

The Ornithological Council



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ABOUT BIRDS

Association of Field Ornithologists

Birds Caribbean

CIPAMEX: Sociedad para el Estudio y
Conservación de las Aves en México

Neotropical Ornithological Society

North American Crane Working Group

Pacific Seabird Group

Raptor Research Foundation

Waterbird Society

Wilson Ornithological Society

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U.S. Fish and Wildlife Service
Service Information Collection Clearance Officer
5275 Leesburg Pike, MS: PRB (JAO/3W)
Falls Church, VA 22041-3803

Re: Docket No. FWS-HQ-IA-2022-0067

Submitted via regulations.gov

The Ornithological Council is a consortium of scientific societies of ornithologists; these societies span the Western Hemisphere and the research conducted by their members spans the globe. Their cumulative expertise comprises the knowledge that is fundamental and essential to science-based bird conservation and management.

We appreciate the opportunity to submit comments on Docket No. FWS-HQ-IA-2022-0067, the U.S. Fish and Wildlife Service's request to renew their information collection for permits under the Endangered Species Act, Wild Bird Conservation Act, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Many of the ornithologists who are members of the organizations that make up the Ornithological Council must secure these permits from the USFWS, either regularly or from time to time during their career. Given this, ensuring that the process of applying for, renewing, and amending permits is efficient and predictable is of the utmost concern to the Ornithological Council. We appreciate the willingness of the USFWS to work with us over the years to ensure that these permits meet the needs of both the ornithologists on the ground and the agency.

Our comments here focus on ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

General comments

While the time it takes to fill out the permit applications for the USFWS permits listed above is not generally unreasonable, many ornithologists have reported that when they do have questions about the appropriate answers and reach out to the help desk, it can take a long time to get a response. We would encourage USFWS to continue to improve the online system so that any queries or requests for assistance are responded to promptly, perhaps within two working days (typically 48 hours), allowing the permittees to quickly complete and submit their application.

We were glad to see that the agency is working towards integrating Section E of the migratory bird permits into the new online system, and we encourage them to move forward with this as quickly as their resources allow.

CITES permits

Since 2008, the USFWS has required that the CITES export permits issued by the country from which the export takes place be validated at the time of export. This requirement implements a decision made by the parties to CITES, as reflected in Resolution 12.3 (adopted in 2002) that:

Export permits and re-export certificates be endorsed, with quantity, signature, and stamp, by an inspecting official, such as Customs, in the export endorsement block of the document. If the export document has not been endorsed at the time of export, the Management Authority of the importing country should liaise with the exporting country's Management Authority, considering any extenuating circumstances or documents, to determine the acceptability of the document;

It can be extremely problematic to obtain these endorsements in some countries. It can be difficult to determine who is authorized to validate and it can be difficult to find that person – plus, it is often only one person at one port in any particular country. If that person is out sick or on vacation, there may be no one else available to validate the permit.

When the USFWS rule was finalized, the agency noted that commenters were concerned about the potential inability of exporters to obtain the required validation. In 2009, when reports that this was proving to be the case began to come in, the Ornithological Council met with the USFWS Chief of the Division of Management Authority (DMA) and the chief of the operations branch of the DMA, as well as a special agent of the Division of Law Enforcement, to discuss a request that the validation requirement be suspended. The OC also requested, in the alternative, that “the Division of Management Authority and the Division of Law Enforcement work together to develop a system for port inspectors to refer imports lacking validation for review by the Operations Branch of the Division of Management Authority, and for the use of alternative means of verification, such as direct communication with the issuing Management Authority.” The agency responded that it had done extensive outreach to every CITES party and that they were confident that the parties were sufficiently aware of the validation procedures.

Since that time, the Ornithological Council has received reports of ornithologists having trouble securing validation on their CITES permits. In 2014, the Ornithological Council filed a formal petition asking the USFWS to suspend or revoke this rule. Appended to the petition was a list of the cases that have been brought to our attention demonstrating the problems that importers were having in obtaining export permit validation. Despite having re-filed the petition in 2017 and repeatedly asking the USFWS to address the petition, the USFWS has not responded, except to say that it would be addressed in the next regulatory revision of the CITES regulations. However, those regulatory revisions are long overdue. Therefore, at this time, the validation requirement is still in effect. We request, once again, the revocation or suspension of the requirement for validation at the point of export of CITES materials insofar as that rule pertains to shipments of material for scientific research.

Wild Bird Conservation Act

We would like to draw the agency's attention to an ongoing question of when an import/export permit under the Wild Bird Conservation Act is needed. Several years ago, a number of ornithologists were told at the port that their dead, scientific specimen required a permit under the WBCA for entry into the U.S.

The WBCA applies to exotic birds, which the text of the law defines as “any live or dead member of the class Aves that is not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof; and ... (B) does not include— (i) domestic poultry, dead sport-hunted birds, *dead museum specimens*, *dead scientific specimens*, or products manufactured from such birds...” [emphasis added]. Therefore, the permitting requirements of the WBCA should not apply to the types of specimens imported by the ornithologists that we represent. While we have had this interpretation confirmed by USFWS staff in the past, further clarification would be helpful, to prevent further confusion both when ornithologists are applying for permits and at the ports of entry.

The Ornithological Council recommends that you change the title of Form 3-200-47 from “Import of Birds for Scientific Research or Zoological Breeding and Display under the Wild Bird Conservation Act” to “Import of **Live** Birds for Scientific Research or Zoological Breeding and Display under the Wild Bird Conservation Act.”

Migratory Bird Treaty Act Import/Export Permits

While we recognize that the Service's Division of Management Authority does not administer the Migratory Bird Treaty Act, given that your office issues import/export permits under the MBTA, we include here some comments that we also provided during the recent information collection regarding permits under the MBTA.

Recently, internal USFWS guidance has resulted in regional permit offices requiring that MBTA permits for import/export list each individual shipment in detail. Previously, permits were issued

that would cover all import/exports for a certain time period (as do the import/export permits issued by the Animal and Plant Health Inspection Service). Requiring a separate permit or permit amendment for each import or export greatly increases the burden on ornithologists, in terms of the time needed to secure each permit or permit amendment. Museums regularly loan materials to other institutions outside the U.S. Requiring those institution to get an individual permit or amend an existing permit each time would delay the speed of those transfers and create additional burden for the museums. Also, for institutions that go abroad for collecting trips, it can be hard to know what they will be bringing back until it is time to re-enter the country. But the permit processing time is too long for those researchers to wait and apply for an import permit once the collection is completed. Finally, this change would mean that the USFWS would have to process many more permits each year — given that they already have more permits to process than they can handle in a timely manner, this is concerning.

Again, we value our partnership with the U.S. Fish and Wildlife Service. We appreciate this opportunity to share some information with the agency about how the requirements of the various permit systems impact ornithologists. Thank you in advance for considering our views.

Sincerely,

A handwritten signature in cursive script that reads "Laura M. Bies". The signature is written in black ink and is positioned below the word "Sincerely,".

Laura M. Bies,
Executive Director