

economic inducement, or other means (“interchange commitment”). Furthermore, 49 CFR 1180.4(g)(4)(i) will now state that if such a provision or agreement exists, additional information must be provided (the information in paragraphs (g)(4)(i)(B), (D), and (G) of this section may be filed with the Board under 49 CFR 1104.14(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 CFR 1104.14(b)).

As this action relates solely to the rules of agency practice and procedure, it will be issued as a final rule without requesting public comment.<sup>1</sup> 5 U.S.C. 553(b)(3)(A).

In the 2013 Final Rules, the Board certified that the rules as amended would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612. 2013 Final Rules 8. The Board further analyzed the burdens associated with the additional filing requirements pursuant to Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3549 and stated its belief that the additional disclosure requirements would not discourage parties from entering into efficiency-enhancing transactions. See 2013 Final Rules 6, 8. Those analyses and conclusions apply equally to this decision, and therefore, we adopt those analyses and conclusions and certify under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

#### List of Subjects in 49 CFR Part 1180

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

*It is ordered:*

1. The Board adopts the final rule as set forth in this decision. Notice of the adopted rules will be published in the **Federal Register**.

2. This decision is effective on the date of publication.

By the Board, Chairman Elliot, Vice Chairman Miller, and Commissioner Begman.  
**Raina S. Contee,**  
*Clearance Clerk.*

For the reasons set forth in the preamble, the Surface Transportation Board amends part 1180 title 49, chapter X, of the Code of Federal Regulations as follows:

<sup>1</sup> Board procedures allow for the issue of final rules without notice or comment when those rules are interpretive, general statements of policy, or relate to organization, procedure, or practice before the Board. See 49 CFR 1110.3(a).

#### **PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES**

■ 1. The authority for part 1180 continues to read as follows:

**Authority:** 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, 11323–11325.

■ 2. Amend § 1180.4 by revising paragraphs (g)(4)(i) introductory text to read as follows:

##### **1180.4 Procedures.**

\* \* \* \* \*

(g) \* \* \*

(4) *Transactions imposing interchange commitments.* (i) The filing party must certify whether or not a proposed acquisition or operation of a rail line involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means (“interchange commitment”). If such a provision or agreement exists, the following additional information must be provided (the information in paragraphs (g)(4)(i)(B), (D), and (G) of this section may be filed with the Board under 49 CFR 1104.14(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 CFR 1104.14(b)):

\* \* \* \* \*

[FR Doc. 2016–03199 Filed 2–16–16; 8:45 am]

**BILLING CODE 4915–01–P**

#### **DEPARTMENT OF THE INTERIOR**

##### **Fish and Wildlife Service**

##### **50 CFR Parts 13 and 22**

[Docket No. FWS–HQ–MB–2015–0155; FF09M21200–167–FXMB123209EAGL0L2]

**RIN 1018–BB20**

##### **Eagle Permits; Removal of Regulations Extending Maximum Permit Duration of Programmatic Nonpurposeful Take Permits**

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

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are issuing this final rule to comply with a court order that had the effect of vacating provisions of regulations governing eagle nonpurposeful take permits that

extended the maximum term of programmatic permits to 30 years. Pursuant to the U.S. District Court for the Northern District of California’s order dated August 11, 2015, and subsequent order amending judgment dated September 16, 2015, this rule removes regulatory provisions that extended maximum programmatic permit duration to 30 years and reinstates the previous 5-year limit.

**DATES:** This action is effective February 17, 2016.

**ADDRESSES:** This final rule is available on the Internet at <http://www.regulations.gov> at Docket No. FWS–HQ–MB–2015–0155. It will also be available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, Headquarters Office, 5275 Leesburg Pike, Falls Church, Virginia 22041–3803. Call (703) 358–2329 to make arrangements.

##### **FOR FURTHER INFORMATION CONTACT:**

Eliza Savage, Eagle Program Manager, at the Headquarters Office (see **ADDRESSES**) or telephone (703) 358–2329.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance.

