

General Permit Conditions – Bald Eagle Nest Take

Definitions

(as defined in 50 CFR 22.6 and available at <https://www.ecfr.gov/current/title-50/section-22.6>):

Alternate nest means one of potentially several nests within a nesting territory that is not an in-use nest at the current time. When there is no in-use nest, all nests in the territory are alternate nests.

Eagle nest means any assemblage of materials built, maintained, or used by bald eagles or golden eagles for the purpose of reproduction. An eagle nest remains an eagle nest until it becomes so diminished, or the nest substrate upon which it is built fails, that the nest is no longer usable and is not likely to become usable to eagles, as determined by a Federal, Tribal, or State eagle biologist.

In-use nest means a bald eagle or golden eagle nest that contains one or more viable eggs or dependent young, or, for golden eagles only, has had adult eagles on the nest within the past 10 days during the breeding season.

Practicable means available and capable of being done after taking into consideration existing technology, logistics, and cost in light of a mitigation measure's beneficial value to eagles and the activity's overall purpose, scope, and scale.

Safety emergency means a situation that necessitates immediate action to alleviate a threat of bodily harm to humans or eagles.

Definitions

(as defined in 50 CFR 22.300 and available at <https://www.ecfr.gov/current/title-50/section-22.300>):

Nest take for emergency. Take of an in-use or alternate eagle nest when necessary to alleviate an existing safety emergency for humans or eagles or to prevent a rapidly developing situation that is likely to result in a safety emergency for humans or eagles.

Nest take for health and safety. Take of an eagle nest when the removal is necessary to ensure public health and safety. Nest take for health and safety is limited to in-use nests prior to egg laying or alternate nests.

Nest take for human-engineered structure. Take of an eagle nest built on a human-engineered structure that creates, or is likely to create, a functional hazard that renders the structure inoperable for its intended use. Take is limited to in-use nests prior to egg-laying or alternate nests.

Definitions for the purposes of these permit conditions:

Breeding season refers to the period of time where eagles are breeding, or are preparing to breed. Actual breeding season dates can vary slightly between breeding pairs and from year to year. For bald eagles, the Service uses the date ranges listed by state in Table 1 (located at the end of this permit).

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Foster nest means an eagle nest where wild orphaned eagle nestlings of the same species are placed so they can be raised by the eagle adults attending that nest.

A. Authorization

You are authorized to take one bald eagle nest at the coordinates listed above under “Location where authorized activity may be conducted.”

- (1) Authorized take is limited to during the permit tenure and may include nest removal, nest relocation within one-half-mile, and temporary obstruction of a nest to prevent additional breeding attempts.
- (2) If eagles attempt to renest within one-half-mile of the nest you have removed under this permit and renesting will create (or re-create) the same safety or functional hazard of the original nest, you are authorized to remove those additional nests prior to egg laying and in accordance with these permit conditions. Authorized take is limited to during the permit tenure.
- (3) Take of an in-use nest between egg-laying and when nestlings fledge is prohibited except if this general permit is for emergency purposes (listed under “Type of Take” above)
- (4) If this general permit is for emergency purposes (listed under “Type of Take” above), take of in-use nests with eggs or nestlings is authorized consistent with the conditions below. If eagle nestlings are present in the nest to be removed, you are authorized to possess nestlings for the purposes of placing them in a foster nest or transporting them to a rehabilitation facility. See conditions G, below for a list of measures required when in possession of live nestlings. These conditions will apply under this permit unless otherwise directed by the Service.

B. Prohibited

This permit does not authorize:

- (1) Take or disturbance of golden eagle nests.
- (2) Disturbance of bald eagles beyond what is associated with nest removal as authorized in these permit conditions.
- (3) Incidental or intentional take that results in injury or death of eagles.
- (4) Possession of eagles, nestlings, or eggs, except as authorized in Condition G for emergency purposes.
- (5) Permanent take of any eagle territory. Your activities must not eliminate the potential for future nesting activity within any eagle territory.

C. Avoidance and Minimization

You must implement measures to avoid and minimize the need for and effects of nest take.

Whenever possible, resolve issues through nest trimming and nest obstruction before removing nests.

