requirement uses that term. (See 49 U.S.C. 60131(e)(4)). PHMSA thinks that within the context of the rules, ''significant'' has the usual meaning of extensive or important and needs no special definition. The term provides the leeway needed to avoid notices of minor changes but calls attention to changes worth governmental review. PHMSA does not consider this comment to be an adverse comment because the comment does not explain that the rules would be ineffective or unacceptable without a definition of significant.

Comment: DJL Services said §§ 192.809(e) and 195.509(e), which provide that observation of on-the-job performance may not be the sole method of evaluating an individual's qualifications, were inappropriate because they restrict one of the more valid methods of measuring skills. The commenter also argued the rules imply that sole use of a written or oral exam is acceptable even if observation of an individual's performance is the best method of evaluation.

Response: The rules in §§ 192.809(e) and 195.509(e) parallel the statutory requirement in 49 U.S.C. 60131(d)(1), which restricts the use of on-the-job performance as a sole evaluation method. In effect, the rules do nothing more than minimize confusion by keeping the personnel qualification regulations in step with the statutory requirement. PHMSA has no discretion to change the statutory requirement, even if PHMSA considered it inappropriate. Also, operators are required to ''ensure through evaluation that individuals performing covered tasks are qualified'' (§§ 192.805(b) and 195.505(b)). The acceptability of using an exam as the sole evaluation method depends on whether the exam alone is sufficient to determine an individual's qualifications for the task concerned. PHMSA does not think the restriction on observation of on-the-job performance is in any way related to this acceptability decision. Because this comment did not recognize the parallel statutory requirement and that sole use of an exam as an evaluation method is governed by a separate requirement, PHMSA considers the comment to be insubstantial and thus not an adverse comment.

Comment: In a further comment on §§ 192.809(e) and 195.509(e), DJL Services suggested that the term ''on-the-job performance'' is not universally understood and should be defined in the regulations.

Response: Operators who use observation of on-the-job performance as a method of evaluation must describe the method in their personnel qualification programs. If PHMSA or a State authority considers an operator's program inadequate, it may order changes to the program. In our experience, this regulatory approach has been satisfactory. It allows operators leeway to account for variations in covered tasks that a special definition could restrain, while providing for governmental oversight. At this time, PHMSA does not see a need to adopt a special definition of on-the-job performance. Since this comment does not explain that the rules would be ineffective without a definition, PHMSA does not consider this comment to be an adverse comment.

Comment: Finally, DJL Services offered general comments on criteria PHMSA might develop to determine covered tasks for which observation of on-the-job performance is the best method of evaluation. Under 49 U.S.C. 60131(d)(1), such tasks would be exempt from the statutory restriction on using observation of on-the-job performance as the sole method of evaluation. DJL Services suggested that observation of on-the-job performance is a suitable method for any task that requires a skill to perform. An additional suggestion was that for complex tasks involving potential hazards, such as pig launching or receiving, observation of performance '' whether on-the-job or during simulation ''should be mandatory, with limited use of written or oral exams.

Response: PHMSA will consider these ideas in any future deliberation on criteria to determine those tasks for which observation of on-the-job performance is the best method of evaluation. However, PHMSA does not consider the comment to be an adverse comment because it does not explain that a change is needed to a rule established by the DFR.

Therefore, this document confirms that the DFR will go into effect on July 15, 2005.

Issued in Washington, DC, on June 10, 2005.

Stacey L. Gerard,

Acting Assistant Administrator/Chief Safety Officer.

[FR Doc. 05–11864 Filed 6–13–05; 8:52 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018–AT63

Migratory Bird Permits; Determination That Falconry Regulations for the State of Connecticut Meet Federal Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We add the state of Connecticut to the list of states whose falconry laws meet or exceed Federal falconry standards. We have reviewed the Connecticut falconry regulations and public comments on the proposed rule to add Connecticut to the list of states with approved falconry regulations. We have concluded that the Connecticut falconry regulations are in compliance with the regulations governing falconry at 50 CFR 21.28 and 21.29. This action will enable citizens to apply for Federal and state falconry permits and to practice falconry in Connecticut.

DATES: This rule is effective June 15, 2005.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, at the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4501 North Fairfax Drive, Room 4091, Arlington, Virginia 22203–1610.

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703–358–1714; Dr. George Allen, Wildlife Biologist, 703–358–1825; or Diane Pence, Regional Migratory Bird Coordinator, Hadley, Massachusetts, 413–253–8577.

SUPPLEMENTARY INFORMATION:

Why Is This Rulemaking Needed?

The need for the change to 50 CFR 21.29(k) arose from the desire of the state of Connecticut to institute a falconry program for the benefit of citizens interested in the sport of falconry. Accordingly, the state promulgated regulations that we have concluded meet the Federal requirements protecting migratory birds. The change to 50 CFR 21.29(k) is necessary to allow persons in the state of Connecticut to practice falconry under the regulations the state submitted for approval.

