



Migratory Bird Permitting Handbook

U.S. Fish and Wildlife Service
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Purpose of the Handbook

The U.S. Fish and Wildlife Service (Service) Division of Bird Conservation, Permits, and Regulations designed this handbook, which is established by [724 FW 1](#), to supplement [724 FW 2](#) (Migratory Bird Permits) and [724 FW 3](#) (Eagle Permits). This handbook provides detailed procedures and other operational information to implement the Service Manual chapters in Part 724 (Migratory Bird Permits) and more generally Part 720 (Migratory Bird Management), which step down the requirements in the Migratory Bird Treaty Act (MBTA, 16 U.S.C. 703–12) and Bald and Golden Eagle Protection Act (Eagle Act, 16 U.S.C. 668–668d).

This handbook is organized in four parts: Part 1 – Quick Reference Tables, Part 2 – Permit Administration, Part 3 – Administration of Migratory Bird Permits, and Part 4 – Administration of Eagle Permits. The quick reference tables in Part 1 provide an at-a-glance look at the permit types and regulatory authorizations in migratory bird permitting. The permit administration information in Part 2 describes permit administration that applies to all permit types with any exceptions noted. Part 3 includes policy for administering migratory bird permit types. This part is grouped by each permit type’s dedicated policy; however, not every permit type has specific policy. Part 4 describes policy for administering eagle permits issued under 50 CFR Part 22. If a permit type has additional policy, we indicate that in the quick reference tables.

Part 1 – Quick Reference Tables

Table 1.1 List of Regulatory Authorizations

Table 1.2 List of Migratory Bird Permit Types

Table 1.3 List of Eagle Permit Types

Table 1.1 List of Regulatory Authorizations to Conduct Activities Without a Permit

This table provides an overview only. Review the cited regulations for full information.

| Regulation | 50 CFR | Summary |
|--------------------|--------|---|
| Birds in Buildings | 21.14 | <ul style="list-style-type: none"> • Who: Any person • What: May humanely remove a migratory bird from the interior of a building or structure in certain circumstances and under prescribed conditions. • Species: Migratory birds, except does not apply to bald eagles and golden eagles. • Geographic Restrictions: None |
| Salvage | 21.16 | <ul style="list-style-type: none"> • Who: Any person, except for scientific or utility purposes • What: May salvage whole birds found dead, parts, feathers, inactive nests, and nonviable eggs under prescribed conditions, including possession and disposition. • Species: Migratory birds, including bald eagles and golden eagles. • Geographic Restrictions: None |

| Regulation | 50 CFR | Summary |
|--|---------------|---|
| Exhibition of Migratory Bird Specimens | 21.18 | <ul style="list-style-type: none"> • Who: Qualified public entities • What: Possession and use of migratory bird specimens for public conservation education purposes. Does <i>not</i> apply to live birds. • Species: Migratory birds. For bald eagles and golden eagles. • Geographic Restrictions: None |
| Licensed Veterinarians | 21.22 | <ul style="list-style-type: none"> • Who: Licensed veterinarians • What: Temporary possession of sick, injured, and orphaned migratory birds for stabilization. May release to the wild if in care less than 24 hours. Any bird held longer than 24 hours must be transferred to a federally permitted rehabilitator within 48 hours after hospitalization is no longer required. • Species: Migratory birds, including bald eagles and golden eagles • Geographic Restrictions: None |
| Mortality Events | 21.32 | <ul style="list-style-type: none"> • Who: Natural resource or public health agencies • What: Collection of migratory birds found sick or dead from a mortality event. Does not apply to uninjured or asymptomatic birds. • Species: Migratory birds, additional restrictions for bald eagles and golden eagles • Geographic Restrictions: None |
| Natural Resource Agency Employees | 21.34 | <ul style="list-style-type: none"> • Who: Federal, State, Territorial, and federally recognized Tribal natural-resource agencies • What: Salvage; exhibit specimens (excludes live birds); transport sick, injured, or orphaned birds; and relocate birds when birds or humans are at risk. • Species: Migratory birds, except bald eagles and golden eagles or ESA-listed species. • Geographic Restrictions: None |
| Law Enforcement Exception | 21.40 | <ul style="list-style-type: none"> • Who: Law Enforcement • What: Personnel authorized to conduct law enforcement activities to enforce the MBTA or Eagle Act. • Species: Migratory birds, including bald eagles and golden eagles • Geographic Restrictions: None |
| Captive-reared Mallards | 21.45 | <ul style="list-style-type: none"> • Who: Any person • What: Possession, sale, and disposal of captive-reared and properly marked mallard ducks. Excludes wild mallards. Hunting regulations apply. • Species: Mallard • Geographic Restrictions: None |
| | | <i>continued on next page</i> |

| Regulation | 50 CFR | Summary |
|----------------------------------|-----------------|--|
| Captive-bred Waterfowl | 21.48 | <ul style="list-style-type: none"> • Who: Any person • What: Acquisition and possession of captive-bred waterfowl. Permit is required for disposal, including sale or intentional release to the wild (21.88). Does not apply to mallard (see 21.45). Additional restrictions apply to Muscovy. • Species: Waterfowl (Anatidae family), excluding mallard • Geographic Restrictions: None |
| Military Readiness Authorization | 21.42 | <ul style="list-style-type: none"> • Who: The Armed Forces • What: Take migratory birds incidental to military readiness activities. Conservation measures to minimize or mitigate adverse effects may apply. • Species: Migratory birds, except bald eagles and golden eagles • Geographic Restrictions: None |
| Import/Export | 21.67 | <ul style="list-style-type: none"> • Who: Any person • What: A number of exceptions apply to import and/or export activities. See Import/Export Permits regulations § 21.67, Hunting regulations 50 CFR Part 20, Form 3-200-6, Frequently Asked Questions, and the Standard Operating Procedures. • Species: Migratory birds, except bald eagles and golden eagles • Geographic Restrictions: None |
| Good Samaritan | 21.22, 21.76(a) | <ul style="list-style-type: none"> • Who: Any person • What: Any person who finds a sick, injured, or orphaned migratory bird may take possession of the bird to immediately transport it to a licensed veterinarian or permitted rehabilitator. • Species: Migratory birds, including bald eagles and golden eagles. • Geographic Restrictions: None |
| Blackbird Depredation Order | 21.150 | <ul style="list-style-type: none"> • Who: Any person • What: Take when birds are causing serious injuries to agricultural or horticultural crops or to livestock feed; a health hazard or structural property damage; or protection of Federal or State threatened, endangered, or species of special concern. • Species: Some species of blackbirds, crows, cowbirds, grackles, and magpies (see 21.150(a)) • Geographic Restrictions: None • Guidance: MBPM-9 (2021) |
| California Depredation Order | 21.153 | <ul style="list-style-type: none"> • Who: Growers • What: Protection of agricultural or horticultural crops between November 1 and April 30 under supervision of county agriculture commissioner. • Species: Horned lark, house finch, white-crowned sparrow • Geographic Restrictions: Certain counties in California |

| Regulation | 50 CFR | Summary |
|---|--------|--|
| Jay Depredation Order | 21.156 | <ul style="list-style-type: none"> • Who: Nut crop growers • What: Protection of public safety through establishing and implementing a control and management program. • Species: California scrub-jays (<i>Aphelocoma californica</i>) and Steller's jays (<i>Cyanocitta stelleri</i>) • Geographic Restrictions: Certain counties in Oregon and Washington |
| Airfield Canada Geese Control Order | 21.159 | <ul style="list-style-type: none"> • Who: Military airfields and certain airports (21.159(c)) • What: Protection of public safety through establishing and implementing a control and management program. • Species: Canada goose • Geographic Restrictions: Lower 48 States and District of Columbia |
| Resident Canada Geese Nest & Egg Depredation Order | 21.162 | <ul style="list-style-type: none"> • Who: Landowners, homeowners' associations, and local governments • What: To resolve or prevent injury to people, property, agricultural crops, or other interests by take of nests and eggs on property. See registration website (https://epermits.fws.gov/eRCGR/). • Species: Canada goose • Geographic Restrictions: Participating States in the lower 48 States and District of Columbia |
| Resident Canada Geese Agriculture Depredation Order | 21.165 | <ul style="list-style-type: none"> • Who: State and Tribal wildlife agencies • What: To resolve or prevent injury to agricultural crops or other agricultural interests, authorization for commercial agriculture to conduct direct damage management actions. • Species: Canada goose • Geographic Restrictions: Atlantic, Central, and Mississippi Flyway portions of AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MN, MS, MO, MT, NE, NH, NM, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY |
| Resident Canada Geese Public Health Control Order | 21.168 | <ul style="list-style-type: none"> • Who: State and Tribal wildlife agencies • What: Control and management activities when resident Canada geese are posing a direct threat to human health. • Species: Canada goose • Geographic Restrictions: Lower 48 States and District of Columbia |
| Purple Swamphen Control Order | 21.171 | <ul style="list-style-type: none"> • Who: Federal, State, Tribal, and local wildlife management agencies • What: Remove or destroy purple swamphens (<i>Porphyrio porphyrio</i>) or their nests or eggs at any time when they find them. • Species: Purple swamphen • Geographic Restrictions: All States, Puerto Rico, U.S. Virgin Islands |

| Regulation | 50 CFR | Summary |
|--|--------|--|
| Muscovy Duck | 21.174 | <ul style="list-style-type: none"> • Who: Landowners and wildlife management agencies • What: Remove or destroy Muscovy ducks (<i>Cairina moschata</i>) (including hybrids), or their nests, or eggs at any time when found. • Species: Muscovy duck • Geographic Restrictions: Anywhere in the United States except Texas counties: Hidalgo, Starr, and Zapata |
| Hawaii Invasives Control Order | 21.177 | <ul style="list-style-type: none"> • Who: Authorized agencies (21.177(b)) • What: Using the methods authorized, remove at any time. • Species: Cattle egret, barn owl • Geographic Restrictions: Hawaii, Northwestern Hawaiian Islands, Midway Atoll |
| Light Geese Conservation Order | 21.180 | <ul style="list-style-type: none"> • Who: Participating State and Tribal governments • What: Allows new methods of taking light geese, allows shooting hours for light geese to end ½ hour after sunset, and imposes no daily bag limits for light geese inside or outside the migratory bird hunting season frameworks as described in this section. • Species: Greater snow (<i>Chen caerulescens atlantica</i>), lesser snow (<i>C. c. caerulescens</i>), and Ross's (<i>C. rossii</i>) goose • Geographic Restrictions: See 21.180(c) – Portions of certain States based on flyway |
| Resident Canada Geese Conservation Order | 21.165 | <ul style="list-style-type: none"> • Who: State and Tribal wildlife agencies • What: Reduce and stabilize resident Canada goose populations when traditional and otherwise authorized management measures are unsuccessful, not feasible for dealing with, or applicable, in preventing injury to property, agricultural crops, public health, and other interests from resident Canada geese. • Species: Resident Canada goose (defined in 21.3) • Geographic Restrictions: Approved States in the Atlantic, Central, and Mississippi Flyway (See 21.183(c)) |
| Exhibition of Eagle Specimens | 22.15 | <ul style="list-style-type: none"> • Who: Qualified public entities • What: Possession and use of bald eagle or golden eagle specimens for public-conservation-education purposes. Does <i>not</i> apply to live birds. • Species: Bald eagles and golden eagles • Geographic Restrictions: None |

Table 1.2 List of Migratory Bird Permit Types

In this table “(SP)” means “special purpose” and is a permit type that has its own procedures and conditions but does not have its own regulation and is issued under the Special Purpose (21.95) regulation. See Part 3 – Special Purpose Permits for more information.