- (1) *Nest Trimming.* You may trim nest material if trimming may alleviate the need for nest take or delay nest take until the nest is not occupied. Trimming must occur outside breeding season or prior to egg-laying, except as in Condition (6). When trimming, do not pull sticks. Instead, cut sticks flush with surrounding nest material. Nest should be trimmed by a qualified person, an

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individual with adequate knowledge and experience to conduct modification and not compromise nest integrity.

(2) *Nest Obstruction*. If temporary obstruction of a nest may alleviate the need for nest take, you may obstruct the nest. Obstructions must be removed no later than the expiration of your permit, unless renewed. Obstructions must not entangle, injure, or kill eagles. You may not obstruct a nest with eggs or nestlings, except as in Condition (6).

(3) *Nest Relocation*. Nest relocation is only appropriate in limited circumstances. Do not relocate nests unless recommended by a Federal, Tribal, or State eagle biologist. If recommended, follow instructions of the agency biologist for relocation.

(4) *Re-Nesting*. If re-nesting is likely to cause the same hazard, you must take practicable steps to prevent re-nesting, such as exclusionary or deterrent devices or altering infrastructure design. Methods to prevent re-nesting must not entangle, injure, or kill eagles.

(5) *Nest Removal for health and safety or on human-engineered structures*. Take the nest outside the breeding season whenever possible. You may take the nest during the early breeding season until eggs are laid. Take nests as early in the breeding season as possible. You may not take the nest once eggs are laid and until after nestlings fledge.

(6) *Nest take for emergency purposes*.

If your permit states “emergency purposes” under “Type of Take” above and your activity is compatible with the definition of emergency, the following conditions apply. Prioritize actions that are the most safe for humans and most humane for eagles. Whenever possible, resolve or delay the need for nest take through nest trimming and nest obstruction.

(a) *Nest Trimming*. You may trim nests in accordance with (1) above. You may trim nests with eggs or nestlings present.

(b) *Nest Obstruction*. You may obstruct nests in accordance with (2) above. You may obstruct with eggs present. You may not obstruct nests that contain live nestlings.

(c) *Nest Relocation*. You may relocate nests in accordance with (3) above. You may relocate with eggs or nestlings present if recommended by an agency biologist in accordance with Condition G below.

(d) *Nest Removal*. Take the nest outside the breeding season whenever possible. You may take the nest during the early breeding season until eggs are laid. If you must take a nest with eggs or nestlings present, take the nest as early as possible, preferably prior to eggs hatching.

(e) *Nestlings*. You must make every practicable effort to avoid removing nests that contain live nestlings. If you are unable to avoid removing a nest that contains live nestlings, you must comply with the measures required in Condition G unless you are otherwise directed by the Service.

D. Disposition

(1) Eagle nests must be fully destroyed, unless you are relocating or donating the nest. Nests may be destroyed by dismantling and dispersing, burying, or incinerating nest material, or other

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method that completely destroys the nest. Eagle nests may be donated to any public institution authorized to receive them under a valid permit or regulatory authorization and approved by your regional Migratory Bird Permit Office (see “contact us” on ePermits.fws.gov).

(2) For the purposes of donation, you may salvage any eagle remains, feathers, and parts including nonviable eggs found in or around the nest.

(a) If you salvage eagle specimens, you must immediately contact the National Eagle Repository (NER) at repository@fws.gov.

(b) If the NER determines remains must be sent to the NER, you must follow the NER’s shipping instructions and ship remains within 7 days of receiving instructions from the NER.

(c) If the NER determines eagle remains may be donated to others, the NER will provide written documentation for donation of the eagle specimen. You may donate specimens to a public museum, public scientific society, or public zoological park authorized to receive eagle specimens for scientific or exhibition purposes under a valid permit regulatory authorization (50 CFR 22.15) or permit (50 CFR 22.50).

(d) All salvaged specimens must be sent to the NER, donated, or destroyed (e.g., burial or incineration) within 7 days of salvage, unless otherwise documented by the Service in writing.

