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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R5-ES-2014-0047;
FXES1116050000-189-FF05E00000]

Habitat Conservation Plan and Draft Environmental Assessment, North Allegheny Wind Facility, Incidental Take Permit Application for Indiana Bat, Blair and Cambria Counties, Pennsylvania

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; notice of receipt of permit application; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of several documents related to an incidental take permit (ITP) application under the Endangered Species Act (ESA). We have received an application from North Allegheny Wind, LLC (NAW) for a 25-year ITP for take of the federally endangered Indiana bat incidental to otherwise lawful activities associated with operation of its North Allegheny Wind Facility, an existing 35-turbine wind farm in Blair and Cambria Counties, Pennsylvania. NAW has proposed a conservation program to minimize and mitigate for the impacts of the incidental take as described in its Draft North Allegheny Wind Indiana Bat Habitat Conservation Plan (HCP). Pursuant to the ESA and the National Environmental Policy Act, we announce the availability of NAW's ITP application, including its HCP, and the Service's draft environmental assessment, for public review and comment. We provide this notice to seek comments from the public and Federal, Tribal, State, and local governments.

DATES: We will accept comments received or postmarked on or before December 28, 2018. Comments submitted electronically using www.regulations.gov (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Standard Time on the closing date.

ADDRESSES: *Obtaining documents:*

- *Internet:* You may obtain copies of the draft HCP and draft environmental assessment (EA) online in Docket No. FWS-R5-ES-2014-0047 at <http://www.regulations.gov>.
- *U.S. Mail:* Copies of the draft documents are available from the U.S. Fish and Wildlife Service, Pennsylvania

Field Office, 110 Radnor Road, Suite 101, State College, PA 16801. Please note that your request is in reference to the NAW HCP.

- *In-person:* Copies of the draft documents are available for public review during regular business hours at the Pennsylvania Field Office, 110 Radnor Road, Suite 101, State College, PA 16801. Call 814-234-4090 to make an appointment.

Submitting Comments: You may submit comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R5-ES-2018-0047.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS-R5-ES-2018-0047; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide online (see Public Availability of Comments under **SUPPLEMENTARY INFORMATION**).

We request that you send comments by only the methods described above.

FOR FURTHER INFORMATION CONTACT:

Robert Anderson, by phone at 814-234-4090, x7447, or by mail at Pennsylvania Field Office, U.S. Fish and Wildlife Service, 110 Radnor Road, Suite 101, State College, PA 16801.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and its implementing regulations prohibit the "take" of animal species listed as endangered or threatened. Take is defined under the ESA as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct" (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. "Incidental take" is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

Applicant's Proposed Project

North Allegheny Wind, LLC (NAW) is seeking a permit for the incidental take

of the federally endangered Indiana bat (*Myotis sodalis*) for a term of 25 years. Incidental take of this species may occur due to operation of 35 wind turbines. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activity on the covered species. The biological goals and objectives are to minimize potential take of Indiana bats through on-site minimization measures and to provide habitat conservation measures for Indiana bats to offset any unavoidable impacts during operation of the project.

The HCP provides on-site avoidance and minimization measures, which include turbine operational adjustments. The estimated level of Indiana bat take from the project is four Indiana bats and an estimated reproductive potential of 3.2 bats over the 25-year project duration. To provide a conservation benefit to the Indiana bat, NAW will fund and implement one or more of the following types of mitigation projects to meet the mitigation needs of the Indiana bat: Protection of a hibernaculum, as well as surrounding buffer land necessary to ensure that the protection of the hibernaculum is successful; Protection of land that functions as summer habitat for one or more maternity colonies; and protection of summer and/or swarming habitat near a hibernaculum.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). We have prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: A no-action alternative, the proposed action, and an alternative consisting of feathering below the manufacturer's cut-in wind speed.

