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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[Docket Number FWS-R9-MB-2009-0045]

[91200-1231-9BPP]

RIN 1018-AW75

Migratory Bird Permits; Abatement Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the public comment period on our July 6, 2011, advance notice of proposed rulemaking in which we solicited comments and suggestions on migratory bird permit regulations for a permit to use raptors (birds of prey) in abatement activities. Abatement means the use of trained raptors to flush, scare (haze), or take birds or other wildlife to mitigate damage or other problems, including risks to human health and safety. We have permitted this activity under special purpose permits since 2007 pursuant to a migratory bird permit policy memorandum. We now intend to prepare a specific permit regulation to authorize

this activity. We seek information and suggestions from the public to help us formulate any proposed regulation.

We are reopening the comment period to allow all interested parties another opportunity to comment on the proposed rule. Comments previously submitted need not be resubmitted and will be fully considered in preparation of a proposed rule.

DATES: Electronic comments on this proposal via *regulations.gov* must be submitted by midnight Eastern time on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments submitted by mail must be postmarked no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may only submit comments or suggestions by the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. We will not post duplicate comments from any entity, nor will the duplicates be put into our administrative record for this issue.

- U.S. mail or hand-delivery: Public Comments Processing, Attention FWS-R9-MB-2009-0045; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203-1610.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: George Allen at 703-358-1825.

SUPPLEMENTARY INFORMATION:

Public Comments

We request comments and suggestions on this topic from other concerned governmental agencies, the scientific community, industry, or any other interested parties. You may submit your comments and materials concerning this issue by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we use in preparing a proposed rule, will be available for public inspection at <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service (contact the person listed under **FOR FURTHER INFORMATION CONTACT**).

Background

On July 6, 2011, we published in the **Federal Register** an advance notice of proposed rulemaking to gather information and suggestions from the public to help us formulate a proposed regulation for a specific permit authorizing the use of raptors in abatement activities (76 FR 39368). The comment period for the advance notice of

proposed rulemaking was open for 90 days, ending on October 4, 2011. At a commenter's request, we are reopening the comment period on the advance notice of proposed rulemaking for an additional 60 days (see **DATES** section). We specifically seek comments concerning any aspect of the use of trained MBTA-protected raptors for abatement activities and potential regulations to govern Federal permitting. We particularly solicit comments on the topics listed below. Explaining the reasons and rationale for your comments where appropriate will help as we consider them in the preparation of a proposed rule.

(1) Qualifications and experience necessary to qualify for a Federal abatement permit.

(2) Limits on the species that should be authorized for use in abatement activities.

(3) Limits on the numbers of raptors that should be authorized for use in abatement activities.

(4) Qualifications and experience of subpermittees (both those authorized to fly the permit holder's raptors and those allowed to care for birds).

(5) Caging requirements for birds, while traveling, being transported and held in "temporary" caging for extended periods of time, i.e., multiple birds held in a trailer while conducting seasonal abatement activities at multiple locations.

(6) The use of falconry birds held by subpermittees for abatement.

(7) Any other considerations relating to subpermittees conducting abatement activities under a permit holder's permit, including their business relationship to the permit holder. For example, should falconers located elsewhere in the United States be

allowed to conduct abatement activities in their own locale as subpermittees under a permit holder's abatement permit? Why or why not?

(8) Comments on what has worked well under existing permits and what has not worked well.

(9) Report information that should be required from a permit holder, if any.

(10) Other conditions that should apply to these permits.

(11) Examples of situations where raptors are used for abatement and information or documentation of success or lack of success in accomplishing abatement objectives.

If you previously submitted comments in response to the July 6, 2011, advance notice of proposed rulemaking, do not resubmit them. They will be fully considered as we prepare a proposed rule. For more information concerning the advance notice of proposed rulemaking, please refer to that document at 76 FR 39368 (July 6, 2011).

Authority: The authorities for this notice are the Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703-712); Public Law 95-616, 92 Stat. 3112 (16 U.S.C. 712(2)); Public Law 106-108, 113 Stat. 1491, and Note Following 16 U.S.C. 703.

Dated: October 21, 2011

Rachel Jacobson

Acting Assistant Secretary for Fish and Wildlife and Parks.

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