



724 FW 2 Migratory Bird Permits

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2.1 What is the purpose of this chapter? This chapter describes the types and applicability of the various migratory bird permits and the procedures and requirements for obtaining and complying with a permit. As used in this chapter, the term "we" means Fish and Wildlife Service.

2.2 What is the Migratory Bird Treaty Act (MBTA) and what does it cover? The Migratory Bird Treaty Act (MBTA) ([16 U.S.C. 703-712](#)) implements the U.S. commitment to four bilateral treaties for the protection of migratory birds. The MBTA applies to activities conducted within the United States (including import to and export from), by any person, business, organization, institution, and any local, State or Federal agency. The United States includes all States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

2.3 What activities do permits cover? We administer a permit program to regulate certain activities other than hunting that involve migratory birds. We issue permits to qualified applicants for the following types of migratory bird-related activities: import/export, scientific collecting, taxidermy, waterfowl sale and disposal, educational use, game bird propagation, salvage, falconry, raptor propagation, rehabilitation, control of depredating migratory birds, and special purpose activities. The Bird Banding Laboratory, U.S. Geological Survey, issues bird banding permits. The regulations governing permits are located at 50 CFR 21.

2.4 When are permits required? Permits are required to take, possess, transport, sell, purchase, barter, import, or export all species of birds protected by the MBTA, as well as their feathers, parts, nests, or eggs. *Take* means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect ([50 CFR 10.12](#)).

2.5 What species are protected? Birds protected by the MBTA include all birds covered by the treaties for the protection of migratory birds between the United States and Great Britain (on behalf of Canada, 1916), Mexico (1936), Japan (1972), and Russia (1976), and subsequent amendments. The complete list of protected birds is in [50 CFR 10.13](#). Bald and golden eagles are additionally protected by the Bald and Golden Eagle Protection Act (BGEPA), [16 U.S.C. 668](#), and its implementing regulations at 50 CFR 22. Except as otherwise noted, the permits addressed in this chapter do not authorize activities involving eagles.

2.6 What items are protected? In addition to live birds belonging to species listed in [50 CFR 10.13](#), the MBTA requires permits for MBTA-prohibited activities involving any dead specimen, feather, part, nest, or egg of such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird, part, nest, or egg thereof.

2.7 Are there exceptions to permit requirements?

A. General permit exceptions apply to employees of the Department of the Interior authorized to enforce the provisions of the MBTA, pursuant to [50 CFR 21.12](#).

B. Certain permit exceptions apply to State game agencies, public museums, public zoological parks, accredited institutional members of the American Zoo and Aquarium Association, and public scientific or educational institutions, pursuant to [50 CFR 21.12](#)

C. Captive-reared and properly marked mallard ducks, alive or dead, or their eggs may be acquired, possessed, sold, traded, donated, transported and disposed of without a permit, subject to conditions in [50 CFR 21.13](#).

D. No permit is necessary to acquire captive-reared, properly marked migratory waterfowl or their eggs, but such waterfowl, other than mallard ducks, may not be sold, traded, or otherwise disposed of to another person (except for direct consumption by restaurants, hotels, clubs, and dealers of meat of game) without a waterfowl sale and disposal permit, pursuant to [50 CFR 21.14](#).

E. For migratory birds other than eagles and endangered or threatened species, a permit is not required to dislodge or destroy migratory bird nests that are not occupied by juveniles or eggs. However, any such destruction that results in take of any migratory bird is a violation of the MBTA (e.g., where juveniles still depend on the nest for survival). The MBTA requires a permit to collect, possess, transport, sell, purchase, barter, import, or export any non-eagle migratory bird nest, whether or not the nest is occupied by eggs or juveniles. Because additional prohibitions of the BGEPA apply to eagle nests, no one may destroy or dislodge any eagle nest without a permit. The Endangered Species Act ([16 U.S.C. 1531-1544](#)) prohibits destruction of nests of threatened and endangered migratory bird species.

F. No permit is required to take, possess, or transport migratory birds for depredation control purposes where such activities are in accordance with a depredation order issued under [50 CFR 21, Subpart D](#), or a conservation order under Subpart E.

