HABITAT MANAGEMENT GUIDELINES FOR THE BALD EAGLE IN THE SOUTHEAST REGION

THIRD REVISION - JANUARY 1987

Introduction

These guidelines are published and issued by the U.S. Fish and Wildlife Service, Southeast Region, but were prepared in consultation with all the Southeastern State wildlife agencies and a number of bald eagle experts, with assistance from FWS solicitors. A number of Federal and State laws and/or regulations prohibit, cumulatively, such acts as harassing, disturbing, harming, molesting, pursuing, etc., bald eagles, or destroying their nests, (see Section IV); although advisory in nature, these guidelines represent a biological interpretation of what would constitute violations of one or more of such prohibited acts. Their purpose is to maintain and/or improve the environmental conditions that are required for the survival and well-being of bald eagles in the Southeastern United States, and are designated essentially for application in bald eagle/human activity (principally land development) conflicts. The emphasis is to avoid or minimize detrimental human-related impacts on bald eagles, particularly during the nesting season.

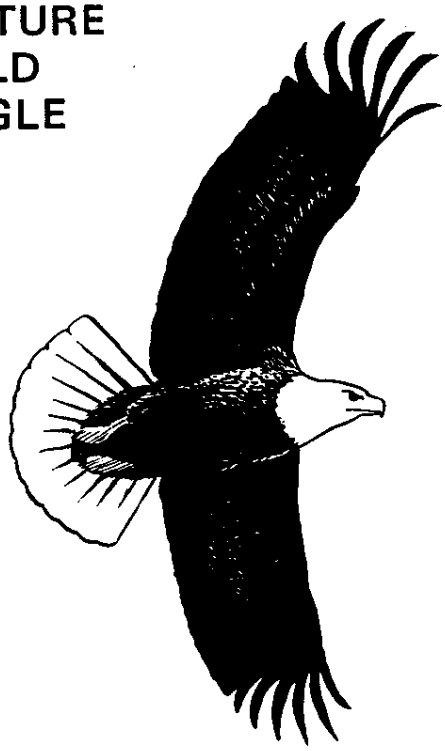
General

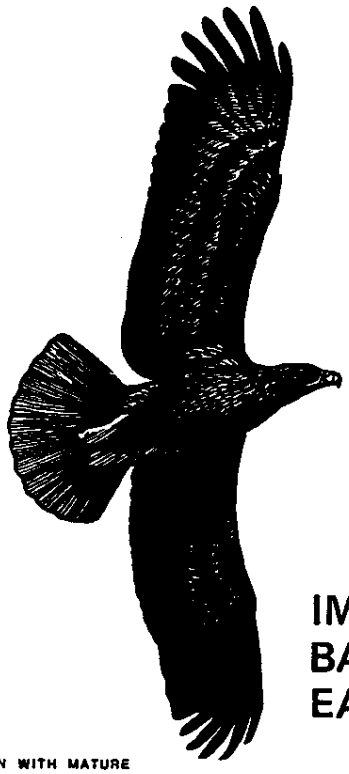
Individual bald eagle pairs exhibit considerable variation in response to human activity, depending in part upon the type, frequency, and duration of activity; extent of modification of the environment; time in the bird's reproductive cycle; and various other factors not well understood. Therefore, it cannot be predicted with absolute certainty the effects a given disturbance might have on a particular pair of bald eagles. Certain human activities are, however, known to disturb bald eagles more than others, and are addressed in the following sections as recommended restrictions. The guidelines are divided into sections on nesting, feeding, roosting, and legal considerations.

I. **NESTING:** In the Southeast, the bald eagle nesting period is usually from October 1 to May 15. However, in the northern portion of the range, nesting has occurred as late as August. Individual pairs return to their same territories year after year, and often territories are inherited by subsequent generations. Eagles are most vulnerable to disturbance early in the nesting period, i.e. during courtship, nest building, egg laying, incubation, and brooding (roughly the first 12 weeks of the nesting cycle). Disturbance during this critical period may lead to nest abandonment and/or chilled or overheated eggs or young. Human activity near a nest later in the nesting cycle may cause premature fledging, thereby lessening the chance of survival.

