

Guidance for Section 7 Compliance on Building Demolition/Renovation and Tree Removal Projects (i.e. HUD, CDBG) to Avoid Adverse Effects to Federally Listed Bats

Revised January 29, 2016

The NJDEP HUD Environmental Review Tool 2.1 (map screening tool) no longer includes threatened or endangered bats. For all projects statewide, the following guidance should be followed to determine whether a project may adversely impact federally listed Indiana Bats¹, Northern Long-eared Bats², or their habitats.

A list of NJ municipalities with Indiana Bat and/or Northern Long-eared Bat *maternity/roost* and *hibernation* occurrences can be found at <http://www.fws.gov/northeast/njfieldoffice/pdf/battowns.pdf>. Areas of habitat for both species are mapped in IPaC. A copy of the IPaC findings should always be included as part of the ERR.

The following condition must be included in all ERRs: “While bat surveys are no longer required for northern long-eared bats in buildings, if bats (of any species) happen to be discovered during the process of renovations/demolitions/etc., work should cease and the construction manager should contact Mackenzie Hall, New Jersey Division of Fish and Wildlife, Endangered and Nongame Species Program, at 609-292-1244 on how to proceed. All bat species are protected by law in New Jersey and cannot be knowingly harmed or harassed.”

The following guidelines and timing restrictions reflect the US Fish and Wildlife Service’s (USFWS) final 4(d) rule³ for Northern Long-eared Bat. Previous guidance involving structures have been removed accordingly.

Question 1: Does the project involve removal of trees⁴?

(Note: The project application/ERR must indicate whether - and how much - tree removal is required.)

- No (no tree removal) => Project may affect, but is not likely to adversely affect listed bats.
- Yes (tree removal is required) => Proceed to Question 2

Question 2: How much tree removal is required, and where and when is tree removal planned to occur?

(Note: Hazard tree removal is permitted under the 4(d) rule³ for Northern Long-eared Bat (*not* Indiana Bat).)

- Fewer than ten trees will be removed, and tree removal will occur during the INACTIVE season for bats⁵ => No effect on listed bats.
- Fewer than ten trees will be removed, and tree removal will occur during the ACTIVE season for bats⁵ within a municipality/area that *is not* mapped as habitat for Northern Long-eared Bats and *is not* within the known or potential range of Indiana Bats => Tree clearing may affect, but is not likely to adversely affect listed bats.
- Fewer than ten trees will be removed, but tree removal will occur during the ACTIVE season for bats⁵ within a municipality/area that *is* mapped as habitat for Northern Long-eared Bats and/or that *is* within the known or potential range of Indiana Bats => May affect listed bats. Consultation with

¹ For additional USFWS info and guidance on Indiana Bats: www.fws.gov/northeast/njfieldoffice/endangered/lbat.html

² For additional USFWS info and guidance on Northern Long-eared Bats: www.fws.gov/midwest/endangered/mammals/nleeb/

³ The final 4(d) rule (published January 14, 2016) outlines Endangered Species Act protections for the Northern Long-eared Bat: www.fws.gov/midwest/endangered/mammals/nleeb/

⁴ Trees = woody vegetation with a diameter at breast height (dbh) of greater than 3 inches.

⁵ The ACTIVE season is:

- a. April 1 to September 30 in municipalities that contain maternity occurrences *or* potential occurrences of Indiana Bats and/or Northern Long-eared Bats; hence the INACTIVE season is October 1 to March 31; *or*
- b. April 1 to October 31 in municipalities that contain hibernation occurrences of Northern Long-eared Bats; hence the INACTIVE season is November 1 to March 31; *or*
- c. April 1 to November 15 in municipalities that contain hibernation occurrences of Indiana Bats; hence the INACTIVE season is November 16 to March 31.

USFWS may be required⁶; **forward project to the Endangered and Nongame Species Program (ENSP)⁷ for review.**

- Removal of *more* than ten trees will occur, at any time of year, within a municipality/area that *is* mapped as habitat for Northern Long-eared Bats and/or that *is* within the known or potential range of Indiana Bats => May affect listed bats. Consultation with USFWS may be required⁶; **forward project to the Endangered and Nongame Species Program (ENSP)⁷ for review.**

⁶ The USFWS contact at the NJ Field Office is Jeremy Markuson: Jeremy_Markuson@fws.gov; 609-382-5266.

⁷ The NJ Div. of Fish and Wildlife's ENSP contact for bats is MacKenzie Hall: MacKenzie.Hall@dep.nj.gov; 609-292-1244.