§ 22.26

(a) Purpose and scope. This permit authorizes take of bald eagles and golden eagles where the take is compatible with the preservation of the bald eagle and the golden eagle; necessary to protect an interest in a particular locality; associated with but not the purpose of the activity; and

(1) For individual instances of take: the take cannot practicably be avoided; or

(2) For programmatic take: the take is unavoidable even though advanced conservation practices are being implemented.

(b) Definitions. In addition to the definitions contained in part 10 of this subchapter, and §22.23, the following definition applies in this section:

Eagle means a live bald eagle (Haliaeetus leucocephalus), live golden eagle (Aquila chrysaetos), a bald eagle egg, or a golden eagle egg.

(c) Permit conditions. In addition to the conditions set forth in part 13 of this subchapter, which govern permit renewal, amendment, transfer, suspension, revocation, and other procedures and requirements for all permits issued by the Service, your authorization is subject to the following additional conditions:

(1) You must comply with all avoidance, minimization, or other mitigation measures determined by the Director as reasonable and specified in the terms of your permit to compensate for the detrimental effects, including indirect effects, of the permitted activity on the regional eagle population;

(2) You may be required to monitor eagle use of important eagle-use areas where eagles are likely to be affected by your activities for up to 3 years after completion of the activity or as set forth in a separate management plan, as specified on your permit. Unless different monitoring protocols are required under a separate management plan approved by the Service and noted on the permit, monitoring consists of periodic site visits, during the season(s) when eagles would normally be present, to the area where the take is likely to occur, and noting whether eagles continue to nest, roost, or forage there. The periodic monitoring is required for the duration of the activity that is likely to cause take (during the season(s) that eagles would normally be present). The frequency and duration of required monitoring after the activity is completed will depend on the form and magnitude of the anticipated take and the objectives of associated conservation measures, not to exceed what is reasonable to meet the primary purpose of the monitoring, which is to provide data needed by the Service regarding the impacts of human activity on eagles for purposes of adaptive management. Monitoring will not be required beyond 3 years after completion of an activity that
was likely to cause take. For ongoing activities and enduring site features that continue to be likely to result in take, periodic monitoring may be required for as long as the data are needed to assess impacts to eagles.

(3) You must submit an annual report summarizing the information you obtained through monitoring to the Service every year that your permit is valid and for up to 3 years after completion of the activity or termination of the permit, as specified in your permit. If your permit expires or is suspended or revoked before the activity is completed, you must submit the report within 60 days of such date. Reporting requirements include:

(i) Whether eagles are observed using the important eagle-use areas designated on the permit; and

(ii) Description of the human activities conducted at the site when eagles are observed.

(4) While the permit is valid and for up to 3 years after it expires, you must allow Service personnel, or other qualified persons designated by the Service, access to the areas where eagles are likely to be affected, at any reasonable hour, and with reasonable notice from the Service, for purposes of monitoring eagles at the site(s).

(5) The authorizations granted by permits issued under this section apply only to take that results from activities conducted in accordance with the description contained in the permit application and the terms of the permit. If the permitted activity changes after a permit is issued, you must immediately contact the Service to determine whether a permit amendment is required in order to retain take authorization.

(6) You must contact the Service immediately upon discovery of any unanticipated take.

(7) The Service may amend, suspend, or revoke a programmatic permit issued under this section if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspension, and revocation of Federal permits set forth in §§13.23, 13.27, and 13.28.

(8) Notwithstanding the provisions of §13.26 of this subchapter, you remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit.

(9) 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.

(10) The authorization granted by permits issued under this section is not valid unless you are in compliance with all Federal, tribal, State, and local laws and regulations applicable to take of eagles.

(d) Applying for an eagle take permit.

(1) You are advised to coordinate with the Service as early as possible for advice on whether a permit is needed and for technical assistance in assembling your permit application package. The Service may provide guidance on developing complete and adequate application materials and will determine when the application form and materials are ready for submission.

(2) Your application must consist of a completed application Form 3-200-71 and all required attachments. Send applications to the Regional Director of the Region in which the disturbance would occur—Attention: Migratory Bird Permit Office. You can find the current addresses for the Regional Directors in §2.2 of subchapter A of this chapter.

(e) Evaluation of applications. In determining whether to issue a permit, we will evaluate:

(1) Whether take is likely to occur based on the magnitude and nature of the impacts of the activity, which include indirect effects. For potential take in the form of disturbance, this evaluation would include:

(i) The prior exposure and tolerance to similar activity of eagles in the vicinity;

(ii) Visibility of the activity from the eagle’s nest, roost, or foraging perches; and
§ 22.27 Removal of eagle nests.

(a) Purpose and scope. (1) A permit may be issued under this section to authorize removal or relocation of:

(i) An active or inactive nest where necessary to alleviate a safety emergency;

(ii) An inactive eagle nest when the removal is necessary to ensure public health and safety;

(iii) An inactive nest that is built on a human-engineered structure and creates a functional hazard that renders the structure inoperable for its intended use; or

(iv) An inactive nest, provided the take is necessary to protect an interest in a particular locality and the activity necessitating the take or the mitigation for the take will, with reasonable certainty, provide a clear and substantial benefit to eagles.

(2) Where practicable and biologically warranted, the permit may require a nest to be relocated, or a substitute nest provided, in a suitable site within the same territory to provide a suitable habitat for eagles.

(3) If the permit is issued, the applicant shall:

(i) Take steps to ensure the efficient and humane relocation of the nest; and

(ii) Ensure the mitigation measures, to the extent practicable, are conducted in coordination with the Service.

