this subchapter.

(2) Each applicant must sign the following certification statement: “I hereby certify that, to the best of my knowledge, the eiderdown I import under the authorization of this permit was collected and exported according to the conditions for the importation of Icelandic eiderdown as set forth in 50 CFR 21.33(b).” We will not issue a permit under this section without this signed certification statement.

(3) You must submit a check or money order made payable to the “U.S. Fish and Wildlife Service” in the amount of the application fee for permits issued under this section listed in § 13.11(d) of this subchapter.

(d) *What are the permit provisions?* A permit issued under this section authorizes the holder to import, possess, transport, sell, or dispose of processed Icelandic eiderdown collected from the common eider sea duck (*Somateria mollissima borealis*) for commercial or personal purposes.

(1) We will not issue a permit for these purposes unless the applicant certifies that the feathers were gathered according to the protocol detailed in paragraph (b) of this section by signing the certification provided in paragraph (c)(2) of this section. In addition, each shipment of eiderdown to a U.S. company or individual must include an Icelandic eiderdown export permit and an import permit issued by the Service.

(2) To acquire a permit application, contact the Migratory Bird Permit Office in the Region where your business is headquartered, or, for private individuals, where you live (see § 2.2 of this chapter for Regional boundaries and addresses, or go to the Internet at <http://permits.fws.gov/mbpermits/birdbasics.html>, then click on Regional Bird Permit Offices, for the address).

(3) You may, without a permit, sell in interstate commerce lawfully imported processed eiderdown in either raw processed form or that has been fashioned into finished products produced from down.

(e) *What are the permit conditions and importation regulations?*

(1) *Collection.* All eiderdown imported under this permit must be collected and exported from Iceland according to the “sustainable harvest” conditions set forth in paragraph (b) of this section.

(2) *Certification.* Eiderdown imported under this section must be accompanied by a certification of inspection and weight by legally appointed Icelandic down inspectors as specified by *Instructions for Eiderdown Inspectors* (Icelandic Ministry of Agriculture, 10 March 1972) and by *Iceland’s Law on Quality Inspection of Eiderdown* (NR 39, p. 310, 11 May 1970).

(3) *Shipping and labeling.* All eiderdown imported from Iceland must be packaged in transparent shipping bags. Every bag must be sealed and labeled with the guarantee, “Grade One Icelandic Common Eiderdown,” and in addition must include the package weight of each down-filled bag. That weight must be marked on the label as specified on the “Inspector’s Weighing and Quality Certificate” currently utilized by the GOI. A signed, original “Veterinary Certificate,” which certifies that the down is disease free, must be attached to each packing bag. Each shipment of imported eiderdown must include an Icelandic eiderdown export permit and a copy of your import permit issued by a USFWS Regional Migratory Bird Permit Office. Import permits may be used for multiple shipments of eiderdown and are issued on a calendar year-to-year basis.

(4) *Commercial export prohibition.* You may not export from the United States for commercial purposes any raw eiderdown imported under this permit. You may not export from the United States for commercial purposes any finished product containing the eiderdown.

(5) *Recordkeeping.* You must maintain complete and accurate records of all eiderdown that you import, including the date received, disposition, date of disposition, and copies of the permits and certificates included with each shipment from the GOI. You must retain these records for 5 years following the end of the calendar year covered by the records.

(6) *Annual report.* You must submit a completed Form 3–202-xx by January 31 of each year for the preceding year to your issuing Migratory Bird Permit Program Office.

(7) *Term of permit.* We will issue permits under this section on a calendar year-to-year basis.

(f) *Does this rule contain information collection requirements?*

Yes. The OMB control number for the information collection associated with these regulations (50 CFR Parts 13 and 21) is 1018–XXXX. A federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: August 21, 2003.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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**BILLING CODE 4310–55–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 030821210–3210–01; I.D.081103A]

RIN 0648–AR36

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16–1

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 16–1 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 16–1 would set a process for and standards by which the Council will specify rebuilding plans for groundfish stocks declared overfished by the Secretary of Commerce. Amendment 16–1 is intended to ensure that Pacific Coast groundfish overfished species rebuilding plans meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), in particular National Standard 1 on overfishing and § 304(e), which addresses rebuilding overfished fisheries. Amendment 16–1 is also intended to partially respond to a court order in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act.

**DATES:** Comments must be submitted in writing by October 6, 2003.

**ADDRESSES:** Comments on Amendment 16–1 or supporting documents should be sent to D. Robert Lohn, Administrator, Northwest Region,