



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R5–ES–2013–0090; FXES111X0500000–XXX–FF05E00000]**

**Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for Indiana Bat and Northern Long-eared Bat for the Forestry Habitat Conservation Plan for bats on Pennsylvania State Game Lands, State Forests, and State Parks; and Draft Environmental Assessment**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability of documents; request for comment and information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the receipt of an application from the Pennsylvania Game Commission (PGC) and Pennsylvania Department of Conservation and Natural Resources (DCNR) (applicants), for an incidental take permit (ITP) under the Endangered Species Act (ESA). The applicants request the ITP for take of the federally endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*) incidental to otherwise lawful activities associated with forestry activities on State Game Lands, State Forests, and State Parks. The applicants propose a conservation program to minimize and mitigate for the unavoidable incidental take as described in their Forestry Habitat Conservation Plan for Bats on Pennsylvania State Game Lands, State Forests, and State Parks (HCP). We request public comment on the application, which includes the applicants' proposed HCP, and the Service's draft environmental assessment, prepared pursuant to the

National Environmental Policy Act. We provide this notice to seek comments from the public and Federal, Tribal, State, and local governments.

**DATES:** We will accept comments received or postmarked on or before [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***].

**ADDRESSES: *Reviewing documents:*** You may obtain copies of the application, including the HCP and the draft environmental assessment, in Docket No. **FWS–R5–ES–2013-0090** at <http://www.regulations.gov>.

***Submitting Comments:*** You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. **FWS–R5–ES–2013-0090**.
- U.S. mail or hand-delivery: Public Comments Processing; Attn: Docket No. **FWS–R5–ES–2013-0090**; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

For additional information about submitting comments, see **Request for Public Comments and Public Availability of Comments** under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Pamela R. Shellenberger, by telephone at 814-234-4090, extension 7459. Hearing or speech impaired individuals may call the Federal Relay Service at 800-877-8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 9 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect “listed animal species”, or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

**Proposed Project**

The applicants request a 30-year incidental take permit (ITP) for take of the federally listed endangered Indiana bat and the federally listed threatened northern long-eared bat (covered species) incidental to forestry activities on 4 million acres of State Game Lands, State Forests, and State Parks (covered lands). PGC manages 1.5 million acres of State Game Lands, and DCNR manages 2.2 million acres of State Forests and 300,000 acres of State Parks. These predominantly forested lands provide potential foraging, roosting, maternity colony, and fall swarming habitat for all bat species that occur in Pennsylvania,

including the Indiana bat and northern long-eared bat. The applicants determined that forestry activities on these lands are reasonably certain to result in unavoidable incidental take of these federally listed covered species. Activities that could result in incidental take of Indiana bats and northern long-eared bats (covered activities) can be categorized in five major groups—timber harvest, operations (fencing and firewood collection), road and trail construction and maintenance, prescribed fire, and implementation of the conservation program.

The HCP includes measures to minimize and mitigate impacts to the covered species, including but not limited to implementing seasonal restrictions on various activities, installing bat-safe gates at known hibernacula, removing air flow obstructions around known hibernacula, minimizing impacts to summer roosting habitat, avoiding timber harvest effects on non-volant pups in maternity colonies, seasonally restricting prescribed fire, avoiding activities within 50 feet of riparian areas, installing artificial roost structures, and identifying, assessing, protecting, and enhancing potential hibernacula.

We request public comments on the permit application, which includes a proposed HCP, and an EA prepared in accordance with NEPA.

The applicants' HCP describes the activities that will be undertaken to implement forestry activities, as well as the mitigation and minimization measures proposed to address the impacts to the covered species. Pursuant to NEPA, the EA analyzes the impacts the ITP issuance would have on the covered species and the environment.

### **National Environmental Policy Act**

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). We prepared a draft EA that analyzes the environmental

impacts on the human environment resulting from three alternatives: a no-action alternative, the HCP with specific timber harvest restrictions, and the proposed action. The proposed action alternative is issuance of the ITP and implementation of the HCP as submitted by the applicants. The applicants anticipate affecting 19,770 acres annually for Indiana bats, which accounts for less than 1 percent of all State Lands, and 130,366 acres annually for northern long-eared bats which accounts for 3.3 percent of all State Lands.

### **Next Steps**

The Service will evaluate the application and the comments received to determine whether the permit application meets the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicants.

### **Public Comments**

The Service invites the public to comment on the proposed HCP and draft EA during a 30-day public comment period (see **DATES**). You may submit comments by one of the methods shown under **ADDRESSES**.

### **Public Availability of Comments**

We will post on <http://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying

information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

**Authority**

The Service provides this notice under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulation 40 CFR 1506.6.

**Pamela Toschik,**

*Acting Assistant Regional Director,*

*Ecological Services,*

*North Atlantic-Appalachian Region*

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