



The questions and answers below are posted at <http://www.fws.gov/migratorybirds/baldeagle.htm>

U.S. Fish & Wildlife Service

Bald Eagle Recovery

Questions and Answers

Q: What action is the Service taking?

A: The Service announced the final decision to remove the bald eagle from the list of threatened and endangered species. After 40 years of conservation efforts, eagle populations have rebounded and no longer need Endangered Species Act protection.

Q: What is the current population status of the bald eagle?

A: Bald eagles have staged a remarkable recovery from the brink of extinction. According to the latest population surveys, the eagle population in the lower 48 states has climbed from an all-time low of 417 nesting pairs in 1963 to an estimated new high of 9,789 breeding pairs today.

This updated estimate is based on information gathered by the states in 2004 or later. Minnesota tops the list with 1,312 pairs of eagles, followed by Florida with 1,133 pairs and Wisconsin's 1,065 pairs. There are also eagles now breeding in the District of Columbia and Vermont, which until its first eagles hatched successfully in 2006, was the only state in the contiguous U.S. that did not support nesting eagles.

Q: When did the bald eagle first gain federal protection?

A: The bald eagle first gained federal protection in 1940 when Congress passed the Bald Eagle Protection Act. It was later amended to include golden eagles and renamed the Bald and Golden Eagle Protection Act.

The taxonomic family that includes bald eagles gained protection by the Migratory Bird Treaty Act in 1972 when the United States and Mexico agreed to a supplement to the migratory bird convention they first signed in 1936. The Migratory Bird Treaty Act is the law that implements treaties for the protection of shared migratory bird resources signed

by the United States with Canada, Japan, Mexico and Russia.

Bald eagles were listed as an endangered species in 1967 under the Endangered Species Preservation Act and later transferred to list of threatened and endangered species under the 1973 Endangered Species Act.

Q: What has contributed to the recovery of the bald eagle in the lower 48 states?

A: The recovery of the bald eagle was a national effort. Two important factors made the recovery of the bald eagle possible, the most critical being the federal government's ban on the use of DDT in the United States in 1972. Second, the eagle was added to the list of threatened and endangered species under the Endangered Species Act, which reduced threats to bald eagle habitat, including nesting sites and summer and winter roost sites. In addition, federal and state agencies, tribes, private landowners and others played a vital role in restoring populations by protecting important

habitat, reintroducing the bald eagle back into the wild, monitoring species recovery and conducting extensive public education efforts.

Q: Did the Service have a recovery plan for the bald eagle?

A: Yes, the bald eagle population in the lower 48 states is divided into five recovery regions, making it easier for the Service to monitor the recovery progress of the eagle. These regions are the Northern States, Chesapeake Bay, Southeastern, Southwestern and the Pacific Regions. Five separate recovery plans were developed, one for each region.

Since the development and implementation of the recovery plans, the bald eagle's population growth has exceeded most of the goals established in the various plans. Population goals have been met and exceeded in the Chesapeake Bay, Northern, Pacific, and Southeastern Recovery Regions. The Southwest recovery plan included goals for downlisting, but not delisting.

Recovery Region	Delisting Goals	Current Estimate of Breeding Pairs
Chesapeake Bay	300-400 pairs	1,093
Pacific	800 pairs	2,157
Southeastern	1,500 breeding areas	2,227
Southwestern	---	47
Northern States	1,200 breeding areas	4,215
Total	3900 pairs + Southwest	9,789 breeding pairs

Q: How does the Service determine if a species has recovered?

A: The criteria spelled out in the recovery plans are used as a yardstick to measure whether the species is no longer endangered or threatened. But those factors are not the only criteria. The ESA identifies five threats that the Service must evaluate to determine if delisting is appropriate:

1. The present or threatened destruction, modification, or curtailment of the species habitat or range;
2. The over-use of the species for commercial, recreational, scientific, or educational purposes;
3. Disease or predation;
4. The inadequacy of existing regulatory mechanisms; and
5. Any other natural or manmade factors affecting the continued existence of the species.

The Service determines whether recovery has been achieved by reviewing the best available scientific and commercial data available in evaluating the above threats to the species. Recovery plans may set population goals as a measure to indicate whether the threats have been reduced. The Service considers these goals in determining whether the threats have been reduced sufficiently to warrant reclassification of the species, or in this case, delisting.

