

USDI & USDC 1999. Letter from USFWS Director Jamie Rappaport Clark and NMFS Director Penelope D. Dalton to Anne Badgley, Regional Director, Region 1 USFWS and Will Stelle, Regional Administrator, Northwest Region NMFS, regarding Regulatory Jurisdiction over the Coastal Cutthroat Trout (*Oncorhynchus clarki clarki*). Dated November 22, 1999. 2 pages.

Waples, R.S. In Litt. Letter from Robin Waples of NMFS Northwest Fisheries Science Center to Anne Badgley, Regional Director, Region 1 USFWS regarding a request for assistance in completing Endangered Species Act status review for Coastal cutthroat trout. Dated February 22, 2000. 2 pages.

Author: The primary author of this document is Rollie White (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 6, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018-AF93

Migratory Bird Permits; Determination That the State of Delaware Meets Federal Falconry Standards and Amended List of States Meeting Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We propose to add the State of Delaware to the list of States whose falconry laws meet or exceed Federal falconry standards. This action would enable residents of the State of Delaware to apply for a Federal/State falconry permit and to practice falconry in that State. We also propose to amend the list of States that participate in the cooperative Federal/State permit system by adding Delaware and Vermont. The State of Vermont has recently begun to participate in the cooperative program.

DATES: You may submit comments on or before May 15, 2000 at the location noted below under the heading **ADDRESSES**.

ADDRESSES: Comments must be submitted to the Chief, Office of Migratory Bird Management, U.S. Fish

and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203. Copies of the environmental assessment (EA) and the State falconry rules for Delaware are available by writing to this same address. The public may inspect comments during normal business hours at this address.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, telephone 703/358-1714.

SUPPLEMENTARY INFORMATION:

Regulations in 50 CFR part 21 provide for review and approval of State falconry laws by the Fish and Wildlife Service. A list of States whose falconry laws are approved by the Service is found in 50 CFR 21.29(k). The practice of falconry is authorized in those States. As provided in 50 CFR 21.29 (a) and (c), the Director has reviewed certified copies of the falconry regulations adopted by the State of Delaware and has determined that they meet or exceed Federal falconry standards. Federal falconry standards contained in 50 CFR 21.29(d) through (i) include permit requirements, classes of permits, examination procedures, facilities and equipment standards, raptor marking, and raptor taking restrictions. Delaware regulations also meet or exceed all restrictions or conditions found in 50 CFR 21.29(j), which include requirements on the number, species, acquisition, and marking of raptors. Therefore, we are proposing that the State of Delaware be listed under § 21.29(k) as a State that meets Federal falconry standards. Inclusion of Delaware in this list would eliminate the current restriction that prohibits falconry within that State.

We are publishing the entire list of States that have met the Federal falconry standards, including the State of Delaware. We believe that publishing this list in its entirety will eliminate any confusion concerning which States have approval for falconry and further indicate which States participate in a cooperative Federal/State permit system program. We are adding asterisks to both Delaware and Vermont to identify them as participants in the cooperative permit program as explained below.

Why Is This Rulemaking Needed?

The need for the proposed changes to 50 CFR 21.29(k) arose from the expressed desire of the State of Delaware to institute a falconry program for the benefit of citizens interested in the sport of falconry and to participate in a cooperative Federal/State permit system. Accordingly, the State has promulgated regulations that meet or

exceed Federal requirements protecting migratory birds. The proposed changes to 50 CFR 21.29(k) are necessary to allow, by inclusion within the listing of authorized falconry States, persons in the State of Delaware to practice falconry. We are also identifying the State of Vermont as a participant in a cooperative Federal/State permit system following that State's addition to the list of approved falconry States on September 7, 1999 (64 FR 48565).