Background

The Fish and Wildlife Service is the Federal agency with the primary responsibility for managing migratory birds. Our authority is based on 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). Raptors (birds of prey) are afforded Federal protection by the 1972 amendment to the Convention for the Protection of Migratory Birds and Game Animals, February 7, 1936, United States—Mexico, as amended; the Convention between the United States and Japan for the Protection of Migratory Birds in Danger of Extinction and Their Environment, September 19, 1974; and the Convention Between the United States of America and the Union of Soviet Socialist Republics (Russia) Concerning the Conservation of Migratory Birds and Their Environment, November 26, 1976.

The taking and possession of raptors for falconry are strictly prohibited except as permitted under regulations implementing the MBTA. Raptors also may be protected by state regulations. Regulations governing the issuance of permits for migratory birds are authorized by the MBTA and subsequent regulations. They are in title 50, Code of Federal Regulations, parts 10, 13, 21, and (for eagle falconry) 22.

Federal falconry standards contained in 50 CFR 21.29(d) through (i) include permit requirements, classes of permits, examination procedures, facilities and equipment standards, raptor marking restrictions, and raptor taking restrictions. Regulations in 50 CFR part 21 also provide for review and approval of state falconry laws by the Fish and Wildlife Service. A list of states whose falconry laws are approved by the Service is found in 50 CFR 21.29(k). The practice of falconry is authorized in those states.

On December 20, 2004, we published a proposed rule in the **Federal Register** (69 FR 75892) to add the state of Connecticut to the list of states whose falconry laws meet or exceed Federal falconry standards. As provided in 50 CFR 21.29(a) and (c), the Director had reviewed certified copies of the falconry regulations adopted by the state of Connecticut and had determined that they meet or exceed Federal falconry standards. Connecticut regulations also meet or exceed all restrictions or conditions found in 50 CFR 21.29(j), which includes requirements on the number, species, acquisition, and marking of raptors.

This rule adds the state of Connecticut under § 21.29(k) as a state that meets Federal falconry standards. Inclusion of Connecticut in this list eliminates the previous restriction that prohibited falconry within that state. The practice of falconry is now authorized in Connecticut.

This rule is effective immediately. The Administrative Procedure Act (5 U.S.C. 553(d)(1)) allows us to do so because this final rule relieves a restriction that prohibited the state of Connecticut from allowing the practice of falconry.

What Comments on the Proposed Rule Did We Receive?

We received 80 applicable comments on the proposed rule from individuals and organizations. We received no comments from government agencies. Fifty-one of the comments endorsed approval of the Connecticut falconry regulations. Thirteen of the comments expressed opposition to the approval of the Connecticut falconry regulations because the writers were opposed to falconry. None, however, addressed whether the Connecticut regulations are in compliance with the Federal falconry regulations.

We received 16 comments asking that we not approve the Connecticut falconry regulations for reasons related to the regulations themselves. These comments addressed the Connecticut regulations as more restrictive than the Federal regulations, or they dealt with local issues such as falconry facilities and zoning requirements. We concluded that these comments also failed to address whether the Connecticut regulations are in compliance with the Federal falconry regulations. Issues they raised, such as recapture of lost falconry birds, zoning that makes construction of outdoor falconry facilities difficult, or the ''cumbersome,'' ''difficult,'' and ''overly restrictive'' nature of the state regulations, are aspects of falconry regulation that are under the governance of the state.

Changes in the Regulations Governing Falconry

We add the state of Connecticut to the list of states with approved falconry regulations that will enable citizens to practice falconry in the state.

Regulatory Planning and Review. In accordance with the criteria in Executive Order 12866, this rule is not a significant regulatory action.

a. This rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required. This rule will affect a limited number of potential falconers in Connecticut.

b. This rule will not create inconsistencies with other agencies' actions. The rule deals solely with governance of falconry in Connecticut. No other Federal agency has any role in regulating falconry.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. There are no entitlements, grants, user fees, or loan programs associated with the regulation of falconry.

d. This rule will not raise novel legal or policy issues. This rule simply adds Connecticut to the list of states with approved falconry regulations.

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Under the Regulatory Flexibility Act (RFA) (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 prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act. SBREFA amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We have examined this rule's potential effects on small entities as required by the RFA, and have determined that this action will not have a significant economic impact on a substantial number of small entities because the change will merely approve the falconry regulations for Connecticut and allow the practice of falconry there. This determination is based on the fact that we are simply adding one state to the list of states with approved falconry regulations. This rule will have no significant economic effect on a substantial number of small entities, and no regulatory flexibility analysis is required.

