

SP0070104-2 LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC-
COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT AND OTHER WILDLIFE
REGULATIONS.

COMMENTS FROM INTERNAL/INDUSTRY REVIEW

Arthur Berger

Comments: (Internal, 04-07-17)

Art Berger
4-7-17

LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC –
COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT AND OTHER
WILDLIFE REGULATIONS – BALD EAGLES.
(REV 1-31-17)

SUBARTICLE 7-1.4 is being expanded by the following new Sub article:

7-1.4.1 Additional Requirements for Bald Eagles (*Haliaeetus leucocephalus*):
The following active bald eagle nest(s) are located within 330 feet of the project as shown on the
plans:

____ Nest #
____ Nest #

The following active bald eagle nest(s) are located between 330 and 660
feet of the project as shown on the plans:

____ Nest #
____ Nest #

No construction activities can occur, including staging of equipment,
within 330 feet of any active bald eagle nest during nesting season (October 1 – May 15, or until
all nestlings fledge), unless a permit is obtained.

Conduct construction activities occurring between 330 feet and 660 feet
from an active bald eagle nest during nesting season as directed by the Engineer, who will act in
coordination with the nest Monitor provided by the Department. Stop work when directed by the
Engineer and do not resume work within the monitoring area until approval is received from the
Engineer.

Construction activities more than 660 feet from of a nest may be
conducted at any time of year, with no coordination with the USFWS or FWC ~~required~~

required

Response: Revised as suggested.

Brent Setchell
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Comments: (Industry, 04-17-17)

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Use when called for by the District Environmental Permit Office

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC –
COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT AND OTHER
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No construction activities can occur, including staging of equipment, within 330 feet of any active bald eagle nest during nesting season (October 15, or until all nestlings fledge), unless a permit is obtained.

Conduct construction activities occurring between 330 feet and 660 feet from an active bald eagle nest during nesting season as directed by the Engineer in coordination with the nest Monitor provided by the Department. Stop work if the Engineer and do not resume work within the monitoring area until approval of the Engineer.

Construction activities more than 660 feet from of a nest can be conducted at any time of year, with no coordination with the USFWS or FWC required.

RD152BS 15, or until Reply ×

I thought a permit was required for any work within 660' of a nest. The permit allows a biologist to monitor the nest when work is conducted within 330-660'.

4/17/2017 7:32 AM

C-required

Response: Confirmed with USFWS that a permit is not generally needed if the guidelines can be followed. Expectation is that the proper coordination occurred with agency during design/permitting to confirm if a permit would be required for the work or if following the monitoring guidelines was appropriate. If following the guidelines, then this special provision would apply and the guidelines advise no work within the 330 foot buffer. Removed “unless a permit is obtained” (see also comment below).

Megan Miller
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Comments: (Industry, 04-19-17)

The proposed text states that no construction activities can occur within 330 feet of any active bald eagle nest during nesting season unless a permit is obtained. Do we need to add more specific language as to who issues the permit and how they should be contacted?

Response: Removed this wording from special provision. Expectation is that the proper coordination occurred with agency during design/permitting to confirm if a permit would be required for the work or if following the monitoring guidelines was appropriate. This will remove the ambiguity in the previously proposed language.

District 5 Construction Operations Office
(386-943-5347)

Comments: (Industry, 05-5-17)

2 (Bald Eagle) – Time should be address for stopping of work between 330 feet and 660 feet. Could almost be a situation where you could start and stop work on a weekly basis.

Response: Work suspensions, at the request of the monitor and based on the Eagle Monitoring Guidelines, are tracked as part of the guidelines requirements. Additional non-compensatory time should be afforded the contractor based on the reporting by the monitor. No additional compensation should awarded but the additional non-compensatory time should be awarded.

Casey Lyon
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Comments: (Industry, 05-11-17)

Bald eagle – it may be of benefit to have an environmental representative at the Pre-Construction meeting to alert the contractor to the items listed in the sea turtle, gulf sturgeon, manatee, and smalltooth sawfish SPs. List which permits are necessary and/or all environmental clearances pertaining to that species. Have an option to put the monitoring on the contractor, referring to the bald eagle monitoring guidelines.

Response: First statement is not applicable to this species. Second statement is addressed in Standard Specification 7-2.1 where the contractor is directed to find permits for the project. Other environmental clearances not in a permit would be addressed in a special provision or modified special provision if the contractor needs to be made aware of them. Regarding the contractor monitoring for the bald eagle, this will need to be addressed on a case by case basis through an MSP and is not being considered for a special provision at this time.

Tiffany Crosby
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Comments: (Industry, 05-11-17)

Will an MSP be required for the addition of nest identification number per project?

Response: No. The intent is to include as many nests numbers as are applicable to the project without requiring an MSP. Revised draft wording to hopefully reduce confusion on this.

This specification identifies specific nest sites. Should the specification include a reference to the Unanticipated Interaction guidelines to address if a new nest or alternate nest is found within 660 ft of the project area that was not previously documented?

Response: Added reference to URL.

FTE will likely require an MSP for this specification as written to notify the Contractor of their responsibility to provide the required activates.

Response: Agreed that if requested, this will need to be addressed on a case by case basis through an MSP and is not being considered for a special provision at this time.
