Upper Rio Grande Basin Water Operations Review and EIS
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	Water Operations		Cultural Resources
	URGWOM		Land Use
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	Geomorphology		Socioeconomics
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Comments/Summary:

RIP-91

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC48

Endangered and Threatened Wildlife and Plants; Final Rule to Reclassify the Bald Eagle From Endangered to Threatened in All of the Lower 48 States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service reclassifies under the Endangered Species Act of 1973 (Act), as amended, the bald eagle (*Haliaeetus leucocephalus*) from endangered to threatened in the lower 48 States. The bald eagle remains classified as threatened in Michigan, Minnesota, Wisconsin, Oregon, and Washington where it is currently listed as threatened. The special rule for threatened bald eagles is revised to include all lower 48 States. This action will not alter those conservation measures already in force to protect the species and its habitats. The bald eagle also occurs in Alaska and Canada, where it is not at risk and is not protected under the Act. Bald eagles of Mexico are not listed at this time due to a recently enacted moratorium on listing additional taxa as threatened or endangered.

EFFECTIVE DATE: August 11, 1995.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Fish and Wildlife Service, Ecological Services Field Office, 4469–48th Avenue Court, Rock Island, Illinois, 61201 and at the Division of Endangered Species, Fish and Wildlife Service, 1 Federal Drive, Whipple Federal Building, Fort Snelling, Minnesota 55111–4056.

FOR FURTHER INFORMATION CONTACT: Jody Gustitus Millar, Bald Eagle Recovery Coordinator, Fish and Wildlife Service, 4469–48th Avenue Court, Rock Island, Illinois 61201 (309/793–5800).

SUPPLEMENTARY INFORMATION:

Background

Literally translated, *Haliaeetus leucocephalus* means white-headed sea eagle. This large, powerful, brown bird with a white head and tail is well known as our Nation's symbol. Young bald eagles are mostly dark brown until they reach four to six years of age and may be confused with the golden eagle (*Aquila chrysaetos*). The bald eagle is the only sea eagle regularly occurring on the North American continent (American Ornithologists' Union 1983). Its range extends from central Alaska and Canada to northern Mexico.

The bald eagle is a bird of aquatic ecosystems (Gerrard and Bortolotti 1988). It frequents estuaries, large lakes, reservoirs, major rivers, and some seacoast habitats. However, such areas must have an adequate food base, perching areas, and nesting sites to support bald eagles. In winter, bald eagles often congregate at specific wintering sites that are generally close to open water and that offer good perch trees and night roosts. Bald eagle habitats encompass both public and private lands.

The bald eagle was first described in 1766 as *Falco leucocephalus* by Linnaeus. This South Carolina bird was later renamed as the southern bald eagle, subspecies *Haliaeetus leucocephalus leucocephalus* (Linnaeus), when, in 1897, Townsend identified the northern bald eagle as *Haliaeetus leucocephalus alascanus* (American Ornithologists' Union 1957). These two subspecific names were in use when the southern bald eagle (arbitrarily declared to occur south of the 40th parallel) was listed (32 FR 4001, March 11, 1967) as endangered under the Endangered Species Protection Act of 1966 (16 U.S.C. 668aa–668cc). By the time the bald eagle was listed (43 FR 6233, February 14, 1978) for the entire lower 48 States, the subspecies were no longer recognized by ornithologists.

The bald eagle historically ranged throughout North America except extreme northern Alaska and Canada and central and southern Mexico. Bald eagles nested on both coasts from Florida to Baja California, in the south, and from Labrador to the western Aleutian Islands, Alaska, in the north. In many of these areas they were abundant.

Gerrard and Bortolotti (1988) describe early population trends as follows. When Europeans first arrived on the North American continent, there were an estimated one-quarter to one-half million bald eagles. The first major decline in the bald eagle population probably began in the mid to late 1800's. It coincided with declines in numbers of waterfowl and shorebirds and other major prey species. Direct eagle killing was also prevalent, and, coupled with loss of nesting habitat, these factors reduced bald eagle numbers until the 1940's.

In 1940, the Bald Eagle Protection Act (16 U.S.C. 668) was passed. This law prohibits the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald eagle, alive or dead, including any part, nest, or egg, unless allowed by permit. Take includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb.

The Bald Eagle Protection Act and increased public awareness of the bald eagle resulted in a partial recovery or a slower decline of the species in most areas of the country. However, persecution continued, notably in Alaska, which was exempted from the Bald Eagle Protection Act and maintained a bounty on bald eagles. In 1952, after lengthy studies demonstrated that bald eagles were not affecting salmon numbers, Alaska was no longer exempted.

Shortly after World War II, the use of dichloro-diphenyl-trichloroethane (DDT) and other organochlorine compounds became widespread. Initially, DDT was sprayed extensively along coastal and other wetland areas to control mosquitos (Carson 1962). Later it was used as a general insecticide. As DDT accumulated in individual bald eagles from ingesting contaminated food, the species' reproduction plummeted. In the late 1960's and early 1970's, it was determined that dichlorophenyl-dichloroethylene (DDE), the principal breakdown product of DDT, accumulated in the fatty tissues of the adult females and impaired calcium release that is necessary for egg shell formation, thus inducing thin shells and reproductive failure.

In response to the decline following World War II, the Secretary of the Interior, on March 11, 1967 (32 FR 4001), listed bald eagles south of the 40th parallel as endangered under the Endangered Species Preservation Act of 1966. The northern bald eagle was not included in that action primarily because the Alaskan and Canadian populations were not considered endangered in 1967. On December 31, 1972, DDT was banned from use in the United States.

In 1973, the Endangered Species Act (16 U.S.C. 1531 *et seq.*) was passed. Among other provisions, it allowed the listing of distinct populations of animal species and the addition of a new category of "threatened." The Act defines an endangered species as a species that is in danger of extinction throughout all or a significant portion of its range. A threatened species is defined as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

A nationwide bald eagle survey by the Service and a number of other agencies and conservation groups in 1974 revealed that, in parts of the northern half of the lower 48 States, bald eagle populations and reproductive success were lower than in certain southern areas. In 1978, the Service listed the bald eagle, *Haliaeetus leucocephalus* (no subspecies referenced) throughout the lower 48 States as endangered except in Michigan, Minnesota, Wisconsin, Washington, and Oregon, where it was designated as threatened (43 FR 6233, February 14, 1978).

Restoring endangered and threatened animals and plants to the point where they are again viable, self-sustaining members of their ecosystems is the main goal of the Endangered Species Act. Thus, the Act contains recovery, as well as listing and protection, provisions. To effect recovery, section 4(f) of the Act provides for the development and implementation of recovery plans for listed species. According to the Act, a recovery plan is a plan for the conservation and survival of the species. It identifies, describes, and schedules the actions necessary to restore endangered and threatened species to a more secure biological condition.