| Permit Type | 50 CFR | Summary |
|--------------------------------|--------|---|
| Abatement (SP) | 21.95 | <ul style="list-style-type: none"> • What: The use of trained, captive-bred raptors to flush, haze, or take birds (or other wildlife where allowed) to reduce depredation, including threats to human health and safety. • Tenure: 3 years • Application Form: 3-200-79 • Report Form: 3-186A; No annual-report requirement • Permit Type Abbreviation(s): SPA • Guidance: MBPM-5 (2007) |
| Agency Species Protection (SP) | 21.95 | <ul style="list-style-type: none"> • What: The take of birds to protect species of concern, including threatened or endangered species. Permit holder must be a government agency. • Tenure: 3 years • Application Form: 3-200-10f • Report Form: 3-202-7 • Permit Type Abbreviation(s): SPASP • Guidance: SPASP SOP (2024) |
| Depredation | 21.100 | <ul style="list-style-type: none"> • What: The take of birds to reduce damage or loss caused by birds, including agricultural damage, private property damage, threats to human health and safety, and threats to recovery of protected wildlife. Subtypes include Airport Depredation and Wildlife Services Statewide permits. • Tenure: 1 year • Application Form: 3-200-13 • Report Form: 3-202-9 • Permit Type Abbreviation(s): DPRD, DPRDAP, DPRDWS • Guidance: Justifications SOP (2018); DPRDAP SOP (2021); MBPM-4 (2005); MBPM-7 (2021); MBPM-2(2025) |
| Educational Use (SP) | 21.95 | <ul style="list-style-type: none"> • What: The possession of live birds for conservation educational purposes. May also authorize the possession of dead birds, parts, nests, and nonviable eggs for qualified entities who do not meet the eligibility requirements for the regulatory authorization. • Tenure: 3 years • Application Form: 3-200-10c • Report Form: 3-202-5; 3-202-12 • Permit Type Abbreviation(s): SPPSD, SPPSL, SPPSLD, |
| Falconry | 21.82 | <ul style="list-style-type: none"> • What: There is no Federal falconry permit. This permit type is administered by the States under Federal regulation 21.82. • Application Form: NA • Report Form: 3-186A database • Permit Type Abbreviation(s): FALC |

| Permit Type | 50 CFR | Summary |
|------------------------------|--------|--|
| Falconry School (SP) | 21.95 | <ul style="list-style-type: none"> • What: Use of raptors to teach the sport of falconry. Modified Educational Use permit procedures are used. • Tenure: 3 years • Application Form: 3-200-10c • Report Form: 3-202-5; 3-202-12 • Permit Type Abbreviation(s): FALCSCL • Guidance: FALSCL SOP (2019); MBPM-3 (2004) |
| Game Bird (SP) | 21.95 | <ul style="list-style-type: none"> • What: The purchase, propagation, and sale of captive-reared game birds, including eggs. Limited to families: Scolopacidae, Columbidae, Gruidae, and Rallidae. Excludes waterfowl. • Tenure: 3 years • Application Form: 3-200-10e • Report Form: 3-202-6; 3-186A • Permit Type Abbreviation(s): SPGB • Guidance: MBPM-8 (2021) |
| Migratory Bird Import/Export | 21.67 | <ul style="list-style-type: none"> • What: International import and/or export of migratory birds (live birds, specimens, or parts). Import and/or export authorization may be added to other permit types. Regulatory exceptions exist. No Federal permit is required for interstate transport; however, State permits may be required. • Tenure: 5 years • Application Form: 3-200-6 • Report Form: None • Permit Type Abbreviation(s): MBIE • Guidance: MBIE SOP (2019); MBPM-10 (2021) |
| Migratory Bird Remains | 21.95 | <ul style="list-style-type: none"> • What: Authorizes a federally recognized Tribe to acquire, possess, and distribute to Tribal members whole migratory bird remains that are found by a Tribal member or employee anywhere. • Tenure: 3 years • Application Form: 3-200-10f; Must apply as Tribe (Section B) • Report Form: 3-202-7 • Permit Type Abbreviation(s): MBRM • Guidance: DOJ Policy (2012) |
| Miscellaneous (SP) | 21.95 | <ul style="list-style-type: none"> • What: Miscellaneous is used to authorize activities that are not covered by other existing permit types. Ensure no other type of migratory bird permit applies before using this permit type. To qualify for a permit, applicants must demonstrate that activities (a) benefit the migratory bird resource, (b) address important research, (c) address human concerns for individual birds, or (d) show other compelling justification. • Tenure: 3 years • Application Form: 3-200-10f • Report Form: 3-202-7 • Permit Type Abbreviation(s): SPMS, SPMSIE, SPRE |

| Permit Type | 50 CFR | Summary |
|----------------------------------|--------|--|
| Raptor Propagation | 21.85 | <ul style="list-style-type: none"> • What: The purchase, propagation, and sale of captive-bred raptors. Covers all “native” raptors (Accipitriformes, Falconiformes, and Strigiformes). • Tenure: 5 years • Application Form: 3-200-12 • Report Form: 3-202-8; 3-186A • Permit Type Abbreviation(s): FALP • Guidance: MBPM-8 (2021) |
| Rehabilitation | 21.76 | <ul style="list-style-type: none"> • What: Take, transport, and temporarily possess sick, injured, and orphaned birds for rehabilitation purposes. • Tenure: 5 years • Application Form: 3-200-10b • Report Form: 3-202-4; 3-202-12 • Permit Type Abbreviation(s): REHAB • Guidance: MBPM-6 (2013); MBPM-12 (2024) |
| Scientific Collecting | 21.73 | <ul style="list-style-type: none"> • What: Collection and/or possession of birds, their parts, nests, or eggs for scientific research. Banding and marking permits (21.70) administered by the U.S. Geological Survey (USGS) Bird Banding Lab. • Tenure: 3 years • Application Form: 3-200-7 • Report Form: 3-202-1 • Permit Type Abbreviation(s): SCCL, SCCLIE, SCCLM • Guidance: SCCL SOP (2022) |
| Special Canada Goose | 21.120 | <ul style="list-style-type: none"> • What: Issued to a State wildlife agency to authorize certain resident Canada goose management and control activities that are normally prohibited. • Tenure: 5 years • Application Form: 3-200-67 • Report Form: 3-202-10 • Permit Type Abbreviation(s): SPCG |
| Special Double-crested Cormorant | 21.123 | <ul style="list-style-type: none"> • What: Issued to a State or Tribal wildlife agency to authorize certain double-crested cormorant management and control activities. • Tenure: 1 year • Application Form: 3-200-90 • Report Form: 3-202-56 • Permit Type Abbreviation(s): SDCCO |
| Taxidermy | 21.63 | <ul style="list-style-type: none"> • What: Authorization to mount or otherwise perform taxidermy work on birds, their parts, nests, or eggs, belonging to someone else and receive compensation for the service. Taxidermy birds may not be sold except as authorized in 21.63(c). • Tenure: 5 years |

| Permit Type | 50 CFR | Summary |
|-----------------------------|--------|---|
| | | <ul style="list-style-type: none"> • Application Form: 3-200-8; Must apply as individual (Section A) • Report Form: None • Permit Type Abbreviation(s): TAXI |
| Utility (SP) | 21.95 | <ul style="list-style-type: none"> • What: Collect, transport, and temporarily possess migratory birds found dead on utility property, structures, and rights-of-way for avian mortality monitoring or disposal purposes. Utility is broadly defined, including electricity generation and transmission, towers, and mining. • Tenure: 3 years • Application Form: 3-200-81 • Report Form: 3-202-17 • Permit Type Abbreviation(s): SPUT |
| Waterfowl Sale and Disposal | 21.88 | <ul style="list-style-type: none"> • What: Sale and disposal of captive-reared waterfowl and their eggs. Waterfowl are defined as members of the family Anatidae (ducks, geese [including brant] and swans). Regulatory exceptions may apply. • Tenure: 5 years • Application Form: 3-200-9 • Report Form: 3-202-2; 3-186 • Permit Type Abbreviation(s): WASD • Guidance: MBPM-8 (2021) |

Table 1.3 List of Eagle Permit Types

| Permit Type | 50 CFR | Summary |
|-----------------------------|--------|---|
| Eagle Scientific Collecting | 22.50 | <ul style="list-style-type: none"> • What: Collection and/or possession of eagles, their parts, nests, or eggs for scientific research. Banding and marking permits (21.70) administered by USGS Bird Banding Lab. • Tenure: 3 years • Application Form: 3-200-7; Must apply as organization (Section B) • Report Form: 3-202-1 • Permit Type Abbreviation(s): EASC |
| Eagle Exhibition | 22.50 | <ul style="list-style-type: none"> • What: The possession of live eagles for conservation education purposes. For eagle specimens, parts, nests, and nonviable eggs, see the regulatory authorization at 22.15 (Table 1). • Tenure: 3 years • Application Form: 3-200-14; Must apply as organization (Section B) • Report Form: 3-202-13; 3-202-12 • Permit Type Abbreviation(s): EAEXL • Guidance: MBPM-6 (2013) |
| | | <i>continued on next page</i> |

| Permit Type | 50 CFR | Summary |
|--|--------|---|
| Eagle Transport (Science & Exhibition) | 22.50 | <ul style="list-style-type: none"> • What: International transport of eagle parts into the United States for scientific or exhibition purposes. The Eagle Act prohibits permanent import or export. The Migratory Bird Permit Office (MBPO) administers permits if the item originates outside of the United States (i.e., import and re-export). The Division of Management Authority (DMA) administers a permit if the item originates in the United States (i.e., export and re-import) as Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) authorization is also required for export (see Form 3-200-69). • Tenure: 3 years • Application Form: 3-200-82; Must apply as organization (Section B) • Report Form: None • Permit Type Abbreviation(s): EATX |
| Eagle Transport (Indian Religious) | 22.60 | <ul style="list-style-type: none"> • What: Administered by DMA. International transport of eagle parts into the United States for Indian religious purposes. The Eagle Act prohibits permanent import or export, see Form 3-200-69. • Application Form: 3-200-70 |
| Eagle Remains | 22.60 | <ul style="list-style-type: none"> • What: Authorizes a federally recognized Tribe to acquire, possess, and distribute to Tribal members whole eagle remains found by a Tribal member or employee found within a Tribe's Indian Country. • Tenure: Indefinite (lifetime) • Application Form: 3-1552; Must apply as Tribe (Section B) • Report Form: 3-1591 • Permit Type Abbreviation(s): EARM • Guidance: 720 FW 6; EARM SOP (2019); DOJ Policy (2012) |
| Indian Religious Use – Parts | 22.60 | <ul style="list-style-type: none"> • What: Administered by the National Eagle Repository (NER). Authorizes Native Americans to obtain eagle parts and feathers from the NER for religious and cultural purposes. • Tenure: Indefinite (lifetime) • Application Form: 3-200-15a; Must apply as individual • Report Form: None • Permit Type Abbreviation(s): EAIR, EAIR2 • Guidance: DOJ Policy (2012) |
| Indian Religious Use – Aviary | 22.60 | <ul style="list-style-type: none"> • What: Possess live, non-releasable eagles for Native American religious use, primarily collection of molted feathers for distribution to Tribal members. • Tenure: Up to 30 years; 5 years recommended • Application Form: 3-200-78; Must apply as Tribe (Section B) • Report Form: 3-202-14, 3-202-12 • Permit Type Abbreviation(s): EAIRL • Guidance: Aviary SOP (2018); MBPM-6 (2013) |

| Permit Type | 50 CFR | Summary |
|---|---------------|---|
| Indian Religious Use – Take | 22.60 | <ul style="list-style-type: none"> • What: Take from the wild for Native American religious purposes. Intended only for Tribes conducting a demonstrable historic religious ceremony that requires take of live eagles from the wild. • Tenure: 1 year • Application Form: 3-200-77; Must apply as Tribe (Section B) • Report Form: No form • Permit Type Abbreviation(s): EAIRT |
| Eagle Depredation | 22.100 | <ul style="list-style-type: none"> • What: Protection of wildlife, agriculture (primarily livestock), or other interests or for reducing risk to human or eagle health and safety. • Tenure: 5 years; trapping 90-day term • Application Form: 3-200-16 • Report Form: 3-202-11 • Permit Type Abbreviation(s): EADP • Guidance: MBPM-4 (2005) |
| Eagle Falconry | 22.70 | <ul style="list-style-type: none"> • What: There is no Federal eagle falconry permit. This permit type is administered by the States under Federal regulation 21.82. • Application Form: NA • Report Form: 3-186A database • Permit Type Abbreviation(s): FALCE |
| Golden Eagle Nest Take | 22.325 | <ul style="list-style-type: none"> • What: Authorizes take of “alternate” (defined 22.6) golden eagle nests for resource development or recovery operation. Eagle Nest Take (22.280) should be used for most circumstances. Only use this authorization if clearly within scope. • Tenure: 2 years • Application Form: 3-200-18 • Report Form: None • Permit Type Abbreviation(s): EATN |
| Eagle Incidental Take by Wind Energy Projects | 22.250 | <ul style="list-style-type: none"> • What: Non-purposeful take of eagles by wind energy projects when take is associated with, but not the purpose of, the activity. • Tenure: General permit: 5 years. Specific permit: up to 30 years • Application Form: 3-200-71 • Report Form: 3-202-15 • Permit Type Abbreviation(s): EAGW, EAITW |
| Eagle Incidental Take by Power Lines | 22.260 | <ul style="list-style-type: none"> • What: Non-purposeful take of eagles by power lines when take is associated with, but not the purpose of, the activity. • Tenure: General permit: 5 years. Specific permit: up to 30 years • Application Form: 3-200-71 • Report Form: 3-202-15 • Permit Type Abbreviation(s): EAGL, EAITPL |

| Permit Type | 50 CFR | Summary |
|------------------------|--------|---|
| Eagle Nest Disturbance | 22.280 | <ul style="list-style-type: none"> • What: Non-purposeful disturbance of nesting eagles when take is associated with, but not the purpose of, the activity. • Tenure: General permit: 1 year. Specific permit: up to 5 years • Application Form: 3-200-91 • Report Form: 3-202-15 • Permit Type Abbreviation: EAGD, EASD |
| Eagle Nest Take | 22.300 | <ul style="list-style-type: none"> • What: Removal or relocation of eagle nests. See 22.300(b) for list of purposes. May be combined with Eagle Depredation or Eagle Incidental Take. • Tenure: General permit: 1 year. Specific permit: up to 5 years • Application Form: 3-200-72 • Report Form: 3-202-16 • Permit Type Abbreviation(s): EAGN, EASNA, EASNU |
| Exempt ESA | 22.400 | <ul style="list-style-type: none"> • What: Take of bald eagles in compliance with the terms and conditions of a Section 7 incidental take statement under the Endangered Species Act (ESA) issued prior to the effective date of November 10, 2009. • Tenure: Duration of ESA incidental take statement • Application Form: None • Report Form: None • Permit Type Abbreviation(s): EAESA |

Part 2 – Permit Administration

This part describes permit administration that applies to all permit types, both migratory bird permits and eagle permits, with any exceptions noted. Permits are administered by the Regional Migratory Bird Permit Office (MBPO). The governing regulations and agency guidance can be found in Service Manual chapter [724 FW 1](#).

