



# Indiana Bat/Northern Long-eared Bat

## ESA Range-wide Programmatic Consultation

September 12, 2016



U.S. Department of Transportation  
Federal Highway Administration





# Status of Consultation

- Biological Assessment revised May 20, 2016
  - Updated/clarified some of the NLAA information
  - Added suite of LAA actions
- Biological Opinion issued May 20, 2016



Programmatic Biological Opinion for  
Transportation Projects in the Range of the  
Indiana Bat and Northern Long-Eared Bat

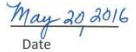
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Consultation Code: 09E00000-2016-F-0001

Prepared by:  
U.S. Fish and Wildlife Service  
Midwest Regional Office  
Bloomington, Minnesota

In conjunction with:  
Federal Highway Administration  
Federal Railroad Administration  
Federal Transit Administration

   
Lynn Lewis, Assistant Regional Director

  
Date



# Scope and Consultation Parameters

- Includes projects that will result in no effect, are not likely to adversely affect (NLAA), or that are likely to adversely affect (LAA) Indiana bat and/or NLEB.
- Covers most types of transportation projects which are within 300 feet from edge of road/rail ballast AND at least 0.5 miles from Indiana bat or NLEB hibernacula.
- Includes clearing of suitable roost trees up to 20 acres per project (~5 miles of road).
- A project with over 20 acres of tree clearing may use the programmatic with USFWS approval on a case-by-case basis.



# Scope and Consultation Parameters

- Does NOT include tree removal within documented Indiana bat roosting/foraging habitat or travel corridors from May 1 through July 31.
- Does NOT include tree removal within 150 feet of documented NLEB roosts from June 1 through July 31.
- Does NOT include tree removal within 0.5 miles of Indiana/NLEB hibernacula.
- Includes a limited set of transportation NE or NLAA activities within 0.5 miles of Indiana bat/NLEB hibernacula.
- Includes projects outside 300 feet of edge of road/rail ballast with negative bat surveys (NLAA).



# One Reasonable and Prudent Measure

- The Transportation Agencies will ensure that State/local transportation agencies, which choose to include eligible projects under this programmatic action, incorporate all applicable conservation measures (avoidance, minimization, and compensation) in the project proposals submitted to USFWS for ESA section 7 compliance using this BO.



# Two Terms and Conditions

- The Transportation Agencies or their representatives will offer annual instruction to appropriate personnel who are involved in developing and implementing projects for inclusion in this programmatic action. This instruction shall inform personnel about:
  - The criteria for determining that a project is eligible for such inclusion;
  - Developing the information required in the Project Submittal Form;
  - The required conservation measures; and
  - The administrative process for using this BO as the mechanism for project-level ESA section 7 compliance.



# Two Terms and Conditions

- The Transportation Agencies, State/local DOTs will make all reasonable efforts to educate personnel to report any sick, injured, and/or dead bats (regardless of species) located in the Action Area during construction, operations, maintenance, or monitoring activities immediately to the local USFWS Field Office. Due to the number of staff/contractors, it is not expected or required to educate all personnel working in the Action Area, but only those who are most likely to observe bats during the course of normal working conditions.



# Consultation Process

**One-tiered process for NLAA:** 14 day USFWS consistency review (no USFWS response or concurrence needed).

**Two-tiered process for LAA:** 30 day USFWS review after receipt of completed application package.

- For projects with Indiana bat, USFWS will provide a project-specific incidental take statement (ITS).
- For projects with only NLEB, USFWS has 30 days to review and no USFWS concurrence/response is required. Follows the same process as the 4(d) Programmatic Biological Opinion.



# Required Consultation Provisions

- Action specific avoidance/minimization measures (AMMs).
- Compensatory mitigation (such as forest preservation, enhancement, or creation) to offset project impacts and help conserve bats.



**BrandenBark™ Artificial Bark for Bat Roosts**  
*Courtesy: Copperhead Environmental Consulting*



# Mitigation Ratios for Indiana bat

Project Location	<30% Forest Density		≥30% Forest Density	
	Active**	Inactive**	Active**	Inactive**
0-100 ft. edge of road/rail	1.5	NLAA	1.25	NLAA
0-100 ft. edge of road/rail (documented Indiana bat roosting/foraging habitat)	2.25	1.75	2	1.5
100-300 ft. from edge of road/rail	2.25	1.75	2	1.5

**Note that matrix is for projects that are LAA Indiana bat. The table is not for use with NLEB only projects.**

\*Forest density data is available by county.

