

Eagle Take Permits



**Mike Green &
Vanessa Loverti**
USFWS, Pacific Region
Division of Migratory Birds and State Programs



Outline

- BGEPA & 2009 regulation change
 - 22.26 & 22.27 permits
- Eagle Population Status
- Standard Eagle Take Permits
- Programmatic Eagle Take Permits
- The Guidance & Eagle Conservation Plans
- Questions



Bald and Golden Eagle Protection Act (BGEPA)

Unlawful to “...take, possess, sell, purchase, barter, offer to sell, purchase, or barter, transport, export or import...”

2009 Final Rule on two new permits (50 CFR):

- § 22.26 – Take of eagles
- § 22.27 – Take of eagle nests



Take

- Includes “Disturb”
 - to agitate or bother ... to a degree that causes/likely to cause based on best science...
 - injury
 - decrease in productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or
 - nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.



Final Eagle Rule

Take must be compatible with the preservation of Bald or Golden eagle

'Preservation': ... stable or increasing breeding populations – 'no net loss'



Eagles – Population Status

Bald Eagles

Listed in 1973

Bald Eagle population (low of only 417 nesting pairs in 1963)

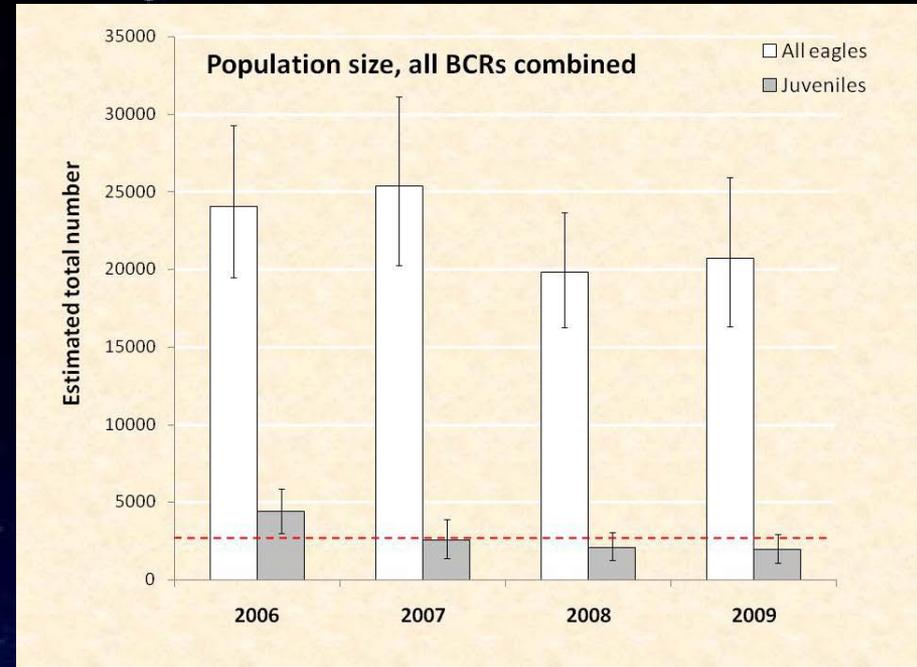
Current estimate of over 8,500 breeding pairs in the lower 48 states – estimate 69,000 birds



Eagles – Population Status

Golden Eagles

Across the four western Bird Conservation Regions (80 percent of the species' range in lower 48 states) estimate 25,000 Golden Eagles (all ages) across survey area.



FWS' Interpretation:

- Population might be declining, and take allowance/threshold = 0 for GOEA

FWS is reviewing status now.



Standard Eagle Take Permits



Standard Eagle Take Permits

Standard permit are for take that is not recurring and is specific to a location within an identifiable timeframe.

Examples of Standard Permits – one time events under both permit types (22.26 and 22.27)

- Eagle nest on a transmission line -disturbance to active eagle nest during construction.
- Nest disturbance on an access road.



Standard Eagle Take Permits

Determining When a Standard Permit is Appropriate

Considerations

- Whether take is likely to occur.
- Whether take can be avoided.
- Whether the take would be compatible with the preservation of the bald eagle or the golden eagle.
- Whether a permit could be issued based on permit thresholds.