2.1 What is considered a permit action?

A permit action includes requests for a new permit as well as requests for the renewal, reinstatement, or amendment to an existing permit.

- A. New (NEW) is a request for a permit that has not previously been held by an applicant or a request to reinstate a permit that has been expired for more than 5 years.
- B. Renewal (REN) is reauthorization of an existing permit (with or without changes to the conditions) that is effective the day after the existing permit expires (e.g., expiration date 3/31; renewal effective date 4/1).
- C. Reinstatement (RIS) is a reauthorization of an existing permit (with or without changes to the conditions) that is effective after expiration (any period of time from 1 day up to 5 years, which is the record retention limitation). Permittees with permits that have been expired more than 5 years must submit a new permit request.

- D. Amendment (AMD) is a modification to the contact information or permit conditions to a current permit prior to expiration. An amendment may be substantive or administrative (see § 13.11(d)(5)). Substantive amendments are those that pertain to the purpose and conditions of the permit and are not purely administrative. Administrative amendments are changes such as updating name and address information, and they do not require a fee.
- E. Discontinuance (DIS) is a type of amendment that modifies the expiration of the permit at the permittee's request to discontinue a valid permit. Discontinuance is considered a non-substantive amendment.

2.2 What is the process for requesting a permit action?

Applicants apply for permits using standard application forms. These forms can be found online and generally use the number convention 3-200-##. Application forms have a standard first page (Sections A-D) for name and contact information. Section E includes questions that are specific to the permit type being requested. The entire application form is required for new permits and reinstatements. A subset of Section E information is required for renewals and amendments; however, a permit office may always request completion of all of Section E if all of the information is necessary and relevant to reviewing a particular renewal or amendment request.

2.3 Who is the permit holder?

The permit holder is the individual or organization who is (a) conducting the activity, (b) responsible for compliance with the permit, and (c) has the authority to implement the requirements of the permit. The permits may not be issued to contractors or consultants acting on behalf of another individual or organization. For additional guidance on Federal agencies, see *Guidance for Issuing Permits to Federal Agencies*. Note that abatement and taxidermy permits may only be issued to individuals (not organizations).

2.4 What are the terms for authorized personnel?

The following terms are used to describe the roles and authorizations under a permit:

A. Principal Officer. For permits issued to organizations, a Principal Officer is identified on the permit. The Principal Officer is the person in charge of the organization and is responsible for the application and any permitted activities.

B. Primary Contact. The Primary Contact is the person in the organization who is available to answer questions about the application or permitted activities. This person may be the same or different from the Principal Officer. The Primary Contact is not listed on the permit unless the individual is also listed as a subpermittee.

C. Primary Caretaker. A Primary Caretaker may be identified on permits that authorize live birds in captivity and have experience requirements. For an organization, a Primary Caretaker

may be named if the Principal Officer does not meet the experience requirements for the permit. This individual is listed on the permit. The Primary Caretaker or subpermittee must be present when authorized activities are conducted.

D. Subpermittee. A subpermittee is an individual authorized to conduct some or all of the permitted activities without the permittee present. Subpermittees must be identified in the permit conditions or have a subpermittee designation letter and copy of the permit. A subpermittee designation letter must state the name and contact information of the individual as well as the date(s), location(s), and activities the individual is authorized to conduct. The Principal Officer is responsible for ensuring subpermittees are trained and adhere to the conditions of the permit. If subpermittees conduct activities offsite, their physical location must be listed in the permit conditions. Subpermittees must be at least 18 years of age.

2.5 Is there an application fee?

For most permit actions, there is a nonrefundable processing fee to offset the costs of processing the application (§ 13.11(d)(4)). New, renewed, and reinstated permits are charged a “permit application fee.” The “amendment fee” is charged for substantive amendments, which are defined in § 13.11(d)(5) as amendments that pertain to the purpose and conditions of the permit and are not purely administrative. For the Migratory Bird Permit Program, purely administrative amendments are those that change information provided in Sections A-D of the application, except (a) If the permit type has an experience requirement for the Principal Officer, a Principal Officer change is a substantive amendment, and (b) If a mailing or physical address change alters the location an activity is conducted, a location change is a substantive amendment.

2.6 Are there exceptions to the fee?

Most applicants are required to pay the nonrefundable processing fee. There are three exceptions: (1) Federal, Tribal, State, and local government agencies, and those acting on behalf of such agencies, are exempt from the processing fee (§ 13.11(d)(3)(i)). You may ask that entities not readily apparent as government agencies and those acting on behalf of such agencies provide documentation. (2) If permit types are combined into a single permit, the single, highest fee will be charged (§ 13.11(d)(2)). (3) In extraordinary, extenuating circumstances, a fee may be waived by a Regional or Assistant Director (§ 13.11(d)(3)(iii)). The circumstances warranting fee waiver must be documented in the permit file.

2.7 What is the typical timeline for reviewing a permit action?

Applications for new permits, substantive amendments, or reinstatements should be submitted at least 60 days before the date the permit is needed (§ 13.11(c)). Processing may take 90 or more days depending on the complexity of the request and procedural requirements (e.g., National Environmental Policy Act (NEPA) preparation, consultation within the Service or other agencies, etc.).

Applications for renewals should be submitted at least 30 days prior to the expiration of the permit. Permittees whose renewal requests are submitted at least 30 days prior to expiration may continue permitted activities until their requests are acted upon (§ 13.22). If the renewal was submitted at least 30 days prior to expiration, the permit will be renewed with an effective date to have no lapse in the permit (e.g., if the permit expires 3/31, the effective date is 4/1).

Permittees may continue activities assuming the existing authorization will be reauthorized; however, permittees should not assume that any requested changes to permit conditions will be authorized. For example, if a permit authorizes take of 10 house finches per year and the permit expires 3/31, the permittee may continue activities under an authorization of 10 house finches per year effective 4/1 until notice is received from the Service. However, the permittee may not assume changes will be authorized (e.g., increase to 20 house finches or addition of 10 purple finches).

2.8 How are applications reviewed?

The MBPO reviews permit actions. The appropriate Region is determined by the State(s) where the activity (or majority of the activity) involving migratory birds is occurring. The information provided, primarily Section E responses, is used to determine whether a requested activity falls within the scope of activities that can be permitted and if the individual qualifies to perform the activity. Based on the information the applicant provides, it must be reasonable to conclude that the issuance criteria of § 13.21 and the governing regulation in 50 CFR Part 21 or Part 22 are met. Two criteria are the applicant providing a valid justification and showing of responsibility (§ 13.21(b)(3)) and the Service determining there is no threat to a wildlife or plant population (§ 13.21(b)(4)), including migratory bird populations.

2.9 When to coordinate with other Regions or programs?

If an application includes requests for activities in more than one Region, MBPO staff must obtain concurrence from the other Region(s) prior to issuing permits, except where standard operating procedures state that concurrence is not required. In general, the issuing MBPO is the Region where the majority of the take is occurring. If an application includes request for species on the List of Endangered and Threatened Wildlife (§ 17.11) or is a CITES-listed species, concurrence must be obtained from the appropriate Ecological Services (ES) or International Affairs (IA) issuing office. In general, take of threatened or endangered species is administered by the ES/IA issuing office with MBPO concurrence; however, possession of threatened or endangered species is often administered by the MBPO with ES/IA issuing office concurrence.

2.10 What constitutes a valid justification and showing of responsibility?

- A.** Applications require a case-specific justification for the applicant's proposed activity. Justification may be straightforward or more complex depending on the activity. More detailed justifications are expected for activities resulting in take from the wild and for why the applicant cannot avoid or minimize take.

- B.** Applicants must list their qualifications and provide justification to obtain a migratory bird permit. Qualification requirements vary depending on the type of permit. Requirements may include practical knowledge of species; handling, collecting, and rearing techniques; and/or facility and enclosure requirements. The MBPO determines an applicant's qualifications on a case-by-case basis, and the burden of proof is on the applicant to demonstrate those qualifications.
- C.** Upon reviewing an application for a migratory bird permit, we may require additional information from the applicant consistent with the information required to make a determination on the application.

2.11 How are threats to wildlife or plant populations determined?

In general, the Service has determined that issuance of migratory bird permits that do not involve take from the wild (i.e., permits that only authorize possession of bird specimens or parts, of captive-bred birds, or of non-releasable birds) do not constitute a threat to wildlife or plant populations and further documentation is not required. For permits that involve take from the wild (i.e., for depredation, scientific collecting, some special purpose permits), the MBPO may conduct a biological review and/or NEPA review to analyze threats to wildlife or plant populations. This includes threats to migratory bird populations. The MBPO should document any reviews in the permit file.

2.12 When are experts consulted?

MBPO staff may consult internal or external experts, including Migratory Bird staff biologists; other Service staff (Ecological Services, Native American Liaison, Office of Law Enforcement, etc.); experts at other Federal, State, or Tribal agencies; and/or subject matter experts, such as experts from universities, leading nonprofit organizations (e.g., NWRRA (National Wildlife Rehabilitators Association), IWRC (International Wildlife Rehabilitation Council), APLIC (Avian Powerline Interaction Committee)), or other individuals identified as experts in their field.

2.13 What are the permit conditions?

Permit conditions are based on regulations governing the type of activity being permitted (50 CFR Part 21 or Part 22). Template permit conditions exist for most permit types. Portions of the permit conditions are then customized based on the request and qualifications of the individual permittee as well as the outcome of biological review, NEPA review, and/or expert consultation.

2.14 What is the tenure of the permit?

The maximum permit tenure, or duration the permit is valid, is set by the governing regulations. If the regulation does not specify a tenure, policy or procedure establishes the maximum permit tenure. Permits may not be issued for longer than the maximum permit tenure specified in regulation. Permits should not be issued for longer than the maximum permit tenure in policy or procedure without documentation, including a justification and supervisory approval. Permit tenure is contiguous from the day of issuance and may not be split into multiple, non-contiguous durations. Any individual permit may be issued for less than the maximum permit tenure if it

more appropriately reflects the duration of the activity. Permits issued for less than the maximum tenure may be amended in duration up to the maximum tenure from the initial effective date, at which point they must be renewed.

2.15 Who makes the decision on a permit application?

In general, MBPO staff review permit actions. The deciding official and signatory for a permit action depends on Regional structure. It most commonly rests with the reviewing permit staff or permit chief, but may be the Migratory Bird Chief or even Regional Director for certain permits (see [720 FW 1](#)).

2.16 What is the process if an applicant disagrees with a full or partial denial?

If an applicant disagrees with a full or partial denial, they may request reconsideration of that decision. See 2.18 below.

2.17 Can a permit be suspended or revoked?

Prior to expiration, any current permit may 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 in § 13.27 (permit suspension) and § 13.28 (permit revocation). Generally, we suspend permits when there is potential for compliance issues with permit conditions (§ 13.27(a)). We revoke permits if a permit has been previously suspended and compliance issues persist and/or willful violation of laws or regulations occurs (§ 13.28(a)). 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 of them remain in the stewardship of the Service and may be recalled at any time. To suspend or revoke a permit, staff must follow the procedures in § 13.27 or § 13.28 respectively. A permittee may request reconsideration of a suspension or revocation – see 2.18 below.

2.18 What are reconsideration procedures?

Step 1 – Reconsideration Request. A permittee may request reconsideration of a denial, partial denial, suspension, or revocation (see § 13.29(a)). The permittee must submit a written request for reconsideration with the required information in § 13.29(b) within 45 days of the permit decision.

Step 2 – Reconsideration Decision. The issuing officer (i.e., permit signatory) who made the original decision to deny, suspend, or revoke the permit reviews the request and informs the permittee of the decision within 45 days (§ 13.29(d)).

Step 3 – Appeal Request. The permittee may appeal the decision of the reconsideration by submitting a written request to the Regional Director (see § 13.29(e)) within 45 days of the reconsideration decision.

