

Fish and Wildlife Service Proposes to Reclassify Northern Long-eared Bat as Endangered

Article By:

Lisa A. Gilbreath

Georgia M. Bolduc

The U.S. Fish and Wildlife Service (FWS) is proposing to change the classification of the northern long-eared bat (NLEB) from threatened to endangered under the Endangered Species Act (ESA). The FWS classifies a species as threatened when the species is likely to become endangered within the foreseeable future in all or a portion of its range. A species is endangered when it is in danger of extinction throughout all or a significant portion of its range.

Due to the fungal disease white-nose syndrome, the NLEB has experienced a steep decline in population across its 37-state range, which includes Maine, New Hampshire, and Massachusetts. In 2015, the FWS classified the NLEB as threatened due to the decline in population, and issued an ESA Section 4(d) rule allowing an incidental “take” of NLEB subject to certain conditions.

In 2020, under [court order](#), the FWS began re-evaluating its classification of the NLEB as threatened. On March 23, 2022 the FWS issued a proposed rule that would reclassify the NLEB as endangered, a move that would eliminate applicability of the 4(d) rule and impose on developers the ESA Section 9s full take prohibition.

The proposed reclassification of the NLEB from threatened to endangered is expected to go into effect in December 2022, unless upon receiving public comments the FWS substantially modifies the proposed reclassification. Reclassifying the NLEB will have major implications for development projects throughout the U.S., particularly in wind energy development. Notably, in addition to a full take prohibition under ESA Section 9, the proposed rule would eliminate the programmatic biological opinion, which we expect will lead to more (and more time-intensive) Section 7 consultations, in the absence of negative species surveys.

©2025 Pierce Atwood LLP. All rights reserved.

National Law Review, Volume XII, Number 98

Source URL: <https://natlawreview.com/article/fish-and-wildlife-service-proposes-to-reclassify-northern->

[long-eared-bat-endangered](#)