

Q&As

Why is it important to extend Endangered Species Act agreements to new coverage under the Bald and Golden Eagle Protection Act? Before the Service removed the bald eagle from protections under the Endangered Species Act on June 28, 2007, landowners and other federal agencies could enter into agreements with the Service to conserve bald eagles. Under these agreements, if the landowners agree to certain land management provisions, the Service would not cite a violation if an eagle was accidentally harmed or killed. This successful conservation model helped the Service work with private landowners and other federal agencies to avoid violating the law and encourage activities that ultimately help eagles. The Service proposed a similar permit structure under the Eagle Act and has taken the first step of two to implement the proposal.

How will the Service achieve the new coverage under the Eagle Act? The first step is to bring existing permits issued through the ESA under legal coverage of the Eagle Act. The next step, forthcoming from the Service, is to promulgate regulations for new permits to be issued in the future. The Service would ensure that permitted take of eagles will not significantly affect eagle populations.

What do I need to do if I currently hold an ESA Section 10 Permit? If you currently hold either a section 10 enhancement of survival permit with a Safe Harbor Agreement or a section 10 incidental take permit with a Habitat Conservation Plan, you will be automatically covered under these revised Eagle Act regulations. The take authorization under the ESA section 10 permits will continue to be valid as long as you fully comply with the terms and conditions of your ESA permit. You do not need to obtain a separate new permit under the Eagle Act for impacts already authorized under your valid ESA permit.

What do I need to do if my federal agency currently holds an ESA Section 7 Incidental Take Statement? Under the requirements of the Eagle Act, any take of bald and golden eagles must be authorized via a permit. Under the ESA section 7 process, take is authorized via an incidental take statement rather than a permit. You will need to apply for a new permit under the Eagle Act to provide take authorization that your federal agency will need for activities originally authorized under ESA section 7. The Service is providing assurances that it will not refer for prosecution any take that is in accordance with the previously issued ESA incidental take statement. This assurance will be valid for one year after today's rule takes effect in order to provide federal agencies the opportunity to apply for the new expedited Eagle Act permit.

When will the Service promulgate regulations for the issuance of new Eagle Act permits? The remainder of the proposed rulemaking will address requests for new take authorizations under the Eagle Act independent of any previous authorizations granted under the ESA. This is currently under National Environmental Policy Act review. A Notice of Availability for the associated draft Environmental Assessment will be published in the *Federal Register* in the near future.

What other regulations did the Service promulgate under the Eagle Act to prepare it for being the primary law to manage eagles? To ensure a smooth transition from the Endangered Species Act to the Eagle Act for eagle management, the Service finalized a definition of “disturb” under the Eagle Act as well as voluntary National Bald Eagle Management Guidelines.

The Eagle Act makes it illegal to “take” a bald eagle. “Take” is defined as attempting to “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb” a bald or golden eagle. The Service felt that the definitions of these terms were clear except for disturb. To address this concern the Service finalized a definition of the term “disturb”. The definition of disturb is “(d)isturb 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.”

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 about when and under what circumstances the protective provisions of the Eagle Act may apply to their activities. The Guidelines include general recommendations for land management practices that will benefit bald eagles; however, the document is intended primarily as a tool for landowners and planners 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.