Step 4 – Appeal Decision. The Regional Director may choose to review an appeal or delegate appeal review. If delegated, the appeal review must be conducted at least one level above the permit signatory (i.e., Migratory Bird Chief or permit chief). The appeal must be reviewed and the permittee informed of the decision within 45 days (§ 13.29(f)).

2.19 Who is liable for activities under the permit?

The permittee assumes all liability and responsibility for the conduct of the activities authorized by the permit. The permittee is responsible for ensuring that subpermittees are properly trained and adhere to the terms of their permit.

2.20 Can migratory birds be purchased or sold?

The MBTA states that the sale, barter, purchase, or offer thereof is prohibited unless authorized by permit or regulation. This applies to live birds as well as bird remains, parts, feathers, eggs, and nests. Regulations limit the purchase and sale of migratory birds to captive-bred birds or the commercial use of feathers as stated in § 20.92.

Wild Birds. Wild birds may not be purchased, sold, bartered, or traded. This includes wild-bred, captive-raised birds. Feathers of migratory waterfowl may be used for commercial purposes as stated in § 20.92.

Captive-Bred Birds. Several regulations authorize the sale of captive-bred birds, primarily waterfowl, game birds, and raptors. Purchasers do not retain full private ownership of the bird, even when captive-bred. This applies in all areas subject to MBTA jurisdiction. Any private-property rights that purchasers have are those authorized through Service regulations and often depend on the species possessed.

- A. Waterfowl:** Live, captive-bred waterfowl may be purchased and sold in accordance with the permit exceptions for captive-reared mallard ducks (§ 21.45), permit exceptions for captive-bred migratory waterfowl (§ 21.48), and waterfowl sale and disposal permits (§ 21.88). Additionally, taxidermists may sell properly marked, captive-reared waterfowl that are lawfully acquired and mounted (§ 21.63(c)).
- B. Game birds:** Live, captive-bred game birds may be purchased and sold consistent with a Special Purpose game bird permit (§ 21.95).
- C. Raptors:** Live, captive-bred raptors may be purchased and sold consistent with raptor propagation permits (§ 21.85) and purchased for falconry (§ 21.82) and abatement purposes (§ 21.95).
- D. Other species:** Live, captive-bred birds of other species may be purchased or sold if authorized by permit or regulation to do so, such as under a Special Purpose Miscellaneous permit (§ 21.95).

Part 3 – Administration of Migratory Bird Permits (Part 21)

This part describes permit administration for migratory bird permit types, both migratory bird permits and eagle permits.

3.1 Definitions

There are multiple sections in the regulations that include definitions applicable to migratory bird and eagle permits. Definition sections are listed in recommended order of use.

50 CFR 10.12 Definitions – these definitions apply to all permits in Subchapter B (50 CFR parts 10-24), which includes migratory bird permits (part 21) and eagle permits (part 22).

50 CFR 21.6 Definitions – these definitions apply to migratory bird permits (part 21).

50 CFR 22.6 Definitions – these definitions apply to eagle permits (part 22) but may be used for reference in the absence of a part 21 definition.

50 CFR 20.11 What terms do I need to understand? – these definitions apply to migratory bird hunting, but include some terms used in migratory bird permit regulations (part 21), such as *migratory game bird* and *resident Canada geese*.

50 CFR 19.4 Definitions – these definitions apply to airborne hunting and include a definition for *harass*, which applies to migratory birds and eagles when aircraft are used near birds.

50 CFR Part 13 – although this part does not have a definition section, many terms relating to permit procedures are used and defined. This includes applications, permit administration, and permit conditions, including *humane conditions* in § 13.41.

3.2 Regulatory Authorizations (50 CFR 21 Subpart B)

Regulatory authorizations are regulations that establish eligibility criteria and conditions without requiring a permit to conduct the activities. Regulatory authorizations are best suited for activities that have straightforward eligibility criteria and well-established conditions and pose a low risk to migratory bird populations. The Service uses regulatory authorizations to authorize the take or possession of migratory birds. Those who are eligible for a regulatory authorization must comply with any required conditions, including recordkeeping and reporting requirements, and are subject to enforcement for noncompliance. We provide the following clarifications for the identified regulatory authorizations.

- A. Birds in Buildings (§ 21.14).** The purpose of this regulatory authorization is to provide for expedient removal of migratory birds, including nests, eggs, and nestlings, from the interior of buildings because removal is generally beneficial for the bird and for people. This regulatory authorization applies to any residence, business, or similar building or structure where people live or work in which the presence of migratory birds is

preventing the normal use of the structure's interior. This includes causing a health or safety risk to humans or birds or damage to property, including foodstuffs or products for sale, or where the bird may become injured because it is trapped. It is beneficial to birds and humans to allow removal of birds unintentionally trapped in the interior of any building or structure. This authorization does not apply to birds or nests on the exterior of a building or structure. Removal of in-use nests on the exterior of buildings or structures, such as in exterior eaves or bridges, requires a permit (89 FR 107039). Prior to 2025, this regulation was located at 50 CFR 21.12(d).

- B. Salvage (§ 21.16).** The purpose of this regulatory authorization is to allow any person to salvage (i.e., pick up) migratory birds found dead, including parts, feathers, nonviable eggs, and inactive nests in situations where individuals are not actively seeking out dead birds. Examples include a person who discovers that a migratory bird has died from a vehicle-strike, but the remains are in good condition and the person wants to put the specimen to good use by donation to a nature center or museum, or a homeowner who discovers a dead bird near their home and wants to put it in the trash. All birds salvaged must be promptly disposed of by donation to a person or entity authorized to receive them, such as for purposes of education or science, or by complete destruction. Complete destruction of dead migratory birds is most commonly achieved by burial or incineration, in accordance with applicable Federal, Tribal, State, Territorial, and local laws and ordinances. If allowed by local laws and ordinances, placing specimens in the trash is considered burial, as the specimens are ultimately buried in the landfill. Any person may contact the Service Migratory Bird Program to determine if an entity is authorized to receive donated birds. Birds may not be retained for personal use, sold, bartered, or traded (89 FR 107039). Prior to 2025, salvage required a special purpose permit (§ 21.95).

This authorization does not apply to any person who is salvaging birds for the purposes of scientific research. For research activities, the Service continues to require a scientific collecting permit (§ 21.73), which also provides authorization to collect samples from salvaged birds. The Service will continue to authorize salvage for utility purposes with a special purpose utility permit (§ 21.95) for migratory birds found dead on or near utility property, infrastructure, or rights-of-way. The Service reserves the right to notify any person that a permit is required to salvage migratory birds for purposes beyond the scope of this regulatory authorization.

Anyone who finds an eagle may either (1) contact the Service's National Eagle Repository (Repository) directly or (2) contact their Federal, Tribal, or State wildlife agency. Any salvaged bald eagles or golden eagles must be donated to the Repository. The Repository will determine if eagles, parts, or feathers are suitable for distribution. If determined unsuitable by the Repository, those items may be donated for scientific or exhibition purposes or completely destroyed. For Native American Tribes seeking to retain eagles, see the Tribal eagle remains permit (§ 22.60).

C. Exhibition of Specimens & Public Institutions (§ 21.18 and § 22.15)

In this regulatory authorization, qualified public entities are authorized to possess lawfully acquired migratory bird specimens (§ 21.18) or eagle specimens (§ 22.15) without a permit for the purposes of public conservation-education programs or public archival purposes (89 FR 107039). Any exhibition and propagation of live birds requires a permit. Prior to 2025, exhibition was authorized by a general exception (§ 21.12(b)(1)), special-purpose, educational-use permit for migratory birds (special purpose § 21.95), or eagle exhibition permit (§ 22.50).

Public. The Service uses the term “public” to mean entities that are open to the general public and are either established, maintained, and operated as a governmental service or are privately endowed and organized but not operated for profit. Individuals and private, for-profit entities are not considered public. “Open to the general public” means an entity that is open on a regularly scheduled basis during publicly posted hours of at least 400 hours per calendar year, such as for archive access or static display, or that conducts at least 12 public educational programs per year. The entity may charge a fee for entry or to attend programs. A program will not qualify as a public program if access is restricted to a limited group of individuals.

“Governmental service” means services provided by government agencies, including Federal, Tribal, State, Territorial, or local agencies, as well as services provided by entities operating on behalf of a government agency, such as contractors. Those operating on behalf of an agency must have documentation (e.g., a letter from the agency) authorizing operation. The purpose of the exhibition must be for conservation education or scientific purposes, but the purpose of the agency does not need to be education or science.

“Not operated for profit,” also known as nonprofit organizations, means an entity that is privately endowed (i.e., funded) and can document that it meets Internal Revenue Service tax-exempt standards under 26 U.S.C. 501(c)(3) or similar Federal standards. The term “endowed” is synonymous with “funded” and does not require a minimum endowment to qualify as public. The Service recommends that an entity’s financial health and stability should be sufficient to cover the operational costs of the activities conducted as well as costs in the event of unexpected closure, such as placement of specimens or live birds.

Eagles. The regulatory authorization at § 22.15 authorizes public museums, scientific societies, and zoological parks to possess eagle specimens for exhibition use without a permit. Possession of live birds requires a permit. Any eagle specimens must be legally obtained. Nearly all eagle specimens for exhibition use are already in possession. Any eagle specimens newly acquired for exhibition use must be approved by the Repository as not suitable for Native American distribution. Documentation showing lawful

acquisition and written authorization from the Repository for donation must accompany any newly acquired specimens before transfer to exhibition use.

Museum, Zoological Park, and Scientific Society. The Service uses a plain-English interpretation of “museum” and “zoological park.” A public museum is a building or place where objects are curated for and displayed to the public, and a zoological park is a place where living animals are kept in enclosures and displayed to the public. The Eagle Act’s inclusion of the term “scientific societies” does not readily have a plain-English interpretation. Therefore, the Service adopts the following interpretation: A scientific society is any entity that, as part of its purpose, promotes public knowledge about science, or conducts research, and makes data and findings available to the public. Scientific societies may include government agencies, schools and universities, and nongovernmental organizations.

Live Birds Previously Held under Permit Exception § 21.12(b)(1). Previously, a Service regulation authorized certain public and private institutions to possess migratory birds without a permit, including live birds. Currently, the exhibition regulatory authorization (21.18) does not authorize the possession of live migratory birds. Any entity in possession of live migratory birds and operating under § 21.12(b)(1) prior to December 31, 2024 may continue activities authorized by § 21.12(b)(1) until the Service finalizes a rulemaking regarding the exhibition of live migratory birds and eagles for educational purposes. Once we finalize the live-bird-exhibition rulemaking, those entities must comply with the new regulations. We recommend entities operating under § 21.12(b)(1) email the Service with the entity’s name, address, principal officer, and primary contact. The Service will use this information to contact those entities once the new exhibition regulations are final.

D. Licensed Veterinarians (§ 21.22)

Licensed veterinarians are authorized to provide veterinary care for sick, injured, and orphaned migratory birds, including eagles (89 FR 107039). Prior to 2025, this regulation was located at 50 CFR 21.12(c). This regulatory authorization authorizes licensed veterinarians to perform diagnostics and procedures necessary for triage, including euthanizing migratory birds. Licensed veterinarians may release to the wild migratory birds that have been in care for less than 24 hours; however, any migratory bird held longer than 24 hours must be transferred to a federally permitted rehabilitator. A Federal rehabilitation permit (§ 21.76) is required to conduct rehabilitation activities, including amputations and other procedures that could render a bird nonreleasable. A Federal rehabilitation permit is also required to determine if a sick, injured, or orphaned bird is nonreleasable.

Nonreleasable means the bird is not suitable for release into the wild because of injury, being imprinted, or for other reasons determined by the Service.

E. Mortality Events (§21.32)

Natural-resource and public-health employees performing official duties are authorized without a permit to collect, possess, transport, and dispose of migratory birds found sick, injured, or dead from a mortality event. The scope of this authorization includes all mortality events where infectious disease is a suspected cause. Mortality events (e.g., those caused by toxins or mass starvation) may have an unclear cause at the time of discovery. A timely response is necessary to identify the cause of the outbreak, contain its spread, and reduce exposure and potential infection of humans, livestock, other domestic animals, and wildlife (89 FR 107039). Prior to 2025, this regulation was located at 50 CFR 21.12(b)(2).

A mortality event is an unforeseen event that results in an unexpectedly high number of sick or dead birds in a particular location over a short period of time from a cause that appears to be biologically related, for example, multiple dead birds of taxonomically related species exhibiting similar clinical signs in a discrete geographic area over roughly the same time period. We adopt the U.S. Geological Survey, National Wildlife Health Center's interpretation of "unexpectedly high" as five or more individuals (see the [Center's website](#)).

This authorization does not apply to mortality events that are not suspected to be disease-related, such as collisions with infrastructure, fall-out due to circling lights, and other non-disease-related mortality. The authorization also does not apply to the take of asymptomatic birds, including for activities such as disease monitoring. Instead, agencies conducting disease monitoring of asymptomatic birds should obtain a scientific collecting permit (§ 21.73).