##### **SUPPLEMENTARY INFORMATION:**

##### **Background**

In 2009, the Service published a rule authorizing the incidental take of eagles under the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d) (74 FR 46836, September 11, 2009). The rule authorized programmatic permits to cover long-term, incidental take of eagles by individual projects, including wind-energy facilities. On December 9, 2013, the Service published a rule to extend the maximum tenure for programmatic permits for nonpurposeful take of eagles from 5 to 30 years (78 FR 73704). The change was intended to promote the responsible development of projects that will be in operation for many decades and bring them into compliance with statutory mandates protecting eagles. In addition to extending the maximum term of programmatic permits, the rule added provisions for 5-year evaluations of longer term permits, increased the permit application processing fees for programmatic eagle permits, and provided permit transfer and right-of-succession for eagle nonpurposeful take permits.

In 2014, a lawsuit was filed challenging the 2013 rule on the basis that the Service improperly excluded analysis of any environmental effects of the rule under the National

Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) by invoking one of the Department’s categorical exclusions. The plaintiffs also argued that the Service had not adequately consulted under section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*).

On August 11, 2015, the Northern District of California ruled in favor of the plaintiffs on the NEPA claim (but not the ESA claim) and set aside the 2013 rulemaking (*Shearwater v. Ashe*, (N. D. Cal. 2015) No.14–CV–02830–LHK (N. Dist. Ca, Aug. 11, 2015)). In a subsequent order, the judge clarified that the ruling applied only to the provisions of the rule challenged by plaintiffs, namely those provisions directly related to extending the tenure of eagle incidental take permits from 5 to 30 years (*Shearwater v. Ashe*, No. 5:14–cv–02830 LHK (Sep. 16, 2015)). Therefore, this rule removes only the provisions related to increasing permit tenure and not the other provisions of the December 9, 2013, final rule.

**Administrative Procedure**

This rulemaking is necessary to comply with the August 11, 2015, court order and September 16, 2015, clarification. Therefore, under these

circumstances, we have determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment are impractical and unnecessary. Public opportunity for comment is simply not required when an agency amends a regulation to comply with a court order. When an agency removes regulatory provisions set aside by a court order, that action is ministerial in nature and allows for no discretion on the part of the agency. Thus, public comment could not inform this process in any meaningful way. Moreover, this amendment will effectively reinstate provisions that were part of the earlier 2009 rulemaking, which complied with public notice and comment rulemaking procedures, rendering further notice and comment on those reinstated provisions unnecessary. We have further determined, pursuant to 5 U.S.C. 553(d)(3), that the agency has good cause to make this rule effective upon publication, which is to comply with the District Court’s order as soon as practicable.

**List of Subjects**

50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Imports,

Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 22

Birds, Exports, Imports, Migratory birds, Reporting and recordkeeping requirements, Transportation, Wildlife.

**Regulation Promulgation**

To comply with the court order and mandate discussed above, we amend subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 13—GENERAL PERMIT PROCEDURES**

■ 1. The authority citation 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. Revise the table in § 13.11(d)(4) to read as set forth below:

