

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Chapter I**

RIN 1018-AJ24

**Humane and Healthful Transport of Wild Mammals and Birds to the United States****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Advance notice of proposed rulemaking and request for comments.

**SUMMARY:** We are proposing to update and amend the standards for the humane and healthful transport of wild mammals and birds to the United States. To determine how to proceed, we are asking the public for comments and input on whether the current regulations are up to date and adequate. We are also seeking comments for the best process to address necessary changes to the requirements in the Code of Federal Regulations that provide standards for the humane and healthful transport of wild mammals and birds to the United States. This will allow us to further meet our responsibilities under the Lacey Act Amendments of 1981 and our obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The current standards for transport of mammals and birds now available are in accordance with the accepted international requirements as described in the International Air Transport Association's (IATA) Live Animal Regulations (LAR) published in October 1993 (20th edition). This edition is now 12 years old and several updates of the IATA Live Animal Regulations have been published since publication of that edition. Many mammals and birds are protected by CITES and it is a recommendation that all species listed under CITES be transported using the current IATA LAR. We expect that if we promulgate amendments to the standards for humane and healthful transport of wild mammals and birds to the United States, these amendments will be consistent with the most current IATA LAR at the time of the final rule, and, therefore, be current with the industry standards for ensuring the humane and healthful shipment of live mammals and birds. Finally, it has come to our attention that IATA LAR requirements may not always agree with those of the international ground transport industry, such as those of the Animal Transport Association (ATA). We are interested in public comments on this issue as well.

**DATES:** We will consider comments and information received by December 15, 2005 in developing a proposed rule.

**ADDRESSES:** U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to the above address or fax comments to 703-358-2298. You may also send comments via electronic mail to [HUMANETRANSPORT@FWS.GOV](mailto:HUMANETRANSPORT@FWS.GOV). If you submit comments via e-mail, please be aware that we have been subject to periodic internet and e-mail shutdowns. If you chose to e-mail your comments, please check our Web site at [www.fws.gov](http://www.fws.gov) first. If the website is not functional, any e-mail you send may not reach us and you will need to fax or mail your comments to us. Finally, you may hand-deliver comments to the above address.

**FOR FURTHER INFORMATION CONTACT:** Andrea Gaski, Chief, Branch of Operations, Division of Management Authority, U.S. Fish and Wildlife Service; telephone (703) 358-2095, fax (703) 358-2298.

**SUPPLEMENTARY INFORMATION:** Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please include "Attn: [RIN number, 1018-AJ24]" and your name and U.S. post office return mailing address in your Internet message and correspondence and categorize yourself as follows:

1. International organization;
2. Government;
3. Non-government conservation organization;
4. Humane or animal welfare organization;
5. Wildlife/pet business;
6. Other business;
7. Private citizen.

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. There also may be limited circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this clearly at the beginning of your comments, but we will not consider anonymous comments. We generally make all submissions from

organizations or businesses, or from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

We believe that there are several reasons why the current regulations that set standards for the humane and healthful transportation for wild mammals and birds to the United States should be amended.

First, the current regulations provide specific guidelines to the shipping community on proper packing and transport techniques and requirements. These regulations allow us to determine when shippers are not transporting animals under humane or healthful conditions. While the current regulations provide some detail on shipping certain types of mammals, as well as general shipping guidelines, greater detail is required to address the specific needs of individual species. Amending and improving our current standards, which are based on the 1993 IATA LAR, will specify greater detail on proper packing and transport techniques and requirements, and will help us to continue to ensure that these animals are transported in a humane and healthful manner. Furthermore, the current regulations describe only general requirements regarding the shipment of birds, while the 31st edition of the IATA LAR is more specific for particular bird and mammal species.

Second, the regulations need to be updated to make them consistent with the most recent edition of the IATA LAR. Many mammals and birds are protected under CITES. It is a requirement of CITES that all listed species must be packed and transported according to the IATA LAR guidelines. This includes all imports for all CITES-listed species. Humane transport of CITES-listed species is required by the text of CITES and explained in greater detail in Resolution Conf 10.21 (Transport of Live Animals), which was adopted by the CITES Parties at the Tenth Conference of the Parties (COP), in Harare, Zimbabwe, June, 1997. But although IATA LAR are cited and referred to in the current regulations, their reference is to the 20th edition of the IATA LAR. In the past 12 years new methods and materials have been developed to improve transportation of animals, and to reduce shipping mortality and simplify processes. The IATA LAR is updated every year, and CITES recommends that shippers and carriers follow the requirements in the current edition of the IATA LAR. We will likely base any proposed amended

regulations on the 32nd or 33rd edition of the IATA LAR.