F. Natural Resource Agency Employees (§ 21.34)

While performing official duties, employees of Federal, State, Territorial, and federally recognized Tribal natural resource agencies are authorized to conduct the following activities: salvage; exhibit specimens (excludes live birds); transport sick, injured, or orphaned birds; and, when birds or humans at risk, relocate birds. Natural resource agency employees are often in remote areas and are in the best position to provide humane care, without increasing bird stress, when transporting long distances. Therefore, when necessary and humane, natural resource agency employees may possess sick, injured, or orphaned birds for up to 72 hours or humanely euthanize birds if necessary (89 FR 107039). Prior to 2025, natural resource agency employees required a special purpose permit (50 CFR 21.95) to conduct these activities.

G. Law Enforcement Personnel (§ 21.40)

This regulation applies to personnel performing the official law enforcement duties of any agency authorized to enforce laws consistent with the MBTA or the Eagle Act. Under this regulation, law enforcement agents may temporarily designate authority to another individual to acquire, possess, transport, or dispose of migratory birds on behalf of law

enforcement in certain circumstances—for example, to pick up and dispose of a deceased bird in a remote area. This temporary designation should be recorded in writing by the law enforcement agent delegating this authority. The document must record the name and contact information of both the individual authorized and the authorizing agent, the dates authorized, and clearly explain the extent of the actions the individual is authorized to perform (89 FR 107039). Prior to 2025, this regulation was located at 50 CFR 21.12(a).

3.3 Special Purpose Permits (§ 21.95) - Justifications.

If a regulation does not exist for a specific activity, the Service may issue a Special Purpose permit under § 21.95. There are multiple permit types that the Service issues under the Special Purpose regulation. Special Purpose permit types are permits that have enough individuals or organizations conducting similar activities to warrant developing procedures, application forms, and report forms to ensure national consistency while the Service determines if development of a separate regulation is appropriate and, if so, works to finalize that regulation. Every Special Purpose permit must meet at least one of the following criteria: (1) makes a sufficient showing of benefit to the migratory bird resource, (2) is important for research reasons, (3) is important for reasons of human concern for individual birds, or (4) has another compelling justification. Below is the justification for each of the Special Purpose permit types.

- A. Abatement** permits are a benefit to the migratory bird resource. By allowing the use of falconry-trained raptors to harass migratory birds, fewer migratory birds need to be lethally taken for depredation purposes. The Service requires that practicable, non-lethal methods be used prior to the use of lethal take. Abatement authorization provides another non-lethal method with no effect for the wild raptor population as all abatement birds must be captive bred. See [MBPM-5 \(2007\)](#).
- B. Educational Use** permits are justified as human concern for individual birds. Education birds are predominately non-releasable birds that have healed from rehabilitative care but are unable to survive on their own in the wild. Humans are willing to provide care for these individual birds. There is also a benefit to the migratory bird resource from conservation education programs conducted with live migratory birds. Permits may also authorize the possession of dead birds, parts, nests, and nonviable eggs for qualified entities that do not meet the eligibility requirements for the regulatory authorization at § 22.18. There is no effect on the wild population because the live birds are non-releasable wild birds or captive-bred birds.
- C. Falconry School** permits are justified as a benefit to the migratory bird resource. The use of raptors for falconry has been practiced for centuries. Practicing falconry today encourages the conservation of migratory birds and their habitats by generating a personal connection with birds. Falconry School permits authorize the use of captive-bred raptors to teach about the sport of falconry. There is no effect on the wild population as only captive-bred birds may be used. See [MBPM-3 \(2004\)](#).

- D. **Game Bird** permits are justified as a benefit to the migratory bird resource. The propagation of game bird species encourages conservation of migratory birds and their habitats through personal connections with birds and hunting. Game Bird permits authorize the propagation of captive-bred birds only. There is no effect on wild populations. Captive-bred game birds may be released to the wild in certain circumstances that are consistent with agency-supported reintroduction programs or similar wildlife management. See [MBPM-8 \(2021\)](#).
- E. **Relocate** permits authorize the relocation of specific bird species and typically their nests as well. These permits are justified as human concern for individual birds. These birds are otherwise in harm's way if not relocated.
- F. **Utility** permits are authorized as a benefit to the migratory bird resource. Permits authorize the salvage of dead birds, primarily to remove them from the environment and reduce potential attractive nuisances. In addition, the permits authorize activities involving in-use nests in emergency circumstances. These circumstances typically pose a risk to the nest (e.g., fire hazard, imminent collapse). Nests may be relocated if appropriate, or nests may be destroyed.
- G. **Miscellaneous, Relocate, or any other** activity under 21.95 is justified on a case-by-case basis. This justification should be documented in the permit decision document, especially if the authorization involves take from the wild.

3.4 Depredation Permits (§ 21.100) - Justifications.

Depredation is physical damage or physical loss caused by birds. Depredation permits (§ 21.100) may be authorized for depredation control purposes and are intended to provide short-term relief and/or reinforcement of non-lethal measures while the applicant progresses towards implementing a long-term, non-lethal solution to eliminate or significantly reduce the problem. Depredation permits may not be issued for population control. Depredation is categorized into four broad areas: (a) commercial agricultural damage, (b) private or public property damage, (c) threats to human health and safety, and (d) threats to recovery of protected wildlife. We expand on each of these categories below.

The depredation regulation (§ 21.100) does not specify issuance criteria. However, the Migratory Bird Permit Program has drawn upon the relevant treaties, statutes, regulations, and policy as well as the professional expertise of the U.S. Department of Agriculture's Wildlife Services program to establish a consistent practice for reviewing depredation permit applications. We also use the permit procedures in § 13.21. Under § 13.21(b), we must receive a properly executed application prior to issuance of a permit. For depredation, this includes (a) the description of the damage to people, property, or wildlife; (b) the non-lethal methods that have been implemented; (c) the species, number, method, and location of take proposed; (d) the long-term, non-lethal solution proposed; and (e) the recommendation provided by Wildlife

Services (“Form 37”). It is possible for an application to be complete but fail to demonstrate a valid justification, for example, failure to implement reasonable non-lethal methods or the proposed solution is not likely to reduce the depredation problem. Under the MBTA, we must also determine that take is compatible with the preservation of the species. These criteria must be met prior to issuance.

- A. Commercial agricultural damage** is damage or loss to commercial agriculture, including crop damage, livestock protection, aquaculture, and other plants or animals raised for commercial purposes. To meet issuance criteria, the applicant must demonstrate that the interest protected meets the definition of commercial agriculture. The Service uses the USDA definition of “farm or ranch” when considering whether something constitutes commercial agriculture. A farm or ranch is defined as “any place from which \$1,000 or more of agricultural products were raised and sold or would have been raised and sold during the previous year, but for an event beyond the control of the farmer or rancher” (7 CFR 4284.902, Definitions). If an entity does not meet the USDA definition of farm or ranch, their application is evaluated under the category of private property damage (see below).
- B. Property damage** is damage or loss to private or public property. If all reasonable non-lethal methods have been implemented, permits may be considered to protect property, including building or infrastructure damage, vehicle or equipment damage, vegetation (e.g., ornamental plants, golf course turf, etc.), and exhibit animals in captivity. Permits are not available for animals that are loose, free-range, or otherwise released to the wild (e.g., pets, hobby animals, stocked wild animals, etc.).
- C. Human health and safety** are issues relating to human or bird safety, in both emergency and non-emergency situations. Non-lethal requirements may vary based on the degree of emergency. Justifications include airport and air base safety (permit type code DPRDAP), human or bird safety emergency (e.g., blocking navigational aids, impeding 911 capability, fire hazard, etc.), and public health and safety (e.g., landfills, fecal matter, bird attacks, etc.). For public health and safety issues, supporting documentation from the State or county health department may be required, particularly for fecal matter concerns.
- D. Threat to the recovery of protected fish and wildlife** is the take of migratory birds to assist in the recovery of native protected fish and wildlife species. Protected wildlife must be species federally or State-listed as threatened, endangered, or of conservation concern. If not listed, the applicant must justify why the species (or population) requires protection. Protected wildlife may be enclosed or free-roaming. Species must be native to the location and the population must be important to recovering or maintaining a sustainable population of that species. A sustainable population is a population that can maintain a long-term stable or positive trend with numbers above a level that would not result in a major decline or cause a species to become threatened or endangered.

Permits may not be issued under this justification for abundant or non-native species, nor to protect resources for recreational purposes (i.e., stocking recreational fisheries). Take must be to address a depredation problem and not for population control of the depredating species.

- E. No physical damage or physical loss** is not considered depredation. Depredation permits are intended to resolve physical damage, physical loss, or threats to safety or wildlife. Economic loss can be used as information to illustrate the scope and scale of physical loss. However, a depredation permit cannot be issued solely to cover economic loss, such as delays in construction timelines. Other permits, such as Special Purpose permits, may be appropriate if issuance criteria are met.

3.5 Airborne Hunting

The regulations at 50 CFR part 19 authorize the shooting or harassing of wildlife from an aircraft, which is otherwise prohibited by the Airborne Hunting Act (AHA, 16 U.S.C. 742j-1)). Aircraft includes unmanned aircraft systems (i.e., UAS or drones). Harassment, as defined in § 19.4, does not require authorization under the MBTA; however, the AHA's prohibition on harassing wildlife from an aircraft includes migratory birds (§ 19.11).

There are three mechanisms for authorization: (1) Federal and State employees, or their authorized agents, acting within their official duties to protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops do not require a permit (§ 19.12); (2) anyone with a migratory bird or eagle permit issued consistent with the purpose of the permit regulation (§ 19.21); or (3) anyone with a State permit issued for the purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life, or crops (§ 19.31).

Prior to 2025, Service regulations limited AHA authorization to the issuance of Federal migratory-bird depredation permits issued under § 21.100. However, we now can use the most appropriate permit type for the purpose of the activity requested. In addition to depredation permits (§21.100), AHA authorization may also be added to other permit types, for example: scientific-collecting permits (§ 21.73) for research; special purpose utility permits (SPUT, § 21.95) for utility or communication tower purposes; or for eagle harassment associated with monitoring using aircraft with eagle incidental take permits (§ 22.250 or § 22.260, respectively). We will continue to authorize preconstruction surveys conducted by Federal or State employees under § 19.12(1).

UAS or Drones - Unmanned aircraft systems (UAS or drones) are classified and regulated as aircraft by the Federal Aviation Administration (FAA). The FAA defines aircraft as “a device that is used or intended to be used for flight in the air” (14 CFR 1.1). The DOI Office of Aviation Services follows the FAA definition (Operational Procedures Memorandum 11). The FAA regulates UAS used for commercial operations under 14 CFR part 107 and for recreational use of UAS under 49 U.S.C. § 44809. Pilots of UAS who plan to fly less than 400 feet above ground

level should consider whether migratory bird harassment may occur and, if so, obtain authorization under the AHA if an AHA exception does not apply.

Minimum Safe Altitudes - The Service considers aircraft operating at minimum safe altitudes, (as defined in 14 CFR 91.119(a), (b), or (c) at or above 500 feet above the surface) unlikely to harass migratory birds. Aircraft operating closer than 500 feet above the surface at any time under 14 CFR 91.119(c) or (d), or operating under a waiver of 14 CFR 91.119, should consider whether migratory bird harassment may occur and, if so, obtain authorization under AHA regulations if an AHA exception (16 U.S.C. 742j-1(b)(1)) does not apply.

3.6 Non-releasable Eagles – Placement Prioritization.

An eagle that has undergone care with a federally permitted rehabilitator and that cannot be released to the wild (non-releasable), and which is suitable for placement, must be made available in the following order.

1. Tribal Eagle Aviaries before other qualified facilities (see [MBPM-6 \(2013\)](#))
2. Eagle Exhibition
3. Eagle Scientific Collecting
4. Eagle Falconry

A live, non-releasable eagle held under an Eagle Exhibition permit may be transferred to another Eagle Exhibition permit without re-offering to aviaries. If the eagle is no longer suitable for exhibition purposes, the eagle may be euthanized, retired (if unsuitable due to age) and held as retired under an Eagle Exhibition permit, or placed consistent with the above order. The placement must be in the best interest of the eagle, including considering the reason for non-releasable status, training, and temperament of the individual eagle. If placement in an aviary would be suitable, eagles must first be made available to aviaries ([MBPM-6 \(2013\)](#)) before they may be placed for research purposes or falconry purposes.

3.7 Indian Religious Permits (§ 22.60) – Issuance to Tribes

The Indian Religious Purposes “how to apply” section of the regulations outlines five pieces of information required to apply for an eagle permit (§ 22.60(a)). The Service no longer requires “(4) Name of Tribal religious ceremony(ies) for which required” for individual or Tribal applicants.

