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

• 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

• 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\textsuperscript{th} meridian

- Updated amount removed from annual take threshold
  - 80\textsuperscript{th} 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

• 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

• 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 ≥ 5 years
Eagle Act Regulations Changes

Eagle Regulations and Permitting Information:

Eagle Rule FAQs:
Regional Buffer Recommendations

- 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

Questions so far?
Permitting “Low-risk” Wind Projects

• Streamlined eagle incidental take permitting process for wind energy projects considered “low-risk” to eagles

• Presentation with details on USFWS Eagle Management webpage:

• 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
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

Preparing EA’s
- Solano Wind (~March 2019)
- Rising Tree Wind Spring Valley Wind
- Cal Flats Solar

Reviewing recent applications
- Pacific Wind
- Pine Tree Wind
Pacific Southwest Region Permits

Questions?