

# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

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## DEPARTMENT OF AGRICULTURE

### Forest Service

RIN 0596-AC61

[FSM 2720, FSH 2609.13 and FSH 2709.11]

### Wind Energy, Proposed Forest Service Directives

**AGENCY:** Forest Service, USDA.

**ACTION:** Proposed directives; request for comment.

**SUMMARY:** The Forest Service proposes to amend its internal agency directives for special use authorizations and wildlife monitoring. The proposed amendments would provide direction and guidance specific to wind energy development on National Forest System (NFS) lands. These amendments supplement, rather than supplant or duplicate, existing special use and wildlife directives to address issues specifically associated with siting, processing proposals and applications, and issuing special use permits for wind energy uses. The proposed directives would ensure consistent and adequate analyses for evaluating wind energy proposals and applications and issuing wind energy permits. Public comment is invited and will be considered in the development of final directives.

**DATES:** Comments must be received in writing by November 23, 2007.

**ADDRESSES:** Send written comments to Wind Energy Proposed Directives, Attention: Director, Lands Staff, 4th Floor-South, USDA Forest Service, 1400 Independence Avenue, SW., Mailstop 1124, Washington, DC 20250, or by facsimile to 202-205-1604. You may also submit comments by following the instructions at the Federal e-rulemaking portal at <http://www.regulations.gov>.

All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect

comments received on the proposed directives in the USDA Forest Service Headquarters located at 201 14th Street, SW., Washington, DC, on business days between 8:30 a.m. and 4:30 p.m. eastern time. Those wishing to inspect comments are encouraged to call ahead to (202) 205-1248 or (202) 205-0895 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Paul Johnson, Minerals and Geology Management, (703) 605-4793, or Julett Denton, Lands Staff, (202) 205-1256.

#### SUPPLEMENTARY INFORMATION:

##### 1. Background

The Forest Service is responsible for managing 193 million acres of NFS lands. To date, the Forest Service has issued over 74,000 special use authorizations on NFS lands covering over 180 types of uses. Wind energy uses are governed by the Forest Service's special use regulations at 36 CFR part 251, subpart B. Wind energy proposals and applications are currently processed in accordance with 36 CFR 251.54 and direction in Forest Service Manual (FSM) 2726 and FSH 2709.11 on administration of special uses.

These proposed directives would add a new chapter 70, "Wind Energy Uses," to the Special Uses Handbook, FSH 2709.11, and a new chapter 80, "Monitoring at Wind Energy Sites," to the Wildlife Monitoring Handbook, FSH 2609.13. These new chapters would supplement, rather than supplant or duplicate, existing special use and wildlife directives. In particular, new chapter 70 would provide direction on siting, processing proposals and applications, and issuing permits for wind energy uses. New chapter 80 would provide specific guidance on wildlife monitoring at wind energy sites before, during, and after construction. The direction in chapter 70 would be similar to the procedures established by the United States Department of the Interior, Bureau of Land Management, for managing wind energy uses on public lands.

In addition, the proposed directives would make corresponding revisions to FSM 2726, "Energy Generation and Transmission," and FSH 2709.11, Chapter 40, "Special Uses Administration."

##### 2. Need for Wind Energy Directives

The emphasis on development of alternative energy sources in the Energy Policy Act of 2005 and increasing industry interest in development of wind energy facilities on NFS lands have prompted the Forest Service to issue proposed directives that address issues specifically associated with siting wind energy uses, processing wind energy proposals and applications, and issuing wind energy permits.

The proposed directives would provide a consistent framework and terminology for making decisions regarding proposals and applications for wind energy uses. Specifically, the directives would provide guidance on siting wind energy turbines, evaluating a variety of resource interests, and addressing issues specifically associated with wind energy in the special use permitting process. These issues include potential effects on scenery, national security, significant cultural resources, and wildlife, especially migratory birds and bats.

##### Summary of Changes

The proposed directives address proposals and applications for and issuance of two types of wind energy permits: (1) Site testing and feasibility permits for the collection of data on the wind resource, and (2) permits for construction and operation of a wind energy facility. The proposed directives also address competitive interest in wind energy uses, land use fees for wind energy permits, and potential effects from wind energy uses on wildlife, scenery, significant cultural resources, and national security. The proposed directives follow the sequence for processing special use proposals and applications and issuing permits in 36 CFR 251.54.

