

administrative changes to valid permits, such as address and telephone number changes. The amount of the amendment fee will typically be half of the application fee for the type of permit (see fee schedule at the end of this document). Examples of substantive amendments include changing the species covered under a scientific collecting permit, requesting authorization to import wildlife through an additional nondesignated port, and relocating a wildlife operation to new facilities at a different site. With some exceptions, most migratory bird permits will not require fees for amendment because amendments to migratory bird permits typically do not require significant additional staff time on the part of the Service to process. Amending a valid permit will not extend the tenure of the permit beyond the original expiration date. Amendments to Master Files, Annual Programs, and WBCA cooperative breeding programs will be treated differently (see above). Some permits cannot be amended; the fee schedule therefore does not reflect any amendment cost for these types of permits (see fee schedule at the end of this document).

#### Waivers

Currently, § 13.11(d)(3) provides for a waiver of permit fees for governmental entities. This section provides that a fee will not be charged to any Federal, State, or local government agency, nor to any individual or institution under contract to such agency for the proposed activity. In the past, the Service has extended fee waivers to other public institutions provided that proof of their status as a "public institution" accompanied the permit application. We are now proposing to limit the fee waiver provided for public institutions to only Federal and State governmental agencies, and to individuals or institutions under contract to such agencies for the activities being permitted. We find it necessary to limit exemptions given the substantial time and effort the Service dedicates to processing permit applications and monitoring and maintaining permits of public institutions. In addition, many of the affected institutions receive benefits from Service permits beyond those that accrue to the general public or to Federal or State governments.

This rule further provides that a Regional Director or Assistant Director may waive or reduce any fee on a case-by-case basis for extraordinary extenuating circumstances. We envision this provision will be used rarely, if ever.

#### Additional Revisions

We have proposed several administrative changes to § 13.3, entitled "Scope of regulations." Specifically, the titles of several parts of the CFR in Title 50, that are referenced within this section, have been brought up to date. The rule further proposes to revise the term "permit" to include documents issued by authorized foreign government agencies for purposes of CITES.

The proposed rule makes revisions to § 13.11(b) to provide updated Service addresses for requesting and submitting permit applications.

We are proposing to revise § 13.11(c) to advise applicants that the time required for the processing of endangered and threatened species incidental take permits will vary according to the project scope and significance of effects, and may require more than 90 calendar days. Permit applicants are also now informed that the time required for processing some permits may be increased by the procedural requirements of NEPA, the requirement to publish a notice in the **Federal Register** for a 30-day public comment period upon receipt of a permit application, as well as the need to obtain review of the permit application by Service Regional and Field Offices. The Service will work to complete all steps of the permitting process as expeditiously as possible.

Finally, the proposed rule amends § 13.42, to clarify that, in addition to any conditions set forth in the regulations for a given permit type, individual permits may be further conditioned at the time of issuance, at the discretion of the Director, as noted on the face of the permit.

#### Extension of Permit Tenure for Two Migratory Bird Permits

We are revising § 21.24, taxidermist permits, and § 21.25, waterfowl sale and disposal permits, to extend the tenure of these permits from 3 years to 5 years. These migratory bird permits authorize a service or activities that occur on an ongoing basis. They do not authorize take from the wild, and as such necessitate less Service oversight and monitoring. Taxidermy permits are the most numerous migratory bird permit, representing over 8,000 active permits at any given time. Reducing the frequency of renewal of these permits would reduce Service costs associated with administering these permits.

#### Endangered Species Act Consideration

Section 7 of the ESA (16 U.S.C. 1531 *et seq.*), provides that, "[t]he Secretary

[of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act." Furthermore, section 7(a)(2) of the Act requires all Federal agencies to "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." Our review of this proposed rule pursuant to section 7 of the ESA concluded that this action will not affect listed or proposed species.

#### Required Determinations

##### *Responsibilities of Federal Agencies To Protect Migratory Birds (E.O. 13186)*

This rule has been evaluated for impacts to migratory birds, with emphasis on species of management concern, and is in accordance with the guidance in Executive Order 13186.

##### *Regulatory Planning and Review (E.O. 12866)*

In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action. OMB has made this determination of significance under Executive Order 12866.

a. This rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. The purpose of this rule is to more closely align the fee structure with the Federal cost of permit processing for permits issued by the Divisions of Migratory Bird Management, Law Enforcement, and Management Authority. Fees charged for permits issued by the Fish and Wildlife Service have not increased since 1982. During that time period, Federal salaries have increased by 128 percent and since permit reviews are a labor-intensive activity, Service programs have had to absorb the additional cost of permit processing.

In total, the Service processes approximately 25,000 permits annually. About half of these permits are issued to small entities, many of whom can pass the economic effect of the fee increase (an average of \$50 per year per permit) to consumers, depending on the elasticity of demand. The maximum loss in consumer surplus, if all costs were passed along to consumers, would be \$1.25 million annually. However, for commercial permittees, the average \$50 cost increase of the permits will be spread over many products and result in negligible price increases to consumers.