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# U.S. Fish & Wildlife Service – Overview & Eagle Take Permits Rule

Eric Davis, Assistant Regional Director for  
Migratory Birds & State Programs (Region 8)



# Bald and Golden Eagle Conservation Regulatory Framework



# Species Protection



## Federal Laws:

- Bald and Golden Eagle Protection Act
- Migratory Bird Treaty Act



# Eagle Act – 2009 Take Permit Rule



- Aug. 2007 - Bald eagle delisted from ESA
- Sept. 2009 - Eagle Permit Rule - two eagle permit regulations
  - Previously no mechanism to authorize incidental take



# Take Definitions



- **Take** - pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest or disturb
- **Disturb** - to agitate or bother a Bald or Golden eagle to a degree that causes, or likely to cause, based on best scientific information
  - injury to an eagle
  - decrease in productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior
  - nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior



## § 22.27 Removal of eagle nests



take of nests for health and safety, and other limited purposes





# Eagle Act § 22.26 - Incidental Take

## For disturbance and other non-purposeful take

Standard permits

- “one-time” take



Programmatic Permits

- recurring take





## § 22.26 Incidental Take



### Permits:

- Subject to take thresholds
- Only when take cannot practicably be avoided
- Must be compatible with eagle conservation

### Priority

1. Safety emergencies
2. Native American religious use
3. Renewal of programmatic take permits
4. Non-emergency activities necessary to ensure public health and safety





# Eagle Act Programmatic Permit Issuance Criteria



1. The permitted project is compatible with eagle preservation;
2. Take is necessary to protect a legitimate interest;
3. Take is incidental, to otherwise legal activities;
4. Take is unavoidable;
5. Take will occur despite application of ACPs;
6. Permit will not preclude issuance of higher priority permit;

# Guidance & Regulation Changes



# Eagle Conservation Plan Guidance



U.S. Fish and Wildlife Service

## Eagle Conservation Plan Guidance Module 1 – Land-based Wind Energy Version 2



U.S. Fish and Wildlife Service  
Division of Migratory Bird Management

April 2013



- Eagle Conservation Plan Guidance, Module 1 – Land-based Wind Energy Version-2
- Released April 2013



# Changes in the Regulations



Final Rule Published December 9, 2013

- extends the maximum term for programmatic permits from 5 to 30 years
- Allows programmatic permits to be transferable to new project owners
- increased permit fees
  - ✦ \$36,000 for processing programmatic permit application
  - ✦ \$2,600 administration fee for each 5-year review





# Additional Rule Changes?



There may be additional changes to the Permit Rule

April 2012, the Service issued an Advance Notice of Proposed Rulemaking proposing to revise Eagle Act permit regulations (50 CFR 22.26 and 22.27)

Stakeholders and the public asked to identify issues that may be improved by regulatory revisions



# Additional Rule Changes?



## FWS solicited public comments about the permit program concerning



- How the Eagle Act's language regarding preservation of eagles should be interpreted and applied;
- The level of impacts that trigger compensatory mitigation;
- Issuance criteria for programmatic permits; and
- Possible mechanisms for streamlining permits

# Additional Rule Changes?



We solicited additional public input on changes to the 2009 permit regulations



- additional NEPA analysis will be conducted
- series of public scoping meetings in Summer 2014
- Letters mailed to Tribal Leaders
- Public comment period closed Sept. 22<sup>nd</sup>



# Why we are here



The Service is particularly interested in the perspectives of Tribal governments and Tribal members with regard to management and Bald Eagles and Golden Eagles.



# Input sought



## Public input:

- Eagle management objectives
- Adaptive management
- Compensatory mitigation
- Permit standards and duration
- **Evaluation of “low-risk” projects**
- Eagle nest removal permits
- Effects on cultural resources
- Research initiatives and needs



## For more information



- USFWS Pacific Southwest Eagle Webpage:  
<http://www.fws.gov/cno/conservation/MigratoryBirds/EaglePermits.htm>

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Contains links to:

- **National Eagle Webpage with 2009 Final Rule and new “Duration Rule” (posted as purposed rule)**
- CA-NV Golden Eagle Working Group website

Contact:

- Eliza Savage, 703-358-2329, [eliza\\_savage@fws.gov](mailto:eliza_savage@fws.gov)
- Heather Beeler, 916-414-6651, [heather\\_beeler@fws.gov](mailto:heather_beeler@fws.gov)

# Eagle Act Permit Regulations



Questions?

