

## Fact Sheet

# The Bald Eagle: Other Protection following Delisting under the Endangered Species Act of 1973

November 5, 2004 draft (revised January 4, 2007)

## The Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act will continue to protect the bald eagle following delisting under the Endangered Species Act. Originally passed in 1940 to protect bald eagles, the Eagle Act was amended in 1962 to protect golden eagles as well, by prohibiting the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit (16 U.S.C 668(a); 50 CFR 22). “Take” includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb (16 U.S.C. 668c; 50 CFR 22.3).

A violation of the Eagle Act can result in a fine of \$100,000 or imprisonment for one year, or both, for a first offense. An organization may be fined \$200,000. Penalties increase for additional offenses. A second violation is a felony and can result in two years’ imprisonment and a fine of up to \$250,000 for an individual— or \$500,000 for an organization. People who provide information leading to an arrest and conviction are eligible for a reward of up to half of the fine.

## The Lacey Act

Congress originally passed the Lacey Act in 1900 to help States protect resident species by making it a Federal violation to transport illegally taken wildlife across State lines. Later amending the law, Congress extended its prohibitions to importing, exporting, selling, acquiring, or purchasing fish, wildlife, or plants taken, possessed, transported or sold in violation of U.S. or Indian law or State or foreign law. Prohibitions of the Lacey Act (16 U.S.C. 3371-78) will continue to apply to the bald eagle including its feathers, parts, nests, and eggs—as well as its products—following delisting under the Endangered Species Act. The Lacey Act also prohibits making false records, labels, or identification of shipped wildlife; importing injurious species; and shipping fish or wildlife in an inhumane manner.

Penalties include a maximum of five years in prison and a \$250,000 fine for felony convictions, a maximum \$10,000 fine for civil violations, and a \$250 fine for marking violations. The maximum criminal fine for an organization is

\$500,000. People who provide information leading to an arrest, criminal conviction, civil penalty, or forfeiture of property are eligible for a reward. Fish, wildlife, and plants involved in violations are subject to forfeiture. Vessels, vehicles, aircraft, and other equipment used to aid in importing, exporting, transporting, selling, receiving, acquiring, or purchasing fish or wildlife or plants in a criminal violation are subject to forfeiture upon a felony conviction involving commercialization.

## **The Migratory Bird Treaty Act**

The Migratory Bird Treaty Act is a Federal law that carries out the United States' commitment to four international conventions—with Canada, Mexico, Japan, and Russia. The conventions protect migratory birds as an international resource. The Migratory Bird Treaty Act (16 U.S.C. 703-712) and its implementing regulations (50 CFR 21) provide authority to conserve bird species such as the bald eagle, even if Endangered Species Act protections are removed.

Except as allowed by permit (50 CFR 21.11), the Migratory Bird Treaty Act makes it unlawful to pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry or cause to be carried, receive for shipment, or export any migratory bird—including eggs, parts, and nests. In addition, the Act authorizes and directs the Secretary of the Interior to determine if, and by what means, the take of migratory birds should be allowed and to adopt regulations permitting and governing take—for example, hunting seasons for ducks and geese.

Penalties include a maximum of two years' imprisonment and a \$250,000 fine for a felony conviction and six months' imprisonment and \$15,000 fine for a misdemeanor conviction. A commercial activity is a felony, just as is take with intent to sell. Maximum fines are doubled for any organization convicted of a felony violation.