DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018–AT60

Migratory Bird Permits; Changes in the Regulations Governing Raptor Propagation

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 captive propagation of raptors in the United States. We propose reorganization of the current regulations, and we have added or changed some provisions therein. The changes will make it easier to understand the requirements for raptor propagation and the procedures for obtaining a propagation permit.

DATES: Send comments on this proposal by January 12, 2006.

ADDRESSES: You may submit comments, identified by RIN 1018–AT60, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Agency Web Site: *http://migratorybirds.fws.gov.* Follow the links to submit a comment.
- E-mail address for comments: *PropagationRegulations@fws.gov.* Include ''RIN 1018–AT60'' in the subject line of the message.
- Mailing address for paper or computer media comments: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop MBSP–4107, Arlington, Virginia 22203–1610.
- Address for hand delivery of comments: Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4091, Arlington, Virginia 22203–1610.

Instructions: All submissions received must include Regulatory Information Number (RIN) 1018–AT60 at the beginning. All comments received, including any personal information provided, will be available for public inspection at the address shown above for hand delivery of comments. For detailed instructions on submitting

comments and additional information on the rulemaking process, see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703–358–1714, or Dr. George T. Allen, Wildlife Biologist, 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Service is the Federal agency with the primary responsibility for managing migratory birds. Our authority is based on 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). Raptors (birds of prey) are afforded Federal protection by the 1972 amendment to the Convention for the Protection of Migratory Birds and Game Animals, February 7, 1936, United States—Mexico, as amended; the Convention between the United States and Japan for the Protection of Migratory Birds in Danger of Extinction and Their Environment, September 19, 1974; and 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.

The taking and use of raptors are strictly prohibited except as permitted under regulations implementing the MBTA. Raptors also may be protected by State regulations. Regulations governing the issuance of permits for migratory birds are authorized by the MBTA and subsequent regulations. They are in title 50, Code of Federal Regulations, parts 10, 13, 21, and (for eagles) 22.

Changes in the Regulations Governing Raptor Propagation

We have rewritten the regulations in plain language and have changed or added some provisions. We seek comment on these proposed regulations, particularly the following substantive changes:

1. The permit period is changed from 3 to 5 years.

2. Raptor propagation permits will no longer be renewed without evidence of successful captive propagation during the term of the permit.

3. All birds held under a captive propagation permit must actually be used in propagation or permission to continue to hold them under the permit will not be granted.

4. Captive-bred progeny may be trained for use in falconry. Until they are 1 year old, captive-bred offspring may be used in actual hunting as a means of training them.

5. The requirement for reporting within 5 days on eggs laid by birds in captive propagation is eliminated. An annual report on propagation efforts is all that will be required of permittees.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in 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? (A ''section'' appears in bold type and is preceded by the symbol § and a numbered heading; for example ''§ 21.30 Raptor propagation permits.'') (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

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

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 more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. This is primarily a plain-language rewrite of the current regulation. A cost-benefit and economic analysis thus is not required. We foresee no particular effects on people practicing raptor propagation.

b. This rule will not create inconsistencies with other agencies' actions. The rule deals solely with governance of captive raptor propagation in the United States. No other Federal agency has any role in regulating this endeavor.

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 raptor propagation.

d. This rule will not raise novel legal or policy issues. This rule is primarily a reorganization and plain language rewrite of the existing regulations. New provisions proposed in the rule are 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 (RFA) that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no RFA is required if the head of an agency certifies the rule will 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 will 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 will not have a significant economic impact on a substantial number of small entities. This determination is based on the fact that we are not proposing any changes to the current requirements for raptor propagation facilities (housing). The changes we are proposing are intended primarily to clarify the requirements for raptor propagation and the procedures for obtaining a raptor propagation permit. In addition, the changes we propose affect neither the information collected nor the fee required to obtain a permit. Consequently, we certify that this proposed rule will not have a significant economic effect on a substantial number of small entities, and thus a regulatory flexibility analysis is not required. Thus, this is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)) because it will 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. We foresee no effects on the economy from implementation of this rule.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The practice of raptor propagation does not significantly affect costs or prices in any sector of the economy.

c. This rule will 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. Raptor propagation is an endeavor of private individuals. Neither regulation nor practice of raptor propagation significantly affects business activities.