NEPA Consideration

In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)), and the Council on Environmental Quality's regulations for implementing NEPA (40 CFR parts 1500-1508), the Service prepared an Environmental Assessment (EA) in July 1988 to support establishment of simpler, less restrictive regulations governing the use of most raptors. This EA is available to the public at the location indicated under the **ADDRESSES** caption. Based on review and evaluation of the proposed rule to amend 50 CFR 21.29(k) by adding Delaware to the list of States whose falconry laws meet or exceed Federal falconry standards, and Delaware and Vermont as participants in the cooperative application program, we have determined that the issuance of the proposed rule is categorically excluded from NEPA documentation under the Department of the Interior's NEPA procedures in 516 DM 2, Appendix 1.10.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531, *et seq.*), provides that, "The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] shall "insure that any action authorized, funded, or carried * * * 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 * * *". Our review pursuant to section 7 concluded that this action is not likely to adversely affect listed species. A copy of this determination is available by contacting us at the address indicated under the **ADDRESSES** caption.

Other Required Determinations

This rule was not subject to the Office of Management and Budget (OMB) review under Executive Order 12866. The Department of the Interior has

determined that this rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act; it will not have an annual effect on the economy of \$100 million or more, will not cause a major increase in costs or prices, and will not adversely affect competition, employment, investment, productivity, or innovation. We estimate that 20 individuals would obtain falconry permits as a result of this rule, and many of the expenditures of those permittees would accrue to small businesses. The maximum number of birds allowed by a falconer is 3, so the maximum number of birds likely to be possessed is 60. Some birds would be taken from the wild, but others could be purchased. Using one of the more expensive birds, the northern goshawk, as an estimate, the cost to procure a single bird is less than \$5,000, which, with an upper limit of 60 birds, translates into \$300,000. Expenditures for building facilities would be less than \$32,000 for 60 birds, and for care and feeding less than \$60,000. These expenditures, totaling less than \$400,000, represent an upper limit of potential economic impact from the addition of Delaware to the list of approved States.

This rule has no potential takings implications for private property as defined in Executive Order 12630. The only effect of this proposed rule on the constituent community would be to allow falconers in the State of Delaware to apply for falconry permits. We estimate that no more than 20 people would apply for falconry permits in Delaware. This rule does contain information collection requirements that are approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection is covered by an existing OMB approval for licenses/permit applications, number 1018-0022. For further details concerning the information collection approval, see 50 CFR 21.4.

We have determined, and certify pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The rule does not have significant Federalism effects pursuant to Executive Order 13132. We also have determined that these regulations meet the applicable standards provided in

sections 3(a) and 3(b)(2) of Executive Order 12988 for civil justice reform, and that the rule does not unduly burden the judicial system.

Regarding Government-to-Government relationships with Tribes, this rulemaking would have no effect on federally recognized Tribes. There are no federally recognized Tribes in the State of Delaware. Furthermore, the revisions to the existing regulations are of a purely administrative nature affecting no Tribal trust resources.

Request for Comments

If you wish to comment, you may do so by any one of several methods. You may mail or hand-deliver comments to: Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 634, Arlington, Virginia 22203. You may also fax comments to this office at (703) 358-2016.

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 circumstances in which we would withhold from the rulemaking record a respondent's identify, as allowable by law. 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 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.

For the reasons described in the preamble, we are proposing to amend part 21, subchapter B, chapter I of title 50 of the Code of Federal Regulations, as set forth below:

PART 21—MIGRATORY BIRD PERMITS

1. 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)).

2. Amend § 21.29 by revising paragraph (k) as follows:

§ 21.29 Federal falconry standards.

* * * * *

(k) *States meeting Federal falconry standards.* We have determined that the following States meet or exceed the minimum Federal falconry standards established in this section for regulating the taking, possession, and transportation of raptors for the purpose of falconry. The States that are participants in a cooperative Federal/State permit system are designated by an asterisk (*).

*Alabama
*Alaska
*Arizona
*Arkansas
*California
*Colorado
*Delaware
*Florida
*Georgia
*Idaho
*Illinois
*Indiana
*Iowa
*Kansas
*Kentucky
*Louisiana
Maine
Maryland
Massachusetts
*Michigan
*Minnesota
*Mississippi
*Missouri
*Montana
*Nebraska
*Nevada
*New Hampshire
*New Jersey
New Mexico
New York
*North Carolina
*North Dakota
*Ohio
Oklahoma
*Oregon
Pennsylvania
Rhode Island
*South Carolina
*South Dakota
*Tennessee
Texas
*Utah
*Vermont
*Virginia
*Washington
West Virginia
*Wisconsin
*Wyoming

Dated: April 7, 2000.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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