



## 2015 USFWS Listed Bat Species Impacts for Site Developers

On May 4<sup>th</sup>, 2015, the U.S. Fish and Wildlife Service's (USFWS) [threatened species listing and interim rule](#) for the Northern Long-eared Bat went into effect. As developers were becoming accustomed to planning for the presence of the Indiana Bat, this new bat listing will add a number of considerations and alterations to traditional project planning schedules.

**For most projects in Kentucky that include clearing of trees, project planners will now have to consider protection of the Northern Long-eared Bat *and* the Federally endangered Indiana Bat, since the *entire state* is identified as potential habitat for both.** The Kentucky Field Office's primary implementation method is outlined in the [Conservation Strategy for Forest-Dwelling Bats](#), published in April, 2015. This document replaces the 2011 Indiana Bat Mitigation Guidance. This new strategy identifies how the USFWS will address site development projects in Kentucky for both the Indiana Bat and the Northern Long-eared Bat. The 2015 strategy includes a conservation memorandum of agreement (CMOA) option which can be used to streamline compliance, but comes with some stipulations:

- Voluntary use of the CMOA **allows project proponents to pay for bat habitat mitigation** based on acreage disturbed and the type of habitat that will be disturbed.
- **Generally, tree clearing in June or July is not allowed.** In specifically identified circumstances where tree clearing may be allowed during the months of June or July, projects are required to obtain site-specific surveys with agency review to determine the probable absence of the species or enter into formal consultation. A new bat habitat map consolidates known bat habitat areas for both species. The Northern Long-eared Bat has a greater range in Kentucky, affecting more projects (see [Forest Dwelling Bat Habitat Map](#)).
- Projects that impact **more than 100 acres or projects within 1 mile of P1/P2 Indiana bat hibernacula or within ½ mile of P3/P4 Indiana bat hibernacula or any Northern Long-eared Bat hibernacula are not eligible** for the 2015 CMOA.

Please be advised that there are certain qualifying exceptions under the new rule for limited activities, such as forest management, maintenance of utility rights of way, and small tree removal projects (less than 1 acre), provided that protective measures are used.

Under the new strategy, existing projects under the 2011 CMOA for the Indiana Bat may be re-evaluated to include impacts for Northern Long-eared Bats. The re-evaluations of projects

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have the potential to **increase the costs** a project proponent pays for mitigation of an existing or ongoing project. Specifically the following projects can expect to be re-evaluated by USFWS:

- Projects where all tree clearing activities **have not been completed by May 4, 2015**.
- Projects where another federal permit, such as a U.S. Army Corps 404 permit, **has not been finalized and issued**. The Corps is now requesting re-evaluation **if only Indiana Bat** was previously evaluated.

While USFWS is accepting comments on the interim rule through July 1, 2015 using the Federal eRulemaking Portal, the rule is required to be followed. Developers that have potential Northern Long-eared Bat habitat impacts should review this rule further ([see the USFWS Northern Long-eared Bat webpage](#)).

### Contacts

Please contact us about how this rule could affect your project

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