In establishing a recovery program for the species in the mid-1970's, the Service divided the bald eagles of the lower 48 States into five recovery regions, based on geographic location. A recovery plan was prepared for each region by separate recovery teams composed of species experts in each geographic area. The teams set forth goals for recovery and identified tasks to achieve those goals. Coordination meetings were held regularly among the five teams to exchange data and other information. The five recovery regions and the dates of their approved recovery plans are as follows: Chesapeake Bay (1982, revised 1990), Pacific (1986), Southeastern (1984, revised 1989), Northern States (1983), and Southwestern (1982). The Northern States plan is under revision and is expected to be available for public review within the next six months. Many of the tasks described within these recovery plans have been funded and carried out by the Service and other Federal, State, and private organizations. Annual expenditures for the recovery and protection of the bald eagle by public and private agencies have exceeded $1 million each year for the past decade (Service files).

In the 17 years since it was listed throughout the conterminous 48 States, the bald eagle population has clearly increased in number and expanded in range. The improvement is a direct result of the banning of DDT and other persistent organochlorines, habitat protection, and from other recovery efforts. In 1963, a National Audubon Society survey reported only 417 active nests in the lower 48 States, with an average of 0.59 young produced per active nest. In 1994, about 4,450 occupied breeding areas were reported by the States with an estimated average young per occupied territory (for 4110 territories) of 1.17. Compared to 1974, the number of occupied breeding areas in the lower 48 States has increased by 462 percent, and since 1990, there has been a 47 percent increase. The species is doubling its breeding population every 6–7 years since the late 1970's.

TABLE 1.—NUMBER OF BALD EAGLE PAIRS COUNTED IN LOWER 48 STATES, 1963–1994

[Missing years indicate incomplete data]

Year	Number
1963	417
1974	791
1981	1188
1984	1757
1986	1875
1988	2475
1989	2680
1990	3020
1991	3391
1992	3747
1993	4016
1994	4452

The Act requires periodic review of the status of listed species. When the status of the bald eagle was reviewed the Service recognized the achievement of specific recovery plan reclassification goals. As a result of this review, the Service issued the proposed rule for reclassification to threatened status in all or portions of four recovery regions and proposed classification of those eagles in Mexico as endangered (59 FR 35584, July 12, 1994). The current action finalizes the reclassification to threatened for all five recovery regions where not already so listed but excludes the bald eagles of Mexico due to a recently imposed moratorium on new listings (PL 104–6, 109 Stat 73, April 10, 1995).

The five bald eagle recovery plans were first approved in the early 1980's. The biological basis for the recovery goals is described in each recovery plan. The five recovery regions are illustrated on the following map:

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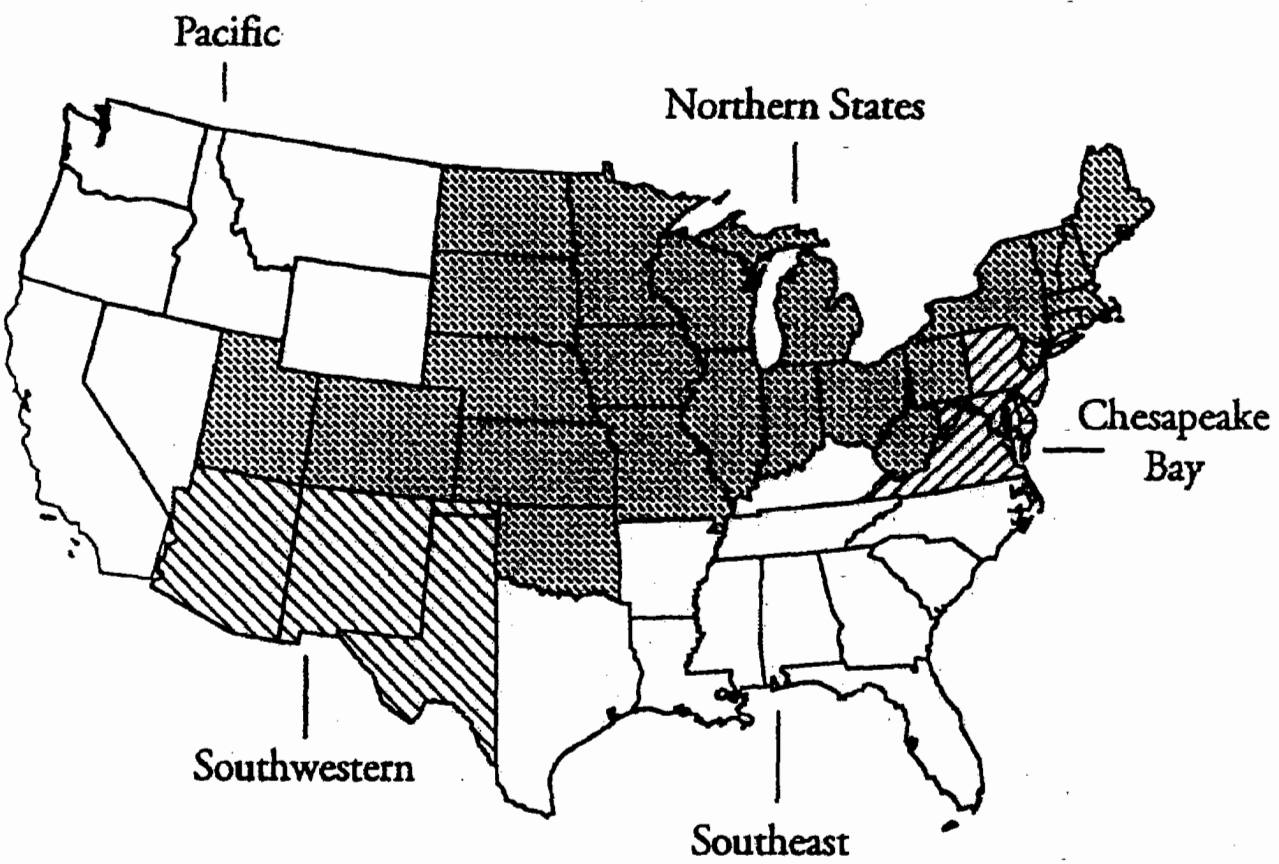
Bald Eagle Recovery Regions



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A summary follows of each recovery region's reclassification and delisting goals, an estimation of progress to date in achieving those goals, and final Service action. The term "occupied territories" indicates that a pair of bald eagles has established a breeding territory and a nest site but was not necessarily successful in producing young. "Young" or "young produced" are fledged young. All numbers are based upon known eagle nests and are not estimates. Surveys, particularly those before the late 1970's, miss some pairs, so all figures are considered to be minimums.

Chesapeake Recovery Region

Reclassification Goals: Sustaining 175–250 breeding pairs with a productivity level of 1.1 young per active nest, concurrent with sustained progress in habitat protection measures.

