

General Permit Conditions – Incidental Take of Eagles by Wind Energy Projects

Definitions

(as defined in 50 CFR 22.6 and available at <https://www.ecfr.gov/current/title-50/section-22.6>):

Eagle management unit (EMU) means a geographically bounded region within which permitted take is regulated to meet the management goal of maintaining stable or increasing breeding populations of bald eagles or golden eagles. See 50 CFR 22.6 for EMU boundaries.

Important eagle-use area means an eagle nest, foraging area, or communal roost site that eagles rely on for breeding, sheltering, or feeding, and the landscape features surrounding such nest, foraging area, or roost site that are essential for the continued viability of the site for breeding, feeding, or sheltering eagles.

Incidental take means take that is foreseeable and results from, but is not the purpose of, an activity.

Practicable means available and capable of being done after taking into consideration existing technology, logistics, and cost in light of a mitigation measure's beneficial value to eagles and the activity's overall purpose, scope, and scale.

Definitions for the purposes of these permit conditions:

Breeding Season refers to the period of time where eagles are breeding, or are preparing to breed. Actual breeding season dates can vary slightly between breeding pairs and from year to year.

(1) For bald eagles, the Service uses the date ranges listed by state in Table 1 (located at the end of this permit).

(2) For golden eagles, the breeding season west of the 100th meridian: south of the 40th parallel is December 1 to July 31 and north of the 40th parallel is January 1 to August 31. There is no defined breeding season for golden eagles east of the 100th meridian, because golden eagles are not known to breed in the eastern United States.

Project Footprint is the minimum-convex polygon that encompasses the wind-project area inclusive of the hazardous area around all turbines and any associated utility infrastructure, roads, etc.

A. Authorization.

You are authorized to take (injure or kill) bald eagles and golden eagles incidental to turbine operations at the wind energy project listed above under “Location where authorized activity may be conducted.”

(1) This take is authorized provided there is no practicable alternative to avoiding or minimizing it. The authorization applies only to incidental take resulting from activities and infrastructure described in the general permit application and conducted in accordance with the terms of this permit.

(2) If you discover the take of four bald eagles or four golden eagles during the tenure of this general permit, the permit and incidental take authorization it conveys remains valid through the

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general permit term. However, this project is not eligible to renew this general permit. You may apply for a specific permit to authorize the incidental take of eagles at this project. If there are extenuating circumstances, you may request reconsideration by following the review procedures set forth at 50 CFR 13.29, including providing the information required in 50 CFR 13.29(b)(3).

B. Prohibited.

This permit does not authorize:

- (1) Take of eagle nests, including by substantively modifying nesting substrate sufficient to render the substrate unsuitable for eagle nesting.
- (2) Disturbance of breeding eagles.
- (3) Possession of eagles, nestlings, or eggs, except as authorized for disposal purposes as described below in Condition H.

C. Compensatory Mitigation.

You must implement compensatory mitigation.

- (1) You must purchase or acquire eagle credits to offset the number of eagles required of your project. The number of eagle credits you are required to purchase is listed above under *Compensatory Mitigation (Eagle Credits)*.
- (2) All mitigation credits must be purchased or acquired within 90 days of the effective date of your permit. Credits must be purchased or acquired from a Service-approved conservation bank or in-lieu fee program. A list of Service-approved mitigation providers can be found online at <https://www.fws.gov/program/eagle-management/eagle-permits>. If mitigation credits are not acquired within 90 days, you are disqualified from exercising the privileges of this permit as long as the deficiency exists.
- (3) The number of credits required for your project must have been calculated using the mitigation rates (per hazardous volume) and the methods described in 50 CFR 22.250(f)(7)(ii). The Service has developed an online tool to assist with the calculation of mitigation credits, available at [link forthcoming].
- (4) You must keep records to document compliance with this requirement and provide them to the Service upon request and with your first annual report.

D. Avoidance and Minimization.

You must implement the avoidance and minimization measures set forth below.

- (1) *Hazardous Attractants*. Avoid attracting eagles to the project due to anthropogenically created or enhanced hazardous attractants. You must remove existing and avoid creating new, anthropogenic eagle attractants throughout the project area, including resources that could attract foraging, roosting, or nesting eagles. This does not include naturally occurring attractants, such as naturally abundant prey populations. Nor does this include existing livestock operations, provided the operational practices in (b) are implemented. At a minimum, you must:
 - (a) Collect and dispose of any garbage or waste discovered in the project site in an appropriate trash receptacle securely protected from wildlife and regularly emptied.

