



United States Department of the Interior

FISH AND WILDLIFE SERVICE



IN REPLY REFER TO
FWS/R6/OLE

MAILING ADDRESS:
Post Office Box 25486
Denver, Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1807

April 10, 2014

Dear Tribal Leader:

The U.S. Fish and Wildlife Service (Service) manages and operates the National Eagle Repository (Repository), a facility in Colorado that distributes deceased eagles, their feathers and parts, to members of Federally Recognized Tribes for religious purposes. The Service recognizes the importance of eagles in the cultural and religious pursuits of many Tribal members, and is committed to facilitating those pursuits through the fair and efficient distribution of eagles and their parts by the Repository.

Applications received by the Repository are processed on a first-come, first-served basis, and thousands of eagle orders are filled each year. The wait times for different eagle parts vary widely, from one month for certain eagle parts to upwards of four and a half years for a whole immature golden eagle. This is because the number of orders exceeds the number of eagles in the Repository. The wait times are correlated to the species being requested such as golden eagles, especially immature golden eagles with black and white tail feathers, is the longest wait due to the high demand for those feathers.

The Repository realized the need to change its distribution processes in an attempt to decrease current wait times for eagles, their parts and feathers. As these changes may impact Federally Recognized Tribes and their members, the Service conducted government-to-government consultations in 2012 and 2013 to solicit ideas from Tribes on how to best accomplish any changes. The ideas, discussions and written comments from those consultations helped shape and inform our decisions about how to make the Repository more effective. After careful consideration of all comments received, the Service intends to implement the following changes.

REPOSITORY CHANGES

The Repository will implement the following changes to orders received on or after June 1, 2014, and will monitor the changes for two years to determine whether they have the desired effect of decreasing wait times. All orders received prior to that date will be filled following the current distribution procedures, and all order requests received after June 1, 2014 will follow the new distribution processes.

- The Service will limit the number of orders filled for inmates to **one order** only, either feathers or parts, up to one whole eagle, until they are released from incarceration or the facility's maximum feather possession amount per individual increases. We will only

U.S. Fish and Wildlife Service Responses to Tribal Comments Received During the 2012 National Eagle Repository Consultations

March 20, 2014

BACKGROUND

The U.S. Fish and Wildlife Service (Service) manages and operates the National Eagle Repository (Repository), a facility in Colorado that distributes eagles, their feathers and parts, to members of Federally Recognized Tribes for religious purposes. The facility is operated partly to implement provisions of the Bald and Golden Eagle Act, which authorizes the Service to provide access to eagle feathers for religious purposes by Native Americans. The Service recognizes the importance of eagles in the cultural and religious pursuits of many Tribal members, and is committed to facilitating those pursuits through the fair and efficient distribution of eagles and their parts by the Repository.

Applications received by the Repository are processed on a first-come/first-served basis, and thousands of eagle orders are filled each year. Only members of Federally Recognized Tribes (FRT) are eligible to obtain eagles or their feathers or parts from the Repository. The wait times for different eagle parts vary widely, from one month for certain eagle parts to up to four and a half years for a whole immature golden eagle. This is because the demand (orders) exceeds our supply (the number of eagles needed to fill those orders). It is also species related, the wait times for golden eagles, especially immature golden eagles with black and white tail feathers, is the longest due to the high demand for those feathers.

The Repository realized the need to change its distribution processes in an attempt to decrease current wait times for eagles, their parts and feathers. As these changes would impact Federally Recognized Tribes and their members, the Service conducted government- to- government consultations in 2012 to solicit ideas from Tribes on how to best accomplish any changes. The ideas and discussions from those consultations, along with written comments that were submitted, helped shape and inform our decisions about how to make the Repository more effective.

The Service announced its intent to consider Repository changes in a letter which was sent to all FRTs on or about May 30, 2012. Participation by Tribal representatives was encouraged either by telephone consultation, by submission of a written statement, or by attending one of five consultation meetings set up in different locations throughout the United States. The Repository received many insightful and helpful comments on how to improve its processes which were grouped and summarized along with the Service's responses.

In late October, 2012, the Service held a consultation meeting at the National Congress of American Indians convention in Sacramento, CA. At that Consultation, the Service agreed to provide a second comment period to review proposed changes prior to final implementation. An additional 90-day comment period was provided to all FRTs. After careful consideration of all comments received, the Service intends to implement the following changes.

