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**Bald Eagle Permits**

**Summary**

The Bald Eagle was declared the national bird in 1782. Populations started to dwindle in the 1930s as the use of Dichlorodiphenyltrichloroethane (DDT) increased. It was estimated that, in 1963, only 417 nesting pairs remained in the contiguous states. Bald Eagles were listed under the Endangered Species Preservation Act (a predecessor to the Endangered Species Act) in 1967. The species was upgraded to threatened in 1995 and delisted in 2007, when approximately 9,800 nesting pairs lived in the contiguous states. (Note: Bald Eagles in Alaska were never considered to be in peril).

Bald Eagles are protected under the *Lacey Act* (16 U.S.C. 3371–3378), *Migratory Bird Treaty Act* (16 U.S.C. 703-712), and *Bald and Golden Eagle Protection Act* (16 U.S.C. 668-668d). The *Lacey Act* (1900) prohibits trade in wildlife, fish, and plants that have been illegally taken, possessed, transported, or sold. The *Migratory Bird Treaty Act* (1918) makes it illegal to pursue, hunt, take, capture, kill, or sell birds listed therein as migratory birds. Finally, the *Bald and Golden Eagle Protection Act* (1940 amended 1962) prohibits the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit.

The United States Fish & Wildlife Service (FWS) has jurisdictions over Bald Eagles and is the primary agency that issues permits and provides enforcement.

**Permit Name**

The FWS can issue seven different permits related to Bald Eagles under the *Bald and Golden Eagle Protection Act*:

Eagle Parts request (Permit No. 3-200-15a)

To request eagles, parts and feathers for Native American religious purposes from the National Eagle Repository, located in Denver, Colorado. That is the central location for storage and distribution of eagle parts to Native Americans/Alaskans.

Eagle Exhibition (Permit No. 3-200-14)

Authorizes the recipient to possess and transport eagles for the sole purpose of educating the public about the biology, ecology, and conservation needs of eagles.

Eagle Depredation (Permit No. 3-200-16)

Is required to take or disturb bald or golden eagles that have become injurious to wildlife, agriculture or other personal property, or human health or safety.

International Transport for Native American Religious Purposes (Permit No. 3-200-69)

Required for the export, reimport, or transport of bald or golden eagle parts from or to the United States for Native American religious purposes.

International Transport for Scientific or Exhibition Purposes (Permit No. 3-200-69)

Required for the export, reimport, or transport of bald or golden eagle parts from or to the United States for scientific or educational exhibition purposes.

Eagle Take (Necessary to Protect Interests in a Particular Locality) (Permit No. 3-200-71) Authorizes the take of live bald and golden eagles and their eggs, where the take is associated with, but not the purpose of some human activity or project, and where take cannot practicably be avoided.

Eagle Nest Take (Permit No. 3-200-72)

Authorizes removal or relocation of an eagle nest in certain instances, including an active or inactive nest where necessary to alleviate a safety emergency; an inactive nest when the removal is necessary to ensure public health and safety; an inactive nest that is built on a human-engineered structure and creates a functional hazard that renders the structure inoperable; or an inactive nest in certain other instances where the take or the mitigation for the take will provide a clear and substantial benefit to eagles.

**Applicability**

Bald Eagles are long-distant migrants with a range that spans from Alaska to Mexico. If the presence of Bald Eagles is suspected and the proposed action cannot avoid disturbance, a permit may be required. Table 1 describes the minimum separation between the disturbing activity and bald eagle nest that may negate the need for a permit (if in doubt, check with FWS):

Table 1 – Disturbing activities and minimum separations

|  |  |  |  |
| --- | --- | --- | --- |
| Category  **Category** | Description of activity | Minimum separation between activity and nest | |
| Outside breeding season | Inside breeding season |
| A+B | Vertical and horizontal construction  Agriculture and aquaculture  Waterfront construction  Mining  Water impoundment | 330 ft – 660 ft  Depending on construction footprint | 660 ft |
| C | Timber Operations and Forestry Practices | 330 ft | 660 ft |
| D | Off-Road Vehicle Use | 0 ft | 330 ft , 660 ft if visible |
| E | Motorized Watercraft Use | 0 ft | 330 ft, more if noisy |
| F | Non-motorized recreation (e.g., hiking) | 0 ft | 330 ft if visible/noisy |
| G | Aircraft (fixed and rotary wing) | ? | 1,000 ft |
| H | Blasting, Fireworks, other loud noises | ½ mile | ½ mile |

The breeding season in Alaska is from March 1st through August 31st.

**Processing Times**

Processing takes between two and twenty-four months. Recently, a 3-200-71 permit was secured in four months for an Alaska Department of Transportation and Public Facilities (DOT&PF) road project in Sitka.

**Agency Coordination**

The FWS is the primary agency in charge of eagle permits. In Alaska, the Department of Fish and Game (ADF&G) needs to be consulted also. However, ADF&G has agreed to defer to FWS on DOT&PF projects.

**Consultation Process**

The FWS, like any agency with jurisdiction over a proposed action, should be consulted early and often. The presence of eagle nests, active or dormant, should be surveyed early and throughout project development, as nest locations may change. Consultation needs to continue through construction to minimize disturbance and mitigate the discovery of new nests.

**Information Necessary:**

What does the agency need from you?

* Contact info
* Certification and processing fee
* Magnitude and Type of Take
* Duration of Disturbance
* Project Description
* Define Need
* Eagle Activity
* Type of Disturbance
* Avoidance, Minimization, Mitigation, and Monitoring
* Other

Who/How do you get that information?

For DOT&PF projects, the permit application is compiled at the 95% design level (CatEx projects). Projects being assessed under an EA typically require a draft permit application be prepared alongside the EA.

**Special definitions**

An Eagle “take” is defined as: “Pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.”

Most takes are easy to understand, but a permit for construction related work will likely revolve around “Disturb’’, which means:

* 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;
* Injury to an eagle;
* A decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or
* Nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

**Enforcement and Penalties**

The FWS’ Office of Law Enforcement is charged with enforcing the law. They can pursue charges against violators under a combination of the respective acts, with penalties ranging as follows:

* Lacey Act: from $250 for marking violations to 5 years/$250,000
* Migratory Bird Treaty Act: First offense: max. 1 year/$5,000, organization felony: max. $500,000
* Bald and Golden Eagle Protection Act: First offense: max. 1 year/$100,000. Second offense: felony, max 2 years/$250,000

**REGULATIONS (CFR)**

State: AS 41.21.610-630 (Alaska Chilkat Bald Eagle Preserve)

Federal: 50 CFR 16, 21, and 22

**Other Resources**

* FWS: www.fws.gov/alaska/pages/migratory-birds/eagles-other-raptors/eagle-permits
* DOT&PF: http://dot.alaska.gov/stwddes/desenviron/resources/fish.shtml
* ADF&G: https://www.adfg.alaska.gov/index.cfm?adfg=baldeagle.main