

[EXTERNAL] Comments pertaining to FWS-HQ-MB-2019-N135; FF09M21200-190-FXMB1231099BPP0; OMB Control Number 1018-0022

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Mon 12/30/2019 1:43 PM

To: Baucum, Madonna L <madonna_baucum@fws.gov>

Cc: Richkus, Ken <ken_richkus@fws.gov>; Kershner, Eric <Eric_Kershner@fws.gov>

 1 attachments (508 KB)

ICR2019.pdf;

Dear Ms. Baucum,

I attach our comments pertaining to this ICR. Hard copy to follow.

I would greatly appreciate your adding the Ornithological Council to your contact/distribution list for notices pertaining to the MBTA, ESA, CITES, and WBCA as well as LE. As you can see, our organization is a consortium of numerous ornithological societies. Although I do check the FR every morning, it would be most helpful to have direct notices as well. This is particularly true as all the members of *all* these societies rely both on the USFWS for permits and on the OC for information about permits.

Sincerely,

Ellen Paul

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Ellen Paul

Executive Director

[Ornithological Council](#)

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Providing Scientific Information about Birds



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Neotropical Ornithological Society

Pacific Seabird Group

Raptor Research Foundation

Society of Canadian Ornithologists/
Société de Ornithologistes du Canada

The Waterbird Society

Wilson Ornithological Society

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30 December 2019

Madonna L. Baucum
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Regarding Information Collection Request [FWS-HQ-MB-2019-
N135; FF09M21200-190-FXMB1231099BPP0; OMB Control
Number 1018-0022]

Dear Ms. Baucum,

The Ornithological Council is a consortium of 11 scientific societies of ornithologists. Seven of those societies are based in the United States and nearly all of their collective 4,000 members obtain various permits issued under the Migratory Bird Treaty Act throughout their careers. The Ornithological Council has assisted ornithologists in obtaining permits for over 20 years and has interacted with the Service on permit issues on a regular basis.

In response to this Information Collection Request pertaining to the migratory bird permits, we would first like to offer our congratulations to the Service for creating an online permits system. We look forward to the continuing development of this system. We hope the Service will take advantage of this online format, both now and as new versions are developed, to offer additional information and definitions for each permit. It has been our experience that stakeholders may not understand when a permit is needed. For instance, most do not know that the MBTA regulatory exemption (50 CFR 21.12) exists or how it might apply to their situation. The MBTA permits do not mention the exemption. Finding, reading, and understanding the application of the regulations requires a degree of expertise. An online system could start by alerting the user to the exemption and offering a set of questions to determine if the exemption applies to their situation. There are also some mismatches in terminology that lead to misunderstanding. For instance, scientists use the term "scientific collecting" to mean the removal of an animal from the wild for scientific research. It might entail permanent removal; it might mean take by lethal means or capture of a living animal. However,

it is understood to mean an entire animal. Unless stakeholders are aware that the regulatory definition is much broader, they might not realize, for instance, that a permit is needed to pick up moulted feathers from a protected species from the ground. Although it might be unwieldy to add definitions to the paper form, the online format affords the opportunity to ask definitions, illustrations, and FAQs for each permit type.

We have reviewed the permit types most commonly needed by ornithologists and would like to offer the following comments. Although some of our observations pertain more to implementation than to the forms themselves, the inconsistent and confusing implementation might be averted, in part, by revision of the forms. Some of these concerns might also be addressed by the completion of the National Standards Operating manual that the Division of Migratory Birds is compiling and, in the interim, by the issuance of guidance from Region 9 to the permit-issuing regions. For that reason, we are copying this letter to the Division of Migratory Bird Management.

In particular, the scientific and exhibition purposes permit issued under 50 CFR 22.21 (3-200-14) for Bald Eagles and Golden Eagles has been problematic. The specific problems are:

1. The form is entitled “Eagle Exhibition” but the regulation covers both scientific research and exhibition. “We may, under the provisions of this section, issue a permit authorizing the taking, possession, transportation within the United States, or transportation into or out of the United States of lawfully possessed bald eagles or golden eagles, or their parts, nests, or eggs for the scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks. We will not issue a permit under this section that authorizes the transportation into or out of the United States of any live bald or golden eagles, or any live eggs of these birds.” The regulatory provision is for scientific *or* exhibition purposes. As titles alone can be misleading (why would someone needing a permit for scientific purposes even click on a permit entitled “exhibition”?) it might be advisable to change the title to Eagle Exhibition and Scientific Purposes.
 - a) The text on page 2 of the permit application contradicts the regulation. It reads, “A Federal Eagle Exhibition permit is required to possess and transport eagles for the purpose of educating the public about the biology, ecology, and conservation needs of eagles...A minimum of 12 public educational programs per year must be conducted under this permit.” The regulation includes *no* requirement for public education purposes. The regulation allows transport and possession for scientific research or public exhibition (or, presumably, both) but the permit seems to be issued only for public exhibition.
 - b) Question 4 on the permit application requires a description of educational messages and materials. There is no such requirement in the regulation and while it is a reasonable question to ask if the purpose for the permit is exhibition, it is not pertinent if the purpose is scientific research.
2. The regulation specifies that the permit duration is stated on the face of the permit. Some regions have issued these permits to museums with letters stating that the permits are of indefinite duration and specifying that no annual report is required. This practice makes sense as museums rarely acquire new eagle specimens. Nearly all specimens are sent to

the National Eagle Repository for distribution to the tribes, per Department of Interior policy. Museum holdings will rarely change unless a specimen is transferred to another institution. Others regions still require regular renewal and annual reports.

3. Part 22 regulations specifically state that “You do not need a permit under parts 17 and 21 of this subchapter B for any activity permitted under this part 22 with respect to bald or golden eagles or their parts, nests, or eggs.” [50 CFR 22.11(b)]. However, at least one region is requiring a museum to obtain a Part 21 scientific collecting permit in order to receive a bald eagle carcass from the Service, rather than obtaining it under the museum’s “Federal Eagle Exhibition” permit. The scientific collecting form (3-200-7), however, is entitled “Migratory Bird and Eagle Scientific Collecting” and includes the regulatory provision for eagles (50 CFR 22.21). Thus, this confusion seems to stem from 3-200-7 form, which overlaps the authority of the 3-200-14 permit that implements the eagle regulation (50 CFR 22.21).

We suggest that forms 3-200-7 and 3-200-14 be revised so as to eliminate this overlap; adding the quoted regulatory text might help permit specialists to avoid such errors.

We appreciate the opportunity to offer these observations and suggestions and hope that our comments prove useful to the Service.

Sincerely,

Ellen Paul
Executive Director

cc:

Ken Richkus, Chief, Division of Migratory Bird Management
Eric Kershner, Chief, Branch of Conservation, Permits, and Regulations