**§ 13.11 Application procedures.**

\* \* \* \* \*  
 (d) \* \* \*  
 (4) \* \* \*

Type of permit	CFR Citation	Permit application fee	Administration fee <sup>1</sup>	Amendment fee
<b>Migratory Bird Treaty Act</b>				
Migratory Bird Import/Export .....	50 CFR part 21 .....	75 .....	.....	.....
Migratory Bird Banding or Marking .....	50 CFR part 21 .....	No fee .....	.....	.....
Migratory Bird Scientific Collecting .....	50 CFR part 21 .....	100 .....	.....	50
Migratory Bird Taxidermy .....	50 CFR part 21 .....	100 .....	.....	.....
Waterfowl Sale and Disposal .....	50 CFR part 21 .....	75 .....	.....	.....
Special Canada Goose .....	50 CFR part 21 .....	No fee .....	.....	.....
Migratory Bird Special Purpose/Education .....	50 CFR part 21 .....	75 .....	.....	.....
Migratory Bird Special Purpose/Salvage .....	50 CFR part 21 .....	75 .....	.....	.....
Migratory Bird Special Purpose/Game Bird Propagation .....	50 CFR part 21 .....	75 .....	.....	.....
Migratory Bird Special Purpose/Miscellaneous .....	50 CFR part 21 .....	100 .....	.....	.....
Falconry .....	50 CFR part 21 .....	100 .....	.....	.....
Raptor Propagation .....	50 CFR part 21 .....	100 .....	.....	.....
Migratory Bird Rehabilitation .....	50 CFR part 21 .....	50 .....	.....	.....
Migratory Bird Depredation .....	50 CFR part 21 .....	100 .....	.....	50
Migratory Bird Depredation/Homeowner .....	50 CFR part 21 .....	50 .....	.....	.....
<b>Bald and Golden Eagle Protection Act</b>				
Eagle Scientific Collecting .....	50 CFR part 22 .....	100 .....	.....	50
Eagle Exhibition .....	50 CFR part 22 .....	75 .....	.....	.....
Eagle Falconry .....	50 CFR part 22 .....	100 .....	.....	.....
Eagle—Native American Religion .....	50 CFR part 22 .....	No fee .....	.....	.....
Eagle Take permits—Depredation and Protection of Health and Safety. ....	50 CFR part 22 .....	100 .....	.....	.....
Golden Eagle Nest Take .....	50 CFR part 22 .....	100 .....	.....	50
Eagle Transport—Scientific or Exhibition .....	50 CFR part 22 .....	75 .....	.....	.....
Eagle Transport—Native American Religious Purposes .....	50 CFR part 22 .....	No fee .....	.....	.....
Eagle Take—Associated With But Not the Purpose of an Activity. ....	50 CFR part 22 .....	500 .....	.....	150
Eagle Take—Associated With But Not the Purpose of an Activity—Programmatic, up to 5-year tenure. ....	50 CFR part 22 .....	36,000 .....	2,600	1,000

