



Do I Need A Permit?

A Key to Northern Long-eared Bat Interim 4(d) Rule for non-Federal Projects

1. Using this map <http://www.fws.gov/midwest/endangered/mammals/nleb/nlebRangeMap.html> , does your project take place within the range of the northern long-eared bat?

NO

No further action is necessary.

YES

Continue to question 2.

2. Northern long-eared bats hibernate in caves during the winter and often raise their young in trees during the summer. They also migrate between their winter and summer habitats each year. With this in mind, is it possible that your project could harm, kill or otherwise harass (also known as “take”) any northern long-eared bats? For example, are you clearing trees where northern long-eared bats could be living?

NO

No further action is necessary to comply with Endangered Species Act protections for the northern long-eared bat.

YES

Continue to question 3.

3. Will the action that causes take of bats be purposeful or incidental?

Purposeful Take – All or part of the purpose of the action is to handle bats in a way that may result in harm, harassment or killing of bats. An example of purposeful take would be removing bats that are roosting in the attic of your home.

If action is PURPOSEFUL, continue to 4A.

Incidental Take – When take of bats is a side effect of otherwise lawful actions. An example of incidental take would be if bats roosting in a tree are killed when the tree is cut for harvest or clearing purposes.

If the action may cause INCIDENTAL take, go to 4B.

4A. PURPOSEFUL TAKE - Is the action:

1) Removal of bats from a human structure, *or*

2) The capture or other related activities for northern long-eared bats undertaken by individuals authorized to conduct these same activities for other bats listed under the Endangered Species Act *and* the action is taking place within one year of the effective date of the interim 4(d) rule?

YES

These activities are exempted by the 4(d) rule and no further action is necessary to comply with Endangered Species Act requirements to protect northern long-eared bats.

NO

Because this is purposeful take of northern long-eared bats, a permit cannot be issued for the activity. This take is prohibited under the Endangered Species Act.

4B. Is the action within the White-nose Syndrome Buffer Zone?

<http://www.fws.gov/midwest/nleb/WNSBuffer.pdf>

YES

Continue to question 5.

NO

No further action is necessary to comply with Endangered Species Act requirements to protect northern long-eared bats. Under the 4(d) rule, all incidental take outside the white-nose syndrome buffer zone is exempted from ESA prohibitions.

5. Is your activity (which may cause take of bats) any of the following actions?

- [Forest management](#)
- [Maintenance or expansion of existing rights-of-way and transmission corridors \(work occurs no further than 100 feet on either or both sides of existing right-of-way\)](#)
- [Native prairie management](#)
- [Minimal tree removal](#)
- [Hazardous tree removal](#)

YES

Continue to question 6.

NO

The incidental take that may result from your project is not exempted by the 4(d) rule and an incidental take permit may be necessary. Please contact the U.S. Fish and Wildlife Service Ecological Services Field Office nearest to your project area. Field Office locations and contact

information may be found at www.fws.gov/offices. If you are in Wisconsin, please contact the [Twin Cities Field Office](#).

6. Has a northern long-eared bat maternity roost tree or hibernacula been documented on or near the project area?

YES

Continue to question 7.

NO

The incidental take that may result from your project is exempted by the 4(d) rule and no further action is necessary to comply with ESA prohibitions to protect northern long-eared bats.

I DON'T KNOW

We suggest that you contact the U.S. Fish and Wildlife Service Ecological Services Field Office nearest to your project area. Field Office locations and contact information may be found at www.fws.gov/offices. If you are in Wisconsin, please contact the [Twin Cities Field Office](#).

7. Northern long-eared bats use their maternity roost trees and hibernacula repeatedly for many years. Unless a survey or other information indicates otherwise, if the habitat around a roost is intact and the tree is suitable, we would conclude that the tree is likely an occupied maternity roost during the pup season (June 1 - July 31). Similarly, we would assume that a hibernaculum remains occupied unless a survey or other information indicates otherwise.

Therefore, if you have a northern long-eared bat roost tree or hibernacula documented on or near your project area, any incidental take of bats will be exempted by the 4(d) rule if you follow these conservation measures:

- Do not conduct any activities within ¼ mile of known, occupied hibernacula;
- Do not cut or destroy a known, occupied roost tree from June 1 to July 31 (the pup season);
- Do not clearcut (and similar harvest methods that cut most or essentially all trees from an area, *e.g.*, seed tree, shelterwood, and coppice) within a ¼ mile of known, occupied roost trees from June 1 to July 31.

Are you going to follow the above listed conservation measures?

YES

The incidental take that may result from your project is exempted by the 4(d) rule and no further action is necessary on your behalf in order to protect northern long-eared bats.

NO

The incidental take that may result from your project is not exempted by the 4(d) rule and an incidental take permit may be necessary. Please contact the U.S. Fish and Wildlife Service Ecological Services Field Office nearest the project area. Field Office locations and contact information may be found at www.fws.gov/offices.

Definitions and Additional Information about Terms

Human Structures - includes houses, barns, pavilions, sheds and cabins.

