

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Arizona State Office
One North Central Avenue, Suite 800
Phoenix, Arizona 85004-4427

In Reply Refer To:
6500 (9320) P

EMS TRANSMISSION 04/01/2011
Instruction Memorandum No. AZ-2011-015
Expires: 09/30/2012

To: District Managers and Field Managers
From: Deputy State Director, Division of Resources
Subject: Request for Comments on U.S. Fish and Wildlife Service Draft Wind and Energy Guidelines and Draft Eagle Conservation Plan Guidance

DD: 4/22/2011

Purpose: The purpose of this Instructional Memorandum (IM) is to solicit review and comments from the District and Field Offices on the U.S. Fish and Wildlife Service (FWS) Draft Wind Energy Guidelines and Draft Eagle Conservation Plan Guidance. The FWS is seeking specific comments on the guidelines and eagle guidance, website content, and the appendices. When considering the Land-based Wind Energy Guidelines, consider the following questions in your comments.

- (1) The approach, utility, consistency, detail, and scientific validity of the draft Land-based Wind Energy Guidelines (Guidelines).
- (2) Use of the Guidelines as regulatory for wind facility development on all Federal lands. At a minimum, regulatory for all U.S. Department of the Interior jurisdictional lands where commercial wind projects are being/might be constructed (e.g., National Wildlife Refuges, Bureau of Land Management and National Park Service lands).
- (3) Use of the draft Guidelines, once finalized, as regulatory versus voluntary on all lands, public and private.

When considering the Eagle Conservation Plan Guidance, consider the following questions in your comments.

- (1) How could the Guidance better address issues related to wind power development?
- (2) Comments on the substance of the Guidance, particularly on Advanced Conservation Practices, compensatory mitigation, and new or expanded definitions.
- (3) What additional requirements may be necessary to ensure that wind energy programmatic permits comply with the Eagle Act?
- (4) Should the Guidance be voluntary or mandatory?
- (5) If the Guidance should not be binding in their entirety, which provisions should be binding?

Policy/Action: District and Field Offices are directed to review and submit consolidated comments to Elroy Masters, Fish and Wildlife Program Lead, Arizona State Office. The State Office will consolidate all comment for one State submittal to the Washington office by April 29, 2011. The draft documents can be found at:

Land- Based Wind Energy Guidelines can be found at:
<http://www.fws.gov/windenergy/guidance.html>

The Draft Eagle Conservation Plan Guidance document can be found at:
http://www.fws.gov/windenergy/eagle_guidance.html

Timeframe: The deadline for responding to this request is April 22, 2011.

Background: See attached Washington Office IM 2011-084 for additional background information.

Manual/Handbook Sections Affected: None

Contact: Elroy Masters, Fish and Wildlife Program Lead, Arizona State Office (AZ9320) at 602-417-9346.

SIGNED BY
Julie A. Decker
Deputy State Director of Resources

AUTHENTICATED BY
Susan Williams
Staff Assistant

1 Attachment

- 1 - WO IM 2011-084- Request for Comments on Fish and Wildlife Service Draft Wind Energy Guidelines and Draft Eagle Conservation Plan Guidance

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, DC 20240
<http://www.blm.gov>
March 7, 2011

In Reply Refer To:
6500 (230) P

EMS TRANSMISSION 03/15/2011
Instruction Memorandum No. 2011-084
Expires: 09/30/2012

To: All State Directors (except Eastern States)

From: Assistant Director, Renewable Resources and Planning

Subject: Request for Comments on Fish and Wildlife Service Draft Wind Energy Guidelines and Draft Eagle Conservation Plan Guidance **DD: 04/29/11**

Program Area: Fish and Wildlife.

Purpose: The purpose of this Instruction Memorandum (IM) is to solicit the Bureau of Land Management (BLM) field office comments on the Fish and Wildlife Service (FWS) Draft Wind Energy Guidelines and Draft Eagle Conservation Plan Guidance. The notice of their availability for official public review and comment was published in the Federal Register on February 18, 2011.

Policy/Action: States are directed to review and submit consolidated comments on the guidance documents to the Director, Attention: WO230. The Draft Wind Energy Guidelines document can be found at:
http://www.fws.gov/windenergy/docs/Wind_Energy_Guidelines_2_15_2011FINAL.pdf.

The Draft Eagle Conservation Plan Guidance document can be found at:
http://www.fws.gov/windenergy/docs/ECP_draft_guidance_2_10_final_clean_omb.pdf.

Your comments will help provide the most comprehensive feedback for cooperative work with the FWS and help ensure compliance with regulations, such as the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703, Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds; January 10, 2001) and Bald and Golden Eagle Protection Act (Eagle Act), including its implementing regulations (*i.e.*, September 11, 2009, Eagle Rule (Rule) 50 CFR parts 13 and 22).

Timeframe: The deadline for responding to this request is April 29, 2011.

Budget Impact: There should be minimal budget impact, in the form of staff time, to review and submit comments on the documents.

Background: In July 2003, the FWS released a set of voluntary, interim guidelines for reducing adverse effects to fish and wildlife resources from wind energy projects. Following a FWS review of public comments, the Secretary of the Interior established a Federal Advisory Committee to provide recommendations to revise the guidelines related to land-based wind energy facilities. The Committee submitted its final Recommended Guidelines to the Secretary of the Interior on March 4, 2010. Through an internal working group, the recommendations were reviewed and voluntary Draft wind energy guidelines were developed. The Draft Wind Energy Guidelines address wildlife conservation and MBTA compliance.

In addition to MBTA compliance, the BLM is also subject to the legal requirements for bald and golden eagle conservation and protection under the Eagle Act (as amended). The Eagle Act's implementation regulations included a definition of the term "disturb" (a form of take), and outlined an incidental take permit process. To guide compliance with the Eagle Act, the FWS published "Eagle Permits; Take Necessary to Protect Interest in Particular Localities; Final Rules" (Rule) in the Federal Register on September 11, 2009. The Draft Eagle Conservation Plan Guidance document is intended to help Federal,

state, and private individuals conduct business and permit other activities while determining the need for application of take permits. It also minimizes the need for application of take permits through application of conservation measures during implementation of those other activities.

Prior to the publishing of this draft guidance, BLM provided interim guidance on golden eagle coordination procedures with FWS via IM 2010-156, dated July 9, 2010.

Manual/Handbook Sections Affected: None.

Coordination: This policy was coordinated with the BLM's Minerals and Realty Management Directorate and the Division of Fish, Wildlife and Plant Conservation.

Contact: Dwight Fielder, Chief, Division of Fish, Wildlife and Plant Conservation, WO230 at 202-912-7230, or Dwight_Fielder@blm.gov.

Signed by:
Lynda L. Boody
Acting, Assistant Director
Renewable Resources and Planning

Authenticated by:
Robert M. Williams
Division of IRM Governance,WO-560

2 Attachments

- 1 – Draft Eagle Conservation Plan Guidance Comment Form (1 p)
- 2 – Draft Land-Based Wind Energy Guidelines Comment Form (1 p)