A species is recovered when it is no longer in danger of extinction, or likely to become endangered within the foreseeable future throughout all or a significant portion of its range because the threats that led to the species' listing have been reduced or eliminated. The bald eagle has met these requirements for removal from the list of endangered and threatened wildlife.

Q: How will we know that the bald eagle population will not decline without the protections of the Endangered Species Act?

A: Concurrently with the delisting, the Service is making the draft post-delisting monitoring plan available and is soliciting public comment for 90 days.

As required by the Endangered Species Act, the Service will effectively monitor the species in cooperation with the states for a minimum of five years after delisting. The post-delisting monitoring plan provides a solid framework for

surveying eagles and documenting eagle success after delisting. The monitoring plan is designed to track the population status of bald eagles in the lower 48 by sampling the number of breeding pairs, similar to the current monitoring methods. The monitoring plan is not intended to monitor causal factors such as circumstances that "disturb" bald eagles or their habitat, a term defined under Bald and Golden Eagle Protection Act.

If, within the designated monitoring period, threats to bald eagles change or unforeseen events change the stability of the population, then it may be relisted under the ESA or the monitoring period may be extended.

Q: How will bald eagles be monitored after they are taken off the list of threatened and endangered species?

A: The Service proposes to work with states, tribes and federal agencies to survey bald eagle nest occupancy once every 5 years for a total of 20 years. The monitoring plan will primarily be a continuation of state monitoring activities conducted over the past 20 years.

The plan proposes to start the first monitoring interval in the winter of 2008 and the spring of 2009, with a baseline report completed within one year. The survey information will then be analyzed every five years from the time of the baseline survey results.

The goal is to be able to detect a 25 percent change in occupied bald eagle nests on a national scale at 5 year intervals. If declines are detected, the Service's Bald Eagle Monitoring Team will work with the state agencies to investigate the cause of decline. Factors to be considered include natural population cycles, weather, productivity, contaminants, habitat changes and other stressors. The result of the investigation will determine if the population of bald eagles in the lower 48 states warrants expanded monitoring, additional research, and/or resumption of federal protection under the Endangered Species Act. At the end of the 20 year monitoring program, the Service will conduct a final review.

In addition, information provided to the Bald Eagle Monitoring Team will be reviewed for potential population level impacts such as productivity, mortality, major habitat alterations, contaminants, and weather. The draft post-delisting monitoring plan for the bald eagle may be found on our Web site at <http://www.fws.gov/migratorybirds/baldeagle.htm>

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Q: Where can I get a copy of the draft post-delisting monitoring plan?

A: To request a copy of the post-delisting monitoring plan, you may submit a written request to U.S. Fish and Wildlife Service Rock Island Field Office, 1511 47th Avenue, Moline, Illinois 61265. You may also call 309-757-5800 to ask for a copy of the draft plan. Copies may also be requested by sending a request to baldeaglePDM@fws.gov. Please specify whether you want to receive a hard copy by U.S. mail or an electronic copy by e-mail. The post-delisting monitoring plan may also be downloaded from our web site at <http://www.fws.gov/midwest/Endangered>.

Q: Can I make comments on the draft post-delisting monitoring plan?

A: Comments on the draft bald eagle post-delisting monitoring plan must be received 90 days after publication in the Federal Register. Please submit your written comments to Bald Eagle Post-Delisting Monitoring Plan Comments, U.S. Fish and Wildlife Service Rock Island Field Office, 1511 47th Avenue, Moline, Illinois 61265. Comments may also be submitted via email to baldeaglePDM@fws.gov. You can also submit your comments by fax 309-757-5807; please include "Bald Eagle PDM Plan Comments" in the subject line. Comments on all federal rules can also be submitted via the Federal eRulemaking Portal at <http://regulations.gov>.

Q: How will the Service ensure there is adequate funding available to support the post-delisting monitoring plan?

A: The Service will work closely with states, tribes and the private sector to support their ongoing work to monitor bald eagles. Monitoring activities will be eligible for support under several of the Service's grant programs, including the Cooperative Endangered Species Conservation Fund, State Wildlife Grants and Tribal Assistance Grants programs. As needed, the Service will support this effort with appropriated funds.