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(b) Search for and dispose of any discovered animal remains that are squirrel-size or larger. Animal remains includes carcasses, parts, after-birth, or other remains. You must develop and implement internal procedures that meet or exceed the following requirements:

(i) Train operation and maintenance personnel on procedures for searching for and reporting potential animal remains when within the project footprint. Reports must be within 8 hours of discovery.

(ii) Designated personnel must investigate reports within 24 hours.

(iii) Animal remains must be disposed of within 72 hours of being reported in a manner that will not attract eagles, such as removed beyond line-of-sight of project infrastructure, buried, or incinerated.

(c) Minimize creation of anthropogenic features in the project footprint that could attract small mammals, such as rock piles, debris or equipment storage, and discarded waste materials.

(d) Minimize eagle perching on human-engineered infrastructure, including designing or modifying infrastructure where eagles are likely to perch.

(2) *Collision Risks.* You must avoid and minimize collision risks in the project, including the risk of collisions with turbines, vehicles, towers, and collector and generation-tie-lines.

(a) Implement a maximum 25 mph speed limit within the project. Train project staff to be alert for wildlife. Require additional caution in low-visibility conditions when driving any vehicle.

(b) Minimize eagle collision and electrocution risk associated with above-ground power lines. Any above-ground lines must be avian-safe, as defined in 50 CFR § 22.260, unless this requirement would unduly impact human health and safety, require overly burdensome engineering, or have significant adverse effects on biological, cultural, or historical resources.

The Service recommends use of the technical references *Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006* and *Reducing Avian Collisions with Power Lines: The State of the Art in 2012*, as well as updated versions or new suggested practice documents, as they become available (available at aplic.org).

(c) Implement practicable measures to reduce collisions with wind turbines, including but not limited to: curtailment of turbines near important eagle-use areas (if any), curtailment of turbines during times of year when collision may be more likely (if any), implementation of technology to detect and deter eagles or to curtail turbine blades, and implementation of modifications to blade design, color, or manufacturing. For measures not deemed practicable, you must document why a method is not practicable in your records and provide to the Service upon request.

(3) *Disturbance Risks.* This permit does not authorize disturbance. If an eagle nest is known to exist or is discovered in the vicinity of your project, you must minimize your risk of disturbance or obtain a permit for disturbance take of eagles.

(a) To minimize the risk of disturbance in the vicinity of a golden eagle nest, restrict non-emergency maintenance or other non-emergency activities (such as MET tower removal, road or pad maintenance, vegetation maintenance, etc.) within the project footprint to outside the eagle breeding season when the activity will occur within 1-mile of an in-use golden eagle nest.

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(b) To minimize the risk of disturbance in the vicinity of a bald eagle nest, conduct non-emergency maintenance or other non-emergency activities (such as MET tower removal, road or pad maintenance, vegetation maintenance, etc.) according to the National Bald Eagle Management Guidelines (U.S. Fish and Wildlife Service 2007).

(4) *Awareness.* You must inform project staff and landowners of relevant permit requirements.

(a) You must train operation and maintenance personnel and other on-site staff at least once every three years on the relevant requirements of this permit, including how to report and dispose of discovered bird remains or animal remains, including after-birth. Appropriate staff must be trained on how to properly handle dead or injured birds and how to contact federally permitted rehabilitator(s) and licensed veterinarian(s) in your area.

(b) If project operations occur on land not owned by you, you must inform landowners and lessees on your process to report discovered birds. You may designate others, in writing, as a subpermittee to collect bird remains on your behalf.

E. Adaptive Management.

You must develop an adaptive management plan. The adaptive management plan must be implemented upon discovery of:

(1) A third dead or injured bald eagle or third dead or injured golden eagle during the permit tenure, and

(2) A fourth or subsequent dead or injured bald eagle or fourth or subsequent dead or injured golden eagle during the permit tenure.

Your adaptive management plan must include avoidance or minimization measures intended to reduce eagle mortality rates at the project. Measures must be based on the best available science. The adaptive management plan must include details on when and how the measures will be implemented to reduce risk to eagles.

If you discover three dead or injured eagles of any one species during the tenure of this permit, you must notify the Service in writing within two weeks of discovering the take of the third eagle. When notifying the Service, you must include the reporting data required by your permit condition G(1), a copy of your adaptive management plan, and a description and justification of the adaptive management approaches you will implement for the remaining duration of your permit. You must follow this same protocol if you discover a fourth or subsequent dead or injured eagle of any one species.

