

WisDOT Guidance for the Bald and Golden Eagle Protection Act

Background & Changes

Federal Bald and Golden Eagle Protection Act

- The U.S. Fish and Wildlife Service (USFWS) is responsible for managing and conserving bald and golden eagles under the [Bald and Golden Eagle Protection Act](#) (BGEPA)¹. The Act prohibits take of eagles (including their parts), nests or eggs without a permit.
- The following are all considered eagle nests and are protected (unless the nests are determined by a Federal, Tribal, or State eagle biologist to no longer be usable):
 - Any nest constructed by an eagle, even if the nest is never finished or used.
 - A nest built by another bird that is subsequently used by an eagle for reproduction.
 - A nest constructed by an eagle that is subsequently used by another species, such as owls or osprey.
- Eagle take permits can be avoided by implementing nest avoidance/minimization measures (e.g., buffers, timing restrictions).
- This guidance focuses primarily on bald eagles as golden eagles are not known to nest in Wisconsin.

Changes to WDNR Involvement

- The bald eagle is not a state-listed or special concern species and is not included on Wisconsin's Natural Heritage Inventory (NHI) Working List.
- Due to other state priorities and limited funding, WDNR has not conducted comprehensive aerial eagle nest surveys since 2019. WDNR's eagle nest data layer is no longer current and will not be retained in the NHI portal.
- Eagle nest information will no longer be communicated to WisDOT in the WDNR Endangered Resources Review (ERR) letters.

Project Review

- Project design teams are responsible for conducting a sufficient desktop/field review of the project area for eagle nests to determine if nests may be affected by the project activities. The scope of that review is project specific. Consider:
 - Project location and landscape context (refer to suitable habitat section).
 - Construction activities and their potential to directly impact a potential nest and/or disturb nesting eagles (refer to bald eagle disturbance table).
 - Resolution, time of year (i.e., leaf off/on), and age of available aerial imagery.
- Per USFWS, statements in the Information for Planning and Consultation (IPaC) Official Species List should not be relied upon determining presence/absence of eagle nests in the project area. IPaC only provides a probability estimate of eagle presence based on Avian Knowledge Network data.
- WisDOT has obtained a copy of WDNR's eagle nest historical data layer (refer to WisDOT Geoportal - Eagle Nest Historical Data Viewer section). This data layer cannot be used independently to determine eagle nest presence/absence for a project.

¹ Eagles are also protected under the federal Migratory Bird Treaty Act.

WisDOT Guidance for the Bald and Golden Eagle Protection Act

Presence & Suitable Habitat in WI

Bald eagles

- Bald eagles are present in WI all year round. Historically they have nested near water bodies, such as rivers, lakes, marshes, and reservoirs, with nearby forest cover. They require a good food base, perching areas and nesting sites.
- As bald eagle populations grow in WI, they are expanding their range. Bald eagles are increasingly found in drier areas that are farther from water sources such as farmland and urban/suburban habitat.
- Usually, bald eagle nests are built at the top of a large tree, on limbs capability of supporting their large nests. Nests have also been found on cliffs, the ground, and human-made structures (e.g., cell phone towers).

Golden Eagles

- Golden eagles have been documented in western/southwestern WI during colder months (October through May) and would be considered rare during the rest of the year.
- They prefer remote areas away from human disturbance and utilize landscapes with high ridges, rocky cliffs, bluffs, and large open fields/prairies.
- Golden eagles are not known to nest in WI at this time.

WisDOT Geoportal – Eagle Nest Historical Data Viewer

Users/access

- This map is only accessible to WisDOT staff and is for internal viewing only.
- You must have a WisDOT Geoportal acceptance login, refer to this link to obtain a login: [GeoPortal](#) (link will only work for WisDOT staff)
- You must be invited to the “Eagles” Geoportal group. Please contact [Jen Gibson](#) to be invited.
- If working remotely, you must be on the VPN.

