VIEWINSUPPORTING STATEMENT A FOR PAPERWORK REDUCTION ACT SUBMISSION

Eagle Take Permits and Fees, 50 CFR 10, 13, and 22
OMB Control Number 1018-0167

Terms of Clearance: This submission is a revision to, and renewal of, OMB Control No. 1018-0167 in conjunction with our proposed rule under RIN 1018-BE70, "Permits for Incidental Take of Eagles and Eagle Nests." Substantive changes to this document since OMB's November 1, 2022 approval of the proposed rule stage are highlighted in yellow.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The Bald and Golden Eagle Protection Act (Eagle Act; 16 U.S.C. 668-668d) prohibits the take of bald eagles and golden eagles except pursuant to Federal regulations. The Eagle Act regulations at Title 50, Part 22 of the Code of Federal Regulations (CFR), define the "take" of an eagle to include the following broad range of actions: "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb." The Eagle Act allows the Secretary of the Interior to authorize certain otherwise prohibited activities through regulations and permits.

Regulations at 50 CFR Part 22 provide for permits to possess and/or take bald eagles and golden eagles or their parts for particular purposes provided for in the Eagle Act. Permit application forms gather information necessary for the U.S. Fish and Wildlife Service (Service) to evaluate whether the applicant meets Eagle Act criteria for taking or possessing eagles or their parts. Reporting requirements enable the Service to verify the permitted activity remains in compliance with permit terms and conditions, and that the permit program overall is compatible with the Eagle Act's eagle preservation standard.

In 2016, the Service issued final regulations (81 FR 91494; Dec 16, 2016) which, among other things:

(1) extended the maximum tenure of permits for the incidental take of eagles from 5 to 30 years;
(2) updated the boundaries to the Service's Eagle Management Units (EMUs) to better reflect regional populations and migration patterns of both eagle species;
(3) imposed requirements for preconstruction monitoring requirements for wind energy projects applying for incidental take permits;
(4) amended the preservation standard (discussed below); and
(5) imposed a new requirement to analyze cumulative-authorized and known-unauthorized take at local scales to ensure compliance with the preservation standard. This rulemaking was supported by a Programmatic Environmental Impact Statement (PEIS), and the Service's final decision was described in a Record of Decision, both of which are available at https://www.regulations.gov in Docket No. FWS-R9-MB-2011-0094.

On September 14, 2021, the Service published an Advance Notice of Proposed Rulemaking (86 FR 51904) seeking "public and regulated-community input on potential approaches for further expediting and simplifying the permit process authorizing incidental take of eagles." The notice

specifically sought comment on elements of the 2016 Eagle Rule that hindered permit application, processing, and implementation, and suggestions for regulatory revisions and guidance resources that would reduce the time and cost associated with securing and operating under long-term eagle incidental take permits. The Service received 1,899 comments in response to the advanced notice of proposed rulemaking, which we subsequently considered in these proposed revisions (see question 8 for a summary of these comments).

We prepared a final rule (RIN 1018-BE70) that updates the regulations authorizing eagle incidental take and eagle nest take permits to increase the efficiency and effectiveness of permitting, improve clarity for the regulated community, and increase the conservation benefit for eagles. With a higher demand for permitting the potential take of bald eagles, the previous permit framework increased the administrative burden on the public and the Service not commensurate with the conservation status of bald eagles. We finalized these regulatory changes to provide several benefits to eagles while reducing the administrative burden on both applicants and the Service when obtaining and administering permits.

This rulemaking finalizes two regulations governing the administration of:

- *Specific permits (§ 22.200)* – Incidental take permits issued for activities that do not meet eligibility criteria for general permits; characterized by application-specific review, avoidance and minimization measures, compensatory mitigation requirements, adaptive management measures, and monitoring and reporting requirements; and
- *General permits (§ 22.210)* – Incidental take permits issued for activities that we have determined require no application-specific review or analysis to comply with the Eagle Act's preservation standard. Such permits are characterized by standard permit conditions which must be accepted by the applicant in order for a permit to be issued.

Additionally, the final rule implements eligibility criteria and permit conditions in four regulations based on activity and type of take:

- incidental take of eagles by wind energy projects (§ 22.250);
- incidental take of eagles by power lines (§ 22.260);
- disturbance take of eagles (§ 22.280); and
- take of eagle nests (§ 22.300).

(See **"Proposed Revisions"** in question 2 for specific details about the impact of these regulations on existing and proposed information collections.)

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

The information that we collect on applications and reports is the minimum necessary for us to determine if the applicant meets/continues to meet issuance requirements for the particular activity and that any permit issued is consistent with the Service's population goals for bald and golden eagles. The Service's website for information related to the management of bald and golden eagles can be found at https://www.fws.gov/library/collections/bald-and-golden-eagle-management.

Applications
Respondents submit application forms periodically, as necessary. All Service permit applications (generally in the 3-200 series of forms) are tailored to a specific activity based on the requirements for specific types of permits.

Standardizing general information common to the application forms makes filing of applications easier for the public as well as expedites our review of applications. In accordance with Federal regulations at 5 CFR 13.12, we collect standard identifier information for all permits, such as:

- Applicant's full name and address (street address, city, county, state, and zip code; and mailing address if different from street address); home and work telephone numbers; and, if available, a fax number and e-mail address, and;
  - If the applicant resides or is located outside the United States, an address in the United States, and, if conducting commercial activities, the name and address of his or her agent that is located in the United States; and
  - If the applicant is an individual, the date of birth, occupation, and any business, agency, organizational, or institutional affiliation associated with the wildlife or plants to be covered by the license or permit; or
  - If the applicant is a business, corporation, public agency, or institution, the tax identification number; description of the business type, corporation, agency, or institution; and the name and title of the person responsible for the permit (such as president, principal officer, or director);
- Location where the requested permitted activity is to occur or be conducted;
- Reference to the part(s) and section(s) of subchapter B as listed in paragraph (b) of 50 CFR 13 under which the application is made for a permit or permits, together with any additional justification, including supporting documentation as required by the referenced part(s) and section(s);
- If the requested permitted activity involves the import or re-export of wildlife or plants from or to any foreign country, and the country of origin, or the country of export or re-export restricts the taking, possession, transportation, exportation, or sale of wildlife or plants, documentation as indicated in § 14.52(c) of subchapter B;
- Certification containing the following language:
  - *I hereby certify that I have read and am familiar with the regulations contained in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, Code of Federal Regulations , and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.*
- Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued;
- Date;
- Signature of the applicant; and
- Such other information as the Director determines relevant to the processing of the application, including, but not limited to, information on the environmental effects of the activity consistent with 40 CFR 1506.5 and Departmental procedures at 516 DM 6, Appendix 1.3A.

In addition to the general permitting requirements outlined in Federal regulations at 5 CFR 13.12, applications for any permit under 50 CFR 22 must contain:

- Species of eagle and number of such birds, nests, or eggs proposed to be taken, possessed, or transported;
- Specific locality in which taking is proposed, if any;
- Method of proposed take, if any;
- If not taken, the source of eagles and other circumstances surrounding the proposed acquisition or transportation;
- Name and address of the public museum, public scientific societies, or public zoological park for which they are intended;
- Complete explanation and justification of request, nature of project or study, number of specimens now at institution, reason these are inadequate, and other appropriate explanations.

The following FWS forms are used in conjunction with reporting requirements associated with eagles:

Form 3-200-14, "Eagle Exhibition" (50 CFR 22.50)
This form is used to apply for a permit to possess and use eagles and eagle specimens for educational purposes. A Federal Eagle Exhibition permit is required to possess and transport eagles for the purpose of educating the public about the biology, ecology, and conservation needs of eagles. Only zoological parks, scientific or educational institutions, and museums that meet the definition of "public" under 50 CFR 10.12 are eligible for this permit and must complete section B on page 1 of this application. A minimum of 12 public educational programs per year must be conducted under this permit. If eagles are on display in an exhibit for educational purposes, the facility must be open to the public for a minimum of 400 hours per year.

In addition to the standardized information required by 5 CFR 13.12, the form also requires the following information:

- Type of eagle(s) or eagle specimens and quantity being requested;
- Documentation verifying that you meet the definition of "public" in 50 CFR 10.12;
- If requesting to display live eagles, applicants must include a Migratory Bird and Eagle Acquisition and Transfer Request form (Form 3-202-12) for each bird they wish to acquire;
- Written recommendation from another Federal permittee with eagle handling experience; and
- Photographs and diagrams of your permanent facilities/enclosures for housing migratory birds (both indoor and outdoor)
- Description of the educational message you will deliver and to what type of audience which includes:
  - An outline of their program, including as much detail as possible, and any brochures or other materials prepared for distribution; and
  - Explanation concerning why live eagles are necessary for their program, including how they will be used and displayed during the presentation to meet this need.
- Experience of handlers –
  - For static display eagles: The Primary Caretaker must be at least 18 years of age and have a minimum of 300 hours of experience gained over the course of 2 years working with the eagle species they intend to acquire. This experience is

to include training the species or similar species they intend to use in educational programs, the care and feeding of eagles, managing their exhibits (captive husbandry including perching, jessing, etc.) and medical management. A portion of the experience may be fulfilled by participation in migratory bird/raptor handling seminars and courses.
    - For using glove-trained eagles in educational programs: In addition to the above requirements, we recommend that the Primary Caretaker have a total of at least 500 hours of experience with the eagle species they intend to acquire gained over the course of 2 years, including presenting educational programs using glove-trained eagles. ALSO: They must also attach a letter of reference from an experience eagle exhibition permittee describing your qualifications for this permit.
    - For each live eagle they propose to use, they must describe in detail their experience handling and caring for those species.
    - Provide the name, address, and telephone number of the facility or facilities where their experience was obtained.
    - Describe their experience in presenting glove-trained programs, including the length of time they have been presenting programs and the types of audiences.
- Provide a list of the eagle(s) they will house in each enclosure, including the species, number of eagles, and flight status (flighted, non-flighted) of each eagle;
- If live eagles will be displayed outside of the enclosures described, provide a detailed description of:
    - How the eagles will be displayed, and
    - A description of the enclosures for transport of the eagles, including dimensions (length, width, and height) and the type and number of species that will be transported in each.
- For each live eagle possessed under this permit, the applicant must:
    - Describe the diet administer and indicate food source, and
    - Describe the types of daily enrichment provided for each eagle.
- If requesting to display eagle specimens, applicants must list the species and type(s) of specimen(s) and the source's name, address, and Federal permit number.
- Anyone responsible for the permitted activities or acting as their agent must either have their own Federal migratory bird permit for the activity or be identified by the applicant, in writing, as a sub-permittee under their permit. They may also require a State permit. Sub-permittees must be at least 18 years old. As the primary permittee, applicants are responsible for ensuring that their sub-permittees are properly trained and adhere to the terms of your permit. They must also provide the name of any sub-permittees who will be conducting activities under their permit. For anyone handling or caring for live birds, a brief description what they will be doing and their qualifications must also be included.
- Record retention requirements (records must legibly written or reproducible in English relating to the activities conducted under the permit for at least 5 years after the expiration date of the permit) and the physical address where records will be kept, if different from the mailing address.
- If the applicant acknowledges they, or their client (if a broker on behalf of the client), answers yes to the listed disqualification factors, they must then provide the following:
    - The individual’s name;
    - Date of conviction, civil penalty assessment or revocation;
    - Charge(s), or reason(s) for revocation;

  - Location of the incident;
  - Court (if applicable, ticket, Federal/State/Tribal court etc.); and
  - Legal action taken for each violation (i.e. fine, incarceration, probation…).
- Confirmation of whether the applicant is eligible for fee exempt status (applicable to Federal, State, Tribal, and municipal government agencies).
  - Applicants acting on behalf of such agencies must submit a letter on agency letterhead and signed by the head of the unit of government for which the applicant is acting on behalf, confirming that the applicant will be carrying out the permitted activity for the agency, or the agencies tax exempt form.

The Service uses the information collected via Form 3-200-14 to determine that the eagles are legally acquired and will be used for bona fide conservation education; and, in the case of live eagles, will be housed and handled under safe and healthy conditions.

Form 3-200-15a, "Eagle Parts for Native American Religious Purposes" (50 CFR 22.60)
This application form is used by enrolled members of Federally recognized Tribes to provide them authorization to acquire and possess eagle feathers and parts from the Service's National Eagle Repository (NER) for religious and cultural purposes, including healing, marriage, and naming ceremonies. The permittee also uses the form to make additional requests for eagle parts and feathers from the NER.

In addition to the standardized information required by 5 CFR 13.12, the form also requires the following information:

- Migratory Bird Permit number;
- Name and phone number of contact person (if applicant has no phone);
- Full name of the Federally recognized Tribe;
- Tribal enrollment number of the individual applicant;
- Inmate specific information in cases where applicants are incarcerated:
  - Incarceration status,
  - Inmate number,
  - Institution, and
  - Name and contact information for the institute's chaplain;
- Description of the specific eagle parts and/or feathers desired by the applicant:
  - Species;
  - Age,
  - Items/parts; and
  - Quantity;
- If the applicant acknowledges they, or their client (if a broker on behalf of the client), answers yes to the listed disqualification factors, they must then provide the following:
  - The individual's name;
  - Date of conviction, civil penalty assessment or revocation;
  - Charge(s), or reason(s) for revocation;
  - Location of the incident;
  - Court (if applicable, ticket, Federal/State/Tribal court etc.); and
  - Legal action taken for each violation (i.e. fine, incarceration, probation…).
- Certification of enrollment in a Federally recognized Tribe (for first orders only) which collects:

- Name, address, and telephone number;
- Name of Federally recognized Tribe; and
- Enrollment number.

The Service uses the information collected via Form 3-200-15a to verify that the applicant is an enrolled member of a Federally recognized Tribe, and what parts and/or feathers the applicant is requesting.

Form 3-200-16, "Take of Depredating Eagles & Eagles that Pose a Risk to Human or Eagle Health or Safety" (50 CFR 22.100)
A Federal Eagle Depredation Permit is required take Bald Eagles or Golden Eagles that have become injurious to wildlife, agriculture, or other personal property, or for human or eagle health or safety. A depredation permit is intended to provide short-term relief from depredation damage until long-term measures can be implemented to reduce or eliminate the depredation problem through nonlethal control techniques. Long-term measures might include constructing enclosures or changing their design, alteration of habitat or features to remove attractants, or modification of land-use practices that attract eagles.