Third, IATA lists and names species differently from the way CITES lists and names species in the Appendices to the Convention. This may cause confusion and misunderstanding; IATA uses a combination of common English and scientific names, but CITES sometimes uses only the scientific name. If we amend current regulations, we will use both the common and scientific name of species whenever possible, although we intend to use just the common name when referring to groups of animals, such as "bears" or "parrots." This practice will make amended regulations similar to the 31st edition of the IATA LAR. In addition, many shippers transport CITES-listed and non-CITES-listed species on the same flights, and the IATA LAR refers to both CITES-listed and non-CITES-listed species. Therefore, it is important to provide common names to assist those individuals who may not be familiar with scientific names, even though we recognize that common names can refer to different species of animals.

Fourth, although the IATA LAR provide guidelines for air transport and can be used as guidelines for non-air transport (*i.e.* transport by road, rail, or sea), there are recommendations available from other sources (*e.g.* AATA) that specifically address the transport of species by road, rail or sea. Additionally, the CITES Parties are considering the addition of requirements specific for ground transportation of wildlife and we plan to propose amendments to our regulations based on those recommendations to standardize international ground shipping practices. Therefore, we are soliciting recommendations from the public and other interested parties regarding ground transportation recommendations for various types of animal groups.

As a result, we plan to change the regulations in 50 CFR Part 14, subpart J, in several ways.

First, we plan to propose to include more specific requirements such as number of animals per container, for the general transport of mammals and birds. In shipments where these numbers have been exceeded, our wildlife inspectors would have an objective and consistent method to determine whether the shipment was humane and healthful. The current regulations do not provide any detail in this regard. Also, while the current regulations specify that terminal facilities must have an effective program for the control of insects, ectoparasites and pests of mammals and birds, we propose to include specific methods to

be used by terminal facilities to control insect pests.

Second, we plan to propose changes to 50 CFR Part 14, subpart J, by adding new sections and expanding existing regulations that enact requirements concerned with the transport of particular taxa of mammals and birds. Since these regulations were last published in 1992, several changes have been made in the IATA LAR specifying different shipping arrangements for various species of mammals and birds. We plan to propose changes based upon the 32nd or 33rd edition of the IATA LAR for the transport of mammals and birds. In the IATA LAR 20th edition, for example, several small carnivores (genets, olingos, grison, and fаланouc) are included in the crate requirements for large gnawing rodents and marsupials. In the IATA LAR 31st edition, these same species have been included in the container requirements for animals more similar in behavior and form.

Third, we plan to propose changing the language and format of the old regulations to clear and plain language with an easier to follow outline format.

Finally, in order to be current with CITES transportation recommendations, we propose to add regulations specifically pertaining to international ground transportation of wildlife to the United States. The CITES Transport Working Group (TWG) is developing such guidelines and we will likely propose international ground transportation regulations that largely mirror those adopted by the CITES Parties. We also seek input on the spectrum of potential ground transport issues, particularly species or taxa-specific ones, and will consider that input during our revisions.

Other changes to the regulations will be based on comments and suggestions that we receive from the public.

#### Author

The author of this advance notice of proposed rulemaking is the staff of the Division of Management Authority (see **FOR FURTHER INFORMATION CONTACT** section).

**Authority:** The authority for this advance notice of proposed rulemaking is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 19, 2005.

**Marshall Jones,**

*Acting Director.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-A180

#### Endangered and Threatened Wildlife and Plants; Proposed Establishment of a Nonessential Experimental Population of Northern Aplomado Falcons in Southern New Mexico and Arizona

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

**ACTION:** Proposed rule; reopening of public comment period, notice of public hearings, and notice of availability of draft monitoring plan.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposed rule to establish, under section 10(j) of the Endangered Species Act of 1973, as amended (Act), an experimental population of northern aplomado falcons (*Falco femoralis septentrionalis*) into their historic habitat in southern New Mexico and Arizona. We are providing this notice to allow all interested parties to comment on the proposed reintroduction and the draft environmental assessment (notice of which published in the **Federal Register** on February 9, 2005). We are also announcing the availability of a draft monitoring plan for the reintroduction of the northern aplomado falcon for public comment. We will hold two public hearings (see **DATES** and **ADDRESSES** sections).

Through this notice and the public hearings, we are seeking comments or suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry, or any other interested parties concerning the proposed experimental population and draft monitoring plan. **DATES:** Comments must be submitted directly to the Service (see **ADDRESSES** section) on or before November 15, 2005, or at any of the public hearings to be held in October 2005. Any comments received after the closing date may not be considered in the final determination on the proposal.

We will hold two public hearings at the following dates and times:

1. October 11, 2005: Las Cruces, NM. Informal question and answer session: 6 p.m. Public hearing: 7 p.m.–8:45 p.m.
2. October 13, 2005: Albuquerque, NM. Informal question and answer session: 6 p.m. Public hearing: 7 p.m.–8:45 p.m.

**ADDRESSES:**