



# U.S. Fish and Wildlife Service

## Updates



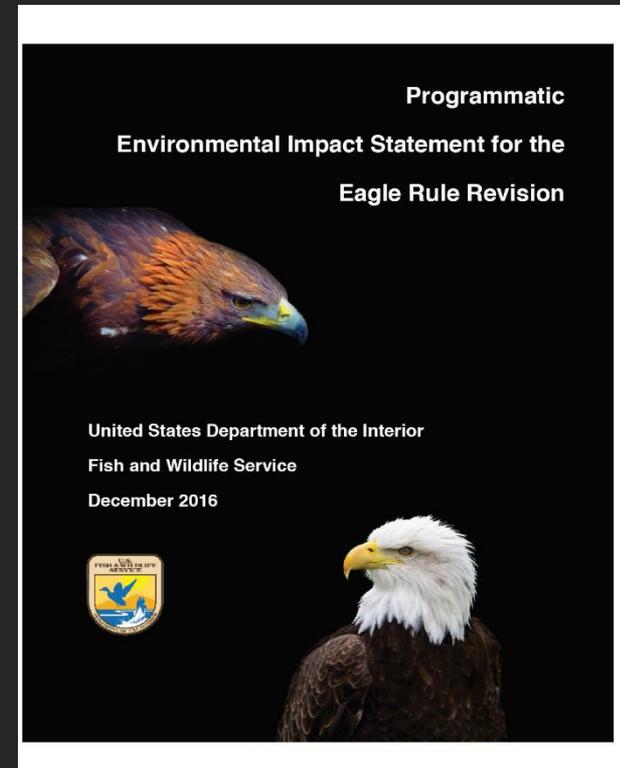
# Eagle Act Regulations Changes

## New Eagle Rule

- Revised 2009 Eagle Act regulations
- Published on 16 December 2016
- Effective on 17 January 2017

## Programmatic Environmental Impact Statement (PEIS)

- PEIS includes an update of golden eagle population estimates
  - 20th quantile estimate ~ 34,800
  - Population may be starting to decline





# Eagle Act Regulations Changes

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- New preservation standard
  - “consistent with the goals of maintaining stable or increasing breeding populations *in all eagle management units and the persistence of local populations throughout the geographic range of each species*” [emphasis added]
- Permit terminology and type
  - All permits now “incidental take permits”
    - ~~“Non purposeful take permit”~~
    - ~~“Programmatic permit”~~ and ~~“standard permit”~~
- Permit Duration
  - Up to 30 years, with mandatory re-evaluations (check-ins) every 5 years and mandatory adaptive management plans