Q: What other sources of Service funding will be available for bald eagles?

A: State Wildlife Grants can be used to fund bald eagle projects. In almost all of the recently completed State Wildlife Action Plans, bald eagles are listed as a species of greatest conservation need. From this list, states determine their priority projects and spending. The

Tribal Wildlife Grants Program also supports federally recognized Indian tribes for bald eagle-related projects. Proposals are recommended for funding based on their intrinsic merit and no special priority is placed on bald eagles. Under Section 6 of the Endangered Species Act, states may request funding through the traditional Conservation Grant program to assist in monitoring the status of the bald eagle following a delisting determination, but it will be a priority determined by the state wildlife agency. Also, the Wildlife and Sport Fish Restoration programs may be used for the restoration, conservation, management, and enhancement of wild birds and wild mammals. Similarly, though bald eagles are not specifically the target of National Wildlife Refuge land acquisitions funded by the Migratory Bird Conservation Account (primarily Duck Stamp receipts) or the Land and Water Conservation Fund, eagles benefit from habitat managed as part of the National Wildlife Refuge System. For example, many refuges, such as Blackwater National Wildlife Refuge in Maryland, are migratory bird refuges that historically receive Migratory Bird Conservation Funds to conserve habitat that will ultimately benefit bald eagles. Eagles also benefit from conservation projects funded by a variety of cooperative conservation grants.

Q: What other laws protect bald eagles?

A: Bald eagles are protected by two other major federal laws: the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. In addition, state governments can enact state laws that afford more protection than federal laws to conserve wildlife species. Bald eagles may be protected by a state law such as a state endangered species law. Please contact your state fish and wildlife agency to see if your state has laws or management guidelines applicable to eagles. Please see <<http://www.fws.gov/offices/statelinks.html>> for state or territorial wildlife agencies' contact information.

Q: Will these laws provide protections for the larger habitat needs of the species?

A: To the degree that destruction or degradation of habitat will disturb, or is likely to disturb eagles, it is prohibited under the Eagle Act. In addition, Executive Order 13186, "Responsibilities of Federal Agencies to Protect Migratory Birds," applies to federal agencies whose actions have, or are likely to have, a measurable negative effect on migratory bird populations. The Executive

Order directs these federal agencies to incorporate migratory bird conservation measures into their agency activities and to develop an agreement with the U.S. Fish and Wildlife Service outlining how they plan to do so.

Q: What are the protections provided by the Migratory Bird Treaty Act?

A: Under the Migratory Bird Treaty Act, it is illegal to pursue, hunt, take, capture, kill, possess, sell, barter, purchase, export, or import migratory birds, their parts, nests or eggs, except as permitted by regulation. "Take" is defined under the Migratory Bird Treaty Act as "pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect."

Q: How does the Bald and Golden Eagle Protection Act protect bald eagles?

A: The Eagle Act, originally passed in 1940, prohibits the take, possession, sale, purchase, barter, offer to sell, purchase, or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit (16U.S.C 668(a); 50 CFR 22). "Take" is defined as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb" a bald or golden eagle. The term "disturb" under the Eagle Act was recently defined via a final rule published in the Federal Register on June 5, 2007 (72 Fed. Reg. 31332). "Disturb" means 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.

Q: What are the National Bald Eagle Management Guidelines and why are they important?

A: The Service developed the National Bald Eagle Management Guidelines to advise landowners, land managers and others who share public and private lands with bald eagles when and under what circumstances the protective provisions of the Eagle Act may apply to their activities. A notice of availability for the Guidelines was recently published in the Federal Register on June 5, 2007 (72 Fed. Reg. 31332). The Guidelines include general recommendations for land management practices that will benefit bald eagles; however, the document is intended primarily as a tool

to provide those who seek information and recommendations regarding how to avoid disturbing bald eagles. Adherence to the Guidelines will benefit individuals, agencies, organizations and companies by helping them avoid violations of the law. However, the Guidelines themselves are not law. Rather, they are recommendations based on several decades of behavioral observations, science, and conservation measures to avoid or minimize adverse impacts to bald eagles. The Service intends to update these guidelines as more information becomes available through adaptive management.

