



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).

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

Regulation	50 CFR	Summary
Law Enforcement Exception	21.12(a)	<ul style="list-style-type: none"> • Who: Department of the Interior Law Enforcement • What: Authorizes officers to conduct law enforcement activities • Species: Migratory birds, including bald eagles and golden eagles • Geographic Restrictions: None
Education Exception	21.12(b)(1)	<ul style="list-style-type: none"> • Who: Listed public and private institutions • What: Use of migratory birds for educational purposes • Species: Migratory birds, except bald eagles and golden eagles • Geographic Restrictions: None
Disease Monitoring	21.12(b)(2)	<ul style="list-style-type: none"> • Who: Wildlife or health agencies • What: Collection of sick or dead migratory birds for monitoring infectious disease and/or natural toxin, such as Avian Influenza. Does not apply to uninjured or healthy birds. • Species: Migratory birds, except bald eagles and golden eagles • Geographic Restrictions: None
Licensed Veterinarians	21.12(c)	<ul style="list-style-type: none"> • Who: Licensed veterinarians • What: Temporary possession of sick and injured migratory birds for stabilization. Must transfer birds to a federally permitted rehabilitator within 24 hours of stabilization, unless euthanized. • Species: Migratory birds, including bald eagles and golden eagles • Geographic Restrictions: None
Birds in Buildings	21.12(d)	<ul style="list-style-type: none"> • Who: Any person • What: Any person may remove a migratory bird from the interior of a building or structure, restrictions and conditions apply.

Regulation	50 CFR	Summary
		<ul style="list-style-type: none"> • Species: Migratory birds, except 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
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 50 CFR 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	21.76(a)	<ul style="list-style-type: none"> • Who: Any person • What: Any person who finds a sick, injured, or orphaned migratory bird may, without a permit, take possession of the bird in order to immediately transport it to a permitted rehabilitator (Rehabilitation regulation). • 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.

Regulation	50 CFR	Summary
		<ul style="list-style-type: none"> • 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
Jay Depredation Order	21.156	<ul style="list-style-type: none"> • Who: Growers • What: Protection of public safety through establishing and implementing a control and management program. • Species: California scrub jay, Steller's jay • 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

Regulation	50 CFR	Summary
		<ul style="list-style-type: none"> • 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
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))
Note	21.45, 21.47, and 21.48	<ul style="list-style-type: none"> • Reserved. No current regulation

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 mitigate depredation problems, 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)
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)
Educational Use (SP)	21.95	<ul style="list-style-type: none"> • What: The possession of live and/or dead birds, parts, nests, and nonviable eggs for educational purposes. Authorization to salvage may be included in this permit type. Regulatory exceptions may apply. • Tenure: 3 years • Application Form: 3-200-10c • Report Form: 3-202-5; 3-202-12 • Permit Type Abbreviation(s): SPPSD, SPPSDS, SPPSL, SPPSLD, SPDAVE
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
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	50 CFR	Summary
		<ul style="list-style-type: none"> • 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
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
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

Permit Type	50 CFR	Summary
		<ul style="list-style-type: none"> • Guidance: MBPM-8 (2021)
Regional Director (SP); State (SP)	21.95	<ul style="list-style-type: none"> • What: Authorizes Service or State wildlife agency employees to (a) salvage; (b) possess for educational use; (c) transport sick, injured, and orphaned birds; and (d) trap and relocate birds at risk. • Tenure: 3 years • Application Form: 3-200-10f • Report Form: 3-202-7 • Permit Type Abbreviation(s): SPRD, SPRDIE, SPSTATE, SPSTATEIE
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)
Salvage (SP)	21.95	<ul style="list-style-type: none"> • What: Collection of whole and partial bird remains, naturally-molted feathers, nests not in use, and nonviable eggs from the wild for donation purposes, most commonly for education or science. • Tenure: 3 years • Application Form: 3-200-10a • Report Form: 3-202-3 • Permit Type Abbreviation(s): SPSL, SPSLIE
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

Permit Type	50 CFR	Summary
		<ul style="list-style-type: none"> • 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 • 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 and/or dead eagles, parts, nests, and nonviable eggs for conservation education purposes. Unlike migratory birds, there are no regulatory exceptions to a permit for eagles. • Tenure: 3 years

Permit Type	50 CFR	Summary
		<ul style="list-style-type: none"> • Application Form: 3-200-14; Must apply as organization (Section B) • Report Form: 3-202-13; 3-202-12 • Permit Type Abbreviation(s): EAEXD, EAEXL, EAEXLD • Guidance: MBPM-6 (2013)
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

Permit Type	50 CFR	Summary
		<ul style="list-style-type: none"> • 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)
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.

Permit Type	50 CFR	Summary
		<ul style="list-style-type: none"> • 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
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 50 CFR 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 (50 CFR 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 50 CFR 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 (50 CFR 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 (50 CFR 13.11(d)(2)). (3) In extraordinary, extenuating circumstances, a fee may be waived by a Regional or Assistant Director (50 CFR 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 (50 CFR 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 (50 CFR 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 50 CFR 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 (50 CFR 13.21(b)(3)) and the Service determining there is no threat to a wildlife or plant population (50 CFR 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 (50 CFR 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., NWRA (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 21 or 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 50 CFR 13.27 (permit suspension) and 50 CFR 13.28 (permit revocation). Generally, we suspend permits when there is potential for compliance issues with permit conditions (50 CFR 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 (50 CFR 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 50 CFR 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 50 CFR 13.29(a)). The permittee must submit a written request for reconsideration with the required information in 50 CFR 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 (50 CFR 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 50 CFR 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 (50 CFR 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 (16 U.S.C. 703(a)) 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.