In addition to the standardized information required by 5 CFR 13.12, the form also requires the following information:

- A recommendation from the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, for addressing the depredation problem.
- Copies of any receipts, invoices, contracts, necropsy reports, or other available records documenting any deterrent measures (optional);
- Any other supporting documentation (example photographs of damages);
- Status of other required authorizations (State or Tribal);
- Species and estimated number of eagles causing the problem;
- Specific details for the depredation or injuries (e.g., types of crops/livestock destroyed, property damaged, risks to human health or safety, or risks posed to eagle health and safety);
- How long has this depredation has been occurring (number of days, months, or years);
- When during the year the depredation or human safety hazard occurs;
- Location (including address and latitude/longitude in decimal degrees) and size of the affected location (e.g. 1-acre pond, 50-acre vineyard, 500-acre airfield);
- Length of permit requested and how often depredation activities will be conducted;
- Requested method of take, including type(s) of trap(s); proposed trapping methods, who will be conducting trapping and their previous experience, and a description of the areas if applicant is requesting authorization for trap and relocation;
- Description of deterrents used previously, specifically addressing nonlethal measures, along with photographs or other documentation available;
- Description of the proposed long-term remedy;
- Whether applicant is applying on behalf of an airport to control birds in flight zones;
- Record retention requirements (records must legibly written or reproducible in English relating to the activities conducted under the permit for at least 5 years after the expiration date of the permit) and the physical address where records will be kept, if different from the mailing address;
- Anyone responsible for the permitted activities or acting as their agent must either have their own Federal migratory bird permit for the activity or be identified by the

applicant, in writing, as a sub-permittee under their permit. They may also require a State permit. Sub-permittees must be at least 18 years old. As the primary permittee, applicants are responsible for ensuring that their sub-permittees are properly trained and adhere to the terms of your permit. They must also provide the name of any sub-permittees who will be conducting activities under their permit. For anyone handling or caring for live birds, a brief description what they will be doing and their qualifications must also be included;

- If the applicant acknowledges they, or their client (if a broker on behalf of the client), answers yes to the listed disqualification factors, they must then provide the following:
  - The individual's name;
  - Date of conviction, civil penalty assessment or revocation;
  - Charge(s), or reason(s) for revocation;
  - Location of the incident;
  - Court (if applicable, ticket, Federal/State/Tribal court etc.); and
  - Legal action taken for each violation (i.e. fine, incarceration, probation…); and
- Confirmation of whether the applicant is eligible for permit fee exempt status (applicable to Federal, State, Tribal, and municipal government agencies).
  - Applicants acting on behalf of such agencies must submit a letter on agency letterhead and signed by the head of the unit of government for which the applicant is acting on behalf, confirming that the applicant will be carrying out the permitted activity for the agency, or the agencies tax exempt form.
  - The fee exemption applies only to permit fees and does not apply to administrative fees.

The Service uses the information collected via Form 3-200-16 to determine the take is necessary to protect the interest; consider other alternatives; and to determine the method of take is humane and compatible with the preservation of eagles.

Form 3-200-18, "Take of Golden Eagle Nests During Resource Development or Recovery" (50 CFR 22.75)
This application is used by commercial entities engaged in resource development or recovery operations, such as mining or drilling to obtain authorization to remove or destroy golden eagle nests.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Location of the property, to include an appropriately scaled map or plat which delineates the areas of the resource development or recovery operation and identifies the exact location of each golden eagle nest you propose to take in decimal degrees (e.g.36.87998/-88.3435);
- A map and digital photographs that show the location of the nest in relation to buildings, infrastructure, and human activities;
- Status of other required authorizations;
- Type of resource development or recovery operation;
- Number of golden eagle nests to be taken;
- A description of the property on which the taking is proposed, with reference made to its exact geographic location;
- A description of the activity to be performed during the resource development or

recovery operation that involves the taking of a golden eagle nest;

- Duration for which the authorization in requested, including the start and ending dates of the resource development or recovery operation;
- Disposition of the nests once removed (or destroyed) and whether applicant is willing to donate any nests for scientific or educational purposes;
- Description of the proposed mitigation measures that will be implemented;
- Record retention requirements (records must legibly written or reproducible in English relating to the activities conducted under the permit for at least 5 years after the expiration date of the permit) and the physical address where records will be kept, if different from the mailing address;
- If the applicant acknowledges they, or their client (if a broker on behalf of the client), answers yes to the listed disqualification factors, they must then provide the following:
  - The individual's name;
  - Date of conviction, civil penalty assessment or revocation;
  - Charge(s), or reason(s) for revocation;
  - Location of the incident;
  - Court (if applicable, ticket, Federal/State/Tribal court etc.); and
  - Legal action taken for each violation (i.e. fine, incarceration, probation…); and
- Confirmation of whether the applicant is eligible for fee exempt status (applicable to Federal, State, Tribal, and municipal government agencies).
  - Applicants acting on behalf of such agencies must submit a letter on agency letterhead and signed by the head of the unit of government for which the applicant is acting on behalf, confirming that the applicant will be carrying out the permitted activity for the agency, or the agencies tax exempt form.

The Service uses the information collected via Form 3-200-18 to determine that the take is necessary and will be compatible with the preservation of eagles.

Form 3-200-71, "Eagle Take Associated with but not the Purpose of an Activity (Incidental Take)" (Currently 50 CFR 22.80)
(See "Proposed Revisions" below)

Form 3-200-72, "Eagle Nest Take" (Currently 50 CFR 22.85)
(See "Proposed Revisions" below)

Form 3-200-77, "Native American Eagle Take for Religious Purposes"
(50 CFR 22.60)
Federally recognized Native American Tribes use this form to apply for authorization to take eagles from the wild for Tribal religious purposes.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Status of other required authorizations;
- Location of proposed take;
- Statement of consent by the landowner or land manager if not on Tribal land;
- Species, number, and age class of eagles;
- Whether the eagles will be collected alive and held in captivity;
- Intended disposition of parts and feathers; and
- Reason why eagles obtained by other means do not meet the Tribe's religious needs.

The Service uses the information collected via Form 3-200-77 to determine the take is necessary to meet the Tribe's religious needs and has the consent of the landowner, the take is compatible with the preservation of eagles, and any eagles kept alive will be held under humane conditions.

Form 3-200-78, "Native American Tribal Eagle Aviary" (50 CFR 22.60)
Federally recognized Native American Tribes use this form to apply for authorization to keep live eagles for Tribal religious purposes.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Descriptions, photographs and/or diagrams of the enclosures where the eagles will be housed, and number of eagles that will be kept in each;
- Status of other required authorizations;
- Names and eagle-handling experience of caretakers;
- Veterinarian who will provide medical care; and
- Description of diet and enrichment the Tribe will provide the eagles.

The Service uses the information collected via Form 3-200-78 to ensure the Tribe has the appropriate facilities and experience to keep live eagles safely and humanely.

Form 3-200-82, "Bald Eagle or Golden Eagle Transport into the United States for Scientific or Exhibition Purposes" (50 CFR 22.50)
This application is used by researchers and museums to obtain authorization to temporarily bring eagle specimens into, or take such specimens out of, the United States.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Documentation that specimen was legally obtained;
- Documentation that the applicant meets the definition of a "public" institution as required under statute;

- Status of other required authorizations (State, local, Tribal);
- Description of the specimen(s);
- Country of origin;
- Name of and contact information for the foreign institution;
- Scientific or exhibition purposes for the transport of specimens;
- Locations where item will be exhibited (if applicable); dates and ports of departure/arrival; and names of persons acting as agents for the applicant.

The Service uses the information collected via Form 3-200-82 to ensure the specimens were legally acquired will be transported through U.S. ports that can legally authorize the transport, the transport will be temporary, as required by statute, and the specimens will be used for purposes authorized by statute.

Form 3-1552 "Native American Tribal Eagle Retention" (50 CFR 22.60)
A Federal Eagle Remains Tribal Use permit authorizes a Federally recognized Tribe to acquire, possess, and distribute to Tribal members whole eagle remains found by a Tribal member or employee on their Tribal land for Indian religious use. The applicant must be a Federally recognized Tribal entity under the Federally Recognized Tribal List Act of 1994, 25 U.S.C. 479a-1, 108 Stat. 4791 (1994).

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Name of the Tribe;
- Name and contact information for the Tribal leader and primary contact person;
- Whether the Tribe has already discovered an eagle to hold under the permit; and
- If different than what's listed for the primary contact, the address of the physical location where records will be kept.

The Service uses the information collected via Form 3-1552 to identify which Tribe is applying for the permit and informs the Service as to whether the Tribe is applying before or subsequent to finding the first eagle they wish to retain, allowing the Service to choose the appropriate course of action.

Form 3-1591, "Tribal Eagle Retention – Acquisition Form" (50 CFR 22.60)
This form provides the Service information needed to track the chain of custody of eagle remains and ensure the Tribe takes possession of them as authorized under the permit. The applicant must be a Federally recognized Tribal entity under the Federally Recognized Tribal List Act of 1994, 25 U.S.C. 479a-1, 108 Stat. 4791 (1994).

The first part of the form (completed by a Service Law Enforcement (OLE) Officer) collects:

- Species;
- Sex;
- Age class of eagle;
- Date and location discovered;
- Date information was reported to track eagle mortalities;

- Date the remains were transferred to Tribe;
- Name and contact information for the Tribe; and
- OLE officer name and contact information.

The second part of the form (competed by the Tribe) collects:

- Permit number;
- Date the Tribe took possession of the eagle; and
- Principal Tribal Officer's name, title, and contact information.

The Service uses the information collected via Form 3-1591 to track the chain of custody of eagle remains and ensure the Tribe takes possession of them as authorized under the permit.

Form 3-2480, "Eagle Recovery Tag"
The form is used to track dead eagles as they move through the process of laboratory examination to determine cause of death and are sent to the National Eagle Repository for distribution to Native Americans for use in religious ceremonies.

In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- USGS band data;
- Unique ID number assigned;
- Mortality date;
- Species, age, and sex of the eagle;
- Date recovered;
- Name of person(s) who found and recovered the eagle; and
- Names and contact information of persons who received the eagle throughout the chain of custody.

The Service uses the information collected via Form 3-2480 to maintain chain of custody for law enforcement and scientific purposes.

Reporting Requirements
Submission of reports is generally on an annual basis, although some are dependent on specific transactions. Permittees must submit an annual report for every year the permit is valid, and for up to 3 years after the activity is completed.

Form 3-202-11, "Take of Depredating Eagles & Eagles that Pose a Risk to Human or Eagle Health or Safety – Annual Report" (50 CFR 22.100)
Permittees use this form to report the outcome of their action involving take of depredating eagles or eagles that pose a risk to human or eagle health or safety. In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Species,
- Location,
- Date of take,
- Number of eagles,

- Method of take (killed, trapped, or hazed), and
- Final disposition.

The Service uses the information collected via Form 3-202-11 to ascertain that the planned take was implemented, track how much authorized take occurred in the eagle management unit and local population area, and verify the disposition of any eagles taken under the permit.

Form 3-202-13, "Eagle Exhibition – Annual Report" (50 CFR 22.50)
This form is used to report activities conducted under an eagle exhibition permit (FWS Forms 3-200-14 and 3-200-82) for both live and dead eagles. In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Type of species (bald eagle or golden eagle);
- Whether species is alive or dead;
- Date acquired or date disposed of;
- From whom acquired or to whom transferred;
- Total number of programs each eagle was used in; and
- If statically displayed, such as in a museum setting, the number of days the facility was open to the public.

The Service uses the information collected via Form 3-202-13 to verify that eagles held under the permit are used for the purposes of the permit: conservation education.

Form 3-202-14, "Native American Tribal Eagle Aviary – Annual Report" (50 CFR 22.60)
This form is for reporting activities conducted under a Native American Eagle Aviary Permit (FWS Form 3-200-78). In addition to the standardized information required by 5 CFR 13.12, the form also collects the following information:

- Type of species (bald or golden);
- Date acquired or date transferred; and
- From whom acquired or to whom transferred and other disposition.

The Service uses the information collected via Form 3-202-14 to track the live eagles held by Federally recognized Tribes for spiritual and cultural practices.

Form 3-202-15, "Eagle Incidental Take (50 CFR 22.80) – Annual Report"
Recipients of incidental take permits use FWS Form 3-202-15 to meet the reporting requirements at 50 CFR 22.80. The permittee is required to submit this form regardless of whether any take occurred (i.e., report no take). Permittees authorized to take eagles in the form of disturbance fill out section A, which gathers data on the monitoring conducted by the permittee to assess impacts to eagles, including:

- Date;
- Time of day;
- Number of eagles;
- Observed behavior;
- A description of the human activity that was taking place at the time the eagles were observed; and

- Whether any young were fledged during the breeding season.

Part B of 3-202-15 instructs permittees authorized to incidentally injure or kill eagles to report the following information:

- Location where the eagle was found;
- Species, age, and sex of eagle;
- Condition (live or dead);
- How the eagle was found (e.g., during surveys, opportunistically, etc.);
- Date of discovery;
- Whether samples were taken;
- Whether the injury/mortality event was seen; and
- Suspected cause.

The Service uses the information reported to ascertain that the anticipated take occurred, track how much authorized take occurred in the eagle management unit and local population area, evaluate the effectiveness of measures to minimize and mitigate impacts to eagles; and, for long-term incidental take permits, to update authorized take and mitigation levels.

Form 3-202-16, "Eagle Nest Take (50 CFR 22.100 and 22.210) – Annual Report"
The permittee is required to submit this form regardless of whether any take occurred (i.e., report no take). Permittees authorized to take eagles in the form of nest take gather data on the monitoring conducted to assess impacts to eagles, including:

- Permit number, calendar year, and report due date;
- Specific eagle take (bald eagle or golden eagle);
- Whether permit authorized take of a specific nest(s) or authorized programmatic nest take;
- Data on authorized nest take, to include date, location, whether nest was active, and disposition of chicks and eggs;
- Disposition of nest, to include whether the nest was rebuilt and whether there was breeding and fledging of young, whether nest was relocated or a substitute nest was provided, and a description of methods and techniques employed (if nest was relocated); and
- A description of the mitigation measures implemented to offset nest take.

The Service uses the information collected via Form 3-202-16 to track whether the authorized take occurred; when it occurred; disposition of the nest; of the nest was occupied, the disposition of the eggs or chicks; and the conservation measures being implemented to mitigate for the take.

Monitoring Requirements – Most permits that authorize take of eagles or eagle nests require monitoring. We do not require monitoring for intentional take such as when Native American Tribes take an eagle as part of a religious ceremony or when falconers trap golden eagles that are depredating on livestock. A fundamental purpose of monitoring under take permits is to track levels of take for population management. For disturbance permits, monitoring also provides information about whether the permitted activity actually disturbed eagles, allowing the Service to better understand when these types of permits may not be needed.

In addition to tracking take at population management scales, the Service uses data from monitoring lethal take permits to adjust authorized take levels, compensatory mitigation requirements, and conservation measures as spelled out under the terms of the permit. With regard to wind industry permits, these data also enable the Service to improve future fatality estimates through enhanced understanding of exposure and collision.

Required Notifications – Most permits that authorize take or possession of eagles require a timely notification to the Service by email or phone when an eagle possessed under a possession permit or taken under a permit to take eagles dies or is found dead. These fatalities are later recorded in reports submitted to the Service as described above. The timely notifications allow the Service to better track take and possession levels, and to ensure eagle remains are sent to either a forensics lab or the NER.

Incidental take permittees are also required to notify the Service via email or phone if a threatened or endangered species is found in the vicinity of the permitted activity. There is no notification requirement for that beyond reporting each occurrence where take is discovered to have occurred.

The Service tracks whether the take level is exceeded or is likely to be exceeded.

5-Year Permit Reviews
(See "Proposed Revisions" below)
Under the final regulations, for every 5-year period the permit is in effect, long-term eagle incidental take permittees are required to generate a report compiling eagle take information entered and submit this information to the Service. Holders of incidental take permits are required to report eagle fatalities. This information is used to determine if adaptive management measures set forth in the permit should be implemented and whether authorized take levels and compensatory mitigation should be adjusted.