Since the proposed directives supplement existing special use regulations and directives and wildlife monitoring directives, reviewers may find it helpful to become familiar with the special use regulations at 36 CFR part 251, subpart B, and existing direction in Forest Service Handbook (FSH) 2709.11, chapter 10 and chapter 40, and FSH 2609.13 before reviewing the proposed directives.

### Section-by-Section Analysis

#### *Proposed Revisions to FSM 2726, "Energy Generation and Transmission"*

The proposed directives would amend FSM 2726 to include policy statements about the goals of the Forest Service when authorizing wind energy facilities on NFS lands, as well as responsibility for and direction on how to achieve those goals.

#### *Proposed Revisions to FSH 2709.11, Chapter 40, "Special Uses Administration"*

The proposed revisions to FSH 2709.11, Chapter 40, would clarify that the wind energy designation pertains only to facilities using wind to generate electric power.

#### *Proposed Revisions to FSH 2709.11, Chapter 70, "Wind Energy Uses"*

The proposed directives would add a new Chapter 70, entitled "Wind Energy Uses," to FSH 2709.11. The salient sections of the new chapter are discussed below.

#### Section 70.5—Definitions

New Chapter 70 would include the following definitions:

*Adaptive Management.* A management system that incorporates emerging science and monitoring into decision-making and ongoing operations.

*Minimum Area Permit.* A site testing and feasibility permit covering the minimum area necessary, but no more than five acres, for construction, operation, and maintenance of a single meteorological tower (MET) to study the wind resource.

*Nacelle.* The housing that protects the major components (such as the generator and gear box) of a wind turbine.

*Plan of Development.* A document that describes a proposed wind energy facility and how it will be constructed, operated, and decommissioned.

*Project Area Permit.* A site testing and feasibility permit covering more than five acres for construction, operation, and maintenance of multiple METs to study the wind resource.

*Significant Cultural Resource.* A National Historic Landmark or a cultural resource, including historic, prehistoric, archaeological, or an architectural site, structure, place, or object that is important to the public or scientific community or a site or place of traditional cultural or religious importance to a social or cultural group, which is eligible for listing or listed in the National Register of Historic Places.

*Site Plan.* A scaled, two dimensional graphic representation of the location of

all proposed wind turbines, buildings, service areas, roads, structures, and site boundaries for a wind energy facility. These proposed elements are displayed in relationship to existing site features such as topography, major vegetation, water bodies, and constructed elements on one or more drawings.

*Species of Management Concern.* Federally listed threatened and endangered species, candidates for listing as threatened or endangered, Forest Service species of concern, species of interest, species of high public interest, and management indicator species, any one or more of which may include species of wildlife, fish, or rare plants and, for purposes of this directive, generally include migratory bird and bat species because of their susceptibility to collision with wind energy improvements during migration.

*String.* A number of wind turbines oriented in close proximity to one another that are usually sited in a line, such as along a ridgeline.

#### Section 71—Types of Wind Energy Permits

This section would address the two principal types of permits for wind energy uses: (1) A site testing and feasibility permit (sec.75.1) and (2) a permit for construction and operation of a wind energy facility (sec.75.2).

A site testing and feasibility permit would be issued for the installation of meteorological towers (MET) to gather data on the wind resource and to determine the feasibility of producing wind energy. A site testing and feasibility permit would be issued for up to 5 years.

A proponent for a permit for construction and operation of a wind energy facility would have to submit data collected under a site testing and feasibility permit or otherwise establish the feasibility of producing wind energy at a particular site. A permit for construction and operation of a wind energy facility would be issued for up to 30 years.

#### Section 72—Wind Energy Proposals

This section would apply to proposals for all types of wind energy permits.

#### Section 72.1—Pre-Proposal Meetings

This section would provide direction specific to wind energy uses regarding pre-proposal meetings between proponents of wind energy uses and the Forest Service.

#### Section 72.2—Federal Interagency Coordination

This section would advise proponents for all wind energy permits of the need to file a feasibility proposal with the Federal Aviation Administration (FAA) to obtain an early assessment of whether their proposed wind energy improvements would have any implications for civilian aviation.

#### Section 72.3—Screening of Proposals

This section would provide direction on screening of proposals for wind energy uses.