Purpose/use

- The map is a historical record of where nests were known to occur at some point in the past (prior to 2020). It can serve as early awareness that a nest *may* be present in the project area.
- Many of the nest locations depicted in this map are in a state of flux, with some nests no longer present and new nests being constructed every year. As such, this map **cannot** be used to determine current eagle nest presence/absence for a project.
- Nest records in the map are depicted as 600 m diameter circles. Exact locations are not available. Further verification is necessary.

Direct map link: [Eagle Nests - Historical Data Viewer](#)

Breeding Season

- USFWS eagle biologists consider bald eagle breeding season dates to be **January 15 through August 15** in WI.
- WDNR has previously provided guidance that eagle breeding dates are January 15 through July 31. USFWS has acknowledged the difference in dates. USFWS has regulatory authority over eagles. The longer date range must be used unless USFWS agrees to adjust the breeding season

WisDOT Guidance for the Bald and Golden Eagle Protection Act

end date (no earlier than Aug 1) for a specific project. Refer to USFWS Coordination section for details.

Bald Eagle Disturbance Table

Distance	Time of Year	Activity	Permit Recommendation
>0.5 mile	Any time	Blasting and other extremely loud activities (e.g., pile driving)	No Eagle Disturbance Take permit
660 ft to 0.5 mile	Breeding season	Blasting and other extremely loud activities (e.g., pile driving)	Eagle Disturbance Take permit may not be recommended if eagles are tolerant of similar past disturbance; contact USFWS for assistance.
>660 ft	Any time	All (except blasting and other extremely loud activities)	No Eagle Disturbance Take permit
330 to 660 ft (if similar activity within 660 ft)	Breeding season	All	Eagle Disturbance Take permit may not be recommended if eagles are tolerant of past disturbance; contact USFWS for assistance.
330 to 660 ft (no similar activity within 660 ft)	Breeding season	All	Eagle Disturbance Take permit recommended; Contact USFWS for assistance.
330 to 660 ft	Outside of the breeding season	Activity that will not be noticeable when the eagles return (tree trimming, pipe installation, etc.)	Eagle Disturbance Take permit likely not recommended; contact USFWS for confirmation.
<330 ft	Outside of the Breeding Season	Tree clearing, building structures	Eagle Disturbance Take permit likely recommended; contact USFWS for assistance.
<330 ft	Breeding Season	All	Eagle Disturbance Take permit recommended; contact USFWS for assistance.

Modified from: <https://www.fws.gov/story/do-i-need-eagle-take-permit>

USFWS Coordination

- For general questions pertaining to eagle nests or breeding season date adjustment requests, contact the Regional USFWS Migratory Bird Office: PermitsR3MB@fws.gov
- Provide the following information in correspondence:
 - Location of the bald eagle nest ([latitude/longitude](#))
 - Location of the planned project
 - Type of project planned and long-term plans for the project
 - Distance between the project and the eagle nest
 - Project timing and duration (what year, which months)

WisDOT Guidance for the Bald and Golden Eagle Protection Act

Applying for Eagle Permits

- Refer to the Overview of Eagle Take Permits section below for a description of permit types/uses.
- Once the need for an eagle take permit has been identified, it is recommended that the [General Permit Eligibility Questionnaire](#) is completed to ensure the correct permit application is submitted.
- Permit applications are submitted through the [USFWS e-permitting system](#) and must be linked to WisDOT's business account. Submittal by WisDOT staff will streamline the account linking process.
 - Jen Gibson is the principal officer for WisDOT's business account.
 - WisDOT staff creating a new e-permitting account must use this WisDOT specific registration code: **6yVJkVO22V3U**
 - WisDOT staff with existing accounts that have not been linked, must reach out to [Jen Gibson](#) prior to submitting an application.
 - The creation and partnering of consultant (third-party) accounts to allow them to apply on WisDOT's behalf is a multistep process. Please email [Jen Gibson](#) if this is necessary.