We use adaptive management in every long-term incidental take permit, and also to evolve the program. From the preamble to our final 2016 regulations:

> "*The entire eagle incidental take program has been built around explicitly accounting for uncertainty and then being clear about how that uncertainty is addressed in decisions. Adaptive management is a process of adaptive learning, whereby: (1) Predictions are made regarding anticipated effects of an activity; (2) data regarding the outcomes of the activity are collected; (3) the predictions are updated to reflect the actual outcomes of the activity; and (4) the updated predictions are used to change the activity, either in the future at the same site or at other places where the same activity is being contemplated.*
>
> *The Service has described its adaptive management framework for eagle incidental take permits in the Eagle Conservation Plan Guidance (Appendix A), and in the preamble to this final rule. The overall framework is intended to account for, and over time to reduce, uncertainty in the effects of wind facility siting, design, and operations on eagles. More broadly than for just wind energy, the adaptive management process is also intended to address uncertainty in compensatory mitigation and the effects of established take rates on eagles. This uncertainty is reduced over time by using information collect on the actual outcomes of the activity to update the predictive models used initially to estimate those effects; over time, the accuracy and precision of the predictive models is improved through these updates*" (81 FR 91514, Dec. 16, 2016). Also, see 81 FR 91501-91503.

Recordkeeping Requirements – As required by 50 CFR 13.46, permittees must keep records of the permitted activity as it relates to eagles and any data gathered through surveys and monitoring, to include records associated with the required internal incident reporting system for bald eagle and golden eagle remains found and the disposition of the mains. This information retained by permittees is described above under reporting requirements. The recordkeeping burden is shown in Attachment A (uploaded to ROCIS as a supplemental document).

Amendments – Amendments to a permit may be requested by the permittee, or the Service may amend a permit for just cause upon a written finding of necessity. Amendments comprise changes to the permit authorization or conditions. Such changes may include an increase or decrease in the authorized take or possession of eagles, proposed adjustment of permit conditions, or changes to the activity involving eagles. The permit will specify circumstances under which modifications to avoidance, minimization, or compensatory mitigation measures or monitoring protocols will be required, which may include, but are not limited to take levels, location of take, and/or changes in eagle use of the activity area.

At a minimum, the permit must specify actions to be taken if take approaches or reaches the amount authorized and anticipated within a given time frame. The permittee applies for amendments to the permit by submitting a description of the modified activity and the changed conditions affecting eagles. Substantive amendments incur a processing fee. A permittee is not required to pay a processing fee for minor changes, such as the legal individual or business name or mailing address of the permittee. A permittee is required to notify the issuing office within 10 calendar days of such change.

We identified additional OMB-approved permit applications which did not have an associated amendment IC. We included the new amendment ICs in Attachment A and labeled each as (NEW).

Transfers – In general, permits issued under 50 CFR part 22 are not transferable. However, permits issued under 50 CFR subpart E may be transferred by the transferee providing written assurances of sufficient funding the conservation measures and commitment to carry out the terms and conditions of the permit.

PROPOSED REVISIONS WITH THIS SUBMISSION:
We categorized the proposed revisions into four sections:

- Administrative Updates,
- Change in Administration Fees,
- Revisions to Currently Approved Information Collection Requirements,
- Existing Requirements Not Currently Approved, and
- New Information Collection Requirements.

Administrative Updates

On January 7, 2022, the Service published a final rule (87 FR 876) making administrative updates to Parts 21 and 22 completed by the Service in January 2022. We captured the associated administrative updates to the CFR references for Part 22 in the updated versions of the forms in this collection being submitted to OMB for approval with this renewal/revision request.

Change in Administration Fees (State, Local, Tribal, or Federal Agencies)

State, local, Tribal, and Federal government agencies, and those acting on their behalf, are exempt from processing fees.

(Proposed Update) This rule changes the Service's practice of not charging administration fees for eagle permits under 50 CFR part 22 to any State, local, Tribal, or Federal government agency, or to any individual or institution acting on behalf of such agency. Except as otherwise authorized or waived, if the agency fails to submit evidence of agency status with the application, we will require the submission of all processing fees prior to the acceptance of the application for processing.

Revisions to Currently Approved Information Collection Requirements:

Revision to FWS Form 3-200-71

We split Form 3-200-71, *"Eagle Take Associated with but not the Purpose of an Activity (Incidental Take)"* (currently 50 CFR 22.80) into two separate forms as follows:

- **Form 3-200-71, "*Eagle Incidental Take – General and Specific*"** (50 CFR 22.250), and
- **Form 3-200-91, "*Eagle Disturbance Take – General and Specific*"** (50 CFR 22.280) ***(New Form Number)***

*With this submission, we are no longer proposing Form 3-200-92, *Eagle Incidental Take (Power Lines) – General and Specific."*

We further describe the changes below:

(Revised Title) ***Form 3-200-71, "Eagle Incidental Take"*** (50 CFR 22.250)
The revision to Form 3-200-71 authorizes the incidental take of eagles where the take results from but is not the purpose of an activity. General permits are valid for 5 years from the date of registration. Specific permits may be valid for up to 30 years.

In addition to the standardized information required by 5 CFR 13.12, permit application requirements include submission the following information:

- Requested permit type;
- Infrastructure type;
- Description, duration, and location of the activity that is likely to cause eagle take;
- Justification why there is no practicable alternative to the activity that would protect the interest to be served;
- Description of eagle use and activity in the area, location of eagle nests or roosts, and distance of nests and other important eagle use areas from the project;
- Identification of subpermittees, if applicable;
- Records retention requirements;
- Certification of activity's compliance with all Federal, Tribal, State, and local laws and regulations applicable to eagles; and
- Permit disqualification factors, including information for any convictions, guilty pleas or nolo contendere, forfeited collateral, or pending charges for violations of laws cited in the permit application.

General permit applications must also include the compensatory mitigation requirement, requested permit tenure and effective date, and certification of general permit requirements. Additional information collected from specific permit applicants includes:

- Request duration of the permit;
- Requested eagle species for authorization;
- Additional project-specific information, including an eagle impacts assessment and pre- or post-construction monitoring methods;
- Description of implemented and proposed avoidance and minimization measures;
- Description of implemented and proposed compensatory mitigation;
- Existing project general permit eligibility, if applicable; and
- Anticipated permit application fee tier.

Permit applications associated with eagle incidental take permits may require the following:

- *Post-Construction Monitoring (§ 22.250(c)(2))* – Post-construction monitoring fatality estimation must be based on 2 or more years of eagle fatality monitoring that meet the Service's minimum fatality monitoring requirements for specific eagle permits.
- *Adaptive Management Plan (§ 22.250(f)(1))* – Upon the discovery of the third and fourth bald eagle or golden eagle injuries or mortalities at a project, the permittee must provide the Service with their reporting data required by the permit conditions, adaptive management plan, and a description and justification of which adaptive management approaches will be implemented.
- *Annual Report (§ 22.250(f)(6))* – Permittees must submit an annual report using Form 3-202-15. The annual report is due within 30 days of the expiration of the permit or prior to requesting renewal of the permit, whichever is first.
- *Compensatory Mitigation (§ 22.250(f)(8))* – For wind energy specific permits, the permittee must implement the compensatory mitigation requirements on the face of their permit. For wind energy general eagle permits, the permittee must obtain eagle credits from a Service-approved conservation bank or in-lieu fee program based on the hazardous volume of the project.

In addition, permit applications associated with incidental take permits by power lines may require the following:

- *Collision Response Strategy* – A plan that describes the process the permittee will follow to identify whether a collision-caused injury or morality occurred, to evaluate factors that contributed to the collision, and to implement risk-reduction measures commensurate with the collision risk.
- *Proactive Retrofit Strategy* – A plan to convert existing infrastructure to avian-safe infrastructure within a set timeline. The strategy must identify a baseline of poles to be proactively retrofit. The existing-infrastructure baseline must include all poles that are not avian-safe for eagles located in areas identified by the applicant to be high-risk to eagles and may also include other poles in the service area.
- *Reactive Retrofit Strategy* – A plan to respond to incidents where eagles are electrocuted or killed. The reactive retrofit strategy must include information on how eagle electrocutions are detected and identified. Determining which poles to retrofit must be based on the risk to eagles and not on other factors (e.g., convenience or cost). The pole that caused the electrocution must be retrofitted unless the pole is already avian-safe. A total of 13 poles or a half-mile segment must be retrofitted,

whichever is less, prioritizing the highest risk poles closest to the electrocution event.

- *Shooting Response Strategy* – A plan that describes the process the permittee will follow when eagles are found killed or injured near power-line infrastructure to identify if shooting is suspected, to communicate with law enforcement, and to identify and implement appropriate shooting reduction measures.

The Service will use the information collected via form to track whether the take level is exceeded or is likely to be exceeded, to determine that the take is necessary, and that the take will be compatible with the preservation of eagles.

***(Proposed Form - NEW)* Form 3-200-91, "Eagle Disturbance Take" – General and Specific** (50 CFR *22.280)*
Applicants may apply for an eagle disturbance take permit if their activity may result in incidental disturbance of bald eagles or golden eagles. General permits issued under this section are only available for certain activities that cause disturbance of bald eagles and are valid for a maximum of 1 year. General permits are not available for disturbance of nests located in Indian country (18 U.S.C. 1151) unless the Tribe is the applicant. Specific permits are intended for disturbance of a golden eagle nest, disturbance of a bald eagle nest by an activity not specified in paragraph (b) of § 22.280, or disturbance of eagles caused by physical or functional elimination of all foraging area within a territory. The tenure of specific permits is set forth on the face of the permit and may not exceed 5 years.

In addition to the standardized information required by 5 CFR 13.12, permit application requirements include submission the following information:

- Requested permit type;
- Description, duration, and location of the activity that is likely to cause disturbance to eagles;
- Justification of why there is no practicable alternative to the activity that would protect the interest to be served;
- Description of eagle use and activity in the area, location of eagle nests or roosts, and distance of nests and other important eagle use areas from the project;
- Identification of subpermittees, if applicable;
- Records retention requirements;
- Certification of activity's compliance with all Federal, Tribal, State, and local laws and regulations applicable to eagles; and
- Permit disqualification factors, including information for any convictions, guilty pleas or nolo contendere, forfeited collateral, or pending charges for violations of laws cited in the permit application.

General permit applications must also include the requested permit tenure and effective date and certification of general permit requirements. Additional information collected from specific permit applicants includes:

- Organization status (e.g., commercial or non-commercial);
- Requested duration of the permit;
- Assessment of impacts to eagles;
- Description of implemented and proposed avoidance and minimization measures;
- Description of implemented and proposed compensatory mitigation for golden eagle

nest disturbance, if applicable; and
- Description of efforts to monitor for impacts to eagles;

Permit applications associated with eagle disturbance take may require the following:

- *Monitoring* – The permittee must monitor the nest to determine whether nestlings have fledged from the nest. We updated the burden for monitoring requirements associated with disturbance take in the separate monitoring information collection requirement.
- *Annual Report* – Permittees must submit an annual report using Form 3-202-15. The annual report is due within 30 days of the expiration of the permit or prior to requesting renewal of the permit, whichever is first.

The Service will use the information collected via the form to track whether the take level is exceeded or is likely to be exceeded, to determine that the take is necessary, and that the take will be compatible with the preservation of eagles.

Revision to FWS Form 3-200-72
We propose to revise Form 3-200-72, "Eagle Nest Take" (50 CFR 22.85) as described below:

(Retain Current Title) ***Form 3-200-72, "Eagle Nest Take"*** (50 CFR 22.300)
Form 3-200-72 is used to apply for authorized take of bald eagle nests or golden eagle nests, including relocation, removal, and otherwise temporarily or permanently preventing eagles from using the nest structure for breeding under definitions in 50 CFR 22.300(b). General permits are available for bald eagle nest take for emergency, nest take for health and safety, or nest take for a human-engineered structure, or, if located in Alaska, other purposes. General permits may authorize bald eagle nest removal from the nesting substrate at the location requested and the location of any subsequent nesting attempts by the eagle pair within one-half mile of the location requested for the duration of the permit. Take of an additional eagle nest(s) more than one-half mile away requires additional permit(s). General permits are valid until the start of the next breeding season, not to exceed 1 year. General permits are not available for take of nests located in Indian country (18 U.S.C. 1151) unless the Tribe is the applicant. Specific permits are intended for take of a golden eagle nest for any purpose, take for species protection, and, except for Alaska, nest take for other purposes. The tenure of specific permits is set forth on the face of the permit and may not exceed 5 years.

In addition to the standardized information required by 5 CFR 13.12, permit application requirements include submission the following information:

- Requested permit type;
- Description and location of the activity that will result in eagle nest take;
- Selected purpose of nest take;
- Justification of why there is no practicable alternative to the activity that would protect the interest to be served;
- Description of the nest(s), including species, location, and historic and current nest status;
- Description of nest removal, destruction, or relocation, including information related to re-nesting and donation of eagle nests and parts;

- Identification of subpermittees, if applicable;
- Records retention requirements;
- Certification of activity's compliance with all Federal, Tribal, State, and local laws and regulations applicable to eagles; and
- Permit disqualification factors, including information for any convictions, guilty pleas or nolo contendere, forfeited collateral, or pending charges for violations of laws cited in the permit application.

General permit applications must also include the requested permit tenure and effective date and certification of general permit requirements. Additional information collected from specific permit applicants includes:

- Organization status (e.g., commercial or non-commercial);
- Requested duration of the permit;
- Assessment of impacts to eagles;
- Description of implemented and proposed avoidance and minimization measures;
- Description of implemented and proposed compensatory mitigation for golden eagle nest take, if applicable;
- Description of efforts to monitor for impacts to eagles; and
- Description of method for removing nestlings or eggs and proposed disposition, if applicable.

Permit applications associated with eagle nest take may require the following:

- *Monitoring* – Permittees must remove chicks or eggs from an in-use nest for immediate transport to a foster nest, rehabilitation facility, or as otherwise directed by the Service. If nestlings or eggs are relocated with a nest or to a foster nest, the permittee must monitor the nest to ensure adults are tending to nestlings or eggs. We updated the burden for monitoring requirements associated with eagle nest take in the separate monitoring information collection requirement.
- *Annual Report* – Permittees must submit an annual report using Form 3-202-16. The annual report is due within 30 days of the expiration of the permit or prior to requesting renewal of the permit, whichever is first.
- *Species Protection* – If a Federal, State, or Tribal agency applies for a nest take permit for species protection, they must provide documentation that describes relevant management efforts to protect the species of concern; identifies and describes how the nesting eagles are a limiting factor to recovery of the species using the best available scientific information and data; and explains how take of eagle nests is likely to have a positive effect on recovery for the species of concern.

The Service will use the information collected via the form to track whether the take level is exceeded or is likely to be exceeded, to determine that the take is necessary, and that the take will be compatible with the preservation of eagles.