#### Section 72.31—Siting Considerations

This section would outline the siting considerations that apply to screening of proposals for all types of wind energy permits (36 CFR 251.54(e)). This section would not apply to processing of wind energy special use applications, which would be governed by section 73 of the proposed directives.

#### Section 72.31a—General Considerations

This section would address general siting considerations for wind energy uses. Specifically, this section would ensure that wind energy proposals are consistent or can be made consistent with the applicable land management plan (36 CFR 251.54(e)(1)(ii)) and follow procedures for special uses management in FSM 2700. The specific factors that would be considered for wind energy planning include (1) The suitability of the site for the intended use, which may be influenced by scenery, soil, or geological factors; the presence of significant cultural resources, federally listed fish, wildlife, or rare plant habitat; known and important bird or bat migration routes; or other environmental or human resource considerations, and (2) the wind resource, including existing wind speed and direction at proposed locations.

#### Section 72.31b—Recreational and Scenery Considerations

This section would enumerate the considerations that would be given to recreational settings and experiences and scenery in making siting decisions regarding wind energy uses. The Recreation Opportunity Spectrum (ROS) (FSM 2311.1) would be used to identify the recreational activities, settings, and facilities in the area proposed for a wind energy use. In addition, consideration would be given to how recreational settings could be affected by noise and lighting impacts; dust or air quality impacts; and road construction. The Scenery Management System (SMS) (FSM 2380) would be used to assess the value of scenery in the project area, the

experience scenery provides relative to competing resource demands, and the impacts to scenery associated with project construction and operation.

#### Section 72.31c—Community Tourism Considerations

This section would address community tourism considerations in siting wind energy uses.

#### Section 72.31d—Public Access Considerations

This section would address public access considerations in siting wind energy uses.

#### Section 72.31e—Wildlife, Fish, and Rare Plant Considerations

This section would ensure that proponents avoid locating METs and wind energy facilities in sensitive habitats or in areas where ecological resources are known to be sensitive to human activities or in documented bird or bat migration corridors. Additionally, this section would ensure that proponents, to the maximum extent possible, avoid proposing sites with a high incidence of fog and mist and install facilities to avoid disruption of critical wildlife activities.

#### Section 73—Wind Energy Applications.

##### Section 73.1—Application Requirements for All Wind Energy Permits.

##### Section 73.11—Design Requirements.

##### Section 73.11a—Wildlife, Fish, and Rare Plant Considerations

This section would provide direction on design requirements for improvements addressed in wind energy applications. Specifically, this section would require the authorized officer to ensure that in designing improvements to be authorized under all types of wind energy permits, applicants (1) avoid guy wires on METs to the maximum extent possible; (2) locate wind turbines, roads, and ancillary facilities in the least environmentally sensitive areas; (3) to the maximum extent possible, avoid placing wind turbines in areas with a high incidence of fog and mist; (4) avoid, minimize, or mitigate the potential for bird and bat collisions by configuring wind turbines to avoid landscape features known to attract migrating wildlife, if site studies show that placing wind turbines in that location would have adverse impacts; (5) avoid placing wind turbines near bat hibernation, breeding, and maternity colonies; in important migration corridors; or in flight paths between colonies and feeding areas; (6) use

designs for wind energy structures, including utility poles and wires, that discourage use as perching or nesting substrates for birds and bats; and (7) where possible, bury utility and distribution lines to minimize visual disturbance and impacts on wildlife, in a manner that minimizes additional surface disturbance. Use existing utility corridors and structures to the extent possible to avoid the development of new infrastructures.

##### Section 73.11b—Scenery Management

This section would provide direction on scenery management in connection with wind energy applications. For example, this section would require the authorized officer to ensure that wind energy applicants (1) limit MET height to the minimum necessary for proper functioning; (2) integrate wind turbine arrays and design into the surrounding landscape and meet the scenic integrity objectives of the applicable land management plan; where appropriate, consider turbine clustering; (3) use tubular towers, and non-reflective Forest Service approved finishes; (4) address proportion and color of wind turbines; (5) consult appropriate Agriculture and Forest Service direction when planning and designing associated structures and facilities; (6) avoid placing substations or large buildings at high elevations and along skylines that are visible to the public and conceal these structures or make them as inconspicuous as possible; and (7), where possible, bury distribution lines to minimize visual disturbance.