Forest Management - Forestry management is the practical application of biological, physical, quantitative, managerial, economic, social, and policy principles to the regeneration, management, utilization and conservation of forests to meet specific goals and objectives (Society of American Foresters (SAF)(a), http://dictionaryofforestry.org/dict/term/forest_management). Forestry management includes the suite of activities used to maintain and manage forest ecosystems, including, but not limited to: timber harvest and other silvicultural treatments, prescribed burning, invasive species control, wildlife openings, and temporary roads.

The conversion of mature hardwood, or mixed, forest into intensively managed monoculture pine plantation stands, or non-forested landscape, is not exempted under this interim rule, as typically these types of monoculture pine plantations provide poor-quality bat habitat. Pine plantations are densely planted (*e.g.*, typically 675 to 750, or more, trees per acre) and are comprised of single-age or similar age class timber. They are typically managed for timber production with, depending on the product, a uniform, planned endpoint. Maximum stocking rates and short rotations result in the forfeiture of structural diversity in exchange for elevated rates of wood productivity. Plantation productivity may be further enhanced through the use of genetically improved stock, fertilization, extensive site preparation, and reduction of competition. These management actions prohibit variably stocked stands, layers of understory and midstory vegetation, and longer rotations that enhance and maintain habitat traits required by many forest-dependent wildlife species (Allen *et al.* 1996, p. 13).

“Known, occupied hibernacula” - locations where one or more northern long-eared bats have been detected during hibernation or at the entrance during fall swarming or spring emergence. Given the documented challenges of surveying for northern long-eared bats in the winter (use of cracks, crevices), any hibernacula with northern long-eared bats observed at least once, will continue to be considered “known hibernacula” as long as the hibernacula and its surrounding habitat remain suitable for northern long-eared bat. However, a hibernaculum may be considered to be unoccupied if there is evidence (*e.g.*, survey data) that it is no longer in use by northern long-eared bats.

Coordination with your local Ecological Services Field Office is recommended to determine specific locations. Visit <http://www.fws.gov/offices/> to find the Field Office nearest you.

Known roost trees – trees that northern long-eared bats have been documented as using during the active season (approximately April – October). Once documented, a tree will be considered to be a “known roost” as long as the tree and surrounding habitat remain suitable for northern long-eared bat. However, a tree may be considered to be unoccupied if there is evidence that the roost is no longer in use by northern long-eared bats.

Rights-of-way and transmission corridors

Rights-of-way and transmission corridors - are in place for activities such as transportation (*i.e.*, highways, railways), utility transmission lines, and energy delivery (pipelines), though they are not limited to just these types of corridors.

Maintenance of existing rights-of-way and transmission corridors - Routine maintenance within an existing corridor or right-of-way maintenance is designed to limit vegetation growth, within an existing footprint, so that operations can continue smoothly. These activities may include tree trimming or removal, mowing, and herbicide spraying. However, depending on the purpose of the corridor or right-of-way, maintenance may only be performed infrequently and trees and shrubs may encroach into, or be allowed to grow within, the right-of-way until such a time as maintenance is required.

Expansion of existing rights-of-way and transmission corridors - Expansion of a corridor or right-of-way by up to 100 feet (30 m) from the edge of an existing cleared corridor or right-of-way. Expansion of these areas requires removal of vegetation along the existing ROW to increase capacity (*e.g.*, road widening).

Native prairie management - Prairie management involves management to maintain existing prairies and grasslands or efforts to reestablish grasslands that had previously been converted, usually to cropland. Landowners and agencies working to establish or conserve prairies may have to manage trees and brush in order to maintain grasslands. Management activities include cutting, mowing, burning, grazing or herbicide use on woody vegetation to minimize encroachment into prairies.

Minimal tree removal - many activities that involve cutting or removal of individual or limited numbers of trees do not significantly change the overall nature and function of the local forested habitat. Some of these activities include firewood cutting, shelterbelt renovation, removal of diseased trees, tree removal for other small projects (*i.e.*, culvert replacement), habitat restoration for fish and wildlife conservation, and backyard landscaping.

With respect to the term “minimal,” we limit the effect to an impact of one acre of contiguous habitat or one acre in total within a larger tract, whether that larger tract is entirely forested or a mixture of forested and non-forested cover types. Tract may be further defined as the property under the control of the project proponent or ownership.

Hazardous Tree Removal - Removal of hazardous trees is typically done as deemed necessary for human safety or for the protection of human facilities. Hazardous trees typically have defects in their roots, trunk, or branches that make them likely to fall, with the likelihood of causing personal injury or property damage. Wherever possible, it is ideal for removal of hazardous trees to be done during the winter when these trees will not be occupied by bats.

White-nose Syndrome Buffer Zone – the set of counties within the range of the northern long-eared bat range within 150 miles of the boundaries of U.S. counties or Canadian districts where the fungus *Pseudogymnoascus destructans* or WNS has been detected.

www.fws.gov/midwest/nleb/WNSBuffer.pdf