2.8 What types of permits are issued? As provided in 50 CFR 21.21 through 21.41, each Regional Migratory Bird Permit Office issues the following types of migratory bird permits upon approval of a complete permit application:

A. Migratory Bird Import/Export Permit ([50 CFR 21.21](#)). Issued to individuals and entities to import and export lawfully acquired migratory birds and their parts, nests, and eggs. No import/export permit is required for: export of captive-bred, properly marked migratory game birds to Canada and Mexico; import of legally hunted waterfowl, doves, and pigeons within the limits established by 50 CFR 20.61; or export and import of raptors to Canada or Mexico for purposes of attending bona fide falconry meets, where such birds are legally held under a Federal falconry permit.

B. Scientific Collecting Permit ([50 CFR 21.23](#)). Issued to agencies, educational or scientific institutions, or individuals acting on behalf of an agency or institution, for educational and/or scientific purposes. The permit covers take, transport and possession.

C. Taxidermy Permit ([50 CFR 21.24](#)). Issued to persons who possess sufficient qualifications and experience to practice taxidermy. This permit covers possession, transport or sale of migratory birds, and authorizes a taxidermist to receive and temporarily possess for taxidermy purposes, lawfully acquired, properly tagged migratory birds, their parts, nests, or eggs, and return them to their owner.

D. Waterfowl Sale and Disposal Permit ([50 CFR 21.21](#)). Issued to waterfowl breeders engaged in commercial sale activities. The permit authorizes the holder to lawfully sell, trade, donate,

transfer, or otherwise dispose of captive-reared and properly marked migratory waterfowl and their eggs, except for mallard ducks. No permit is necessary to transfer possession of captive-bred, properly marked mallard ducks.

E. Educational Use Permit ([50 CFR 21.27](#)). Issued under Special Purpose permit regulations to persons who use migratory birds in educational programs and exhibits. Permittees must include a conservation or ecological message in all programs and exhibits using migratory birds. The permit does not authorize the use of migratory birds to endorse commercial products or services.

F. Falconry Permit ([50 CFR 21.28](#)). Authorizes persons to take, possess, transport, sell, purchase, and barter (includes offer to sell, purchase or barter) raptors for purposes of practicing falconry. Additional banding conditions apply to peregrine falcons, gyrfalcons, and Harris's hawks ([50 CFR 21.28](#)). To conduct falconry with golden eagles, the permittee must possess an additional permit under the BGEPA ([50 CFR 22.24](#)).

G. Raptor Propagation Permit ([50 CFR 21.30](#)). Issued to qualified individuals and institutions that breed raptors. The permit covers take, possession, transportation, sale, purchase, and barter. Requirements include facilities, equipment, and procedures that meet and/or exceed Federal falconry standards ([50 CFR 21.29](#)).

H. Rehabilitation Permit. Issued to individuals qualified to care for sick, injured, and orphaned migratory birds for purposes of returning them to the wild. The permit covers take from the wild, possession, and transport of such birds, and may authorize rehabilitation of bald and golden eagles.

I. Depredation Permit ([50 CFR 21.41](#)). Issued to take, possess or transport migratory birds to prevent damage to personal property, agricultural interests, and natural resources, and for health and human safety purposes. No permit is required merely to scare or herd depredating migratory birds other than threatened or endangered species or bald or golden eagles.

J. Special Canada Goose Permit ([50 CFR 21.26](#)). Issued to a State wildlife agency in order to manage goose populations to provide for human health and safety, protect property, or prevent injury to people.

K. Miscellaneous (Special Purpose) Permit ([50 CFR 21.27](#)). Issued to qualified applicants who demonstrate a legitimate purpose for engaging in migratory bird-related activities that are not otherwise provided for by any standard permit. The applicant must make a sufficient showing of compelling justification such as benefit to the migratory bird resource, concern for individual birds, or important research reasons. Salvage of dead birds for placement with scientific and educational public institutions is authorized under a special purpose permit.

2.9 What are the permit application procedures?

A. Prospective permittees must apply for migratory bird permits using [FWS Form 3-200-](#) (License/Permit Application Form) tailored to the specific type of activity for which the permit is requested. Applicants must submit the application to the Regional Migratory Bird Permit Office responsible for the State in which the applicant resides. We use the information collected through permit applications to determine whether or not the applicant is qualified to perform the type of migratory bird-related activity for which he or she has applied. Applications should be submitted at least 60 days before the date the permit is needed. For most permits, we charge a nonrefundable fee to offset the costs of processing the application.