Loss of Nests or Nest Trees: Although bald eagle nests are legally protected, a nest in and of itself, from a biological perspective, is relatively inconsequential to a given pair of eagles (a pair can construct a nest in less than a week). It is the nest <u>site</u> that originally attracted the pair that is of critical importance. It is not uncommon for nests to be blown from trees by storms, after which the resident pairs typically renest on the same sites, often in the same trees. Therefore, in instances where nests, and even nest trees, are lost, these guidelines should continue to apply in their absence for a period extending through at least two complete breeding seasons subsequent to the loss.

MATURE
BALD
EAGLE





IMMATURE
BALD
EAGLE

TO AVOID CONFUSION WITH MATURE GOLDEN EAGLE REMEMBER:

- IMMATURE BALD EAGLES HAVE WHITE ON WING LININGS
- AND DO NOT HAVE FEATHERS EXTENDING TO TOES

"Abandoned" Nests: Bald eagles often use alternate nests in different years. Although all nests used by a given pair are situated in the same general vicinity, some nests go unused for several consecutive years and thereby may appear abandoned. Even a solitary nest can go unused for several years, often due to the death of one member of the resident pair, and then be reoccupied by either the original pair or one member of the original pair with a new mate. Even in instances where both members of a pair have died, the site would likely be taken over by another pair if no habitat degradation occurs. For these reasons, these guidelines should apply to apparently "abandoned" nests for a period extending at least through five consecutive breeding seasons of non-use.

Management Zones:

A. **Primary Zone:** This is the most critical area and must be maintained to promote acceptable conditions for eagles.

1. **Size:** Except under unusual circumstances, the primary zone should encompass an area extending from 750 to 1,500 feet outward from the nest tree. The precise radius distance between these two extremes would be dependent upon the proximal and spatial configuration of the critical elements (nest tree(s), feeding area, roost trees, etc.) within a particular nesting area, or other compelling factors.

2. **Recommended Restrictions:**

a. Close proximity of the following activities to bald eagle nests are likely to have detrimental impacts on eagle nesting and, therefore, should not occur within the primary management zone at any time:

