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## **U.S. Fish and Wildlife Service Issues Final Rule on Protection of Threatened Species in Arkansas**

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In 2015, the Northern Long-Eared Bat was listed as a "threatened" species by the U.S. Fish and Wildlife Service under the Endangered Species Act of 1973, as amended, due to drastic population declines caused by a fungal disease known as "white-nose syndrome." The Northern Long-Eared Bat occurs in 37 states (including Arkansas) and 13 Canadian Provinces. The final 4(d) rule (50 CFR 17) which goes in effect February 16, 2016, allows the U.S. Fish and Wildlife Service to define protection of the Northern Long-Eared Bat as a "threatened" species, which is any species likely to become an "endangered species" (a species at the brink of extinction) within the foreseeable future throughout all or a significant portion of its range.

The Northern Long-Eared Bat is a forest-dependent species typically roosting in trees, and predominately hibernates in winter in caves and abandoned mines. During the summer, the Northern Long-Eared Bat typically roosts singly or in colonies in cavities, underneath bark, crevices, or hollows of both live and dead trees and/or snags. In areas of Arkansas impacted by the white-nose syndrome fungal disease, the final 4(d) rule prohibits any harm, harassment or mortality to the Northern Long-Eared Bat that may occur "incidental" to an otherwise lawful activity, such as tree removal for a construction project. "Tree removal" is the cutting down, harvesting, destroying, trimming or manipulation in any other way the trees, saplings, snags, or any other form of wooded vegetation likely to be used by the Northern Long-Eared Bat. This "incidental take" prohibition applies to the hibernation site for the Northern Long-Eared Bat, including tree removal activities with a quarter-mile of a hibernaculum (a place of abode occupied by an animal during winter) or from activities that cut down or destroy known occupied maternity roost trees, or from June 1<sup>st</sup> to July 31<sup>st</sup> the cutting down or destruction of trees within a 150 foot radius from a maternity roost tree.

The U.S. Fish and Wildlife Service has developed a Northern Long-Eared Bat Consultation Area for areas of Arkansas where migration of the Northern Long-Eared Bat has occurred. Consultation with the U.S. Fish and Wildlife Service is to ensure that tree removal

activities are not likely to jeopardize the continued existence of the listed species or adversely modify designated critical habitats. The U.S. Fish and Wildlife Service has issued a Survey Guidance for Arkansas to assess the requirements for U.S. Fish and Wildlife Service consultation and a bat survey, to determine the presence or absence of the Northern Long-Eared Bat, if necessary.

1. **No Consultation Area** - if a project requiring tree removal occurs outside of the identified Consultation Area, no consultation with U.S. Fish and Wildlife Service is necessary.

2. **Consultation Area (Winter)**

(a) If a project requiring tree removal from October 15<sup>th</sup> to April 1<sup>st</sup> occurs inside a Consultation Area, but outside of a hibernaculum or catch record individual buffer, consultation with U.S. Fish and Wildlife Service is required. (A bat survey may not be required.)

(b) If a project between October 15<sup>th</sup> and April 1<sup>st</sup> requiring tree removal, other than forest conversion/clear cutting, occurs within a 2.5 mile catch record individual buffer and known maternity roosts, consultation with U.S. Fish and Wildlife Service is required. If between October 15<sup>th</sup> and April 1<sup>st</sup> forest conversion/clear cutting occurs within a 2.5 mile catch record individual buffer, consultation is required and an affect determination by U.S. Fish and Wildlife Service will be assessed on a case-by-case basis.

(c) If a project requiring tree removal from November 30<sup>th</sup> to March 15<sup>th</sup> for other than forest conversion/clear cutting and occurs within a three mile buffer of a known hibernaculum, consultation with U.S. Fish and Wildlife Service is required. If from November 30<sup>th</sup> to March 15<sup>th</sup> forest conversion/clear cutting within a three mile hibernaculum individual buffer occurs, consultation with U.S. Fish and Wildlife Service is required, and an affect determination by U.S. Fish and Wildlife Service will be assessed on a case-by-case basis.

3. **Consultation Area (Summer)**

(a) If a project requiring tree removal from April 1<sup>st</sup> to October 15<sup>th</sup> occurs inside a Consultation Area but outside an identified buffer and is one acre or less, consultation with U.S. Fish and Wildlife Service is required.

