

TABLE 2 TO PARAGRAPH (c)(2)—TAXONOMIC LISTING OF BIRDS PROTECTED BY THE MIGRATORY BIRD TREATY ACT—Continued

Species scientific name	Species common name
<i>Tiaris olivaceus</i> .....	Yellow-faced Grassquit.
<i>Melopyrrha portoricensis</i> .....	Puerto Rican Bullfinch.
<i>Melanospiza bicolor</i> .....	Black-faced Grassquit.
<b>(3) Subfamily Sporophilineae</b>	
<i>Sporophila moreletii</i> .....	Morelet's Seedeater.

[78 FR 65850, Nov. 1, 2013, as amended at 85 FR 21290, Apr. 16, 2020; 88 FR 49317, July 31, 2023]

### Subpart C—Addresses

#### § 10.21 Director.

(a) Mail forwarded to the Director for law enforcement purposes should be addressed to Chief, Office of Law Enforcement, at the address provided at 50 CFR 2.1(b).

(b) Mail sent to the Director regarding permits for the Convention on International Trade in Endangered Species of Wild Fauna and Fauna (CITES), injurious wildlife, Wild Bird Conservation Act species, international movement of all ESA-listed endangered or threatened species, and scientific research on, exhibition of, or interstate commerce in nonnative ESA-listed endangered and threatened species should be addressed to: Director, U.S. Fish and Wildlife Service, (Attention: Division of Management Authority), at the address provided for the Division of Management Authority at 50 CFR 2.1(b). Address mail for the following permits to the Regional Director. In the address include one of the following: for import/export licenses and exception to designated port permits (Attention: Import/export license); for native endangered and threatened species (Attention: Endangered/threatened species permit); and for migratory birds and eagles (Attention: Migratory bird permit office). You can find addresses for regional offices at 50 CFR 2.2.

[55 FR 48851, Nov. 23, 1990, as amended at 63 FR 52633, Oct. 1, 1998; 80 FR 26467, May 8, 2015]

#### § 10.22 Law enforcement offices.

(a) Service law enforcement offices are located in Service regional offices.

Regional office addresses are provided at 50 CFR 2.2. Mail should be addressed to “Special Agent in Charge, Office of Law Enforcement, U.S. Fish and Wildlife Service” at the appropriate regional office address. Telephone numbers for Service law enforcement offices follow:

Region	Law enforcement office telephone number
1 .....	503–231–6125
2 .....	505–248–7889
3 .....	612–713–5320
4 .....	404–679–7057
5 .....	413–253–8274
6 .....	303–236–7540
7 .....	907–786–3311
8 .....	916–414–6660

(b) Any resident or official of a foreign country may contact the Service's Headquarters Office of Law Enforcement at the address provided at 50 CFR 2.1(b) or by telephone at 703–358–1949.

[78 FR 35151, June 12, 2013, as amended at 79 FR 43964, July 29, 2014]

## PART 11—CIVIL PROCEDURES

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AUTHORITY: 16 U.S.C. 470aa–470mm, 470aaa–470aaa–11, 668–668d, 1361–1384, 1401–1407, 1531–1544, 3371–3378, 4201–4245, 4901–4916, 5201–5207, 5301–5306; 18 U.S.C. 42–43; 25 U.S.C. 3001–3013; and Sec. 107, Pub. L. 114–74, 129 Stat. 599, unless otherwise noted.

SOURCE: 39 FR 1159, Jan. 4, 1974, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 11 appear at 67 FR 38208, June 3, 2002.

## Subpart A—Introduction

### § 11.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the assessment of civil penalties in connection with violations of certain laws and regulations enforced by the Service.

