# Eagle Take Permitting: Power Lines Specific Permits

Frequently Asked Questions and Answers

In February 2024 the U.S. Fish and Wildlife Service (Service) created permits for incidental take of eagles by power lines (50 CFR 22.260). This document provides answers to common questions regarding specific permits and the specific permit application process for power line entities.

**1. How do I know if a specific permit is the right permit choice for my power line entity?**

A general permit is best for any power line entity that can comply with General Permit standard conditions. Specific permits are available for power line entities unable to comply with one or more of the general permit conditions or wish more customization of permit conditions. Specific permit conditions are based on the general permit conditions and modified as appropriate.

**2. Can a specific permit authorize incidental take of a single eagle species?**

Yes. A specific permit may authorize incidental take of bald eagles, golden eagles, or both species. In contrast, a general permit must authorize incidental take of both bald and golden eagles under a single permit.

**3. How do I determine if my power line is eligible for a Tier 1 or Tier 2 permit?**

Applicants can request a Tier 1 or Tier 2 permit. Tier 1 specific permits are appropriate for power line entities that can comply with Specific Permit Tier 1 standard conditions, can use the Service's generalized process to estimate take, and qualify for a categorical exclusion under NEPA. Tier 2 specific permits are appropriate for power line entities that require additional site-specific analysis, customized permit conditions, or completion of an Environmental Assessment or Environmental Impact Statement. If you are unsure which tier is appropriate, apply for a Tier 1 permit. The Service reviews the application and determines whether it should be processed under Tier 1 or Tier 2.

**4. Will my specific permit contain a compensatory mitigation requirement?**

It depends on the species and amount of take the Service can authorize. Compensatory mitigation is required for any authorized take that the Service determines to be inconsistent with the eagle preservation standard. Any authorized take of golden eagles requires compensatory mitigation. Compensatory mitigation for bald eagles is only required when authorized take would exceed established take limits for the applicable Eagle Management Unit (EMU) or the Local Area Population (LAP).

**5. How will the amount of compensatory mitigation be calculated?**

The Service estimates the amount of compensatory mitigation required based on estimated eagle take. For Tier 1 power line specific permits, the Service uses the number of miles of above-ground transmission and distribution lines covered under the permit, considering the number of miles constructed after September 11, 2009. Applicants must submit the number of miles with their application, including a description of how the mileage estimates were derived and the level of confidence in those estimates.

Applicants may also provide their own fatality estimates or infrastructure-specific data to inform fatality estimates. Because these estimates are customized, a Tier 2 application is required. Additional processing time and environmental review are typically not required for these Tier 2 applications beyond what is required to validate or run a custom fatality estimate.

Compensatory mitigation requirements for specific permits is based on estimated take associated with infrastructure constructed after September 11, 2009.

**6. How can I meet the compensatory mitigation requirements for my specific permit?**

When compensatory mitigation is required, applicants must include a proposed approach in the application. Applicants may propose to acquire eagle credits from a Service-approved in-lieu fee program or conservation bank. Alternatively, applicants may propose to retrofit power poles owned by the applicant or another power line. Both approaches can be processed as a Tier 1 permit.

Applicants may also propose other forms of compensatory mitigation such as lead abatement, roadside carcass removal, nest treatments, or other methods. Proposals may include alternative methods for identifying high-risk poles or estimating the number of eagles saved from retrofitting in your Service territory. Because these approaches require additional Service review and permit customization, they typically result in the application being processed as Tier 2. Applicants proposing alternative methods must provide sufficient information for the Service to evaluate whether the proposal meets applicable compensatory mitigation requirements.

**7. Can power-pole retrofits that are associated with my specific permit be used as compensatory mitigation for another eagle take permit?**

A power-pole retrofit conducted to meet the requirements of a power line specific permit cannot also be used to meet compensatory mitigation requirements for another eagle take permit. However, retrofits to poles that are not required to meet the requirements of the power line specific permit may be used as compensatory mitigation for another eagle take permit.

For example, a permittee may complete retrofits beyond those required under its power line specific permit and offer those additional retrofits as compensatory mitigation for another eagle

take permit. To qualify, the retrofits must meet the compensatory mitigation requirements applicable to the other permit and would not have otherwise been completed.

A permittee may also complete retrofits in anticipation of their potential future use as compensatory mitigation. However, completing retrofits in advance does not guarantee that the retrofit qualifies as mitigation for a future permit. The retrofits must meet the Service's applicable compensatory mitigation requirements at the time they are proposed for use.

**8. What monitoring is required under specific permits?**

Tier 1 permits require the general permit monitoring conditions with these additional requirements:

1) For visual scans, maintain records of and include in every 5th annual report the estimated percentage of permitted infrastructure where visual scans occurred at least once by staff during the previous five-year period.

2) For electrocutions, maintain records of and submit with your annual report information on the pole that caused the electrocution as well as 12 poles nearest the electrocution (or within a half-mile segment, whichever is less). Information includes, at the time of electrocution: (a) if the pole was avian safe, (b) if the pole is known to have previously caused an eagle electrocution, (c) pole configuration characteristics, (e.g., number of conductors, number of jumpers, and if a ground is present), and (d) photos of the pole configuration and surrounding habitat.

3) Of total permitted infrastructure, include in every 5th annual report a best estimate of the percentage of permitted infrastructure that is avian-safe and a best estimate of the percentage of permitted infrastructure that has collision-reduction measures in place. Include the level of confidence in each estimate. The Service recognizes that these estimates may vary in precision but considers them valuable for understanding progress toward reducing risks to eagles. We expect the accuracy and confidence of these estimates to improve over time.

The Service uses information reported to improve our understanding of eagle electrocution and collision risk, including any factors affecting that risk, on permitted infrastructure and across the landscape. Tier 2 permits use the Tier 1 permit monitoring conditions, but applicants may request customized monitoring requirements.

**For additional technical resources, application materials, and permit information, please visit the Service's Eagle Management website.**