##### Section 73.11c—Noise Management

This section would require the authorized officer to ensure that in designing wind energy improvements, applicants minimize noise where possible and to the extent feasible, and minimize to the maximum extent possible the amplitude of wind turbine and associated generator noise. Specifically, the authorized officer would ensure that, when possible, (1) applicants restrict noise to 10 decibels above background noise levels at nearby residences and campsites and near wildlife habitat to avoid habitat abandonment or disruption of reproductive activities or hibernation and other sensitive areas; (2) compare noise measurements taken during wind turbine operation with background noise levels taken during the same time of day; and, (3) where possible, minimize wind turbine noise through the use of acoustic shielding in nacelles and associated facilities.

##### Section 73.11d—Lighting

This section would require the authorized officer to ensure that in designing wind energy improvements, applicants reduce the attraction of bats and migratory birds to wind turbines and towers by (1) using the minimum amount of warning lighting required by the FAA; (2) unless otherwise required or requested for safety, using the minimum number and intensity of white strobe lights at night, with the minimum number of flashes per minute specified by the FAA; (3) avoiding use of solid or pulsating red incandescent lights; (4) down-shielding security lighting for facilities and equipment to keep light within the site boundaries; and (5) designing the site to minimize or eliminate the need for security lights.

##### Section 73.12—Public Outreach

This section would address public outreach by wind energy applicants.

##### Section 73.2—Application Requirements for a Permit for Construction and Operation of a Wind Energy Facility

This section would require the authorized officer to ensure that applicants for a permit for construction and operation of a wind energy facility submit a study plan, plan of development, and site plan. Applicants for a site testing and feasibility permit would have to submit a study plan, plan of development, and site plan (sec. 75.1).

##### Section 73.21—Study Plans

This section would enumerate the requirements for a study plan. The studies described in the study plan would enable the authorized officer to evaluate the application fully during environmental analysis.

##### Section 73.22—Plan of Development

This section would enumerate the requirements for a plan of development (POD). A POD would establish that a wind energy site is consistent with the standards and guidelines in the applicable land management plan, provides for the needs of the public, and facilitates the safe, orderly development of a wind energy site. A POD would be used to develop the proposed action for purposes of environmental analysis for a permit for construction and operation of a wind energy facility.

##### Section 73.23—Site Plan

This section would enumerate the requirements for a site plan. A site plan would document the location of all proposed facilities, including the location of wind turbines, buildings,

service areas, roads, office and maintenance structures, site boundaries, and any area within the proponent's proposed permit boundary which the Forest Service has excluded from development.

#### Section 74—Requirements for Processing Wind Energy Applications

##### Section 74.1—Effects on Species of Management Concern

This section would provide guidance on how to assess effects on wildlife during the evaluation of proposed wind energy uses. As applicable, the authorized officer would consider (1) in the absence of intensive survey efforts, each potentially affected species with range overlaps in the proposed area to be present in that area; (2) the status of bats and birds as continental migrant, semi-migrant, regional migrant, or year-round resident species; unique landscape features that may attract migrating birds and bats to the area; migration stopover areas; and bird and bat susceptibility to mortality from collision with or electrocution by the proposed wind energy facilities during migration or movement; and (3) for resident species and migrants, loss of or disturbance to critical roosting, nesting, or foraging habitat; loss of ecologically significant habitats; and habitat fragmentation, edge effects, and mortality from collision with or electrocution by wind energy improvements.

##### Section 74.2—Applications Involving Lands Under the Jurisdiction of Multiple Agencies

This section would provide for coordination and address applicable processing requirements for applications involving lands under the jurisdiction of multiple agencies.

##### Section 74.3—Proprietary Information

This section would address withholding and use of proprietary data collected during the term of a site testing and feasibility permit.

##### Section 74.4—Change in Ownership of an Applicant

This section would address application procedures if there is a change in ownership of an applicant with a pending wind energy application.

##### Section 74.5—Cost Recovery Requirements

This section would address cost recovery requirements associated with wind energy applications and permits.

#### Section 75—Wind Energy Permits

##### Section 75.1—Site Testing and Feasibility Permits

This section would require the authorized officer to determine whether a monitoring plan is needed for a site testing and feasibility permit, and if so, the contents of the plan, based on the National Environmental Policy Act decision document. If a monitoring plan is not needed, this section would require the authorized officer to encourage the holder to conduct monitoring of adverse effects on wildlife. This section cross-references the new chapter in the FSH on wildlife monitoring (FSH 2609.13, chapter 80). The results of monitoring could facilitate processing an application for a permit for construction and operation of a wind energy facility.