### § 11.2 Scope of regulations.

The regulations contained in this part apply only to actions arising under the following laws and regulations issued thereunder:

- (a) Lacey Act, 18 U.S.C. 42–43;
- (b) Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*;
- (c) Bald and Golden Eagle Protection Act, 16 U.S.C. 668–668d;
- (d) Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*;
- (e) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.*;
- (f) African Elephant Conservation Act, 16 U.S.C. 4201 *et seq.*;
- (g) Rhinoceros and Tiger Conservation Act, 16 U.S.C. 5301 *et seq.*;
- (h) Archaeological Resources Protection Act, 16 U.S.C. 470aa *et seq.*;
- (i) Paleontological Resources Protection Act, 16 U.S.C. 470aaa *et seq.*;
- (j) The Native American Graves Protection and Repatriation Act, 25 U.S.C. 3001 *et seq.*;

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(k) Recreational Hunting Safety Act of 1994, 16 U.S.C. 5201 *et seq.*; and

(l) Wild Bird Conservation Act, 16 U.S.C. 4901 *et seq.*

[81 FR 41865, June 28, 2016]

### § 11.3 Filing of documents.

(a) Whenever a document or other paper is required to be filed under this part within a certain time, such document or paper will be considered filed as of the date of the postmark if mailed, or the date actually delivered to the office where filing is required. The time periods set forth in this part shall begin to run as of the day following the date of the document or other paper.

(b) If an oral or written application is made to the Director up to 10 calendar days after the expiration of a time period established in this part for the required filing of documents or other papers, the Director may permit a late filing within a fixed period where reasonable grounds are found for an inability or failure to file within the time period required. All such extensions shall be in writing. Except as provided in this subsection, no other requests for an extension of time may be granted.

## Subpart B—Assessment Procedure

### § 11.11 Notice of violation.

(a) A notice of violation (hereinafter “notice”), shall be issued by the Director and served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to a civil penalty (the respondent). The notice shall contain: (1) A concise statement of the facts believed to show a violation, (2) a specific reference to the provisions of the statute or regulation allegedly violated, and (3) the amount of penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the case. The notice shall also advise the respondent of his right to file a petition for relief pursuant to § 11.12, or to await the Director’s notice of assessment.

(b) The respondent shall have 45 days from the date of the notice of violation

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in which to respond. During this time he may:

(1) Undertake informal discussions with the Director;

(2) Accept the proposed penalty, or the compromise, if any, offered in the notice;

(3) File a petition for relief; or

(4) Take no action, and await the Director's decision, pursuant to § 11.13.

(c) Acceptance of the proposed penalty or the compromise shall be deemed to be a waiver of the notice of assessment required by § 11.14, and of the opportunity for a hearing. Any counter offer of settlement shall be deemed a rejection of the proposed offer of compromise.

### **§ 11.12 Petition for relief.**

If the respondent so chooses he may ask that no penalty be assessed or that the amount be reduced, and he may admit or contest the legal sufficiency of the charge and the Director's allegations of facts, by filing a petition for relief (hereinafter "petition") with the Director at the address specified in the notice within 45 days of the date thereof. The petition shall be in writing and signed by the respondent. If the respondent is a corporation, the petition must be signed by an officer authorized to sign such documents. It must set forth in full the legal or other reasons for the relief.

### **§ 11.13 Decision by the Director.**

Upon expiration of the period required or granted for filing of a petition for relief, the Director shall proceed to make an assessment of a civil penalty, taking into consideration information available to him and such showing as may have been made by the respondent, either pursuant to § 11.11 or § 11.12, or upon further request of the Director.

### **§ 11.14 Notice of assessment.**

The Director shall notify the respondent by a written notice of assessment, by personal service or by registered or certified mail, return receipt requested, of his decision pursuant to § 11.13. He shall set forth therein the facts and conclusions upon which he decided that the violation did occur

and appropriateness of the penalty assessed.

### **§ 11.15 Request for a hearing.**

Except where a right to request a hearing is deemed to have been waived as provided in § 11.11, the respondent may, within 45 calendar days from the date of the notice of assessment referred to in § 11.14, file a dated, written request for a hearing with the Departmental Cases Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 351 South West Temple, Suite 6.300, Salt Lake City, Utah 84101.

[81 FR 41865, June 28, 2016]

### **§ 11.16 Final administrative decision.**

(a) Where no request for a hearing is filed as provided in § 11.15 the Director's assessment shall become effective and shall constitute the final administrative decision of the Secretary on the 45th calendar day from the date of the notice of assessment.

(b) If a request for a hearing is timely filed in accordance with § 11.15, the date of the final administrative decision in the matter shall be as provided in subpart C of this part.

