

**FREQUENTLY ASKED QUESTIONS
FEDERAL PERMIT FOR EAGLE TAKE INCIDENTAL TAKE
(FORM 3-200-71)**

A Federal permit for incidental take of eagles authorizes incidental take of eagles where the take results from but is not the purpose of an otherwise lawful activity.

You should review Title 50 Parts 10, 13, and 22 of the Code of Federal Regulations (CFR). You are responsible for understanding these regulations before you request and accept a permit. Below are questions and answers regarding some of the fundamentals of an eagle incidental take permit.

1. What species of eagles are protected?

The Bald Eagle (*Haliaeetus leucocephalus*) and the Golden Eagle (*Aquila chrysaetos*) are protected by the Bald and Golden Eagle Protection Act (Eagle Act).

2. What is meant by “take” of eagles?

“Take” is defined by regulation as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest or disturb.” “Disturb” is further defined in regulation (50 CFR 22.3) as “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.”

“Incidental take” is defined in regulation as “take that is foreseeable and results from, but is not the purpose of, an activity.” This application form can be used for activities that might cause incidental injury or death of eagles.

3. Can this permit be used for purposeful take of eagles for any purposes?

No. This permit only authorizes incidental take, as defined above. For purposeful take of eagles, contact your Regional Migratory Bird Permit Office.

4. Under what circumstances can eagle take be authorized under this type of permit?

This permit authorizes incidental take of eagles where the take results from but is not the purpose of an otherwise lawful activity. Specifically, this permit authorizes incidental take of eagles by wind energy generation projects, power line infrastructure, and other activities that may result in incidental death or injury of eagles.

5. What is required to determine if there is a nest near my project?

As the applicant, you are responsible for determining if there are eagle nests near your project. To determine if there are eagle nests near your project, the Service recommends both a desktop analysis and field-based surveys.

Desktop Analysis – The purpose of a desktop analysis is to identify potential eagle nesting habitat and substrate for each species. You will need to provide your methods and results, including describing the information incorporated, the information source, date of data acquisition, age of records, associated metadata, and the date the analysis was conducted.

A desktop analysis includes, where available, locating data on historic nest locations in your

area. The Service does not keep records of the locations of eagle nests. States, Tribe(s), or others may have records of eagle nests in your area; however, caution should be used when querying any eagle nest databases as information in these databases is often out of date – new eagle nests may not be in the database or eagle nests may no longer exist. As part of your desktop analysis, identify any known eagle nests from existing databases, including reference to datasets received and correspondence with any agencies or organizations that may provide this data.

Field-based Surveys – Field-based eagle nest surveys should be conducted for each species within the nesting habitat and substrate identified in the desktop analysis. You will need to provide your methods and results, including the dates conducted, survey methodology, and survey area. Nest survey results include any alternate nests observed and if there were any areas that could not be surveyed (due to access or views of nesting substrate were obstructed, etc.).

Survey Area – To minimize risk to eagles, infrastructure should be at least 2 miles from a golden eagle nest and at least 660 feet from a bald eagle nest. We recommend a 2-mile nest survey radius. However, east of the 100th meridian, a one-mile survey radius is appropriate, as golden eagles are not known to nest in that part of the country.

6. Is a person who follows the National Bald Eagle Management Guidelines exempt from the requirement to obtain this permit?

No. While the Bald Eagle Management Guidelines provide guidance to reduce the risk of disturbance to bald eagles, they do not apply to incidental take.

7. How long is an eagle incidental take permit valid?

General permits are valid for 5 years. All general permits expire on December 31 of the fifth year following issuance. Specific permits may be valid for up to 30 years. The tenure of each specific permit will be designated on the face of the permit.

8. How much are permit application processing fees for this permit?

For general permits, the Service charges an application fee and administration fee. The total fee required to apply is:

Wind Energy – Utility scale: \$11,000

Wind Energy – Distributed and community scale: \$3,500

Power Lines – Investor owned: \$11,000

Power Lines – Non-investor owned: \$3,500

For specific permits, the Service charges an application and administration fee. The total fee required to apply is:

Tier 1 – \$28,000

Tier 2 – \$36,000

If processing a specific permit exceeds more than 275 hours, a reimbursable agreement may be required to offset additional Service costs associated with the added complexity and excess review time.

9. Who can apply for a permit?

Permits are issued to the entity or individual conducting the action, such as the owner or

manager of the entity conducting the activity. The permittee is responsible for compliance with the permit and must have the authority to implement the required permit conditions. Contractors or consultants may assist in completing an application as well as conducting the work as a subpermittee but may not be a permit holder.

10. Who are the personnel identified on the application form and what are they authorized to do?

- a. **Principal Officer** – For permits issued to organizations, a Principal Officer is identified on the permit. The Principal Officer is responsible for the permit application and any permitted activities. The Principal Officer must have the authority to implement all conditions and is legally liable for any subpermittee conducting activities under the permit.
- b. **Primary Contact** – The Primary Contact is the person in the organization who is available to answer questions about the application or permitted activities. This person may be the same or different than the Principal Officer. The Primary Contact is not listed on the permit unless the individual is also listed as a subpermittee.
- c. **Subpermittee** – A subpermittee is an individual authorized to conduct some or all of the permitted activities without the permittee present. You must identify any subpermittees in your application. Your subpermittees must have either a copy of your permit that identifies them as a subpermittee, or a copy of your permit and a letter from the Permittee (Principal Officer) listing activities (including location and duration) they are authorized to conduct. The permittee is responsible for ensuring subpermittees are trained and adhere to the conditions of your permit. Subpermittees must be at least 18 years of age. Individuals younger than 18 must have a permittee or subpermittee present when conducting activities.

11. Will I be required to submit a report?

All permittees must submit an annual report using the Service Form 3-202-15. The report must include any discovered eagle remains or injured eagles, including species, condition, discovery date, location, and other information relevant to eagle identification.

Permittees are also required to report dead or injured eagles discovered in the Service's Injury and Mortality Reporting System (IMR) no later than two weeks from the date of discovery of eagle remains or eagle injury.

12. Does this permit authorize possession of eagles for any purpose?

No. This permit does not authorize collection or possession of live or dead eagles, except as described in permit conditions, for the purposes of disposition of eagle remains. You must notify the Service of any eagle(s) found injured or dead at the activity site no later than two weeks from the date of discovery. Permit conditions specify the process for reporting discovered eagles and give disposition instructions based on the decomposition of the remains and the location they were discovered.

13. Do I need additional authorization to take eagles from my State or Tribal government?

You are responsible for ensuring that the activity involving the take of eagles authorized by this permit complies with all other applicable Federal, Tribal, State, and local laws. This permit is not valid if implementing any of its provisions may affect a listed, proposed, or candidate species or designated or proposed critical habitat under the federal Endangered Species Act, nor has the potential to cause effects to cultural resources or historic properties protected by the National Historic Preservation Act.

14. Is this permit transferable?

Yes. Eagle incidental take permits may be transferred. To transfer a permit, the existing permittee must submit a letter notifying the Service of intent to transfer. The proposed transferee must submit:

- a. Section A-D of the 3-200-71 permit application form, including a transfer fee of \$1000 per 13.11(d)(4);
- b. A statement of the outstanding avoidance, minimization, compensatory mitigation, and monitoring requirements and capacity to meet these conditions; and
- c. A statement of the qualifications of the permittee and/or subpermittee(s) to carry out the permit conditions.