



WHAT YOU SHOULD KNOW ABOUT A FEDERAL PERMIT FOR EAGLE TAKE THAT IS ASSOCIATED WITH, BUT NOT THE PURPOSE OF, AN ACTIVITY

A Federal permit for **incidental take** of eagles authorizes disturbance or other take of eagles where the take is not the purpose of the activity and is necessary to protect an interest in a particular locality. You should review Title 50 Parts 10, 13, and 22.26 of the Code of Federal Regulations (CFR). **You are responsible for reviewing and understanding these regulations before you request and accept a permit.** These regulations can be found on our website at <http://www.fws.gov/permits/ltr/ltr.html>. Below are questions and answers regarding some of the fundamentals of an eagle **incidental take** permit.

1. What is meant by “take” of eagles?

Under the Bald and Golden Eagle Protection Act, “take” is defined as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest or disturb.” Most take authorized under this permit will be in the form of disturbance. “Disturb” is defined in regulations as “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.”

2. Can this permit be used for intentional take of eagles for any purposes?

No. This permit authorizes take only where the take cannot practicably be avoided in the course of an otherwise lawful activity.

3. What species of eagles can be disturbed or otherwise taken under this permit?

This permit may authorize take of either species of eagles protected by the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d): the bald eagle (*Haliaeetus leucocephalus*) and the golden eagle (*Aquila chrysaetos*).

4. Under what circumstances may eagles be taken under this type of permit?

The Eagle Act authorizes the Secretary to permit take of eagles “necessary for the protection of... other interests in any particular locality.” This statutory language accommodates a broad spectrum of public and private interests (such as utility infrastructure development and maintenance, road construction, operation of airports, commercial or residential construction, resource recovery, recreational use, etc.) that might “take” eagles as defined under the Eagle Act. However, in all cases, the take must be *necessary* to protect the interest, meaning that the interest cannot be protected without taking eagles despite implementation of all practicable measures to avoid and minimize the impact to eagles.

5. Is a person who follows the National Bald Eagle Management Guidelines exempt from the requirement to obtain this permit?

No. The Guidelines are basic recommendations the Service has provided to help minimize the potential for disturbing bald eagles. However, those recommendations are fairly generalized and do not address every type of activity. Furthermore, variable on-site conditions, the temperament of individual eagles, and other factors, make it impossible to predict outcomes with certainty. Each situation is different. An activity that is generally assessed as likely to disturb eagles will not always disturb them, and the presence of a number of variables may affect the likelihood that take will occur. Because the Eagle Act requires a that permit be issued in order for any Bald Eagle take to be authorized, the Service cannot “exempt” any activity that meets the definition of a “take.” In addition, because the Management Guidelines were developed primarily to

reduce disturbance, they contain few measures for avoiding or reducing injury or mortality.

6. *Are pre-construction surveys required?*

Depending on the activity and circumstances posing the risk to eagles, some permit application will require pre-application surveys. Applications for eagle incidental take permits for wind facilities must include pre-construction eagle survey information collected according to standards defined in the Eagle Rule published in the Federal Register on December 14, 2016.

7. *Are post-activity monitoring and reporting required?*

Depending on the magnitude of the potential impacts to eagles, permittees may be required to monitor for up to 3 years following completion of the activity for which the permit is issued. For all permits with durations of 5 years or longer, monitoring must be conducted by qualified, independent entities that are approved by the Service and report directly to the Service. "Approved by the Service" means the Regional Permit Office issuing the permit must approve and designate in writing the specific third-party monitor. In the case of permits of less than 5-year duration, such third party monitoring may be required on a case-by-case basis. All permittees must submit an annual report containing all the information required by Service Form 3-202-15.