Standard Eagle Take Permits

Eagle Act Permitting Steps

1. Submit a complete eagle take application

Download from the USFWS Website at :

Eagle Nest Take - <http://www.fws.gov/forms/3-200-72.pdf>

Eagle Take - <http://www.fws.gov/forms/3-200-71.pdf>

1. USFWS application review (avoidance and minimization measures, monitoring, mitigation if appropriate)
2. USFWS will coordinate with State, Tribal and Regional Historic Preservation Officer on the application
3. NEPA must be completed prior to the permit decision
4. Permit issuance/denial



Standard Eagle Take Permits

Eagle Take Application

To complete your application be prepared to:

- Identify the specific activities that will result in take
- Quantify impacts to eagles
- Develop and document avoidance and minimization procedures
- Develop a monitoring and reporting program
- Provide compensatory mitigation, if necessary
- Consider other applicable laws and regulations
- Submit application processing fee



Standard Eagle Take Permits

Target Processing Times

- Standard permit (Categorically Excluded) = 90 days
- Standard or programmatic permit
 - with EA = 4-6 months
 - with EIS = 18-36 months, depending on resources for EIS preparation



Standard Eagle Take Permits

Permit Prioritization Criteria

The Service prioritizes allocation in this order:

- Safety emergencies
- Native American religious use for rites and ceremonies that require eagles be taken from the wild (under already existing regulation)
- Renewal of programmatic permits
- Non-emergency activities necessary to ensure public health and safety
- Resource development or recovery operations (for golden eagle nests only) (under already existing regulation)
- Other interests



Programmatic Eagle Take Permits



Programmatic Eagle Take Permits

Programmatic Take

- Recurring take
- Occurs over the long term and/or in a location or locations that cannot be specifically identified.



Programmatic Eagle Take Permits

Programmatic Permits

- Authorize limited, incidental mortality and disturbance of eagles
- Must implement Advanced Conservation Measures (ACPs) that avoid and minimize take of eagles to the maximum degree possible – remaining take is unavoidable.



Eagle Conservation Plan Guidance

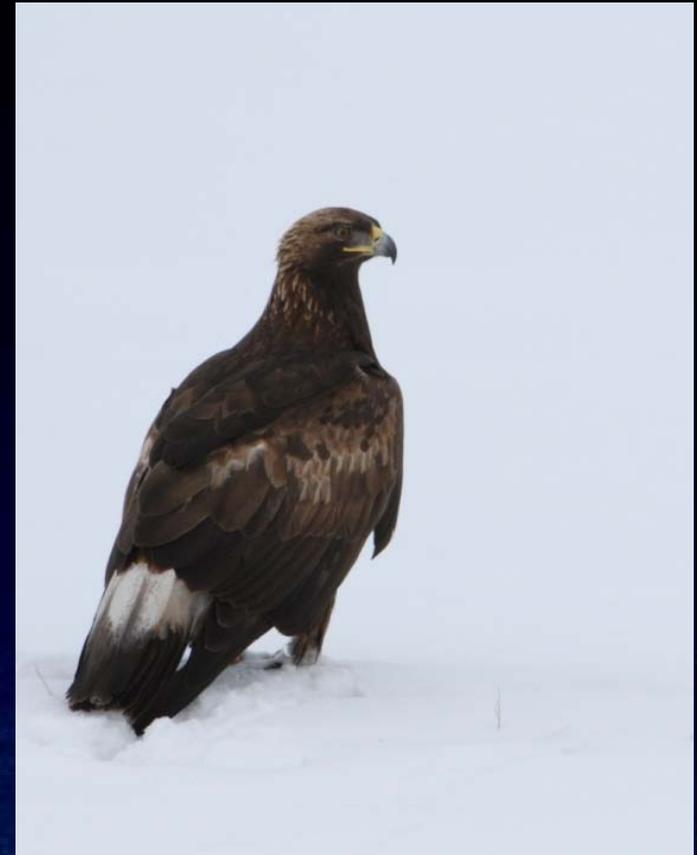
The Draft Eagle Conservation Plan Guidance: Module 1 Wind Energy Development

- To assist project developers meet the requirements of Programmatic Permit, and...
- Service employees who must evaluate potential impacts from proposed developments



Eagle Conservation Plan Guidance

- Guidance is not regulatory
- Guidance theme is *adaptive management* —
 - gather data pre-construction to predict risk and reduce uncertainty around those predictions; and
 - post-construction to validate predictions and efficacy of ACPs



Eagle Conservation Plan Guidance

5 Stages

Stage 1 - Initial site assessment – overview of eagle risk areas before financial commitment.

Stage 2 - Site-specific surveys and assessment – pre-construction monitoring.

Stage 3 - Initial fatality prediction stage – model provided in guidance – in development.

Stage 4 - Application of ACPs and compensatory mitigation – measures to reduce risk further, then compensate for what remains.

Stage 5 - Risk validation – post construction monitoring.



Eagle Conservation Plan Guidance

At each stage – Assess project risk:

- (1) high risk to eagles, little opportunity to minimize effects;
- (2) moderate risk to eagles, but with an opportunity to minimize effects; or
- (3) minimal risk to eagles.



Compensatory Mitigation

A requirement for GOEA programmatic permits if unavoidable take is likely.

Must meet 'no net loss' standard.



Eagle Guidance Status

- Federal Register in mid-February
- 90-day comment period ended May 19, 2011
- Comments are being reviewed and re-write teams assembled
- Department has not come out with an official date for making ECP Guidance final.
- In interim, using draft guidance to help companies develop ECPs, & successful Prog. Permit applications



Questions?

