



Land-based Wind Energy Guidelines

National Wind Coordinating Collaborative
Wind Energy Briefing

April 9, 2012



Overview

- Promote siting wind projects to avoid significant impacts
- Encourage scientifically rigorous surveys, monitoring and research;
- Produce comparable data;
- Mitigate significant adverse impacts
- Voluntary

FWS Authorities

- **Endangered Species Act**
 - Sec 7 applies when a Federal nexus exists
 - Sec 9 prohibits “take” of T&E species
 - Sec 10 can authorize take on private lands
- **Migratory Bird Treaty Act**
 - Prohibits “take” of >1,000 species, nests or eggs
- **Bald and Golden Eagle Protection Act**
 - Prohibits “take” of eagles
 - Permits to “take” available

Tiered Approach

Decision framework for

- collecting information in increasing detail to
- evaluating risk and
- make siting and operational decisions.

Consists of 5 tiers:

1-3 pre-construction

4-5 post-construction



Implementation

- **Projects initiated after March 2012:**
 - Apply tiered approach
 - communicate and shared information with the Service and
 - considered Service's advice.
- **Projects operating or in advanced planning as of March 2012:**
 - confer with the Service regarding fatality monitoring
 - communicate and share information with the Service
 - consider Tier 5 studies and mitigation options

KEY TERMS

- Species of concern
- Species of habitat fragmentation concern
- Plant communities of concern
- Significant adverse impact
- Utility-scale wind
- Distributed wind
- Community-scale wind

Communication Protocol

- Outline of intended communication between developers and Service.
- Recommends documents or information to be exchanged through the tiered process.



Enforcement

- Focus law enforcement on investigating activities that take migratory birds without identifying and implementing measures to avoid take
- Communicating with the Service is an appropriate means of identifying and implementing reasonable and effective measures to avoid take of species



Enforcement

- Each developer or operator is responsible for maintaining records to demonstrate adherence to Guidelines including responding to Service comments.
- Adherence to Guidelines does not absolve obligations to comply with MBTA or BGEPA

Scope and Scale

- Guidelines designed for “**utility-scale**” land-based wind energy projects
- **Distributed or community-scale** wind projects:
 - consider the general principles
 - answer Tier 1 questions using publicly available information.
- Appropriately sited small wind projects are not likely to pose significant risks to species of concern.

Service Review Period

- Service Field Offices should respond to written developer requests within 60 days.
- If the Service does not respond within 60 days, then the developer can proceed through Tier 3 without waiting for Service input.
- If studies predict significant adverse impacts, the developer should inform the Service of proposed mitigation.

Tiered Approach

- Tier 1 - Preliminary Site Evaluation
- Tier 2 - Site Characterization
- Tier 3 - Field Studies
- Tier 4 - Post-construction Studies
- Tier 5 - Other Studies



Tiered Approach

- Tiers 1- 3
 - questions and
 - recommended survey methods and metrics
- Developers decide whether to proceed to the next tier.
- Timely communication and sharing of information will enable Service to provide technical advice.

Tiered Approach

- Tier 4 Post-construction studies to estimate impacts
 - 4a Fatality Studies
 - 4b Assessing direct and indirect impacts of habitat loss, degradation & fragmentation
- Tier 5 Other post-construction studies
 - Will not be necessary for most wind energy projects

Tiered Approach

- Embodies adaptive management
- Collect increasingly detailed information to make decisions
- Modify project proposal and operations



Cumulative Impacts

- Comprehensive effect on the environment that results from incremental impact of a project
- Added to other past, present, and reasonably foreseeable future actions.



Identify species of concern

Eagles:

Use ECP
Guidance

Mig Birds &
Bats:

Bird – Bat
Conservation
Strategy

Listed
species:
species-
specific
survey
protocols

Best Management Practices

- Site construction
- Operation
- Retrofitting
- Repowering
- Decommissioning



Mitigation

- Avoid and/or minimize significant adverse impacts,
- Compensate for unavoidable significant adverse impacts,



Mitigation & Migratory Birds

- Operational and deterrent measures to avoid or minimize take of migratory birds.
- Compensate for loss of migratory bird habitat.
- Eagle permits – may include compensatory mitigation

Mitigation & Endangered Species

- Mitigation measures determined on a case by case basis,
 - based on needs of species and effects anticipated.
- Mitigation can offset takes of an Incidental Take Permit.

Advancing Use, Cooperation and Effective Implementation

- Conflict resolution – start at lowest level.
- Bird and Bat Conservation Strategies
- Confidentiality of site evaluation and process as appropriate
- Collaborative research
- Service-State coordination
- Service-Tribal consultation

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