

2016 Northern Long-eared Bat Overview

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Northern Long-eared Bat

- Proposed Rule – October 2, 2013
- Proposed as an endangered species
- Critical habitat – not determinable
- Threats:
 - White-nose syndrome (WNS) is primary threat
 - Compounding threats may include:
 - Impacts to hibernacula
 - Disturbance to hibernating bats
 - Mortality from wind projects
 - Forest conversion/loss



Northern Long-eared Bat

- Final Rule published - April 2, 2015
 - Final rule listing NLEB as threatened species
 - Interim 4(d) rule
- Both effective May 4, 2015
- Public comment period open on 4(d) rule until July 1, 2015

Northern Long-eared Bat

- Final 4(d) rule
 - was published in Federal Register January 14, 2016
 - http://www.gpo.gov/fdsys/html/FR/todays_toc.html
 - effective February 16, 2016
 - interim 4(d) rule in effect until then
 - no additional public comment periods
- USFWS published a Programmatic BO concurrent with the final 4(d) rule

What is a 4(d) Rule?

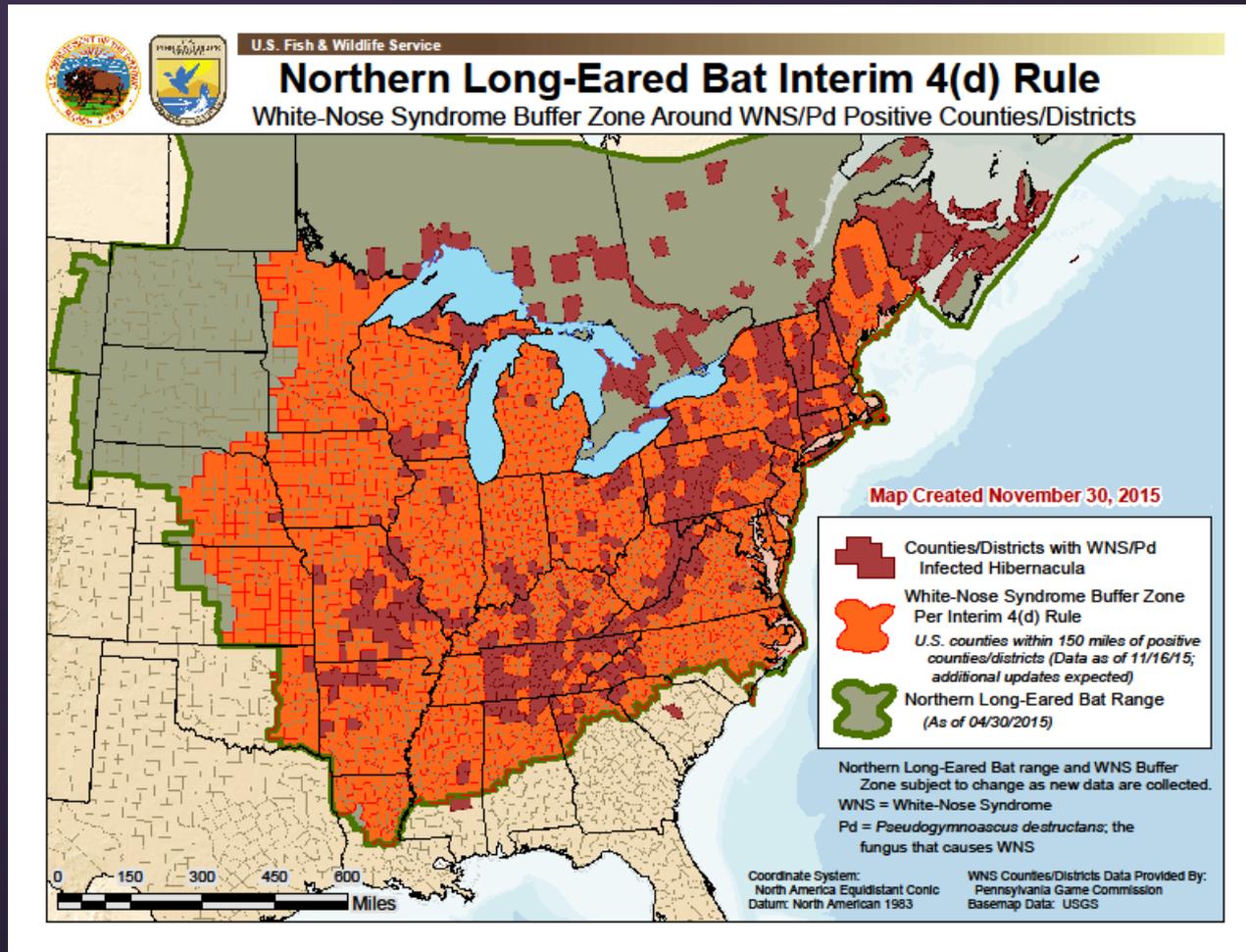
- Option for threatened species only
- Tailors “take” prohibitions under ESA
- USFWS can issue regulations deemed “necessary and advisable to provide for the conservation of threatened species.”

Definitions

- **“Take”** - defined by the ESA as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.”
- **“Purposeful take”** - when the reason for the activity or action is to conduct some form of take.
- **“Incidental take”** - take that is "incidental to, and not the purpose of, the carrying out of an otherwise lawful activity."