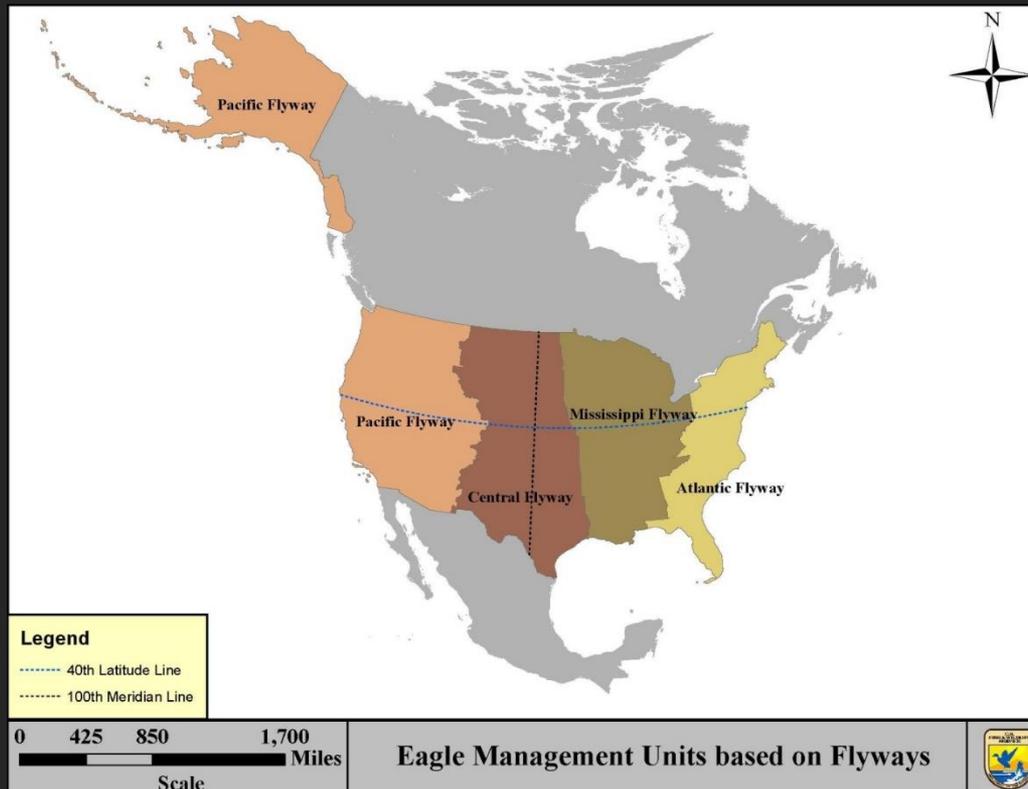
# Eagle Act Regulations Changes

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- Revised fees
  - Introduced commercial vs. noncommercial fees for short-term (<5 year) permits
    - Commercial: \$2,500
    - Non-commercial: \$500
  - 5-30 year permits:
    - \$36,000
    - With 5-year review fee of \$8,000
- All permits must reduce take to the maximum degree practicable (no more Advanced Conservation Practices)

# Eagle Act Regulations Changes

- New Eagle Management Units (EMUs)
  - Golden eagle EMUs aligned with Flyways, but with Mississippi and Atlantic Flyways combined into one EMU





# Eagle Act Regulations Changes

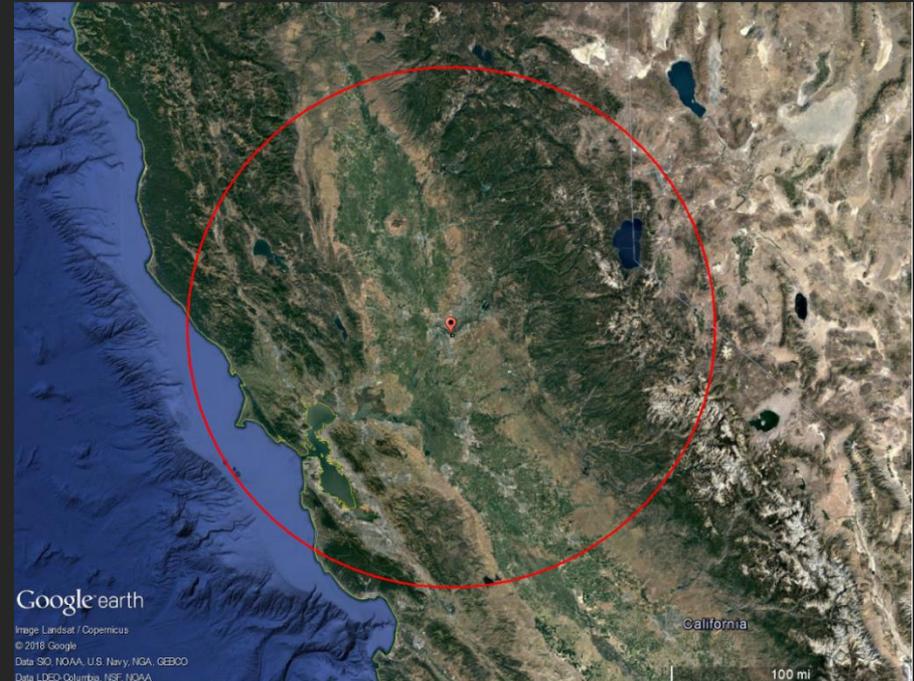
- Service can issue take permits for golden eagles east of the 100<sup>th</sup> meridian
- Updated amount removed from annual take threshold
  - 80<sup>th</sup> quantile of productivity
    - Nest Disturbance: 0.59 golden eagles
    - Territory loss: 0.59 golden eagles/year for 11 years





# Eagle Act Regulations Changes

- Local Area Population (LAP)
  - Required Cumulative Effects Analysis, done by the Service
  - LAP = # of eagles within 109 miles (golden eagles)
  - Cumulative authorized take within LAP can not exceed 5% of the LAP
  - Assess if available data indicate cumulative unauthorized take in the LAP exceeds 10% of the LAP





