

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 91**

[1018-AU94]

**Revision of Migratory Bird Hunting and Conservation Stamp Contest Regulations****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

**SUMMARY:** We, the Fish and Wildlife Service (Service, or we), revise the regulations governing the annual Migratory Bird Hunting and Conservation Stamp Contest [also known as the Federal Duck Stamp Contest (contest)]. We now provide a special exemption that allows recent winning artists to submit entries for the 2007 contest only. We also clarify in our regulations our longstanding practice to include artwork from the third round of judging in an art tour for 1 year; early return of the artwork to the artist will make the artist ineligible for the next three contests. Finally, we correct minor grammatical errors in the contest procedures.

**DATES:** This rule is effective on March 14, 2007.**FOR FURTHER INFORMATION CONTACT:** Patricia Fisher, Chief, Federal Duck Stamp Office, (703) 358-2000 (phone), [duckstamps@fws.gov](mailto:duckstamps@fws.gov) (e-mail), or (703) 358-2009 (fax).**SUPPLEMENTARY INFORMATION:** On September 27, 2006, we published in the **Federal Register** (71 FR 56443) a proposed rule to amend the regulations governing the annual Migratory Bird Hunting and Conservation Stamp Contest [also known as the Federal Duck Stamp Contest (contest)]. In brief, this rule adopts those proposed changes in full, as described below.**Changes to the Regulations at 50 CFR Part 91**

We are making all the changes detailed in our proposed rule (September 27, 2006, 71 FR 56443). The changes affect the regulations governing the contest in the Code of Federal Regulations (CFR) at 50 CFR 91.

*Exemption for Winning Artists*

Section 91.12 contains a 3-year prohibition against winning artists participating in the three successive contests. We put this rule into place as a way to ensure that a variety of artists can compete fairly and to avoid allowing a single individual to

repeatedly win the contest. However, we are exempting the 2007 contest from this rule, because the 2007 contest marks an important milestone, since it will choose the 75th Federal Duck Stamp. This significant event is very important for all wildlife artists, and we therefore allow everyone an equal chance to compete. We lift this prohibition for the 2007 contest only. We further clarify that this exemption will not be counted towards the remainder of the waiting period for 2004–06 winning artists. These recent winning artists must complete their 3-year waiting periods in full and will have to serve the remainder of their terms after the 2007 contest. Two examples follow:

(1) *Ann wins the 2006 contest. She may enter the special 2007 contest. Regardless of whether she wins 2007 or not, she is ineligible to enter in 2008, 2009, or 2010. She may enter in 2011.*

(2) *Bob wins the 2005 contest. He was ineligible to enter the 2006 contest. He may enter the special 2007 contest. Regardless of whether he wins 2007 or not, he is ineligible to enter in 2008 or 2009, but he may enter in 2010.*

*Contest Procedures*

Section 91.24 paragraphs (g) and (h) have typographical errors. We correct the errors in our presentation of the possible numerical scores that can be awarded by judges.

*Post-Contest Finalists' Tour*

Section 91.31 specifies the return of artwork after the contest has concluded. We clarify the portion of the regulations that mentions the possibility of the artwork being sent on a tour to appear at one or more wildlife art exhibitions. Recently artists believed that the 120-day limit was all that had to be honored. We clarify this requirement.

The art tour is a chance for the public to see the finalists in the Federal Duck Stamp Contest. These are the entries that made it to the third and final round of judging. The tour travels to various locations across the country and allows the public to see some of the best examples of wildlife art. With the tour, we engage new artists to enter the contest and encourage the general public to purchase more stamps. Unfortunately, some artists have chosen to sell their pieces before or during the art tour and have requested to remove them from the tour. This lessens the quality of the paintings available for the public to view and is against the spirit of the tour. We clarify that the tour lasts for 1 year after the date on which the winner is judged, and entries will be returned after that year. We also codify

that artists who remove their artwork before the tour is complete will be ineligible to participate in the next three contests.

**Background**

For the history of the Federal Duck Stamp Program and the contest, please see our proposed rule for a previous unrelated change to the duck stamp regulations (April 12, 2006, 71 FR 18697).

**Comments on and Change From the Proposed Rule**

We received comments on the proposed rule regarding the section addressing the number of times a Judge may serve. The Federal Duck Stamp Office will reconsider that section and if warranted, include changes in future rules.

**Required Determinations**

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

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order (E.O.) 12866.

1. This rule will not have an annual effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

2. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule deals solely with the contest. No other Federal agency has any role in regulating this endeavor.

3. This rule does not alter budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. There are no entitlements, grants, user fees, or loan programs associated with the regulation of the contest.

