

QUESTIONS AND ANSWERS

Range-wide Indiana Bat Protection and Enhancement Plan Guidelines

- 1. What are the benefits of implementing this guidance document?** The Fish and Wildlife Service's 1996 Biological Opinion requires that the FWS work with state Surface Mining Control and Reclamation Act regulatory authorities and Office of Surface Mining to develop species-specific protective measures to minimize adverse impacts to threatened and endangered species. These guidelines accomplish that goal and give SMCRA applicants a suite of consistent protective measures that they can apply when encountering the Indiana bat and its critical habitat where coal mining is proposed. These guidelines reflect the best science, based upon the latest knowledge about the behavior of the Indiana bat across its range, and provide reasonable and prudent measures that coal mining operations can take to avoid "jeopardy" of the bat during mining, thus minimizing "incidental take" or death of bats caused by mining activities. Application of these measures is consistent with the purpose of the Endangered Species Act (ESA) to stem further decline of this species. .
- 2. Doesn't this guidance represent *de facto* rulemaking?** No. When encountering the bat and critical habitat, a coal-mining applicant must develop measures to comply with the ESA. This technical guidance is a compendium of known effective practices to protect the bat that could help satisfy that requirement. There is no requirement that mining applications include these optional measures. Applicants can propose to substitute other measures, provided they produce similar results. Since a permit cannot be issued without suitable protective measures, the guidelines were developed to assist the applicant and regulatory agencies in ESA compliance.
- 3. Will use of this guidance speed the process of mining?** No, it has no effect on the rate of coal mining. It does, however, provide greater certainty that, if the techniques included in the guidance are used, coal mining applicants can receive ESA clearances from FWS that are required as part of SMCRA and Clean Water Act permitting.
- 4. Will application of these guidelines help recovery of the Indiana bat?** While avoidance and minimization measures are not required to contribute to the recovery of the species, they can, in some cases, benefit recovery. Where measures result in conservation of important habitats, the species may be protected from potential impacts from activities other than mining.
- 5. Was White-Nose Syndrome (WNS) considered in developing these guidelines?** These guidelines were developed specifically to address impacts to the Indiana bat from mining; the avoidance and minimization measures included in the guidelines do not address the impacts from WNS. Because consultation will continue to occur, the FWS and state regulatory agencies will consider new information in developing site-specific avoidance and minimization measures.

6. **How will WNS affect implementation of these guidelines?** The FWS will continue to review mining applications before permits are issued. If application of measures in these guidelines are not appropriate because of site-specific circumstances (including the close proximity of infected colonies), the FWS will work with applicants, state regulatory authorities and OSM to develop additional or other measures to ensure adequate protection of Indiana bats.
7. **Why do these guidelines require measures to protect bats that are 10 miles away? Isn't that overly conservative?** Studies of the bat have shown that they routinely travel 10 miles from their winter hibernacula while foraging during the fall. For smaller hibernating populations, the bats may or may not travel 10 miles, depending on the availability and amount of suitable habitat. Thus, if adequate data about hibernacula is not available for a particular proposed mine site, a conservative approach is warranted to ensure protection.
8. **Is this the first time a Protection and Enhancement Plan has been developed?** No, this is programmatic guidance. PEPs have been developed for Indiana bats and other species before on a permit-specific basis. This is the first *range-wide* protection and enhancement plan created since the 1996 BO.
9. **Why was it developed?** Industry perceived inconsistent practices from state to state where very similar habitat conditions existed. These guidelines will help to ensure consistency, protection of the species, and meet the intent of the 1996 Biological Opinion.
10. **Can more be done?** This agreement may serve as a model for other threatened and endangered species that exist in multiple states, for instance certain dace, mussels, etc. Other species are addressed at regional or local scales; few, if any other endangered or threatened species range throughout the midwestern and eastern coal mining regions.
11. **How can the FWS require offsite conservation agreements to preserve bat habitat in perpetuity?** Off-site mitigation is not a requirement. It is an option that can be used if scheduling or other requirements prevent implementation of short- or long-term habitat replacement measures. For instance, if a landowner doesn't want the 70 percent forest cover required by the plan, an applicant can provide an easement on suitable habitat outside the project area. The guidelines do not include permanent protection of onsite, reforested areas because, after restoration, these lands are not expected to undergo appreciable land use changes.
12. **Who developed this plan?** The guidelines are the product of State and Federal government collaboration and partnerships among three FWS Regions and their field offices; 13 state coal mining regulatory agencies and the Interstate Mining Compact Commission (representing those states); and two OSM Regions and their field offices.

13. **What happens next?** Implementation, training on implementation, monitoring of implementation.
14. **How many Indiana bats are there?** The 2007 census estimated the Indiana bat population in the US at 468,000. This population size is expected to decline as the effects of white-nose syndrome are manifested throughout the range.
15. **As new scientific information is learned, how can it be incorporated into the document?** This document is based on the best known science and current mining practices presently available. It will be revised as new information is learned.

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