This rule is not a major rule under SBREFA, 5 U.S.C. 804(2).

a. This rule does not have an annual effect on the economy of $100 million or more. Approval of the Connecticut regulations will have only a very small effect on the economy. We estimate that 20 individuals would obtain falconry permits as a result of this rule, and many of the expenditures of those permittees would accrue to small businesses. The maximum number of birds allowed a falconer is 3, so the maximum number of birds likely to be possessed is 60. Some birds would be taken from the wild, but others could be purchased. Using one of the more expensive birds, the northern goshawk, as an estimate, the cost to procure a single bird is less than $5,000, which, with an upper limit of 60 birds, translates into $300,000. Expenditures for building facilities would be less than $32,000 for 60 birds, and for care and feeding less than $60,000. These expenditures, totaling less than $400,000, represent an upper limit of potential economic impact from the addition of Connecticut to the list of approved states.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. The practice of falconry does not significantly affect costs or prices in any sector of the economy.

c. This rule will 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. Falconry is an endeavor of private individuals. Neither regulation nor practice of falconry significantly affects business activities.

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. Falconry is an endeavor of private individuals. Neither regulation nor practice of falconry affects small government activities in any significant way.

b. This rule will not produce a Federal mandate of $100 million or greater in any year. It is not a ''significant regulatory action.''

Takings. In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. This rule does not contain a provision for taking of private property.

Federalism. This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It will not interfere with the state's ability to manage itself or its funds.

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 meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act. We examined these regulations under the Paperwork Reduction Act of 1995. OMB has approved the information collection requirements of the Migratory Bird Permits Program and assigned clearance number 1018–0022, which expires 7/31/2007. This regulation does not change or add to the approved information collection. Information from the collection is used to document take of wild raptors for use in falconry and to document transfers of birds held for falconry between permittees. A Federal 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. We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA) and Part 516 of the Department of the Interior Manual (DM). This rule does not constitute a major Federal action significantly affecting the quality of the human environment, and does not require the preparation of an Environmental Impact Statement or an Environmental Assessment (EA). We prepared an EA in July 1988 to support establishment of simpler, less restrictive Federal regulations governing the use of most raptors in falconry. You can obtain a copy of the EA by contacting us at the address in the **ADDRESSES** section. This rule simply adds Connecticut to the list of states with approved falconry regulations. In the last 5 years we have added several states to the list of those with approved falconry regulations. Those additions generated few public or agency comments. We view this action as a routine action with precedent. Therefore, pursuant to the U.S. Fish and Wildlife Service's NEPA procedures, located in the Department of the Interior's Manual, this action is categorically excluded as ''changes or amendments to an approved action when such changes have no or minor potential environmental impact'' (516 DM 8.5(A)(1)).

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), Executive Order 13175, and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. This rule will not interfere with the Tribes' ability to manage themselves or their funds or to regulate falconry on tribal lands.

Energy Supply, Distribution or Use (Executive Order 13211). On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule only affects the practice of falconry in the United States, it is not a significant regulatory action under Executive Order 12866, and will not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Are There Environmental Consequences of the Action? The environmental impacts of this action are extremely limited.

Socioeconomic. We do not expect this action to have discernible socioeconomic impacts.

Raptor populations. This rule does not significantly alter the conduct of falconry in the United States. We believe that there only about 10 falconers or individuals interested in being falconers in Connecticut, and take of raptors for falconry in the state will be prohibited by the state falconry regulations. Therefore, this rule will have a negligible effect on raptor populations.

Endangered and Threatened Species. This regulation change will not affect threatened or endangered species in Connecticut for the reasons set forth below.

Is This Rule in Compliance With Endangered Species Act Requirements? Yes. Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act.'' It further states that the Secretary must ''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.'' The Division of

Threatened and Endangered Species concurred with our finding that the revised regulations are not likely to adversely affect any listed or proposed species or designated or proposed critical habitat.

Author. The author of this rulemaking is Dr. George T. Allen, U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4401 North Fairfax Drive, Mail Stop MBSP–4107, Arlington, Virginia 22203–1610.

List of Subjects in 50 CFR Part 21

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

■ For the reasons stated in the preamble, we amend part 21, subpart C, subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 21—MIGRATORY BIRD PERMITS

§ 21.29 [Amended]

■ 1. The authority citation for part 21 continues to read as follows:

Authority: 16 U.S.C. 703–712; Pub. L. 106–108; 16 U.S.C. 668a.

■ 2. Amend § 21.29 by adding to paragraph (k) the word ''Connecticut,'' between the words ''*Colorado,'' and ''*Delaware,''.

Dated: June 1, 2005.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 05–11783 Filed 6–14–05; 8:45 am]

BILLING CODE 4310–55–P