REPOSITORY CHANGES

The Repository will implement the following changes to orders received on or after June 1, 2014, and then monitor the changes for two years to determine whether they have the desired effect of decreasing wait times. All orders received prior to that date will be filled following the current distribution procedures, and all order requests received after June 1, 2014 will follow the new distribution processes. Robust outreach will occur with all Tribes to notify them of the Consultation's results and the new Repository distribution processes. If additional changes to decrease wait times are necessary after the monitoring period, the Repository may also institute changes at that time or some point in the future. Any changes which occur will be informed by the comments obtained during the 2012/2013 consultations and written comments received from Tribes.

- The Service will limit the number of orders filled for inmates to one order only, either feathers or parts, up to one whole eagle, until they are released from incarceration or the facility's maximum feather possession amount per individual increases. We will only distribute to inmates the maximum allowed by one person at their correctional facility, up to the maximum amount the Repository will distribute to non-incarcerated individual applicants. This one order limit will alleviate the high number of back to back re-orders received from some inmates, and thus maximize the ability of all Native Americans to receive at least some of the feathers needed for their ceremonial, cultural and religious activities.
- The Service will process replacement orders (not re-orders) from inmates whose longtime use of feathers has caused them to need replacement. This will typically apply only to inmates who are incarcerated for very long periods of time. The Service will work with the applicant and where necessary make contact with prison authorities to ensure circumvention of the one order per inmate limit does not occur.
- The Service will continue the process of updating the Repository's website to provide more easily accessible information on wait times, order category descriptions with pictures and ordering information.
- The Service will diligently pursue a system for online re-ordering, in an effort to decrease the administrative burden on both applicants and the Repository.
- The Service will update our application form to more clearly advise applicants that they are not required to order the maximum amount of feathers allowed per order, they have the option of ordering a lesser amount if the maximum is not needed. We will also request applicants consider ordering loose feathers and other parts instead of whole birds, unless a whole bird is necessary to fulfill their religious need. Lastly, the application form will include a comment block, where applicants may list specific requests for their order.
- The Service will **not** require Tribal certification of the religious need for applicants requesting a whole eagle. In the future the Service might explore such an option, but only in a situation where a Tribe enacts a law requiring Tribal certification from its' designated Tribal officials, notifies the Service of that law, and provides a copy of that

law to a designated Service employee at the National Eagle Repository. The Service is not aware of any Tribes currently prohibiting whole eagle possession by its members, but did hear a substantial number of Tribes comment that they wanted more influence into which individuals get whole birds as not all members in their Tribe are qualified to perform the necessary ceremony with whole birds.

Consolidation of Tribal comments received during Consultations and Service responses

INMATE REQUESTS

1. Comment: Some inmates have ceremonies and need feathers but the number of ceremonies is less than those held outside of prison facilities. Feathers should be for the inmate's use and not sent out to extended family or others. Tribes agree with limiting Native American inmates to one order per inmate, up to the maximum allowed by that institution. Reorders may be processed after the inmate is either discharged, or after he or she is transferred to another facility allowing more feathers or parts.

Service Response: The Service intends to limit the number of orders allowed by inmates to one order, until they are released or their correctional facility changes. We will continue to distribute to inmates the maximum allowed by one person at their correctional facility, up to and including one whole eagle if the facility allows it. This will alleviate the back to back re-orders received from some inmates and will make at least some feathers more widely available to the greatest number of Tribal members.

2. Comment: Inmates should not be allowed to request or possess a whole eagle while incarcerated. There is concern that because of their limitations, inmates cannot handle a whole eagle in the proper manner, i.e., provide a proper burial, etc. There is also concern that ceremonies conducted in prisons are being conducted in an inappropriate manner.

Response: The Service recognizes and respects the insight of Tribes giving this comment; however, the Service has determined that the Service is not in a position to evaluate the religious needs of Tribal members, whether or not they are inmates.

3. Comment: The Service should limit the number of individual feathers inmates can possess while incarcerated, from one to four per person for the entire time incarcerated.