### **§ 11.17 Payment of final assessment.**

When a final administrative decision becomes effective in accordance with this part 11, the respondent shall have 20 calendar days from the date of the final administrative decision within which to make full payment of the penalty assessed. Payment will be timely only if received in Office of the Director during normal business hours, on or before the 20th day. Upon a failure to pay the penalty, the Solicitor of the Department may request the Attorney General to institute a civil action in the U.S. District Court to collect the penalty.

## **Subpart C—Hearing and Appeal Procedures**

### **§ 11.21 Commencement of hearing procedures.**

Proceedings under this subpart are commenced upon the timely filing with the Hearings Division of a request for a

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hearing, as provided in § 11.15 of subpart B. Upon receipt of a request for a hearing, the Hearings Division will assign an administrative law judge to the case. Notice of assignment will be given promptly to the parties, and thereafter, all pleadings, papers, and other documents in the proceeding shall be filed directly with the administrative law judge, with copies served on the opposing party.

### **§ 11.22 Appearance and practice.**

(a) Subject to the provisions of 43 CFR 1.3, the respondent may appear in person, by representative, or by counsel, and may participate fully in these proceedings.

(b) Department counsel designated by the Solicitor of the Department shall represent the Director in these proceedings. Upon notice to the Director of the assignment of an administrative law judge to the case, said counsel shall enter his appearance on behalf of the Director and shall file all petitions and correspondence exchanged by the Director and the respondent pursuant to subpart B of this part, which shall become part of the hearing record. Thereinafter, service upon the Director in these proceedings shall be made to his counsel.

### **§ 11.23 Hearings.**

(a) The administrative law judge shall have all powers accorded by law and necessary to preside over the parties and the proceedings and to make decisions in accordance with 5 U.S.C. 554-557. Failure to appear at the time set for hearing shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the record made at the hearing. Copies of the transcript may be inspected or copied.

(b) The transcript of testimony, the exhibits, and all papers, documents, and requests filed in the proceedings, shall constitute the record for decision. The judge will render a written decision upon the record, which shall set forth his findings of fact and conclusions of law, and the reasons and basis therefor, and an assessment of a penalty, if any.

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### **§ 11.24 Final administrative action.**

Unless a notice of request for an appeal is filed in accordance with § 11.25 of this subpart C, the administrative law judge's decision shall constitute the final administrative determination of the Secretary in the matter and shall become effective 30 calendar days from the date of the decision.

### **§ 11.25 Appeal.**

(a) Either the respondent or the Director may seek an appeal from the decision of an administrative law judge rendered subsequent to January 1, 1974, by the filing of a "Notice of Request for Appeal" with the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 351 South West Temple, Suite 6.300, Salt Lake City, Utah 84101, within 30 calendar days of the date of the administrative law judge's decision. Such notice shall be accompanied by proof of service on the administrative law judge and the opposing party.

(b) Upon receipt of such a request, the Director, Office of Hearings and Appeals, shall appoint an ad hoc appeals board to determine whether an appeal should be granted, and to hear and decide an appeal. To the extent they are not inconsistent herewith, the provisions of subpart G of the Department Hearings and Appeals Procedures in 43 CFR part 4 shall apply to appeal proceedings under this subpart. The determination of the board to grant or deny an appeal, as well as its decision on the merits of an appeal, shall be in writing and become effective as the final administrative determination of the Secretary in the proceeding on the date it is rendered, unless otherwise specified therein.

[39 FR 1159, Jan. 4, 1974, as amended at 81 FR 41865, June 28, 2016]

### **§ 11.26 Reporting service.**

Copies of decisions in civil penalty proceedings instituted under statutes referred to in subpart A of this part and rendered subsequent to June 3, 1970, may be obtained by letter of request addressed to the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 351 South West Temple, Suite 6.300, Salt Lake City, Utah 84101. Fees for this service shall

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be as established by the Director of that Office.

[81 FR 41865, June 28, 2016]

### Subpart D—Civil Monetary Penalty Inflation Adjustments

SOURCE: 81 FR 41865, June 28, 2016, unless otherwise noted.

#### § 11.31 Definitions.

(a) *Civil monetary penalty* means any penalty, fine, or other sanction that:

- (1)(i) Is for a specific monetary amount as provided by Federal law; or
- (ii) Has a maximum amount provided for by Federal law;

(2) Is assessed or enforced by an agency pursuant to Federal law; and

(3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

(b) *Inflation Adjustment Act* means the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74, November 2, 2015, 129 Stat. 584, 28 U.S.C. 2461 note).