This section also would address key terms of a site testing and feasibility permit. Specifically, the holder of a site testing and feasibility permit would have to collect all information and complete all studies needed to process an application for construction and operation of a wind energy facility. If METs were not operational within 2 years after issuance of the permit, the permit would terminate. Furthermore, if MET test results are not reported to the Forest Service within 3 years after issuance of the permit, the permit would terminate, unless a request for an extension is submitted at least 6 months before termination and is approved by the authorized officer. The authorized officer could approve up to 2 additional years for site testing and feasibility (up to the maximum permit term of 5 years) if the authorized officer determined that the holder had shown due diligence in site testing and feasibility. This section also would provide that issuance of a site testing and feasibility permit would not ensure issuance of a permit for construction and operation of a wind energy facility.

##### Section 75.11—Types of Site Testing and Feasibility Permits

This section would enumerate the requirements for issuance of the two types of site testing and feasibility permits: minimum area permits and project area permits. Multiple minimum area permits could be issued for a single area if it could accommodate more than one MET. Only one project area permit would be issued for each study area. Proponents for a project area permit would be required to justify the number of METs and acreage they are proposing to use.

##### Section 75.12—Determination of Competitive Interest

Forest Service special use regulations provide that when there is one or more unsolicited proposals and the authorized officer determines that competitive interest exists, the Forest Service must issue a prospectus (36 CFR 251.58(c)(3)(ii)).

Minimum area permits would be issued on a first-come, first-served basis and only for the minimum acreage necessary for the construction and maintenance of authorized equipment and facilities, but no more than 5 acres. Therefore, there would be no competition for minimum area permits, and the authorized officer would not need to determine whether competitive interest exists in minimum area permits.

Project area permits, however, would be issued for a single study area that is larger than what is required for construction and maintenance of the authorized equipment and facilities, thereby excluding other proponents for site testing and feasibility permits. Consequently, there could be competitive interest in project area permits, and they would require a determination of competitive interest. Proposed section 75.12, paragraph 2a, would provide guidance on determining competitive interest for project area permits and, if it exists, on issuance of a prospectus in accordance with FSM 2712.1.

Proposed section 75.12, paragraph c, would provide that the holder of a project area permit has an interest in the project area, which is limited to precluding other site testing and feasibility permits during the term of the project area permit and precluding competition for a wind energy facility. The holder of a project area permit would have to obtain a separate permit for construction and operation of a wind energy facility. The Forest Service would retain the right to authorize other compatible uses of National Forest System lands covered by a project area permit.

##### Section 75.13—Site Testing and Feasibility Permit Form

This section would prescribe the form and use code for site testing and feasibility permits.

##### Section 75.2—Permits for Construction and Operation of a Wind Energy Facility

##### Section 75.21—Pre-Authorization Requirements

This section would enumerate the prerequisites for issuance of a permit for construction and operation of a wind energy facility. Specifically, the

applicant would have to submit (1) Documentation that construction and operation of a wind energy facility will not hinder national security, military readiness and training areas, radar and electronic security, and military and civilian airspace; (2) a complete POD; (3) a final site plan revised to reflect the NEPA decision document for the project; (4) an annual operating plan that addresses specific requirements during the construction and operational phases of the wind energy facility; and (5) a monitoring plan prepared in accordance with FSH 2609.13, Chapter 80.

#### Section 75.22—Authorization of Wind Energy Facilities

This section would address key terms in a permit for construction and operation of a wind energy facility. In particular, the permit would terminate if construction had not commenced within 2 years after issuance of the permit and if wind turbines were not operational within 5 years after issuance of the permit. The permit holder would have to obtain a construction bond for site restoration upon completion of construction. Additional bonding could be required at the discretion of the authorized officer.

#### Section 76—Land Use Fees

##### Section 76.1—Land Use Fees for Site Testing and Feasibility Permits

This section would provide instruction on how to calculate the annual land use fee for the two types of site testing and feasibility permits. The land use fee for a minimum area permit would be the Regional minimum fee (FSH 2709.11, section 31.51a) or a minimum of \$100 for each MET or instrumentation facility, whichever is higher. An additional land use fee for the acreage authorized would not be charged. The land use fee for a project area permit would be determined by appraisal of the authorized use, in accordance with FSH 2709.11, section 31.1.