Permit Reviews ***(REVISED)***

The Service removed the regulatory requirement for specific permits to mandate an administrative check-in with the Service at least every 5 years during the permit tenure (termed 5-year Permit Review, above). The Service introduced these mandatory 5-year permit reviews as part of the 2016 Eagle Rule to ensure that the Service had an opportunity

to ask for and review all existing data related to a long-term activity's impacts on eagles. The purpose of 5-year review is to update take estimates and related compensatory mitigation for the subsequent 5-year period. It also provides the Service with an opportunity to amend the permit to reduce or eliminate conservation measures or other permit conditions that prove to be ineffective or unnecessary. The purpose of these reviews does not change with this rulemaking. However, the 5-year requirement has introduced unintended uncertainty which, according to public comment, has reduced participation in eagle take permitting under the 2016 regulation. It has also resulted in timing issues, where post-construction monitoring or other data is available off-cycle from the 5-year timing (e.g., year 3 or 4) but cannot be used until the scheduled check-in. Instead, check-ins may now be initiated by the permittee or the Service in response to events that warrant review, for example, updating fatality estimates and associated compensatory mitigation requirements or revising permit conditions to reflect the best available science.

Report Take of Eagles (3rd and 4th Eagles) *(50 CFR 22.250(d)(2) and (d)(3))* ***(NEW)***
Permittees must notify the Service in writing within 2 weeks of discovering the take of a third or fourth bald eagle or third or fourth golden eagle. The notification must include the reporting data required in their permit conditions, their adaptive management plan, and a description and justification of which adaptive management approaches they will be implementing. Upon notification of the take of the fourth bald eagle or fourth golden eagle, the project will remain authorized to incidentally take eagles through the term of the existing general permit but will not be eligible for future general permits.

Audits (NEW)
The Service will conduct audits of general permits to ensure permittees are appropriately interpreting and applying eligibility criteria and complying with permit conditions. Audits may include reviewing application materials for completeness and general permit eligibility. Any required records, plans, or other documents will be requested of the permittee and reviewed. If there is a compliance concern, the applicant will be given the opportunity to submit additional information to address the concern. If, during an audit, the Service determines that the permittee is not eligible for a general permit or is out of compliance with general permit conditions, we will communicate to the permittee options for coming into compliance. (see also the public comment summary in question 8)

Existing Requirements Not Previously Approved
Additionally, with this submission, the Service seeks OMB approval of the following existing information collection requirements not previously cleared:

Labeling Requirements (50 CFR 22(a)(4)) ***(NEW)***
Regulations at 50 CFR 22.4 require all shipments containing bald or golden eagles, alive or dead, their parts, nests, or eggs be labeled. The shipments must be labeled with the name and address of the person the shipment is going to, the name and address of the person the shipment is coming from, an accurate list of contents by species, and the name of each species.

Requests for Reconsideration Associated with Eagle Permits (Suspension and Revocation) (50 CFR 13.29(b)) ***(NEW)***
Persons notified of the Service's intention to suspend or revoke their permit may request reconsideration by complying with the following:

- Within 45 calendar days of the date of notification, submit their request for reconsideration to the issuing officer in writing, signed by the person requesting reconsideration or by the legal representative of that person.
- The request for reconsideration must state the decision for which reconsideration is being requested and shall state the reason(s) for the reconsideration, including presenting any new information or facts pertinent to the issue(s) raised by the request for reconsideration.
- The request for reconsideration shall contain a certification in substantially the same form as that provided by 50 CFR 13.12(a)(5). If a request for reconsideration does not contain such certification, but is otherwise timely and appropriate, it shall be held and the person submitting the request shall be given written notice of the need to submit the certification within 15 calendar days. Failure to submit certification shall result in the request being rejected as insufficient in form and content.

Compensatory Mitigation (50 CFR 22) ***(NEW)***

Any permit authorizing take that would exceed the applicable EMU take limit will require compensatory mitigation, except in circumstances where the action is considered in the best interest of an eagle. Compensatory mitigation for this purpose must ensure the preservation of the affected eagle species by mitigating an amount equal to or greater than the authorized or expected take. Compensatory mitigation must either reduce another ongoing form of mortality or increase the eagle population of the affected species. Compensatory mitigation for golden eagles must be performed at a 1.2:1 (mitigation: take) ratio. A permit may require compensatory mitigation when the Service determines, according to the best available information, that the take authorized by the permitted activity is not consistent with maintaining the persistence of the local area population of an eagle species.

The Service must approve types of compensatory mitigation and may include conservation banks, in-lieu fee programs, or permittee-responsible mitigation as mitigation providers. General permittees meet this requirement by obtaining required credits from a Service-approved, third-party mitigation provider. Specific permittees can meet this requirement by obtaining required credits from a Service-approved, third-party mitigation provider or meeting the requirements to be a permittee-responsible mitigation provider as described in 50 CFR 22.220(c)(2). Third-party mitigation providers, such as in-lieu fee programs and conservation banks, obtain Service approval by meeting the requirements to be a mitigation provider as described in 50 CFR 22.220(c)(2).

To obtain approval as a permittee-responsible mitigation provider, potential providers must submit a mitigation plan to the Service that demonstrates how the standards in 50 CFR 22.220(b) will be met. At a minimum, this must include a description of the mitigation, the benefit to eagles, the locations where projects will be implemented, the EMU and local area population affected, the number of credits provided, and an explanation of the rationale for the number of eagle credits provided. The Service must approve the mitigation plan prior to implementation.

Bald Eagle and Golden Eagle Compensatory Mitigation Programs:

The *Eagle Protection and Offset Program* (EPOP) is authorized by the U.S. Fish and Wildlife Service (USFWS) to sell compensatory mitigation credits for bald and golden eagle take. The EPOP is currently one of two third party mitigation banking options available specific to eagles and authorized by USFWS to offset incidental take. (Note:

USFWS authorization of the EPOP does not constitute blanket endorsement of its parent company.)

The *Bald Eagle And Golden Eagle Electrocution Prevention In-lieu Fee Program* (Eagle ILF Program) is authorized by the U.S. Fish and Wildlife Service to sell compensatory mitigation credits for bald and golden eagle take. The Eagle ILF Program is currently one of two third-party mitigation banking options available specific to eagles and authorized by USFWS to offset incidental take. (Note: USFWS authorization of the Eagle ILF Program does not constitute blanket endorsement of Eagle Electrocution Solutions, LLC, or its parent company.

Single Application for Multiple Activities (50 CFR 13.11(d)(1)) ***(NEW)***
If regulations require more than one type of permit for an activity and permits are issued by the same office, the issuing office may issue one consolidated permit. Applicants may submit a single application in these cases, provided the single application contains all the information required by the separate applications for each permitted activity. In instances where the Service consolidates more than one permitted activity into one permit, the issuing office will charge the highest single fee for the activity permitted. Administration fees are not waived for single applications covering multiple activities.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

Forms are available to the public electronically through the Service's ePermits system. Applicants also have the option to download a fillable PDF version of the form, should they choose to do so.

We are actively expanding the functionality of ePermits." The ePermits system allows the agency to streamline the permitting process to reduce the information collection burden on the public, particularly small businesses. Public burden reduction is a priority for the Service; the Assistant Secretary for Fish, Wildlife, and Parks; and senior leadership at the Department of the Interior.

The intent of ePermits is to allow an applicant to file an electronic, fully digitized application form to the extent practicable to improve the customer experience and to reduce time burden on respondents. The updated functionality will enhance the user experience by allowing users to enter data from any device that has Internet access, including personal computers, tablets, and smartphones. It will also link the permit applicant to the Pay.gov system for payment of the associated permit application fee.

As we update the functionality of ePermits, we anticipate a reduction in applicant burden time to apply for a permit. They can now perform regular actions related to that permit (e.g., amend, renew, report). Users of ePermits must register for an account which will then automatically populate the forms they complete with the required identification information, thus preventing the need for them to enter it multiple times when they apply for separate permits and reducing burden on the applicant. Through the ePermits account registration, we will track and be able

to report the numbers of small business applicants more accurately, along with the type of business (for-profit, farm, not-for profit). This information will allow the Service to be more responsive in identifying the possibility of additional burden reduction on small businesses.

We have eliminated the necessity for physical mail-in applications (though this will remain an option for those who either don't have access to the internet or prefer to use mail-in applications), thus further reducing the burden on the public. With ePermits, applicants are able to establish an account and apply for multiple permits through a single interface. They are also able to track all their applications, permits and permit-related actions, as well as all communications between Service staff and the permittee/applicant within the same interface, significantly reducing the burden on the government to process these applications and manage permit-related actions.

The Service anticipates a significant reduction in the number of the paper-based versions of a large number of forms in lieu of using ePermits. However, PDF copies of additional permit documentation, including affidavits that require signatures may be uploaded to ePermits by the applicant or by processors depending on the method (i.e., paper, electronic) in which the documents are submitted. This reduction in processing paper based forms reduces the government cost of administering and processing permit applications.

NOTE – Upon request, the Service will continue to accommodate requests for paper-based versions of any application or report form for respondents experiencing technological difficulties.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information that we collect is unique to the applicant and is not available from any other source. Our electronic permit issuance and tracking system, ePermits, greatly improves retrieval of file information, therefore further reducing duplicate information requests for use in renewals, amendments, and repeat applications. Since only the Service may issue this type of permit and only for species under our jurisdiction, there is no duplication of other agencies efforts. Ongoing development of ePermits will ensure that no duplication arises among Service offices.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information requested on the application form is limited to the minimum necessary to establish eligibility and the information requested on the reporting forms is the minimum necessary to enable us to assess the effect of the permit program on eagles.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If we do not collect the information, or if we collect the information less frequently, we could not issue applicants permits since the collected information either is required to allow the Service to make issuance decisions or is needed to make necessary biological and legal

findings under applicable statutes and treaties. If we were not able to collect the information necessary to issue a permit, the public would not be able to lawfully conduct activities that involve collection, possession, or take of eagles. Furthermore, the timely submission of data on the effects to eagles of permitted activities enables the Service to track permitted activities to ensure the permit program remains compatible with the preservation of eagles.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- *** requiring respondents to report information to the agency more often than quarterly;**
- *** requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- *** requiring respondents to submit more than an original and two copies of any document;**
- *** requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- *** in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- *** requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- *** that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- *** requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Tribal permittees may utilize their permit to retain an unspecified number of eagles found by Tribal members on the Tribe's lands. Each time a Tribal member finds an eagle and wishes to retain it, the Tribe is required to notify the Service to allow the agency to ascertain the cause of death, information the Service uses to analyze factors affecting bald and golden eagle populations. If a Tribe finds dead eagles frequently, they may need to report more than quarterly. Federal regulations governing fish and wildlife permits at 50 CFR §13.46 require permittees to maintain records for 5 years from the date of expiration of the permit.

Applicants for some eagle permits are required to submit data regarding their project that some in industry consider proprietary trade secrets. Applicants are asked to clearly identify any data they believe are of a proprietary nature. These data are stored on computers or in paper files. Computer access is controlled through 2-factor authentication and by industry standard firewalls and virus protection. Paper files are stored in access-controlled offices in locked file drawers. Individuals are required to submit personally identifiable information (PII). This information is stored on computers and in paper files. The PII is entered into a System of Records that must meet Federal standards for protection of such information. As with the industry data, access is controlled through 2-factor authentication as well as industry standard firewall and virus protection. Paper forms are stored in access-controlled offices in locked file drawers. Disclosures outside the Department of the Interior may be made if the disclosure is compatible with the purposes for which the record was collected. (Ref. 68 FR 52611, September 4, 2003) or is otherwise required by law.

Other than these requirements, there are no special circumstances that would cause us to conduct this information collection in a manner inconsistent with OMB guidelines.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On September 30, 2022, we published in the *Federal Register* (87 FR 59598) a proposed rule (RIN 1018-BE70) which announced our intention to request OMB approval of the revisions to this collection explained in question 2 and the simultaneous renewal of OMB Control No. 1018-0167. In that proposed rule, we solicit comments for 60 days on the information collections in this submission, ending on November 29, 2022. We uploaded a copy of the published proposed rule to ROCIS as a supplement document.

The Service received 203 unique letters, which contained 1,649 individual substantive comments, on the proposed rule. The following sections contain a summary of the substantive public comments we received on the proposed rule and our responses. Where appropriate, we explain why we did or did not incorporate the changes suggested by the commenters into this final rule. Due to the high number of comments, this summary presents major themes occurring throughout the comments. Not included are the many comments providing general support for provisions of the rulemaking. Likewise, we do not include summaries of any comments providing general opposition, unless they contain suggestions for improvement. We also do not respond to comments considered outside the scope of this rulemaking.

Audits

Comment: Commenters requested more information regarding the proposed audit program, including details about the auditing process, required documentation, and expectations for audited entities. Some comments expressed concerns with the estimated annual percentage of audited projects, with many indicating a desire for more projects to be audited annually.

Response: We are developing internal auditing procedures and external answers to frequently asked questions on audits. We also added “Audits” as a new IC in question 12, with placeholder response of 1 per respondent category and 10 hours per response in the burden estimates in question 12. Limited desktop audits and onsite inspections

will be conducted to determine if a project meets eligibility criteria and whether the permittee is complying with the regulations and permit conditions. In general, Service staff will conduct an audit following similar procedures to how staff currently review a permit application form and administer permits. Audits may include reviewing application materials for completeness and general-permit eligibility. We will verify required reports were submitted and review the reports. Any required records, plans, or other documents will be requested of the permittee and reviewed. If there is a compliance concern, the applicant will be given the opportunity to submit additional information to address the concern. If, during an audit, the Service determines that the permittee is not eligible for a general permit or is out of compliance with general permit conditions, we will communicate to the permittee options for coming into compliance.

The Service has estimated the number of audits that can be conducted each year based on the expected average time to conduct an audit and the fee money available to fund staff to conduct audits. Staff will conduct as many audits as possible with the available funds. There are many uncertainties right now as to how much staff time is needed to conduct an audit. We estimate approximately 1% of general permits will be audited each year. If we find general permittees are providing complete information, audits may go quickly and more projects can be audited. We will regularly assess the cost-per-audit and the percentage of projects audited to adjust the fee structure accordingly.

Compensatory Mitigation

Comment: The Service received numerous comments related to compensatory mitigation requirements, including advocating for different methods to achieve these requirements, including lead abatement, carcass removal from roads, and habitat enhancement.

Response: The Service is actively working on reviewing and approving other forms of mitigation and encourages potential mitigation providers to submit their proposals. As part of this rule, we created a new regulation specific to compensatory mitigation to more clearly signal requirements to the public. Quantifying the benefits of various compensatory mitigation measures and developing standards for their application in permitting is complex. To date, the Service has authorized power pole retrofits and lead abatement as compensatory mitigation measures. The Service is actively developing other compensatory mitigation methods, such as roadside carcass removal, that will decrease eagle mortality or increase eagle productivity. The Service encourages interested mitigation providers to contact the Service with ideas on compensatory mitigation methods. The Service agrees that it is important to develop compensatory mitigation methods that offset different sources of mortality and have a wider range of mitigation providers across the country. We will continue to engage stakeholders and develop additional guidance and standards for approving mitigation providers. This will include gathering information to address mitigation measure effectiveness and uncertainty and establishing appropriate assurances for the durability of mitigation measures.

Comment: Some commenters expressed concerns with scaling compensatory mitigation at the Eagle-Management-Unit (EMU) level rather than the local-area-population (LAP) level.

