

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement;

(3) The joint venture meets the requirements of paragraph 7 of the explanation of Affiliates in 19.101 of the Federal Acquisition Regulation; and

(4) The joint venture meets the requirements of 13 CFR 125.15(b), except that the principal company may be a veteran-owned small business concern or a service-disabled veteran-owned small business concern.

(e) Any veteran-owned small business concern (non-manufacturer) must meet the requirements in 19.102(f) of the Federal Acquisition Regulation to receive a benefit under this program.

(End of Clause)

■ 39. Add section 852.219–71 to read as follows:

852.219–71 VA Mentor-Protégé Program.

As prescribed in 819.7115(a), insert the following clause:

VA Mentor-Protégé Program

(DEC2009)

(a) Large businesses are encouraged to participate in the VA Mentor-Protégé Program for the purpose of providing developmental assistance to eligible service-disabled veteran-owned small businesses and veteran-owned small businesses to enhance the small businesses' capabilities and increase their participation as VA prime contractors and as subcontractors.

(b) The program consists of:

(1) Mentor firms, which are contractors capable of providing developmental assistance;

(2) Protégé firms, which are service-disabled veteran-owned small business concerns or veteran-owned small business concerns; and

(3) Mentor-Protégé Agreements approved by the VA Office of Small and Disadvantaged Business Utilization.

(c) Mentor participation in the program means providing business developmental assistance to aid protégés in developing the requisite expertise to effectively compete for and successfully perform VA prime contracts and subcontracts.

(d) Large business prime contractors serving as mentors in the VA Mentor-Protégé Program are eligible for an incentive for subcontracting plan credit. VA will recognize the costs incurred by a mentor firm in providing assistance to a protégé firm and apply those costs for purposes of determining whether the mentor firm attains its subcontracting plan participation goals under a VA contract. The amount of credit given to a mentor firm for these protégé developmental assistance costs shall be calculated on a dollar-for-dollar basis and reported by the large business prime contractor via the Electronic Subcontracting Reporting System (eSRS).

(e) Contractors interested in participating in the program are encouraged to contact the VA Office of Small and Disadvantaged Business Utilization for more information.

(End of Clause)

■ 40. Add section 852.219–72 to read as follows:

852.219–72 Evaluation Factor for Participation in the VA Mentor-Protégé Program.

As prescribed in 819.7115(b), insert the following clause:

Evaluation Factor for Participation in the VA Mentor-Protégé Program

(DEC2009)

This solicitation contains an evaluation factor or sub-factor regarding participation in the VA Mentor-Protégé Program. In order to receive credit under the evaluation factor or sub-factor, the offeror must provide with its proposal a copy of a signed letter issued by the VA Office of Small and Disadvantaged Business Utilization approving the offeror's Mentor-Protégé Agreement.

(End of Clause)

■ 41. Add section 852.228–72 to read as follows:

852.228–72 Assisting Service-Disabled Veteran-Owned and Veteran-Owned Small Businesses in Obtaining Bonds.

As prescribed in 828.106–71, insert the following clause:

Assisting Service-Disabled Veteran-Owned Small Businesses and Veteran-Owned Small Businesses in Obtaining Bonds

(DEC2009)

Prime contractors are encouraged to assist service-disabled veteran-owned and veteran-owned small business potential subcontractors in obtaining bonding, when required. Mentor firms are encouraged to assist protégé firms under VA's Mentor-Protégé Program in obtaining acceptable bid, payment, and performance bonds, when required, as a prime contractor under a solicitation or contract and in obtaining any required bonds under subcontracts.

[FR Doc. E9–28461 Filed 12–7–09; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

[FWS–R9–MB–2009–0071; 91200–1231–9BPP]

RIN 1018–AW98

Migratory Bird Permits; States Delegated Falconry Permitting Authority

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The States of Mississippi, Montana, Oklahoma, Pennsylvania,

Texas, and Utah have requested that we, the U.S. Fish and Wildlife Service, delegate permitting for falconry to the State, as provided under the regulations at 50 CFR 21.29. We have reviewed regulations and supporting materials provided by the States, and have concluded that their regulations comply with the Federal regulations. We change the falconry regulations accordingly.

DATES: This rule is effective January 7, 2010.

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

SUPPLEMENTARY INFORMATION:

Background

We, the U.S. Fish and Wildlife Service, published a final rule in the **Federal Register** on October 8, 2008, to revise our regulations governing falconry in the United States (50 CFR 21.29). The regulations provide that, when a State meets the requirements for operating under the regulations, falconry permitting must be delegated to the State. The States of Mississippi, Montana, Oklahoma, Pennsylvania, Texas, and Utah have submitted revised falconry regulations and supporting materials, and have requested to be allowed to operate under the revised Federal regulations. We have reviewed the States' regulations and determined that they meet the requirements of 50 CFR 21.29(b). According to the regulations at § 21.29(b)(4), we must issue a rule to add the State to the list at § 21.29(b)(10) of approved States with a falconry program. We change the Federal regulations accordingly. Therefore, a Federal permit will no longer be required to practice falconry in the States of Mississippi, Montana, Oklahoma, Pennsylvania, Texas, and Utah beginning January 1, 2010.