# Eagle Act Regulations Changes

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- Conservation measures restricted to those in adaptive management plan unless authorized take is exceeded, non-compliance with permit, or permittee consents
- Compensatory Mitigation
  - 1.2 to 1 ratio for golden eagles
  - Required for take that exceeds EMU take limits
  - May be required for take that exceeds LAP limits
  - Must be within the same EMU unless biological justification is provided.
  - Voluntary actions taken prior to permit issuance may count towards compensatory mitigation requirements



# Eagle Act Regulations Changes

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- Survey and Monitoring
  - Protocols
    - If the Service has an official issued document containing protocols, these must be used
    - Work with the Service to develop protocols
  - Independent, third-party monitors who report directly to the Service required for permits  $\geq 5$  years



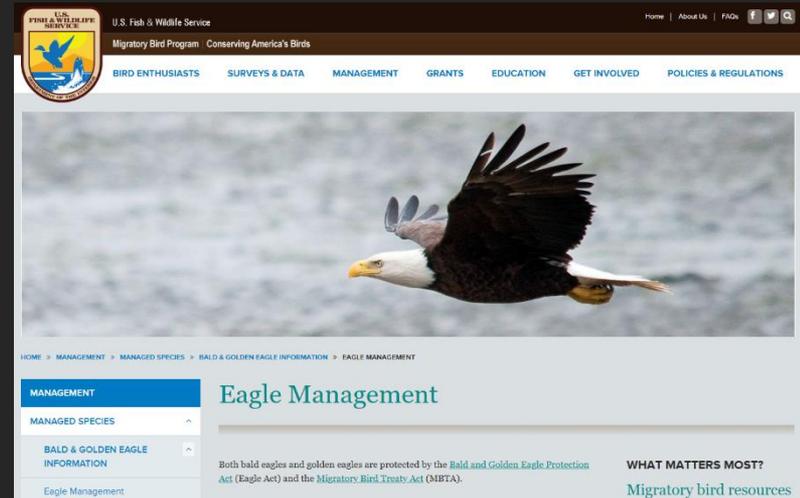
# Eagle Act Regulations Changes

## Eagle Regulations and Permitting Information:

<https://www.fws.gov/birds/management/managed-species/eagle-management.php>

## Eagle Rule FAQs:

<https://www.fws.gov/birds/management/managed-species/eagle-faqs.php>





# Regional Buffer Recommendations

## U.S. Fish and Wildlife Service Pacific Southwest Region Migratory Birds Program

### Recommended Buffer Zones for Ground-based Human Activities around Nesting Sites of Golden Eagles in California and Nevada

December 2017

For most ground-based human activities, we recommend a one-mile no-disturbance buffer surrounding golden eagle nesting sites in California and Nevada; see table below for specifics on activity and buffer recommendations. Recommended buffers may increase or decrease depending on specific site or activity circumstances and local jurisdiction recommendations. Buffers may be reduced in consultation with the U.S. Fish and Wildlife Service (Service) when the nest is not in use or activities are out of line-of-sight of the nest<sup>4</sup>. In parts of California, eagles maintain year-round territories that may require additional protection. We recommend consultation with the Service for determining buffer zones for high intensity or long duration activities, unique circumstances, activities not listed in the table below, or when historic levels of human activity are a consideration.

<b>Off-Road Passenger Vehicle and Boating Activity:</b> Any passenger vehicle driving off-road, or on dirt or gravel roads, and not part of a routinely used transportation corridor. Also includes motorized boating activities.	1 mile
<b>Small Personal Vehicle Activity:</b> Including, but not limited to, all-terrain vehicles, dirt bikes, and snowmobiles.	1 mile
<b>Pedestrian and Non-Motorized Activity:</b> Including, but not limited to, walking, running, hiking, biking, camping, rock climbing, bird watching, fishing, hunting, horseback riding, canoeing, kayaking, and biological surveys.	1 mile
<b>Developed Sites:</b> Including, but not limited to, facilities, developed campground sites, and snowmobile and off-road vehicle courses.	1 mile
<b>Industrial, Municipal, and Construction Activity:</b> Including, but not limited to, urbanization; mining; oil and gas development; solar development; logging; power line construction; road construction & maintenance; facilities construction; and agricultural operations	1 mile
<b>Blasting and other loud non-regular noise:</b> Including, but not limited to, detonation devices, fireworks classified by the Federal Department of Transportation as Class B explosives, recreational shooting, and outdoor concerts.	2 miles

<sup>4</sup> An *in-use nest* is defined as a "golden eagle nest characterized by the presence of one or more eggs, dependent young, or adult eagles on the nest in the past 10 days during the breeding season" (50 CFR 22.3) and "(b)breeding begins... with the start of courtship..." (*Programmatic Environmental Impact Statement for the Eagle Rule Revision*, United States Department of the Interior, Fish and Wildlife Service, December 2016).