##### Section 76.2—Land Use Fees for Permits for Construction and Operation of a Wind Energy Facility

This section would specify how to calculate the land use fee for permits for construction and operation of a wind energy facility. During the construction phase, the land use fee would be based on the total acreage of National Forest System lands covered by the permit and would be determined by appraisal of the authorized use, in accordance with FSH 2709.11, section 31.1. During the operational phase, the land use fee would be based on the market value of

the authorized use, determined by appraisal in accordance with FSH 2709.11, section 31.1, or some other valuation method recommended by the Regional Appraiser.

##### Section 76.3—Land Use Fee Updates

This section would provide for annual updates to the land use fee for all wind energy permits.

##### Section 77—Administration of Wind Energy Permits

This section would apply to all types of wind energy permits.

##### Section 77.1—General Administration

This section would provide for administration of wind energy permits in accordance with the applicable land management plan and the terms and conditions of the permit. Permit holders would be responsible for technical inspections and administrative duties associated with wind energy facilities.

##### Section 77.2—Inspections

This section would ensure that holders provide annual technical inspection reports of METs and other wind energy equipment covered by their permit to ensure that the equipment is operating in accordance with the operating plan, the permit, and applicable federal and state requirements; certified inventory statements are accurate; and the equipment is secure, safe, and otherwise properly operated and maintained. In addition, the authorized officer would have to ensure that the holder complies with FAA lighting requirements.

##### Section 77.3—Construction Requirements

The section would specify requirements for construction of a wind energy facility. Specifically, this section would require the authorized officer to ensure that holders (1) minimize the area disturbed by site testing and feasibility and construction of a wind energy facility; (2) conduct site restoration as soon as possible after completion of construction to minimize habitat conversion and to expedite habitat recovery; (3) use dust abatement techniques; (4) use explosives only at specified times and at specified distances from sensitive wildlife and streams and lakes; and (5) schedule installation of MET towers to avoid disruption of wildlife reproductive activities.

##### Section 77.4—Operational Requirements

This section would address requirements for operation of a wind

energy facility. In particular, this section would require the authorized officer to ensure that holders (1) completely repair, replace, or remove inoperative wind turbines; (2) activate security lights through the use of motion detectors; (3) repair or replace inoperative downshielding for lighting; (4) have sound-control devices on all equipment; (5) control noxious weeds and invasive species; (6) Develop an integrated pest management plan if pesticides are used at the site; and (7) use adaptive management as appropriate to respond to results from monitoring of impacts on species of management concern and their habitat.

##### Section 77.5—Site Restoration Upon Discontinuation of the Authorized Use

This section would address site restoration upon discontinuation of wind energy uses. Upon revocation of a wind energy permit or termination of a wind energy permit without renewal of the authorized use, the authorized officer would have to ensure that holders remove the authorized facilities, decommission access roads, and reestablish predevelopment vegetation cover, composition, configuration, and structural characteristics, unless otherwise determined by the authorized officer.

Proposed FSH 2609.13, Chapter 80, "Wildlife Monitoring at Wind Energy Sites"

The proposed directive would add a new Chapter 80, entitled "Wildlife Monitoring at Wind Energy Sites" to FSH 2609.13. The new chapter would provide direction on wildlife monitoring at sites that have been identified for potential wind energy development. The salient sections of the new chapter are discussed below.

##### Section 81—Monitoring Plans

This section would require the development of a monitoring plan for every species or group of species with similar monitoring objectives. The monitoring plan would state the plan objectives, the target species, the selected monitoring measure(s), the sampling design, data collection methods, the anticipated methods of analysis, and expected reports. The sampling design section would include the seasons when monitoring will be performed, the length of time between monitoring intervals, and the anticipated length of the entire monitoring program. To the extent possible, monitoring plans would be designed or reviewed by an interagency committee of wildlife experts.

## Section 82—Monitoring Objectives

This section would provide guidance on the primary objectives of monitoring plans: (1) Monitoring changes in wildlife presence before and after the establishment of a wind energy facility; (2) monitoring mortality rates and associated factors post-construction, and (3) the need to appropriately address both direct and indirect effects.