Response: The Service recognizes and respects the insight of Tribes giving this comment, however the Service is not in a position to evaluate the religious needs of inmates. Although we understand the logic and intent behind this comment, we will not be implementing this suggestion. Most prisons have their own restrictions on the number and type of eagle parts they will allow, for safety and storage reasons. The Service will continue to send only the number of feathers or parts a correctional facility allows for an individual.

4. Comment: You really monitor us, but you don't really monitor your own feathers that you give to the inmates. The Service should be tracking the feathers distributed to inmates that are sent outside of the facility. That's part of your responsibility.

Response: The Service does not have the resources to track the movement of eagle feathers inside and from correctional facilities. There are thousands of prisons in the United States, run by Federal, State, and local authorities, and tracking the outbound mail of all Native American inmates is not feasible or appropriate for the Service. The Service does not "monitor" Tribal members, whether incarcerated or not. Where potential violations of law involving selling or unauthorized taking of eagles occur, the Service does and will continue to investigate and take appropriate enforcement action. Such activities are a high priority of the Service because they potentially impact both the conservation of eagles and the supply of eagle feathers available to other Native Americans from the National Eagle Repository.

5. Comment: The Service should allow the Tribes to make the determination for feather distribution to inmates and have a signature line put on the application for Tribal signature. The Tribe knows best what they have done, what violations they have committed.

Response: The Service appreciates the willingness of some Tribes to approve or disapprove their incarcerated members getting feathers, however, we also suspect that adding an additional step to processing inmate requests would cause a longer turn-around time for those inmates who are approved. Moreover, inmates have the ability to assert an infringement on their statutory and Constitutional religious freedoms as individuals, opening the Service and the Tribe to unnecessary critiques and litigation. This suggestion will not be implemented.

6. Comment: Is it necessary to add another layer of restrictions to inmates and their already limited civil liberties? How would you address an inmate doing life who acquires feathers and overtime has worn them out and they need replacing? Some inmates may also have certain head of household responsibilities and are legitimately sending feathers out to family.

Response: The Service intends to restrict inmates to one order per inmate (no-re-orders), but allowing replacement orders from inmates whose longtime use of feathers has caused them to wear out or otherwise need replacement. We will do so in a way that ensures replacement of the feathers does not circumvent the one order limit for inmates that we intend to implement. Family members who are eligible to apply for an eagle feather permit may apply for their own feathers. The feathers sent to inmates are presumably for their own personal religious use. The Service minimizes its inquiry into private religious practices whenever possible.

7. Comment: Discontinue giving eagle feathers to inmates and allow our military to take one or two when they go into the battlefield.

Response: The Service will not infringe on the religious freedoms of any Federally recognized Tribal members, incarcerated or not. To accomplish this, the Service must continue to issue feathers to incarcerated Tribal members for their personal religious use.

The Service also recognizes the need to facilitate the export and re-import of eagle feathers by Native American military personnel who are deployed. This issue is not easily solved, there is an international treaty and implementing regulations that limit the length of time a permit may authorize the import and export of eagle feathers to six months from the date of export, and the foreign country they are deployed to may not issue the foreign export permit they would need to legally import their feathers back into the U.S. The Service is currently working with our solicitors to develop a policy solution to this problem.

8. Comment: Are the inmates the cause for forcing reductions in quantities and long wait times?

Response: At our last review, inmates were responsible for over one-half of the applications we received for feather orders, with some inmates submitting back to back re-orders many times. That being said, there are also other factors leading to the high demand for Repository feathers by Tribal members. We hope that taking reasonable steps to decrease wait times for feathers will help us better meet our goal of facilitating the religious pursuits of all Federally Recognized Tribal members who need eagle feathers.

9. Comment: Reduce the amount of feathers distributed to inmates and it will reduce wait times for entirety of Tribal members throughout the United States.

Response: The Service proposes to limit inmate orders to one, while continuing to allow up to the maximum number of feathers allowed by that facility and the Service.

10. Comment: Do not restrict inmate requests to a one time order, but limit the number of times they can order to once or twice a year to provide first-time applicants a quicker turn-around time.

Response: During our consultations Tribes overwhelmingly supported restricting inmate orders to one, which we intend to do. This will facilitate inmates own personal religious use of feathers, but it is hoped this will end the practice of some inmates re-ordering endlessly and transferring the feathers to others.