4. This rule does not raise novel legal or policy issues. This rule is primarily a reorganization and clarification of existing regulations. New provisions proposed in the rule are in compliance with other laws, policies, and regulations.

*Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The changes are intended primarily to clarify the requirements for the contest.

In addition, these changes do not affect the information collected. These changes will affect individuals, not businesses or other small entities as defined in the RFA.

*Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

1. Does not have an annual effect on the economy of \$100 million or more.
2. Does not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions.
3. Does 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.

*Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*Takings (E.O. 12630)*

In accordance with E.O. 12630, this rule does not have significant takings implications. A takings implication assessment is not required.

*Federalism (E.O. 13132)*

In accordance with E.O. 13132, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. A Federalism Assessment is not required.

*Civil Justice Reform (E.O. 12988)*

In accordance with E.O. 12988, the Office of the Solicitor has determined that this 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.

*Paperwork Reduction Act*

This rule does not contain new or revised information collections for which Office of Management and Budget approval is required under the Paperwork Reduction Act. An 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*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*) is therefore not required.

*Government-to-Government Relationship With Tribes*

Under the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), and 512 DM 2, we have evaluated possible effects on federally recognized Indian Tribes and have determined that there are no effects.

*Energy Supply, Distribution, or Use*

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule revises the current regulations in 50 CFR part 91 that govern the contest. This rule is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

**List of Subjects in 50 CFR Part 91**

Hunting, Wildlife.

**Regulation Promulgation**

■ Accordingly, we amend part 91, subchapter G of chapter I, title 50 of the Code of Federal Regulations, as follows:

**PART 91—[AMENDED]**

■ 1. The authority citation for part 91 continues to read as follows:

**Authority:** 5 U.S.C. 301; 16 U.S.C. 718j; 31 U.S.C. 9701.

■ 2. Revise § 91.12 to read as follows:

**§ 91.12 Contest eligibility.**

(a) U.S. citizens, nationals, or resident aliens are eligible to participate in the contest.

(b) Any person who has won the contest during the preceding 3 years is ineligible to submit an entry in the current year's contest. For the 75th contest (2007) only, any artist, even those who won the 2004, 2005, and 2006 contests may enter. However, 2004, 2005, and 2006 winners must still fulfill their 3-year ineligibility terms after the 2007 contest. The 2007 contest will not count toward fulfilling ineligibility terms of 2004, 2005, or 2006 winners.

(c) All entrants must be at least 18 years of age by the contest opening date (see § 91.11) to participate in the contest.

(d) Contest judges and their relatives are ineligible to submit an entry.

(e) All entrants must submit a nonrefundable fee of \$125.00 by cashier's check, certified check, or money order made payable to U.S. Fish and Wildlife Service. Personal checks will not be accepted.

(f) All entrants must submit a signed Reproduction Rights Agreement and a signed Display and Participation Agreement.

■ 3. In § 91.24, revise paragraphs (g) and (h) to read as follows:

**§ 91.24 Contest procedures.**

\* \* \* \* \*

(g) In the second round of judging, each entry selected in the first round, plus the additional entries selected by judges per paragraph (d) of this section, will be shown one at a time to the judges by the Contest Coordinator or by a contest staff member. Each judge will vote by indicating a numerical score of one (1), two (2), three (3), four (4), or five (5) for each entry. The scores will be totaled to provide each entry's score. The five entries receiving the five highest scores will be advanced to the third round of judging.

(h) In the third round of judging, the judges will vote on the remaining entries using the same method as in round two, except that they will indicate a numerical score of three (3), four (4), or five (5) for each entry. The Contest Coordinator will tabulate the final votes and present them to the Director, U.S. Fish and Wildlife Service, who will announce the winning entry as well as the entries that placed second and third.

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■ 4. Revise § 91.31 to read as follows:

**§ 91.31 Return of entries after contest.**

(a) All entries will be returned by certified mail to the participating artists within 120 days after the contest, unless the artwork is selected to appear at one or more wildlife art expositions. If artwork is returned to the Service because it is undelivered or unclaimed (this may happen if an artist changes address), the Service will not be obligated to trace the location of the artist to return the artwork. Any artist who changes his or her address is responsible for notifying the Service of the change. All unclaimed entries will be destroyed 1 year after the date of the contest.

(b) Artists in the third round of judging will be chosen to appear in a

national art tour that will last 1 year. The artwork will be returned to the artists after that period in accordance with the signed participation agreement.

(c) An artist may choose to remove his or her artwork from the tour, but will forfeit contest eligibility for three successive contests.

Dated: January 31, 2007.

**David Verhey,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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