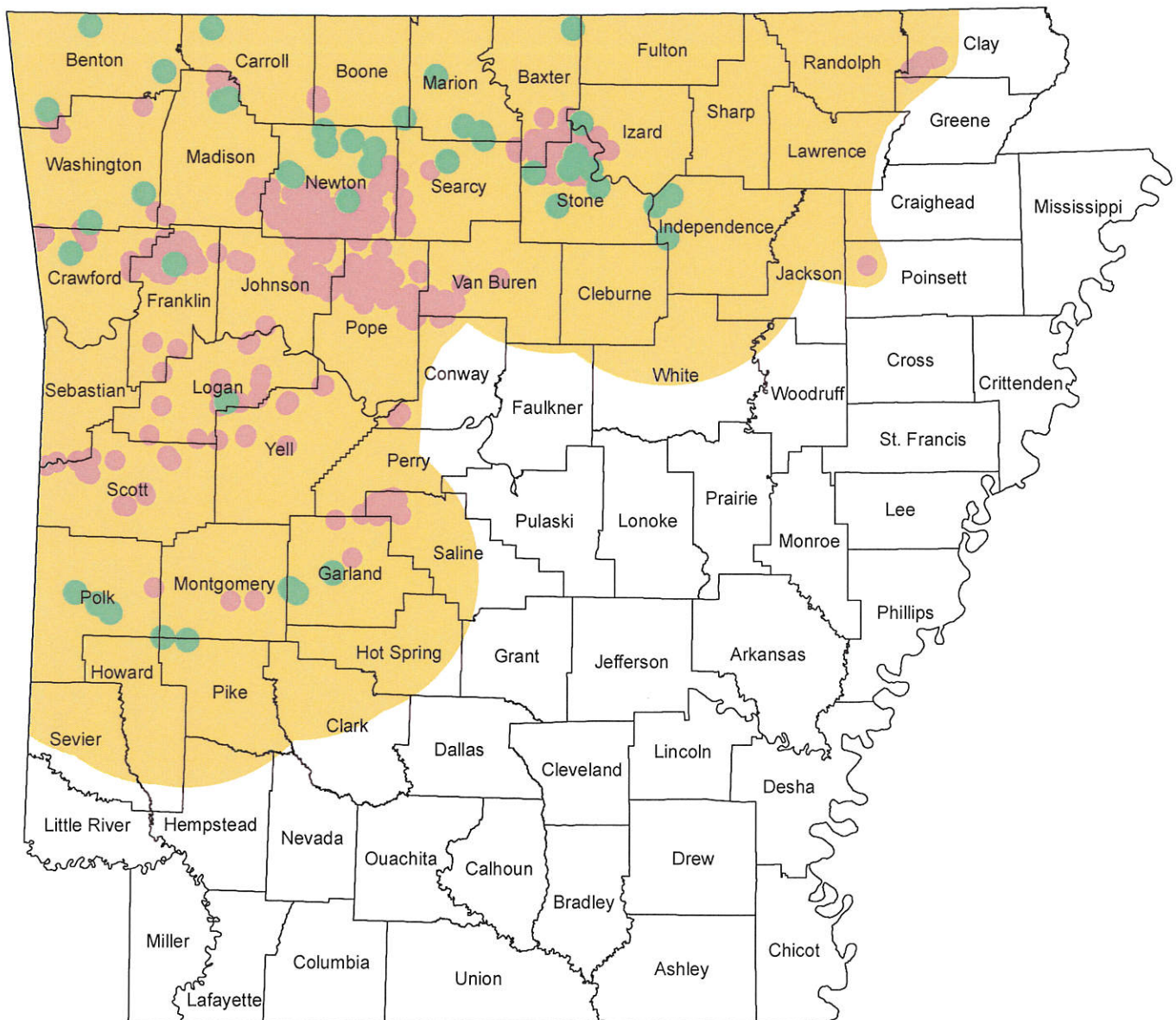
(b) If a project requiring tree removal from April 1<sup>st</sup> to October 15<sup>th</sup> occurs inside a Consultation Area but outside an identified buffer and is more than one acre, consultation and bat surveys will be required between May 15<sup>th</sup> and August 15<sup>th</sup> if suitable habitat is present.




(c) If a project requiring tree removal from April 1<sup>st</sup> to October 15<sup>th</sup> occurs within a 2.5 mile catch record individual buffer and known maternity roosts and suitable habitat is present, consultation with U.S. Fish and Wildlife Service is required.

(d) If a project requiring tree removal from March 15<sup>th</sup> to November 30<sup>th</sup> occurs within a 3 mile buffer of a known hibernaculum and suitable habitat is present, consultation with U.S. Fish and Wildlife Service is required.

