

Migratory Bird Program

Feathers, Remains, and Parts

Seeking Input from Federally Recognized Tribes: Possession and Acquisition of Migratory Bird and Eagle Remains, Feathers, and Parts

The U.S. Fish and Wildlife Service (Service) is seeking input from federally recognized Tribes on possible changes to regulations regarding possession and acquisition of bird remains, feathers, and parts. The Service administers the Migratory Bird Treaty Act, which protects over 1,100 species of birds. The Service is also responsible for implementing the Bald and Golden Eagle Protection Act, which protects the bald eagle and golden eagle. As part of these laws, authorization is required to acquire, possess, and use bird feathers and parts. These laws also limit the purposes for which possession and acquisition can be authorized.

What Action is Happening Now?

Acknowledging the significance of this rulemaking to Tribes, the Service is engaging with federally recognized Tribes to ensure we have the most current information on the possession and acquisition of the whole remains, feathers, and parts of migratory birds, including eagles.

Snowy egret



Brima Battle/USFWS

Example of a bald eagle feather bustle



S. Johnson/USFWS

The Service intends to propose regulation on the acquisition and possession of birds that will honor our Tribal trust responsibility, be consistent with Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act, and be legally durable.

Topics of Consideration:

Possession of Feathers, Remains, and Parts

The laws require that regulations authorize the possession of bird feathers, remains, and parts. For Tribes, enforcement discretion is currently provided by the “Morton Policy” and subsequent 2012 Attorney General’s Memorandum. These policies clarify that enrolled members of federally recognized Tribes can possess bird parts and feathers “without fear of Federal prosecution, harassment, or other interference.”

The Service is reviewing possession regulations and policies, including who is authorized and for what purposes. Here are some examples of topics we are seeking input on:

- Who should be allowed to possess migratory bird and eagle feathers?
- Should whole remains and parts be treated differently than feathers?
- What uses of bird parts and feathers should be authorized?
- What limitations should be in place?
- For example, a maximum number in possession for the general public?
- How do we best protect against illegal killing and black-market commercialization?

Acquisition of Feathers, Remains, and Parts

The laws require that regulations authorize the acquisition of bird feathers, remains, and parts. The 2012 Attorney General’s Memorandum provided additional means of acquisition by clarifying that enrolled members of federally recognized Tribes could acquire naturally molted or fallen bird feathers from the wild “without fear of Federal prosecution, harassment, or other interference.” To honor the significance of eagles to federally recognized Tribes, the Service established the National

Eagle Repository (Repository) in the early 1970s to provide enrolled members with the remains, feathers, and parts of golden eagles and bald eagles.

The Service is reviewing possession regulations and policies, including who is authorized and for what purposes. Here are some examples of topics we are seeking input on:

- How should migratory bird and eagle feathers be acquired?
- For example, who can pick up molted feathers? Receive a gift?
- Should whole remains and parts be treated differently than feathers?
- Should there be a geographical restriction on where Tribes can salvage whole remains of eagles? Other birds?
- For the Repository: Should we authorize Tribes or members? Should we distribute to members, Tribes, or both?
- How do we best protect against illegal killing and black-market commercialization?

International Transport

Currently, regulations (50 CFR 22.60) permit the international transport of eagle remains, parts, or feathers into or out of the U.S. for Indian religious purposes for a maximum 180-day period. We have heard this is restrictive for

American crows



Brima Battile/USFWS

Bald eagle



Chris Moebring/USFWS

some, in particular enrolled members living abroad. We are considering extending this tenure for up to 3 years, which is consistent with the tenure for permits issued under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). We are also considering what should be required to document legal acquisition.

Eagle Aviaries

Currently, regulations (50 CFR 22.60) permit Tribes to possess live eagles as part of a Tribal aviary and use live eagles and molted feathers for Tribal purposes.

The Service has developed procedures for eligibility criteria and permit conditions. We are considering moving current procedures into regulation for improved transparency.

Eagle Take

Currently, regulations (50 CFR 22.60) permit Tribes to take eagles from the wild; permits are valid for a maximum of 1 year. It is time-intensive for Tribes and the Service to renew these permits yearly when the activity is on-going. We are considering extending the tenure of these permits to a maximum of 5 years.

Next Steps

We invite your input, feedback, and open dialogue on these topics. We encourage Tribes to submit written comments to their Native American Liaison or to migratorybirds@fws.gov. Comments can be submitted at any time; however, we encourage submission of comments as early as possible to ensure we can fully consider and incorporate your input. Additionally, Tribes may contact their Native American Liaison for government-to-government consultation.

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