For permits issued to a federally recognized Tribal entity under § 22.60, the Service no longer requires “(5) ... a certification of enrollment in an Indian Tribe.” The application requires the Tribal Chairman, President, or other leader of the Tribal governing body be identified as the Principal Officer. Because the Tribe itself is federally recognized and there is no requirement regarding the enrollment status of a Tribal leader, the Service waives the regulatory requirement for a certification of enrollment when permits issued under this section are issued to a Tribe.

Part 4. Administration of Eagle Permits (Part 22)

This part describes permit administration for eagle permits issued under 50 CFR Part 22. The governing regulations and agency guidance can be found in Service Manual chapters [724 FW 1 and 3](#).

4.1 What are general and specific permits?

General permits, as defined in part 22.6, are permits where applicants self-identify eligibility and register with the Service. This includes providing required application information and fees and certifying that they meet eligibility criteria and will implement permit conditions and reporting requirements. General permits simplify and expedite the permitting process for activities that have relatively consistent and low risk to eagles as well as well-established avoidance, minimization, and compensatory mitigation measures. Permittees are responsible for meeting all eligibility criteria. If someone registers for a general permit and does not meet eligibility criteria, the general permit is considered denied and invalid upon registration and does not authorize the take of eagles.

Specific permits require submission of application materials to the Service for review and development of permit conditions. The specific-permit approach is intended for situations that have increased or uncertain risks to eagles. The applicant is responsible for submitting a qualifying application. The Service will determine, based on the materials provided, whether the application meets regulatory requirements. The Service is responsible for identifying and using the best available information in making these determinations. If an applicant is unable to meet Service data standards when applying, the Service may waive these data standards if: (1) the application otherwise meets issuance criteria, (2) the Service has adequate information to estimate take, and (3) the waiver will be consistent with preservation of the eagle species. There is no process to petition the Service for a waiver; rather, this process will be at the Service's discretion and documented in the permit file.

Specific permit conditions use the general permit conditions as a foundation but may be modified or added to as appropriate. Specific permit conditions must meet or exceed the requirements of general permits, except when not practicable or when site-specific data warrants customization. The appropriate fee tier will be charged based on the amount of negotiation and modification required.

4.2 What are the specific permit tiers?

Specific permits have multiple tiers: Tier 1, Tier 2, and Tier 2 with reimbursable agreement.

Tier 1 specific permits are for low complexity applications (1) that can comply with general permit conditions or require only minor modifications, (2) where required data are collected to Service standards and submitted using the Service's information reporting template or where the applicant agrees to use the Service's generalized fatality estimation process, (3) where the permittee(s) agrees to use a Service-approved conservation bank or in-lieu fee program to

complete required compensatory mitigation, and (4) where the Service's decision can be categorically excluded under NEPA.

Tier 2 specific permits are for moderately complex applications that (1) require modifications to general-permit conditions, including negotiated compensatory mitigation requirements, (2) require more evaluation due to site-specific data collected not to Service standards, or (3) need negotiation of other requirements.

Tier 2 with reimbursable agreement are the most complex applications that will exceed 275 hours of review time. For example, these include applications that require more extensive permit-condition negotiations, applications that cannot be categorically excluded from additional procedural requirements of NEPA, or other unique circumstances. The Service will charge the Tier 2 fee and require applicants, including government agencies, to enter into a reimbursable agreement with the Service to offset additional Service costs associated with this added complexity and review time in excess of 275 hours.

4.3 Who can sign specific permits?

Consistent with Service Manual chapter [720 FW 1](#) (as amended), the Assistant Director – Migratory Birds may exercise the authority of the Director regarding permits. Regional Directors are responsible for administration of the migratory bird program in their respective Regions. The Assistant Director – Migratory Birds may delegate permit signature authority to Regional Directors, who may, in turn, delegate that authority to the regional Migratory Birds Program, including permits for bald eagles and golden eagles. In most cases, we expect Regional Directors to delegate signature authority for migratory bird and eagle permits to the permit staff responsible for administering those permits. Common exceptions include complex permits, controversial permits, or permits that require an Environmental Impact Statement (EIS), in which case signature authority may be elevated to the Permit Chief or Migratory Bird Chief.

For eagle permits, policies on eagle permit signature authority were revised when the Service delisted the bald eagle in 2008 and with the creation of a 30-year permit with the 2016 eagle permit regulations. With the 2024 eagle regulations, we again update the policy on eagle permit signature authority. Because of the improved population status of the bald eagle and public comments received on the 2024 rule, we determined restrictions on eagle permit signature authority are no longer warranted.

For specific permits issued under subpart E (Take of Eagles for Other Interests), in most circumstances Regional Directors should delegate signature authority to the staff member responsible for administering the permit for bald eagle nest take or bald eagle nest disturbance. Regional Directors may choose to elevate signature authority to the Permit Chief or Migratory Bird Chief as appropriate, such as for incidental take permits or complex golden eagle permits.

4.4 What will the Service review in a general permit audit?

The Service will audit some general permits to ensure applicants are appropriately interpreting and applying eligibility criteria and complying with permit conditions. Audits include reviewing submitted application materials to ensure eligibility criteria are met. The Service will also review any submitted reports to ensure compliance with permit conditions. The Service may request and review any documents or data, such as plans or strategies, required by permit conditions (e.g., adaptive management plans).

The Service will deny a permit at the time of issuance if the project does not meet eligibility criteria. We will revoke or suspend a permit if we determine the permittee is not complying with permit conditions or reporting requirements. A permittee may be disqualified from receiving or exercising the privileges of a permit for failing to submit timely, accurate, or valid reports (§ 13.21(c)(4)).

Eligibility. When auditing permits for compliance with general permit eligibility criteria, the Service first reviews application materials for completeness. The Eagle General Permit Team will notify the affected regional eagle permit staff to request any relevant information from the audited project proponent. If appropriate, the Service will also ask if other Service programs, Tribes, States, or Territories have information that may be pertinent to the audit (e.g., nest survey information). The Service may request additional information from the permittee to assess whether the activity is eligible for a general permit, such as reports or field data. The Service will then determine if the project meets the relevant eligibility criteria. If we determine that an activity is ineligible, the general permit is considered denied (void) upon registration and does not authorize the applicant to take eagles. Ineligible activities do not meet the issuance criteria set forth for permit eligibility; therefore, under § 13.21(g), the issuing officer may deny a permit to any applicant who fails to meet general permit issuance criteria.

Compliance. We may also audit general permits for compliance with permit conditions. The Service will request supporting documents that are required by permit conditions and review those documents for compliance. We will review any compliance concerns based on information from Regional Migratory Bird offices or other Service programs, Tribes, States, or Territories, and information from the public. The Service will not solicit public information during the audit process, but may notify other Service programs, Tribes, States, or Territories to request information. The Service will also conduct audits of reports, including reviewing annual reports for completeness and compliance with permit conditions and correlation with records submitted for the permit.

Notification. Following an audit, the Service will notify the permittee of the audit results. An audit is “passed” if the permittee is in compliance with eligibility criteria and permit conditions. An audit is “failed” if the permittee is not in compliance with eligibility criteria and permit conditions. In some cases, the Service may need additional information to confirm eligibility or conformance with permit conditions. In these cases, the Service may request more information

and give permittees the opportunity to provide additional documentation of compliance or eligibility within a reasonable timeframe.

The Service may audit any permit under the general permit program at any time. We prioritize auditing the following:

1. All wind energy applicants registering before August 10, 2024 (e.g., the first 180 days of the rule).
2. All general permits for emergency bald eagle nest take.
3. General permits for which Regions, the Office of Law Enforcement, States, Tribes, the public, or stakeholders have indicated a concern with general permit eligibility.
4. Registrants within 2 miles of the specific permit zone.
5. Permittees that do not comply with reporting requirements or that have reported unidentified eagle remains.
6. Permittees that report their third dead eagle of a single species.
7. Random, which is based on an assigned lottery number. We base the percentage of randomly audited permits on the number of general permits issued in the quarter.

4.5 Can eagle permits be amended?

There are three types of amendments for eagle permits: administrative, substantive, and substantive that requires new analysis. Administrative amendments are administrative changes, including changes to name and address information. Consistent with § 13.11(d)(5), there is no fee charged for administrative amendments.

Substantive amendments are those that pertain to the purpose and conditions of the permit. Specific permits may be amended during their tenure. Consistent with § 13.11(d)(5), we will charge an amendment fee. The Service will charge the amendment fee plus the administration fee for permittee-requested substantive amendments that require new analysis, such as modifications that result in re-estimating take, re-evaluating compensatory mitigation requirements, or requiring additional environmental review to comply with procedural requirements under NEPA (§ 22.200(e)).

General permit conditions are nonnegotiable and substantive amendments cannot be made during the term of the permit. Renewed general permits will have the most current version of general permit conditions.

4.6 Can general permits be renewed?

Yes. General permits can be renewed, consistent with § 13.22. The permittee must submit an application for renewal at least 30 days prior to the expiration date of the current permit. The application must include a certification that all statements and information in the original application remain current and correct or, if not, the permittee must provide updated information.

All permittees must meet current eligibility criteria in Part 22 at the time of renewal. General permits cannot be renewed if the permitted activity can no longer meet eligibility criteria (e.g.,

because of a change in the activity or the regulation). In the case of incidental take of eagles by wind energy projects (§ 22.250), permits are eligible for renewal even if the Service revises eagle relative abundance thresholds or eagles construct a new nest within a species-specific setback distance, provided the activity meets all other general permit requirements. If the wind project has added new turbines or a new hazardous area (e.g., by replacing existing turbines with larger turbines), or if there has been a lapse in permit coverage, the project (including the new hazardous area) must meet the eligibility criteria for a first-time general permit in order to renew their general permit.

4.7 What is considered an eagle nest?

Eagle nest, in-use nest, and alternate nest are defined in § 22.6.

An eagle nest remains an eagle nest until it is no longer usable by eagles and is not likely to become usable to eagles. Therefore, an eagle nest remains an eagle nest, regardless of how much time has passed or if it is or has been used by other species. However, it must be possible for eagles to reuse the nesting substrate for breeding purposes. Nesting substrate that, due to natural circumstances, is no longer and will never again be available to eagles for functional use no longer meets the regulatory definition of an eagle nest.

This is intended to address the uncommon but occasional instances in which eagle nests or nesting substrate are impacted by weather or other natural factors to such a degree that they become permanently unusable to eagles for reproductive purposes. For example, if a nest tree falls and the bald eagle nest retains its structure, the nest would no longer retain the official designation of an eagle nest as the substrate was substantively changed by the nest tree falling. A permit is not necessary for individuals and organizations to destroy and remove materials that formerly held the designation of an eagle nest but no longer meet the definition. This definition of “eagle nest” does not allow for modification of alternate (unused) nest substrate to a degree that prevents future breeding activity. Such activities constitute nest take.

Individuals and organizations may not collect these materials nor possess them beyond what is necessary to dispose of the nest. Eggs, feathers, and other eagle parts are often naturally incorporated into nests with time. The Eagle Act prohibits possession, transportation, and sale of these items, either individually or in their incorporated state with former nesting materials, without Federal authorization.

For the definition of “in-use nest,” the eggs referred to must be viable. Nonviable eggs may persist in a nest or even become incorporated into a nest’s structure. However, by their nature, these eggs will not hatch. The Service presumes that eggs are viable unless the applicant provides evidence to document otherwise (e.g., absence of adults for several days, presence of eggs out of breeding season).

4.8 What regulation does the Service use to authorize eagle nest take?

Most eagle nest take is authorized under § 22.300 permits for take of eagle nests. This includes temporary or permanent relocation or obstruction of a nest that constitutes nest take.

Golden eagle nest take for resource recovery operations (§ 22.325) applies to resource development or recovery operations as authorized by 16 U.S.C. 668a. The purpose of this regulation is to authorize the removal of golden eagle nests that are physically in the way of resource recovery operations, such as on the cliff wall of a mine. Any take authorized must be compatible with the preservation of eagles and cannot be reasonably avoided. The Service will use § 22.300 to authorize take of nests, when appropriate, in proximity to resource development and recovery operations to minimize the risk of disturbance, injury, or mortality to eagles.

4.9 What are the requirements for nest take permits (50 CFR 22.300)?

Nest take may be authorized for one of the five justifications identified in the regulation (§ 22.300). The permit application may also require supporting documentation for certain types of requests (for example, an arborist report in the case of a hazardous tree removal). Any net-benefit determination depends on the circumstances of the purpose requiring nest take.

Permit conditions will include the applicable regional breeding season start date. Permits will authorize the removal of a specific nest. Permits may authorize eagle nest removal from the nesting substrate at the location requested and the location of any subsequent nesting attempts by the eagle pair near the location requested for the duration of the permit if the subsequent nest recreates the emergency, safety, or functional hazard of the original nest.

The Service will not require monitoring for general permits. After more than a decade of annual monitoring reports, we expect a 1-year permit tenure to better capture the necessary information to meet the preservation standard than requiring monitoring. To be conservative, we will assume that each nest take authorized by the general permit will result in a loss of breeding productivity for one breeding season. We may change this practice in the future if data warrants a change in our assumption. Specific permits may require monitoring—for example, a permittee may need to monitor the area near where a nest was removed for one or more seasons to determine whether the affected eagles relocate and successfully fledge young.