Wild Birds. Wild birds may not be purchased, sold, bartered, or traded. This includes wild-bred, captive-raised birds.

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 rights purchasers have are rights that have been authorized through Service regulations and often depend on the species.

- A. Waterfowl:** Live, captive-bred waterfowl may be purchased and sold in accordance with the permit exceptions for captive-reared mallard ducks (50 CFR 21.45), permit exceptions for captive-bred migratory waterfowl (50 CFR 21.48), and waterfowl sale and disposal permits (50 CFR 21.88). Additionally, taxidermists may sell properly marked, captive-reared waterfowl that are lawfully acquired and mounted (50 CFR 21.63(c)).
- B. Game birds:** Live, captive-bred game birds may be purchased and sold consistent with a Special Purpose game bird permit (50 CFR 21.95).

- C. Raptors:** Live, captive-bred raptors may be purchased and sold consistent with raptor propagation permits (50 CFR 21.85) and purchased for falconry (50 CFR 21.82) and abatement purposes (50 CFR 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 by public zoos and aquariums (50 CFR 21.12(b)(1)) or under a Special Purpose Miscellaneous permit (50 CFR 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 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 50 CFR 21.95. There are twelve 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 through conservation education programs conducted with live as well as dead migratory birds and parts. There is no effect on the wild population, as specimens used are dead and 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. Regional Director / State Wildlife Agency** permits authorize salvage, educational use, transportation to rehabilitation, and relocation of birds at risk. The permits authorize salvage and donation for scientific or educational use, which meets the criterion of important research reason (see Salvage below). The educational use activities fall under benefit to the migratory bird resource (see Educational Use above). The permits additionally authorize the rescue and transport of birds at risk as well as sick, injured, or orphaned birds, which meets the criterion of human concern for individual birds.
- F. 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.
- G. Salvage** permits authorize collection of whole and partial bird remains, feathers, nests not in use, and nonviable eggs from the wild. These items are donated for scientific and educational use. The authorization of these permits is justified as an important research reason. The collection of these materials has no effect on the wild population as they are already dead, nests are not in use, or eggs are nonviable. The items are of important research value, either for immediate research or curation at educational facilities for future research.
- H. 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.

- I. **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.

3.2 Depredation Permits - Justifications.

Depredation is physical damage or physical loss caused by birds. Depredation permits (50 CFR 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 (50 CFR 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 50 CFR 13.21. Under part 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.

3.3 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.

3.4 Indian Religious Permits (50 CFR 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 (50 CFR 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 50 CFR 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 What will the Service review in a general permit audit?

The Service will audit 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, like adaptive management plans.

4.4 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 50 CFR 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 50 CFR 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 (50 CFR 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.

4.5 What is considered an eagle nest?

Eagle nest, in-use nest, and alternate nest are defined in 50 CFR 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).

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

Most eagle nest take is authorized under 50 CFR 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 (50 CFR 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 50 CFR 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.

4.7 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 (50 CFR 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.

4.8 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.

4.9 What 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 (50 CFR 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 (50 CFR 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.

4.10 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.

4.11 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](#)) 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 50 CFR 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 (50 CFR 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.

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

For general permits, the permittee will derive the amount of compensatory mitigation required based on the hazardous volume of the project and the Eagle Management Unit (EMU) as described in the regulatory requirements in 50 CFR 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).

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 50 CFR 22.200 and Service-wide mitigation policies.

All compensatory mitigation for golden eagles must be performed at a 1.2:1 (mitigation:take) ratio. To ensure consistency with the preservation standard, 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. Compensatory mitigation is not required for wind turbine or power line infrastructure that is considered baseline. Baseline, as described in the 2016

Programmatic Environmental Impact Statement (PEIS), refers to infrastructure that existed and was operating in its current configuration and size prior to September 11, 2009.

4.13 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 5% of the estimated local area population, unless further analysis shows authorized take is compatible with the preservation of bald eagle or golden eagles.

4.14 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.

4.15 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).

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

In eagle incidental take permitting, the Federal action is our decision whether to authorize the incidental take of eagles resulting from otherwise lawful operation of wind turbines at a project through issuance of a permit. Issuance of an eagle incidental take permit authorizes only the incidental take of eagles as a result of otherwise lawful turbine operations. Our permit decision does not authorize the project itself (e.g., turbine construction, turbine operations, maintenance of equipment, transmission lines, decommissioning), but may affect some aspects of some project activities.

4.17 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.

4.18 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 requirementsⁱ included in the permit conditions to avoid or minimize take of eagles?
 - a. **Yes** –
 - i. Will siting requirements result in unresolved concernsⁱⁱ 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 takeⁱⁱⁱ within the project's LAP meet the eagle preservation standard,^{iv} 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 (50 CFR 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.
4. **Extraordinary Circumstances:** Would permit issuance result in any extraordinary circumstances that could result in significant direct,^v indirect,^{vi} or cumulative^{vii} 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”)?^{viii}
- 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.^{ix} 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.
 - 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.^x 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. ^x 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))^{xi} 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.
 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.

ⁱ 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.

ⁱⁱ 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.

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

^{iv} Eagle preservation standard (50 CFR 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.

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

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

^{vii}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.”

^{viii} Consider conferring with the FWS Regional Archaeologist regarding NHPA section 106 consultation to address potential effects.

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

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

^{xi} 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.

4.19 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 issued eagle incidental take permits.

Record of Revisions

April 2024

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.”