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 will not ''significantly or uniquely'' affect small governments, and thus a Small Government Agency Plan is not required. Raptor propagation is an endeavor of private individuals. Neither regulation nor practice of raptor propagation affects small government activities in any significant way.

b. This rule will 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. States will not have to alter their raptor propagation regulations to comply with the proposed revisions.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule has no provision for taking of private property. A takings implication assessment is thus not required.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It will not interfere with the States' ability to manage themselves or their funds. No significant economic impacts should result from the proposed changes in the regulation of raptor propagation. However, this rule provides the opportunity for States to cooperate in management of raptor propagation permits and to ease the permitting process for permit applicants.

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

This proposed rule does not contain new or revised information collection for which OMB approval is required under the Paperwork Reduction Act. Information collection required by this proposed regulation is covered by OMB approval 1018–0022, which expires on July 31, 2007. This regulation does not add to that approved information collection. The Service 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.

National Environmental Policy Act

We have analyzed this rule in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 432–437f) and Part 516 of the U.S. Department of the Interior Manual (516 DM). We prepared an environmental assessment (EA) in July 1988 to support establishment of regulations governing the use of most raptors in falconry. You can obtain a copy of the EA by contacting us at the address in the **ADDRESSES** section. This rule does not change the allowed take of raptors from the wild. We will prepare an updated Environmental Assessment on the take of raptors for use in propagation during the rulemaking process to determine whether these proposals are major Federal actions significantly affecting the quality of the human environment.

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 2, we have evaluated potential effects on Federally recognized Indian Tribes and have determined that there are no potential effects. This rule will not interfere with the Tribes' ability to manage themselves or their funds, or to regulate raptor propagation on tribal lands.

Energy Supply, Distribution, or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 addressing regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only affects the practice of raptor propagation in the United States, it is not a significant regulatory action under Executive Order 12866, and will not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and thus no Statement of Energy Effects is required.

Are There Environmental Consequences of the Proposed Action?

The changes we propose are primarily in the combining, reorganizing, and rewriting of the regulations. The environmental impacts of this action are limited.

Socio-economic. We do not expect the proposed action to have discernible socio-economic impacts.

Raptor populations. This rule will not significantly alter the conduct of raptor propagation in the United States. We expect it to have no discernible effect on raptor populations.

Endangered and Threatened Species. The regulations have no new provisions that affect threatened or endangered species.

Does This Rule Comply With Endangered Species Act Requirements?

Yes. 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 authorized, funded, or completed action ''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 Division of Threatened and Endangered Species concurred with our finding that the revised regulations will not affect listed species.

Author

The primary 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 MBSP–4107, Arlington, Virginia 22203–1610.

Public Participation

You may submit written comments on this proposal to the location identified in the **ADDRESSES** section, or you may submit electronic comments to the internet address listed in the **ADDRESSES** section. We must receive your comments before the date listed in the **DATES** section. Following review and consideration of comments, we will issue a final rule on the proposed regulation changes. When submitting electronic comments, please include your name and return address in your message, identify it as comments on the draft raptor propagation regulations, and submit your comments as an ASCII file. Do not use special characters or any encryption. If you do not receive a confirmation from the system that we have received your electronic comments, you can contact us directly at 703–358–1714. When submitting electronic or written comments, refer to the file number RIN 1018–AT60.

All comments on the proposed rule will be available for public inspection during normal business hours at Room 4091 at the Fish and Wildlife Service, Division of Migratory Bird Management, 4501 North Fairfax Drive, Arlington, Virginia -1610. The administrative record for this proposed rule is available, by appointment, during normal business hours at the same address. You may call 703–358–1825 to make an appointment to view the file.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would also withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

List of Subjects in 50 CFR Part 21

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

Proposed Regulation

For the reasons stated in the preamble, we propose to amend part 21, subpart C, of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 21—[AMENDED]

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

Authority: 16 U.S.C. 703–712; Pub. L. 106–108; 16 U.S.C. 668a.

2. Revise § 21.30 as set forth below.

§ 21.30 Raptor propagation permits.