Overview of Eagle Take Permits

Disturbance Take Permits (50 CFR 22.280)

These permits authorize the take of bald/golden eagles caused by [disturbance](#).

- [3-200-91 - Eagle Disturbance Take \(General Permit\)](#)
 - Only apply to bald eagles (specific permits are required for golden eagles).
 - Only apply to disturbance resulting from:
 - Linear infrastructure construction/maintenance within 660 ft of a nest
 - Building construction/maintenance within 660 ft of a nest
 - Aircraft operation within 1,000 ft of an in-use nest
 - Alterations of shorelines/waterbodies within 660 ft of a nest
 - Alteration of vegetation/prescribed burns within 660 ft of a nest
 - Loud intermittent noise (includes blasting) within 0.5-mile of an in-use nest
 - Motorized/non-motorized recreation within 300 ft of an in-use nest
 - Require adherence to the [permit's special conditions](#), which includes avoidance and minimization measures.
 - Monitoring and annual reporting are required, but level of effort is less than a specific permit. Compensatory mitigation is not required.
 - Valid for 1 year. General permit audits will be performed by USFWS.
- [3-200-91 - Eagle Disturbance Take \(Specific Permit\)](#)
 - Covers:
 - Disturbance to golden eagles
 - Disturbance to bald eagles from activities not covered under a general permit
 - Elimination of all foraging areas within an eagle territory
 - Disturbance take on Tribal land unless the Tribal government is the applicant

WisDOT Guidance for the Bald and Golden Eagle Protection Act

- Monitoring, annual reporting and compensatory mitigation are mandatory.
- Valid for up to 5 years.

Eagle Nest Take Permits (50 CFR 22.300)

These permits authorize the take of eagle nests for emergency, health and safety, removal from human-engineered structures, Endangered Species Act (ESA) wildlife protection, and other purposes.

A nest take permit is **always** required for an activity that removes, relocates, destroys or obstructs an eagle nest, even if the nest is not in-use (active).

- **3-200-72 - Eagle Nest Take (General Permit)**
 - Only apply to bald eagle nests (specific permits are required for golden eagle nests).
 - Limited to:
 - Human/eagle safety emergencies (alternate nest or in-use nest)
 - Protection of public health/safety (alternate nest or in-use nest prior to egg laying)
 - Functional hazards for a human-engineered structure (alternate nest or in-use nest prior to egg laying)
 - Applies to the removal of one specific nest and any new nesting attempts within 0.5 mile if similar emergency, safety, or hazard situation applies.
 - Requires adherence to the [permit's special conditions](#), which includes avoidance and minimization measures.
 - Monitoring and compensatory mitigation are not required; however, an annual report must be submitted
 - Valid for 1 year.
- **3-200-72 - Eagle Nest Take (Specific Permit)**
 - Covers:
 - Golden eagle nests
 - Nest take when necessary for the protection of ESA threatened/endangered wildlife (alternate nest or in-use nest prior to egg laying)
 - Other purposes (i.e., take of alternate nest to protect an interest that provides a net benefit to eagles)
 - Monitoring and compensatory mitigation may be required.
 - Valid for up to 5 years.

Additional Eagle Resources

[Bald Eagle \(Haliaeetus leucocephalus\) | U.S. Fish & Wildlife Service](#)

[National Bald Eagle Management Guidelines](#)

<https://www.fws.gov/sites/default/files/documents/bald-eagle-fact-sheet.pdf>

[Eagle Incidental Disturbance and Nest Take Permits | U.S. Fish & Wildlife Service](#)

[Nests Report – Find Bald Eagle, Osprey, Peregrine Falcon, Hawk & Other Nests In Wisconsin](#)

[Golden Eagles | U.S. Fish & Wildlife Service](#)

<https://wisconsinrticenter.org/golden-eagles-in-wisconsin/>