What is in Final NLEB 4(d) Rule?

- Different treatment in WNS vs. non-WNS zones



What is in Final NLEB 4(d) Rule?

- All areas
 - Prohibitions:
 - No purposeful take (without normal permitting/S7 processes) – see exceptions
 - Incidental take – see details within and outside WNS Zone
 - Unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any NLEB that was taken in violation of this section or State laws
 - Import and export

What is in Final NLEB 4(d) Rule?

- All areas
 - Exception from prohibitions:
 - Take in defense of human life, including for public health monitoring purposes
 - Take that results from the removal of hazardous trees for the protection of human life and property
 - Take associated with removal of NLEB from human structures (only if in compliance with any State regulations)
 - Take associated with capture, handling, and related activities by individuals permitted to conduct these same activities for other species of bat until May 3, 2016

What is in Final NLEB 4(d) Rule?

- Inside WNS Zone (all of Virginia)
 - Incidental Take Prohibitions
 - Actions that result in the incidental take of NLEB in hibernacula (disturbing or disrupting individuals when present)
 - Actions that result in the incidental take of NLEB by altering a known hibernaculum's entrance or interior environment if it impairs an essential behavioral pattern, including sheltering NLEB

What is in Final NLEB 4(d) Rule?

- Inside WNS Zone (all of Virginia)
 - Incidental Take Prohibitions
 - Tree-removal activities that result in the incidental take of NLEB when the activity occurs:
 - Within 0.25 miles of a known hibernaculum; or
 - Cuts or destroys known occupied maternity roost trees or any trees within a 150-foot radius from the maternity roost tree during the pup season (June 1 through July 31)

Additional Thoughts

- The final 4(d) does not say that “take” is always likely with tree removal
- “Take” not addressed in 4(d) would need to be authorized through S7/S10 processes
- Does not remove the need for federal agencies to consult on activities that “may affect” NLEB
- Programmatic BO available for use
- Can proactively do more than what is in 4(d)
 - Consider conservation measures that result in no adverse effects or “no take”

How do you know if you might have NLEB (or other t/e species) at a site?

- Follow Virginia Field Office Project Review Process
- <http://www.fws.gov/northeast/virginiafield/endorangered/projectreviews.html>

Project Reviews

Remember to consider overlap with range of other listed/proposed species

- FWS (IPaC) species list
 - IPaC NLEB range will be revised on February 16 to alert project proponents if they are within 150ft of a maternity colony or 5.5 miles of a hibernaculum
 - Remember all of VA except highly urban areas is considered potential habitat for the NLEB
 - If you get NLEB on your OSL, you will need to submit your project for further review.
 - If you don't get NLEB on your OSL you are outside of the prohibited areas per the final 4(d) rule. Projects with no federal nexus do not need to contact USFWS.

Project Reviews

Remember to consider overlap with range of other listed/proposed species

Is the project likely to impact NLEB and/or their habitat?

Tree removal, noise, lighting, smoke, bridge work

What conservation measures can be included?

Winter work, surveys, avoid/minimize tree removal, avoid impacting known roosts or foraging areas, focus lighting away from suitable habitat, etc.....

Project Reviews

Remember to consider overlap with range of other listed/proposed species

- **Will you be implementing conservation measures (winter work, TOYR, negative surveys, etc)?**
 - Yes – NE/NLAA – self-certify
 - No – May affect – implement the programmatic biological opinion for the final 4(d) rule

Conservation Measures

- a. Conduct tree removal activities outside of the northern long-eared bat pup season (June 1 to July 31) and/or the active season (April 15 to September 15 in Virginia). This will minimize impacts to pups at roosts not yet identified.
- b. Avoid clearing suitable spring staging and fall swarming habitat within a 5-mile radius of known or assumed northern long-eared bat hibernacula during the staging and swarming seasons (April 1 to May 15 and August 15 to November 14, respectively).
- c. Manage forests to ensure a continual supply of snags and other suitable maternity roost trees.
- d. Conduct prescribed burns outside of the pup season (June 1 to July 31) and/or the active season (April 15 to September 15 in Virginia). Avoid high-intensity burns (causing tree scorch higher than northern long-eared bat roosting heights) during the summer maternity season to minimize direct impacts to northern long-eared bat.
- e. Perform any bridge repair, retrofit, maintenance, and/or rehabilitation work outside of the northern long-eared bat active season (April 15 to September 15 in Virginia) in areas where northern long-eared bats are known to roost on bridges or where such use is likely.
- f. Do not use military smoke and obscurants within forested suitable northern long-eared bat habitat during the pup season (June 1 to July 31) and/or the active season (April 15 to September 15 in Virginia).
- g. Minimize use of herbicides and pesticides. If necessary, spot treatment is preferred over aerial application.
- h. Evaluate the use of outdoor lighting during the active season and seek to minimize light pollution by angling lights downward or via other light minimization measures.
- i. Participate in actions to manage and reduce the impacts of white-nose syndrome on northern long-eared bat. Actions needed to investigate and manage white-nose syndrome are described in a national plan the Service developed in coordination with other state and federal.

Thank you!



More information can be found at:
<http://midwest.fws.gov/nleb>