



Midwest Wind Energy Multi-Species Habitat Conservation Plan Questions and Answers

1. What action is the Service taking?

The U.S. Fish and Wildlife Service is announcing availability of the draft Midwest Wind Energy Multi-species Habitat Conservation Plan (HCP) and associated draft Environmental Impact Statement (EIS) for public review and comment. A Notice of Availability will be published in the *Federal Register* April 15, 2016. The notice opens a 90-day public comment period that will close July 14, 2016.

2. Why is an Environmental Impact Statement (EIS) needed?

The National Environmental Policy Act (NEPA) requires federal agencies to consider and disclose the environmental impacts of their proposed actions. Due to the scope of this project, the Service determined that an EIS should be prepared. An EIS analyzes the potential effects of the proposed federal action (issuance of incidental take permits) and alternatives to that proposed action, including a no-action alternative.

3. What is the proposed action evaluated in the draft EIS?

The draft EIS evaluates the Service's issuance of Endangered Species Act (ESA) incidental take permits under the multi-species HCP. The multi-species HCP was prepared by the Service and its planning partners for commercial wind energy development within an eight-state plan area.

The multi-species HCP would allow the Service to issue incidental take permits to wind companies that comply with the HCP. The permits, if granted, would authorize the incidental take of covered species that results from existing and future wind energy development within the covered lands. Only permit applicants that completely comply with the multi-species HCP would be eligible for an incidental take permit under this HCP.

4. What is the purpose and need for the proposed action?

The purpose of the Service's proposed action is to review and approve requests for incidental take permits and to streamline the permitting process under the multi-species HCP which, if granted, will authorize the incidental take of covered species that results from existing and future wind energy development within covered lands.

Although wind energy facilities can be an important source of clean and renewable electric power generation, wind turbines can harm and kill birds and bats that pass near turning blades, and construction and maintenance of wind facilities and infrastructure can impact their habitat. In particular, commercial wind facilities have been shown to cause high numbers of bat fatalities in

many locations, reinforcing the need for the Service to ensure that take of bats from wind turbines is avoided and minimized to the maximum extent practical and that the impact of any take is fully mitigated.

The need for the proposed federal action is to provide for broader protection and conservation of covered species and their habitats, in compliance with the ESA, while allowing for long-term development and continued operation of existing and future wind energy facilities. This need is based on the potential that wind-related activities within the eight-state area encompassed by the multi-species HCP are likely to incidentally take federally listed birds and bats, requiring the need for an incidental take permit for these facilities to operate lawfully. Historically, take of listed species that is incidental to otherwise lawful wind energy development activities has been evaluated and authorized through project-by-project consultations under either Section 7 of the ESA (if another federal agency is involved) or through a project-specific permit issued by the Service in compliance with Section 10 of the ESA. Issuance of permits under the multi-species HCP will integrate wind energy activities with landscape conservation needs of the species covered by the HCP and streamline ESA compliance procedures for the wind energy industry, states and the Service.

5. What alternatives are evaluated in the EIS?

The draft EIS contains an analysis of four alternatives: (1) No Action (no permit issuance); (2) Proposed Action (Midwest Wind Energy Multi-Species HCP Alternative); (3) Reduced Permit Duration Alternative; and (4) Increased Cut-In Speed Alternative. These alternatives reflect a range of alternatives that meet both the requirements of NEPA and the purpose and need of the proposed action.

6. What is a Habitat Conservation Plan?

Section 9 of the ESA prohibits take of listed wildlife species through direct harm or habitat destruction. However, the act also allows the Service to issue permits for the incidental take of endangered and threatened wildlife. Incidental take is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Permit holders can proceed with an activity that is legal in all other respects but that may incidentally take listed wildlife.

To receive an incidental take permit, applicants must develop and provide funding to implement a conservation plan that avoids, minimizes and mitigates impacts to wildlife caused by their otherwise lawful activity. That plan is commonly called an HCP. HCPs are legally binding agreements between the Secretary of the Interior and the permit holder.

