

News Release



Office of Communications
4401 N. Fairfax Drive, MS-330
Arlington, VA 22203
Phone: 703-358-2220; Fax: 703-358-1973
<http://www.fws.gov>

April 12, 2012

Contact: Alicia F. King
571-214-3117
Alicia_f_king@fws.gov

Chris Tollefson
703-358-2222
Chris_tollefson@fws.gov

Service Proposes to Revise Eagle Permit Regulations, Seeks Public Comment on Future Improvements to Permit Program

The U.S. Fish and Wildlife Service proposed today to revise regulations governing the issuance of permits under the Bald and Golden Eagle Protection Act in order to facilitate development of renewable energy and other projects, while ensuring that those operations minimize and avoid impacts to bald and golden eagles. The Service is also inviting ideas from the public on how the permit program can be improved.

The proposed changes would extend the maximum term for programmatic permits from 5 to 30 years, if the permits incorporate specific adaptive conservation measures that may be necessary to ensure the preservation of eagles. The Service has also proposed to increase the fees associated with the review and issuance of permits in order to cover its true costs and ensure effective monitoring of projects over the extended permit terms.

“We’ve worked hard with our partners to protect eagle populations nationwide, and will make sure they continue to thrive. These proposed changes will help facilitate the responsible development of renewable energy and other projects, while conserving bald and golden eagles by requiring key conservation and monitoring measures to be implemented,” said Fish and Wildlife Service Director Dan Ashe. “We are committed to monitoring the impact of projects on eagle populations over the life of the permits to ensure these measures are effective.”

The proposed changes, if approved, would amend permit regulations finalized on September 11, 2009 under the Bald and Golden Eagle Protection Act for the take of eagles that may occur as the unintended result of various activities. The regulations provide for both standard permits and programmatic permits. Standard permits cover individual instances of take that cannot practicably be avoided, while programmatic permits are necessary to authorize projects where recurring, unavoidable take occurs over the long term, such as with wind energy projects, electric utilities, and timber operations. Most take authorized by these permits has been in the form of disturbance to eagles and their habitat; however, permits may authorize lethal take that is incidental to an otherwise lawful activity.

Since publication of the 2009 final rule, it became evident that the 5-year term limit on permits did not correspond to the timeframe of projects operating over the long-term and was insufficient to enable project

proponents to secure the funding, lease agreements, and other necessary assurances to move forward with projects.

Under the proposed rule, only those applicants who commit to adaptive management measures to ensure the preservation of eagles would be considered to receive permits with terms longer than five years. Any such measures would be negotiated with the permittee and specified in the terms and conditions of the permit.

This rule would also amend the schedule of permit fees set forth by increasing the fees for programmatic eagle take permits to reflect the increased cost to the Service of developing adaptive mitigation measures and monitoring the effectiveness of the terms and conditions over the life of the permit. For programmatic permits with tenures of 5 years (the maximum period allowed under current regulations), the permit application processing fee would be increased to \$36,000.

In addition, the regulations propose an “administration fee” linked to the duration of the permits to enable the Service to recover its costs for monitoring and working with the permittees over the life of the permits. The proposed administration fee ranges from \$2,600 for permits with tenures of 5 years or less to \$15,600 for 30-year permits. The regulations propose a reduced application processing fee of \$5,000 for permit applications for small wind projects and other activities not expected to have significant effects on eagles. The Service will be accepting comments on this proposed rule for 30 days (or until May 14, 2012).

“Feedback from developers indicates that these permit fees are considered a small part of the large investments of most projects requiring programmatic permits.” said Jerome Ford, the Service’s Assistant Director for Migratory Birds. “By enabling us to improve our permit processing and ensure adequate monitoring over the life of the permit, these increases will help ensure a more efficient and effective permit process.”

In addition, the Service published an Advanced Notice of Proposed Rulemaking (ANPR) to solicit ideas, suggestions and information that could help guide other potential improvements to the 2009 final regulations. Through this public process, the Service is seeking recommendations to create a more efficient permit process to preserve and protect eagle populations. The Service is particularly interested in public ideas and suggestions that would help clarify the permit issuance criteria; help determine appropriate compensatory mitigation; and better define the Eagle Act’s preservation standard. The comment period for the ANPR will be open for 90 days (or until July 12, 2012).

Written comments and information concerning the proposed permit regulation changes must be submitted by May 14, 2012. Docket Number FWS-R9-MB-2011-0054

Written comments and information concerning the Advanced Notice of Proposed Rulemaking must be submitted by July 12, 2012. Docket Number FWS-R9-MB-2011-0094

Comments must be submitted separately for the proposed permit regulation changes and for the ANPR and may be submitted by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R9-MB-2011-0054 or Docket No. FWS-R9-MB-2011-0094;
- U.S. mail or hand delivery: Division of Migratory Bird Management, Attn: RIN 1018–AV11, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MBSP– 4107, Arlington, Virginia 22203

- Email: EaglePermitRegulation@fws.gov.
- Include the ‘Docket Number FWS-R9-MB-2011-0054 or Docket Number FWS-R9-MB-2011-0094’ in the subject line of the message. Please submit electronic comments in plain text files, avoiding the use of special characters and encryption.

The Service will post all comments on <http://www.regulations.gov>. This generally means any personal information provided through the process will be posted.

For more information about the proposed rule changes and the ANPR process, visit:
<http://www.fws.gov/migratorybirds/>

The mission of the Fish and Wildlife Service’s Migratory Bird Program is to ensure long-term ecological sustainability of migratory bird populations and their habitats for future generations, through careful monitoring, effective management, and by supporting national and international partnerships that conserve habitat for migratory birds and other wildlife. For more information:
<http://www.fws.gov/migratorybirds/dmbmbhc.html>

The mission of the U.S. Fish and Wildlife Service is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. We are both a leader and trusted partner in fish and wildlife conservation, known for our scientific excellence, stewardship of lands and natural resources, dedicated professionals, and commitment to public service. Connect with our Facebook page at www.facebook.com/usfws, follow our tweets at www.twitter.com/usfwsHQ, watch our YouTube Channel at <http://www.youtube.com/usfws> and download photos from our Flickr page at <http://www.flickr.com/photos/usfwsHQ>.

-FWS-