Type of permit	CFR Citation	Permit application fee	Administration fee <sup>1</sup>	Amendment fee
Eagle Take—Associated With But Not the Purpose of an Activity—Transfer of a programmatic permit.	50 CFR part 22 .....	1,000 .....	.....	.....
Eagle Nest Take .....	50 CFR part 22 .....	500 .....	.....	150
Eagle Nest Take—Programmatic .....	50 CFR part 22 .....	1,000 .....	.....	500
Eagle Take—Exempted under ESA .....	50 CFR part 22 .....	No fee .....	.....	.....
<b>Endangered Species Act/CITES/Lacey Act</b>				
ESA Recovery .....	50 CFR part 17 .....	100 .....	.....	50
ESA Interstate Commerce .....	50 CFR part 17 .....	100 .....	.....	50
ESA Enhancement of Survival (Safe Harbor Agreement) .....	50 CFR part 17 .....	50 .....	.....	25
ESA Enhancement of Survival (Candidate Conservation Agreement with Assurances).	50 CFR part 17 .....	50 .....	.....	25
ESA Incidental Take (Habitat Conservation Plan) .....	50 CFR part 17 .....	100 .....	.....	50
ESA and CITES Import/Export and Foreign Commerce .....	50 CFR part 17 .....	100 .....	.....	50
ESA and CITES Museum Exchange .....	50 CFR part 17 .....	100 .....	.....	50
ESA Captive-bred Wildlife Registration .....	50 CFR part 17 .....	200 .....	.....	100
—Renewal of Captive-bred Wildlife Registration .....	50 CFR part 17 .....	100 .....	.....	.....
CITES Import (including trophies under ESA and MMPA) .....	50 CFR parts 17, 18, 23 .....	100 .....	.....	50
CITES Export .....	50 CFR part 23 .....	100 .....	.....	50
CITES Pre-Convention .....	50 CFR part 23 .....	75 .....	.....	40
CITES Certificate of Origin .....	50 CFR part 23 .....	75 .....	.....	40
CITES Re-export .....	50 CFR part 23 .....	75 .....	.....	40
CITES Personal Effects and Pet Export/Re-export .....	50 CFR part 23 .....	50 .....	.....	.....
CITES Appendix II Export (native furbearers and alligators—excluding live animals).	50 CFR part 23 .....	100 .....	.....	50
CITES Master File (includes files for artificial propagation, biomedical, etc., and covers import, export, and re-export documents).	50 CFR part 23 .....	200 .....	.....	100
—Renewal of CITES Master File .....	50 CFR part 23 .....	100 .....	.....	.....
—Single-use permits issued on Master File .....	50 CFR part 23 .....	5 <sup>2</sup> .....	.....	.....
CITES Annual Program File .....	50 CFR part 23 .....	50 .....	.....	.....
—Single-use permits issued under Annual Program .....	50 CFR part 23 .....	5 <sup>2</sup> .....	.....	.....
CITES replacement documents (lost, stolen, or damaged documents).	50 CFR part 23 .....	50 .....	.....	50
CITES Passport for Traveling Exhibitions and Pets .....	50 CFR part 23 .....	75 <sup>3</sup> .....	.....	.....
CITES/ESA Passport for Traveling Exhibitions .....	50 CFR part 23 .....	100 <sup>3</sup> .....	.....	.....
CITES Introduction from the Sea .....	50 CFR part 23 .....	100 .....	.....	50
CITES Participation in the Plant Rescue Center Program .....	50 CFR part 23 .....	No fee .....	.....	.....
CITES Registration of Commercial Breeding Operations for Appendix-I Wildlife.	50 CFR part 23 .....	100 .....	.....	.....
CITES Request for Approval of an Export Program for a State or Tribe (American Ginseng, Certain Furbearers, and American Alligator).	50 CFR part 23 .....	No fee .....	.....	.....
Import/Export License .....	50 CFR part 14 .....	100 .....	.....	50
Designated Port Exception .....	50 CFR part 14 .....	100 .....	.....	50
Injurious Wildlife Permit .....	50 CFR part 16 .....	100 .....	.....	50
—Transport Authorization for Injurious Wildlife .....	50 CFR part 16 .....	25 .....	.....	.....
<b>Wild Bird Conservation Act (WBCA)</b>				
Personal Pet Import .....	50 CFR part 15 .....	50 .....	.....	.....
WBCA Scientific Research, Zoological Breeding or Display, Cooperative Breeding.	50 CFR part 15 .....	100 .....	.....	50
WBCA Approval of Cooperative Breeding Program .....	50 CFR part 15 .....	200 .....	.....	100
—Renewal of a WBCA Cooperative Breeding Program .....	50 CFR part 15 .....	50 .....	.....	.....
WBCA Approval of a Foreign Breeding Facility .....	50 CFR part 15 .....	250 <sup>4</sup> .....	.....	.....
<b>Marine Mammal Protection Act</b>				
Marine Mammal Public Display .....	50 CFR part 18 .....	300 .....	.....	150
Marine Mammal Scientific Research/Enhancement/Registered Agent or Tannery.	50 CFR part 18 .....	150 .....	.....	75
—Renewal of Marine Mammal Scientific Research/Enhancement/Registered Agent or Tannery.	50 CFR part 18 .....	75 .....	.....	.....

<sup>1</sup> Assessed when a permit is issued.<sup>2</sup> Each.<sup>3</sup> Per animal.<sup>4</sup> Per species.

\* \* \* \* \*

**PART 22—EAGLE PERMITS**

■ 3. The authority citation for part 22 continues to read as follows:

**Authority:** 16 U.S.C. 668–668d; 16 U.S.C. 703–712; 16 U.S.C. 1531–1544.

■ 4. Amend § 22.26 as follows:

- a. By removing paragraph (h);
- b. By redesignating paragraphs (i) and (j) as paragraphs (h) and (i); and
- c. By revising the newly designated paragraph (h) to read as set forth below:

**§ 22.26 Permits for eagle take that is associated with, but not the purpose of, an activity.**

\* \* \* \* \*

(h) *Permit duration.* The duration of each permit issued under this section will be designated on its face, and will be based on the duration of the proposed activities, the period of time for which take will occur, the level of impacts to eagles, and mitigation measures, but will not exceed 5 years.