(a) *What is the legal basis for regulating raptor propagation?* The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*) prohibits any person from capturing from the wild, purchasing, bartering, selling, or offering to purchase, barter, or sell raptors (birds of prey) listed in § 10.13 of this subchapter B, or undertaking any other uses of these birds unless the uses are allowed by Federal regulation and the person has a permit to conduct the activity. These regulations cover all Falconiformes (kites, eagles, hawks, caracaras, and falcons) and all Strigiformes (owls) listed in § 10.13 of this subchapter B (''native'' raptors) and apply to any person who holds for propagation one or more native raptors. Captive propagation of raptors is allowed to minimize the pressure on wild populations resulting from take from the wild for falconry. Wild-caught and captive-bred raptors of species protected under the MBTA are always under the stewardship of the U.S. Fish and Wildlife Service. They are not private property.

(b) *Do other Federal or State regulations affect raptor propagation activities?* Yes. Other regulations, such as those for the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Wild Bird Conservation Act, and State regulations, may affect propagation-related activities. In cases in which more than one set of regulations affect raptor propagation, the most restrictive requirements affecting the activity in question will apply.

(c) *Is captive propagation allowed for all raptor species?* No. The Bald and Golden Eagle Protection Act (16 U.S.C. 668) makes no provision for captive propagation of golden eagles or bald eagles. These species may not be used in captive propagation.

(d) *What facilities requirements for raptors are associated with raptor propagation permits?* In addition to the general conditions found in part 13 of this subchapter B, raptor propagation permits are subject to the following additional conditions:

(1) Your facilities may be adjacent to or adjoining other facilities you maintain for birds held under other permit types. However, birds held under your raptor propagation permit must be kept separate from birds held under other permit types.

(2) You must maintain any tethered raptor you possess under this permit in accordance with the facilities and standards requirements in § 21.29 unless you obtain a written exception to this requirement.

(3) For untethered raptors, your breeding facilities must be soundly constructed and entirely enclosed with wood, wire netting, or other suitable material that provides a safe, healthy environment.

(i) Your facilities must minimize the risk of injury by providing protection from predators, pets, and extreme weather conditions.

(ii) Your facilities must minimize the risk of raptor collision with interior or perimeter construction materials and equipment such as support poles, windows, wire netting, perches, or lights.

(iii) Your facilities must have observation windows or video cameras that will allow you to check on your birds with minimal disturbance to them.

(iv) Your facilities must have suitable perches and nesting sites, fresh water for bathing and drinking, fresh air ventilation, a source of light, a well-drained floor, and ready access for cleaning.

(v) The interior of your propagation facilities must be of materials suitable for thorough cleaning or disinfection.

(e) *Do I have to band raptors held for use in captive propagation that are not captive-bred?* Yes. Unless we specifically exempt a particular raptor, any raptor taken from the wild must be banded with a permanent, nonreusable band that we will provide.

(f) *Do I have to band captive-bred raptors?* Yes. Unless a particular nestling is specifically exempted, you must band every captive-bred raptor within 2 weeks of hatching with a numbered, seamless band placed on the nestling's leg. We will provide the necessary bands.

(1) You must use a band with an inside diameter that is small enough to prevent loss or removal of the band when the raptor is grown without causing serious injury to the raptor or damaging the band's integrity or one-piece construction.

(2) You may band a nestling with more than one band of different sizes if you cannot determine the proper size when you band the nestling. You must then remove all but the correctly sized band when the nestling is 5 weeks old, and you must return to us the band(s) you remove.

(3) You may request an exemption from the banding requirement for any

nestling or fledgling for which the band causes a problem. If you demonstrate that the band itself or the behavior of the bird in response to the band poses a hazard to the bird, we will exempt that bird from the banding requirement.

(g) *Are there restrictions on taking raptors or raptor eggs from the wild?* Yes. If your permit authorizes you to take raptors or raptor eggs from the wild, you must meet the following requirements:

(1) The State or foreign country in which the raptors or raptor eggs are taken must authorize you in writing to take the raptor(s) or raptor egg(s) from the wild for propagation purposes.

