

(2) The Arms Export Control Act of 1976 (22 U.S.C. 2751 *et seq.*);

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701–1707);

(4) The Export Administration Regulations (15 CFR Parts 730–774);

(5) The International Traffic in Arms Regulations (22 CFR Parts 120–130);

(6) Executive Order 13222, as extended;

(7) DoD Directive 2040.2, International Transfers of Technology, Goods, Services, and Munitions; and

(8) DoD Industrial Security Regulation (DoD 5220.22–R).

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that are expected to involve access to or generation of export-controlled items.

(End of clause)

252.204–7009 Requirements regarding potential access to export-controlled items.

As prescribed in 204.7305(b), use the following clause:

Requirements Regarding Potential Access to Export-Controlled Items (Jul 2008)

(a) *Definition.* *Export-controlled items*, as used in this clause, means items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730–774) or the International Traffic in Arms Regulations (22 CFR Parts 120–130). The term includes:

(1) *Defense items*, defined in the Arms Export Control Act, 22 U.S.C. 2778(j)(4)(A), as defense articles, defense services, and related technical data. The term “defense items” includes information and technology.

(2) *Items*, defined in the EAR as “commodities, software, and technology,” terms that are also defined in the EAR, 15 CFR 772.1. Regarding the release of items subject to the EAR to foreign nationals within the United States, “items” only include technology and software source code (and not commodities) subject to the EAR.

(b) The parties do not anticipate that, in the performance of this contract, the Contractor will generate or need access to export-controlled items.

(c) If, during the performance of this contract, the Contractor becomes aware that the Contractor will generate or need access to export-controlled items—

(1) The Contractor shall notify the Contracting Officer in writing; and

(2) The Contracting Officer will expeditiously—

(i) Modify the contract to include the Defense Federal Acquisition Regulation Supplement clause 252.204–7008, Requirements for Contracts Involving Export-Controlled Items;

(ii) Negotiate a contract modification that eliminates the requirement for performance of work that would involve export-controlled items; or

(iii) Terminate the contract, in whole or in part, as may be appropriate, for the convenience of the Government, in accordance with the Termination clause of the contract.

(End of clause)

252.235–7002, 252.235–7003, 252.235–7010, and 252.235–7011 [Amended]

■ 6. Sections 252.235–7002, 252.235–7003, 252.235–7010, and 252.235–7011 are amended in the introductory text by removing “235.071” and adding in its place “235.072”.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 13

RIN 1018–AV63

Migratory Bird Permits; Addresses for Applications for Eagle and Migratory Bird Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We correct omissions in our list of addresses the public can use to submit permit applications to conduct activities with migratory birds or with bald eagles or golden eagles.

DATES: This rule is effective on July 21, 2008.

FOR FURTHER INFORMATION CONTACT: Dr. George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

We are the Federal agency delegated the primary responsibility for managing migratory birds, as authorized by the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia).

We correct omissions of States, territories, and possessions in 50 CFR 13.11(b)(5), in which we have listed addresses for the public to use to submit permit applications to conduct activities with migratory birds or with bald eagles or golden eagles.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today’s rule final without prior proposal and opportunity

for comment because we are merely making administrative corrections to omissions in the lists of States, territories, and possessions we include in our regulations with our addresses for the public to use to request or submit permit applications for activities with bald or golden eagles or migratory birds. Further, it is in the public’s best interest to have access to these corrected lists as soon as possible. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today’s action does not create any new regulatory requirements, we find that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3).

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in E.O. 12866, this rule is not a significant regulatory action. The Office of Management and Budget makes the final determination of significance under E.O. 12866.

a. This rule does not have an annual economic effect of \$100 million or more, or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis thus is not required. There are no costs associated with this rule.

b. This rule does not create inconsistencies with other agencies’ actions. The rule deals solely with governance of migratory bird permitting in the United States. No other Federal agency has any role in regulating activities with migratory birds.

c. This rule does 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 migratory birds.

d. This rule does not raise novel legal or policy issues. The regulations change is in compliance with other laws, policies, and regulations.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e.,

small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule does not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule does not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act, and have determined that this action does not have a significant economic impact on a substantial number of small entities, because the changes simplify/clarify application addresses for the public.

There are no costs associated with this regulations change. Consequently, we certify that because this rule does not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This rule is not a major rule under SBREFA (5 U.S.C. 804(2)). It does not have a significant impact on a substantial number of small entities.

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

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

c. This rule 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.*), we have determined the following:

a. This rule does not "significantly or uniquely" affect small governments. A small government agency plan is not required. This rule does not affect small government activities in any significant way.

b. This rule does not produce a Federal mandate of \$100 million or greater in any year; i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Takings

In accordance with E.O. 12630, the rule does not have significant takings implications because it does not contain a provision for taking of private

property. Therefore, a takings implication assessment is not required.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under E.O. 13132. It does not interfere with the States' ability to manage their programs or their funds. No significant economic impacts will result from correcting the listings of Migratory Bird Permits offices and the areas for which they are responsible.

Civil Justice Reform

In accordance with E.O. 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). There are no new information collection requirements associated with this rule. We may not collect or sponsor, nor is a person required to respond to a collection of information unless it displays a currently valid Office of Management and Budget control number.

National Environmental Policy Act

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432–437(f), and Part 516 of the U.S. Department of the Interior Manual (516 DM). This regulations change correcting the listing of States, territories, and possessions does not have any environmental impact.

Environmental Consequences of the Action

Socioeconomic. This rule does not have any socioeconomic impacts.

Migratory bird populations. This rule does not affect migratory bird populations.

Endangered and threatened species. The regulation is administrative, and does not affect threatened or endangered species or critical habitats.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that "The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter" (16 U.S.C. 1536(a)(1)). It further states that the Secretary must

"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" (16 U.S.C. 1536(a)(2)). The regulations change does not affect listed species in any way.

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), E.O. 13175, and 512 DM 2, we have determined that there are no potential effects of this rule on Federally recognized Indian Tribes. This rule does not interfere with the Tribes' ability to manage themselves or their funds, or to regulate migratory bird activities on Tribal lands.

Energy Supply, Distribution, or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 addressing regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This regulations change is not a significant regulatory action under E.O. 12866, and does not affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Author

The author of this rulemaking is Dr. George T. Allen, U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4401 North Fairfax Drive, Mail Stop 4107, Arlington, VA 22203–1610.

List of Subjects in 50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

■ For the reasons stated in the preamble, we amend part 13 of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as follows.

PART 13—GENERAL PERMIT PROCEDURES

■ 1. The authority for Part 13 continues to read as follows:

Authority: 16 U.S.C. 668a, 704, 712, 742j–1, 1374(g), 1382, 1538(d), 1539, 1540(f), 3374, 4901–4916; 18 U.S.C. 42; 19 U.S.C. 1202; 31 U.S.C. 9701.

■ 2. Amend § 13.11(b)(5) by revising the entries for Region 1 and Region 4 to read as follows:

* * * * *

(b) * * *

(5) * * *

Region 1 (CA, HI, ID, NV, OR, WA, American Samoa, Guam, Commonwealth of the Northern Mariana

Islands, and other Pacific possessions): U.S. Fish and Wildlife Service, Migratory Bird Permit Office, 911 N.E. 11th Avenue, Portland, OR 97232-4181.

* * * * *

Region 4 (AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, PR, VI, and Caribbean possessions): U.S. Fish and Wildlife

Service, Migratory Bird Permit Office, P.O. Box 49208, Atlanta, GA 30359.

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Dated: July 2, 2008.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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