

Order 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 E.O. 13186.

Regulatory Planning and Review (Executive Order 12866). In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action. OMB has made this final determination of significance under E.O. 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.

b. This rule will not create serious inconsistencies or otherwise interfere with other agencies' actions. The Fish and Wildlife Service is the only Federal agency responsible for enforcing the Migratory Bird Treaty Act.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule does not have anything to do with the aforementioned programs.

d. This rule does not raise novel legal or policy issues. Rehabilitation activities for migratory birds currently operate under a different permit than that proposed in this rule.

Regulatory Flexibility Act. 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), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must either certify that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.*, small business, small organizations, and small governmental jurisdictions) or prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act. This rule requires applicants for migratory bird rehabilitation permits to pay the fee listed in the Service permit application fee schedule at 50 CFR 13.11. Currently, the Service waives fees for migratory bird rehabilitation permit applicants. This rulemaking reinstates the standard \$25 permit application fee and extends the term of the permit to 5 years. The net effect is that approximately 2,500 persons will pay

\$25 every 5 years to obtain and renew migratory bird rehabilitation permits, amounting to \$5 per year per rehabilitator. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities. A final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Unfunded Mandates Reform Act. In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. We have determined and certified pursuant to the Unfunded Mandates Reform 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 government or private entities.

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 Executive Order 12630, the rule does not have significant takings implications. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. A takings implication assessment is not required.

Federalism. In accordance with Executive Order 13132, and based on the discussions in Regulatory Planning and Review above, this rule does not have significant Federalism effects. A Federalism assessment is not required. Because of the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. This rule does not have a substantial direct effect on fiscal capacity, nor does it change the roles or responsibilities of Federal or State governments or intrude on State policy or administration.

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 that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Department of the Interior has certified to the Office of Management and Budget that this rule meets the applicable standards provided in Sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act. This rule does not contain new or revised information collection for which Office

of Management and Budget approval is required under the Paperwork Reduction Act. Information collection associated with migratory bird permit programs has been approved by OMB under control number 1018-0022, which expires April 30, 2004. 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 determined that this rule is categorically excluded under the Department's NEPA procedures in 516 DM 2, Appendix 1.10.

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), E.O. 13175, and 512 DM 2, this rule will have no effect on federally recognized Indian tribes.

List of Subjects

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 21

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

50 CFR Part 22

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

■ For the reasons set forth in this preamble, we amend 50 CFR chapter I as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.21 to add paragraphs (c)(6), (c)(7), (d)(3), and (d)(4) to read as follows:

§ 17.21 Prohibitions.

* * * * *

(c) * * *

(6) Notwithstanding paragraph (c)(1) of this section, any person acting under a valid migratory bird rehabilitation permit issued pursuant to § 21.31 of this subchapter may take endangered migratory birds without an endangered