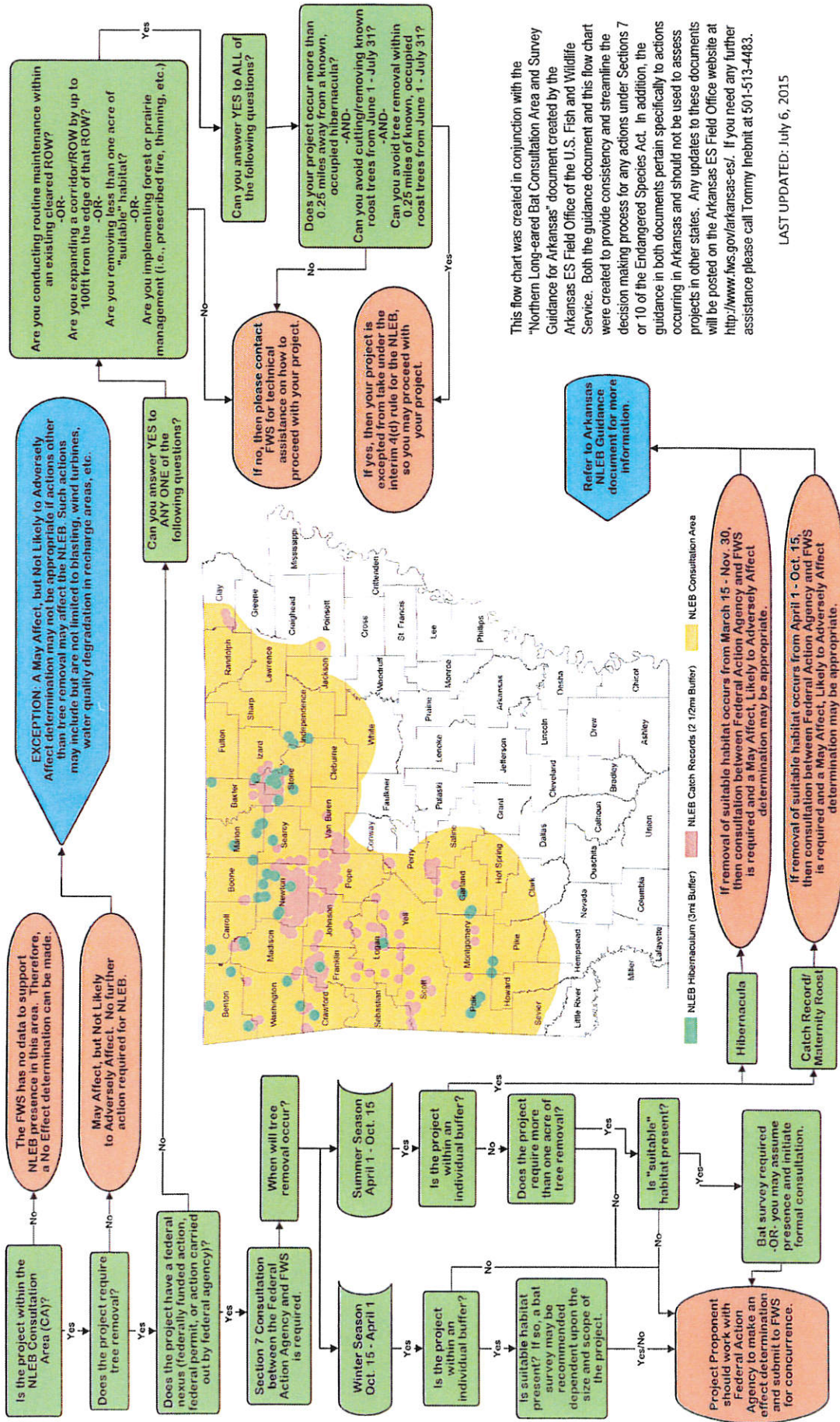
A habitat assessment should be conducted prior to conducting a bat survey to ensure a habitat is suitable for the Northern Long-Eared Bat. A presence/absence bat survey is not required in areas with unsuitable habitat. For more information, contact the Arkansas Ecological Field Office of U.S. Fish and Wildlife Service at 501-513-4403 or the website at [www.fws.gov/arkansas-es/](http://www.fws.gov/arkansas-es/).

# Northern Long-eared Bat



-  NLEB Hibernaculum (3mi Buffer)
-  NLEB Catch Records (2 1/2mi Buffer)
-  NLEB Consultation Area

# NORTHERN LONG-EARED BAT CONSULTATION AREA AND SURVEY GUIDANCE FLOWCHART FOR ARKANSAS



This flow chart was created in conjunction with the "Northern Long-eared Bat Consultation Area and Survey Guidance for Arkansas" document created by the Arkansas ES Field Office of the U.S. Fish and Wildlife Service. Both the guidance document and this flow chart were created to provide consistency and streamline the decision making process for any actions under Sections 7 or 10 of the Endangered Species Act. In addition, the guidance in both documents pertain specifically to actions occurring in Arkansas and should not be used to assess projects in other states. Any updates to these documents will be posted on the Arkansas ES Field Office website at <http://www.fws.gov/arkansas-es/>. If you need any further assistance please call Tommy Inebnit at 501-513-4483.

LAST UPDATED: July 6, 2015