

FWS Releases Final Voluntary Land-Based Wind Energy Guidelines

MARCH 26, 2012

On March 23, 2012, the U.S. Fish & Wildlife Service (FWS) released its [final Land-Based Wind Energy Guidelines](#), which aim to reduce impacts to wildlife from wind energy development and promote compliance with the Endangered Species Act, the Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act. The final guidelines are effective immediately and replace voluntary interim guidelines FWS released in 2003. FWS released the final guidelines after a year-long rulemaking process during which FWS held multiple public hearings and received over 30,000 public comments on the draft Land-Based Wind Energy Guidelines proposed on February, 18 2011.

The final guidelines are also voluntary and are largely similar to the proposed guidelines. The final guidelines provide a science-based process for addressing wildlife conservation concerns, promote communication between wind energy developers and federal, state, and local agencies, and provide best management practices for the development, construction, and decommissioning of wind energy projects. Although developers are not required to follow the wildlife conservation measures contained in the guidelines, FWS strongly recommends consultation with the agency “as early as possible” emphasizing that it is “the most important thing a wind energy developer can do.” Although following the guidelines does not relieve developers from any applicable legal requirements, the FWS indicates that if a violation occurs, it will consider a developer’s documented efforts to comply with the guidelines and communicate with the agency.

Consistent with the proposed guidelines, the final guidelines outline a tiered approach to assessing potential adverse effects to wildlife from wind energy development. The first two tiers describe best practices for selecting a site for a wind energy project, first at the landscape scale and then at the site-specific scale. The third tier involves field studies to determine the risk to wildlife at the selected site from the wind development and the development of mitigation measures to minimize these risks. In the fourth and fifth tiers, developers conduct post-construction studies, including fatality monitoring, to evaluate the actual impact of the development on wildlife.

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