Next Steps

We will evaluate the plan and comments we receive to determine whether the permit application meets the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will also evaluate whether issuance of a section 10(a)(1)(B) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether to issue a permit. If the requirements are met, we will issue the permit to the applicant.

Public Comments

The Service invites the public to comment on the proposed HCP and draft EA during a 30-day public comment period (see **DATES**). You may submit comments by one of the methods shown under **ADDRESSES**.

Public Availability of Comments

We will post on <http://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

This notice is provided pursuant to section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: June 28, 2018.

Spencer Simon,

Acting Assistant Regional Director, Ecological Services, Northeast Region.

Editorial note: THIS DOCUMENT WAS RECEIVED AT THE OFFICE OF THE FEDERAL REGISTER ON NOVEMBER 23, 2018.

[FR Doc. 2018-25916 Filed 11-27-18; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-MB-2018-0048; FXMB 1232090000//189//FF09M29000]

Draft List of Bird Species to Which the Migratory Bird Treaty Act Does Not Apply

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, are publishing a draft list of the nonnative bird species that have been introduced by humans into the United States or U.S. territories and to which the Migratory Bird Treaty Act (MBTA) does not apply. The Migratory Bird Treaty Reform Act (MBTRA) of 2004 amends the MBTA by stating that the MBTA applies only to migratory bird species that are native to the United States or U.S. territories, and that a native migratory bird species is one that is present as a result of natural biological or ecological processes. The MBTRA requires that we publish a list of all nonnative, human-introduced bird species to which the MBTA does not apply. We published that list in 2005, and are starting the process to update it with this notice. This notice identifies those species that are not protected by the MBTA, even though they belong to biological families referred to in treaties that the MBTA implements, as their presence in the United States or U.S. territories is solely the result of intentional or unintentional human-assisted introductions. This notice presents a draft list of species that are not protected by the MBTA to reflect current taxonomy, to remove one species that no longer occurs in a protected family, and to remove one species as a result of new distributional records documenting its natural occurrence in the United States.

DATES: We will accept comments received or postmarked on or before January 28, 2019. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES:

Written comments: You may submit comments by one of the following methods:

(1) **Electronically:** Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-HQ-MB-2018-0048, which is the docket number for this notice. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Notice box to locate this document. You may submit a comment by clicking on "Comment Now!"

(2) **By hard copy:** Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-HQ-MB-2018-0048, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Document availability: The complete file for this notice is available for inspection, by appointment. Contact Eric L. Kershner, Chief of the Branch of Conservation, Permits, and Regulations; Division of Migratory Bird Management; U.S. Fish and Wildlife Service; MS:MB; 5275 Leesburg Pike, Falls Church, VA 22041-3803; (703) 358-2376.

FOR FURTHER INFORMATION CONTACT:

Eric L. Kershner, (703) 358-2376.

SUPPLEMENTARY INFORMATION:

What is the purpose of this notice?

The purpose of this notice is to provide the public with an opportunity to review and comment on a draft updated list of "all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) does not apply," as described in the MBTRA of 2004. The MBTRA states that "[a]s necessary, the Secretary may update and publish the list of species exempted from protection of the Migratory Bird Treaty Act."

This notice is strictly informational. It merely updates our list of the bird species to which the MBTA does not apply. The presence or absence of a species on this list has no legal effect. This list does not change the protections that any of these species might receive under such agreements as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES; T.I.A.S. 8249), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), or the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901 *et seq.*). Regulations implementing the MBTA are found in parts 10, 20, and 21 of title 50 of the Code of Federal Regulations (CFR). The list of migratory birds covered by the MBTA is located at 50 CFR 10.13. Elsewhere in today's **Federal Register**, we propose to revise the list of migratory bird species that are protected under the MBTA at 50 CFR 10.13.

For more information, refer to our notice published in the **Federal Register** on January 4, 2005, at 70 FR 372.

What criteria did we use to identify bird species not protected by the MBTA?

The criteria remain the same as stated in our notice published on March 15, 2010, at 70 FR 12710.