Delisting Goals: Sustaining 300–400 pairs with an average productivity of 1.1 young per active nest over five years with permanent protection of sufficient habitat to support this nesting population and enough roosting and foraging habitat to support population *levels commensurate with increases* throughout the Atlantic coastal area.

Progress to Date: 356 occupied territories and 1.1 young per occupied territory reported in 1994. Progress in habitat protection has been sustained and additional habitat is being protected. There have been in excess of 175 known occupied breeding areas since 1988; 1992 was the first year in which there were more than 300. Reclassification goals have been met, and delisting goals have been met for three of the required five years.

Service Action: Reclassify to threatened.

Northern Recovery Region

Reclassification Goals: No goal for reclassification to threatened status in present plan.

Delisting Goals: 1,200 occupied breeding areas distributed over a minimum of 16 States with an average annual productivity of at least 1.0 young per occupied nest.

Progress to Date: In 1994, there were 1772 known occupied territories distributed over 21 States with an estimated 1.26 young per occupied territory (based upon the 1473 territories included in productivity surveys). Productivity was 1.00 in 1990, 0.97 in 1991, 1.01 in 1992, and 0.95 in 1993. (Productivity is estimated from incomplete surveys for Wisconsin and *Minnesota in 1992 and 1993.* Productivity data are also incomplete from Wisconsin in 1990 and 1991; partial productivity surveys were conducted during those years). Delisting

goals have been met for occupied breeding areas and for productivity.

Service Action: Reclassify to threatened; the species will remain threatened in the three States where it has had that status. The recovery plan describes the delisting goals as initial and tentative. The Northern States Bald Eagle Recovery Team has reconvened for the purpose of reviewing and updating the plan, and currently is critically reviewing the delisting goals.

Pacific Recovery Region

Reclassification Goals: Nesting populations continue to increase annually for the five years beginning with the 1986 nesting season.

Delisting Goals: A minimum of 800 nesting pairs with an average reproductive rate of 1.0 fledged young per pair with an average success rate per occupied site of not less than 65% over a 5-year period. Attainment of breeding population goals should be met in at least 80% of management zones. Wintering populations should be stable or increasing.

Progress to Date: In 1994, 1192 occupied territories were reported with 1.03 young per occupied territory. The number of occupied territories has consistently increased since 1986 and exceeded 800 for 5 years beginning in 1990 when 861 were reported. Productivity has averaged about 1.03 since 1990. Nesting targets for 37 specified management zones have been reached in 57 percent of the zones. In 1994, 21 of those zones had met or exceeded their recovery goals, and 5 other zones in addition to the original 37 had nesting eagles that are not part of the recovery goals for this region. Reclassification goals have been met. Delisting goals have been met in all categories except distribution in zones with nesting targets.

Service Action: Reclassify to threatened in California, Idaho, Montana, Nevada, and Wyoming; the species will remain threatened in Washington and Oregon.

Southeastern Recovery Region

Reclassification Goals: 600 occupied breeding areas distributed over at least 75 percent of the historical range contingent upon greater than 0.9 young per occupied nest, greater than 1.5 young per successful nest, and at least 50 percent of the nests successful in raising at least one young; based on a 3-year average and documentation of population vigor and adequate support habitat. Individual State goals are given.

Delisting Goals: Delisting may be considered if the recovery trend continues for five years after reclassification goals are met. The criteria for delisting will be developed when the species is reclassified from endangered to threatened.

Progress to Date: 1099 occupied territories were reported with an average of 1.27 young per occupied territory (based upon 1059 territories) in 1994. Nesting is distributed over all 11 Southeastern States. The number of occupied territories reached 601 in 1991 and has exceeded 600 for four successive years. Reproductive success for the years 1990–1994 averaged 1.47 young per occupied territory. All individual State goals have been met with Florida and South Carolina doubling their original goals. Existing habitat is deemed to be adequate to achieve and exceed overall recovery plan goals. Reclassification goals have been met and delisting goals as stated may be met next year.

Service Action: Reclassify to threatened.

Southwestern Recovery Region

Reclassification Goals: 10–12 young per year over a 5-year period; population range has to expand to include one or more river drainages in addition to the Salt and Verde Systems.

Delisting Goals: None given.

Progress to Date: 30 occupied breeding areas were reported for 1994 with 21 young produced. Some of the increase in the Southwestern Region is due to finding previously unrecorded nest sites which may or may not be new. Ten or more young have been produced every year since 1981. Productivity has increased 10–20 percent through the assistance of the Arizona Nest Watch program (Hunt et al. 1992).

Breeding has expanded beyond the Salt and Verde River systems. Eagles are now nesting in the Gila, Bill Williams, and most recently, the San Carlos river systems in Arizona, and the Rio Grande in New Mexico. Thus, the reclassification criteria have been fully met. Information received in response to the proposed rule indicates that the bald eagles of central Arizona are not reproductively isolated, as was previously believed. Commentors also pointed out that bald eagles were likely never abundant in this arid land. Though many unique threats persist, trends of this population segment appears stable or increasing.

Service Action: Reclassify to Threatened

In summary, the Service is reclassifying the bald eagle from endangered to threatened in the Chesapeake, Southeastern, and Southwestern Recovery Regions and in those portions of the Northern States and Pacific Recovery Regions where it is currently classified as endangered. The Service is not delisting the bald eagle anywhere in the lower 48 States at this time.

At this time the Service is deferring further action on listing the bald eagles of northern Mexico as threatened or endangered. Provisions included in the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Publ. Law 104–6, 109 Stat 73; April 10, 1995) preclude the listing of taxa as threatened or endangered species during the remainder of fiscal year 1995. The bald eagles of northern Mexico will retain their status as species proposed for listing as threatened or endangered until the Service takes additional action.

Previous Federal Action

On February 7, 1990, the Service published an Advance Notice of a Proposed Rule (55 FR 4209) to announce that consideration was being given to the possible reclassification or delisting of the bald eagle in all or part of its range in the lower 48 States. A summary of those comments and Service responses to them were provided in the proposed rule of July 12, 1994 (59 FR 35584).

On July 12, 1994, the Service published the proposed rule to reclassify the bald eagle from endangered to threatened in most of the lower 48 States (59 FR 35584). Comments were requested by October 11, 1994. Newspaper notices were published on or about July 18, 1994, in papers of major cities or State capitals throughout the lower 48 States. Notification letters were sent to each State resource agency, major Federal agencies, major public conservation organizations, and all parties who submitted comments in response to the 1990 Notice. Eight written requests were received for public hearings. Two public hearings were held, and to accommodate them the comment period was extended to November 9, 1994 (59 FR 49908, September 30, 1994).

On March 23, 1995, (60 FR 15280) the Service published the announcement to reopen the comment period for 30 days due to the existence of substantial additional information concerning the possible inclusion of the Southwestern Bald Eagle Recovery Region in the reclassification. The reopened comment period was announced by a news release, and newspaper notices were published on or about March 24, 1995, in the *Washington Post* and major newspapers of the Southwest.