7. What is the Midwest Wind Energy Multi-Species HCP?

The Service and its planning partners prepared the *Draft Midwest Wind Energy Multi-Species HCP* (multi-species HCP) as a mechanism to permit incidental take caused by wind energy

development and operation within an eight-state plan area. The plan area includes Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

Activities covered under the multi-species HCP include construction, operation, maintenance and decommissioning of existing and future wind energy facilities within specific areas of the plan area. Other requirements included in the HCP are monitoring and management of compensatory mitigation lands. All of the activities included in the HCP are referred to as covered activities.

Incidental take of six federally listed bat and bird species is addressed in the multi-species HCP. Also addressed is incidental take of one bat species that may be listed in the future and the bald eagle. These are the covered species. Additional information on plan area, covered activities, and covered species is provided below.

8. Why do wind energy developers and operators need an incidental take permit?

Threatened and endangered species have been harmed and killed by wind energy developments. This happens as a result of barotrauma; collisions with turbines, transmission lines and meteorological towers; loss and degradation of habitat from turbine and infrastructure construction; and fragmentation of large habitat blocks into smaller segments that may not support area-sensitive wildlife. Section 9 of the ESA prohibits take of listed wildlife species through direct harm or habitat destruction. Without an incidental take permit, a wind energy developer or operator could violate the ESA.

9. What requirements are necessary to receive an incidental take permit?

The ESA allows issuance of incidental take permits to non-federal entities, provided the following criteria are met:

- The taking will be incidental.
- The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking.
- The applicant will develop an HCP and ensure adequate funding to fully implement the plan will be provided.
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.
- The applicant will carry out any other measures the Secretary of the Interior may require as being necessary or appropriate for the purposes of the HCP.

10. Who are the Service's planning partners for this multi-species HCP?

The planning partners include state conservation agencies from Michigan, Indiana, Wisconsin, Minnesota, Iowa, Illinois, and Missouri; the American Wind Energy Association, who is representing a consortium of wind energy companies called WEBAT (Wind Energy Bat Action

Team); and The Conservation Fund. The Conservation Fund is a non-profit organization that helps plan mitigation and manages mitigation funds.

11. What are the Services' major concerns about the impact of wind energy development on wildlife?

Active wind energy facilities cause mortality of birds and bats throughout the life of the facility. With the expansion in the number of these facilities across the upper Midwest, wildlife mortality caused by the facilities could result in population level declines. Many of these species are protected under federal law and are included as covered species in the multi-species HCP.

More migratory tree bats are killed by wind turbines than any other wildlife species¹, and these bats are not protected under federal law. There are three species of tree bats that are of the most concern: eastern red bat, hoary bat and silver-haired bat. These bats roost in trees year-round and migrate between areas where they spend summer and winter. Most mortality caused by wind turbines occurs while the bats are migrating. The estimated mortality of these bats over the life of the project if the multi-species HCP is not implemented is provided in Table ES-2 (page ES-12) of the EIS – and ranges from approximately 7 million silver-haired bats to approximately 16 million eastern red bats. Fortunately, measures identified in the HCP can reduce mortality substantially for all wildlife species, including migratory tree bats. Additionally, the multi-species HCP provides a landscape-scale approach to documenting mortality and addressing that mortality through avoidance, minimization and compensation.

12. What species are covered by the multi-species HCP?

Eight species that could be affected by wind energy activities, referred to as covered species, are included in the multi-species HCP. Six of the covered species are listed as endangered or threatened under the ESA: Kirtland's warbler, least tern (interior population), piping plover (Great Lakes and Northern Great Plains populations), Indiana bat, and northern long-eared bat. One of the covered species, little brown bat, is not listed but may be listed in the future. The bald eagle is also a covered species; it is not listed under the ESA but is protected under the Bald and Golden Eagle Protection Act (BGEPA).