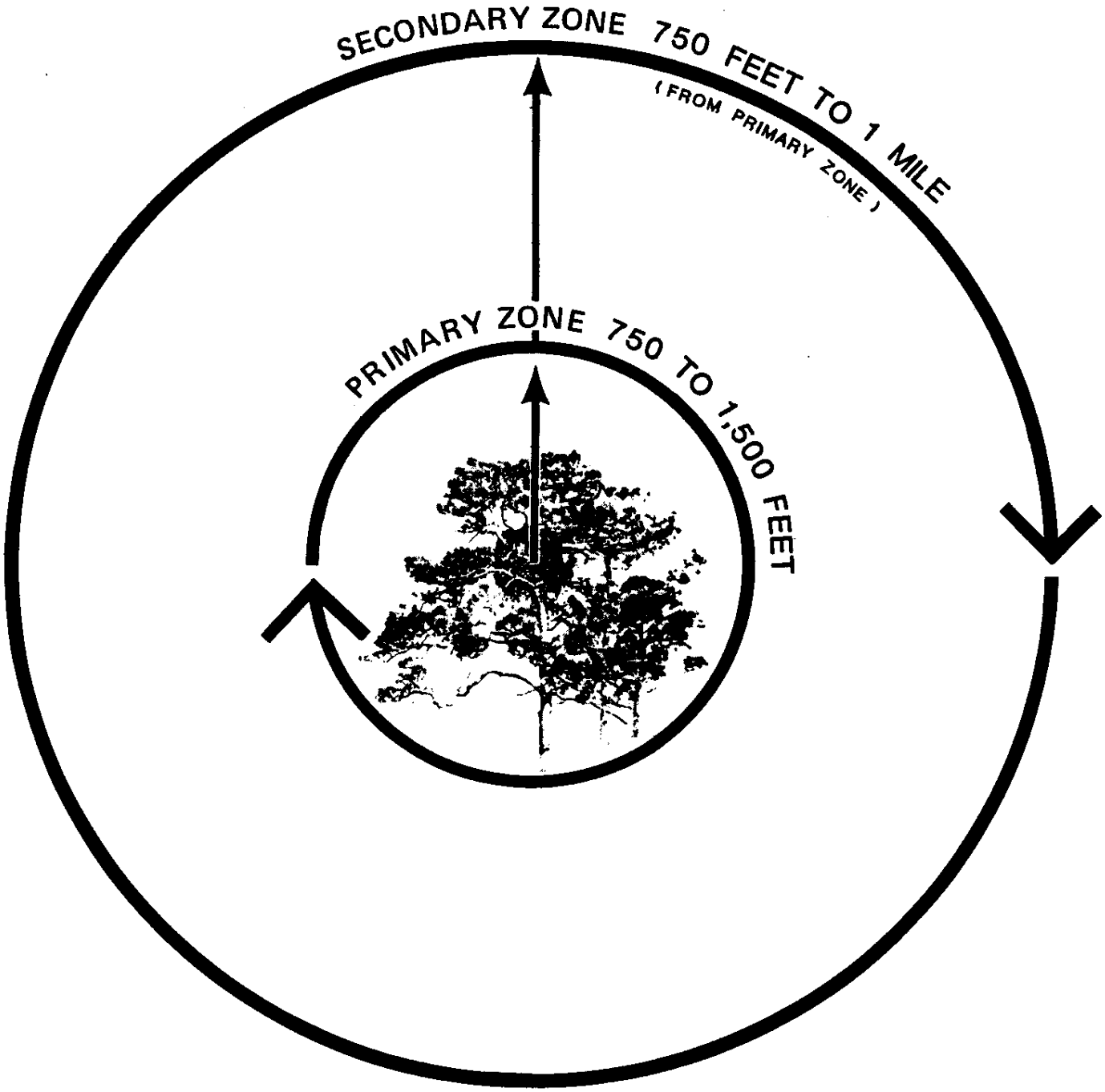
(1) Residential, commercial or industrial development, tree cutting, logging, construction and mining; and

(2) Use of chemicals toxic to wildlife.

b. The following activities would likely be detrimental while eagles are present and, therefore, should be restricted in the primary zone during the nesting period, but not necessarily during the non-nesting season:

(1) Unauthorized human entry; and

(2) Helicopter or fixed-wing aircraft operation within 500 feet vertical distance or 1,000 feet horizontal distance from a nest.


SECONDARY ZONE 750 FEET TO 1 MILE
(FROM PRIMARY ZONE)
PRIMARY ZONE 750 TO 1,500 FEET

B. **Secondary Zone:** Restrictions in this zone are needed to minimize disturbance that might compromise the integrity of the primary zone and to protect important areas outside the primary zone. The secondary zone should be arranged so as to be contiguous with feeding areas and provide a protected access between nests and the feeding area. In some cases that would involve extending a corridor from the primary zone to a particular feeding area, with that corridor requiring the same restrictions as the secondary zone.

1. **Size:** The secondary zone should encompass an area extending outward from the boundary of the primary zone, a distance of 750 feet to 1 mile. The precise distance will be dependent upon site-specific circumstances.

2. **Recommended Restrictions:**

a. Certain activities within the secondary zone are likely to be detrimental to bald eagles and in most cases should be restricted. These activities include, but are not necessarily limited, to:

(1) Development of new commercial and industrial sites;

(2) Construction of multi-story buildings and high density housing developments between the nest and the eagles' feeding area;

(3) Construction of new roads, trails, and canals which would tend to facilitate access to the nest; and

(4) Use of chemicals toxic to wildlife, such as herbicides or pesticides.

b. Other activities may take place in the secondary zone, but only during the non-nesting period. Even intermittent use or activities of short duration during nesting are likely to constitute disturbance. Examples are logging, land clearing, construction, seismographic activities employing explosives, mining, oil well drilling, and low-level aircraft operations. Minor activities such as hiking, bird watching, fishing, camping, picnicking, hunting, and recreational off-road vehicle use may be permitted in the secondary zone at any time.