Notification letters were sent to all commentors on the proposed rule, State resource agencies, major Federal agencies, and major public conservation organizations. In addition, a public information meeting was held on April 3, 1995, in Phoenix, Arizona.

Summaries of Public Hearings, Comments, and Recommendations

The first public hearing was held from 7:00 p.m. to 9:00 p.m. on Tuesday, October 18, 1994, at the Somerset County Park Commission Environmental Education Center, 190 Lord Stirling Road, Basking Ridge, New Jersey. This hearing was held in response to requests from citizens living in Delaware and Rhode Island. The location was deemed to be centrally located for interested parties in both States. Notice of the public hearing was announced in local and regional newspapers. Four people attended this hearing and all provided comments. Major issues discussed included contaminants, particularly those associated with Delaware Bay, concern for low bald eagle breeding numbers in certain areas, recovery region boundaries, and scientific take permits.

The second public hearing was held from 6:30 p.m. to 9:30 p.m. on Tuesday, October 25, 1994, at St. Michael's Chapter House, Window Rock, Arizona. The hearing was held in response to requests from the Navajo Nation and representatives of Apache County, Arizona. Notice of the public hearing was published in local and regional newspapers. Five people attended this hearing and three people provided comments. Major issues discussed included take permits, Southwestern Recovery Region boundaries, and support for retaining the endangered status in the Southwestern Recovery Region.

Comments on the proposed rule were received from 72 parties including those attending the public hearings. Twenty-two State resource agencies responded to the proposed rule, of which 14 supported reclassification, three recommended the Southwestern Recovery Region be reclassified to threatened, one recommended bald eagles in its State be delisted, two did not object to reclassification but stated that they would retain State endangered status, and one provided comments, but gave no position.

Eighteen commentors represented organizations. Of these, ten stated support for the proposal, four recommended against the proposed rule, and two requested additional information.

Nineteen individuals provided comments, two of which provided surveys covering 157 people. Most individuals recommended against reclassification and several provided comments.

In response to the reopened comment period beginning March 23, 1995, the Service received 18 additional comments. Six State resource agencies responded with five of them supporting reclassification of the Southwestern Recovery Region and one requested delisting for a northern State. Four Federal entities responded. Three did not object to the reclassification, but two of those provided comments. One Federal entity requested the bald eagles of Mexico be listed as endangered. Two organizations opposed reclassification of the Southwestern bald eagles, as did two individuals. A third individual expressed opposition to any reduction of eagle protection. Three parties requested additional information but provided no comments.

Written comments received during the comment periods and oral statements presented at the public hearing are discussed in the following summary. Comments of a similar nature are grouped into general issues. These issues and the Service's response to each are discussed below.

Issue 1: The bald eagles of the Southwestern Recovery Region should be reclassified to threatened because recovery goals were met, genetic evidence does not indicate this population segment to be unique, and there is recent evidence of immigration.

Service Response: The Service has reviewed this issue, and due to the new evidence of immigration, reopened the comment period to alert the public to the new data and to reconsider whether or not this population segment is distinct and if it should also be reclassified to threatened. In considering the comments and information received, the Service has determined the Southwestern Recovery Region to be part of the same bald eagle population as that of the remaining lower 48 States. Therefore, the Service has included it in the reclassification. In 1994, a new pair of nesting bald eagles was discovered in the White Mountains at Luna Lake near Alpine, Arizona, bordering New Mexico. The male of this pair was trapped, and its band revealed that it had hatched in 1988 in southeastern Texas, south of Houston. This is the first known bald eagle to breed within Arizona's boundaries that originated in a different State and in a different recovery region (Southeastern).

Mabie et al. (1994) provides additional evidence of inter-population movements. Based on sight records, the authors believe that bald eagles fledged in Texas may enter breeding populations throughout the southern United States. Emigration of Texas-fledged eagles may also extend into Mexico (Driscoll, et al. 1993).

Though Hunt et al. (1992) suggested that the central Arizona population may be reproductively isolated, that publication also stated that, "neither enzyme electrophoresis nor DNA fingerprinting resolved any specific genetic markers from which Arizona eagles could be differentiated from those of other populations * * *.; Both techniques showed higher levels of genetic heterozygosity in the Arizona samples than the other populations tested * * *, [and] * * * these healthy levels of variation imply that the Arizona eagles are not currently experiencing inbreeding problems and may be capable of adapting to future environmental change. This, together with the occupancy and reproductive data, suggests that the population may be viable over the long term * * *" and that, in spite of the smaller size of the Arizona eagles, "We were unable to show a quality of uniqueness among the Arizona eagles that implies the existence of adaptations to the desert environment * * *"

Thus, based on new information on immigration and previously known genetic data, the Service believes this population is not reproductively isolated and should be included with the reclassification of the lower 48 States population.

Issue 2: Delisting goals have been met or exceeded in many cases. The bald eagle should be delisted in States where it has fully recovered.

Response: In 1978, the Service recognized separate population segments of this species primarily on the basis of State boundaries, with bald eagles in five northern and Pacific States listed as threatened, and those in the remainder of the lower 48 States listed as endangered. The distinctiveness of these population segments is questionable, given the dispersal capabilities of the species across state lines. For the purposes of this rule, the Service recognizes only one population in the lower 48 States, although the five recovery regions remain valid for management purposes. Thus, delisting will only be considered for the listed bald eagle population as a whole and not on a State by State or recovery region basis. Delisting goals have only been met for the Northern States Recovery Region and these goals were developed and approved as "tentative." Two recovery plans, those for the

Southwestern and the Southeastern Recovery Regions, have not yet established delisting goals. These three plans are currently being updated and revised, with emphasis on developing biologically sound delisting goals. Delisting goals for the remaining regions are very close to being met.

Issue 3: The number of occupied territories in several States or all the lower 48 States is too low to consider reclassification.

Response: Reclassification and delisting criteria were developed by experts in bald eagle biology in all five recovery regions. The reclassification criteria were met for all five recovery regions in the lower 48 States. Each recovery plan included the number and distribution of occupied territories and productivity as factors in recovery and reclassification. The bald eagle has never been uniformly distributed, and there is no biological reason to require a more even distribution of the species as a precursor to reclassification. The Service believes that, in the unlikely event of a catastrophe decimating a State's bald eagle population, pioneering eagles from other States would likely venture into the unoccupied habitats within a short time.

Issue 4: The Service should not proceed with reclassification until certain additional studies are conducted.

Service Response: The Endangered Species Act does not require that the Service know the answers to all outstanding biological questions before declaring the bald eagle to be recovering and worthy of reclassification to threatened status. Reclassification is based on criteria set forth in the recovery plans; those criteria are set at a level which is believed to be sufficiently high so that relisting as endangered will not be necessary in the foreseeable future. The plans were developed by the Nation's bald eagle experts and approved by the Service. Additional studies are not deemed necessary for reclassification.