INCREASING EAGLE INVENTORY

11. Comment: The Service should allow members of Federally Recognized Tribes who use eagle feathers for regalia for ceremonies to collect feathers themselves off the ground or water or get a repository in the State of Alaska so that we know we are getting locally acquired feathers.

Response: The collection of migratory bird feathers which are naturally molted or fallen is now allowed by Department of Justice and Service policy. These policies apply to members of Federally Recognized Tribes and do not allow the collection of carcasses, only naturally molted or fallen feathers. The Service also goes to great lengths working with State, local, and private partners to ensure that all usable eagles are sent to the Repository for distribution to Tribal members. Over 2,500 eagles are sent to the Repository every year as a result of our efforts.

12. Comment: The Service should allow eagles found on Indian land to be retained by the Tribe for distribution to Tribal members. This would alleviate some of the orders the Repository receives.

Response: The Service understands the desire of some Tribes to retain eagles found on Indian land, however, to maintain a fair and equitable distribution of eagle feathers to all Federally Recognized Tribes the Service must fill orders on a first-come, first-served basis, and require that all usable eagles be sent to the Repository for distribution in this manner. Any eagles that do not come to the Repository would decrease the number of eagles available to other Tribal members, and may unfairly impact some Tribes while benefitting others. Moreover, the Service needs to investigate and document eagle mortality in order to implement appropriate conservation policy. We do not intend to implement this comment.

13. Comment: It appears that a lot of eagles are being stored in freezers in field offices around the country and people do not know what to do with them. The Service should contact the State wildlife offices, local zoos and museums on a monthly or quarterly basis to ascertain if they have eagles in their freezers or drop feathers and prompt them to send them to the Repository to increase the feather supply. In addition, the Service needs to provide training to various land management agencies on collecting dead eagles and the process to send them to the Repository.

Response: Although the Service has formal policy requiring its employees to send eagles to the Repository, the Service will institute a more formal protocol to notify State and Federal offices about how to ship eagles to the Repository. In addition, the Service will continue to provide information and training to various land management agencies on the process of shipping eagles to the Repository in a suitable and timely manner. In many cases eagles must remain as evidence in field law enforcement offices until an investigation is complete and any prosecution is concluded, however we will ensure that those eagles are also sent to the Repository as soon as they are no longer required.

14. Comment: The Service should look at establishing outreach processes to ensure power and wind energy companies are actively monitoring their lands and turning in eagles and feathers to increase supply.

Response: The Service has conducted outreach with many electrical utilities, including wind power companies, to actively monitor their facilities and report killing or injuring of eagles. Some companies are more diligent about monitoring and reporting than others. In addition, companies have been investigated and prosecuted for unlawful take (killing) of eagles, and the Service will continue to uphold its responsibility to protect eagles from unlawful take, including take by industries.

15. Comment: The Service should look at other sources to increase the supply of eagles, maybe Canada where a lot of eagles are located.

Response: The Service has approached officials in Canada about this idea. Eagles in Canada are used by Native Americans who reside there, and having eagles in Canada

imported into the United States for Tribal member's use does not appear to be a viable alternative.

TRIBAL INVOLVMENT

16. Comment: Some Tribes feel there should be Tribal control on feather orders by putting a signature line on the application for the Chief or Tribal Governor to sign so they can control the amount of feathers that an individual has based on their traditional practices. Right now it's wide open to anybody who wants to get eagle feathers.

Response: The Service appreciates the willingness of Tribes to control their members getting feathers; however, we also suspect that adding an additional step to approving requests will cause an additional delay for those members who are approved. Moreover, if their access to feathers is unnecessarily restricted some Tribal members may assert an infringement on their protected religious freedoms, opening the Service and the Tribe to unnecessary critiques and litigation. We will not be pursuing this comment for implementation.

17. Comment: Requiring Tribal certification for whole bird orders would place unforeseen burdens on tribes which need to be considered, i.e. creating systems to handle certification; More than half of all enrolled tribal members live off the reservation and accessing their tribal government to seek permission to obtain an eagle will be added to an already cumbersome and timely process; Individuals who are not "known" by tribal officials would be denied either due to low-level tribal employees or due to lack of knowledge about traditional practices or hostility to a particular faith; Many tribes may not have the capability to readily assist their members with this requirement.

