



# Sealaska Heritage Institute

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## **Migratory Bird Policy How it affects American Indians and Alaska Natives**

These guidelines and resources were compiled by Sealaska Heritage Institute in 2013 after a tribal member was penalized by the U.S. Fish and Wildlife Service for incorporating flicker feathers and raven parts into cultural objects for sale. The following bullets were issued by the U.S. Department of Justice in 2012:

**The policy provides generally that the Department of Justice will not prosecute members of federally recognized tribes who:**

- Have or use the feathers or other parts of eagles or other migratory birds.
- Pick up naturally fallen or molted feathers found in the wild, without disturbing birds or their nests.
- Give or lend the feathers or other parts of eagles or other migratory birds to other members of federally recognized tribes.
- Exchange with other members of federally recognized tribes, without payment of any kind, the feathers or other parts of eagles or other migratory birds for other such items.
- Give the feathers or other parts of eagles or other migratory birds to craftspersons who are also members of federally recognized tribes to be fashioned into cultural or religious items. Craftspersons may be paid for their work, but no payment may be made for the feathers or other parts of the eagles or other migratory birds.<sup>1</sup>

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<sup>1</sup> The following clarification was provided by the U.S. Fish and Wildlife Service's Office of Law Enforcement: Under Federal policy, Native Americans may transfer eagle or migratory bird feathers to tribal craftsmen without charge to be fashioned into an item for use in religious or cultural activities. The craftsmen may be compensated for their work in making the item.

Tribal craftsmen, however, may not make and then sell items using feathers that belong to them because such payments would encompass both labor and "supplies" (i.e., feathers). A transaction of this type would constitute commercialization of bird feathers and would be prohibited under Federal law.

- Travel in the United States with the feathers or other parts of eagles or other migratory birds.
- Travel internationally with the feathers or other parts of eagles or other migratory birds, subject to permit requirements.

**The Department of Justice will continue to prosecute tribal members and nonmembers alike for:**

- Buying or selling the feathers or other parts of eagles or other migratory birds or trading them for goods or services (or attempting to do so).
- Killing federally protected birds without a permit. Tribal members can apply to the U.S. Fish and Wildlife Service for permits to take (including kill) eagles for religious purposes.
- Members of federally recognized tribes do not need permits to possess the feathers or other parts of eagles or other migratory birds or to engage in the other activities listed above (with the exception of certain international travel).

**Common Migratory Birds (see link below for comprehensive list):**

- Eagle
- Flicker
- Loon
- Osprey
- Pigeon
- Raven
- Sparrow
- Swan

Press Release on Policy:

<http://www.justice.gov/opa/pr/2012/October/12-ag-1234.html>

Comprehensive List of Birds Protected by the Migratory Bird Treaty Act:

<http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtandx.html>

Guidelines for Indian People of Canada:

<http://www.fws.gov/le/travel-to-united-states-with-eagle-items.html>

Additional Information Regarding Marine Mammals:

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<http://alaska.fws.gov/law/pdf/beachfound.pdf>

**ANY FURTHER QUESTIONS CAN BE DIRECTED TO THE U.S. FISH AND WILDLIFE SERVICE'S**

**OFFICE OF LAW ENFORCEMENT:**

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