Response: The final rule retains the requirement to site compensatory mitigation within

the same EMU where the take is authorized. Authorized take may affect individual eagles that are both resident and migratory. Banding records have demonstrated eagle movements within EMUs beyond individual LAPs. Thus, requiring that compensatory mitigation occur at small scales (e.g., the LAP scale) may be limiting the benefits of compensatory mitigation unnecessarily and doing so at an inappropriate ecological scale. Additionally, limiting compensatory mitigation options to the LAP scale is currently not practicable until there are sufficient mitigation providers capable of supporting every LAP. When compensatory mitigation is required by the Service in order to address an LAP concern, the regulation prioritizes implementing compensatory mitigation in the LAP where the impacts occurred.

Comment: Several commenters expressed concerns with requiring compensatory mitigation for bald eagles and indicated this requirement is not necessary to meet the preservation standard.

Response: The general permit compensatory mitigation requirement includes a small portion for bald eagles. This is necessary to ensure that the general-permit program is consistent with the preservation standard established by the Eagle Act and implementing regulations. General permits do not provide for the project-specific review prior to issuance; therefore, possible LAP effects must be addressed after issuance. One tool is to require a small amount of compensatory mitigation from general permittees that the Service can direct to areas where LAP thresholds are at risk of being exceeded. The rate of this extra compensatory mitigation is based on bald eagle take predictions, but the mitigation amounts provided can be used for either species of eagle. If an applicant does not want to pay this extra mitigation cost, which the Service expects to be relatively small for each project, the applicant may apply for a specific permit where project-specific review would determine mitigation requirements.

Comment: Several commenters proposed a conservation fund or conservation fee in addition to any required compensatory mitigation.

Response: The Service has numerous authorities that allow it to charge an entity permit fees and enter into reimbursable agreements. Funds collected through permit fees and reimbursable agreements are used to defer the cost of administering the permit program, including, but not limited to, salary and other staff-related costs and costs to ensure that issuance of permits is compatible with the preservation of eagles. Based on suggestions provided in public comments and as consistent with the use of collected fees, the Service will use these fees to fund analysis to: (1) better understand eagle population dynamics, including the risk to eagles from authorized activities; (2) better understand mitigation outcomes, including researching and validating avoidance, minimization, and compensatory mitigation measures; and (3) address and improve various components of the eagle permitting program, including gathering and analyzing demographic data, GPS tagging and tracking eagles for programmatic monitoring, and researching and validating monitoring measures. The Service does not have express statutory authority under the Eagle Act to require contribution into a conservation fund beyond these purposes, nor the specific authority to direct such funds if they were collected.

Changes to Fees

Comment: Multiple comments suggested that the fees for general permits were too high

and would disincentivize smaller entities from participating.

Response: In the final rule, the Service has adopted a scaled fee approach for both general permits and specific permits. For power lines, general-permit administration fees are separated into Tier 1 for non-investor-owned utilities and Tier 2 for investor-owned utilities, using U.S. Energy Information Administration definitions. For wind energy, general permit administration fees are separated into Tier 1 distributed and community scale and Tier 2 utility scale, using the Service's Land-Based Wind Energy Guidelines definitions. For specific permits, the Service created a tiered fee structure for wind energy and power line projects consisting of three tiers: Tier 1, Tier 2, and Tier 2 with reimbursable agreement, where a Tier 1 fee is charged for standard applications and a Tier 2 fee is charged for complex applications. A reimbursable agreement will be used when processing time exceeds 275 staff hours. The Service retains the current non-commercial and commercial tiering for disturbance and nest take permits.

Coordination with States

Comment: Several comments stressed the need for the Service to coordinate with other Federal and State agencies on the issuance of general and specific permits.

Response: The Service values coordination with Tribal, State, and Federal partners, and we intend to continue to coordinate and share information about permits issued. For general permits, we will regularly be compiling and distributing information on general permits issued. We have updated the regulation to reflect what information will be made readily available to partners and the public. For specific permits, the Service will continue to consult States, Tribes, and other Federal agencies as part of our normal permitting procedures. In addition, Department of the Interior disclosure policies (68 FR 52610, Sept. 4, 2003) under the Privacy Act also provide for routine disclosures to Federal, Tribal, State, local, or foreign agencies, including to exchange information on permits granted or denied, to ensure compliance with all applicable permitting requirements and obtain advice relevant to approving or denying a permit.

Comment: Some commenters expressed concern about the locations of eagle nests being shared with the public, while others stated that some States are prohibited from disclosing nest locations and that the Service should not require that information on permit applications.

Response: The Service requires precise location information on nest locations to properly analyze effects to eagles, including LAP effects, as well as for law enforcement purposes. The Service will take all necessary measures to protect eagles and their nest locations. The Service will continue to coordinate with State wildlife agencies on these matters.

Comment: We received comments that expressed concerns with the take of eagles in States where either the bald eagle, golden eagle, or both are listed as threatened or engendered at the State level. These comments requested that the Service provide details regarding coordination with the States with respect to the distribution of authorized take across individual EMUs, as well as in relation to the quantification of LAP thresholds.

Response: Federal issuance of a permit does not supersede Tribal or State protections

of a species. Tribes, States, and other Federal agencies are not required to authorize incidental take of bald eagles or golden eagles, even if a permittee has obtained a Service general or specific permit. It is the responsibility of the permittee to ensure they are in compliance with all applicable laws and regulations. To support the protection of local populations in this rulemaking, the Service has retained the existing preservation standard that requires the Service to determine that permits we issue are consistent with eagle preservation at the EMU and LAP scales. Under general permits, the Service will not analyze cumulative take at the LAP scale prior to general permit issuance. However, the Service will review general permits issued and analyze cumulative take at the LAP scale if an area of concern is identified. States are encouraged to review the Service's issued permits and submit any information to the Service that might assist with assessing impacts to LAPs. If the Service is concerned about the status of any LAP, we can either a) direct compensatory mitigation to areas of concern, or b) suspend the general-permit program in whole or in part.

EA Economic Analysis

Comment: The Service received several comments on our estimated mitigation costs, with some commenters suggesting our estimates were too high while others suggested they were too low.

Response: Because compensatory mitigation is provided either by the permittee or a third party, costs can vary widely. We acknowledge that the costs estimated for compensatory mitigation under all alternatives in the FEA are estimates and are likely to vary, perhaps substantially, across all permitted projects based on the mitigation method selected, the in-lieu fee program or conservation bank selected, and other details. These details are difficult to account for in an economics analysis, but we considered them as accurately as possible based on current data and our estimated projections. In the FEA, the Service estimates compensatory mitigation for an average wind energy general permit to be $37,200. These estimates are based solely on estimates of compensatory-mitigation costs using power pole retrofits, which are the only cost estimates the Service currently has available.

Comment: The Service received comments specifically on our cost estimates for retrofitting power poles under the power line regulation.

Response: We updated the FEA to reflect our assumption that the proactive retrofit requirements associated with this rule are not expected to result in additional costs to power line entities. As stated in section 5.6.5 of the FEA, the Service assumes that power line entities most likely to apply for a permit are entities that have a risk of taking eagles and are already retrofitting power poles, thus already meeting this requirement.

Eligibility - Wind Energy General Permit

Comment: Many commenters expressed concerns with the general permit eligibility for wind energy, specifically regarding the distance from bald eagle nests.

Response: The Service acknowledges the uncertainty that is created if bald eagles initiate nesting near a project with a wind energy general permit. Therefore, we revised eligibility criteria (§ 22.250(c)) to provide that a general permittee remains eligible to renew their permit, even if the Service revises eagle relative abundance thresholds or eagles construct nests within the species-specific setback distances, as long as the

project does not discover the remains of four eagles of the same species within a 5-year permit tenure.

Comment: Multiple comments requested that the Service create a general permit option for existing wind energy projects (as defined in § 22.250(b)) occurring within the specific permit zone.

Response: The Service acknowledges the unique challenges of existing projects being subject to new regulations. However, after extensive review, the Service could not identify a set of general-permit eligibility criteria that a project could self-certify without adding extensive complexity or uncertainty. Therefore, the Service retained and clarified the eligibility criterion that any existing project that does not meet general permit eligibility criteria can apply for a specific permit (§ 22.200(b)(2)) while requesting a letter of authorization to obtain a general permit (§ 22.250(c)).

The Service will review all information provided in the application, including any site-specific, pre-construction or post-construction data. If we determine that the take rates at the existing project are likely to be consistent with or lower than eagle take rates expected at similar-sized wind facilities that qualify for general permits, the Service will issue a letter of authorization to register for a general permit. If an applicant receives a letter of authorization, we may refund the specific permit application fee, but to cover the cost of review, we will not refund the administration fee. The letter of authorization may require additional avoidance, minimization, or compensatory mitigation requirements as needed to ensure consistency with general permit take rates. The Service anticipates expediting the processing of these applications.

Comment: Commenters suggested that the Service should allow the use of site-specific data to determine eligibility for general permits.

Response: The Service recognizes the value in site-specific data. However, the purpose of general permits is to apply an efficient and streamlined approach for issuing permits to projects that the Service can pre-determine pose relatively low risk to eagles. It is not currently possible to evaluate site-specific data in an automated manner, which is necessary for general permits. Applicants that prefer to use site-specific data may apply for a specific permit and request review for inclusion in the general-permit program as described in a previous comment response.

Comment: Commenters suggested that existing projects should still qualify for a general permit even if some of the project's turbines are within the specific permit zone.

Response: The Service reviewed at length the possibility of automatically allowing general-permit eligibility for projects that overlap the boundaries between specific and general permit zones. This deviation from the proposed rule appears simple but comes with an increased risk that our general permit program would be inconsistent with the preservation standard established by the Eagle Act and implementing regulations. The risk is further increased because the projects that would be eligible for general permits by partially overlapping the general-permit zone would very likely create higher risk to eagles than other projects that fully encompass the general-permit zone. The Service must choose between addressing that risk by increasing the mitigation costs for all general permittees or retaining that all turbines must be in the general permit zone.

Because of how substantive the increased mitigation costs were, the Service instead provides a mechanism for existing projects to request an eligibility determination case-by-case.

Comment: Comments noted that many existing projects would not qualify for a general permit and stated that many of the current deficiencies with the specific permit program would still be present under the new regulation.

Response: The Service has developed and will implement a streamlined approach to specific permits. One approach we considered and adopted in the final rule was the creation of new tiers for reviewing specific-permit applications. The purpose of these tiers is to separate the specific-permit applications that are able to adopt standardized approaches from those which request more extensive review and negotiation. Applicants that are willing to accept standard specific-permit conditions (and do not require additional NEPA analysis) are eligible for a less expensive application fee and faster permit-review times.

Eligibility - Relative Abundance Map and Thresholds

Comment: Comments suggested that the relative abundance maps should indicate levels of risk so developers could choose to avoid the highest risk areas, or, at a minimum, understand increased mitigation costs which might be associated with higher risk areas.

Response: The map published with the final rule uses eagle relative abundance as an index for potential risk. We use relative abundance data for eagles because the presence of more eagles in a given area at different times of the year results in more interactions between turbines and eagles and therefore increased risk of collisions. Thus, relative abundance data is an effective proxy for determining the risk of eagle take in a particular location. Although there are only two levels of risk depicted in this map, it does highlight areas that the Service has deemed to have relatively high or relatively uncertain risk to eagles. It is our intent that this map will be used by developers when siting wind related infrastructure. As additional data become available, we will continue to refine our 'risk maps.'

Comment: The Service received numerous comments regarding the use of eBird Status and Trends relative abundance products to create the relative abundance map. Some commenters expressed concern that use of eBird data would underestimate eagle abundance in areas inaccessible to birders.

Response: The Service recognized that data products from the Cornell Lab of Ornithology using eBird data is new to many. It is important to distinguish that the data products the Service is using are distinct from raw eBird data. We consider the products from the Cornell Lab of Ornithology to be currently the best available science for developing a nationwide approach to permitting. We recognize and acknowledge the uncertainties that are included with this method, such as areas where raw eBird data has limited reporting. However, the Cornell Lab of Ornithology eBird Status and Trends relative abundance products use machine learning to fill in these gaps based on the models' ability to relate the eBird observations to environmental predictors derived from global remote sensing data. For example, reliability of species distribution model predictions can be increased for unsampled locations and times by relating

environmental predictors to observed occurrences or abundances. This allows us to predict abundance in places that may not be frequented as often (or at all) by eBird users.

Comment: Several comments suggested we use information from other datasets (e.g., migration counts, telemetry studies, roost registries, USGS breeding bird survey, Audubon Christmas Bird Count, and the Midwinter Bald Eagle Survey) to supplement and improve maps either in addition to or as part of the eBird models.

Response: The Service agrees that the best information should be used to determine eagle relative abundance. To implement general permits, the Service must regulate at the national scale, which is why this regulation relies on data products from the Cornell Lab of Ornithology. The Service intends to incorporate other data into our mapping efforts, as appropriate. However, it will take time to review each dataset, including its assumptions and biases, and incorporate those data into mapping efforts in a meaningful way and at appropriate scales. We welcome additional information and data that could help with risk mapping and any investment in data integration efforts.

Comment: We received comments requesting that the Service further stratify relative abundance thresholds according to differences in geography (e.g., northern and southern for bald eagles and eastern and western for golden eagles).

Response: The Service considered further stratification and the creation of separate relative abundance criteria for each eagle species preceding the public comment period. However, adding additional strata would have changed the scale at which the relative abundance is evaluated and would have added significant complexity to the general permit program for wind energy facilities. Thus, we elected not to incorporate these changes.

The Service will update the map and relative abundance thresholds periodically. In the FEA, we suggested every five years or different intervals if information suggests shorter or longer intervals are more appropriate. Between updates, the Service will consider any suggestions for better and more effective ways to map relative eagle abundance.

General Permits

Comment: One commenter indicated that they thought the proposed rule placed too much emphasis on general permits. Previously, all eagle take was permitted with specific permits.

Response: This rule emphasizes general permits because that is what is being introduced with this rulemaking. The Service has retained the specific permit approach and provisions. In this rulemaking, the Service has created general permits as an alternative approach to obtaining eagle take authorization for projects that meet eligibility criteria. The purpose of general permits is to simplify and expedite the permitting process for activities for which the Service has well-established avoidance and minimization measures and that have relatively consistent and low risk to eagles. The regulations are based on the well-established avoidance, minimization, and compensatory mitigation measures that the Service has been implementing as permit conditions for the past 14 years. This approach allows us to confidently authorize take consistent with the preservation standard established by the Eagle Act and implementing

regulations without requiring Service review prior to issuance. We will continue to refine the general permit approach and incorporate public input on eligibility criteria for all general-permit categories included in this rule to ensure that general permits effectively simplify and expedite the permit process for eligible projects while meeting the preservation standard.

Comment: Many comments recommended that the Service allow project proponents to apply for a separate permit for bald and golden eagles, as opposed to requiring coverage for both species.