#### § 11.32 Purpose and scope.

The purpose of this part is to make the inflation adjustment, described in and required by the Inflation Adjustment Act, of each civil monetary penalty provided by law within the jurisdiction of the U.S. Fish and Wildlife Service.

#### § 11.33 Adjustments to penalties.

The civil monetary penalties provided by law within the jurisdiction of the U.S. Fish and Wildlife Service are adjusted as follows:

Law	Citation	Type of violation	Maximum civil monetary penalty
(a) African Elephant Conservation Act.	16 U.S.C. 4224(b) .....	Any violation .....	\$12,397
(b) Bald and Golden Eagle Protection Act.	16 U.S.C. 668(b) .....	Any violation .....	15,662
(c) Endangered Species Act of 1973.	16 U.S.C. 1540(a)(1) .....	(1) Knowing violation of section 1538. (2) Other knowing violation .....	61,982 29,751 1,566
(d) Lacey Act Amendments of 1981.	16 U.S.C. 3373(a) .....	(1) Violations referred to in 16 U.S.C. 3373(a)(1). (2) Violations referred to in 16 U.S.C. 3373(a)(2).	31,326 783
(e) Marine Mammal Protection Act of 1972.	16 U.S.C. 1375 .....	Any violation .....	31,326
(f) Recreational Hunting Safety Act of 1994.	16 U.S.C. 5202(b) .....	(1) Violation involving use of force or violence or threatened use of force or violence. (2) Any other violation .....	19,933 9,966
(g) Rhinoceros and Tiger Conservation Act of 1998.	16 U.S.C. 5305a(b)(2) .....	Any violation .....	21,805
(h) Wild Bird Conservation Act ....	16 U.S.C. 4912(a)(1) .....	(1) Violation of section 4910(a)(1), section 4910(a)(2), or any permit issued under section 4911. (2) Violation of section 4910(a)(3) (3) Any other violation .....	52,540 25,218 1,052

[81 FR 41865, June 28, 2016, as amended at 82 FR 6308, Jan. 19, 2017; 83 FR 5951, Feb. 12, 2018; 84 FR 15526, Apr. 16, 2019; 85 FR 10311, Feb. 24, 2020; 86 FR 15428, Mar. 23, 2021; 87 FR 13949, Mar. 11, 2022; 88 FR 5797, Jan. 30, 2023]

#### § 11.34 Subsequent adjustments.

The Secretary of the Interior or his or her designee will, every year after August 1, 2016, make the inflation adjustment described in and required by the Inflation Adjustment Act of each civil monetary penalty provided by law and within the jurisdiction of the U.S.

Fish and Wildlife Service. Each annual adjustment will be reflected in the table in §11.33.

## PART 12—SEIZURE AND FORFEITURE PROCEDURES

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AUTHORITY: 16 U.S.C. 470aa *et seq.*, 470aaa *et seq.*, 668 *et seq.*, 668dd *et seq.*, 703 *et seq.*, 718a *et seq.*, 742j–1, 1361 *et seq.*, 1531 *et seq.*, 2401 *et seq.*, 3371 *et seq.*, 4201 *et seq.*, and 5301 *et seq.*; 18 U.S.C. 42 and 981 *et seq.*; 19 U.S.C. 1602–1624; 28 U.S.C. 2465; 42 U.S.C. 1996; and E.O. 13751, 81 FR 88609, amending E.O. 13112, 64 FR 6183.

SOURCE: 88 FR 47818, July 25, 2023, unless otherwise noted.

### Subpart A—General Provisions

#### § 12.1 What is the purpose of the regulations in this part?

These regulations provide procedures that govern the seizure and administrative forfeiture or abandonment of property, as well as the disposal of such property, and the recovery of costs associated with handling and storage of seized property under various laws enforced by the Service.

#### § 12.2 What is the scope of the regulations in this part?

(a) The regulations in this part apply to all property seized or subject to administrative forfeiture under any of the following laws:

- (1) The Bald and Golden Eagle Protection Act, 16 U.S.C. 668 *et seq.*;
- (2) The Airborne Hunting Act, 16 U.S.C. 742j–1;