



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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MIGRATORY BIRD PERMIT MEMORANDUM

SUBJECT: Capture, Handling, and Disposition of Depredating Birds.

PURPOSE: This memorandum serves to clarify expectations for the humane and healthful capture of migratory birds, including eagles, for depredation purposes.

BACKGROUND: The U.S. Fish and Wildlife Service (Service) implements the Migratory Bird Treaty Act (MBTA, 16 U.S.C. §§ 703-712) and implementing regulations (50 CFR Part 21) as well as the Bald and Golden Eagle Protection Act (Eagle Protection Act, 16 U.S.C. §§ 668-668c) and implementing regulations (50 CFR Part 22). Both the MBTA and Eagle Protection Act regulations provide for the take of depredating birds (Part 21 Subpart D) and eagles (Part 22 Subpart D) in certain circumstances. In addition, Service regulations require that “any live wildlife possessed under a permit be maintained under humane and healthful conditions” (50 CFR 13.41).

The Migratory Birds Program implements permits not only as legal authorization for take of migratory birds but also as a conservation tool to promote long-term conservation of migratory birds and encourage joint stewardship with others. Live capture can be an effective and humane method for alleviating certain depredation problems. Regulations allow for capture methods to be authorized as a method of take but do not provide information on the capture methods, handling, and disposition of captured birds.

In 2022, the Service worked cooperatively with U.S. Department of Agriculture – Wildlife Services (Wildlife Services) and U.S. Geological Survey – Bird Banding Lab to develop the technical reference *Humane Capture, Handling, and Disposition of Migratory Birds*. The current version, November 2022, is attached to this Memorandum. The Service developed this policy from the November 2022 technical reference. This memorandum replaces Migratory Bird Permit Memorandum 4 – Use of Pole Traps for Capturing Depredating Raptors (August 11, 2005).

Nothing in this memorandum changes the purpose for which permits may be issued and all permits must be issued in accordance with governing regulations and procedures for that permit type. This memorandum serves as policy and guidance if capture is an approved method of take for the applicable permit type.

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Additional federal regulations and procedures may apply for bald eagles, golden eagles, and species on the List of Endangered and Threatened Wildlife (50 CFR 17.22). Additional Federal, State, or Tribal permits may be required. If additional permits are more restrictive, the most restrictive authorization applies.

POLICY: When a Service permit authorizes the capture of migratory birds, the capture methods used, as well as the handling and disposition of captured birds, must be humane and healthful (50 CF 13.41). This requirement applies from when a bird first interacts with a capture device until final disposition of the captured bird. This policy applies to all migratory birds, including eagles, on the List of Migratory Birds (50 CFR 10.13). Permitting decisions and permit conditions may include any or all of the conditions related to the capture methods, handling, and disposition criteria listed below. As a technical reference, the Service will use the current version of *Humane Capture, Handling, and Disposition of Migratory Birds*.

A. Capture Methods. In evaluating and authorizing capture methods, the Service will consider:

(1) *Appropriate.* Capture methods must be likely to resolve or relieve the depredation problem, based on the best available information. This includes considering the availability and practicality of other non-lethal methods, such as hazing, landscape modification, and less invasive capture methods. The best available information should include recommendations from Wildlife Services, scientific publications, management documents, informed professional judgement, and any other relevant and reliable information.

(2) *Effective.* Capture methods must be effective for the target species and likely to resolve or reduce the depredation issue. This includes consideration of previous capture success rates and, if translocation is proposed, the return rate of captured birds.

(3) *Safety.* Capture methods must be safe for the target species, non-target species, and personnel. Safety considerations should include where devices are deployed, such as proximity of landscape features that could pose a hazard (e.g., fences or water bodies) or areas where predators are known to occur frequently (e.g., raptor perch sites). The risk of the method employed will be assessed with regard to the purpose for the depredation authorization (i.e., human health and safety, species protection, agricultural damage, or property protection).

(4) *Trap Checks.* The best practice is to extract birds from live traps as soon as possible after capture; however, tradeoffs may exist such as human safety, method efficacy, and burden. In some circumstances, longer trap-check frequencies may reduce the need for lethal take. Permit conditions must specify a trap check frequency that is humane and consistent with the current version of the technical reference *Humane Capture, Handling, and Disposition of Migratory Birds*.

(5) *Experience.* Personnel authorized to capture migratory birds must have experience to humanely implement the capture method and handle the target species. Application materials must include a description of any experience with the capture method and species requested. At

least one person experienced in the capture method and species authorized must be present during capture activities, including trap setting, removal of captured bird(s), and closing of traps.

(6) *Injury/Mortality*. As part of the reporting requirements under a permit, a permittee must notify the Service if an injury/mortality rate of 3%¹ as a result of capture is exceeded during permit tenure, where injury is one that require medical attention and care longer than 24 hours. The Service may suspend actions under the permit until the permittee submits a description of the circumstances and measures that will be implemented to reduce the risk of injury/mortality below 3%.

(7) *Purpose*. Capture methods must target individuals or groups of depredating bird(s) covered by the permit. Capture methods must be on-site or adjacent to where depredation is occurring unless a sufficient justification is provided to capture elsewhere. Capture efforts should be thoughtfully deployed in a manner where the traps do not become an attractant that exacerbates the depredation problem. Capture methods must be used to reduce damage and not for population control.