Response: In reviewing comments, the Service realized we did not sufficiently explain in the proposed rule that the mitigation requirements are specific to that EMU and proportional to golden eagle abundance in the EMU. Commenters expressed concern that projects in the East, where golden eagle use of wind projects is seasonal and generally relatively low, would be paying to compensate for authorized golden eagle take in the West, where golden eagle use of wind projects can be relatively high. This is not the case. Projects in the Atlantic and Mississippi EMU have a lower golden eagle mitigation rate that is commensurate with the generally lower risk of golden eagle take in those EMUs. Similarly, projects in the Central and Pacific EMUs will be required to pay a higher compensatory mitigation rate for golden eagles, commensurate with the generally higher risk of golden eagle take there. There is a small amount of additional mitigation required in all EMUs, to provide funds if a LAP threshold is exceeded and mitigation is necessary for the program to remain consistent with our preservation standard. These details are covered in the Final Environmental Assessment associated with this rulemaking.

Between the proposed and final rule, the Service again analyzed the possibility of authorizing general permits by species and did not select that approach at this time. While seemingly a straightforward request, separating the species introduces uncertainty, which increases the risk and complexity of general permits. To meet the preservation standard, the Service estimates general permit mitigation requirements based on enrollment and has no basis for predicting how many projects will opt for coverage of one species versus both. The Service would effectively need to develop separate general permits for each species, including corresponding eligibility thresholds, eligibility maps, mitigation costs, and perhaps monitoring standards. In the interest of keeping general permits easy to apply for and implement, the Service retained the requirement that all general permits authorize take of both eagle species. The Service will continue to review this approach in future rulemaking.

To illustrate the mitigation costs that will be required under general permits and how they differ across project sizes and across EMUs, consider two hypothetical projects: one with 30 and one with 100 project turbines, all turbines having a 95.7m rotor diameter. Both projects are eligible for a general permit and are located in the Atlantic/Mississippi EMU (where general permit mitigation rates for golden eagles are the lowest). We will also consider those same two projects as being eligible for general permits in the Pacific EMU (where general permit mitigation rates for golden eagles are the highest). The 30-turbine project in the Atlantic/Mississippi EMU would be required to mitigate for 0.20 golden eagles and 0.06 additional eagles (LAP mitigation), or 0.26 total eagles, every 5 years. That same project in the Pacific EMU would be required to mitigate for the take of 0.42 golden eagles and 0.06 additional eagles (LAP mitigation), or 0.48 total eagles,

every 5 years. The 100-turbine project in the Atlantic/Mississippi EMU would be required to mitigate for 0.66 golden eagles and 0.20 additional eagles (LAP mitigation), or 0.86 total eagles every 5 years. That same 100-turbine project in the Pacific EMU would be required to mitigate for 1.40 golden eagles and 0.20 additional eagles (LAP mitigation), or 1.60 total eagles every 5 years.

These two hypothetical projects illustrate the relatively low cost of obtaining golden eagle take coverage for projects that are eligible for a general permit, and especially the lower cost for smaller projects and projects in the East, where golden eagle presence is seasonal and they are generally less abundant than in many parts of the West. We are hopeful that general permit applicants who think their risk to golden eagles is low will view this relatively low mitigation cost as worth the price of incidental take authorization for golden eagles, in the event such take should occur. If applicants wish to receive a permit for only one eagle species, they may apply for a specific permit.

Comment: Several comments expressed concern with regard to potential suspension or termination of the general permit program, including a suggestion that suspension or termination should be subject to public notice and comment prior to finalization.

Response: The Service recognizes the uncertainty that a potential suspension or termination causes. Suspension or termination of general permitting is an important aspect to allow the Service to respond quickly in the event of sudden changes in eagle populations at the LAP or EMU scale; however, it is not a step the Service would take lightly and without sufficient notice.

Regulations currently allow for the revocation of a permit if "the population(s) of the wildlife or plant that is the subject of the permit declines to the extent that continuation of the permitted activity would be detrimental to maintenance or recovery of the affected population" (50 CFR 13.28(a)(5)). The Service will regularly evaluate whether the authorized take of bald eagles and golden eagles under general permits remains compatible with the preservation of eagles. If the Service finds that issuance of general permits in a particular LAP or EMU is not compatible with the preservation of bald eagles or golden eagles, we would first consider adding additional precautions to the permitting program through rulemaking. Rulemaking requires public review and comment periods. However, the Service is preserving, as a last resort, the option of suspending general permit issuance locally or nationally after publishing a notice in the *Federal Register*. This notice may include an opportunity for the public to comment on next steps. If the Service suspends general permitting, take currently authorized under a general permit remains authorized until expiration of that permit, unless the permittee is notified otherwise.

Comment: Some commenters asked us to explain how "low effects" are determined for general permits.

Response: Public comment indicated that the Service's intent was not clear in the usage of the phrase "low effects." We have modified the text to instead reference "low risk." General permits simplify and expedite the permitting process for activities that have relatively consistent and low risk to eagles and well-established avoidance, minimization, and compensatory mitigation measures. For wind energy facilities, projects that have low risk will be determined by the relative abundance of eagles and

the proximity of wind turbines to nest locations. For other general permits, the Service considers the implementation of the well-established avoidance and minimization measures to result in those projects being low risk to eagles.

Guidance

Comment: Several commenters requested more information regarding guidance documents that the Service will develop.

Response: The Service is working on internal procedures, external outreach, and guidance documents to help the public understand and comply with these new regulations. In developing guidance, the Service will follow standard Federal guidance practices. All regulatory requirements are included in the rule. Guidance documents provide a step-down from the rule that explain and clarify the Service's expectations on how to meet regulatory requirements.

Monitoring

Comment: While many commenters were supportive of the removal of third-party monitoring, we received comments in support of retaining this provision.

Response: The third-party monitoring requirement has proven impracticable or impossible to implement at some projects for a variety of factors, including health, safety, liability, and access issues for project sites that are leased from multiple private landowners. These factors have created a barrier to obtaining a permit. The Service reviewed the purpose of third-party monitoring and determined in most circumstances it is sufficient to rely on the requirement that the permittee must certify that the information submitted is complete and accurate to the best of their knowledge and belief, subject to criminal penalty for supplying false information. The Service concluded that the existing penalties for false reporting under eagle take permits will be enough to dissuade most permittees from intentionally providing inaccurate reports. We retain the ability to require third-party monitoring on a case-by-case basis in specific permits, particularly if we have ongoing compliance concerns.

Comment: Commenters expressed concern over the amount of money the Service was proposing to spend on monitoring.

Response: The Service recognizes the tradeoff between spending money on monitoring or on compensatory mitigation. Monitoring can be expensive, and it may not be immediately clear how more monitoring benefits eagle preservation. The benefit of compensatory mitigation is more straightforward. While extensive monitoring has occurred at numerous wind projects, it remains difficult to draw programmatic, cross-project conclusions. Monitoring in a manner that allows for programmatic conclusions is critical to ensure implementing these new regulations will be compatible with eagle preservation.

However, based on public comment, the Service reviewed its proposed approach to monitoring. We determined that we can accomplish monitoring goals under general permits with concurrent fatality monitoring, which will be required under general permits, and without additional monitoring performed by or contracted by the Service. In the final rule, we require concurrent monitoring conducted according to Service protocols by project operation and maintenance staff, which will be sufficient to meet the Service's

monitoring needs, provided there is sufficient participation in wind energy general permitting. We continue to require an administration fee, a portion of which will be used to validate the concurrent monitoring approach and analyze monitoring data.

Comment: We received comments that expressed concern over the removal of the required 5-year check-ins.

Response: The purpose of 5-year review is to update take estimates and related compensatory mitigation for the subsequent 5-year period. It also provides the Service with an opportunity to amend the permit to reduce or eliminate conservation measures or other permit conditions that prove to be ineffective or unnecessary. The purpose of these reviews does not change with this rulemaking. However, the 5-year requirement has introduced unintended uncertainty which, according to public comment, has reduced participation in eagle take permitting under the 2016 regulation. It has also resulted in timing issues, where post-construction monitoring or other data is available off-cycle from the 5-year timing (e.g. year 3 or 4) but cannot be used until the scheduled check-in. Instead, check-ins may now be initiated by the permittee or the Service in response to events that warrant review, for example, updating fatality estimates and associated compensatory mitigation requirements or revising permit conditions to reflect the best available science.

Comment: We received comments stating that our current surveys are not sufficient to adequately estimate eagle population numbers and that mortality data reporting is voluntary and unreliable.

Response: The Service uses the best available science in ensuring that general and specific permits are consistent with the preservation of eagles. The Service has conducted aerial surveys for both bald eagles and golden eagles relatively recently and consider these survey efforts adequate to estimate populations of both species within applicable part of their range. The Service agrees that voluntary reporting of mortality data is unreliable. With this rulemaking, the Service improves voluntary reporting at wind projects two ways. First, through increasing participation in permitting and prescribing the concurrent monitoring protocol all projects use, the Service expects improved quantity and quality of eagle fatality data at wind projects. Second, through the collection of an administration fee, the Service can direct funds as needed to ensure permitting is consistent with the preservation standard, including by survey populations and by analyzing project-specific mortality data.

Comment: Commenters felt that monitoring related to disturbance take and nest take should not be required, specifically in instances where the activity does not directly take eagles, as with communication towers.

Response: Unlike permits that authorize the incidental injury or death of eagles, monitoring required under nest take and nest disturbance permits is intended to detect breeding outcomes during current and subsequent nesting attempts and, if appropriate and practical, document if eagles breed again at their original or any new nesting location. The loss of breeding productivity constitutes take, as it prevents eagles from being added to the population. Monitoring requirements allow the Service to account for authorized take more accurately against our established species-specific take limits and, over time, may allow us to qualify or quantify the effectiveness of permit conditions.

Nest Disturbance

Comment: Comments regarding nest disturbance primarily focused on the buffer distances set for general permits, including those for in-use and alternate nests, and advocated for distances based on the level of tolerance to disturbance.

Response: By specifying distances in our bald eagle nest disturbance general permit, we are not suggesting that all activities within these distances must apply for a permit. Rather, we are setting a standard that only those activities listed within the final rule (§ 22.280(b)) within these distances can receive a general permit. This standard is intended to prevent project proponents applying for unnecessary permits for activities beyond these distances that are unlikely to disturb breeding bald eagles. Further, the specific and general permits for nest disturbance are not a prerequisite to carrying out activities or starting projects. Instead, they cover any disturbance that may result as an unintentional consequence of an activity. If an individual or entity assesses that their activities are unlikely to disturb breeding eagles, they do not need the Service's consent or concurrence to proceed, though they may be held liable if their activities do ultimately cause disturbance.

The Service acknowledges the growing body of evidence demonstrating that some portions of the bald eagle breeding population demonstrate increased tolerance to human activities. Our standards under the nest disturbance general permit reflect this consideration. We use the 330- and 660-foot distances for bald eagles because we are generally unconcerned with activities beyond these ranges, and we discourage proponents from applying for permits where best available science suggests they are unnecessary. Within those distances, project proponents may assess their relative risk to eagles (e.g., whether or not a similar activity is or has occurred closer to the nest) and determine whether or not to apply for a permit.

Regarding alternate nests, we agree that, by definition, activities at these nests cannot expose breeding eagles to sensory disturbance, as the eagles are not present. However, as the National Bald Eagle Management Guidelines (2007) note, alterations to the nest site and surrounding habitat may discourage eagles from breeding when encountered by eagles returning to that nest site. We will continue to update the National Bald Eagle Management Guidelines as well as seek to develop similar guidelines for golden eagles.

Comment: We received requests for a regulatory authorization for State wildlife agencies for land-management activities that may improve eagle-nesting habitat, including prescribed fire and mowing.

Response: The Service acknowledges the usefulness of regulatory authorizations; however, we do not consider regulatory authorizations an appropriate mechanism to authorize the mortality or injury of bald eagles or golden eagles at this time. Most land-management activities, such as alteration of shorelines, alteration of vegetation, and prescribed burns, are eligible for general permits for eagle disturbance take. General permits for disturbance caused by agriculture, mining, and oil and gas operations are not available at this time. We have received permit requests for these activities infrequently, thus we have not yet developed standard avoidance and minimization measures. Operators of these and other activities may apply for specific permits. As we gain more

information on the effects of these activities and identify effective avoidance and minimization measures, we may in future rulemakings add general-permit regulations for these and other activities.

Comment: Commenters asked whether a single general permit authorizes several types of disturbance or whether a separate general permit will be needed for each type of disturbance that could occur.

Response: Consistent with our current approach to permitting, a single permit for disturbance of bald eagle nests can authorize disturbance of a nest from multiple sources of disturbance of a single project or operation. For example, a general permit could authorize disturbance from land clearing, external construction, blasting, and operations and management activities associated with one project. The bald eagle nest disturbance permit is a "one permit, one nesting territory" system that simplifies our bald eagle population management tracking and reduces the amount of monitoring we require from permittees.

Comment: Commenters also expressed the desire for one permit for all bald eagle disturbance associated with a given activity for the five-year permit term.

Response: Allowing coverage for an unspecified number of nests and ad hoc accounting of effects would hinder our ability to ensure take is consistent with the preservation standard established by the Eagle Act and implementing regulations. Individuals or entities that want to obtain coverage for disturbance of multiple nesting territories may apply for a specific permit.

Nest Take

Comment: Comments related to nest take centered on the creation of general permits and the lack of Service review of those permits.

Response: General permits are generally limited to three scenarios, emergency circumstances, health and human safety concerns, or nests on human-engineered structures. These situations, such as wildfire hazard and structural failure, often pose risks to both the nest and for people. In these situations, it is often imperative that the permit be issued as quickly as possible, as doing so often reduces the risk or effects to eagles. The Service also has been implementing permits for these activities since 2009 and has well-developed permit conditions with avoidance and minimization measures. The expedient processing and standardized approach make these permits a great fit for general permits.

The Service will review these permits. In reviewing bald eagle nest take permits at the program-scale, given the current and expected number of permits issued and the status of the bald eagle, the Service is confident that issuance is consistent with the preservation of the bald eagle. We will continue to review nest take at the program scale to ensure that general permit issuance is consistent with the preservation of bald eagles. The Service will also audit a percentage of nest take permits, to ensure that the applicants meet eligibility criteria and comply with permit conditions. We will work to address any compliance concerns with individual permittees.

Comment: Some commenters requested that a single general permit for nest take

authorize the take of multiple nests from a single project or across a defined area.

Response: Issuing one general permit for each nest allows the Service to efficiently track take. If the Service allowed coverage for an unspecified number of nests, the associated ad-hoc accounting of effects would make it much more difficult for the Service to ensure authorized take is consist with the preservation standard. Specific permits remain available for the take of multiple nests.

Comment: One commenter stated that the proposed regulation would no longer require the Service to make a finding of net benefit to eagles for nest take authorized under "other purposes." The commenter interpreted the proposed rule to state that compensatory mitigation is required only when the take exceeds the limit of the applicable EMU.

Response: Since 2009, the regulations require the finding of a net benefit to eagles for nest take authorized under "other purposes." For all nest take requests outside of Alaska, a specific permit is required for the purposes of the Service determining whether a net benefit will be achieved by the proposed action, or, if the activity does not provide the net benefit, the compensatory mitigation proposal. The net benefit to eagles is scaled to the effects of the nest removal. The Service did include a general permit for "other purposes" in Alaska because of the scaled effects of nest removal. In Alaska, well-established permit conditions provide sufficient avoidance, minimization, and compensatory mitigation scaled to the effects of nest removal, given the robust population status of the bald eagle and the available nesting habitat.

Comment: Some entities expressed support for the creation of general permits for golden eagle nest take.