13. Why is the bald eagle included in the multi-species HCP?

Eagles are protected under BGEPA, which prohibits take and disturbance of individuals and nests. Regulations allow the Service to include the bald eagle when issuing ESA incidental take permits.

¹ [Cryan, P.M. 2011. Wind turbines as landscape impediments to the migratory connectivity of bats. *Environmental Law* 41:355-370.](#)

14. What is the geographic area of the multi-species HCP?

The geographic area covered by the multi-species HCP is referred to as the plan area and encompasses all lands within eight states: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

Incidental take of covered species would be allowed only within a subset of the plan area, referred to as the covered lands. Covered lands exclude areas of particular importance to bat and migratory bird species, as well as a wide range of other wildlife species.

We developed covered lands in response to public comment received during scoping in 2012 on the multi-species HCP and specifically **excluded lands that are within:**

- Twenty miles of sensitive bat hibernacula identified by the Service and state wildlife agencies.
- Three miles of the shores of the Great Lakes.
- One mile of the edges of rivers supporting bird migration corridors and/or concentrations of wintering waterfowl.
- Floodplain areas along the Mississippi and Illinois rivers.
- High bat concentration areas in southern Indiana.
- Bird migratory areas in Illinois and around large lakes in Minnesota.

Wind energy projects are not precluded outside of covered lands, but those projects would not be eligible for participation in this multi-species HCP.

15. What activities would be eligible for an incidental take permit under the multi-species HCP?

The planning partners have requested incidental take authorization for the following activities, referred to as covered activities.

- Construction, operation, maintenance and repair; decommissioning and reclamation; and repowering of commercial multi-turbine wind energy projects within covered lands. This includes both existing commercial multi-turbine wind facilities and potential new wind development projects.
- Up to 18,004 megawatts of existing facilities and 33,000 megawatts of new wind development are proposed to be covered under the multi-species HCP.
- Management of compensatory mitigation lands, designed to offset the effects of covered activities on covered species.

- Monitoring, including site, design, and construction monitoring; operations monitoring; mitigation monitoring; and effectiveness monitoring.

16. What is the permit term under the multi-species HCP?

The proposed term of the multi-species HCP is 45 years. During the first five years, existing commercial wind energy projects may apply for and receive incidental take authorizations under the multi-species HCP; proposed commercial wind energy facilities could opt in during the first 15 years. Incidental take authorizations will be issued for a period of 30 years, up to the 45-year term of the multi-species HCP. The master permit, if issued, will be for a period that is equal to the entire length of the plan (45 years or whatever the remaining life of the multi-species HCP is once that entity is in place); however, all individual incidental take permits and certificates of inclusion will be issued for a period of only 30 years.

17. What approach does the Service envision for providing wind energy developers incidental take permits under this multi-species HCP?

We are considering two potential approaches or permitting structures: a template (also called an “umbrella” structure) or a programmatic approach. Under the template approach, the Service would issue individual permits to applicants that agree to implement the multi-species HCP. Under the programmatic approach, a Master Permittee would be established and the Master Permittee would issue certificates of inclusion to wind energy companies that agreed to implement the multi-species HCP at their facility. At this time, the states and the Service anticipate that the template option (issuing individual permits) is the preferred approach under this HCP. Each application received requesting an incidental take permit will be announced for a period of 30 days in the Federal Register.

18. How will impacts to covered species be avoided, minimized and mitigated?

The multi-species HCP includes general and species-specific avoidance and minimization measures to reduce the effects of wind energy development and provides for mitigation to compensate for incidental take that cannot be avoided.

General measures to avoid impacts include siting away from known high-use areas such as bat hibernacula, flyways, bird staging areas, etc. as well as feathering of turbines and curtailment of turbines in low wind speeds. Wind facilities cannot be permitted under this multi-species HCP if they are sited within 3 miles of the Great Lakes coastline, within 20 miles of sensitive bat hibernacula, within 1 mile of the edges of rivers supporting bird migration corridors and concentrations of wintering waterfowl, or within floodplain areas along the Mississippi and Illinois rivers.

