

Eagle Conservation, Wind Energy, and Policy

Wind Energy and Eagles

The Bald and Golden Eagle Protection Act (BGEPA) prohibits the taking (killing, wounding, or disturbing) of bald and golden eagles without a permit. Eagles have been killed by wind turbines, yet wind energy development is critical to meeting renewable energy goals, reducing greenhouse gas emissions, and limiting the effects of climate change, which is a major threat to eagles and other wildlife. The U.S. Fish and Wildlife Service (Service) has developed a framework for permitting lawful take and conserving eagles, and has recently proposed regulations for the issuance of eagle take permits where the take is associated with an otherwise lawful activity, such as wind energy development. Helping to reconcile the goals of wind energy development and eagle conservation is an urgent priority for AWWI and partners.



The Eagle Rule

During the bald eagle's tenure on the endangered species list, the Endangered Species Act (ESA) provided a permit system covering incidental take of bald eagles by otherwise lawful activities. When bald eagles were de-listed in 2007, they still remained under federal protection under BGEPA, but the incidental take permit through the ESA was no longer available. The Service published a rule ("the Eagle Rule") in 2009 to allow the issuance of permits for incidental and unavoidable take of bald or golden eagles. These permits are available for any otherwise lawful activity that would potentially harm or disturb eagles. Permit recipients are required to 1) implement all practicable best management practices and other measures that are reasonably likely to reduce eagle take; and 2) offset remaining predicted take through compensatory mitigation (i.e.

bolstering populations of eagles by reducing other sources of mortality or improving habitat).

In December 2016, the Service [announced a final revision of the original Eagle Rule](#). The revisions were developed following a scoping process that included public meetings to incorporate stakeholder input and were released in draft form for public comment in early Summer 2016. The revisions are intended to provide a more efficient and implementable permitting framework, encouraging compliance while ensuring protection of eagles. The Service modified the "preservation standard" (which requires that permitted take be compatible with the preservation of eagles), removed the distinction between standard and programmatic permits, updated standard requirements for compensatory mitigation, and extended the maximum permit duration for eagle incidental take permits for up to 30 years.



In addition, the Service released a [status report on the current population status and trends of bald and golden eagles](#). The status report provided estimates of population sizes, productivity, and survival rates; provided cumulative effects to local area populations; and modeled effects of unauthorized take on golden eagles. The report served as the scientific basis for the proposed management approach and rule revisions.

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

When reviewing permit applications submitted for incidental take under the Eagle Rule, the Service uses eagle conservation plans submitted by permit applicants. In 2013, the Service released their [Eagle Conservation Plan Guidance \(ECPG\) – Module 1 Land-based Wind Energy](#) to provide “...specific guidance to help make wind energy facilities compatible with eagle conservation and the laws and regulations that protect eagles.” Intended to be used in conjunction with the general framework of the [Land-Based Wind Energy Guidelines](#), the ECPG provides specific recommendations on monitoring, development of best management practices

(formerly known as “advanced conservation practices”), and mitigation options that developers can use to ensure minimal net take of eagles.

As part of the changes to the Eagle Rule finalized in 2016, significant portions of the ECPG were codified into the text of the rule itself. Other changes to the rule (such as the removal of “advanced conservation practices”) have rendered portions of the ECPG out of date. The Service has acknowledged the need to update the ECPG in the context of changes to the Eagle Rule but has not identified a process or timeline to complete the updates.

Further Information on Eagles and Wind Energy

- [U.S. Fish and Wildlife Service's Bald and Golden Eagle Management Information](#)
- [AWWI's Eagle Page](#)
- Birds of North America Online: [Golden Eagles](#) and [Bald Eagles](#)

