

Number of Respondents: 1,796.
Estimated Annual Burden Hours: An estimated 2,095 hours annually.

Dated: February 4, 2022.

Christina A. Walsh,

*TSA Paperwork Reduction Act Officer,
Information Technology.*

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R3-ES-2021-0160;
FXES1114030000-223]

Draft Environmental Assessment and Proposed Habitat Conservation Plan; Receipt of an Application for an Incidental Take Permit, Headwaters II Wind Farm, Randolph County, Indiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Headwaters II Wind Farm LLC (applicant) a subsidiary of EDP Renewables North America LLC, for an incidental take permit (ITP) under the Endangered Species Act, for its Headwaters II Wind Farm (project). If approved, the ITP would be for a 30-year period and would authorize the incidental take of an endangered species, the Indiana bat, and a threatened species, the northern long-eared bat. The applicant has prepared a habitat conservation plan that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the Indiana bat and northern long-eared bat. We also announce the availability of a draft environmental assessment, which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act. We request public comment on the application and associated documents.

DATES: We will accept comments received or postmarked on or before March 11, 2022.

ADDRESSES:

Document availability: Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS-R3-ES-2021-0160 at <http://www.regulations.gov>.

Comment submission: Please specify whether your comment addresses the proposed HCP, draft EA, or any

combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Search for and submit comments on Docket No. FWS-R3-ES-2021-0160.

- *By hard copy:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS-R3-ES-2021-0160; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT:

Scott Pruitt, Field Supervisor, Indiana Ecological Services Field Office by email at scott_pruitt@fws.gov, or telephone at 812-334-4261, extension 214; or Andrew Horton, Regional HCP Coordinator, Interior Region 3 by email at andrew_horton@fws.gov or telephone at 612-713-5337.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1-800-877-8339 for TTY assistance.

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

The applicant requests a 30-year ITP to take the federally endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*). The applicant determined that take is reasonably certain to occur incidental to operation of 49 wind turbines that have a total generating capacity of 198 megawatts and cover approximately 10,435 acres of private land. 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 and northern long-eared bats through on-site minimization measures and to provide habitat conservation measures for Indiana bats and northern long-eared bats to offset any impacts from operations of the project. The HCP provides on-site avoidance and minimization measures, which include turbine operational adjustments. The authorized level of take from the project is 359 Indiana bats and 93 northern long-eared bats over the 30-year project duration. To offset the impacts of the taking of Indiana bats and northern long-eared bats, the applicant proposes to protect known maternity colony habitat and staging/swarming habitat.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. We 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 a more restrictive alternative consisting of feathering at a rate of wind speed that results in less impacts to bats.

Next Steps

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The environmental effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed;
3. Any threats to the Indiana bat and the northern long-eared bat that may influence their populations over the life of the ITP that are not addressed in the proposed HCP or EA; and

4. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. 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

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2021-N196;
FXES1116020000-223-FF02ENEH00]

Draft Environmental Assessment for Amendments to the Candidate Conservation Agreement/Candidate Conservation Agreement With Assurances for the Lesser Prairie-Chicken (*Tympanuchus pallidicinctus*) and Dunes Sagebrush Lizard (*Sceloporus arenicolus*) in New Mexico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of documents; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental assessment (EA), under the National Environmental Policy Act, that evaluates the impacts of proposed amendments to the *Candidate Conservation Agreement/Candidate Conservation Agreement with Assurances for the Lesser Prairie-chicken (*Tympanuchus pallidicinctus*) and Dunes Sagebrush Lizard (*Sceloporus arenicolus*) in New Mexico* (CCA/CCAA). We invite comments on the draft EA and related documents from the public and Federal, Tribal, State, and local governments.

DATES: *Comments:* To ensure consideration, written comments must be received or postmarked on or before March 11, 2022. Any comments we receive after the closing date or not postmarked by the closing date may not be considered in the final decision on this action.

ADDRESSES:

Obtaining documents: You may obtain copies of the draft EA, proposed amendments, or other related documents on the internet at <https://www.fws.gov/southwest/es/NewMexico/>.

Submitting comments: You may submit written comments by email to nmesfo@fws.gov. Please note that your comment is in reference to the above-referenced CCA/CCAA. For more information, see Public Availability of Comments.

FOR FURTHER INFORMATION CONTACT:

Shawn Sartorius, Field Supervisor, U.S. Fish and Wildlife Service, Albuquerque, New Mexico, Ecological Services Office; telephone 505-761-4781. Hearing or speech impaired individuals may call the Federal Relay Service at 800-877-8339 for TTY service.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental assessment (EA), under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), that evaluates the impacts of proposed amendments to the *Candidate Conservation Agreement (CCA) and Candidate Conservation Agreement with Assurances (CCAA) for the Lesser Prairie-chicken (LPC) and Dunes Sagebrush Lizard (DSL) in New Mexico*.

This notice advises the public that we have gathered the information necessary to determine impacts of the proposed amendments on the CCA/CCAA and the associated enhancement of survival permit (permit) under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). We are accepting

comments on the proposed amendments and the draft EA.

Background

The CCA/CCAA were signed by Federal and State authorities in 2008 for 20 years (2008–2028). The CCA/CCAA are voluntary candidate conservation agreements, administered by the Center of Excellence (CEHMM), that allow for implementation of conservation measures to benefit the LPC and DSL in a landscape-level approach on both Federal and non-Federal lands. The CCA allows for enrollment by Federal lessees and permittees, including ranchers and industry lessees, giving them a high degree of certainty that no additional conservation measures will be required of participants if either species were to be listed. In the event that either species is listed, incidental take coverage will be provided by an ESA section 7 biological opinion for conservation actions undertaken on Federal lands. Under the CCAA, conservation of the LPC and DSL will be implemented on non-Federal lands by enrolled participants. Through the CCAA, enrolled landowners or cooperators receive assurance that they will not incur additional land use restrictions on enrolled lands in the event either species is listed.

Proposed Action

The Service is proposing to amend the CCA/CCAA to remove barriers to increased participation in the CCA/CCAA. The amendments will: Add an enrollment option to cover all activities for participants in the covered area, reclassify habitat categories based on LPC habitat and lek locations, add certificates of participation and/or inclusion (CP/CI) tailored to companies that develop linear infrastructure (*e.g.*, midstream, transmission, and utility), reduce enrollment fees for new parcel-by-parcel enrollments, and add an annual inflation adjustment for all habitat conservation fees. Conservation measures and covered activities will not change from the original CCA/CCAA.

The CCA/CCAA covers all lands currently occupied or potentially occupied by the LPC or DSL in New Mexico. This includes approximately 2,200 square miles in the southeastern section of the State, within portions of Lea, Eddy, DeBaca, Curry, Roosevelt, Quay, and Chaves Counties. The Service has assessed the potential impacts of the proposed amendments on the CCA/CCAA and the associated permit that was issued with the original CCA/CCAA in 2008, as well as the original EA from 2008. There are no proposed changes to the federally listed species, or the area