8. *What will the Service do with information gathered from the permittee monitoring?*

The Service can use the information to help assess whether future activities may result in disturbance or loss of one or more eagles. We will apply formal adaptive management to improve predictions of when and how much take will occur as well as what measures can be taken to minimize the risk of eagle take. The use of monitoring results as part of adaptive management will result in each permit contributing to and improving the scientific credibility of the permitting process. This information will allow the Service to refine permit conditions and recommendations in future versions of eagle management guidelines to minimize take of eagles.

9. *Will mitigation measures be required?*

All permittees will be required to avoid and minimize the potential for take to the maximum degree practicable. Compensatory mitigation scaled to project impacts will be required for any permit authorizing take that would exceed the authorized take limits. Compensatory mitigation for this purpose must ensure the preservation of the affected eagle species by reducing another ongoing form of mortality by an amount equal to or greater than the unavoidable mortality, or increasing the eagle population by an equal or greater amount.

10. *How long is an eagle non-purposeful take permit valid?*

An eagle incidental take permit can be issued for a maximum duration of 30 years. Permits valid for longer than 5 years can be of any duration between 5 years and 30 years. The Service will consider the degree of uncertainty as to the effects of the permitted activity, site-specific factors and other information to determine appropriate durations for individual permits.

11. *How will the Service ensure adequate protection for eagles during the lifespans of longer-term permits?*

With longer-term permits, the Service has the ability to build more effective adaptive management measures into the permit conditions. This approach will provide a degree of certainty that allows companies to plan accordingly by allocating resources so they are available if needed to implement additional conservation measures to benefit eagles and maintain their permit coverage. Permits with terms exceeding 5 years will be fully reviewed every 5 years and terms and conditions will be adjusted to ensure eagles are adequately protected

12. Does this permit authorize possession of eagles for any purpose?

No. This permit does not authorize collection of live or dead eagles. You must promptly notify the Service of any eagle(s) found injured or dead at the activity site, regardless of whether the injury or death resulted from your activity. The Service will determine the disposition of such eagles. Unless temporarily withheld for purposes of law enforcement, eagle remains are promptly sent to the National Eagle Repository for distribution to members of Native American tribes.

13. Do I need additional authorization to take eagles from my State or tribal government?

You are responsible for ensuring that the permitted activity is in compliance with all federal, tribal, state, and local laws and regulations applicable to eagles.

14. How much are permit application processing fees for this permit?

For short-term permits (less than 5 years), the application processing fee is \$500 for non-commercial entities and \$2,500 for commercial entities. For long-term permits (those with a duration of 5 years or longer), the application processing fee is \$36,000. Long-term permits are also charged an administration fee every 5 years to recover the Service costs for review of the permit. The permit administration fee is \$8,000.

15. How long does it take to get a permit for non-purposeful take of eagles?

The time needed by the Service to process a permit application depends on the complexity and scope of the activity and associated take, whether tribal consultation is warranted, what other environmental analyses may be required and other factors. In general, applicants may expect the following approximate permit processing times from the time we receive a complete application:

Short-term permits

Long-term permits

60 - 90 days

12 to 24 months

16. How do I renew my permit?

Except for some long-term permits, this type of permit should not typically be subject to renewal considerations, because, in general, short-term permits issued under these regulations authorize a limited amount of take, resulting from a specific activity that occurs in an identifiable time-frame. However, a renewal letter or form and annual report form will be sent to you at least 60 days prior to the expiration of your permit (partially as a reminder that your permit is due to expire). If you wish to renew your permit, you must return the completed renewal to your Regional Migratory Bird Permit Office at least 30 days prior to the expiration of your permit and include copies of any other permits required by your State, tribe, or other jurisdiction. If we receive your renewal request at least 30 days prior to the expiration of your permit, your permit will remain valid beyond the expiration date for the activity authorized on your permit until a decision on your renewal is made. If we receive your renewal request fewer than 30 days prior to expiration of your permit and we are unable to process your request before the expiration date, your permit will expire and you will no longer be covered for your activity. If you allow your permit to expire before requesting renewal, you may be required to submit a new application. (See 50 CFR 13.22 and 13.11(c)).