

Optional Framework to Streamline Section 7 Consultation for the Northern Long-Eared Bat

The primary objective of the framework is to provide an efficient means for U.S. Fish and Wildlife Service verification of federal agency determinations that their proposed actions are consistent with those evaluated in the programmatic intra-Service consultation for the final 4(d) rule and do not require separate consultation. Such verification is necessary because incidental take is prohibited in the vicinity of known hibernacula and known roosts, and these locations are continuously updated. Federal agencies may rely on this Biological Opinion to fulfill their project-specific section 7(a)(2) responsibilities under the following framework:

1. For all federal activities that may affect the northern long-eared bat, the action agency will provide project-level documentation describing the activities that are excepted from incidental take prohibitions and addressed in this consultation. The federal agency must provide written documentation to the appropriate Service Field Office when it is determined their action may affect (i.e., not likely to adversely affect or likely to adversely affect) the northern long-eared bat, but would not cause prohibited incidental take. This documentation must follow these procedures:
 - a. In coordination with the appropriate Service Field Office, each action agency must make a determination as to whether their activity is excepted from incidental taking prohibitions in the final 4(d) rule. Activities that will occur within 0.25 mile of a known hibernacula or within 150 feet of known, occupied maternity roost trees during the pup season (June 1 to July 31) are not excepted pursuant to the final 4(d) rule. This determination must be updated annually for multi-year activities.
 - b. At least 30 days in advance of funding, authorizing, or carrying out an action, the federal agency must provide written notification of their determination to the appropriate Service Field Office.
 - c. For this determination, the action agency will rely on the definitions of prohibited activities provided in the final 4(d) rule and the activities considered in this consultation.
 - d. The determination must include a description of the proposed project and the action area (the area affected by all direct and indirect project effects) with sufficient detail to support the determination.
 - e. The action agency must provide its determination as part of a request for coordination or consultation for other listed species or separately if no other species may be affected.
 - f. Service concurrence with the action agency determination is not required, but the Service may advise the action agency whether additional information indicates consultation for the northern long-eared bat is required; i.e., where the proposed project includes an activity not covered by the 4(d) rule and thus not addressed in the Biological Opinion and is subject to additional consultation.

- g. If the Service does not respond within 30 days under (f) above, the action agency may presume its determination is informed by best available information and consider its project responsibilities under section 7(a)(2) with respect to the northern long-eared bat fulfilled through this programmatic Biological Opinion.

2. Reporting

- a. For monitoring purposes, the Service will assume all activities are conducted as described. If an agency does not conduct an activity as described, it must promptly report and describe such departures to the appropriate Service Field Office.
- b. The action agency must provide the results of any surveys for the northern long-eared bat to the appropriate Service Field Office within their jurisdiction.
- c. Parties finding a dead, injured, or sick northern long-eared bat must promptly notify the appropriate Service Field Office.

If a Federal action agency chooses not to follow this framework, standard section 7 consultation procedures will apply.

Section 7(a)(1) of the Act directs Federal agencies, in consultation with and with the assistance of the Secretary (a function delegated to the Service), to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Service Headquarters provides to federal action agencies who choose to implement the framework described above several conservation recommendations for exercising their 7(a)(1) responsibility in this context. Conservation recommendations are discretionary federal agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. Service Headquarters recommends that the following conservation measures to all Federal agencies whose actions may affect the northern long-eared bat:

1. Perform northern long-eared bat surveys according to the most recent Range-wide Indiana Bat/ northern long-eared bat Summer Survey Guidelines. Benefits from agencies voluntarily performing northern long-eared bat surveys include:
 - a. Surveys will help federal agencies meet their responsibilities under section 7(a)(1) of the Act. The Service and partners will use the survey data to better understand habitat use and distribution of northern long-eared bats, track the status of the species, evaluate threats and impacts, and develop effective conservation and recovery actions. Active participation of federal agencies in survey efforts will lead to a more effective conservation strategy for the northern long-eared bat.
 - b. Should the Service reclassify the species as endangered in the future, an agency with a good understanding of how the species uses habitat based on surveys within its action areas could inform greater flexibility under section 7(a)(2) of the Act. Such information could facilitate an expedited consultation and incidental take statement that may, for example, exempt taking associated with tree removal during the active season, but outside of the pup season, in known occupied habitat.

2. Apply additional voluntary conservation measures, where appropriate, to reduce the impacts of activities on northern long-eared bats. Conservation measures include:
 - 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 1 to October 31). 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 1 to October 31). 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 1 to October 31) 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 1 to October 31).
 - 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 agencies.