The Service does not require compensatory mitigation for nest-take general permits, unless it is for other purposes in Alaska where compensatory mitigation is required to achieve the associated net benefit. General permits for nest take are limited to bald eagle nests in situations that are typically hazardous to eagles or where eagles benefit from resolving the situation requiring the permit. Compensatory mitigation is also not generally warranted for nest-take general permits because of the improving population status of bald eagles. Compensatory mitigation may be required for specific permits. In determining compensatory mitigation, the Service will consider the purpose for the nest take, whether nest take reduces risk to eagles, and the population status of the species. A specific permit applicant may meet this requirement

by obtaining the Service-approved number of eagle credits from a Service-approved conservation bank or in-lieu fee program. The applicant may also propose other types of compensatory mitigation for Service approval.

4.10 How does the Service authorize the incidental take of an eagle nest?

The Service uses the regulations for disturbance take of eagles to authorize the incidental take of eagle nests. Incidental take of nests caused by activities includes actions that agitate or bother eagles to a degree that interferes with normal breeding and sheltering behavior. For example, prescribed burns may result in the disturbance of breeding eagles through smoke exposure and may disrupt breeding activity by unintentionally taking nests when a fire moves unexpectedly across break lines or into tree canopies. The Service may provide authorization only for incidental take of nests that occurs after application of all practicable avoidance and minimization measures. Incidental take authorization does not include take caused by lack of due diligence or negligence, for example, failure to identify nest locations prior to conducting an activity.

To date, incidental take of nests has been a rare issue and, therefore, is currently most appropriately addressed under specific permits. However, the Service will regularly review this issue with other implementation decisions. Applicants requesting incidental take of nests must demonstrate that they cannot practicably avoid incidental nest take. The Service does not anticipate authorizing the incidental take of nests for development activities. In the Service's experience, developers have sufficient knowledge of the landscape and control of their activity to make incidental nest take practicably avoidable during development.

4.11 What activities does the Service consider not likely to result in disturbance take?

The Service currently recommends nest buffers of 660 feet for bald eagles and 1 mile for golden eagles for most activities. Regularly occurring activities that occur within these distances and pre-date an eagle pair's selection of a given nest site are assumed tolerated by the eagles, unlikely to cause disturbance, and do not require a permit.

For bald eagles, the Service uses the standardized approach to permitting based on the 2007 Activity-Specific Guidelines that are part of the [National Bald Eagle Management Guidelines](#). The Service specifies distances in the regulation (§ 22.280) within which these activities may cause disturbance. Permits can cover conducting the activity as well as pre-construction work, including geotechnical work. Activities occurring farther than the distances specified below do not require a permit because they are unlikely to cause disturbance. Regularly occurring activities that occur within these distances and pre-date an eagle pair's selection of a given nest site are assumed tolerated by the eagles, unlikely to cause disturbance, and do not require a permit.

For bald eagles, the Service also considers activities that are conducted adjacent to a communal roost or foraging area do not constitute eagle disturbance and do not require a permit. “Communal roost site” and “foraging area” are defined by regulation (§ 22.6). Removal of a foraging area has greater potential to cause disturbance; therefore, activities that completely prevent the use of a foraging area may cause disturbance. A proponent of a project likely to fully prevent the use of a foraging area should apply for a specific permit, particularly if the activity will remove all foraging opportunities within 1 mile of an in-use nest.

Hazing—the use of non-lethal methods to disperse eagles away from a site—of bald eagles or golden eagles does not constitute eagle disturbance unless it is adjacent to an in-use nest and disrupts eagle breeding activity. The intent of hazing is to deter eagle depredation (e.g., substantial injury to wildlife or agriculture) or reduce threats to human or eagle health and safety by temporarily displacing individual eagles from a location. For hazing, we currently recommend nest buffers of 660 feet for bald eagles and 1 mile for golden eagles.

4.12 What are the requirements for eagle disturbance take permits?

We require permit conditions that include implementation of measures to avoid and minimize, to the extent practicable, the risk that authorized activities may disturb eagles. To determine practicability, the Service will consider eagle population status, the known efficacy of the measure, and the potential burden on the permittee.

The Service will require monitoring eagles under general and specific disturbance take permits. Monitoring typically consists of collecting information sufficient to determine whether nestlings have fledged from the nest. Specific permits for disturbance may require monitoring as long as necessary to determine any impacts to the eagles for which take is authorized, including up to 3 years after the permit’s tenure.

The Service does not require compensatory mitigation for general disturbance take permits. Compensatory mitigation may be required for specific disturbance take permits to ensure compatibility with the preservation standard. For example, any disturbance take of golden eagles that is not part of the Service’s previously established 2009 baseline or disturbance take of bald eagles that exceeds the Local Area Population (LAP) authorized take threshold and is otherwise unsustainable requires implementation of compensatory mitigation.

In the rare event that the Service’s decision to issue a disturbance take specific permit cannot be categorically excluded under NEPA, a reimbursable agreement may be used to cover costs associated with the preparation of an environmental analysis and compliance with the procedural requirements of NEPA.

4.13 What are the requirements for incidental take permits for power lines?

For both general and specific permits, the Service will require implementation of all practicable avoidance and minimization measures to reduce the likelihood of take. To aid in assessing what

measures are practicable to implement, the Service will refer to the Avian Power Line Interaction Committee (APLIC.org) suggested practices, including *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006* and *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, as well as updated versions or new suggested practice documents, as they become available.

As part of permit conditions, the Service requires power line entities to develop four strategies: collision response, proactive retrofit, reactive retrofit, and shooting response, as defined in § 22.260(b). The Service encourages power line entities with an Avian Protection Plan (APP) to incorporate these strategies into the APP. However, power line entities may choose to include these four strategies as part of an APP or as stand-alone strategies. Specific permit conditions will use the general permit conditions as a foundation but may be modified or added to as appropriate.

Permits will authorize the incidental take of both species of eagles. The Service will not specify a number of eagles authorized on the face of general or specific permits. However, the Service will use annual reports submitted by permittees to estimate the number of eagles taken for internal tracking and to ensure consistency with our preservation standard. We will use the best available information and tools in making these calculations.

The monitoring required for general permits and most specific permits will be limited to concurrent monitoring by operations and maintenance personnel while onsite. Monitoring must be conducted in accordance with permit conditions and, if available, Service guidance. Specific permits may require concurrent monitoring or additional monitoring.

Compensatory mitigation is required for both general permits and specific permits. To meet this requirement, general permits must implement a proactive retrofit strategy (§ 22.260). Compensatory mitigation for specific permits will start with the general permit proactive retrofit strategy but may be determined for each application and included in permit conditions.

4.14 How can a potential wind energy applicant determine if they meet the eagle relative abundance-based general permit eligibility requirement?

For a wind energy facility in the continental United States to be eligible for a general permit, all existing and proposed turbines associated with the project must be located in areas characterized by expected seasonal Eagle Relative Abundance (ERA) values for bald eagles and golden eagles that are less than the values listed in the regulation for each species in each season. The ERA values in the regulation are specific to ERA products derived from 2020 data (from the Cornell University Lab of Ornithology, which we refer to hereafter as “Cornell”).

We recommend that potential applicants determine if they meet the Service’s ERA-related eligibility requirements by visiting the Service’s website and by either viewing the interactive eagle permit eligibility map or downloading a shapefile of the general and specific permit zones

(available: <https://www.sciencebase.gov/catalog/item/6584c3ded34eff134d42da68>). Using either the map or the shapefile, potential applicants can view the locations of their project turbines relative to the zones and determine if they qualify. There is nothing in the regulation that precludes an applicant from recreating the general permit eligibility map; however, applicants must follow the analysis reported in the Environmental Assessment (EA) technical appendix and use the same ERA data products the Service used in our analysis. Maps made using ERA values derived from any data other than the 2020 ERA data published by Cornell cannot be used to determine eagle general permit eligibility because the Service has not analyzed any other eligibility map from any other year for consistency with our preservation standard. It also does not make sense to compare data from other years with the regulatory relative-abundance thresholds that are derived from 2020 data. Additionally, because we based mitigation rates on expected take from the general permit zone, deviating from the Service's analysis would potentially result in over- or under-mitigation of eagle take at project locations. In other words, maps produced that do not match the Service's product, and ERA values produced that do not match those in the regulation, are not a valid way of determining eagle general permit eligibility. We will deny a permit to general-permit registrants who have certified eligibility based on any other maps or ERA values with eligibility determinations that do not match those from the Service's map and published values.

The Service will regularly review the ERA values and, when appropriate, update those values in the regulation through the rulemaking process. The Service regularly reviews the best available data, including the Service's eagle survey results and population estimates, to evaluate if existing ERA are or are likely to become incompatible with the preservation standard. We do not anticipate updating ERA values more than once every 5 years.

4.15 What are the mitigation requirements for incidental take permits for wind energy projects?

For general permits, the permittee will determine the amount of compensatory mitigation required based on the hazardous volume of the project and the Eagle Management Unit (EMU) associated with the project's location, as described in § 22.250. For specific permits, the Service will derive the amount of compensatory mitigation required using a project-specific fatality estimate, based on either site-specific data that meets the Service's data collection standards or the Service's generalized fatality estimation process (e.g., in the case of wind projects, using the nationwide specific permit priors).

The Service will determine when compensatory mitigation is necessary to ensure consistency with our preservation standard and how much compensatory mitigation will be required. The Service will require that the permittee implement compensatory mitigation whenever we estimate that permitted eagle take will exceed species-specific take limits at the EMU scale. For golden eagles, this compensatory mitigation must be performed at a 1.2:1 (mitigation:take) ratio. The Service may also require implementation of compensatory mitigation whenever we estimate

that permitted take will exceed species-specific take thresholds at the Local Area Population (LAP) scale.

The Service does not require compensatory mitigation for wind turbine or power line infrastructure that is considered part of the environmental baseline. This baseline is as described in the 2016 Programmatic Environmental Impact Statement (PEIS) and refers to infrastructure that existed and was operating in its current configuration and size prior to September 11, 2009, when we initially analyzed the environmental impact of issuing incidental-take permits for eagles. We may require LAP-scale compensatory mitigation regardless of whether permitted infrastructure is part of this environmental baseline.

General permits and Tier 1 specific permits must use a Service-approved mitigation provider, such as a conservation bank or in-lieu fee program, to acquire eagle credits to meet mitigation requirements. An eagle credit is the amount of compensatory mitigation needed to offset the take of an eagle. Tier 2 specific permit applications may use a Service-approved conservation bank or in-lieu fee program or submit a plan to the Service for implementing compensatory mitigation consistent with § 22.200 and Service-wide mitigation policies. Wind energy projects that are eligible for general permits but choose to obtain a specific permit must meet or exceed the general permit mitigation requirements.

4.16 What are the management objectives of the 2016 Programmatic Environmental Impact Statement (PEIS)?

The PEIS has pre-analyzed and pre-determined that authorized take will be compatible with our preservation standard if:

(1) Authorized take does not exceed EMU take limits, unless authorized take is mitigated by actions that either reduce another ongoing form or mortality to a level equal to or greater than the authorized take or lead to an increase in the eagle population by an amount equal to or greater than the authorized take. For bald eagles, compensatory mitigation must be designed to offset take at a 1:1 ratio. For golden eagles, take must be designed to offset take at a 1.2:1 ratio. Authorized take does not count against EMU take limits if it results from activities or infrastructure that existed and were operating in their current configuration and size prior to September 11, 2009.

(2) Authorized take does not exceed a certain percentage of the LAP unless further analysis shows that authorized take is compatible with the preservation of bald eagles or golden eagles. At the time of the publication of the 2016 PEIS, LAP thresholds were 6% and 5% for bald and golden eagles, respectively, and 5% for bald eagles in the southwest EMU. These values were updated to 9% for bald eagles and 7% for golden eagles in all of the United States based on updated population estimates in 2021 for bald eagles and 2022 for golden eagles. Updated bald eagle population estimates did not include data from the southwestern United States; thus, LAP

thresholds there remain at 5% for bald eagles. We may periodically update these thresholds based on future population estimates.

4.17 What level of NEPA is needed for an eagle nest disturbance or nest take permit?

For specific permits for eagle nest take and nest disturbance issued under the current regulations or the 2016 regulations, the Service has determined that the use of the following NEPA documentation is appropriate to determine whether the proposed action, including permit conditions, will have significant effects: 1) an Environmental Action Statement (EAS) to document the categorical exclusion (referencing the PEIS), 2) an Environmental Assessment (EA) or 3) an Environmental Impact Statement (EIS). The NEPA decision tree in Section 4.18 will be used to assist Regional staff to determine the appropriate level of NEPA for these permit decisions. The use of a determination of NEPA adequacy (referencing the PEIS) is not the most appropriate level of documentation for specific eagle permits for nest disturbance and nest take permits because permit conditions are customized case-by-case and an environmental effects analysis was not conducted for these conditions in the 2016 PEIS or 2024 EA.