F. Monitoring Measures.

You are required to implement the following methods to aid in the discovery of dead or injured eagles at your project.

(1) Train on-site personnel, including staff, contractors, and volunteers, to search for eagles and signs of their remains. Training must include how to (i) differentiate eagle remains from other raptor remains, (ii) identify eagle remains to species, (iii) document raptor remains that are identified as a non-eagle species, and (iv) process unidentified raptor remains (see Condition G(5)).

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(2) Require that trained on-site personnel remain alert for signs of dead or injured eagles while working and travelling within the project footprint.

(3) Require that trained on-site personnel visually scan the area around each turbine they visit during their normal day-to-day activities. Scans must, at minimum, include all areas within 40 meters of each turbine tower that are visible from the turbine pad.

(4) Each wind turbine must be visited and scanned by on-site personnel as described in F(3) at least once every 3 months.

G. Reporting.

You must report to the Service as set forth below.

(1) For each dead or injured eagle discovered, you must collect the following relevant information and provide this information in your Online Report (condition G(2)):

(a) Discovery date;

(b) Collection date;

(c) Species;

(d) Sex and age (fledgling, juvenile, adult), if known;

(e) Alive/Dead (is the bird alive or dead);

(f) Condition (if alive, indicate if sick or injured; if dead, indicate if intact, freshly killed (eyes moist), semi-fresh (stiff, eyes desiccated), partially decomposed feathers and/or bones, or other);

(g) GPS coordinates in decimal degrees with datum clearly identified (the reference system that geographic coordinates are associated with such as WGS 84) for the location where discovered;

(h) How remains were discovered and how remains were identified;

(i) Hazard type (type and configuration of structure or features found near eagle remains and potentially responsible for injury/mortality);

(j) Ground distance from hazard (estimated or exact distance from remains discovered to nearest turbine, pole, line, or other structure);

(k) Possible cause of mortality/injury (e.g., collision with turbine, collision with other structure, electrocution, other);

(l) Disposition (e.g., freezer onsite, National Eagle Repository, left in place, rehabilitator, Office of Law Enforcement (OLE));

(m) If banded or marked, Federal band number, color markers, or transmitter descriptions and date report submitted to reportband.gov;

(n) Any special notes or additional information (e.g., if associated with a mortality event involving unusually high numbers of eagle takes associated with a particular circuit or structure; weather conditions at likely time of death, if known); and

(o) Photos of the eagle remains, taken as close to the time of discovery as possible, including image of whole remains from top and bottom and the bird's leg(s) (including foot/feet), head

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(including eyes and bill), and tail. If remains are unidentifiable, include as many photos as you can to aid in future identification efforts.

(2) *Online Report.* You must report all dead or injured eagles discovered in the Service's Injury and Mortality Reporting System (IMR; <https://ecos.fws.gov/imr/welcome>) no later than two weeks from the date of discovery of eagle remains or eagle injury. Reports must include all information required in permit condition G(1).

(3) *Annual Report.* You must submit an annual report of all dead or injured eagles discovered in the previous year using Form 3–202–15. You must include with this form an exported IMR report of your activities/entries for the previous year. Reports can be uploaded into ePermits under this permit record or sent, via email, to the *Issuing Office* contact email on the face of this permit, with the subject line “EAGLE GENERAL PERMIT ANNUAL REPORT.” Include your permit number in the email. Upon submission of your first annual report under this permit, you must also submit proof that compensatory mitigation requirements in condition C have been met. Reports must be submitted electronically by January 31 following each year the permit is valid.

(4) *2-Week Report.* If you discover three or more dead or injured eagles of any one species during the tenure of your general permit, you must also notify the Service in writing. This is in addition to the Online Report requirement in condition G(2). These reports must be submitted electronically within two weeks of discovering the third eagle mortality or injury, the fourth eagle mortality or injury, and any subsequent eagle mortalities or injuries that are discovered beyond the fourth. Submit reports to the *Issuing Office* contact email on the face of this permit, with the subject line “TWO-WEEK REPORT: EAGLE GENERAL PERMIT”. Each submission must include the state where the eagle was taken, the reporting data required by your permit condition G(1), your adaptive management plan, and a description and justification of the adaptive management approaches you will implement for the remaining duration of your permit.