Endangered and threatened species and other federally protected species, such as bald and golden eagles and migratory birds, would be included in a monitoring plan, as appropriate. Bats would also be included due to their known sensitivity to wind energy developments, along with other species that are of management concern or of high public interest.

### Section 82.1—Monitoring Wildlife Presence and Abundance

This section would provide guidance on how to monitor so that environmental changes due to the construction and operation of a wind energy facility affect wildlife presence or abundance and activity levels can be determined. If data from monitoring indicates that wildlife presence or abundance has changed due to the construction and operation of a wind energy facility, then the information would be used to develop mitigation measures and modify stipulations in the holders operating plan to reduce adverse effects to wildlife.

The use of the Before-After-Control-Impact (BACI) study design would be recommended as an effective approach to meet this objective (Anderson *et al.* 1999). The BACI design is applicable when the monitoring objective is to look for treatment effects, which in the present context, is the construction and operation of a wind energy facility.

### Section 82.2—Monitoring Mortality

This section would provide guidance on post construction mortality monitoring, to determine, to the extent possible, the factors associated with changes in mortality rates, in order to minimize adverse effects to wildlife. The authorized official would determine the length of term for post construction mortality monitoring. To the maximum extent possible, post-construction mortality monitoring would last not less than three years and would occur during multiple seasons. If sampling every turbine regularly would be cost prohibitive, then a subset of turbines may be sampled.

The frequency (how often searches should occur) and intensity (amount of area searched based on number of

turbines) of mortality searches would vary depending on the site-specific scavenging and decomposition rates of carcasses. If those rates are high, mortality searches would need to be conducted daily, at least during periods of high mortality (such as during bird/bat migratory periods). If removal rates are low, then searches would be conducted every other day or every three days.

The holder would be authorized for promptly notifying the authorized official when an endangered or threatened species or bald or golden eagle is found. Other migratory bird species and other species would be reported in progress reports to the authorized official at intervals specified in the monitoring plan. An annual report would be prepared by the holder which summarizes each year's survey effort. The annual report would be used to set the terms and conditions of the next year's operating plan, including plans for mitigation of turbine impacts.

### Section 84—Adaptive Management

Adaptive management is a system that is designed to incorporate emerging science and monitoring into the decisionmaking process. As data from monitoring emerges, management strategies would change or adapt in response to the newly available information and changing circumstances. The purpose of monitoring wildlife at wind energy facilities would be to ensure that these facilities do not have long-term, unacceptable impacts to wildlife.

Pre-construction monitoring would be designed to provide site-specific information on wildlife responses that could be used in an adaptive management context to ensure that the siting of wind turbines (location and configuration) in the project area is done in a manner that reduces potential impacts to wildlife.

Post-construction monitoring would be designed to provide site-specific information on wildlife responses that could be used in an adaptive management context to alter the structure or operation of the facility in a manner that reduces those impacts.

## 3. Regulatory Certifications

### *Environmental Impacts*

Section 31.12, paragraph 2, of FSH 1909.15 (67 FR 54622, August 23, 2002) excludes from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The

agency has concluded that the proposed special use and wildlife monitoring directives fall within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

### *Regulatory Impact*

The proposed directives have been reviewed under USDA procedures and Executive Order 12866, as amended by E.O. 13422, on regulatory planning and review. The Office of Management and Budget (OMB) has determined that the proposed directives are not significant. Accordingly, the proposed directives are not required to be reviewed by OMB.

Moreover, the proposed directives have been considered in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). It has been determined that the proposed directives would not have a significant economic impact on a substantial number of small entities as defined by the act because the proposed directives would not impose record-keeping requirements on them; would not affect their competitive position in relation to large entities; and would not affect their cash flow, liquidity, or ability to remain in the market. The proposed directives would have no direct effect on small businesses. The proposed directives merely clarify existing requirements that apply to processing special use proposals and applications and issuing permits for wind energy uses.

### *No Takings Implications*

The proposed directives have been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the proposed directives would not pose the risk of a taking of private property.

### *Civil Justice Reform*

The proposed directives have been reviewed under Executive Order 12988 on civil justice reform. After adoption of the proposed directives, (1) all State and local laws and regulations that conflict with the proposed directives or that impede their full implementation would be preempted; (2) no retroactive effect would be given to the proposed directives; and (3) administrative proceedings would not be required before parties could file suit in court challenging their provisions.

