

Provided, That the Director of the State agricultural department, college, or other public institution may requisition such scrub jays and Steller's jays killed as may be needed for scientific investigations.

(c) That such birds may be taken only by trapping or shooting and on areas where serious depredations are being or are about to be committed.

(d) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(e) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the States of Washington and Oregon.

(f) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the appropriate Special Agent in Charge (see § 10.22 of this subchapter).

[39 FR 31326, Aug. 28, 1974]

PART 22—EAGLE PERMITS

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AUTHORITY: Sec. 2, Eagle Protection Act of June 8, 1940, Chapter 278, 54 Stat. 251; Pub. L. 87-884, 76 Stat. 1246; sec. 2, Pub. L. 92-535, 86 Stat. 1065; sec. 9, Pub. L. 95-616, 92 Stat. 3114 (16 U.S.C. 668a).

SOURCE: 39 FR 1183, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 22.1 Purpose of regulations.

The regulations contained in this part govern the taking, possession, and transportation of bald and golden eagles for scientific, educational, and depredations control purposes and for the religious purposes of Indian tribes. The import, export, purchase, sale, or barter of bald or golden eagles, their parts, nests, or eggs is not permitted by any regulation of this Subchapter B.

§ 22.2 Scope of regulations.

(a) Bald eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to June 8, 1940, and golden eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to October 24, 1962, may be possessed, or transported without a Federal permit, but may not be imported, exported, purchased, sold, traded, bartered, or offered for purchase, sale, trade or barter; and all shipments containing such birds, parts, nests, or eggs must be marked as provided by 18 U.S.C. 44 and § 14.81 of this subchapter: *Provided*, That no exemption from any statute or regulation shall accrue to any offspring of such birds.

(b) The provisions in this part are in addition to, and are not in lieu of,

other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also Part 13 of this subchapter).

§ 22.3 Definitions.

In addition to definitions contained in Part 10 of this subchapter, and unless the context otherwise requires, in this Part 22:

“Area nesting population” means the number of pairs of golden eagles known to have a nesting attempt during the preceding 12 months within a 10-mile radius of a golden eagle nest.

“Golden eagle nest” means any readily identifiable structure built, maintained or occupied by golden eagles for propagation purposes.

“Inactive nest” means a golden eagle nest that is not currently used by golden eagles as determined by the absence of any adult, egg, or dependent young at the nest during the 10 days before the nest is taken.

“Nesting attempt” means any activity by golden eagles involving egg laying and incubation as determined by the presence of an egg attended by an adult, an adult in incubation posture, or other evidence indicating recent use of a golden eagle nest for incubation of eggs or rearing of young.

“Person” means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of any State or political subdivision of a State.

“Resource development or recovery” includes, but is not limited to, mining, timbering, extracting oil, natural gas and geothermal energy, construction of roads, dams, reservoirs, power plants, power transmission lines, and pipelines, as well as facilities and access routes essential to these operations, and reclamation following any of these operations.

“Take” includes also pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb.

[39 FR 1183, Jan. 4, 1974, as amended at 48 FR 57300, Dec. 29, 1983]

Subpart B—General Requirements

§ 22.11 General permit requirements.

No person shall take, possess, or transport any bald eagle (*Haliaeetus leucocephalus*) or any golden eagle (*Aquilachrysaetos*), or the parts, nests, or eggs of such birds except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and Part 13 and under § 21.22 (banding or marking permits), or under a depredation order issued under Subpart D of this part.

§ 22.12 General restrictions.

No person shall sell, purchase, barter, trade, or offer for sale, purchase, barter, or trade, export or import, at any time or in any manner, any bald eagle (*Haliaeetus leucocephalus*), or any golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of such birds, and no permit will be issued to authorize such acts.

Subpart C—Eagle Permits

§ 22.21 Permits for scientific or exhibition purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing taking, possession, or transportation of bald eagles or golden eagles, or their parts, nests, or eggs for the scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks.