4.18 Which categorical exclusions are applicable to eagle permits?

The Service applies the following categorical exclusions to eagle incidental take permits:

Issuance, from Departmental Manual (DM) chapter 516 DM 8.5 (C)(1): The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter I, Subchapter B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under CITES, marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife.

Amendments: 516 DM 8.5 (A)(1). Changes or amendments to an approved action when such changes have no or minor potential environmental impact.

Criteria for determining whether a permit decision can be categorically excluded: None of the extraordinary circumstances under 43 CFR Part 46 apply (43 CFR 46.215).

4.19 What Federal action do employees analyze for eagle incidental take permitting?

The Federal action is the issuance of a permit to incidentally take eagles by an activity such as wind turbines or power lines. Issuance of an eagle incidental take permit authorizes only the incidental take of eagles resulting from the construction and operation of that activity. Our permit decision does not authorize the construction, operation, or maintenance of a project. Thus, the permit decision covers only the modifications to the project that are required to meet the conditions of the permit.

4.20 How did the Service comply with the procedural requirements of NEPA for eagle incidental take permitting at wind facilities prior to 2024?

The Service has streamlined the eagle incidental take specific permit process to improve efficiency in permit application review, as documented in the final rule (89 FR 9920; USFWS 2024). Although the Service's PEIS sets sideboards within which eagle incidental take permit issuance is likely to be consistent with our preservation standard, the PEIS did not analyze the requirements that are in individual permits (e.g., compensatory mitigation). Out of an abundance of caution, prior to April 2024, the Service conducted environmental reviews for all eagle incidental take permits issued to wind energy projects across the country using either an EA or an EIS. Of 36 eagle incidental take permit decisions made for wind projects, the Service issued 33 EA Findings of No Significant Impact and 3 EIS Records of Decision. There has been limited public interest in draft EA documents evaluating environmental effects of the permit decision. The Service received an average of less than 1 substantive comment for existing projects and less than 14 substantive comments for new projects, based on five Regions' public-comment data available online. Based on this record, the Service has concluded that this type of action is of minimal interest to the public, does not normally have significant effects (40 CFR 1501.3(a)), and many eagle incidental take decisions are likely suitable for categorical exclusion under NEPA.

4.21 What process will employees use for documenting NEPA compliance for eagle incidental take permit decisions?

The Service will use the decision tree below as a guide for when categorical exclusion is appropriate. The use of an EAS is most appropriate to document a categorical exclusion (referencing the PEIS) and will disclose permit-specific information used to determine whether the proposed action, including permit conditions, will have significant effects. The use of a determination of NEPA adequacy (referencing the PEIS) is not the most appropriate level of documentation for specific eagle incidental take permits for wind energy projects. If the Service determines categorical exclusion is not appropriate based on review of the decision tree, the Service will initiate an EA or EIS in accordance with NEPA.

Employees will consider the questions below in the order presented. Actions are likely suitable for categorical exclusion under NEPA unless noted as an EA or EIS. Decisions and any justifications should be documented as part of the permit file, in particular when noted below. If employees depart from this guidance, they must document the departure with an appropriate justification in the official permit file.

1. **Activity Siting:** Will there be siting requirements¹ included in the permit conditions to avoid or minimize take of eagles?
 - a. **Yes** –
 - i. Will siting requirements result in unresolved concerns² with National Historic Preservation Act (NHPA) or ESA compliance?
 1. Yes – Consider a tiered EA or EIS to resolve NHPA/ESA concerns.
 2. No - Continue to Step 2.
 - b. **No** – Continue to Step 2.

2. **Local Area Population (LAP):** Will permitted and unpermitted take³ within the project's LAP meet the eagle preservation standard,⁴ based on the eagle take cumulative effects analysis (according to the 2016 PEIS and 2024 EA)?
 - a. **Yes** – Continue to Step 3.
 - b. **No** –
 - i. Is the level of eagle take from the local area sustainable and consistent with the eagle preservation standard established in the PEIS (page 28) and codified (§ 22.6)?
 1. Yes - Continue to Step 3.
 2. No - Consider a tiered EA or EIS to resolve inconsistency with the eagle preservation standard.

3. **Offsetting Take:** Is compensatory mitigation necessary to offset authorized eagle take?
 - a. **Yes** –
 - i. Will the level of compensatory mitigation required in the permit conditions be sufficient to meet the eagle preservation standard?
 1. Yes – Continue to Step 4.
 2. No – Consider a tiered EA or EIS to resolve inconsistency with the eagle preservation standard.
 - b. **No** – Continue to Step 4.

¹ A siting requirement describes where a turbine or other construction *will* be placed or conducted but does not include analysis of any avoidance requirements describing where a turbine or other construction *should not* be placed, such as avoiding turbine placement within 1 mile of an existing golden eagle nest.

² Unresolved concerns: A written agreement with the relevant State Historic Preservation Officer or Tribal Historic Preservation Officer that outlines all measures the applicant will undertake to mitigate or prevent adverse effects to historical properties can resolve concerns about effects under NHPA. A Section 7 or Section 10 consultation can resolve concerns about effects to ESA-listed species or critical habitat.

³ Unpermitted take is only considered for permit decisions made under the 2016 eagle regulations.

⁴ Eagle preservation standard (§ 22.6) is defined as consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units and the persistence of local populations throughout the geographic range of each species.

4. **Extraordinary Circumstances:** Would permit issuance result in any extraordinary circumstances that could result in significant direct,⁵ indirect,⁶ or cumulative⁷ environmental effects?
- a. **Yes** –
 - i. Are those effects lessened to a negligible level through required permit conditions or other beneficial effects of permit issuance (e.g., minimization measures to reduce eagle take) (40 CFR 1501.4(b)(1))?
 - 1. Yes - Continue to Step 5.
 - 2. No - Consider a tiered EA or EIS because permit issuance may cause significant environmental effects.
 - b. **No** – Continue to Step 5.
5. **National Historic Preservation Act (NHPA):** Is permit issuance (including any permit conditions and mitigation requirements by the Service) likely to result in ground disturbance or visual intrusion that may cause effects to historic or cultural resources listed or eligible for the National Register (“historic properties”)?
- a. **Yes** –
 - i. Have you obtained written concurrence from the relevant State Historic Preservation Officer or Tribal Historic Preservation Officer that no historic properties are affected, or if affected, they are not adversely affected (36 CFR 800.4(d)(1), 800.5)? Or, have you obtained a written agreement with the relevant State Historic Preservation Officer or Tribal Historic Preservation Officer that outlines all measures the applicant will undertake to mitigate or prevent adverse effects to historic properties (36 CFR 800.6)?
 - 1. Yes – Continue to Step 6.
 - 2. No – Consider a tiered EA or EIS due to NHPA Section 106 responsibilities.
 - b. **No** – Document that there is no potential to affect historic or cultural resources (36 CFR 800.3(a)(1)) and include any existing cultural resource surveys conducted under other Federal NEPA processes, if available.⁸ Continue to Step 6.
6. **Endangered Species Act (ESA):** Has the Service determined that permit issuance (including any permit conditions and mitigation required by the Service) has no effect on ESA-listed, proposed, or candidate species, or designated or proposed critical habitat (i.e., a no effect determination)?
- a. **Yes** – Document the no effect determination. Continue to Step 7.

⁵ Direct effect (40 CFR 1508.1(g)): “caused by the action and occur[s] at the same time and place.”

⁶ Indirect effect (40 CFR 1508.1(g)): “caused by the action and later in time or farther removed in distance, but still reasonably foreseeable.”

⁷ Cumulative effects (40 CFR 1508.1(g)): “effects on the environment that result from the incremental effects of the action when added to the effects of other past, present, and reasonably foreseeable actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.”

⁸ Refer to State NEPA processes or other State siting processes if there is no Federal nexus for the underlying project (BLM, BPA, etc.).

- b. **No** –
 - i. Will permit issuance, including permit conditions required by the Service, result in a “may affect/likely to adversely affect” determination, resulting in a biological opinion with an incidental take statement?
 - 1. **Yes** – Coordinate with the Regional Ecological Services office to determine whether a tiered EA or EIS is appropriate, based on effects to ESA-listed, proposed, or candidate species, or designated or proposed critical habitat.
 - 2. **No** – Document “may affect, not likely to adversely affect” determination and resulting intra-service Section 7 consultation. Continue to Step 7.
7. **Migratory Bird Treaty Act (MBTA):** Do you anticipate that there will be significant or highly uncertain environmental effects on migratory birds as a result of permit issuance, including permit conditions and mitigation required by the Service, as outlined in Section 3.5.2.1 of the PEIS?
- a. **Yes** –
 - i. Are effects lessened to a negligible level through application of conditions or other beneficial indirect effects of permit issuance (40 CFR 1501.4(b)(1))?
 - 1. **Yes** – Document the effects and how they were lessened to a negligible level.⁹ Continue to Step 8.
 - 2. **No** – Consider a tiered EA or EIS.
 - b. **No** – Document that there will be no significant or highly uncertain effects on migratory birds as a result of permit issuance.¹⁰ Continue to Step 8.
8. **Precedent:** Are you proposing to deviate from template conditions or national policy to the extent that permit issuance would establish a precedent for all future actions that are likely to have significant impacts (e.g., take estimates produced from new or unpublished methods or models)?
- a. **Yes** – Consider a tiered EA or EIS, due to precedent.
 - b. **No** – Continue to Step 9.
9. **Connected Actions:** Are you aware of other connected actions (40 CFR 1501.9(e)(1))ⁱ with individually insignificant but cumulatively significant environmental effects?
- a. **Yes** –
 - i. Have the connected actions been adequately analyzed in existing NEPA documentation?
 - 1. **Yes** – Your Federal action may be considered for categorical exclusion. Consider referencing the existing NEPA analysis associated with connected actions in your documentation.

⁹ Consider providing the applicant with effective beneficial practices for avoidance and minimization of impacts to migratory birds.

¹⁰ Connected action (consistent with 40 CFR 1501.9(e)(1)): Actions are connected, or closely related, if they automatically trigger other actions that may require an EIS, cannot or will not proceed unless other actions are taken previously or simultaneously, or are interdependent parts of a larger action and depend on the larger action for their justification.

2. No - Consider a tiered EA or EIS because of the potentially significant cumulative environmental effects.

b. **No** – Your permit decision may be considered for categorical exclusion.

4.22 What other considerations should employees take into account?

- This NEPA decision tree is a tool that will help you consider if a categorical exclusion is appropriate for a permit action. It is not intended to cover all circumstances that should be considered in the NEPA process, and Regions may use their discretion.
- Golden eagle take that is offset to meet the eagle preservation standard is not considered a significant effect by itself.
- Nest disturbance likely to result in territory loss is not considered a significant effect by itself, if it is consistent with, or can be made consistent with, the eagle preservation standard.
- Tribal engagement and consultation are responsibilities independent of the level of NEPA analysis that is conducted. Potential opportunities for notification and engagement under the specific permit application review process include, but are not limited to:
 - Receipt of an eagle incidental take permit application. If feedback from Tribes provides new information that highlights an extraordinary circumstance (43 CFR Part 46), an EA or EIS may be the appropriate level of NEPA.
 - When a public comment period is open for an EA or EIS (if applicable), and
 - When the permit decision is made.
- ESA Section 7 compliance is a responsibility independent of the level of NEPA analysis that is conducted. A ‘no effect’ determination is appropriate if the proposed action, or other activities that are caused by the proposed action, have no consequences to listed species or critical habitat. If a ‘no effect’ determination is made, this finding should be documented.
- Notification of permit issuance: We will post notifications on our website for all eagle incidental take permits issued under § 22.250 and § 22.260.

Record of Revisions

April 2024 – Rulemaking on Permits for Incidental Take of Eagles and Eagle Nests

1. Created Part 4 – Administration of Eagle Permits (Part 22). This includes relevant language from the preamble of the April 12, 2024 final rule on general and specific permits as well as disturbance take, nest take, and incidental take due to wind and power lines. This revision also included addition of the NEPA decision tree.
2. Minor revisions to Table 1.3 - List of Eagle Permit Types, to reflect the new permit types from the April 12, 2024 final rule.
3. Minor revisions to headings to reduce confusion with the new terms “general permit” and “specific permit.”

January 2025 – Rulemaking on Regulatory Authorizations

1. Quick Reference Tables – Updated to reflect new regulations and revised section numbers.
2. Part 3 – Added 3.2 Regulatory Authorizations and 3.5 Airborne Hunting to include relevant language from the preamble of the December 31, 2024 final rule.
3. Part 4 – Additional questions in Part 4 identified from the first 6 months of implementing the April 2024 Eagle rulemaking: 4.3 signature authority, 4.4 audit procedures, 4.6 renewal of general permits, and 4.14 application of eagle relative abundance thresholds.