Administrative Procedure

In accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), we are issuing this final rule without prior opportunity for public comment. Under the regulations at 50 CFR 21.29(b)(1)(ii), the Director of the U.S. Fish and Wildlife Service must determine if a State, tribal, or territorial falconry permitting program meets Federal requirements. When the Director makes this determination, the Service is required by regulations at 50 CFR 21.29(b)(4) to publish a rule in the **Federal Register** adding the State, tribe, or territory to the list of those approved for allowing the practice of falconry. On January 1st of the calendar year following publication of the rule, the

Service will terminate Federal falconry permitting in any State certified under the regulations at 50 CFR 21.29. This is a ministerial and non-discretionary action that must be enacted in short order to enable the subject States to assume all responsibilities of falconry permitting by January 1, 2010, the effective date of this regulatory amendment. Further, the relevant regulation at 50 CFR 21.29 governing the transfer of permitting authority to these States has already been subject to public notice and comment procedures. Therefore, in accordance with 5 U.S.C. 553(b)(3)(B), we did not publish a proposed rule in regard to this rulemaking action because, for good cause as stated above, we found prior public notice and comment procedures to be unnecessary.

Required Determinations

Regulatory Planning and Review

The Office of Management and Budget (OMB) has determined that this rule is not significant under Executive Order 12866. OMB bases its determination upon the following four criteria:

- a. Whether the rule will have an annual effect of \$100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.
- b. Whether the rule will create inconsistencies with other Federal agencies' actions.
- c. Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.
- d. Whether the rule raises novel legal or policy issues.

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 (that is, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis 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 rule delegates authority to States that have requested it, and those States have already changed their falconry regulations. This rule does not change falconers' costs for practicing their sport, nor does it affect businesses that provide equipment or supplies for falconry.

Consequently, we certify that, because this rule will 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 the SBREFA (5 U.S.C. 804(2)). It will not have a significant economic 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. There are no costs to permittees or any other part of the economy associated with this regulations change.

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 falconry 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. Falconry is an endeavor of private individuals. Neither regulation nor practice of falconry 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 in a negative way. A small government agency plan is not required. The four States affected by this rule applied for the authority to issue permits for the practice of falconry.

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.

Takings

In accordance with E.O. 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule does not contain a provision for taking of private property.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under E.O. 13132. The States being delegated authority to issue permits to conduct falconry have requested that authority. No significant economic impacts are expected to result from the regulation of falconry.

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 meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

We examined this rule under the Paperwork Reduction Act of 1995. OMB has approved the information collection requirements of the Migratory Bird Permits Program and assigned OMB control number 1018-0022, which expires November 30, 2010. This regulation change does not add to the approved information collection. Information from the collection is used to document take of raptors from the wild for use in falconry and to document transfers of raptors held for falconry between permittees. A Federal agency 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 evaluated the environmental impacts of the changes to these regulations, and determined that this rule does not have any environmental impacts. Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, we determined that these regulatory changes do not have a significant effect on the human environment.

Under the guidance in Appendix 1 of the Department of the Interior Manual at 516 DM 2, we conclude that the regulatory changes are categorically excluded because they "have no or minor potential environmental impact"

(516 DM 2, Appendix 1A(1)). No more comprehensive NEPA analysis of the regulations change is required.

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 this rule will not interfere with Tribes' ability to manage themselves or their funds or to regulate falconry on Tribal lands.

Energy Supply, Distribution, or Use

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only affects the practice of falconry in the United States, it is not a significant regulatory action under E.O. 12866, and will not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Environmental Consequences of the Proposed Action

Socioeconomic. We do not expect the proposed action to have discernible socioeconomic impacts.

Raptor populations. This rule will not change the effects of falconry on raptor populations. We have reviewed and approved the State regulations.

Endangered and Threatened Species. This rule does not change protections for endangered and threatened species.

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)). Delegating falconry permitting authority to States with approved programs will not affect threatened or endangered species or their habitats in the United States.

List of Subjects in 50 CFR Part 21

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

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

PART 21—MIGRATORY BIRD PERMITS

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

Authority: .0 Migratory Bird Treaty Act, 40 Stat. 755 (16 U.S.C. 703); Public Law 95-616, 92 Stat. 3112 (16 U.S.C. 712(2)); Public Law 106-108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

§ 21.29 [Amended]

■ 2. Amend § 21.29 as follows:

- a. In paragraph (b)(10)(i), remove the brackets and the words "[—States, tribes, and territories in compliance with these revised regulations—]" and add in their place the words "Mississippi, Montana, Oklahoma, Pennsylvania, Texas, or Utah," and
- b. In paragraph (b)(10)(ii), remove the words "Mississippi," "Montana," "Oklahoma," "Pennsylvania," "Texas," and "Utah".

Dated: November 20, 2009.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

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