(8) *Seasonality*. Capture methods should avoid targeting breeding-age birds during the breeding season when possible. If this is not practicable or consistent with the goals of capture, the permit holder should determine if nest abandonment may occur and develop steps to minimize nest abandonment or the death of eggs or chicks, while taking into account the population status of the target species. If an adult bird is trapped during breeding season, the Service may count the likely nest failure toward the lethal take authorization based on the expected nest success (e.g., to account for nest failure, take of one adult bird may be counted as take of 1.5 birds).

(9) *Compatible*. Authorized capture methods must be compatible with the conservation of migratory birds, including local populations of migratory birds. This includes target and non-target species, especially federal Birds of Conservation Concern. Non-target species that are captured must be reported to the Migratory Bird Permit Office.

B. Handling. In authorizing handling methods, the Service will consider:

(1) *Prompt Extraction*. Birds must be properly and humanely cared for once they are known to be captured. For capture methods that are intended to trap one bird at a time, birds must be removed as soon as feasible upon detection, even if detection is prior to a designated trap-check time.

(2) *Extraction Method*. Individuals extracting captured birds must be trained in handling birds in a humane manner that minimizes potential injury to the bird, including feathers and bones, and maintains the ability to breathe. Birds must be evaluated for injury and disease.

(3) *Human Activity*. Human activities around captured birds must be at levels consistent with the surrounding environment. Hazing activities that may stress or startle birds must not occur in

¹ Injury/mortality rate of 3% adapted from: Fair, J., E. Paul, and J. Jones, Eds. 2010. Guidelines to the Use of Wild Birds in Research. Washington, D.C.: Ornithological Council

proximity of birds confined in traps. Aversive conditioning (e.g., “roughing up” or intentional frightening) of captured migratory birds is not humane and is not authorized under any Service permit or regulation.

(4) *Transport*. Extracted birds must be transported in an appropriate carrier that is clean, secure, and allows airflow. Transport vehicles must be adequately ventilated, kept to an appropriate temperature, and limit human exposure. Individuals transporting birds must be permittees or designated subpermittees.

(5) *Duration*. In determining whether to authorize captivity, the Service will consider if the duration proposed is humane for the bird, including assessing the proposed methods of care and the species’ size and temperament. Generally, birds should not remain in captivity more than 24 hours. To request authorization for longer than 24 hours, applicants must provide sufficient justification to extend duration in captivity, including proposing humane care methods.

When permits specifically authorize captivity longer than 24 hours, the following criteria apply:

- (i) Captivity in transport carriers must not be longer than 72 hours.
- (ii) Captivity in enclosures may be authorized, provided the enclosure and care meet the expectations for release conditioning in the current Standards for Wildlife Rehabilitation (currently 2021). Variation from the standards may be authorized where doing so is reasonable, necessary, and humane. Permit conditions must specify the enclosure location, description of the enclosure, and a Primary Caretaker.
- (iii) Birds in captivity longer than 36 hours must be presented with well-moistened food and water.

(6) *Display*. Display of birds in possession is prohibited unless authorized in the permit conditions. Training staff using captured birds does not constitute display provided training is consistent with approved capture methods.

C. Disposition. In authorizing disposition, the Service will consider:

(1) *Plan*. A disposition plan must be submitted as part of the capture methods in the application. Permit conditions will specify authorized disposition method(s) for any captured birds. Release locations for target species must be included as part of the capture methodology. State coordination is recommended, and State authorization may be required.

(2) *Prioritize Release*. Release to the wild at the earliest possible opportunity is the recommended disposition method unless it is not likely to achieve the purpose for capture. Birds must be in appropriate condition for release.

(3) *Transport Distance*. Transport distances should be minimized to the extent possible to achieve the desired outcome based on the best available information. The best available information should include recommendations from Wildlife Services, scientific publications, management documents, informed professional judgement, and other relevant and reliable sources. Short transport distances reduce duration in captivity and stress to birds and ensure staff are more available for capture activities.

(4) *Release.* Birds must be released in suitable habitat at a suitable time of day for the species.

(i) Birds must not be released where they are likely to cause a depredation hazard, for example do not release an airport depredation bird near another airport.

(ii) Release habitat must be appropriate to the species and not in the immediate vicinity of hazards, such as powerlines or busy roadways. There must be suitable cover immediately after release to allow birds to adjust to being released in a safe space.

(iii) Release birds in sites free from predators and competitors, including territories of birds of the same species, to the extent that can be determined.

(5) *Medical Care.* Injured birds may be transferred to a federally permitted migratory bird rehabilitator or licensed veterinarian for medical care. Disposition of the bird is determined by the care provider, within the relevant governing regulations. Injured birds requiring medical care count towards the lethal take authorization for the permit.

(6) *Placement.* Captured birds may be placed in permanent captivity with an individual or entity authorized to possess live birds. Authorization for placement must be requested and obtained PRIOR to placement of the bird. Placed birds count towards the lethal take authorization for the permit. Birds transferred to falconers count towards the wild take authorization for the depredation permittee and the falconer. Birds may be placed for educational display if determined non-releasable (e.g., repeat depredating birds) and the individual is suitable for placement in captivity.

(7) *Euthanasia.* Euthanasia may be authorized, when humane and appropriate. Euthanized birds count toward the permittee's lethal take authorization.

(8) *Eagles.* If an eagle depredation permit authorizes capture of a golden eagle by a falconer, this memorandum applies to the depredation permit only. At the time of capture, the authorization transfers from the depredation permit to the falconer license, and this memorandum does not apply to the licensed falconer. All conditions of the falconer's license or permit will then immediately apply.

(9) *Reporting.* The permittee must notify the Service of the disposition of all captured birds on the annual report required by the permit.