Q: If a person follows the National Bald Eagle Management Guidelines to the letter and an eagle is still disturbed under the definition – for example, if an eagle nest is abandoned – will that person still be prosecuted?

A: The Service strongly encourages adherence to the National Bald Eagle Management Guidelines to ensure continued viability of bald eagle populations. While the Act has no provision for allowing take of bald eagles without a permit, the Service realizes that there may be impacts to some birds even if all reasonable measures are taken to avoid such impacts. The Service's Office of Law Enforcement carries out its mission to protect eagles through investigations and enforcement, as well as by fostering relationships with individuals, companies, and industries that have taken effective steps to minimize their impacts on eagles, and by encouraging others to enact such programs. Until a permit program is adopted, it is not possible to completely absolve individuals, companies, or agencies from liability even if they follow the Guidelines. However, the Office of Law Enforcement focuses its resources on investigating and prosecuting individuals and companies that may take eagles and nests without regard for their actions or without implementing the measures in the guidelines.

Q: Are inactive eagle nests protected under the Bald and Golden Eagle Protection Act?

A: The Bald and Golden Eagle Protection Act prohibits take of any eagle nest, whether active or inactive. However, after several years of inactivity, nests that are not maintained by eagles may eventually disintegrate into a pile of sticks and debris that would not be protected under the Eagle Act.

Q: How long does it take to consider a nest abandoned so that the National Bald Eagle Management Guidelines no longer apply?

A: The likelihood that an alternate nest will again become active decreases the longer it goes unused. If you plan activities in the vicinity of an alternate bald eagle nest and have sufficient documentation to establish that the nest has not been active during the preceding five breeding seasons, the recommendations provided in these guidelines for avoiding disturbance around the nest site may no longer be warranted. The nest itself remains protected by other provisions of the Eagle Act, however, and may not be destroyed.

Q: Who will be responsible for advising landowners on activities that may affect bald eagles?

A: The Service is primarily responsible for implementing and enforcing (and by extension, advising the public of) federal laws. States will be primarily responsible for state laws, including those that protect eagles. However, as with all such cooperative efforts, both federal and state agencies will continue efforts to ensure the public is aware of both federal and state laws protecting eagles. Note that adherence to the National Bald Eagle Management Guidelines does not ensure compliance with state laws and regulations; state law may be more specific or restrictive than the Guidelines.

Q: If I am planning a project near a bald eagle nest site, do I have to consult with the Service?

A: The Service strongly encourages you to review the National Bald Eagle Management Guidelines. If you have questions about how to apply the Guidelines to your situation or believe that you cannot follow the guidelines, you should contact the Fish and Wildlife Service's Ecological Services Field Office closest to your proposed project site for technical assistance. Landowners and others who believe that their actions may affect eagles are strongly encouraged to review and abide by the National Bald Eagle Management Guidelines at <http://www.fws.gov/migratorybirds/baldeagle.htm>.

Q: Who do I contact for advice on managing bald eagles on my property?

A: Contact your local U.S. Fish and Wildlife Service Ecological Services

Field Office. Contact information can be found on page 16 of the National Bald Eagle Management Guidelines and at <http://www.fws.gov/offices/directory/listofficemap.html>.

Q: Will the Service's Ecological Services Field Office still have a consultation role for eagles under the Eagle Act?

A: Landowners and others with questions should contact their local Ecological Services Field Office for technical assistance and advice if there is cause to believe that any planned or ongoing activities cannot be conducted in compliance with the National Bald Eagle Management Guidelines.

Q: What are the penalties associated with violating the two laws that now protect eagles?

A: Under the Bald and Golden Eagle Protection Act, which prohibits take and sale, the first criminal offense is a misdemeanor with maximum penalty of one year in prison and \$100,000 fine for an individual (\$200,000 for an organization). The second offense becomes a felony with maximum penalty of 2 years in prison and \$250,000 fine for individual (\$500,000 for an "organization" such as a business). The Bald and Golden Eagle Protection Act also provides for maximum civil penalties of \$5,000 for each violation.