The HCP requires surveying for presence of covered species and their habitat to determine the necessity and degree of avoidance and minimization measures. Those measures include actions

such as designing facility components to minimize the potential for take of covered species (e.g., lighting, burying or marking of power lines, non-guyed meteorological towers), avoiding removal of occupied habitat during critical periods of a covered species' life cycle, and operating wind turbines at specified cut-in speeds during periods that covered bat species may be present. The avoidance and minimization measures are in addition to and complement the protection of species and their habitat and management of compensatory mitigation lands.

A complete description of the proposed mitigation for the covered species is described in Chapter 5 of the multi-species HCP and is included in the Draft EIS as well. The HCP includes descriptions of the biological goals and objectives for each species, measures to avoid and minimize impacts on covered species, and measures to mitigate the impact of take on the covered species. The EIS summarizes the avoidance, minimization and compensation measures outlined in the HCP.

19. How does the multi-species HCP benefit the covered species?

The multi-species HCP benefits covered species in a number of ways: A detailed conservation plan ensures incidental take caused by wind energy development is avoided and minimized; any remaining incidental take is then fully compensated through mitigation. The multi-state HCP provides long-term monitoring at the facilities as well as the mitigation lands so the Service can monitor the amount of take that is occurring and determine the effectiveness of mitigation. The HCP uses an adaptive management strategy for avoidance, minimization and mitigation measures so the Service can respond to changed and unforeseen circumstances and new information.

The multi-state HCP significantly reduces incidental take by avoiding construction of new wind facilities in or near important wildlife areas and by changing facility operations. Bat species are highly susceptible to wind turbine-caused mortality, and the operational changes required in the multi-state HCP would reduce bat mortality by 30 to 70 percent.

Development of the multi-state HCP has spawned tools that will be used as part of this HCP and can be used for other HCPs and other conservation work. The U.S. Geological Survey (USGS) developed an Evidence of Absence monitoring tool to ensure effective and comprehensive monitoring. The Service used a Resource Equivalency Analysis to develop species-specific models to estimate compensatory mitigation, which allows us to focus on highest priority conservation opportunities.

Wind energy developers already have been applying for incidental take permits for individual facilities. The Service and planning partners believe a regional HCP would have more benefit by providing coordinated conservation and monitoring of impacts across large portions of the ranges of the covered species. The HCP allows for the coordination of numerous monitoring and

mitigation efforts across the states, resulting in a more organized and effective conservation program. Project-by-project monitoring and mitigation is restricted in scope and limited by time, financial resources and expert resources of individual developers. Large-scale, region-wide mitigation provides opportunities to protect the most vulnerable and valuable habitat areas in a more ecologically beneficial configuration than is likely to result from project-by-project mitigation.

20. How do I comment on the draft multi-species HCP and draft EIS?

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 Docket No. FWS-R3-ES-2015-0033. You may submit a comment by clicking on "Comment Now!" Please ensure that you have found the correct rulemaking before submitting your comment.

(2) *By hard copy*: Submit by U.S. mail or hand-delivery to: Regional Director, Attn: Rick Amidon, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458.

In your comment, please specify whether your comment addresses the draft multi-species HCP, the draft EIS, or both.

Comments must be received by July 14, 2016. If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the website. If you submit a comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

21. Where can I find more information?

Documents and information about the Draft Multi-species HCP and draft EIS are available on the project website at www.midwestwindenergyhcpeis.org and at www.regulations.gov (Docket Number FWS-R3-ES-2015-0033).

Information about the listed species included in the multi-species HCP can be found at www.fws.gov/midwest/endangered.

The Service will host two online webinars during the public comment period. The webinar dates have not been determined at this time. Information on how to participate in the webinars will be provided at the project website at <http://www.midwestwindenergyhcpeis.org>.

Documents and additional information can also be obtained by writing or calling:

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If you use a telecommunications device for the deaf, hard-of-hearing, or speech disabled, please call the Federal Information Relay Service at 800-877-8339.