(2) You may not take a raptor listed in § 17.11(h) of this chapter as ''endangered'' or ''threatened'' from the wild without a permit under part 17 of this subchapter B.

(3) You must comply with all State laws in taking a raptor or raptor egg(s) from the wild.

(h) *May I transfer, purchase, sell, or barter raptors, raptor eggs, or raptor semen?* Yes, but only those from captive-bred and -raised birds.

(1) You may transfer, sell, or barter any lawfully possessed captive-bred raptor to another raptor propagation permittee, to a person with a valid State falconry permit, or to another person authorized to possess captive-bred raptors if the raptor is marked on the metatarsus by a seamless, numbered band we will supply.

(2) You may transfer, sell, or barter any lawfully possessed raptor egg or raptor semen produced by a bird held under your captive propagation permit, or under your falconry permit if you are using falconry birds in propagation, to another raptor propagation permittee.

(3) If you purchase from or barter with any person in a foreign country, that person must be authorized by the wildlife management authority of that country to sell or barter captive-bred raptors.

(4) If you transfer to, sell to, or barter with any person in a foreign country, that person must be authorized to possess, purchase, or barter captive-bred raptors by the wildlife management authority of the country. The wildlife management authority must certify in writing that the recipient is an experienced falconer or raptor propagator who is required to maintain any raptors in his or her possession under conditions that are comparable to the conditions under which a permittee must maintain raptors under §§ 21.29 or 21.30. No certification is required if the competent wildlife management authority itself is the recipient of captive-bred raptors for conservation purposes.

(5) You may not trade, transfer, purchase, sell, or barter a captive-bred raptor until it is 2 weeks old.

(6) You may not purchase, sell, or barter any raptor eggs or any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

(i) *Do I need to document lawful possession of a bird held for captive propagation?* Yes. You must have a copy of a properly completed FWS Form 3–186A (Migratory Bird Acquisition and Disposition Report) for each bird you acquire or that is transferred to you. However, you do not have to submit or have a copy of an FWS Form 3–186A for raptors you produced by captive propagation if you keep the birds in your possession under your propagation permit.

(j) *Do I have to report the transfer of a propagation raptor to another permittee or to another permit I hold?* Yes. If you sell, trade, barter, or transfer a raptor held under your captive propagation permit, even if the transfer is to a falconry permit you hold, you must complete an FWS Form 3–186A and send it to us within 5 calendar days of the transfer.

(k) *May another person care for a propagation bird for me temporarily?* Yes. Another person who can legally possess raptors may care for a propagation raptor for you for up to 45 calendar days. The person must have a signed and dated statement from you authorizing the temporary possession, plus a copy of the FWS Form 3–186A that shows that you are the possessor of the bird. The statement must include information about the time period for which the other person will keep the bird, and about what he or she is allowed to do with it. The bird will remain on your raptor propagation permit. If the person who temporarily holds it for you is a falconer or a captive propagator, the bird will not be counted against his or her possession limit on birds held for falconry or propagation. However, the other person may not use the bird in falconry or in propagation. If you wish to have someone else care for a propagation raptor you hold for more than 45 days, or if you wish to let another person use the bird in falconry or captive propagation, you must transfer the bird to that person and report the transfer by submitting a completed FWS Form 3–186A.

(l) *May I produce hybrid raptors in captive propagation?* Yes. However, interspecific hybridization is authorized only if each bird produced is imprinted on humans by being hand-raised in isolation from the sight of other raptors from 2 weeks of age or it is surgically sterilized.

(m) *What do I do with the body of a raptor held for captive propagation that dies?* If a bird you hold for captive propagation dies, you must remove and return its band to us with an FWS Form 3–186A reporting the death of the bird. You must destroy the carcass of the bird immediately, unless you request authorization from us to retain possession of it temporarily. If you receive authorization to do so, you may transfer the carcass to any other person authorized by the Service to possess it (who may be you under another permit type), provided no money or other consideration is involved.

(n) *What do I do with nonviable eggs, nests, and feathers?* You may possess addled or blown eggs, nests, and feathers suitable for imping (replacing a damaged feather with a molted feather) from raptors held under permit and may transfer any of these items to any other person authorized by the Service to possess them, provided that no money or other consideration is involved.