B. Applicants must list their qualifications and provide justification to obtain a migratory bird permit.

(1) Qualification requirements vary depending on the type of permit. Requirements may include practical knowledge of species; handling, collecting, and rearing techniques; and/or quality of housing and facilities. Additional qualifications and experience may be necessary to obtain a permit for scientific research purposes. Some applications require documentation of previous experience, such as a State license or certification of formal training. Determination of an applicant's qualifications is made on a case-by-case basis, and the burden of proof is on the applicant to demonstrate those qualifications.

(2) Some permit applications require case-specific justification for the applicant's proposed activity. Justification may consist of a conservation benefit, important research grounds, or other compelling basis.

C. Upon reviewing an application for a migratory bird permit, we may require additional information from the applicant consistent with the information required to process the application.

2.10 Who issues permits? The Regional Migratory Bird Permit Office staff reviews completed applications as well as requests for renewals and amendments. Acting on behalf of the Assistant Regional Director for Migratory Birds, staff determine whether to issue or deny a permit based on criteria in the implementing regulations and applicable policy. A Biological Review Team reviews scientific collecting permits and refers them back to the Migratory Bird Permit Office staff. We base permit conditions on regulations (50 CFR 21) governing the type of activity being permitted, as well as the qualifications of the individual permittee.

2.11 Can a permit denial be appealed? Any person who is denied a permit may request reconsideration in accordance with the procedures in 50 CFR 13.29.

2.12 When should requests to renew a permit be submitted? Permittees should submit requests to renew permits to the issuing office at least 30 days prior to the expiration of the permit. Permittees whose renewal requests are on file with the issuing office may continue permitted activities until their requests are acted upon.

2.13 What are the report and recordkeeping requirements? Permittees must maintain accurate records of their permitted activities and may be required to submit reports covering those activities to the Regional Migratory Bird Permit Office. Those holding Waterfowl Sale and Disposal permits must submit FWS Form 3-186 (Notice of Transfer or Sale of Migratory Waterfowl) upon disposal of waterfowl or their eggs, alive or dead. Permittees must submit these forms to the issuing office on or before the last day of the month in which the transfer occurs. Holders of falconry permits and permits for propagation of raptors or game birds must submit FWS Form 3-186A (Migratory Bird Acquisition and Disposition Report) within 5 days of any transaction involving those birds.

2.14 Can a permit be suspended or revoked? We may suspend or revoke a migratory bird permit for a violation of the terms and conditions of the permit or the regulations under which the permit was issued; or for any reason set forth in 50 CFR 13.27 (permit suspension) and 50 CFR 13.28 (permit revocation). The validity of any permit is conditioned on observance of all applicable foreign, State, local, or other Federal laws. The migratory birds, nests, eggs, and any portions thereof remain in the stewardship of the Fish and Wildlife Service and may be recalled at any time.

2.15 Who is liable for activities under the permit? The permittee assumes all liability and responsibility for the conduct of the activities authorized by his or her permit.

2.16 Who issues Migratory Bird Banding Permits? The U.S. Geological Survey issues migratory bird banding permits (50 CFR 21.22) under the North American Bird Banding Program .

2.17 What other laws and regulations may apply?

A. Bald and Golden Eagle Protection Act. Additional protections are accorded to bald and golden eagles under the Bald and Golden Eagle Protection Act, [16 U.S.C. 668](#).

B. Endangered and Threatened Species. Additional permits issued under 50 CFR 17 (Endangered and Threatened Wildlife and Plants) may be required for activities involving migratory birds that are federally listed as threatened or endangered under the Endangered Species Act, [16 U.S.C. 1531-1544](#).

C. CITES Species. Exporting or importing migratory birds that are listed under the Convention on International Trade in Endangered Species of Flora and Fauna ([16 U.S.C. 1531](#) et seq.) may require a CITES permit from the Division of Management Authority (50 CFR 23).

D. State Permits. Migratory bird permits are not valid unless accompanied by appropriate State permits where required.

For information on the content of this chapter, contact the Division of Migratory Bird Management. For information about the Web site, contact Krista Bibb in the Division of Policy and Directives Management.

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