Issue 5: Contaminants continue to depress reproduction and the prey base in many bald eagle nesting areas. Development continues to encroach on bald eagle habitat. Low level military aircraft flights may affect bald eagle reproduction. Many questions related to these factors remain unanswered.

Response: Even States which are known to have localized areas of contamination or development pressures have experienced increased numbers of occupied territories in the past 10 years. Achieving the reclassification criteria does not mean that all the threats are gone; rather, it means that the species is doing much better than when it was listed as endangered. The reclassification will not alter those conservation measures already in force to protect the species and its habitats. Since these pressures are expected to continue, all levels of government and the public will need to continue to work toward protection of important bald eagle habitat.

Issue 6: More bald eagles will be shot and killed if they are reclassified to threatened status.

Response: Shooting bald eagles is illegal under the Endangered Species Act regardless of whether they are classified as threatened or endangered. Bald eagles are also protected from shooting by the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act.

Issue 7: The bald eagles of the Channel Islands off California were once part of the Southwest and Mexican population segment. They were extirpated due to DDT exposure and have since been reintroduced. Reproduction remains low due to lingering contaminants. These birds should be classified as endangered.

Response: The Channel Island eagles are not a genetically unique population segment as they have recently been reintroduced to that area. The Service has also recognized the Southwestern population segment as not being reproductively isolated and, having met the reclassification criteria, is reclassified to threatened. Possible inclusion of the bald eagles of the Channel Islands with the Southwestern Recovery Region will be considered during the recovery plan updating and revision.

Issue 8: Bald eagles in western States should not be reclassified due to mortality from animal damage control methods.

Response: Animal damage control methods, such as M-44 sodium cyanide devices and zinc phosphide, if used legally and according to label instructions, pose low potential for poisoning bald eagles. Illegal use of carbofuran and other highly toxic chemicals on bait for predator control has resulted in a number of eagle mortalities. Such actions are illegal now, and will remain illegal following reclassification of the bald eagle. Western States and their respective recovery regions have met reclassification goals in spite of these localized mortalities.

Issue 9: The Service should prepare an environmental impact statement under National Environmental Policy Act (NEPA) based on increased permitted take that will result as land use changes occur on public lands.

Service Response: Reclassification will not increase permitted take of bald eagles due to land use changes occurring on public lands. Take permits are only issued for activities that promote recovery goals or for activities that incidentally take endangered or threatened species during the course of otherwise legal activities. The Service is required to consider NEPA compliance prior to deciding whether to issue each take permit. Habitat protective mechanisms remain the same under the Endangered Species Act whether a species is in the endangered or threatened status. In addition, the take prohibitions of the Bald and Golden Eagle Act and the Migratory Bird Treaty Act will remain in effect following reclassification.

Issue 10: The most current scientific information should be used for this reclassification based on the National Environmental Policy Act requirements.

Service Response: The Endangered Species Act requires the use of the best scientific and commercial data when making a determination to list, delist, or reclassify a species. Annual bald eagle survey data collected primarily by State and Federal biologists is compiled nationwide each year by the Service. In addition, many university, State, and Federal life history studies have been completed and others are on-going. Furthermore, there have been two public comment periods following the proposed reclassification notice, and one comment period subsequent to the 1990 Advance Notice. These comment periods provided opportunities for submission of additional data to the Service. The Service considered all relevant data in regards to achieving recovery plan goals, and believes the best available scientific data were used in determining that reclassification is warranted for the bald eagle. National Environmental Policy Act compliance is discussed at the end of this document.

Issue 11: The bald eagle should not be rushed into reclassification for political considerations, and it should be fully recovered before reclassification occurs.

Service Response: The Endangered Species Act requires periodic review of the status of listed species. The listing status should accurately reflect the biological status. Fully recovered implies that the species is no longer likely to become an endangered species and is candidate for delisting. The Act does not require that a species be fully recovered prior to reclassification to threatened status. Rather, a species must no longer be in danger of extinction for it to be reclassified from endangered to

threatened status. The Service used only biological information in determining to reclassify the bald eagle; political considerations were not a factor in the decision.

Issue 12: The Service acknowledges a high level of mortality due to illegal use of pesticides, yet states that pesticides in recent times have not impacted the bald eagle on a population level. How high is this mortality?

Service Response: The Service, with this rule, recognizes only one population of bald eagles in the lower 48 States and five recovery areas. Although full recovery may be faster if the Service were able to reduce all forms of mortality, the population and all management zones clearly have experienced significant improvement since completion of the recovery plans. The Service is using all available tools to minimize mortality to bald eagles from legal and illegal use of pesticides. Estimates of mortalities from illegal pesticide use cannot accurately be made, as many cases remain unreported.

Issue 13: The remnant population of Baja California, Mexico, bald eagles and possibly those of Sonora, Mexico, should be classified as endangered.

Service Response: The recent moratorium on listing new species prevents us from including the bald eagles of Mexico in this rule (PL 104-6, April 10, 1995). However, Mabie, et al. (1994) indicates the possibility that bald eagles of Texas may be emigrating to Sonora and other areas in the southwest. The numbers of nesting bald eagles in Baja, though low, appear stable. Current information does not indicate the bald eagles of Mexico are a distinct population, and thus may not warrant a separate listing as endangered. Following removal of the listing moratorium, all available data will be re-examined prior to making a final determination on Mexican bald eagles.

Issue 14: Recently, several bald eagles have died in Arkansas and Wisconsin from unknown causes.

Service Response: In the winter of 1994-95, 29 bald eagles died in Arkansas and 9 died in Wisconsin from unknown causes. Infectious disease has been ruled out as a likely cause. It is believed that the Arkansas mortalities were caused by a toxic agent different from that of Wisconsin. These mortalities are too few in number to impact recovery. Although it is disturbing that the agents have not yet been identified, the causes of these deaths do not appear to be common diseases which might spread widely to other eagles.

Issue 15: The new information regarding the successful nesting at Luna Lake, Arizona, which included a male from southeast Texas, does not constitute definitive proof that genetic interaction occurs between desert nesting bald eagle populations and wintering populations. The Service should retain the endangered status for these southwestern bald eagles.

Service Response: The significance of the Luna Lake nesting pair was that the male was documented as originating in a different recovery region, i.e. the Southeastern Recovery Region. This supported existing genetic data indicating the southwestern birds are not experiencing inbreeding problems. We are not aware of Arizona nesting birds interbreeding with wintering birds, although it is possible that a wintering bird might replace the lost mate of a pair. Though many threats remain, the Southwestern eagles have far exceeded the criteria for threatened status as outlined in the Southwestern Recovery Plan.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the bald eagle should be classified as a threatened species throughout the lower 48 States. Procedures found in section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations implementing the provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be listed or reclassified as threatened or endangered due to one or more of the five factors described in section 4(a)(1). These five factors and their application to the bald eagle (*Haliaeetus leucocephalus*) are as follows.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The bald eagle is associated with aquatic ecosystems throughout most of its range. Nesting almost never occurs farther than 3 km (2 miles) from water (Gerrard and Bortolotti 1988). Fish predominate in the typical diet of eagles. Many other types of prey are also taken, including waterfowl and small mammals, depending on location, time of year, and population cycles of prey species. Dead animals or carrion, especially in the wintering areas, are also taken when available (Lincer et al. 1979).