Response: The Service did not include but will continue to work to develop general permits for golden eagle nest take. The Service has issued few golden-eagle nest take permits and therefore does not have sufficient, well-established measures to create general conditions for golden eagle nest take.

Comment: One commenter suggested that authorizing the take of eagle nests to protect threatened or endangered species should apply only to bald eagles due to the golden eagles' population status.

Response: With expanding bald eagle populations, the Service foresees situations arising where the take of an eagle nest may be necessary for the recovery of threatened or endangered species. However, the Service acknowledges the tradeoffs are more complex with golden eagles. Because this is an emerging issue, a specific permit must be obtained for this type of activity. The Service added an additional precaution in that the Federal, State, or Tribal agency responsible for the species of concern must obtain the permit. The Service will assess the tradeoffs between the eagle species taken and the endangered or threatened species. The Service will consider the evidence that eagles are limiting the recovery of a threatened or endangered species and analyze whether the eagle nest removal will improve recovery for the threatened or endangered species in question. The Service will consider if issuing this permit, including required avoidance and minimization measures and compensatory mitigation, is consistent with our preservation standard at both the LAP and EMU scale. Finally, the Service will

consider if other methods are feasible that have less effect on eagles but will still abate or prevent the problem. As a final protection for golden eagles, the Service may require compensatory mitigation for the take of golden eagle nests.

Permit Conditions

Comment: Commenters asked whether the provisions in the new rule would apply to entities that currently have long-term incidental take permits and entities that applied but have yet to receive a permit.

Response: Projects that have submitted an application as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] will have until [INSERT DATE 6 MONTHS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] to choose whether to have their application reviewed and administered under all the provisions of the 2016 regulations or all the provisions of these new regulations. Projects permitted under the 2016 regulations may continue under existing permit conditions until the permit expires. Permittees that want to modify existing permit conditions to comply with the new regulations may contact their permitting office at any time to determine whether a substantive amendment request or a new application is most appropriate. For qualifying projects that elect to have their pending applications reviewed and administered under all the provisions of these new regulations, application fees paid prior to [INSERT DATE 6 MONTHS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] may be used to pay for application and administration fees required under the new regulations.

Comment: Multiple commenters expressed concerns over operations and maintenance staff conducting monitoring, suggesting that they might underreport their findings or that they would find too few available carcasses to provide useful information on eagle take.

Response: There are two aspects to this concern. The Service acknowledges the concern about staff intentionally under-reporting their findings. Based on input the Service received, we predict this will be a rare circumstance and one that can be discovered and addressed with the assistance of the Office of Law Enforcement. With any permit, there will be good actors and bad actors, and the Service will address bad actors accordingly.

For the second aspect, the Service disagrees that concurrent monitoring will not provide useful information. Service analysis suggests that, on a large scale (e.g., aggregation of all general permits), concurrent monitoring will provide sufficient information over time to allow the Service to be confident that our resulting program-wide take estimates are consistent with the preservation of eagles.

Comment: A commenter requested clarification as to when an adaptive management plan is required.

Response: It is expected that wind energy project proponents will develop an adaptive management plan prior to or on obtaining a general permit. However, implementation of the adaptive management plan is required only if a certain number of fatalities are discovered at a wind energy facility. If three bald eagle injuries or mortalities, or three golden eagle injuries or mortalities, are discovered at a project during the 5-year general permit tenure, the permittee must provide the Service with an adaptive management

plan and specify which avoidance and minimization measures the permittee will implement. If an injury or mortality of a fourth eagle of that species attributable to the project is discovered, the permittee must identify and implement the avoidance and minimization measures outlined in the adaptive management plan. Adaptive management plans may be revised during the permit tenure. A copy of adaptive management plan(s) may be requested by the Service at any time as part of an audit.

Comment: One commenter asked for clarification whether circumstances impacting eagles outside of a specific permittee's control (e.g., decrease or shift in population due to disease, climatic factors, or illegal take like poisoning and poaching) could result in new obligations being imposed on a specific permit holder.

Response: Circumstances outside the permittee's and Service's control will continue to affect eagle populations. The permittee's responsibility is to comply with the requirements of their permit. The Service's responsibility is to ensure permits issued are consistent with the preservation of eagles, including at the EMU and LAP scales. If situations arise at the EMU and LAP scale that are detrimental to eagle populations, the Service may need to act to ensure preservation of eagles, which may include programmatic changes to permits or changes to a subset of permits. Generally, we will first attempt to address these issues modifying the requirements for or restricting new permits. However, consistent with 50 CFR 13.23(b), the Service reserves the right to amend any permit for just cause at any time during its term, upon written finding of necessity.

Power Lines

Comment: Comments regarding eagle incidental take permits for power lines were focused primarily on the required conditions and definitions in the regulation.

Response: The Service made several improvements to the power line regulation:

1. To better align with standard industry terminology, the Service revised the term "electrocution-safe" to "avian-safe."
2. The Service clarified that power line entities are required to ensure that all poles constructed in high-risk eagle areas are avian-safe, allowing the entity to determine those areas within the parameters provided by Service guidance.
3. To address concerns regarding the siting of projects and buffer distances, we revised the conditions to read as follows: "For new construction and rebuild projects, reconstruction, or replacement projects, incorporate information on eagles into siting and design considerations. Minimize eagle risk by siting away from eagle use areas (e.g., nests and winter roosts), accounting for the risk to and population status of the species, 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."
4. The Service modified the definition of "collision response strategy" to reflect that any risk-reduction strategies implemented post-collision should be commensurate with the collision risk. This may include no changes for one-off situations that are unlikely to reoccur. References to changes in engineering design have been removed and will instead be included in guidance.
5. Many companies were concerned that the proactive retrofit strategy would be infeasible to implement. Proactive retrofit strategies are important, as they serve

as the compensatory mitigation requirement for power line entities. However, the Service also wants to ensure that requirements are feasible. The Service modified the requirement to a 50-year strategy for investor-owned utilities and a 75-year strategy for non-investor-owned utilities, with 5-year benchmarks. We also clarified that this requirement applies only to poles in high-risk eagle areas that are not avian-safe but may include other poles in the service area as well. The Service provides for delayed implementation to allow utilities to develop proactive retrofit strategies. The Service also provides for extenuating circumstances, such as catastrophic weather, wildfire, or other events that substantively disrupt power delivery, in implementing these strategies. Finally, we note that specific permits are available for any utility that is unable to implement the general permit requirements.

6. The Service amended the conditions associated with the reactive retrofit strategy to clarify that the evaluation of the incident must be completed within 90 days and the response implemented within 1 year of the incident.
7. The Service clarified that the minimum expectation for the eagle shooting response strategy is for utilities to notify the Office of Law Enforcement in the case of a confirmed or suspected shooting. However, we will work with industry to develop other common-sense response options.

Comment: Several comments expressed concerns regarding the costs associated with implementing the avoidance and minimization measures for power lines.

Response: The fees and costs to applicants to participate in the permitting framework have been updated and are included in the FEA. See tables 5–1 (No Action Alternative), 5–4 (Alternative 2), 5–10 (Alternative 3), and 5–14 (Alternative 4). These tables comprise all fees and costs that a permittee is expected to accrue in applying for and complying with all permits. As stated in section 5.6.5 of the FEA, the Service assumes that power line entities most likely to apply for a permit are entities that have a risk of taking eagles and are already retrofitting power poles, thus already meeting this requirement. Therefore, the Service does not anticipate an added cost to power line entities for the retrofit requirement.

Specific Permits

Comment: Several commenters expressed concerns with delays in specific permit issuance review and requested that the Service further streamline the specific permit process.

Response: The Service will be implementing several approaches to improve efficiency in the specific permit process. One approach codified in this rulemaking is the creation of new tiers for reviewing specific permit applications. These tiers separate the specific permit applications that require extensive review and negotiation from those that do not, creating a streamlined approach and corresponding reduced application fee for projects that meet the new Tier-1 criteria.

In addition to creating a tiered approach allowing faster processing for Tier-1 specific permits, the Service will institute a procedural change to further expedite review of some projects. To date, 42 eagle incidental take permits have been issued to wind energy projects across the country. While all permit decisions were analyzed in an EA or, occasionally, an EIS, our experience with issuing these permits has led us to conclude

that a categorical exclusion would be appropriate for most permit decisions because relevant environmental impacts for most decisions have already been analyzed in the 2016 PEIS and extraordinary circumstances are unlikely to apply, given the general impacts we disclosed in our NEPA analyses for previously analyzed decisions. Specific permit decisions we expect to categorically exclude from further NEPA analysis must, at a minimum, include the following criteria: (1) Estimated annual eagle take, after compensatory mitigation (if required), is below EMU take limits; (2) estimated annual eagle take, combined with other authorized take in the vicinity, does not exceed five percent of the project-specific Local Area Population; (3) permit conditions do not have the potential to cause effects on cultural resources or other historic properties protected by the National Historic Preservation Act; (4) permit issuance will not be precedent setting; (5) the permit decision and permit conditions will not be based on take estimates produced from new or unpublished methods or models; and (6) no other extraordinary circumstances that prevent application of the categorical exclusion exist. If the Service determines categorical exclusion is not appropriate, the Service will initiate an EA or EIS in accordance with NEPA. To ensure linear and efficient progress, substantive Service work on these documents will begin after the applicant and the Service have completed negotiations on the conditions of the permit.

Tribal Concerns

Comment: There were concerns expressed regarding the removal of protections from §22.85 of the existing regulations, including the following:

- Evaluation of cultural significance of a local eagle population;
- Finding of practicable alternative to nest removal;
- Finding of a net benefit to eagles and subsequent compensatory mitigation;
- Determination of whether suitable nesting and foraging habitat is available to accommodate eagles displaced by nest removal; and
- Finding that permits will not preclude higher priorities, including Native American Tribal religious use.

Response: The Service did not intend to remove the protections listed above. Many were moved to other sections or condensed with other regulatory language with the intent to provide clarity. However, comments indicate this rearrangement did not improve clarity. We have re-expanded the regulatory language or relocated the language to the expected locations.

Comment: Several comments from Tribes focused on the creation of general permits, particularly for nest take and nest disturbance.

Response: Regarding opposition to general permits for nest take and nest disturbance, the Service notes that these permits are only for emergencies, for health and safety issues, or on human-engineered structures. In most cases, these situations are a risk to both eagles and humans. The qualifications for specific and general permits for nest disturbance and nest take are comparable to the standards established in 2016. Additionally, the conditions for our general permits will be based on the conditions the Service commonly requires in its current specific nest take and nest disturbance permits. While we are aiming to make applying easier for project proponents by simplifying the administrative process, we are not making permits easier to secure in the sense of relaxing requirements to protect eagles.

The standards we are establishing around general permits for take and disturbance of bald eagle nests will assure continued preservation of this species for two reasons: First, because those standards are based on the knowledge and experience we have gained from issuing and monitoring hundreds of permits over nearly two decades, and second, a growing body of scientific literature has demonstrated that breeding bald eagles show a higher tolerance and resilience to disturbance and other impacts than previously thought. We do not have comparable data or experience in managing golden eagle nests and have therefore not opened the general-permit program up to removal or disturbance of golden-eagle nests in this rulemaking.

We acknowledge and appreciate Tribal concerns regarding the degree of oversight required for general permits when compared to specific permits. As part of this final rule, we have added a new eligibility restriction for nest-disturbance and nest-take activities in Indian country, as defined in 18 U.S.C. 1151, after recent consultation with Tribes. General permits will not be available for nest take or nest disturbance for nest structures located in Indian country, unless requested by the Tribe itself. Furthermore, the Service will make publicly available a list of all general permits issued, which Tribes can review. We will be implementing an audit program to ensure that those participating in our general permits are truly eligible and are complying with the permits' terms. For specific permits, the Service will continue to notify Tribes regarding activities conducted on their lands.

Comment: Many Tribes believe the new regulations remove opportunities for Tribal engagement and bypass government-to-government consultation, especially for potential impacts to Tribal lands or resources.

Response: Throughout all phases of the rulemaking process, the Service has encouraged and continues to welcome government-to-government consultation. In addition, we conducted multiple information sessions specifically for Tribes. The Service acknowledges our Federal Tribal trust responsibilities and deeply honors our sovereign nation-to-nation relationship with Tribes. To date, one Tribe requested government-to-government consultation regarding this regulation. The Service made modifications to the final rule based on this consultation. We invite bi-lateral government-to-government consultation at any time.

Wind Energy

Comment: Some commenters expressed concerns about the cumulative impacts of wind energy projects on the landscape on eagle populations, particularly at the LAP scale.

Response: The Service has considered at length how to implement general permits for wind projects that are consistent with the regulatory preservation standard at the LAP scale. The Service will use all available information and the best available tools to estimate where authorized take rates may be the highest relative to our estimated eagle-population densities. Further, we will require Service-approved in-lieu fee programs to allocate a small amount of compensatory mitigation from each general permittee to be available to address LAP concerns. With these extra mitigation funds, in-lieu fee programs can deploy compensatory mitigation for eagles in areas where LAP thresholds are close to being exceeded (or have been exceeded). If, after expenditure of these

funds, the Service still determines that general-permit issuance is not consistent with the preservation standard, we retain the right to amend, suspend, or revoke general permits in order to safeguard local eagle populations.

Comment: We received comments regarding the take thresholds associated with wind energy general permits, including comments that such thresholds are not necessary for bald eagles, that such thresholds may cause the general permit program to fail, and requests to remove species-specific take thresholds.

Response: The Service calculated the take threshold for bald eagles and the take threshold for golden eagles to ensure general permitting is consistent with the preservation of both eagle species. The calculated threshold for each species ended up being four eagles. Ensuring take is compatible with eagle preservation primarily depends on the take rates for each eagle species, not the combined take rate of eagles in general. Therefore, there are separate take thresholds for each species, not a combined threshold for "eagles." Finding four golden eagles creates a fatality estimate similar to what we would expect to see at an average-sized project in the specific-permit zone. Finding four bald eagles would produce a similar result. However, a project that discovers two dead bald eagles and two dead golden eagles during one permit term would be taking eagles at lower rates than expected under specific permits and, thus, a general permit is appropriate.

In response to comments that general permit take thresholds are not necessary for bald eagles, we reiterate that the goal of these thresholds is to ensure that the Service has appropriately accounted for the level of eagle take for projects receiving general permits in a way that is consistent with our preservation standard and ensure that projects with relatively high risk to eagles (of either species) are paired with the most appropriate management actions that are commensurate with higher or uncertain take rates. Exceeding the discovered eagles thresholds established by these regulations is not a violation of the permit. Rather, a project that discovers more than established thresholds indicates that there are potentially unique circumstances at the project site that would benefit from Service engagement through the specific permit process. The specific permit process allows for Service review of site-specific data and collaboration with the permit applicant on development of additional data collection and avoidance and minimization approaches appropriate for the project to ensure permit issuance criteria are met and that authorized take is consistent with our preservation standard, particularly at the local scale. This is not possible under an automated general permit process.

In response to the comment that the general permit program is likely to fail, our analysis of take in the general permit zones suggests that it should be a rare wind project in the general permit zone that takes eagles at rates high enough to discover four or more bald eagles within a 5-year period. Our estimates for even large wind projects in the general permit zone are substantially lower than estimated bald eagle fatalities at a similar-sized project in the specific permit zone, on which the four-eagle threshold was based. Thus, we expect that only a small proportion of projects receiving general permits will exceed the bald eagle threshold.