II. **FEEDING:** These guidelines are designed to enhance the quality of bald eagle feeding areas and eliminate or minimize human disturbance.

A. The use of toxic chemicals in watersheds and rivers where bald eagles feed should be prohibited.

B. Alteration of natural shorelines where bald eagles feed should be prevented or limited. Degraded shorelines should be rehabilitated where possible.

C. Water quality in eagle feeding areas should be monitored and remedial steps taken when needed.

III. **ROOSTING:** These guidelines are designed to help preserve present roosting sites and provide future habitat.

A. Roosts within and adjacent to nesting territories

1. Within the primary management zone, no trees, living or dead, should be removed.

2. Within the secondary management zone, as many large trees as possible, living or dead, should be retained as roost and perch trees. Characteristically, these should be the larger trees in the stand. Trees with open crowns and stout lateral limbs are preferable.

B. Communal Roosts

1. There should be no significant logging, land clearing, or disruptive human activity within 1,500 feet of traditional roost sites.

2. Bald eagle roosting concentrations should be brought to the attention of the Fish and Wildlife Service or State wildlife agency so that a public or private agency can consider preservation of the roost by purchase, easement, or land exchange.

IV. **LEGAL CONSIDERATIONS:**

A. **Federal Statutes:**

1. The Bald Eagle Protection Act (16 U.S.C. 668-668d), and the regulations derived therefrom (50 CFR 22), state, in part, that no person ". . . shall take . . . any bald eagle . . . or any golden eagle, alive or dead, or any part, nest, or egg thereof . . .," with 'take' meaning ". . . to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb . . . ." Whoever violates any part of the BEPA may be fined from $5,000 to $10,000 or imprisoned from 1 to 2 years or both.

2. Section 9 of the Endangered Species Act of 1973 (16 U.S.C. 1531), as amended, makes it unlawful to 'take' any listed species with 'take' meaning to ". . . harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct . . . ."

For persons who violate the provisions of Section 9, the penalties can be civil or criminal with fines of from $5,000 to $20,000 and/or imprisonment from 6 months to 1 year. Section 7 of the ESA requires that all Federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any threatened or endangered species or result in the destruction or adverse modification of their critical habitat.

3. The Migratory Bird Treaty Act (16 U.S.C. 703-711) makes it unlawful ". . . to pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, . . . offer for sale, sell, . . ., any migratory bird, any part, nest or eggs of any such bird . . . ." Violators may be fined from $500 to $2,000 and/or imprisoned from 6 months to 2 years.

B. State Statutes

1. State of Alabama:

Section 9-11-232 of Alabama's Fish, Game and Wildlife regulations curtails the possession, sale, and purchase of wild birds. "Any person, firm, association, or corporation who takes, catches, kills or has in possession at any time, living or dead, any protected wild bird not a game bird or who sells or offers for sale, buys, purchases or offers to buy or purchase any such bird or exchange same for anything of value or who shall sell or expose for sale or buy any part of the plumage, skin or body of any bird protected by the laws of this state or who shall take or willfully destroy the nests of any wild bird or who shall have such nests or eggs of such birds in his possession, except as otherwise provided by law, shall be guilty of a misdemeanor. . . ." Section 9-11-236, which prohibits the hunting of or posession of protected birds during closed season and carries a fine of up to $500, also protects eagles.

2. State of Arkansas:

Section 14.01 of the Official Codebook of Arkansas Game and Fish Commission Regulations states, "It shall be unlawful to take or attempt to take wild birds or bird eggs." A violation of this code carries a $100 to $500 fine.