\* \* \* \* \*

Dated: February 2, 2016.

**Karen Hyun,**

*Acting Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2016–03084 Filed 2–16–16; 8:45 am]

**BILLING CODE 4333–15–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS–R1–ES–2016–0006; FXES11130900000C6–167–FF09E42000]

**RIN 1018–BB28**

**Endangered and Threatened Wildlife; Technical Corrections for Eight Wildlife Species on the List of Endangered and Threatened Wildlife**

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

**ACTION:** Direct final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the revised taxonomy of eight wildlife species under the Endangered Species Act of 1973, as amended (Act). We are revising the List of Endangered and Threatened Wildlife to reflect the current scientifically accepted taxonomy and nomenclature of these species.

**DATES:** This rule is effective May 17, 2016 without further action, unless significant adverse comment is received by March 18, 2016. If significant adverse

comment is received regarding taxonomic changes for any of these species, we will publish in the **Federal Register** a timely withdrawal of the rule for the appropriate species.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to FWS–R1–ES–2016–0006, which is the docket number for this rulemaking.
- *By hard copy:* Submit comments by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2016–0006; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: BPHC; Falls Church, VA 22041–3803.

See Public Comments, below, for more information about submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Marilet Zablan, Program Manager for Restoration and Endangered Species Classification, U.S. Fish and Wildlife Service, Pacific Regional Office, Ecological Services, 911 NE 11th Avenue, Portland, OR 97232; telephone 503–231–6131. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8337 for TTY (telephone typewriter or teletypewriter) assistance 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:**

**Purpose of Direct Final Rule and Final Action**

The purpose of this direct final rule is to notify the public that we are revising the List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations (CFR) at § 17.11(h) (50 CFR 17.11(h)) to reflect the scientifically accepted taxonomy and nomenclature of eight wildlife species listed under section 4 of the Act (16 U.S.C. 1531 *et seq.*). These changes to the List of Endangered and Threatened Wildlife reflect the most recently accepted scientific names in accordance with 50 CFR 17.11(b).

We are publishing this rule without a prior proposal because this is a noncontroversial action that is in the best interest of the public and should be undertaken in as timely a manner as possible. This rule will be effective, as published in this document, on the effective date specified in **DATES**, unless we receive significant adverse comments on or before the comment due date specified in **DATES**. Significant adverse comments are comments that provide strong justification as to why

this rule should not be adopted or why it should be changed.

If we receive significant adverse comments regarding the taxonomic changes for any of these species, we will publish a document in the **Federal Register** withdrawing this rule for the appropriate species before the effective date, and we will publish a proposed rule to initiate promulgation of those changes to 50 CFR 17.11(h).

**Public Comments**

You may submit your comments and materials regarding this direct final rule by one of the methods listed in **ADDRESSES**. Please include sufficient information with your comments that will allow us to verify any scientific or commercial information you include. We will not consider comments sent by email or fax, or to an address not listed in **ADDRESSES**.

We will post all comments on <http://www.regulations.gov>. Before including your address, phone number, email address, or other personal information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we use in preparing this direct final rule, will be available for public inspection on the Internet at <http://www.regulations.gov> or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service office listed in **FOR FURTHER INFORMATION CONTACT**. Please note that comments posted to <http://www.regulations.gov> are not immediately viewable. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission. Information regarding this rule is available in alternative formats upon request (see **FOR FURTHER INFORMATION CONTACT**). For information pertaining to specific species, please contact Kristi Young, Fish and Wildlife Biologist, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., Room 3–122, Honolulu, HI 96813; telephone 808–792–9400.

**Background**

50 CFR 17.11(b) and 17.12(b) direct us to use the most recently accepted scientific name of any wildlife or plant