Nest sites are usually in large trees along shorelines in relatively remote areas. The trees must be sturdy and open to support a nest that is often 2-3 m (6-9 ft) across and more than a meter (3 ft) thick (Bent 1938). Bald eagles also select cliffs or rock outcrops for nest sites where large trees are not available. This dependence upon very large trees associated with water makes the eagle vulnerable to water-associated development pressures.

One of the two major threats to the bald eagle at present and for the foreseeable future is destruction and degradation of its habitat (the other major threat is environmental contaminants—see Factor E below). This occurs through direct cutting of trees for shoreline development, human disturbance associated with recreational use of shorelines and waterways, and contamination of waterways from point and non-point sources of pollution.

Steps to reduce these threats are underway by all levels of government and numerous private conservation organizations nationwide. Increased protection of nesting habitat and winter roost sites has occurred in many areas throughout the country. Guidelines to minimize human disturbance around nesting and winter roost sites have been developed in all parts of the country. Areas of contamination continue to be identified and reduced. Rehabilitation, captive propagation, reintroduction, and transplanting programs have all worked toward increasing the viability of the U.S. bald eagle population.

Current threats to the bald eagle's habitat and range in the United States by recovery region are as follows:

Chesapeake Bay Region—Buehler et al. (1991) reported that the bald eagle feeding and resting use of Chesapeake Bay shoreline was directly related to the distance of development from the shoreline. Eagles tended to avoid shorelines with nearby pedestrian or boat traffic. With human activity and development increasing, preferred bald eagle habitat is diminishing. Associated land clearing reduces bald eagle nesting and perching sites.

To offset these impacts, the Service has expanded its National Wildlife Refuge System around the Chesapeake Bay area to protect bald eagle habitat. For example, the Service acquired 3,500 acres of nesting and roosting habitat in the James River area of Chesapeake Bay in 1991 to be protected and managed for bald eagles. Acquisition of an additional 600 acres is planned. The Blackwater National Wildlife Refuge, which provides important eagle habitat on Chesapeake Bay, is also proposing to acquire more land. Nickerson (1989) estimates that enough suitable unoccupied nesting habitat remains that, if unaltered, it could sustain continued growth of the bald eagle population through the remainder of the 20th century.

Northern States Recovery Region—Development, particularly near urban areas, remains a primary threat. In spite of these localized problems, bald eagle nesting activity in the Northern States Recovery Region has more than doubled in the past 10 years from fewer than 700 to nearly 1,800 territories known to be occupied. There also is ample unoccupied habitat still available throughout this region.

In the Great Plains States, loss of wintering habitat is a major concern. Wintering areas have been lost through development of riparian areas for recreational, agricultural, and urban uses. Loss of wintering habitat also occurs due to lack of cottonwood regeneration. This results from changes in floodplain hydrology from construction of reservoirs and dam operations. Grazing also inhibits regeneration. A threat to some wintering populations of eagles in the Great Plains States is the destruction of prairie dog colonies and other important foraging areas (U.S. Fish and Wildlife Service 1992).

However, management measures, reforestation, improved water quality, and a reduction in pesticide contamination (see factor E below) have enabled the Northern States bald eagle populations to increase substantially overall. Where reservoirs may adversely affect woody riparian growth, they have provided additional forage base for eagles. Much eagle nesting and wintering habitat is on publicly owned lands. Many of these lands are protected by habitat management plans and strict eagle nest protection and management guidelines.

Pacific Recovery Region—Development-related habitat loss continues to be a major factor limiting the abundance and distribution of the species in the Pacific Recovery Region. Habitat conservation efforts, including laws and management practices by Federal and State agencies and efforts by private organizations, have helped to facilitate bald eagle population increases in the Pacific Recovery Region since the 1960's. For example, interagency working teams in six of the seven Pacific Recovery Region States have developed implementation plans to address local issues more specifically than the recovery plan. Bald eagle habitat guidelines have also been incorporated into development covenants and land use. California and Washington have rules relating to bald eagles on private lands to encourage landowners to maintain nesting territory habitat.

Southeastern Recovery Region—The accelerated pace of development activities within eagle habitat and the extensive area involved are the most significant limiting factors in the Southeastern Region. The cumulative effects of many water development projects impinge on the ability to maintain current nesting populations and ultimately may limit the extent to which recovery may occur.

To reduce these threats, habitat management guidelines are used to minimize development disturbance in and around nests. Several counties and municipalities have adopted the guidelines in their land use and zoning policies. In addition, a significant amount of new habitat has been created in the form of manmade reservoirs. Reservoirs primarily provide wintering and non-nesting habitat, but are used by nesting eagles as well (U.S. Fish and Wildlife Service 1989).

In addition, many of the States have, or have had, active reintroduction programs. Rehabilitation and release of injured eagles occurs throughout the Southeastern Region (U.S. Fish and Wildlife Service 1989). As a result of these and other efforts, the bald eagle nesting population in the Southeastern Region has more than doubled in the past 10 years.

Southwestern Recovery Region—In addition to threats in common with other recovery regions, such as human disturbance and availability of adequate nesting and feeding habitat, the bald eagles of the Southwestern Recovery Region, and nestlings in particular, are subjected to heat stress, nest parasites, and entanglement in fishing line debris from intense fishing pressure. Extensive monitoring through the Arizona Bald Eagle Nestwatch Program has lessened the impact of mortality factors by educating the public, protecting breeding areas, and maximizing the number of fledglings produced. The protection, education, and intervention that this program and current management efforts provide help sustain this population segment.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

There is no legal commercial or recreational use of bald eagles. The Service considers present legal and enforcement measures sufficient to prevent bald eagle extinction or a need to reclassify as endangered. The Service exercises very strict control over scientific, educational, and Native American religious activities involving bald eagles or their parts. With reclassification to threatened, the Service could issue permits for limited exhibition and educational purposes, for selected research work not directly related to the conservation of the species, and for other special purposes consistent with the Act (50 CFR 17.32 and 17.41(a)). The Service does not believe that the issuance of these additional permits would adversely impact the full recovery of the bald eagle.