\*\* The local USFWS Office establishes these dates.

# Indiana Bat Mitigation Options

1. National in-lieu fee program with The Conservation Fund (in development)
2. Approved conservation banks
3. State/local in-lieu fee programs approved by USFWS
4. State/local conservation project





# Northern Long-eared Bat

- FHWA's rangewide consultation is fully consistent with the USFWS' Intra-Service Programmatic Biological Opinion on the NLEB 4(d) Rule.
- Transportation agencies can use the FHWA consultation for actions that do not include any activities that would result in "prohibited take" (e.g., no removal of documented roosts or trees within 150 feet of roosts in June/July).
- Any activities that are LAA for the NLEB that are described in the range-wide consultation will have a similar reporting requirement as given in USFWS' PBO on the 4(d) rule.

# Northern Long-eared Bat

- Voluntary conservation measures, no incidental take statement, no reasonable and prudent measures, and no terms and conditions.
  - Transportation agencies may still get to NLAA for many projects and continue to use the streamlined range-wide process established in 2015.
  - Projects may need to incorporate AMMs to get to NLAA for the NLEB.





# Also Available

- User's Guide
- Scoping Worksheet
- Project Submittal Form
- AMMs
- Bridge/Structure Assessment Guidelines and Form
- Compensatory Mitigation Ratio % Forest by County Spreadsheet
- Conservation Focus Area Guidance

# What's Coming

- Range-wide In-Lieu-Fee Program
- Revisions/clarifications to May 2016 BA and BO





## Visit the USFWS website for more information:

<http://www.fws.gov/Midwest/Endangered/section7/fhwa/index.html>

**U.S. Fish & Wildlife Service**  
**Endangered Species**  
Midwest Region

Search

**Indiana Bat and Northern Long-eared Bat**  
**Range-wide Consultation and Conservation Strategy under Section 7 of the Endangered Species Act for the Federal Highway Administration, Federal Railroad Administration and Federal Transit Administration**

*The U.S. Fish and Wildlife Service (Service) and Federal Highway Administration (FHWA) have standardized their approach to assessing impacts to Indiana bats and northern long-eared bats from highway construction and expansion projects; then avoiding, minimizing and mitigating those impacts.*

Indiana bats, an endangered species listed since 1966, are found over most of the Eastern half of the United States. Northern long-eared bats, recently listed as threatened (April 2, 2015), are found in 37 states from the Atlantic coast westward to eastern Montana and Wyoming. Section 7(a)(1) of the Endangered Species Act (ESA) requires federal agencies to use their authorities to conserve listed species. Section 7(a)(2) of act requires federal agencies to consult on any action that may affect a listed species.

Consultation and mitigation approaches for impacts to Indiana bats from federal projects vary greatly across the 22 states of the bat's range, and those approaches have been rapidly changing in recent years. Consultation approaches are likely to continue to evolve independently in

**Consultation Documents and Implementation Information**

- [User's Guide](#) updated May 2016
- [Appendix A: Scoping Worksheet](#) updated August 2016
- [Appendix B: Project Submittal Form \(required\)](#) updated May 2016
- [Appendix C : Avoidance and Minimization Measures \(required\)](#) updated May 2016
- [Appendix D: Bridge/Structure Assessment Guidelines and Form](#) updated August 2016

Midwest Endangered Species Home

Section 7 Home

Section 7: A Brief Explanation

Section 7: Technical Assistance

Biological Assessment Guidance

Section 7 Consultation Handbook

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# Consultation Contacts



**Forest Clark**  
U.S. Fish and Wildlife Service  
812-334-4261 x206  
[Forest\\_Clark@fws.gov](mailto:Forest_Clark@fws.gov)

**Brian Yanchik**  
Federal Highway Administration  
443-522-9446  
[Brian.Yanchik@dot.gov](mailto:Brian.Yanchik@dot.gov)

**Julianne Schwarzer**  
U.S. Department of Transportation,  
Volpe Center  
617-494-3259  
[Julianne.Schwarzer@dot.gov](mailto:Julianne.Schwarzer@dot.gov)

**Sharyn LaCombe**  
Federal Transit Administration  
202-366-5213  
[Sharyn.Lacombe@dot.gov](mailto:Sharyn.Lacombe@dot.gov)

**Andrea Martin**  
Federal Railroad Administration  
202-493-6201  
[Andrea.Martin@dot.gov](mailto:Andrea.Martin@dot.gov)