(a) *Application procedure.* Applications for permits to take, possess, or transport bald or golden eagles, their parts, nests or eggs for scientific or exhibition purposes shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following information:

(1) Species of eagle and number of such birds, nests, or eggs proposed to be taken, possessed, or transported;

(2) Specific locality in which taking is proposed, if any;

(3) Method taking proposed, if any;

(4) If not taken, the source of eagles and other circumstances surrounding the proposed acquisition or transportation;

(5) Name and address of the public museum, public scientific societies, or public zoological park for which they are intended;

(6) Complete explanation and justification of request, nature of project or study, number of specimens now at institution, reason these are inadequate, and other appropriate explanations.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to take, possess, or transport bald or golden eagles for scientific or exhibition purposes, shall be subject to the following condition: In addition to any reporting requirement set forth in the permit, the permittee shall submit a report of activities conducted under the permit to the Special Agent in Charge within 30 days after expiration of the permit.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take, possess, or transport bald or golden eagles for scientific or exhibition purposes unless he has determined that such taking, possession, or transportation is compatible with the preservation of the bald or golden eagle. In making such determination, the Director shall consider, among other criteria, the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of bald and golden eagles;

(2) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application;

(3) Whether the justification of the purpose for which the permit is being requested is adequate to justify the removal of the eagle from the wild or otherwise change its status; and

(4) Whether the applicant has demonstrated that the permit is being requested for *bona fide* scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks.

(d) *Tenure of permits.* The tenure of permits to take bald or golden eagles for scientific or exhibition purposes shall be that shown on the face of the permit.

§ 22.22 Permits for Indian religious purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Indians.

(a) *Application procedure.* Applications for permits to take, possess, and transport bald or golden eagles, their parts, nests, or eggs for the religious use of Indians shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Only applications from individual Indians will be accepted. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Species and number of eagles or feathers proposed to be taken, or acquired by gift or inheritance.

(2) State and local area where the taking is proposed to be done, or from whom acquired.

(3) Name of tribe with which applicant is associated.

(4) Name of tribal religious ceremony(ies) for which required.

(5) Applicant must attach a certification from the Bureau of Indian Affairs that the applicant is an Indian.

(6) Applicant must attach a certification from a duly authorized official of the religious group that the applicant is authorized to participate in such ceremonies.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to take, possess, and transport bald or golden eagles, their parts, nests or eggs, for the religious use of Indians shall be subject to the following conditions:

(1) Bald or golden eagles or their parts possessed under permits issued pursuant to this section are not trans-

ferable, except such birds or their parts may be handed down from generation to generation or from one Indian to another in accordance with tribal or religious customs; and

(2) Permittees shall make such reports or submit inventories of eagle feathers or parts on hand as may be requested by the Special Agent in Charge.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take, possess, and transport bald or golden eagles, their parts, nests or eggs, for the religious use of Indians unless he has determined that such taking, possession, and transportation is compatible with the preservation of the bald or golden eagle. In making such determination, the Director shall consider, among other criteria, the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of bald or golden eagles; and

(2) Whether the applicant is an Indian who is authorized to participate in *bona fide* tribal religious ceremonies.

(d) *Tenure of permits.* Any permit issued pursuant to this section under which the applicant is authorized to take eagles shall be valid during the period specified on the face thereof which shall in no case be longer than 1 year from date of issue. Any permit issued pursuant to this part which authorizes the permittee to transport and possess eagles or their parts shall be valid for the life of the permittee unless sooner revoked.

§ 22.23 Permits to take depredating eagles.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking of depredating bald or golden eagles.

(a) *Application procedure.* Applications for permits to take depredating bald or golden eagles shall be submitted to the appropriate Special Agent in Charge (Sec. § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Species and number of eagles proposed to be taken;

(2) Location and description of property where taking is proposed;

(3) Inclusive dates for which permit is requested;

(4) Method of taking proposed;

(5) Kind and number of livestock or domestic animals owned by applicant;

(6) Kind and amount of alleged damaged; and

(7) Name, address, age, and business relationship with applicant of any person the applicant proposes to act for him as his agent in the taking of such eagles.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B. permits to take depredating bald or golden eagles shall be subject to the following conditions:

(1) Bald or golden eagles may be taken under permit by firearms, traps, or other suitable means except by poison or from aircraft;

(2) The taking of eagles under permit may be done only by the permittee or his agents named in the permit;

(3) Any eagle taken under authority of such permit will be promptly turned over to a Service agent or other game law enforcement officer designated in the permit; and

(4) In addition to any reporting requirement set forth in the permit, the permittee shall submit a report of activities conducted under the permit to the Special Agent in Charge within 10 days following completion of the taking operations or the expiration of the permit whichever occurs first.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take depredating bald or golden eagles unless he has determined that such taking is compatible with the preservation of the bald or golden eagle. In making such determination the Director shall consider the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild population of bald or golden eagles;

(2) Whether there is evidence to show that bald or golden eagles have in fact become seriously injurious to

wildlife or to agriculture or other interests in the particular locality to be covered by the permit, and the injury complained of is substantial; and

(3) Whether the only way to abate the damage caused by the bald or golden eagle is to take some or all of the offending birds.

(d) *Tenure of permits.* The tenure of any permit to take bald or golden eagles for depredation control purposes shall be that shown on the face thereof, and shall in no case be longer than 90 days from date of issue.

§ 22.24 Permits for falconry purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the possession and transportation of golden eagles for falconry purposes.

(a) *Application procedure.* Applications for permits to possess and transport golden eagles for falconry purposes shall be submitted to the appropriate special agent in charge (see § 13.11(b) of this subchapter). Each application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A copy of the applicant's master (or equivalent) class permit issued in accordance with 50 CFR 21.28.

(2) A statement of the applicant's experience in handling large raptors, including the species, type of experience and duration of the activity in which the experience was acquired.

(3) At least two (2) letters of reference from individuals with recognized experience in handling and/or flying eagles. Each letter must contain a concise history of the author's experience with eagles. Eagle handling experience is defined as, but is not limited to, the handling of pre-Act birds, zoological specimens, rehabilitating eagles, or scientific studies involving eagles. Each letter must also assess the applicant's capability to properly care for the fly golden eagles in falconry, and recommend the issuance or denial of the permit.

(4) A description of the facilities in which golden eagles will be housed.

(5) If requesting an eagle(s) from the Service, applicants must specify the

sex, age and condition of the eagle(s) they will accept.

(6) For eagles already legally possessed, a copy of the permit or other documentation authorizing possession of said birds, and the procedures to be used to minimize or eliminate hazards associated with the use of imprinted birds in falconry.

(7) Name, address, age and experience in handling raptors of any person the applicant proposes to act as an authorized agent in taking possession of golden eagles provided by the Service.

(8) To obtain additional or replacement golden eagles, a request in writing to the appropriate special agent in charge must be tendered, identifying the existing permit and, for replacement eagles, the reason for such replacement.

(b) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to possess and transport golden eagles for falconry purposes are subject to the following conditions:

(1) Golden eagles possessed for falconry purposes are considered as raptors and must be maintained in accordance with Federal falconry standards described in §§ 21.28 and 21.29 of this subchapter.

(2) Only golden eagles legally obtained may be possessed and transported for falconry purposes.

(3) Captive breeding of golden eagles possessed for falconry purposes is prohibited.

(4) The applicant, or authorized agent, must agree to take possession of a requested golden eagle(s) within 72 hours of notification of availability. Expenses incurred by the applicant in taking possession of said eagle(s) will be the applicant's responsibility.

(5) The golden eagle(s) must be banded with a numbered eagle marker provided by the Service.

(6) All permits issued pursuant to this section shall state on their face that eagles possessed for falconry purposes under authority of this permit may not be transferred or otherwise intentionally disposed of by any means, including release to the wild, without written approval from the appropriate regional director.

(7) All permits issued pursuant to this section shall state on their face that the appropriate special agent in charge must be notified no later than ten (10) days after the death of a permit holder.

(c) *More restrictive State laws.* Nothing in this section shall be construed to prevent a State from making and/or enforcing more restrictive laws and regulations as regards the use of golden eagles in falconry.