3. State of Florida:

Rule 39-27.011 of the State of Florida Wildlife Code (Chapter 39, Florida Administrative Code) reads, "No person shall kill, attempt to kill, or wound any endangered or threatened species," and Rule 39-27.002(1) states, in part, "No person shall pursue, molest, harm, harass, capture or possess any endangered or threatened species or parts thereof or their nests or eggs . . . ." (The bald eagle is listed as a threatened species by the State of

State of Florida (cont'd):

Florida.) Violation of those regulations constitutes a second degree misdemeanor punishable by a $500 fine and/or up to 60 days in jail.

4. **State of Georgia:**

State law 27-3-22, referring to wildlife, states, in part, "It shall be unlawful for any person to hunt, trap, take, possess, sell, purchase, ship, or transport any hawk, eagle, owl, or any other bird or any part, nest, or egg thereof . . . ."

5. **State of Kentucky:**

Chapter 150, Section 330, of the Kentucky Fish and Wildlife Codes, revised in 1986, reads ". . . No person shall take, pursue, possess, purchase or sell or attempt to do so, any migratory birds, except as authorized by the migratory bird treaty act (40 stat. 755) as amended and regulations under it . . . ." Section 183 prohibits the importing, transporting, or possessing of endangered wildlife.

6. **State of Louisiana**

Chapter 9, Section 1901.C., which was amended in 1981, prohibits or carefully regulates ". . . the taking, possession, transportation, exportation from the state, processing, sale, or offer for sale or shipment within the state of . . . endangered species." (Endangered or threatened species are defined as those covered under the Federal Endangered Species Act, as concurred in by the Louisiana Wildlife and Fisheries Commission.) The bald eagle is recognized as an endangered species in Louisiana.

7. **State of Mississippi:**

Section 49-5-7 of the Mississippi Code of 1972 reads, "No wild bird other than a game bird shall be pursued, taken, wounded, killed, captured, possessed, or exported at any time, dead or alive. No part of the plumage, skin, or body of any bird . . . shall be sold or had in possession for sale in this state. No person shall molest, take or destroy the nests or eggs of any wild bird, or have such nests in his possession . . . ." Section 49-5-109 states, " . . . it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on the following lists: (1) the list of wildlife indigenous to the state determined to be endangered within the State . . . ." (The bald eagle is listed as endangered in Mississippi.) Any person who violates these regulations will face a $1,000 fine and/or imprisonment for up to 1 year.

8. **State of North Carolina:**

In 1985 North Carolina law G. S. 113-294 was amended to include subsection(1) which refers specifically to eagles. It reads: ". . . any person who unlawfully takes, possesses, transports, sells or buys any bald eagle or golden eagle, alive or dead, or any part, nest or egg of a bald eagle or golden eagle is guilty of a misdemeanor. Unless a greater penalty is prescribed for the offense in question, any person convicted under this subsection is punishable by a fine of not more than $1,000, or imprisonment of not more than 1 year, or both."

9. **State of South Carolina:**

Regulation 123-160, derived from the Nongame and Endangered Species Conservation Act, and adopted in December 1976, protects eagles and other wildlife of the Orders Falconiformes and Strigiformes. "It shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale or ship, and for any contract carrier knowingly to transport or receive for shipment any such species or products or parts thereof except by permit for scientific, educational or falconry purposes issued by the South Carolina Wildlife and Marine Resources Department."

10. **State of Tennessee:**

Section 70-8-105(c) of the Tennessee Nongame and Endangered or Threatened Wildlife Conservation Act of 1974 states, " . . . it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale or ship, and for any common or contract carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on any of the following lists: (1) The list of wildlife indigenous to the state determined to be endangered or threatened within the state pursuant to subsection (a); (2) The United States' List of Endangered Native Fish and Wildlife as it appears on April 5, 1974 (Part 17 of Title 50, Code of Federal Regulations, Appendix D); and (3) The United States' List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50, Code of Federal Regulations, Apendix A) . . . . " A violation of this code constitutes a $25 to $1,000 fine and/or imprisonment for up to 1 year.