E. Reporting

You must submit an annual report using Form 3-202-16 (Eagle Nest Take Report). Your report must include any nest take, including any subsequent nesting attempts that were removed. If an eagle nest was relocated, the date and location of the relocation must be reported. Your annual report is due September 30. An annual report is required, even if no nests were removed.

F. Subpermittees

You may designate subpermittees to conduct some or all of your permitted activities. A subpermittee is an individual to whom you have provided written authorization to conduct some or all of the permitted activities in your absence. Authorized subpermittees are any person who is (1) employed by or under contract to you for the activities specified in this permit, or (2) otherwise designated a subpermittee by you in writing. As the permittee, you are legally responsible for ensuring that your subpermittees are adequately trained and adhere to the terms of your permit.

You and any subpermittees must carry a legible paper or electronic copy of this permit and subpermittee designation letter and display it upon request whenever you are exercising its authority. Subpermittees must be at least 18 years of age. You are responsible for maintaining current records of who you have designated as a subpermittee, including copies of any designation letters provided to individuals not named above.

G. Handling of Live Nestlings

(1) If a nest must be taken while there are live eagle nestlings in the nest, you must make every practical effort to ensure a humane outcome for the nestlings. You must make every effort to contact your regional Migratory Bird Permit Office with your plan that is practicable and

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humane for nestlings. If you do not know your regional eagle biologist see “contact us” on [ePermits.fws.gov](https://www.fws.gov). Make all practicable efforts to postpone nest take until eagle nestlings are estimated to be greater than three weeks old.

(2) If relocation is recommended, you must make practicable efforts to relocate the nest to a structure that is as close as possible and no more than one-half-mile from the nest. When relocating an in-use nest, you must

- (a) Ensure the location does not create a safety or functional hazard.
- (b) Ensure that the substrate of the nest relocation is structurally sound and safe for nesting eagles.
- (c) Retrieve eagle nestlings from the nest prior to relocation. When practicable, have a federally permitted wildlife rehabilitator or a licensed veterinarian on site during relocation to care for eagle nestlings. To locate a rehabilitator near you, visit <https://www.fws.gov/story/find-migratory-bird-rehabilitation-facility>. Return nestlings to the nest upon completion of nest relocation. If nestlings cannot be returned to the nest, follow permit conditions G(3)(a)(i-iii), below.
- (d) Monitor the nest after relocation to ensure the adult eagles have resumed care of the nestlings. If care is not resumed within 24 hours of returning nestlings to the relocated nest, immediately retrieve nestlings and follow permit conditions G(3)(a)(i-iii), below.

(3) If relocation is not practicable or recommended:

- (a) Prior to taking the nest, you must have a plan for disposition of nestlings.
 - (i) Foster nests. Every practicable effort should be made to foster nestlings, as this is the best chance for the nestlings to fledge into the wild successfully. Foster nests should not have more than three nestlings after foster nestlings are placed, and existing nestling should be of similar age. The nest should be able to be safely accessed. You are responsible for obtaining any landowner permission and State or Tribal authorization.
 - (ii) Rehabilitation. If a foster nest cannot be located, nestling(s) may be placed with a federally permitted migratory bird rehabilitator authorized to rehabilitate eagles. You must contact the rehabilitator prior to entering the nest and follow their instructions for care. Whenever practicable, the rehabilitator should be on-site when nestlings are collected. Care of nestling(s) can cost \$10,000 or more. We encourage you to off-set any costs incurred by the rehabilitator.
 - (iii) Euthanasia. Any federally permitted rehabilitator or licensed veterinarian may humanely euthanize nestling(s) if a foster nest or eagle rehabilitator cannot be found.
- (b) You must remove nestlings from the nest prior to nest removal, unless it is not possible due to human safety concerns. If the nest must be taken without retrieval of nestlings, whenever practicable, have a licensed veterinarian or permitted rehabilitator on

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site during nest take and follow their instruction for transport, care, and disposition of any nestlings.

(c) Nestlings may be in your possession for as long as necessary to transport to the foster nest or federally permitted migratory bird rehabilitator. Possession may not exceed 24 hours unless recommended by a Federal, State, or Tribal eagle biologist. Additional State or Tribal authorization may be required to transport nestlings across jurisdictional boundaries.