### *Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed

into law on March 22, 1995, the agency has assessed the effects of the proposed directives on state, local, and tribal governments and the private sector. The proposed directives would not compel the expenditure of \$100 million or more by any state, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

*Federalism and Consultation and Coordination With Indian Tribal Governments*

The agency has considered the proposed directives under the requirements of Executive Order 13132 on federalism and has determined that the proposed directives conform with the federalism principles set out in this Executive order; would not impose any compliance costs on the states; and would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary.

Moreover, these proposed directives do not have tribal implications as defined by Executive Order 13175, entitled "Consultation and Coordination With Indian Tribal Governments," and therefore advance consultation with tribes is not required.

*Energy Effects*

The proposed directives have been reviewed under Executive Order 13211 of May 18, 2001, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." It has been determined that the proposed directives would not constitute a significant energy action as defined in the Executive order. To the contrary, the proposed directives could have a positive, rather than a negative effect on the supply, distribution, or use of energy to the extent the proposed directives provide direction on processing proposals and applications and issuing special use authorizations for wind energy uses.

*Controlling Paperwork Burdens on the Public*

The proposed directives do not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and

its implementing regulations at 5 CFR part 1320 do not apply.

**Text of Proposed Directives**

Reviewers may obtain a copy of the proposed revisions to the FSM and FSH from the address cited in the addresses section above or from the Forest Service home page on the World Wide Web at: <http://www.fs.fed.us/recreation/permits/energy.htm>.

Dated: September 6, 2007.

**Sally Collins,**

*Associate Chief, Forest Service.*

[FR Doc. E7-18715 Filed 9-21-07; 8:45 am]

**BILLING CODE 3410-11-P**

**DEPARTMENT OF COMMERCE**

[Docket No.: 070703259-7518-02]

**Privacy Act of 1974: System of Records**

**AGENCY:** Department of Commerce.

**ACTION:** Notice to amend all Privacy Act System of Records.

**SUMMARY:** In accordance with the President's Identity Theft Task Force's Strategic Plan, the Department of Commerce (Commerce) publishes this notice to announce the effective date of a new routine use to be added to all Privacy Act System of Records.

**DATES:** The proposed new routine use becomes effective on September 24, 2007

**ADDRESSES:** For a copy of the system of records please mail requests to Brenda Dolan, U.S. Department of Commerce, Room 5327, 1401 Constitution Avenue, NW., Washington, DC 20230, 202-482-4258, [BDolan1@doc.gov](mailto:BDolan1@doc.gov).

**FOR FURTHER INFORMATION CONTACT:**

Brenda Dolan, U.S. Department of Commerce, Room 5327, 1401 Constitution Ave., NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:** On August 10, 2007, the Commerce published and requested comments on a proposed new routine use to be added to all Privacy Act System of Records. The new routine use for all Commerce systems of records permits disclosure to appropriate persons or entities for purposes of response and remedial efforts in the event of a suspected or confirmed breach of the data contained in the systems. No comments were received in response to the request for comments. By this notice, the Department is adopting the new routine use as final without changes effective September 25, 2007.

Dated: September 18, 2007.

**Brenda Dolan,**

*U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.*

[FR Doc. E7-18750 Filed 9-21-07; 8:45 am]

**BILLING CODE 3510-17-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-580-834]

**Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Rescission of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** September 24, 2007.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0656.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 3, 2007, the Department of Commerce (the Department) published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from the Republic of Korea (Korea) for the period July 1, 2006, through June 30, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 36420 (July 3, 2007). On July 30, 2007, DaiYang Metal Co., Ltd. (DMC), a Korean producer/exporter, requested a review of the antidumping duty order on stainless steel sheet and strip in coils from Korea in accordance with 19 CFR 351.213(b)(2).

On August 20, 2007, the Department initiated an administrative review for DMC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 48613, 48614 (Aug. 24, 2007).

**Rescission of Review**

On August 23, 2007, DMC withdrew its request for review in accordance with 19 CFR 351.213(d)(1). Section 351.213(d)(1) of the Department's regulations requires that the Secretary rescind an administrative review if a party requesting a review withdraws the request within 90 days of the date of