(o) *May I release captive-bred raptors to the wild?* Yes, except that you may not release a raptor produced by interspecific hybridization to the wild. To release a captive-bred raptor, you must have written authorization from us and from the State agency that regulates such releases in the State in which you wish to release the bird. You should leave the captive-bred band on the bird.

(p) *What records of my captive propagation efforts do I have to keep?* You must maintain complete and accurate records of all operations, including the following, for at least 5 years from the date of expiration of your permit:

(1) The acquisition of raptors, eggs, or semen from sources other than production.

(i) Whether the stock was semen, eggs, or birds.

(ii) A description of the stock.

(A) The species, sex, and age of each (if applicable).

(B) The natal area (geographical breeding site or area that captive stock represents, *e.g.*, Colville River, Alaska; unknown; migrant taken in Maryland, etc.).

(C) The band number (if applicable).

(iii) How the stock was acquired, i.e., whether it was purchased, bartered, or transferred (include the purchase price or a description of any other consideration involved), or taken from the wild.

(iv) The day, month, and year the stock was acquired.

(v) The name, address, and permit number of the person from whom the stock was acquired or the location where the stock was taken from the wild.

(2) The disposition of raptors, eggs, or semen.

(i) Whether the stock was semen, eggs, or birds.

(ii) A description of the stock.

(A) The species, sex, and age of each (if applicable).

(B) The natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Maryland, etc.).

(C) The band number of each (if applicable).

(iii) How you disposed of the stock, i.e., whether by sale, barter, or transfer (include the sale price or a description of any other consideration involved), escape, intentional release to the wild, or death.

(iv) The day, month, and year you disposed of the stock.

(v) To whom or where you disposed of the stock. Provide information on the name, address, and permit number of the purchaser, barterer, or transferee, or describe the location of any other disposition.

(3) The production and pedigree record for the male and the female in each propagation attempt.

(i) The species, natal area, and band number for each bird.

(ii) Whether insemination was natural, artificial, or a combination thereof.

(iii) How many eggs were laid and the laying date for each of them.

(iv) How many eggs hatched and the hatching date for each of them.

(v) How many young were raised to 2 weeks of age and the band number for each of them.

(q) *Do I have to provide reports on my captive propagation activities?* Yes. For determining take of raptors for captive propagation and reporting on propagation activities, you must submit an annual report to us by January 31 for the preceding year. For purposes of this reporting requirement, a year runs from January 1 through December 31. Your report must include the following information for each species you held under your captive propagation permit:

(1) The number of raptors you possessed for captive propagation as of December 31 (including the species, band number, sex, and hatch date of each raptor).

(2) The number of eggs laid by each female.

(3) The number of young raised to 2 weeks of age.

(4) The number of raptors you purchased, sold, bartered, received, or transferred (including the species, band number, sex, and age of each raptor), the date of the transaction, and the name, address, and permit number of each purchaser, seller, barterer, transferor, or transferee.

(5) The number of unused seamless bands of each size that you have in your possession.

(r) *May I use a bird held for captive propagation in falconry?* No. You may use raptors held under your captive propagation permit only for propagation. You must transfer a bird held for captive propagation to a falconry permit before you or another person may use it in falconry. If you transfer a bird held for captive propagation to another permit, you and the person to whom you transfer the bird must complete an FWS Form 3–186A and report the transfer.

(s) *May I train captive-bred offspring for use in falconry?* Yes. You may train any captive-bred progeny of raptors you hold under your permit. You may use falconry training or conditioning practices, such as the use of creance (tethered) flying, lures, balloons, or kites in training or conditioning these birds. Until they are 1 year old, you also may use captive-bred offspring in actual hunting as a means of training them. To do so, you will not need to transfer them to another permit type. You may not use them in hunting after their first year if they are held under your captive propagation permit. You may not hunt at any time with birds used in propagation.

(t) *Do I need a Federal permit to possess raptors for propagation?* Yes. You must have a Federal raptor propagation permit before you may capture from the wild, possess, transport, import, purchase, barter, or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes. Your State also may require that you have a State permit.

