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Illegal Eagles: DOI Sinks Its Talons Even Deeper Into Wind Energy

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The frenetic pace of anti-renewable actions from the U.S. Department of the Interior (DOI) has continued into this week with the issuance of a new memorandum from Greg Wischer, deputy chief of staff for policy, directing the U.S. Fish and Wildlife Service (FWS) to ratchet up enforcement of the Bald and Golden Eagle Protection Act (BGEPA) against wind energy projects, and to scrutinize the eagle permit program that the FWS adopted in 2024 after many years of development.

Last week saw a [raft of agency actions](#) targeting wind and solar projects as part of DOI's (and other agencies') implementation of Executive Order 14315, "Ending Market Distorting Subsidies for Unreliable, Foreign-Controlled Energy Sources." This latest memo telegraphs that there will be no letup anytime soon.

The memo, [announced on X](#) on August 4, but not yet published on DOI's website, outlines a series of actions to "ensure compliance" with regulations protecting bald and golden eagles in the context of wind energy projects. Specifically, the memo directs FWS to:

1. Refer any violations of BGEPA to the Solicitor's Office, with the potential for referral to the U.S. Department of Justice to seek criminal or civil penalties;
2. Evaluate whether the FWS regulations allowing for specific or general permits for the incidental take of eagles by wind energy projects are "compatible with the requirements and intent of the Act";
3. Request records of all permitted activities of wind energy projects within seven days (*i.e., by August 11*);
4. Determine whether permitted wind projects have "complied with all reporting requirements" within 14 days (*i.e., by August 18*); and
5. Review all pending eagle permit applications for wind energy projects within 30 days (*i.e., by September 4*).

This directive points strongly toward three potential (and non-exclusive) outcomes: (1) enforcement actions against any wind farm operators that they believe have not complied with the letter of their eagle permits; (2) a continued moratorium on the issuance of new eagle permits (a freeze on new eagle general permits has been in place [since January 20](#)); and (3) a rulemaking to revoke the provisions of the 2024 eagle permit rule applicable to wind energy. While the wind industry waits for additional directives and determines how to respond to these recent

actions, developers holding active eagle permits may wish to evaluate the status of their activities and seek counsel to prepare for potential information requests or subpoenas that may be forthcoming.

For questions or to discuss these latest developments, contact Troutman Pepper Locke's environment and natural resource attorneys.

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