Response: The Service concurs and will not be implementing this change.

18. Comment: Tribes will be charged with developing systems for certifying practitioners and medicine people which could subject them to scrutiny and prejudice.

Response: The Service concurs and will not be implementing this change.

19. Comment: Requiring bureaucratic approval (Tribal certification of the religious need for a whole bird) for a traditional religious leader would not be culturally appropriate;

Response: The Service concurs and will not be implementing this change.

20. Comment: The Service should help Tribes have their own Repository

Response: Permitting other eagle Repositories would undermine the first-come, first-served strategy that is in place and would decrease the number of eagles going to the National Eagle Repository, exacerbating wait times for applicants. We do not intend to permit additional eagle repositories. The National Eagle Repository will fairly and equitably serve all Federally Recognized Tribes. That being said, there are other opportunities for Tribes to secure their own feathers. The new DOJ and Service policies allow Federally Recognized Tribes' members to collect naturally molted or fallen feathers. There are also two non-eagle repositories that are distributing migratory bird

feathers to Native Americans. Last but not least, there are Tribally-run eagle aviaries that house non-releasable injured eagles, and the Tribes that maintain these aviaries are allowed to keep the feathers of those eagles and distribute them to Tribal members.

21. Comment: The Service should authorize more Tribes to have Tribal eagle aviaries to alleviate the demand on the National Eagle Repository.

Response: The Service agrees that Tribal aviaries provide additional eagle feather resources to the Tribes operating those aviaries. If any Federally Recognized Tribes desire to be permitted to run their own eagle aviary, we encourage them to contact their regional Service migratory bird permit office for more information on how to accomplish that.

22. Comment: Some Tribes would like to acquire eagle feathers from rehabilitators for special events, e.g., veterans.

Response: Rehabilitators and zoos, along with most non-Tribal entities, must send their eagle feathers and eagle carcasses to the Repository. Deviating from this would undermine our first-come, first-served strategy and would decrease supply at the Repository and increase wait times. We encourage Tribes who need feathers for a special event (graduation, returning veterans) to have members apply for feathers from the Repository in time for us to fill that order before the event.

23. Comment: The Service should allow Tribes to request eagles for distribution, within the Tribe, to individuals in need of them for specific ceremonies. The Tribe could hold on to them to give as needed, and be responsible for who is doing what with the feathers. It could work better for smaller Tribes than bigger Tribes.

Response: Tribes may request eagles for distribution, although individual Federally Recognized Tribal members must be the applicants. We encourage Tribes who need feathers for a special event (graduation, returning veterans) to have members apply for feathers from the Repository in time for us to fill that order before the event.

24. Comment: Allow Tribes to track applicant requests by notifying the Tribes when a Tribal member has many re-orders. Review application and consider changing for Tribal review as a courtesy.

Response: Although the Service understands the insight and logic behind this request, we are unable to fulfill this request. Privacy Act restrictions may prohibit this, as could the tenets of the Religious Freedom Restoration Act and the Religious Freedom for Institutionalized Persons and Land Use Act. In addition, the Repository receives thousands of order requests each year, and implementing an approval system with individual Tribes would be very time consuming, a function that we do not have the resources to complete. Tribes may wish to explore enacting their own Tribal law if they wish to restrict the actions of their members or set up an internal review process for applications.

QUANTITY AND ORDER LIMITATIONS

25. Comment: By reducing the number of feathers per loose feather category, more and more people (including family members) are likely to order loose feathers, at the same time, to be able to acquire the number needed for a ceremony, i.e., 40-60, which may defeat the purpose of reducing the number of feathers per order.

Response: We understand the logic and insight behind this comment. At this time, the Service will not be restricting the amount of loose feathers an applicant can request, other than the current maximums of 20 miscellaneous feathers or ten quality feathers per order. We will, however, be amending our application form to more clearly indicate that members may request a lesser amount of feathers than the maximums of 20 miscellaneous or ten quality feathers.

26. Comment: Feathers used for social activities, i.e., pow-wow vs. ceremonial activities should be limited to one order every four years.

Response: The Service is not well situated to regulate, restrict, or monitor the religious, cultural, or personal uses of feathers by Tribal members. In addition, we have heard that the feathers from some orders may be used for different purposes at different times. In short, we understand the desire to prioritize the limited amount of feathers for religious activities, but we are not in a position to regulate or monitor the lawful ceremonial activities of Tribal members.