(4) The applicant shall provide the Service with a report of the activities conducted under the permit, including:

(i) The date of the activities;

(ii) The number of nests relocated;

(iii) The number of eagles injured or killed; and

(iv) The number of eagles captured or observed.

(5) The Service may require the applicant to provide a detailed report of the activities conducted under the permit, including:

(i) The date of the activities;

(ii) The number of nests relocated;

(iii) The number of eagles injured or killed; and

(iv) The number of eagles captured or observed.

(6) The permit holder shall provide the Service with a copy of any photographs or video recordings taken during the activities conducted under the permit.

(7) The permit holder shall provide the Service with a copy of any documents or records related to the activities conducted under the permit.

(b) General requirements. (1) The permit holder shall:

(i) Comply with all applicable laws and regulations;

(ii) Cooperate with the Service in the enforcement of the permit;

(iii) Notify the Service of any changes in the permit holder’s status;

(iv) Notify the Service of any violations of the permit;

(v) Notify the Service of any disputes or conflicts that may arise under the permit;

(vi) Notify the Service of any other matters that may affect the permit.

(2) The permit holder shall:

(i) Comply with all applicable laws and regulations;

(ii) Cooperate with the Service in the enforcement of the permit;

(iii) Notify the Service of any changes in the permit holder’s status;

(iv) Notify the Service of any violations of the permit;

(v) Notify the Service of any disputes or conflicts that may arise under the permit;

(vi) Notify the Service of any other matters that may affect the permit.

(3) The permit holder shall:

(i) Comply with all applicable laws and regulations;

(ii) Cooperate with the Service in the enforcement of the permit;

(iii) Notify the Service of any changes in the permit holder’s status;

(iv) Notify the Service of any violations of the permit;

(v) Notify the Service of any disputes or conflicts that may arise under the permit;

(vi) Notify the Service of any other matters that may affect the permit.

(4) The permit holder shall:

(i) Comply with all applicable laws and regulations;

(ii) Cooperate with the Service in the enforcement of the permit;

(iii) Notify the Service of any changes in the permit holder’s status;

(iv) Notify the Service of any violations of the permit;

(v) Notify the Service of any disputes or conflicts that may arise under the permit;

(vi) Notify the Service of any other matters that may affect the permit.

(c) Duration. The permit shall be effective for a period of 5 years and may be renewed for an additional period of 5 years upon application of the permit holder.

(d) Termination. The permit shall terminate upon the occurrence of any of the following events:

(i) The permit holder ceases to comply with the terms and conditions of the permit;

(ii) The permit holder violates any applicable laws or regulations;

(iii) The permit holder fails to promptly notify the Service of any violations of the permit;

(iv) The permit holder fails to promptly notify the Service of any disputes or conflicts that may arise under the permit;

(v) The permit holder fails to promptly notify the Service of any other matters that may affect the permit.

§ 22.27 Removal of eagle nests.

(a) Purpose and scope. (1) A permit may be issued under this section to authorize removal or relocation of:

(i) An active or inactive nest where necessary to alleviate a safety emergency;

(ii) An inactive eagle nest when the removal is necessary to ensure public health and safety;

(iii) An inactive nest that is built on a human-engineered structure and creates a functional hazard that renders the structure inoperable for its intended use; or

(iv) An inactive nest, provided the take is necessary to protect an interest in a particular locality and the activity necessitating the take or the mitigation for the take will, with reasonable certainty, provide a clear and substantial benefit to eagles.

(b) General requirements. (1) The permit holder shall:

(i) Comply with all applicable laws and regulations;

(ii) Cooperate with the Service in the enforcement of the permit;

(iii) Notify the Service of any changes in the permit holder’s status;

(iv) Notify the Service of any violations of the permit;

(v) Notify the Service of any disputes or conflicts that may arise under the permit;

(vi) Notify the Service of any other matters that may affect the permit.

(2) The permit holder shall:

(i) Comply with all applicable laws and regulations;

(ii) Cooperate with the Service in the enforcement of the permit;

(iii) Notify the Service of any changes in the permit holder’s status;

(iv) Notify the Service of any violations of the permit;

(v) Notify the Service of any disputes or conflicts that may arise under the permit;

(vi) Notify the Service of any other matters that may affect the permit.

(3) The permit holder shall:

(i) Comply with all applicable laws and regulations;

(ii) Cooperate with the Service in the enforcement of the permit;

(iii) Notify the Service of any changes in the permit holder’s status;

(iv) Notify the Service of any violations of the permit;

(v) Notify the Service of any disputes or conflicts that may arise under the permit;

(vi) Notify the Service of any other matters that may affect the permit.

(4) The permit holder shall:

(i) Comply with all applicable laws and regulations;

(ii) Cooperate with the Service in the enforcement of the permit;

(iii) Notify the Service of any changes in the permit holder’s status;

(iv) Notify the Service of any violations of the permit;

(v) Notify the Service of any disputes or conflicts that may arise under the permit;

(vi) Notify the Service of any other matters that may affect the permit.

(c) Duration. The permit shall be effective for a period of 5 years and may be renewed for an additional period of 5 years upon application of the permit holder.

(d) Termination. The permit shall terminate upon the occurrence of any of the following events:

(i) The permit holder ceases to comply with the terms and conditions of the permit;

(ii) The permit holder violates any applicable laws or regulations;

(iii) The permit holder fails to promptly notify the Service of any violations of the permit;

(iv) The permit holder fails to promptly notify the Service of any disputes or conflicts that may arise under the permit;

(v) The permit holder fails to promptly notify the Service of any other matters that may affect the permit.