Comment: The Service received multiple comments regarding the use of Evidence of Absence software for specific permits; many of the comments requested that the Service

eliminate the use of Evidence of Absence software as a compliance measure. Instead of Evidence of Absence software, one commenter suggested the Service should instead assess compliance based on the actual number of eagles found during fatality monitoring.

Response: The Service recognizes the limitations of Evidence of Absence software. Therefore, on specific permits the Service will authorize incidental take of bald eagles, golden eagles, or both but will not specify a take limit. The Service will continue to use the best available statistical programs to evaluate and estimate mortality rates. Currently Evidence of Absence software is the best estimator available to handle zero-inflated data (i.e., data that has an excess of zero counts). The Service will use estimated mortality rates to calculate compensatory mitigation requirements. The Service will also use estimated mortality rates to estimate the number of eagles authorized for internal tracking purposes. The Service will use estimated mortality rates for eagles instead of number of eagles found, as this more appropriate for understanding how permit issuance effects eagle populations.

Comment: Multiple comments expressed disapproval of the Collision Risk Model (CRM), with some stating the lack of predictability with the CRM results in increased costs and timelines.

Response: The Service recognizes that, as with all models, we must continue working to improve the CRM. However, the CRM represents the best science available today. The CRM was developed using site-specific and species-specific eagle exposure and eagle collision data provided from wind energy facilities across the Nation and represents the best available data to assess risk to eagles by turbines. The Service's CRM evaluates risk across projects in a consistent and predictable way while accounting and managing for uncertainty. The Service uses site-specific data to inform the CRM and have the estimate reflect risk for a given project while accounting for variability in both eagle use and collision risk. In the 2016 eagle rule and PEIS, the Service described the adaptive management framework for authorization of eagle take. At wind facilities, the Services uses monitoring data—consistent with methods outlined in the Land-Based Wind Energy Guidelines (www.fws.gov/media/land-based-wind-energy-guidelines)—to inform the initial take authorization for a permit. We use monitoring data collected under the permit to update the estimates over time. Any mitigation paid by the permittee initially that exceeds updated take estimates is credited forward, reducing future mitigation burden.

The Service can evaluate alternative models as part of the adaptive management framework over time, however, to ensure consistency and adherence to management objectives, initial permit estimates are based on our peer-reviewed modeling framework. Monitoring can be designed, in coordination with the Service, to compare updates to the CRM modeling framework to results from other models. Any comparison would need to evaluate the model's ability to quantify uncertainty. Similarly, the Service's eagle permit biologists consider all site-specific data available when thinking about potential avoidance and minimization measures that may reduce risk at a given project, but rely on the CRM and consistent, representative monitoring data to represent risk across all permitted projects. Site-specific data (e.g., mortality monitoring) without use of a model designed to extrapolate beyond the monitoring period does not appropriately account for variability in eagle risk.

The Service will use the CRM to calculate eagle fatalities for internal tracking and calculating mitigation requirements for specific permits. While the Service generally does not recommend that project proponents propose an alternative CRM, under the new rule Tier 2 specific permittees with a reimbursable agreement may request consideration of an alternative CRM. The Service will review these requests on a case-by-case basis and anticipate requiring, at a minimum, publication of the alternative CRM in the *Federal Register* for public review at the cost of the applicant, including quantification of the uncertainty of the model (i.e., confidence in the estimate). The Service may also require third-party monitoring to validate the model.

Comment: Commenters requested clarification on take limits associated with the permits.

Response: Wind energy general permits and specific permits will not have a take limit associated with them. Wind projects with a general permit cannot discover four or more bald eagles or four or more golden eagles within a five-year permit term and remain eligible for another general permit in the future. We will continue to estimate take at wind projects for both general and specific permits to ensure consistency with the preservation standard and, for specific permits, determine required compensatory mitigation. For specific permits, the Service will require additional compensatory mitigation if it concludes (through data received in annual reporting or otherwise) that permitted take exceeds the level of compensatory mitigation already provided. If we determine that take at a permitted facility is not consistent with our preservation standard, we will conduct an administrative check-in and likely require amendments to the permit.

***Advance Notice of Proposed Rulemaking*:** As targeted outreach regarding the Service's administration of the permitting processes, on September 14, 2021, we published an Advance Notice of Proposed Rulemaking (ANPR; 86 FR 51904). A copy of the published proposed rule is attached as a supplement document. The ANPR specifically sought comment on elements of the 2016 Eagle Rule that hindered permit application, processing, and implementation, and suggestions for regulatory revisions and guidance resources that would reduce the time and cost associated with securing and operating under long-term eagle incidental take permits. We received 1,899 comments in response to the ANPR (Regulations.gov docket FWS-HQ-MB-2020-0023), which we subsequently considered in this rulemaking.

***Summary of the comments received in response to the ANPR*:** Many comments expressed concerns with the efficiency of the current permitting process, including the lack of capacity within the Service to review and issue permits and the extensive processing times. Similarly, most comments supported the idea of a general permit program to streamline the process and provide more timely and cost-effective coverage for industry. Concerns were also raised about monitoring and reporting requirements. Several comments expressed opposition to third-party or pooled monitoring approaches, while others suggested the Service require permitees to implement a regular, standardized monitoring protocol with annual reporting requirements.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We do not provide any payment or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

We do not provide any assurance of confidentiality. Information is collected and protected in accordance with the Privacy Act (5 U.S.C. § 552a) and the Freedom of Information Act (5 U.S.C. 552). We will maintain the information in a secure System of Records (Permits System–Interior, FWS–21, September 4, 2003, 68 FR 52610; and modifications published June 4, 2008, 73 FR 31877 and March 16, 2023, 88 FR 16277).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not ask questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

We estimate that we will receive **8,406 responses** totaling **32,882 annual burden hours** with a total dollar value of the annual burden hours estimated to be **$2,496,669** (rounded). These values reflect updated estimated participation rates for the permit program and changes to application forms and fees.

To reflect annualized cost burden more accurately for this information collection, Attachment A (uploaded to ROCIS as a supplemental document) reflects two (2) different rates as explained below:

(1) *Nationwide ICs Using General BLS Statistical Data*

We used table 1 from the of Bureau of Labor Statistics (BLS) News Release USDL-23-2567, December 15, 2023, Employer Costs for Employee Compensation—September 2023, to calculate the total annual burden.

- Individuals – the hourly rate for all workers is $43.93, including benefits.
- Private Sector – the hourly rate for all workers is $41.53, including benefits.
- Government – the hourly rate for all workers is $59.90, including benefits.

(2) *Specialized ICs Related to Power Generation, Construction, and Transportation Industries*

The cost burden associated with certain activities are often conducted using contracted services does not fit well within the hourly rates published by the BLS. The cost of these services can vary widely depending on size of the consulting company, the seniority of the persons providing the services, and the reputation of the consulting firm. In general, individuals contracting for these services select a smaller company with less experienced personnel as opposed to a large company that selects a renowned consulting firm employing senior scientists with decades of experience.

Accordingly, we used the below listed mean hourly wages published in the BLS May 2022 National Industry-Specific Occupational Employment and Wage Estimates (11-1021, General and Operations Managers) to calculate an average hourly rate of $65.23:

- 211100 – Oil and Gas Extraction – $86.06;
- 236100 – Residential Building Construction – $52.27;
- 237130 – Power and Communication Line and Related Structures Construction – $63.63; and
- 488200 – Support Activities for Rail Transportation – $58.96.

To account for benefits, we used 45% as an average overhead rate for contracted work, resulting in a fully burdened hourly rate for consultants of **$94.58** (rounded).

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- *** The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- *** If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with**

a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

* **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

We estimate the nonhour cost burden to respondents for this information collection to be **$1,737,460** (see Attachment A). These costs are primarily for application processing fees, which range from $0 to $26,000. Some permits require the payment of administration fees, in addition to the permit fee (with the exception of government entities who are only required to pay the administration fee, but not the permit fee (see proposed revision in question 2 on pg. 16)).

Under the proposed rule, the Service proposed costs to conduct program-scale monitoring for wind energy projects. This monitoring cost was included in the administration fee and totaled $2,625 per turbine for a 5-year general permit. The Draft EA estimated an administration fee of $97,000 for the average wind project.

However, based on public comment, the Service reviewed its proposed approach to monitoring. We determined that we can accomplish monitoring goals under general permits with concurrent fatality monitoring, which will be required under general permits, and without additional monitoring performed by or contracted by the Service. In the final rule, we require concurrent monitoring conducted according to Service protocols by project operation and maintenance staff, which will be sufficient to meet the Service's monitoring needs, provided there is sufficient participation in wind energy general permitting. We continue to require an administration fee of $2,500-$10,000 depending on the scale of the project, a portion of which will be used to validate the concurrent monitoring approach and analyze monitoring data.

Furthermore, the Service has adopted a scaled fee approach for both general permits and specific permits. For power lines, general permit administration fees are separated into Tier 1 for non-investor-owned utilities and Tier 2 for investor-owned utilities (using U.S. Energy Information Administration definitions). For wind energy, general permit administration fees are separated into Tier 1 distributed and community scale and Tier 2 utility scale, using the Service's Land-Based Wind Energy Guidelines definitions. For specific permits, the Service created a tiered fee structure for wind energy and power line projects consisting of three tiers: Tier 1, Tier 2, and Tier 2 with reimbursable agreement, where a Tier 1 fee is charged for standard applications and a Tier 2 fee is charged for complex applications. A reimbursable agreement will be used when processing time exceeds 275 staff hours. The Service retains the current non-commercial and commercial tiering for disturbance and nest take permits. Changes to fees are represented in the table below.

When there is more than one applicable fee, such as for a combined permit authorizing two distinct activities that each have their own permit types and fees, we have used the higher permit application processing fee to calculate costs. For example, we used the permit fee for multiple nests for specific permit nest take activities and Tier 2 fees for specific permit incidental take activities.

For the purposes of estimating the fee for a single permit application covering multiple activities (see “Misc Eagle Permit Apps” tab in Attachment A), we used an estimate of $1,500 in the nonhour cost burden estimate (take permit fees average $100 to $2,500) as the actual permit cost will be the higher of the combined permits in the application.

Type of Permit	CFR Citation	Permit Application Fee	Administration Fee[1]	Amendment Fee
Eagle Scientific Collecting	50 CFR part 22	100		
Eagle Exhibition	50 CFR part 22	75		
Eagle—Native American Religious Purposes	50 CFR part 22	No fee		
Eagle Depredation Permit	50 CFR part 22	100		
Golden Eagle Nest Take	50 CFR part 22	100		50
Eagle Transport—Scientific or Exhibition	50 CFR part 22	75		
Eagle Transport—Native American Religious Purposes	50 CFR part 22	No fee		
General Eagle Permit—Disturbance Take	50 CFR part 22	100		
Specific Eagle Permit—Disturbance Take	50 CFR part 22	Commercial - 2,500 Noncommercial - 500		Commercial - 500 Noncommercial - 150
General Eagle Permit—Nest Take	50 CFR part 22	100		
Specific Eagle Permit—Nest Take (Single nest)	50 CFR part 22	Commercial - 2,500 Noncommercial - 500		Commercial – 500 Noncommercial - 150
Specific Eagle Permit Eagle —Nest Take (Multiple nests)	50 CFR part 22	5,000		500
General Eagle Permit—Incidental Take (Power lines)	50 CFR part 22	1,000	Non-Investor Owned - $2,500, Investor Owned - $10,000	
General Eagle Permit—Incidental Take (Wind energy)	50 CFR part 22	1,000	Distributed and Community Scale - $2,500, Utility Scale - $10,000	
Specific Eagle Permit—	50 CFR	Tier 1 –	10,000	500

Incidental Take	part 22	18,000, Tier 2 - 26,000		
Eagle Take—Exempted under ESA	50 CFR part 22		No fee	
Transfer of a Subpart E Eagle Permit	50 CFR part 22	1,000		

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate Service staff will spend an average of 20 minutes to 400 hours, depending on activity, reviewing submissions with a total Federal Government cost to administer this information collection estimated to be **$981,705** (rounded) (see Attachment A).

Service biologists (GS-11/13) and permit examiners (GS-9/12), with support of GS-7 staff, will:

- Review and determine the adequacy of the information an applicant provides.
- Conduct any internal research necessary to verify information in the application or evaluate the biological impact of the proposed activity.
- Assess the biological impact of the proposed activity on the bald or golden eagle.
- Evaluate whether the proposed activity meets the issuance criteria.
- Prepare or review NEPA documentation.
- Prepare either a permit or a denial letter for the applicant.
- When necessary to evaluate the impact of the proposed activity, visit the location to examine site-specific conditions.
- Monitor reports.

The Service processes permits in our eight Regional Offices, which are located in major cities across the United States. Therefore, we used Office of Personnel Management Salary Table 2024-DCB as the average hourly rates for staff. We multiplied the hourly rates by 1.61 in accordance with the BLS News Release USDL-23-2567, to calculate the fully burdened rates for each staff member. The table below shows Federal staff and grade levels performing various tasks associated with this information collection.

Position/Grade	2023 Hourly Rate	Hourly Rate, Incl. Benefits*	Time Spent on Information Collection	Weighted Average ($/Hour)
Clerical – Receptionist, Office Asst. (GS-07/05)	$ 30.37	$ 48.90	5%	$ 2.45
Legal documents examiner – Permit Examiner (GS-09/05)	37.15	59.81	30%	17.94
Legal documents examiner - Permit Examiner (GS-11/05)	44.94	72.35	30%	21.71
Biologist (GS-11/05)	44.94	72.35	10%	7.24
Supervisor – Permit Chief (GS-12/05)	53.87	86.73	20%	17.35
Management - Branch/Division Chief, Solicitor (GS-13/05)	64.06	103.14	5%	5.16
			Weighted Average ($/hr):	**$ 71.85**

*Rounded

NOTE: With this rulemaking, the Service will authorize eagle take using general permits and specific permits. The purpose of general permits is reduce public burden by simplifying and expediting the permitting process for activities that have relatively consistent and low risk to eagles and well-established avoidance, minimization, compensatory mitigation measures. General-permit applicants self-identify eligibility and register with the Service. This includes providing required application information and fees and certifying that they meet eligibility criteria and will implement permit conditions and reporting requirements. This new streamlined process does not require any processing time by Service personnel for applications submitted via ePermits; thus, the burden spreadsheet (Attachment A) reflects zero processing time in the calculation of Federal government costs for general permitting ICs.

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

With this submission, we are reporting a discretionary burden change **4,088 annual responses, 6,898 annual burden hours, and $368,260 annual nonhour cost burden**. We reported all changes are discretionary due to the significant changes to the existing ICs and new ICs related to the new processes associated with issuing general and specific permits.

*With this submission, the Service also caught and corrected an error with the previous submission regarding amendment ICs incorrectly referencing a $36,000 administrative processing fee (nonhour burden cost) instead of the correct $100/500 fees. We also removed ICs associated with general permit amendments since general permits cannot be amended.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

We do not publish the results of these information collections.

17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We will display the OMB control number and expiration date.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.