27. Comment: Some Tribes are under the impression feather orders were being requested once a year or every so many years and had no knowledge applicants were ordering two to three times in one year. Some Tribes feel orders should be limited to every two to three years to preserve the inventory and allow the Tribes to be more mindful of how feathers are being used.

Response: The Service recognizes and respects the insight of Tribes when considering this comment, however we do not intend to restrict re-orders at this time, other than for inmates.

28. Comment: Limiting requests and the number of feathers being requested per person has the potential to have a direct impact on the customs and traditions of Native people, especially the Pueblos.

Response: The Service recognizes the importance of eagle feathers to many Federally Recognized Tribes and is striving to make the limited inventory of eagle feathers reach as many individuals as possible per year. At this time, the Service will not be restricting the amount of loose feathers an applicant can request, other than the current maximum of 20 miscellaneous feathers or ten quality feathers per order. We will, however, be amending our application form to more clearly indicate that members may request a lesser amount of feathers than the maximums of 20 miscellaneous or ten quality feathers.

29. Comment: Tribes feel if they could get the loose feathers they needed in very good condition (not perfect), it would cut down on the number of times individuals would have to submit re-orders.

Response: Most eagles sent to the Repository are salvaged from the wild and are in various stages of degeneration. The Repository recognizes the importance and need of feathers to Native Americans and works hard to salvage and distribute all usable parts, many of which are in need of some sort of work whether it is cleaning, trimming, or drying. The Service proposes to amend its application to more clearly indicate that specific information may be included with the application, i.e., intact quills requested for that particular order.

30. Comment: Regarding decreasing the number of immature golden eagle feathers per order from ten to five. The Tribe would like to discuss further with cultural individuals to make sure the limitation would not preclude an individual from requesting ten feathers to make a fan. If he/she were restricted to five feathers, the question is would the order not be as useful to them? The Tribe would like to see the Service consider this also.

Response: We understand and appreciate your concerns, and at this time the Service will not be restricting the amount of loose feathers an applicant can request, other than the current maximum of 20 miscellaneous feathers or ten quality feathers per order. We will, however, be amending our application form to more clearly indicate that members may request a lesser amount of feathers than the maximums of 20 miscellaneous or ten quality feathers.

31. Comment: First time applicants should still be able to fill their requests and thereafter be subject to the limiting rules.

Response: The Service will continue to fill requests on a first-come, first-served basis. While we understand the rationale behind giving preferential treatment to first time orders, it would undermine our contention that the fairest way to implement this program for all applicants is to continue first-come, first-served as our model for filling orders.

32. Comment: Restrict the number of whole bird orders to one per person for a lifetime. Only allow loose feather orders from then on.

Response: Restricting whole bird orders to one per lifetime would likely decrease the demand for whole birds substantially, although it's unclear whether it would increase the loose feather orders in response. We will not be restricting whole bird orders at this time; however, we may need to do so in the future. We intend to amend our application to state that loose feather orders should be carefully considered before submitting a request for a whole bird, in an effort to help alleviate the high demand and longer wait times for whole birds. We also will not knowingly violate any Tribal law that requires Tribal certification that a whole bird is necessary to fulfill the applicant's religious needs.

33. Comment: Some Tribes don't feel the Repository should limit re-orders as Indian people need feathers and without the ability to re-order back to back, people with certain Tribal responsibilities, who are approached by Tribal members asking for feathers, would not have access to enough feathers to fulfill their obligations.

Response: At this time, the Service does not intend to limit re-orders; however this may become necessary in the future if demand for eagles continues to increase faster than supply.

34. Comment: It's important to get a complete bird, but just one bird, not a bird with parts off another one. The Repository should just use those completely damaged birds as the loose feathers. If a bird is only missing a couple of feathers, don't see that as a big deal, even in the wild you're not going to get a bird with every feather perfect or even every feather on the bird.

Response: The Repository utilizes birds and parts with more than half of the feathers missing or damaged for loose feather orders. Birds and parts with less than half of the feathers missing or damaged will obtain replacement feathers to complete a whole bird order. Prior to shipment, the Repository provides one-on-one customer service to applicants with whole bird orders by calling them and providing verbal descriptions of the condition of individual birds available to fill their order at that time. Applicants have a chance to accept or decline what is available, and if they decline they wait for more suitable birds to become available.