Under the Migratory Bird Treaty Act, which prohibits take and sale of listed birds including eagles, take alone is a misdemeanor violation with maximum penalty of six months in prison and \$15,000 fine, and commercialization is a felony violation with a maximum penalty of two years imprisonment and \$250,000 fine (\$500,000 for an organization).

When the eagle was protected under the Endangered Species Act, the maximum penalty for a person who knowingly killed or sold a bald eagle in interstate commerce was 1 year in prison and \$100,000 fine (\$200,000 for an organization). The Endangered Species Act also provided maximum civil penalties of up to \$25,000 for each violation.

Q: How has Bald and Golden Eagle Protection Act been used to convict recent violators?

A: A West Virginia man was convicted in federal court for killing a bald eagle and sentenced to serve six days in federal prison, 11 months and 26 days of home confinement, and five years supervised

probation; he must also forfeit the rifle used to kill the eagle and pay \$3,301 in jail and court fees.

In September 2005, a Florida land development company responsible for the destruction of an eagle nest tree on property where it was building a housing development in Collier County, Florida, pleaded guilty to violating Bald and Golden Eagle Protection Act and was fined \$356,125 – one of the largest penalties ever assessed under this statute. An individual associated with the company also pleaded guilty to violating the BGEPA and was sentenced in April 2006 to a \$5,000 fine and three years on probation.

In January 2005, two defendants who cut down a tree containing a bald eagle nest in Sarasota County, Florida, pleaded guilty to violating the Bald and Golden Eagle Protection Act. One defendant was ordered to pay a \$10,000 fine and contribute \$80,000 in restitution (\$40,000 to the Audubon Center for Birds of Prey and \$40,000 to the National Fish and Wildlife Foundation's Florida Bald Eagle Conservation Fund). The other was fined \$10,000 and ordered to forfeit the chainsaw used to commit the crime.

Q: Will there be a permit similar to incidental take issued under the Bald and Golden Eagle Protection Act?

A: The Service has proposed a similar permit structure under the Bald and Golden Eagle Protection Act to the permit structure that exists under the Endangered Species Act. The permit structure is not yet in place and the Service is soliciting public comments on the proposal until September 4, 2007. Any final regulation the Service promulgates would ensure that permitted take of eagles is compatible with the preservation of bald and golden eagles. Under a managed take permit system, requests for bald eagle take will likely be evaluated based upon regional bald eagle populations.

Q: Is the Service going to honor existing Endangered Species Act Section 10 incidental take permits and Endangered Species Act Section 7 incidental take statements?

A: The Service will honor existing Endangered Species Act authorizations in place before the effective date of the delisting. During the interim period until the Service completes a rulemaking for permits under the Bald and Golden Eagle Protection Act, the Service does not intend to refer for prosecution the "take"

of any bald eagle under the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act, if such take is in full compliance with the terms and conditions of an incidental take permit or incidental take statement issued to the action agency or applicant under the authority of the Endangered Species Act.

The Service recommends that an action agency or person conducting activities that may “take” bald eagles (but which are not currently covered under an existing Endangered Species Act authorization) should follow the National Bald Eagle Management Guidelines to avoid violating the Eagle Act until they can obtain a permit authorizing the take under the Eagle Act.

Q: After delisting, bald eagles covered under a multi-species Habitat Conservation Plan (HCP) will automatically become a covered non-listed species under that same HCP. How will the Service implement the change?

A: For multi-species HCPs, nothing needs to be done to amend the plan. A covered species is covered whether it is listed or not for purposes of take under the Endangered Species Act. As part of the proposed rulemaking to establish managed take permits, the Service has also proposed regulatory provisions that will extend Eagle Act authorization to these permittees.

Q: What will happen to people who were previously authorized to take eagles under ESA section 7 authorizations and Habitat Conservation Plans where the bald eagle was the only covered listed species?

A: For both Habitat Conservation Plans and former recipients of Endangered Species Act section 7 authorizations where the bald eagle was the only covered listed species, the Endangered Species Act authorization is no longer valid after delisting. If take under the Bald and Golden Eagle Protection Act is anticipated, the Service will honor the agreement made under the Endangered Species Act, until such time as a Bald and Golden Eagle Protection Act permit becomes available, as long as the take is in compliance with terms and conditions of the former Endangered Species Act authorization. The Service intends to expedite processing of Eagle Act permit applications under the proposed regulations. A fee will not be charged for an Eagle Act permit in this case.

