



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2024-0185; FXES 1114020000-256-FF02ENEH00]

Notice of Availability; Draft Amendments to the Oil and Gas and Renewable (Wind and Solar) Energy, Power Line, and Communication Tower Habitat Conservation Plans for the Lesser Prairie-Chicken; Colorado, Kansas, New Mexico, Oklahoma and Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received applications from LPC Conservation LLC (applicant) for amended incidental take permits (permits) supported by proposed amendments to the “Oil and Gas and Renewable (Wind and Solar) Energy, Power Line, and Communication Tower Habitat Conservation Plans for the Lesser Prairie-chicken; Colorado, Kansas, New Mexico, Oklahoma and Texas” (HCPs). With this notice, we announce the availability for public comment of the permit applications, the proposed HCP amendments, and the draft environmental assessments (EAs). Currently, we are only accepting comments on the amended portions of the HCPs and EAs. We invite comments from the public and Federal, Tribal, State, and local governments.

DATES: We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* The documents this notice announces, as well as any comments and materials that we receive, will be available for public inspection online in Docket No. FWS-R2-ES-2024-0185 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you

may do so in writing by one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–R2–ES–2024–0185.
- *U.S. mail:* Public Comments Processing; Attn: Docket No. FWS–R2–ES–2024–0185; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Clay Nichols, Lesser Prairie-Chicken Coordinator, U.S. Fish and Wildlife Service Ecological Services, Southwest Regional Office; telephone 817–471–6372. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), make available for public comment applications submitted by LPC Conservation LLC (applicant) for amended incidental take permits (permits) under section 10(a)(1)(B) of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) supported by proposed amendments to the “Oil and Gas and Renewable (Wind and Solar) Energy, Power Line, and Communication Tower Habitat Conservation Plan for the Lesser Prairie-chicken; Colorado, Kansas, New Mexico, Oklahoma and Texas” (HCPs) and the associated draft environmental assessments (EAs). If approved, the requested amendments would expand the plan areas of the HCPs to the north to reflect updates to the lesser prairie-chicken (*Tympanuchus pallidicinctus*; LEPC) estimated occupied range (EOR) made in 2022 by the Lesser Prairie-Chicken Interstate Working Group. By expanding the HCP plan areas, the HCPs would have the ability to provide LEPC conservation, as well as incidental take permit coverage for covered activities, throughout

the entire 2022 EOR boundary.

Background

Section 9 of the ESA and our implementing regulations at 50 CFR part 17 prohibit the “take” of fish or wildlife 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(19)). 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 such take of endangered and threatened species are found at 50 CFR 17.21 and 17.22 and 50 CFR 17.31 and 17.32, respectively.

Proposed Action

The proposed action is the issuance of amended incidental take permits (permits) under section 10(a)(1)(B) of the ESA supported by proposed amendments to the “Oil and Gas and Renewable (Wind and Solar) Energy, Power Line, and Communication Tower Habitat Conservation Plan for the Lesser Prairie-chicken; Colorado, Kansas, New Mexico, Oklahoma and Texas” (HCPs) to be consistent with changes in the HCP plan areas, as well as other administrative changes.

The HCPs were approved and permitted by the Service on December 1, 2021 (Renewables HCP), and May 27, 2022 (Oil and Gas HCP). At the time of approval and permit issuance, the plan area for the HCPs was the 2013 LEPC EOR boundary plus a 10-mile buffer. In 2022, after the Service’s approval of the HCPs and issuance of the permits, the Lesser Prairie-Chicken Interstate Working Group revised the EOR of the LEPC to expand the range boundaries north and east to include LEPC occurrence documented in Colorado and to connect to the Kansas Shortgrass/Conservation Reserve Program Mosaic. The proposed amendments update the HCPs and permit to incorporate

the revised EOR boundary and expand the plan area boundaries in the HCPs accordingly.

The proposed amendments include updated text, figures, and captions resulting from the update to the EOR and plan area. In addition, the amendments include updates to terminology used in figure legends; miscellaneous formatting, spelling, or grammatical corrections; and updates to the certificate of inclusion (CI) application found in Appendix B of each HCP. No changes are proposed to the duration of the HCPs and associated permits, covered activities, or original incidental take estimates.

Alternatives

We are considering one alternative to the proposed action as part of this process, the no action alternative. Under the no action alternative, the Service would not approve the proposed amendments and would not issue the amended permits. In this case, the plan areas for the HCPs would remain as defined in the approved HCPs and permits.

Next Steps

We will evaluate the permit applications, proposed amendments, draft EAs, and comments we receive to determine whether the applications meet the requirements of the ESA, National Environmental Policy Act (NEPA), and implementing regulations. If we determine that all requirements are met, we will approve the amendments and issue the amended permits under section 10(a)(1)(B) of the ESA to the applicant, in accordance with the terms of the HCPs and specific terms and conditions of the authorizing permits. We will not make our final decision until after the 30-day comment period ends and we have fully considered all comments received during the public comment period.

Public Availability of Comments

All comments we receive become part of the public record associated with this action. If you submit a comment at <https://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your

address, phone number, or email address, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your hardcopy document to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, 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

We provide this notice under the authority of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500 through 1508 and 43 CFR part 46).

Amy Lueders,
Regional Director, Southwest Region,
U.S. Fish and Wildlife Service.

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