(u) *How do I apply for a Federal raptor propagation permit?* Using FWS Form 3–200–12, you must submit your application for a raptor propagation permit to the appropriate Regional Director, to the attention of the Migratory Bird Permit Office. You can find addresses for the Regional Directors in 50 CFR 2.2. Your application must contain the general information and the certification required in § 13.12(a) of this subchapter, and the following information:

(1) A statement indicating the purpose(s) for which you seek to breed raptors and, if applicable, the scientific or educational objectives of your propagation efforts.

(2) A copy of your State permit authorizing raptor propagation.

(3) A statement fully describing your experience with raptor propagation or handling, including the names of the species with which you have worked and duration of your activities with each.

(4) A description of each raptor you possess at the time of your application and will use in propagation efforts, including the species, age (if known), sex (if known), date of acquisition, source, and raptor band number.

(5) A description of each raptor you possess for purposes other than raptor propagation, including the species, age (if known), sex (if known), date of acquisition, source, raptor band number, and purpose for which it is possessed.

(6) A description (including dimensions, drawings, and photographs) of the facilities and equipment you will use.

(7) A statement indicating whether you wish to take raptors or raptor eggs from the wild.

(v) *What are the criteria for issuing a permit?* When we receive an application completed as required in paragraph (u) of this section, we will decide whether we should issue a permit to you. We will consider the general criteria in § 13.21(b) of this subchapter B and the following factors:

(1) You must be at least 18 years old and have at least 2 full years of experience handling raptors.

(2) If you seek authority to propagate endangered or threatened species, you must have at least 5 years of experience handling raptors in a propagation program or programs. You may also need an endangered species permit to propagate threatened or endangered raptors. See §§ 17.21 and 17.22 of this subchapter B for permit requirements to propagate threatened or endangered raptors.

(3) You must have a propagation permit or other authorization for raptor propagation from your State, if your State requires such authorization.

(4) Your raptor propagation facilities must be adequate for the number and species of raptors to be held under your permit.

(5) For renewal of your Federal permit, when you seek the renewal you must provide documentation of your successful captive propagation efforts (young that reach fledging age) during the tenure of your permit.

(6) If you seek to take raptors or eggs from the wild to use in propagation efforts, we will consider the following in deciding whether to grant you

authority to take raptors or eggs from the wild:

(i) Whether issuing the permit would have a significant effect on any wild population of raptors.

(ii) Whether suitable captive stock is available.

(iii) Whether wild stock is needed to enhance the genetic variability of captive stock.

(w) *What procedures do I follow to update my captive propagation permit if I move?* If you move within your State or get a new mailing address, you must notify us within 10 days (see § 13.23(c) of this subchapter B). If you move to a new State, within 10 days you must inform both your former and your new Fish and Wildlife Service Migratory Bird Permit Offices of your address change. If you have new propagation facilities, you must provide information, pictures, and diagrams of them, and they may have to be inspected in accordance with Federal and/or State requirements.

(x) *For how long is my Federal captive propagation permit valid?* Your Federal permit will be valid for up to 5 years from when it is issued or renewed. It will expire on the same day as your State permit, unless your State permit is for a period longer than 5 years, or unless we amend, suspend, or revoke it.

(y) *What are the requirements for renewal of my captive propagation permit?* For us to renew your permit, you must provide documentation that you have had at least one young raised to fledging age within the last 5 years, or that the bird held for propagation has produced semen or eggs used in captive propagation efforts. This requirement applies to each bird held under the propagation permit, and both male and female birds held under this permit must be involved in the breeding program. However, if you can provide justification for allowing renewal of your propagation permit although you were unable to document that at least one young raised to fledging age, semen, or eggs were produced by each bird held under your propagation permit and used in captive propagation efforts, we will consider renewing your permit for an additional permit cycle. If, after your first renewal, you do not provide documentation of successful captive propagation or production of eggs or semen used in captive propagation within the next 5 years, we will not renew your permit again. If we do not renew your permit or do not allow continued possession of a bird or birds for captive propagation (including captive-bred raptors), within 30 days you must transfer any such bird to another raptor propagator or to a falconer, or release it to the wild (if release of the species is allowed by the state).

Dated: October 3, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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