- Created a document with recommendations for no-disturbance buffers around eagle nests
- In general, 1 mile buffer
- Certain circumstance noted in the document may require a larger buffer or allow a smaller buffer

# Eagle Act Updates

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Questions  
so far?





# Permitting “Low-risk” Wind Projects

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- Streamlined eagle incidental take permitting process for wind energy projects considered “low-risk” to eagles
- Presentation with details on USFWS Eagle Management webpage:
  - <https://www.fws.gov/birds/management/managed-species/eagle-management.php>
- Federal Register notice with framework proposal in early 2019



# Pacific Southwest Region Permits

## Permit Decision Coming Soon

- Ocotillo Express Wind  
(Late Feb./early March)

## Issued Permits

- Shiloh IV Wind  
(July 2014)
- Alta East Wind  
(December 2016)



R8 NEPA documents:

<https://www.fws.gov/cno/conservation/MigratoryBirds/EaglePermits.html>



# Pacific Southwest Region Permits

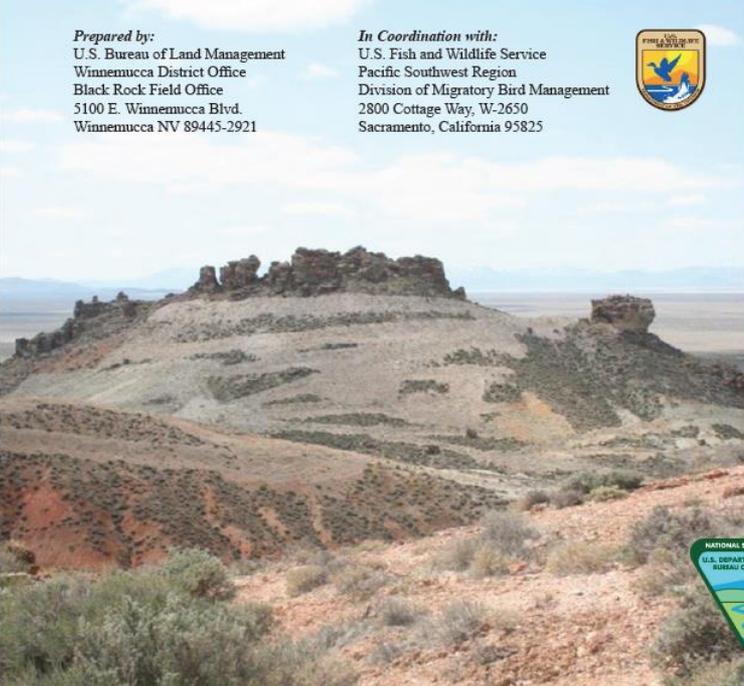
**Hycroft Mine Phase II  
Expansion Project**

Draft Environmental Impact Statement

DOI-BLM-NV-W030-2015-0007-EIS | XXX 2019

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Draft EIS available  
~April 2019

- Considers eagle take permit for loss of 1- 3 golden eagle breeding territories



# Pacific Southwest Region Permits

Draft EA ~mid 2019

- ECP based on PG&E's Avian Protection Plan





# Pacific Southwest Region Permits

## Accepted Applications

- Tule Wind
- Shiloh I Wind
- Shiloh II Wind
- Shiloh III Wind
- EDF Wind
- Altamont Pass Applications
  - Sand Hills Wind
  - Rooney Ranch Wind
  - Summit Wind

## Reviewing recent applications

- Pacific Wind
- Pine Tree Wind

## Preparing EA's

- Solano Wind (~March 2019)
- Rising Tree Wind Spring Valley Wind
- Cal Flats Solar



# Pacific Southwest Region Permits

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Questions?