C. Disease or Predation

Predation is not a significant problem for bald eagle populations. Incidents of mortality due to territory disputes between bald eagles have been reported. Diseases such as avian cholera, avian pox, aspergillosis, tuberculosis, and botulism may affect individual eagles, but are not considered to be a significant threat to the population. In the winter of 1994–95, 29 bald eagles died in Arkansas and 9 died in Wisconsin. Infectious disease has been ruled out. Apparently the Arkansas mortalities were caused by a toxic agent different from that of Wisconsin. These mortalities, though significant, are too few in number to impact recovery. In the Southwestern population, the Mexican chicken bug, when abundant, is known to occasionally kill young. According to the National Wildlife Health Research Center, National Biological Survey, Wisconsin, only 2.7 percent of bald eagles submitted to the Center between 1985 and 1990 died from infectious disease.

D. The Inadequacy of Existing Regulatory Mechanisms

The bald eagle is protected by the following Federal wildlife laws in the U.S.:

* Sections 7 and 9 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) protect individual bald eagles (threatened or endangered) and their active nests on public and private land.
* The Bald Eagle Protection Act (16 U.S.C. 668) prohibits without specific authorization the possession, transport, or take of any bald or golden eagle, their parts, nests, or eggs.
* The Migratory Bird Treaty Act (16 U.S.C. 703) prohibits without specific authorization the possession, transport, or take of any migratory bird (including bald eagles), their parts, nests, or eggs.
* The Lacey Act (16 U.S.C. 3372 and 18 U.S.C. 42–44) among other provisions, makes it unlawful to export, import, transport, sell, receive, acquire, or purchase any bald eagle (1) taken or possessed in violation of any law, treaty, or regulation of the United States or in violation of any Indian tribal law or (2) to be taken, sold, or transported in interstate or foreign commerce, in violation of any law or regulation of any State or in violation of any foreign law.

This species is afforded uncommonly comprehensive statutory and regulatory

protection under Federal and State authorities. These protections will remain in effect following reclassification to threatened status.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Contaminants may affect the survival as well as the reproductive success and health of bald eagles. The abundance, and, potentially more important, the quality of prey may be seriously affected by environmental contamination. Although many of the compounds implicated in reduced reproductive rates and direct mortality are no longer used, contaminants continue to be a major problem in some areas. Pesticides in recent times have not impacted the bald eagle on a population level; however, individual poisonings still occur.

Carcasses baited with poison may attract bald eagles as well as target animals such as coyotes. Poisonings may occur secondarily, when predatory animals are poisoned and subsequently eaten by eagles. Crop insecticides may be taken up by prey animals and may also result in eagle mortality. In addition, organophosphates and carbamates are sometimes used illegally as animal poisons. The National Wildlife Health Research Center has diagnosed over 100 cases of pesticide poisonings in bald eagles in the past 15 years.

Bald eagle deaths have been reported each year in the past decade on western rangelands due, in part, to illegal use of pesticides such as famphur, phorate, and carbofuran, and highly restricted chemicals, such as strychnine, Compound 1080, and others (Tom Jackson, Fish and Wildlife Service, Denver, pers. comm.). This mortality on western rangelands corresponds with the primary wintering areas for most western bald eagles (other than Pacific Coast birds). Some illegal uses of pesticides are targeted at bald and golden eagles. Cases of suspected intentional mortality through treating carcasses with pesticides have occurred in most western States and may occur in other States. The Service is using all available means to reduce these incidents.

Long-term exposure to contaminants is a much more extensive problem than is direct mortality. Lifetime exposure to contaminants may limit an eagle's reproductive capabilities, alter their behavior and foraging abilities, and increase their susceptibility to diseases or other environmental stresses. Organochlorines, such as DDT, are no longer legally used in the United States. Their presence in bald eagles is generally a consequence of their long persistence in the environment. Consequently, residues of such compounds from historical uses can still contaminate prey animals and be passed to eagles. Exposure to these compounds is also occurring at an early age. For example, approximately 90% of the eaglets sampled in Maine in 1992 had detectable levels of DDE in their blood.

In the Chesapeake Bay Region, Delaware Bay and the James River below Richmond continue to be a source of organochlorine and heavy metal contaminants that may impact eagle reproduction (U.S. Fish and Wildlife Service 1990). However, DDE concentrations in addled bald eagle eggs in Chesapeake Bay have declined significantly during the years between 1969 and 1984 (Wiemeyer et al. 1993).

In parts of the Northern States Region, contamination is depressing bald eagle productivity. This occurs notably in the coastal areas of Lakes Michigan and Huron, those rivers accessible by anadromous fishes of those lakes, and in parts of Maine. Research on bald eagle productivity in the vicinity of Lakes Michigan and Huron shorelines indicates significantly lower productivity than for inland breeding birds. The reduced productivity is correlated with concentrations of PCB's and DDE in addled eggs (Bowerman et al. 1994). DDT rapidly converts to DDE and is highly correlated with depressed productivity in bald eagles (Garcelon 1994).

PCB's and DDE residue concentrations have markedly decreased for Lake Superior bald eagle eggs in Wisconsin. Recent data indicate DDE concentrations in eggs have declined from greater than 20 parts per million in the 1970's to less than four parts per million in the 1990's (Michael Meyer, Wisconsin Department of Natural Resources, pers. comm.). This is significant because 4 parts per million is considered the no effect concentration for DDE (Wiemeyer et al. 1993).

Bald eagles of the Pacific Recovery Region nesting on California's Channel Islands, near the Columbia River estuary, and Hood Canal, which is adjacent to Puget Sound, repeatedly have low reproductive success. DDE and PCB's have had a deleterious effect on the reproduction of bald eagles in the Columbia River estuary (Anthony et al. 1993). Residual DDE continues to depress reproduction in the eagles of the Channel Islands. Bald eagle eggs from Catalina Island had the highest reported individual concentration (60 parts per million) of those analyzed between 1968 and 1990, and highest average concentration (32.9 parts per million) compared to that of any region or State (Garcelon 1994). Wiemeyer et al. (1993) found addled bald eagle eggs collected from the Klamath Basin and Cascade Lakes regions in Oregon ranked second (behind Maine) in DDE concentrations among the fifteen States sampled. However, concentrations of other contaminants in the Oregon eggs were low.

In spite of localized reproductive impairment, the Pacific Recovery Region population has increased by about 68 percent in the past 10 years. Contaminants are not known to be a significant problem for eagles in the Southwestern Recovery Region.

Lead poisoning has also contributed to bald eagle mortality. The National Wildlife Health Research Center has diagnosed lead poisoning in more than 225 bald eagles during the last 15 years. Lead can poison bald eagles when they ingest prey items that contain lead shot or lead fragments or where the prey has assimilated lead into its own tissues. In winter, eagles may feed on waterfowl that are dead or dying from lead poisoning or upon waterfowl crippled by lead shotgun pellets during the hunting season. Lead poisoning of eagles was a primary reason the Service required the nationwide use of non-toxic shot for waterfowl hunting. The requirement for use of non-toxic shot was phased in over a period of 5 years, and its use became mandatory for all waterfowl hunting in 1991. Use of lead shot is still permitted in many parts of Canada.