(5) If remains of any large birds are discovered and cannot be identified to species, these remains must be treated as eagle remains until proven otherwise. You must collect and report the relevant information in condition G(1), take good quality photographs of the remains, and provide it in an Online Report as described in condition G(2). For items G(1)(c-d), you must state that remains are unidentifiable. You must also include discoveries of unidentified remains in your Annual Report and submit a 2-Week Report if unidentified remains would be the third or fourth eagle of a single species discovered.

H. Disposition.

You must dispose of all discovered eagles or eagle remains as set forth below, unless you are directed otherwise by the Service. Remains must be shipped or disposed of on the timeline specified by the recipient below, not to exceed 2 weeks of discovery.

(1) *Injured Birds:* If an eagle is injured, you must immediately contact a federally permitted migratory bird rehabilitator or a licensed veterinarian and follow their instructions for transport, care, and/or disposition of the injured eagle. To locate a rehabilitator near you, visit <https://www.fws.gov/story/find-migratory-bird-rehabilitation-facility>. We encourage you to offset the costs of treating eagles injured by your operations by paying rehabilitation expenses

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through donations, in-kind assistance, or other means. If you cannot make contact with a rehabilitator or licensed veterinarian, local law enforcement officers may be of assistance.

(2) *Freshly Deceased*: Except as noted in conditions H(3-5), if a discovered eagle is freshly dead (has no smell, eyes are not sunken in, and the body is intact and has not been scavenged) or has a telemetry unit, contact the Southeast Cooperative Wildlife Disease Study Lab (SCWDS Lab) at 706-542-1741 to see if the remains are acceptable for shipment and if the lab is able to accept them. If the SCWDS Lab is able to accept the remains, fill out the lab's submission form. If possible, refrigerate remains rather than freezing. Ship the remains as directed by the lab.

(3) *Freshly Deceased in California*: All freshly dead eagle remains or telemetered eagle remains discovered in California should first be offered to the California Department of Fish & Wildlife (CDFW) Wildlife Health Laboratory. Upon collection, eagle remains should be labeled, with the date and location where they were discovered and collected, into a plastic bag (use care not to break or bend feathers). Under most conditions, eagle remains can be frozen until submission. Contact the CDFW Wildlife Health Laboratory at 916-358-2790 or by email at WILAB@wildlife.ca.gov. You will receive more detailed instructions, including packaging and shipping instructions, upon making contact. If the CDFW lab does not agree to accept the eagle remains in question, implement condition H(2) and H(6) as appropriate.

(4) *Freshly Deceased in Michigan*: All freshly dead eagle remains or telemetered eagle remains discovered in Michigan should first be offered to the Michigan Department of Natural Resources (MDNR) Wildlife Disease Lab. For specific shipping instructions for this lab, please contact 517-336-5034 (office), 517-336-5116 (necropsy), or by email at CooleyT2@michigan.gov. If the MDNR lab does not agree to accept the eagle remains in question, implement condition H(2) and H(6) as appropriate.

(5) *Deceased in New York*: Send all dead or euthanized eagles discovered in New York state, regardless of postmortem condition, to the New York State Department of Environmental Conservation Wildlife Health Unit lab in Delmar, NY. This lab will perform a complete necropsy to determine cause of death and monitor for disease and contaminants. Submission and shipping instructions can be found at https://www.dec.ny.gov/docs/wildlife_pdf/eagleship.pdf. Please contact the lab at 518-478-2203 if you need additional information. If the New York Wildlife Health Unit Lab does not agree to accept the eagle remains in question, implement condition H(2) and H(6) as appropriate.

(6) *Other Eagle Remains*. If the eagle is not freshly dead, the lab is not able to receive the remains, or it is not feasible for you to ship the remains to the lab, you must contact the National Eagle Repository at repository@fws.gov. Follow the Repository instructions for shipping or disposal of the remains.

I. Subpermittees.

You may designate subpermittees to conduct some or all of your permitted activities. A subpermittee is an individual to whom you have provided written authorization to conduct some or all of the permitted activities in your absence. Authorized subpermittees are any person who is (1) employed by or under contract to you for the activities specified in this permit, or (2) otherwise designated a subpermittee by you in writing. As the permittee, you are legally responsible for ensuring that your subpermittees are adequately trained and adhere to the terms of your permit.

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You and any subpermittees must carry a legible paper or electronic copy of this permit and subpermittee designation letter and display it upon request whenever you are exercising its authority. Subpermittees must be at least 18 years of age. You are responsible for maintaining current records of who you have designated as a subpermittee, including copies of any designation letters provided to individuals not named above.