I. Other Conditions

(1) You must comply with all of the regulations and permit conditions in 50 CFR parts 10, 13, 21, and 22.

(2) You must keep records of all activities conducted under this permit, including any subpermittee activities carried out under the authority of this permit (see 50 CFR § 13.46).

(3) By accepting this permit, you are authorizing the Service to inspect the location and records relating to the activity (see 50 CFR § 13.21(e)). Service or Service contractors may require access to your project site to ensure general permitting is consistent with eagle preservation. The Service will provide reasonable notice for requests to access sites and negotiate with the permittee about practicable and appropriate access conditions to protect human health and safety and address physical, logistical, or legal constraints.

(4) You are responsible for ensuring that the permitted activity complies with all Federal, Tribal, State, and local laws. This permit is not valid if implementing any of its provisions may affect a listed, proposed, or candidate species or designated or proposed critical habitat under the federal Endangered Species Act, nor has the potential to effect cultural resources or historic properties protected by the National Historic Preservation Act.

(5) The Service may amend, suspend, or revoke a permit issued under this subpart if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspension, and revocation of Federal permits set forth in 50 CFR § 13.23, 13.27, and 13.28. General permits cannot be amended by the permit holder.

(6) Notwithstanding the provisions of 50 CFR § 13.26 you remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit.

(7) The Service will regularly evaluate whether the take authorized under general permits remains compatible with the preservation of eagles. If the Service finds, through the best available information, that the general permit program is not compatible with the preservation of eagles, the Service may suspend issuing general permits in all or in part after publishing a notice in the Federal Register. If the Service suspends general permitting, take currently authorized under this general permit remains authorized until expiration unless you are notified otherwise.

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Table 1. Bald eagle breeding season dates by state or portions of states.

State	Beginning Breeding Season	End Breeding Season
Alabama	Oct 1	May 30
Alaska	Mar 1	Aug 31
Arizona	Oct 15	Jul 15
Arkansas	Nov 1	Jun 30
California	Dec 1	Aug 15
Colorado	Dec 1	Jul 31
Connecticut	Jan 1	Jul 31
Delaware	Dec 15	Jun 30
District of Columbia	Dec 15	Jul 15
Florida	Oct 1	May 30
Georgia	Oct 1	May 30
Idaho	Jan 1	Aug 15
Illinois	Dec 15	Jul 31
Indiana	Dec 15	Jul 31
Iowa	Jan 1	Jul 31
Kansas	Dec 1	Jul 31
Kentucky	Nov 1	Jul 15
Louisiana	Oct 1	May 30
Maine	Feb 1	Aug 30
Maryland	Dec 15	Jun 30
Massachusetts	Jan 15	Aug 31
Michigan	Jan 15	Aug 15
Minnesota	Jan 15	Aug 15
Mississippi	Oct 1	May 30
Missouri	Dec 15	Jul 15
Montana	Jan 15	Aug 31
Nebraska	Dec 1	Jul 15
Nevada	Dec 1	Jul 31

State	Beginning Breeding Season	End Breeding Season
New Hampshire	Feb 15	Aug 15
New Jersey	Jan 1	Jul 31
New Mexico	Oct 15	Jul 15
New York	Jan 1	Aug 31
North Carolina	Nov 1	Jun 30
North Dakota	Jan 15	Aug 31
Ohio	Jan 1	Jul 31
Oklahoma – except panhandle	Oct 1	May 30
Oklahoma – panhandle only	Oct 15	Jul 15
Oregon	Jan 1	Aug 15
Pennsylvania	Jan 1	Jul 31
Rhode Island	Jan 1	Jul 31
South Carolina	Oct 1	May 30
South Dakota	Jan 15	Aug 31
Tennessee	Nov 1	Jun 30
Texas – east of 100 th meridian	Oct 1	May 30
Texas – west of 100 th meridian	Oct 15	Jul 15
Utah	Dec 1	Jul 31
Vermont	Feb 1	Aug 15
Virginia	Dec 15	Jul 15
Washington	Jan 1	Aug 15
West Virginia	Dec 1	Jul 15
Wisconsin	Jan 15	Aug 15
Wyoming	Jan 1	Aug 15

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