(d) *Issuance criteria.* The Director shall conduct an investigation and shall not issue a permit to possess and transport golden eagles for falconry purposes unless he has determined: that such possession and transportation is compatible with the preservation of golden eagles; that the proposed possession and transportation of golden eagles for falconry is not otherwise prohibited by laws and regulations within the State where the activity is proposed; and that the applicant is qualified to possess and transport golden eagles for falconry purposes. In making the latter determination, the Director shall consider, but shall not necessarily be limited to, the following:

(1) The applicant's cumulative falconry experience.

(2) The applicant's demonstrated ability to handle and care for large raptors.

(3) Information contained in the applicant's letters of reference.

(e) *Tenure of permits.* Any permit to possess and transport golden eagles for falconry purposes is valid for as long as the holder maintains a valid master (or equivalent) class falconry permit or until revoked in writing by the Service.

(f) *Permission to trap golden eagles for falconry purposes.* Applicants desiring to trap golden eagles from the wild for use in falconry must request and obtain permission from the Service prior to exercising this privilege. The following applies to requests:

(1) Only golden eagles from a specified depredation area may be trapped for falconry purposes.

(2) Permission to trap golden eagles must be requested in writing from the appropriate State Animal Damage Control (ADC) supervisor subsequent

to issuance of the permit to possess and transport golden eagles for falconry purposes.

(3) Permission to trap will not be granted until the permittee suitably demonstrates to the State ADC supervisor or a designated project leader his/her qualifications and capabilities to trap golden eagles from the wild.

(4) All such trapping must be conducted under the direct supervision of the State ADC supervisor or designated project leader in the specified depredation area.

(5) Any permission to trap golden eagles from the wild pursuant to this section shall in no case extend more than 90 days from the date of issue.

(6) Upon issuance of permission to trap in accordance with the above conditions, the appropriate special agent in charge will be notified in writing by the State ADC supervisor of the individual's name, address, location of the specified depredation area and tenure of permission to trap golden eagles.

(The information collection requirements in this section are cleared by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and assigned approval number 1018-0022. The information is necessary to determine potential permittee's qualifications and is required to obtain a permit)

[49 FR 891, Jan. 6, 1984]

§ 22.25 Permits to take golden eagle nests.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing any person to take golden eagle nests during a resource development or recovery operation when the nests are inactive, if the taking is compatible with the preservation of the area nesting population of golden eagles. The information collection requirements contained within this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to the criteria established in this section for the issuance

or denial of such permits. The obligation to respond is required to obtain or retain a permit.

(a) *Application procedure.* Applications for permits to take golden eagle nests must be submitted to the appropriate Special Agent in Charge (see § 13.11(b) of this chapter). Applications are only accepted from persons engaged in a resource development or recovery operation, including the planning and permitting stages of an operation. Each application must contain the general information and certification required by § 13.12(a) of this chapter plus the following additional information:

(1) A description of the resource development or recovery operation in which the applicant is engaged;

(2) The number of golden eagle nests proposed to be taken;

(3) A description of the property on which the taking is proposed, with reference made to its exact geographic location. An appropriately scaled map or plat must be included which delineates the area of the resource development or recovery operation and identifies the exact location of each golden eagle nest proposed to be taken. The map or plat must contain enough detail so that each golden eagle nest proposed to be taken can be readily located by the Service.

(4) For each golden eagle nest proposed to be taken, the applicant must calculate the area nesting population of golden eagles and identify on an appropriately scaled map or plat the exact location of each golden eagle nest used to calculate the area nesting population unless the Service has sufficient data to independently calculate the area nesting population. The map or plat must contain enough details so that each golden eagle nest used to calculate the area nesting population can be readily located by the Service.