35. Comment: Back to back re-orders are submitted in order to acquire the number of feathers needed for graduation. Also, various individuals are making outfits for others and require more than ten feathers. The wait time for more feathers from parts is too lengthy, hence back to back loose feather orders. Do not want to see re-orders limited.

Response: The Service recognizes the significance of graduation and has provided thousands of feathers to school graduates over the years. Many schools apply early in the year through several representatives of the school to acquire the number of feathers needed. The Service does not intend to limit re-orders at this time; however, it may become necessary in the future if demand continues to exceed supply of feathers.

36. Comment: Under the miscellaneous category, maybe put in subsections for individuals to request items or feathers for costumes or regalia, or maybe designate for spiritual or religious use, which would entail having the feather fully intact from the quill to the tip, which has a little bit more religious or spiritual emphasis to it.

Response: The Repository established two categories of loose feathers; the quality loose feathers are individually hand-picked and matched as much as possible, half from the left side of the eagle and half from the right side of the eagle. The miscellaneous category is a random selection of feathers (of lower quality) which may include cut shafts and require more work to clean. The Service will ensure detailed information is better provided in all publications, including the application. The Service will also try to accommodate requests that specify the feather should be intact from quill to tip.

37. Comment: Give priority to first time immature golden eagle feather orders and rotate each year with immature golden eagle re-orders.

Response: The Service appreciates this idea and understands the high demand and long wait times for immature golden eagle feathers and carcasses. We have heard many comments, both for and against, restricting re-orders, including immature golden eagle requests. The Service does not intend to limit re-orders at this time; however, it may become necessary in the future.

38. Comment: Impose re-order limitations based on the need as a one-time use request vs. an annual need request. Annual need by medicine men that use feathers all year serving entire nation vs. one-time need for regalia.

Response: In considering this comment, the Service must consider its responsibility to distribute eagles, parts and feathers in a fair and equitable fashion to all eligible applicants. While we understand a desire to prioritize religious or spiritual use of feathers over regalia use, we are not in a position to regulate, monitor, or enforce that. The Service does not intend to limit re-orders at this time; however, it may become necessary in the future.

39. Comment: There is concern if somebody is requesting the whole bird and you're only taking what you want to use out of that, and then dismiss the whole thing, there are others that could use all of it. I hate to put in that application and say, "Are you going to use everything?" Whether it is talons or beaks.

Response: The Service agrees the eagle inventory would go further if everyone ordered just what they needed. The Repository encourages applicants to request only what they need when discussing eagle inventory, and will more clearly state this request on our updated application form. In addition, the Service initially proposed to require Tribal certification on a whole bird order, i.e. Tribal certification that the whole bird is necessary to fulfill that individual's religious needs. The majority of Tribal responses opposed requiring Tribal certification, and consequently the Service will not be requiring Tribal certification unless the Tribe enacts a law to that effect.

40. Comment: I heard that you clip the feathers off when you're sending them to people. Do your people understand how to respect the bird as they are doing this? And do they say a prayer for the spirit of the bird? It is a life. It's not just a thing. You're now taking a life and you're taking from it. It needs to be done respectfully. So when your people are doing this, they need to have the proper feeling. It is not like you're cutting up a cow. I just wonder if they're properly trained in that. Because that makes a difference if you're sending them out to individuals using it for spiritual reasons. If you don't do it respectfully, you have laid something on the feather. So I just think that is something that is very important, that I really hope that you're doing and if you're not, I hope you will.