Of particular concern for bald eagles in the southeastern region and in Maine are the toxic effects of mercury (Wiemeyer et al. 1993; C. Facmire, U.S. Fish and Wildlife Service, Atlanta, pers. comm.). High levels of mercury affect eagles with a variety of neurological problems in which flight and other motor skills can be significantly altered and reduce hatching rates of eggs. Mercury has entered the waterways as air emissions from solid waste incineration sites and other point and non-point sources. Impacts to bald eagles from mercury are currently under investigation in the Southeastern Region.

Illegal shooting still poses threats to individual birds. Increased law enforcement and public awareness have reduced shooting impacts from being a cause of large scale mortality in the first half of this century to being responsible only for the deaths of occasional individuals at present. From 1985 to 1990, the National Wildlife Health Research Center had diagnosed over 150 bald eagle deaths due to gunshot. Hunter education courses routinely

include bald eagle identification material to educate hunters about bald eagles and the protections that the species is afforded.

Electrocutions occur on power poles and lines that are not yet configured for the protection of raptors. Much research has been done in this area, and new poles and lines are usually configured to reduce raptor electrocutions.

Human disturbance also remains a long-term threat. Significant declines in eagle use of the Skagit River, Washington, were noted in response to recreational activity (Stalmaster 1989). Human disturbance can be harmful during egg incubation and brooding periods, because disturbance can flush adults from nests and expose the eggs or young to adverse weather conditions.

Land management practices can reduce or eliminate these disturbance problems. Management of bald eagle nesting sites has progressed in some areas to include zones of protection extending up to 2.5 miles (U.S. Fish and Wildlife Service 1986). In the Bear Valley National Wildlife Refuge, Oregon, for example, public access is restricted from November 1 through March 30 to prevent human disturbance to wintering bald eagles.

Despite these various threats to the bald eagle, none are of sufficient magnitude, individually or collectively, to place the species at risk of extinction. Over most of the 48 States, the population is doubling every 6 or 7 years.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining this rule. Based on this evaluation, the preferred action is to reclassify the bald eagle from endangered to threatened in the lower 48 States. The bald eagle will remain threatened in the five States where it is currently listed as threatened. The threatened status is appropriate because the bald eagle is not in danger of extinction (i.e. endangered) throughout all or a significant portion of its range.

Recognition of One Population in the Lower 48 States

In 1978, the Service recognized distinct population segments of this species and delineated them on the basis of State boundaries, with bald eagles in five northern States listed as threatened, and those in the remainder of the lower 48 States listed as endangered. The distinctiveness of these population segments is questionable, given the dispersal capabilities of the species across State lines.

In the July 12, 1994, proposed rule, the southwest bald eagle population was recognized as distinct from eagles elsewhere in the lower 48 States based on evidence that it appeared to be reproductively isolated. However, new evidence of immigration coupled with genetic studies which were unable to demonstrate uniqueness in the Arizona eagles leads us to conclude that the population segment is not reproductively isolated. Thus, for purposes of this rule, the Service recognizes only one population of bald eagles in the lower 48 States. This population is now reclassified to threatened.

Special Rule

The Act allows special rules to be adopted for threatened species as needed for the species' conservation; such special rules are typically provided to reduce or augment those protections afforded to threatened species under the Act. Section 17.41(a) is a special rule adopted at the time of the 1978 reclassification of the bald eagle. The original intent was to reduce the number of permits required for researchers working on threatened eagles (i.e., Oregon, Washington, Minnesota, Wisconsin, and Michigan) under both § 17.32 and 50 CFR parts 21 and 22 (bird banding and eagle permits). The present special rule at § 17.41(a) reads as follows:

(a) Bald eagles (*Haliaeetus leucocephalus*) found in Washington, Oregon, Minnesota, Wisconsin, and Michigan.

(1) *Applicable provisions.* The provisions of §§ 17.31 and 17.32 shall apply to bald eagles specified in paragraph (a) of this section to the extent such provisions are consistent with the Bald Eagle Act (16 U.S.C. 668–668d), the Migratory Bird Treaty Act (16 U.S.C. 703–711), and the regulations issued thereunder.

The Service now clarifies the language of this special rule for all threatened bald eagles. Only a permit issued under the authority of 50 CFR 21.22 or 50 CFR part 22 (subpart C) is needed for such purposes as banding (§ 21.22); scientific study or exhibition (§ 22.21), which includes taking, possession, rehabilitation, and transport; native American religious use (§ 22.22); and depredation reduction (§ 22.23). A permit under § 17.32 would only be required when a permit under parts 21 and 22 do not provide for an otherwise lawful activity. The issuance of all such permits would remain subject to section 7 of the Act and part 402 of this title.

Effects of This Rule

As a result of the reclassification, prohibitions outlined under 50 CFR 17.41(a) would apply to all bald eagles of the lower 48 States. The Service could issue permits for exhibition and educational purposes, for selected research work (including banding and marking) not directly related to the conservation of the species, and for other special purposes. In allowing for a single permit, the Service seeks to foster further research and other uses of bald eagles consistent with the Act and the purposes of the Migratory Bird Treaty Act and the Bald Eagle Act (50 CFR 17.32, 17.41(a), 21.22, 22.21–21.23).

Requirements of the Act under section 7 still apply to all Federal agencies; there are no significant distinctions made in the Act or supporting regulations (part 402) between endangered and threatened species. The consultation and other requirements under section 7 apply equally to species with either classification.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Service offices listed in the Addresses section.

Author

The primary author of this notice is Jody Gustitus Millar, Bald Eagle Recovery Coordinator, Fish and Wildlife Service, 4469–48th Avenue Court, Rock Island, Illinois 61201 (309/793–5800).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.11(h) is amended by removing the two entries for "Eagle, bald" under BIRDS and adding a new entry for "Eagle, bald" in its place to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
Birds							
*	*	*	*	*	*		*
Eagle, bald	Haliaeetus leucocephalus.	North America, south into Mexico.	U.S.A. (conterminous 48 States).	T	1, 34, 580	NA	17.41(a)

3. Section 17.41(a) is revised to read as follows:

§ 17.41 Special rules—birds.

(a) Bald eagles (*Haliaeetus leucocephalus*) wherever listed as threatened under § 17.11(h).

(1) *Applicable provisions.* All prohibitions and measures of §§ 17.31 and 17.32 shall apply to any threatened bald eagle, *except* that any permit issued under § 21.22 or part 22 of this chapter shall be deemed to satisfy all requirements of §§ 17.31 and 17.32 for that authorized activity, and a second permit shall not be required under § 17.32. A permit is required under § 17.32 for any activity not covered by any permit issued under § 21.22 or part 22 of this chapter.

(2) [Reserved]

* * * * *

Dated: June 6, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

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