Q: Will the delisting of the bald eagle change how tribes acquire eagle feathers from the National Eagle Repository?

A: No. Delisting the bald eagle does not affect the process that tribal members use to obtain feathers from the National Eagle Repository. Both bald and golden eagles remain protected by the Bald and Golden Eagle Protection Act, which prohibits the possession of eagle feathers without a permit. State and tribal wildlife management agencies must continue remitting all collected bald eagle parts and bodies to the National Eagle Repository. The Service plans to streamline the process for obtaining permits and feathers from the Repository, but the upcoming streamlined procedures are unrelated to the changed legal status of the bald eagle.

Q: Are there any remaining threats to the bald eagle?

A: The bald eagle has made a dramatic resurgence from the brink of extinction. The banning of DDT, coupled with the cooperative conservation efforts of the Service, states wildlife agencies, other federal agencies, non-government organizations, and individuals, have all contributed to the recovery of our national symbol. Although some threats, such as contaminants or habitat loss may occur on a localized basis, the Service has determined that none of the existing or potential threats, either alone or in combination with others, are likely to cause the bald eagle to become in danger of extinction within the foreseeable future throughout all or any significant portion of its range.

Q: Are there more things I can do to help protect bald eagles?

A: Absolutely!

1. Protect and preserve communal roost sites, potential nest sites, and important foraging areas. Retain mature trees and old growth stands wherever possible, particularly within ½ mile from water.
2. Avoid potentially disruptive activities and development in the eagles’ direct flight path between their nest and roost sites and important foraging areas.
3. Locate long-term and permanent water-dependent facilities away from important eagle foraging areas.
4. Avoid recreational and commercial boating and fishing near eagle foraging areas during peak feeding times (usually early to mid morning and late afternoon),

except where eagles have demonstrated tolerance to such activity.

5. Do not use explosives within ½ mile (or within 1 mile in open areas) of communal roosts when eagles are congregating, without prior coordination with the Service and your state wildlife agency.

6. Locate aircraft corridors no closer than 1,000 feet vertical or horizontal distance from communal roost sites.

7. Use pesticides, herbicides, fertilizers, and other chemicals only in accordance with federal and state laws and labeled instructions for their use.

8. Identify and monitor contaminants associated with hazardous waste sites (legal or illegal), permitted releases, and runoff from agricultural areas, especially within watersheds where eagles have shown poor reproduction or where bioaccumulating contaminants have been documented. These factors present a risk of contamination to eagles and their food sources.

9. Where nests are blown from trees during storms or are otherwise destroyed by the elements, continue to protect the site in the absence of the nest for up to three (3) complete breeding seasons. Many eagles will rebuild the nest and reoccupy the site.

10. Site wind turbines and high voltage transmission power lines away from bald eagle communal roost sites to avoid collisions, where feasible. Bury utility lines along forested shorelines and roadways in new development projects.

11. Employ industry-accepted measures to prevent birds from being electrocuted on towers and poles.

12. Where bald eagles are likely to nest in human-made structures (e.g. cell phone towers) and such use could impede operation or maintenance of the structures or jeopardize the safety of the eagles, equip the structures with either (1) devices engineered to discourage bald eagles from building nests, or (2) nesting platforms that will safely accommodate bald eagle nests without interfering with structure performance.

13. Immediately cover carcasses of euthanized animals at landfills to protect eagles from being poisoned.

14. Do not intentionally feed bald eagles. Artificially feeding bald eagles can disrupt their essential behavioral patterns and put them at increased risk

from power lines, collision with windows and cars, and other mortality factors.

15. Avoid excessive groundwater pumping and river diversion that can lead to destruction of nest trees, roosts, and foraging areas.

16. Use an approved non-toxic shot when hunting migratory waterfowl, consistent with current hunting regulations. Eagles can be poisoned by elevated levels of lead after feeding on fish and waterfowl that have ingested lead shot or carrion killed with lead shot.

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www.fws.gov/
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