

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****Final Permit Conditions for Abatement Activities Using Raptors**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, have finalized permit conditions to allow the use of raptors protected by the Migratory Bird Treaty Act for abatement activities. We will authorize the use of these raptors for this purpose under our Special Purpose permits. Allowing the use of captive-bred raptors to conduct abatement activities is consistent with ensuring the long-term conservation of these species and will serve a public need.

FOR FURTHER INFORMATION CONTACT: Shauna Hanisch, U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4401 North Fairfax Drive, Mail Stop MBSP-4107, Arlington, VA 22203-1610; Shauna_Hanisch@fws.gov; (703) 358-1714.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (FWS or Service) is the Federal agency with primary responsibility for managing migratory birds. Our authority is the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). The MBTA authorizes us to issue regulations governing permits for migratory bird use. They are found in title 50, Code of Federal Regulations, parts 10, 13, 21, and 22.

The Service has implemented a series of migratory bird permit memoranda to ensure consistent implementation of our regulations and policies pertaining to migratory birds. Our latest memorandum in the series ("this memorandum") provides guidance that the Service will use in issuing Special Purpose permits (50 CFR 21.27) to authorize the possession and use of raptors protected by the MBTA to abate depredation problems. For purposes of this memorandum, "abatement" means the training and use of raptors to flush, haze, or take birds (or other wildlife where allowed) to mitigate depredation and nuisance problems, including threats to human health and safety. Permit holders may be paid for providing abatement services. We developed this memorandum in response to growing interest in the use of raptors to conduct commercial abatement activities and have determined that authorizing such use is

consistent with the MBTA and with the long-term conservation of raptor species.

In a January 12, 2007, **Federal Register** notice (72 FR 1556-1557), we published draft permit conditions for Special Purpose-Abatement (SPA) permits and we requested public comment on those draft conditions. Comments from the approximately 85 letters and emails we received were grouped into 58 categories. The four most frequent comments made were: support for the abatement policy, not putting a limit on the number of raptors authorized under an SPA permit, allowing all raptor species currently used in falconry to be used for abatement, and amending the language in Condition I to account for situations where it wouldn't be safe to leave a carcass in the field. Six State wildlife agencies (AK, AR, AZ, NJ, NM, WY) and 2 USDA Animal and Plant Health Inspection Service Wildlife Services state programs (IL and NJ) sent us comments on the permit conditions. In response to public comments, we clarified what the requirements are to obtain an SPA permit and who may be a subpermittee under an SPA permit; we clarified the requirements for raptors that will be used for both abatement and falconry; and we specified situations where it is not appropriate to leave dead birds in the field. We have also added to the final permit conditions language stating that hybrid raptors are required to be attached with two radio transmitters so that they can be tracked and recovered if they become lost. The final permit conditions are presented below.

Applicants for a SPA permit will use FWS Form 3-200-10f, the Migratory Bird Special Purpose—Miscellaneous application form until we complete and obtain approval for an SPA permit application form. The application fee is \$100, which is the fee for Special Purpose-Miscellaneous permits, the category under which abatement permits for public safety at airports have been issued. If we determine that the application meets our requirements, we will issue an SPA permit containing the proposed conditions listed below (items A through K). The first three conditions (A, B, and C) are standard for all Special Purpose permits. The remaining conditions (D through K) are specific to SPA permits.

Special Purpose-Abatement Permit Conditions

A. General conditions set out in Subpart D of 50 CFR 13, and specific conditions contained in federal regulations cited in block 2 above, are

hereby made a part of this permit. All activities authorized by this permit must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal, of this permit is subject to complete and timely compliance with all applicable conditions.

B. The validity of this permit is conditioned upon strict observance of all applicable state, local or other federal law.

C. Valid for use by permittee named above.

D. You are authorized to acquire (including purchase and sell), possess, and train captive-bred raptors, in any quantity and species combination, to include hybrids from those species, of the following migratory bird species for the purpose of conducting abatement activities.

[List species common and scientific name.]

All raptors must be marked on the metatarsus with a seamless numbered band issued by the U.S. Fish and Wildlife Service. Hybrid raptors must be fitted with two radio transmitters and you are responsible for tracking and retrieving the raptors if they become lost.

E. You may not take species protected by the Migratory Bird Treaty Act unless such take is authorized under a federal depredation permit that identifies you as a subpermittee or under a federal depredation order. You do not need a federal permit to scare or herd depredating birds (except for Bald and Golden Eagles or species protected by the Endangered Species Act). You do not need a federal permit to take species that are not protected by the Migratory Bird Treaty Act or any other applicable federal law.

F. If you have a falconry permit in addition to an abatement permit, you may use a raptor held under the falconry permit for abatement without transferring the raptor to this abatement permit. However, a raptor held under this abatement permit may only be used for falconry if it is transferred from this abatement permit to a falconry permit.

G. Subpermittees: Unless otherwise authorized by the issuing office, a person under your direct control or employed by you, or under contract to you for purposes authorized by this permit, may carry out the permitted activities only if he or she holds a valid falconry permit. An apprentice falconer operating under your permit may fly any species of raptor you hold under this permit when conducting abatement activities. When conducting abatement

activities under this permit, each of your subpermittees must have a copy of your abatement permit and a dated letter from you identifying him or her (name, address, falconry permit number) as your subpermittee.

H. You must submit a Service form 3-186A (Migratory Bird Acquisition and Disposition Report) completed in accordance with the instructions on the form for each acquisition and disposition of a raptor.

I. If your raptor takes an MBTA-protected bird in the course of conducting abatement and that take is not authorized by a federal depredation order or federal depredation permit, the bird must be left in the field (or the raptor may be allowed to feed on it in the field), except at locations (e.g., airports or airfields) where human safety considerations preclude the bird being left in the field.

J. All facilities and equipment must meet standards described in 50 CFR 21.29 and all birds must be maintained under humane and healthful conditions at all times.

K. Acceptance of this permit authorizes inspection in accordance with 50 CFR 13.47.

Authority: The Migratory Bird Treaty Act, 16 U.S.C. 703-712.

Dated: August 22, 2007.

Todd Willens,

Assistant Secretary for Fish and Wildlife and Parks.

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