Response: The Service respects and facilitates Native American's religious use of eagle feathers, and operates the Repository in a manner that we feel is both respectful and efficient. Unfortunately, many of the eagles we receive have been killed and did not die of natural causes, either directly by incidents like shooting, or indirectly by incidents like electrocution, vehicle strikes, poisoning, or a variety of other factors. The Service takes its responsibility to protect eagles very seriously, and eagle deaths are routinely investigated and responsible individuals or companies are prosecuted. When eagles arrive at the Repository we take all available steps to ensure those birds are not unnecessarily damaged or degraded while they are in our control and when they are sent out to fill orders. This includes an extensive outreach program for freezing and shipping birds to the Repository, a well trained staff who efficiently and effectively processes birds for filling orders, and using an express carrier to ship orders out to maintain accountability and ensure quick delivery. It would not be possible for us to fulfill each individual Tribe's requests for how to handle or dispose of birds according to their

culture; however we can and do follow some protocols to ensure we provide good service in a manner that is hopefully respectful to all Tribes, while operating within our logistical and financial means. For example, we inspect each feather and bird before it is sent to fill an order. We do not unnecessarily clip feathers from birds; however some feathers may have a damaged quill and require clipping to salvage them. We replace damaged feathers on whole bird orders to ensure applicants receive something akin to what they requested, and we call applicants before filling whole bird orders to describe the condition of the bird and give them an opportunity to accept a bird that's currently available or wait for a more acceptable bird. We also continuously work with Service employees and State, local, and private partners to ensure all available eagles are sent to the Repository (we have policy requiring this of Service employees), and we fund Repository operations almost entirely out of fines and penalty monies secured during Service law enforcement prosecutions. In short, it is an honor for us to provide this valuable service to Federally Recognized Tribal members, and we strive to do it in a manner that is culturally and religiously acceptable to all Tribes.

41. Comment: The National Eagle Repository should process requests for State recognized Tribes as well.

Response: The Repository is bound by Federal laws and regulations which provide for distribution to members of Federally Recognized Tribes only. At this time we do not intend to expand this service to members of State Recognized Tribes

42. Comment: Some Tribes requested additional consultation meetings at some of their respective nations to allow tribal elders to attend and provide input.

Response: The Repository has strived to make this endeavor (improving Repository distribution processes to decrease wait times) a collaborative effort with all Tribes who wish to participate. We hosted five meetings at different locations around the country in an effort to obtain in-person discussions on these important issues. We also encouraged phone consultations and comments to be submitted in writing. Unfortunately, we have a very limited travel budget and do not have the resources to travel to individual Tribes to conduct consultation meetings.

43. Comment: What about State Tribes being their own repository for birds found in their areas? We get an average of two a year. So it wouldn't, you know decrease the number of eagles going to the National Repository for those that have very few eagles in their own area. It would at least stop the applications from going to the National Repository.

Response: The Service understands the desire of some Tribes to retain eagles found on Indian land, however, to maintain a fair and equitable distribution of eagle feathers to all Federally Recognized Tribes the Service must require that all usable eagles be sent to the Repository for distribution in this manner. State recognized Tribes do not meet the criteria in Federal law to apply for eagles through the Repository.

44. Comment: The Service should provide more information to the Native American community regarding process, wait times, request status, shipping information, etc. Also,

do a webcast on the process and provide training to Tribal representatives to assist Tribal members.

Response: The Repository is in the process of updating its website to include better information regarding processes and application procedures and wait times. We are also pursuing the possibility of online applications, and other strategies to more efficiently fill orders and decrease the burden on the applicants, all while maintaining accountability and integrity in this program.

45. Comment: Tribes requested copies of Repository annual statistics of eagles/parts received and shipped by region. Also, requested copies of the Service's draft decision for Repository changes for review and comment prior to final changes implemented.

Response: The Service will provide annual Repository statistics on the Repository website. This document constitutes the 2014 decisions regarding Repository changes, and the background for those decisions. All Federally Recognized Tribes will be notified of the Repository's changes, and these changes will be publicized on our website and application venues.

46. Comment: Do not approve of posting pictures of feathers and eagles with order descriptions. Raptor remains are viewed as human and should be afforded the same dignity and respect in their handling as a human being would receive.

Response: The Service recognizes and respects the insight of Tribes giving this comment and will take it into consideration.

47. Comment: Support proposed solutions to decrease backlogs; limit the number of re-orders allowed by an individual per year, one per year for quality feather orders and two per year for miscellaneous feather orders; decrease the number of feathers allowed per order, reduce number of quality feathers from 10 to 6 and miscellaneous from 20 to 12; reduce the number of immature golden eagle feathers to 5.

Response: The Service will monitor the proposed changes for two years. If additional changes to decrease wait times are necessary after the monitoring period, the Repository may also institute changes at that time or some point in the future.