(5) A description of each activity to be performed during the resource development or recovery operation which involves the taking of a golden eagle nest;

(6) A statement with any supporting documents from ornithologists experienced with golden eagles or other qualified persons who have made on site inspections and can verify the ap-

plicant's calculation of the area nesting population;

(7) The length of time for which the permit is requested, including the dates on which the proposed resource development or recovery operation is to begin and end;

(8) A statement indicating the intended disposition of each nest proposed to be taken. Applicants should state whether they are willing to collect any nest for scientific or educational purposes; and

(9) A statement indicating any proposed mitigation measures that are compatible with the resource development or recovery operation to encourage golden eagles to reoccupy the resource development or recovery site. Mitigation measures may include reclaiming disturbed land to enhance golden eagle nesting and foraging habitat, relocating in suitable habitat any inactive golden eagle nest taken, or establishing one or more nest sites. If the establishment of one or more nest sites is proposed, a description of the materials and methods to be used and the exact location of each artificial nest site must be included.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this chapter, permits to take golden eagle nests are subject to the following additional conditions:

(1) Only inactive golden eagle nests may be taken.

(2) The permittee shall submit a report of activities conducted under the permit to the Director within ten (10) days following the permit's expiration;

(3) The permittee shall notify the Director in writing at least 10 days but not more than 30 days before any golden eagle nest is taken;

(4) The permittee shall comply with any mitigation measures determined by the Director to be feasible and compatible with the resource development or recovery operation; and

(5) Any permit issued before the commencement of a resource development or recovery operation is invalid if the activity which required a permit is not performed.

(c) *Issuance criteria.* The Director shall conduct an investigation and not

issue a permit to take any golden eagle nest unless such taking is compatible with the preservation of the area nesting population of golden eagles. In making such determination, the Director shall consider the following:

(1) Whether the applicant can reasonably conduct the resource development or recovery operation in a manner that avoids taking any golden eagle nest;

(2) The total number of golden eagle nests proposed to be taken;

(3) The size of the area nesting population of golden eagles;

(4) Whether suitable golden eagle nesting and foraging habitat unaffected by the resource development or recovery operation is available to the area nesting population of golden eagles to accommodate any golden eagles displaced by the resource development or recovery operation;

(5) Whether feasible mitigation measures compatible with the resource development or recovery operation are available to encourage golden eagles to reoccupy the resource development or recovery site. Mitigation measures may include reclaiming disturbed land to enhance golden eagle nesting and foraging habitat, relocating in suitable habitat any golden eagle nest taken, or establishing one or more nest sites; and

(6) Whether the area nesting population is widely dispersed or locally concentrated.

(d) *Tenure of permits.* The tenure of any permit to take golden eagle nests is 2 years from the date of issuance, unless a shorter period of time is prescribed on the face of the permit. Permits may be renewed in accordance with Part 13 of this chapter.

[48 FR 57300, Dec. 29, 1983]

Subpart D—Depredation Control Orders on Golden Eagles

§ 22.31 Golden eagle depredations control order on request of Governor of a State.

(a) Whenever the Governor of any State requests permission to take golden eagles to seasonally protect domesticated flocks and herds in such State, the Director shall make an in-

vestigation and if he determines that such taking is necessary to and will seasonally protect domesticated flocks and herds in such States he shall authorize such taking in whatever part or parts of the State and for such periods as he determines necessary to protect such interests.

(b) Requests from the Governor of a State to take golden eagles to seasonally protect domesticated flocks and herds must be submitted in writing to the Director listing the periods of time during which the taking of such birds is recommended, and including a map of the State indicating the boundaries of the proposed area of taking. Such requests should include a statement of the facts and the source of such facts that in the Governor's opinion justifies the request. After a decision by the Director, the Governor will be advised in writing concerning the request and a notice will be published in the **FEDERAL REGISTER**.

§ 22.32 Conditions and limitations on taking under depredation control order.

(a) Whenever the taking of golden eagles without a permit is authorized for the seasonal protection of livestock, such birds may be taken by firearms, traps, or other suitable means except by poison or from aircraft.

(b) Any person exercising any of the privileges granted by this Subpart D must permit all reasonable times, including during actual operations, any Service agent, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require concerning such operations.

(c) The authority to take golden eagles under a depredations control order issued pursuant to this Subpart D only authorizes the taking of golden eagles when necessary to seasonally protect domesticated flocks and herds, and all such birds taken must be reported and turned over to a local Bureau Agent.