J. Other Conditions.

(1) You must comply with all of the regulations and permit conditions in 50 CFR parts 10, 13, 21, and 22.

(2) You must keep records of all activities conducted under this permit, including any subpermittee activities carried out under the authority of this permit (see 50 CFR § 13.46). Your records must include an internal, discovered-eagle reporting system for bald eagles and golden eagles discovered at the site of the activity.

(3) By accepting this permit, you are authorizing the Service to inspect the location and records relating to the activity (see 50 CFR § 13.21(e)). Service or Service contractors may require access to your project site to ensure general permitting is consistent with eagle preservation. The Service will provide reasonable notice for requests to access sites and negotiate with the permittee about practicable and appropriate access conditions to protect human health and safety and address physical, logistical, or legal constraints.

(4) You are responsible for ensuring that the activity involving the take of eagles authorized by this general permit complies with all other applicable Federal, Tribal, State, and local laws. This permit is not valid if implementing any of its provisions may affect a listed, proposed, or candidate species or designated or proposed critical habitat under the federal Endangered Species Act, nor has the potential to cause effects to cultural resources or historic properties protected by the National Historic Preservation Act.

(5) The Service may amend, suspend, or revoke a permit issued under this subpart if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspension, and revocation of Federal permits set forth in 50 CFR § 13.23, 13.27, and 13.28. General permits cannot be amended by the permit holder.

(6) Notwithstanding the provisions of 50 CFR § 13.26, you remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit.

(7) The Service will regularly evaluate whether the take of bald eagles and golden eagles under general permits remains compatible with the preservation of eagles. If the Service finds, through the best available information, that the general permit program is not compatible with the preservation of bald eagles or golden eagles, the Service may suspend issuing general permits in all or in part after publishing a notice in the Federal Register. If the Service suspends general permitting, take currently authorized under this general permit remains authorized until expiration unless you are notified otherwise.

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Table 1. Bald eagle breeding season dates by state or portions of states.

State	Beginning Breeding Season	End Breeding Season
Alabama	Oct 1	May 30
Alaska	Mar 1	Aug 31
Arizona	Oct 15	Jul 15
Arkansas	Nov 1	Jun 30
California	Dec 1	Aug 15
Colorado	Dec 1	Jul 31
Connecticut	Jan 1	Jul 31
Delaware	Dec 15	Jun 30
District of Columbia	Dec 15	Jul 15
Florida	Oct 1	May 30
Georgia	Oct 1	May 30
Idaho	Jan 1	Aug 15
Illinois	Dec 15	Jul 31
Indiana	Dec 15	Jul 31
Iowa	Jan 1	Jul 31
Kansas	Dec 1	Jul 31
Kentucky	Nov 1	Jul 15
Louisiana	Oct 1	May 30
Maine	Feb 1	Aug 30
Maryland	Dec 15	June 30
Massachusetts	Jan 15	Aug 31
Michigan	Jan 15	Aug 15
Minnesota	Jan 15	Aug 15
Mississippi	Oct 1	May 30
Missouri	Dec 15	Jul 15
Montana	Jan 15	Aug 31
Nebraska	Dec 1	Jul 15
Nevada	Dec 1	Jul 31

State	Beginning Breeding Season	End Breeding Season
New Hampshire	Feb 15	Aug 15
New Jersey	Jan 1	Jul 31
New Mexico	Oct 15	Jul 15
New York	Jan 1	Aug 31
North Carolina	Nov 1	Jun 30
North Dakota	Jan 15	Aug 31
Ohio	Jan 1	Jul 31
Oklahoma – except panhandle	Oct 1	May 30
Oklahoma – panhandle only	Oct 15	Jul 15
Oregon	Jan 1	Aug 15
Pennsylvania	Jan 1	Jul 31
Rhode Island	Jan 1	Jul 31
South Carolina	Oct 1	May 30
South Dakota	Jan 15	Aug 31
Tennessee	Nov 1	Jun 30
Texas – east of 100 th meridian	Oct 1	May 30
Texas – west of 100 th meridian	Oct 15	Jul 15
Utah	Dec 1	Jul 31
Vermont	Feb 1	Aug 15
Virginia	Dec 15	Jul 15
Washington	Jan 1	Aug 15
West Virginia	Dec 1	Jul 15
Wisconsin	Jan 15	Aug 15
Wyoming	Jan 1	Aug 15

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