

(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 approved by the Office of Management and Budget under control 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, as amended at 63 FR 52638, Oct. 1, 1998]

§ 22.25 What are the requirements concerning 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) *How do I apply for a permit to take golden eagle nests?* You must submit applications for permits to take golden eagle nests to the appropriate Regional Director—Attention: Migratory Bird Permit Office. You can find addresses for the appropriate Regional Directors in 50 CFR 2.2. We will only accept applications if you are engaged in a resource development or recovery operation, including the planning and permitting stages of an operation. Your 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 applicant'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 habi-

tat, 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, as amended at 63 FR 52638, Oct. 1, 1998; 64 FR 50474, Sept. 17, 1999]

§§ 22.26–22.27 [Reserved]

§ 22.28 Permits for bald eagle take exempted under the Endangered Species Act.

(a) *Purpose and scope.* This permit authorizes take of bald eagles (*Haliaeetus leucocephalus*) in compliance with the terms and conditions of a section 7 incidental take statement under the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531 et seq.; 50 CFR 402, Subpart B).

(b) *Issuance Criteria.* Before issuing you a permit under this section, we must find that you are in full compliance with the terms and conditions contained in the applicable ESA incidental take statement for take of eagles, based on your certification and any other relevant information available to us, including, but not limited to, monitoring or progress reports required pursuant to your incidental take statement. The terms and conditions of the Eagle Act permit under this section, including any modified terms and conditions, must be compatible with the preservation of the bald eagle.

(c) *Permit conditions.* (1) You must comply with all terms and conditions of the incidental take statement issued under section 7 of the ESA, or modified

measures specified in the terms of your permit issued under this section. At permit issuance or at any time during its tenure, the Service may modify the terms and conditions that were included in your ESA incidental take statement, based on one or more of the following factors:

(i) You requested and received modified measures because some of the requirements for take authorization under the ESA were not necessary for take authorization under the Eagle Act;

(ii) The amount or extent of incidental take authorized under the take statement is exceeded;

(iii) New information reveals effects of the action that may affect eagles in a manner or to an extent not previously considered, and requires modification of the terms and conditions to ensure the preservation of the bald eagle or the golden eagle; or

(iv) The activity will be modified by the permittee in a manner that causes effects to eagles that were not previously considered and which requires modification of the terms and conditions in the incidental take statement in order to ensure the preservation of the bald eagle or the golden eagle.

(2) During any period when the eagles covered by your incidental take statement are listed under the ESA, you must comply with the terms and conditions of both the incidental take statement and the permit issued under this section.

(d) *Permit duration.* The permit will be valid until the action that will take eagles, as described in the incidental take statement or modified to condition the permit issued under this section, is completed, as long as the permittee complies with the terms and conditions of the permit, including any modified terms and conditions.

(e) *Applying for an eagle take permit.* (1) Your application must consist of a copy of the applicable section 7 incidental take statement issued pursuant to the Endangered Species Act (ESA), and a signed certification that you are in full compliance with all terms and conditions of the ESA incidental take statement.

(2) If you request reevaluation of the terms and conditions required under