

Hibernacula, and Fungi, and Roost Trees. Oh, My!

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Northern Long-Eared Bat

Myotis septentrionalis



Timeline

Jan. 2010:
Petition
to List

Oct. 2013:
Proposed
Listing

June 2014:
6-month
Extension

April 2015:
Listing
Decision

Jan. 2016:
Final 4(d)
Rule

★ Interim Guidance ★ Interim 4(d) Rule

“Until there is a solution to the white-nose syndrome crisis, the outlook for this bat will not improve.”

Dan Ashe, FWS Director

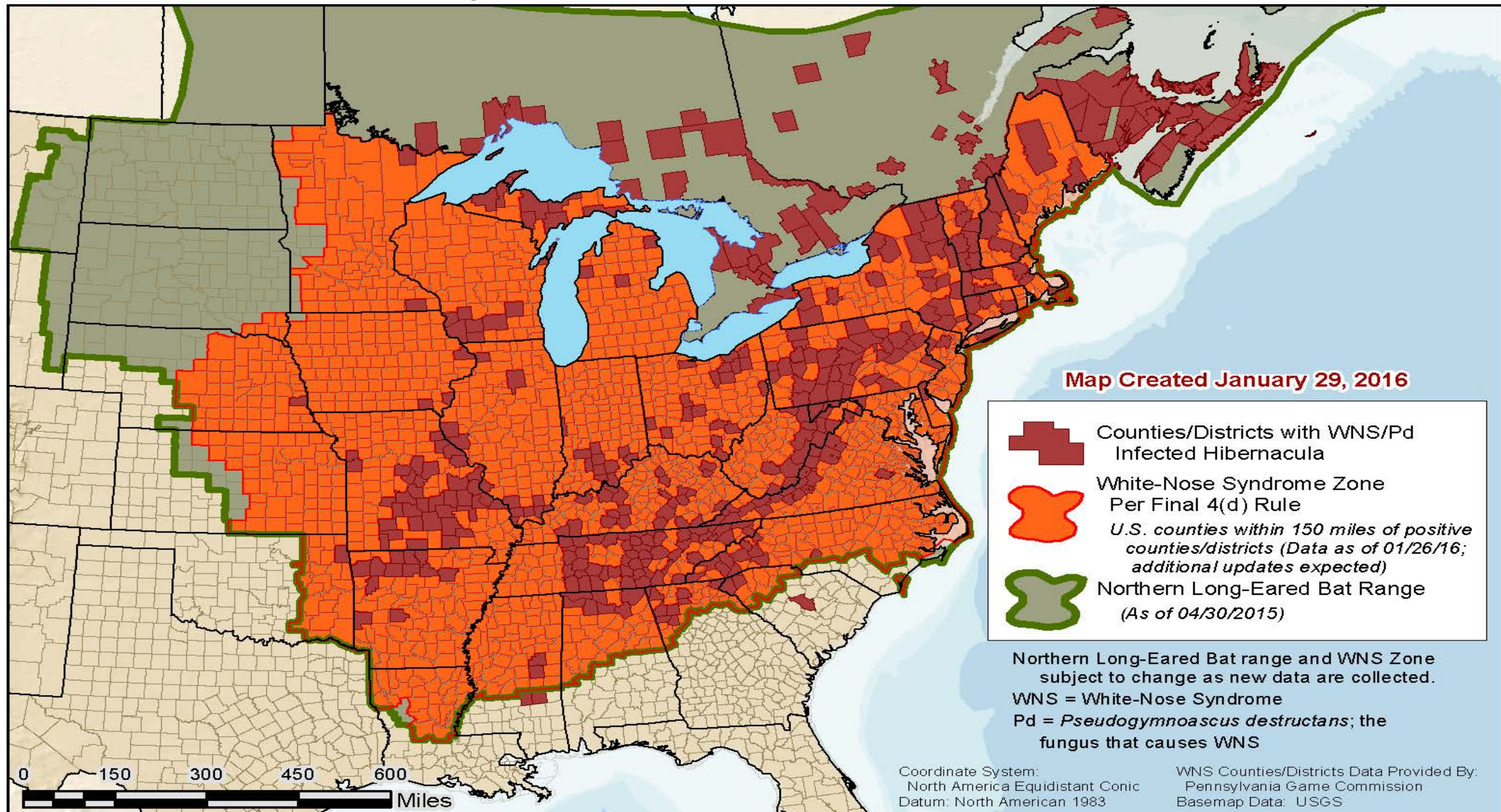
Final Rule:

- Simplify provisions
- Protect bats when they are most vulnerable
- Reduce ESA conflicts
- Minimize regulatory requirements



Northern Long-Eared Bat Final 4(d) Rule

White-Nose Syndrome Zone Around WNS/Pd Positive Counties/Districts



Purposeful Take

When the reason for the activity or action is to conduct some form of take.

“Take” – harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

For all areas within its range:

All purposeful take is prohibited

- Except:
 - Removal from human structures
 - Defense of human life
 - Removal of hazardous trees for the protection of human life and property

Incidental Take

“Take” that is the unintended consequence of an otherwise lawful activity

Example: forest management activities

Outside the WNS Zone:

No prohibitions on incidental take

Inside the WNS Zone:

Prohibited if it:

- Occurs within a hibernacula
- Results from tree removal activities and
 - occurs within 0.25 mile of a known hibernacula; or
 - cuts or destroys a known maternity roost tree or other trees within a 150 foot radius of a maternity roost tree from June 1-July 31 (pup season)

Interim v. Final Rule

- Reduced prohibition against cutting maternity roost trees from 0.25 mile to 150 feet
- Removed language about avoiding clearcuts and other similar harvest methods
- Removed language prohibiting conversion from hardwood or mixed forest into pine plantations
- Clarified that short-term sites are not hibernacula, and neither are sites that are no longer “suitable”
- Added language and research about the importance of forest management to the NLEB
- Emphasized that surveys are not required
- Omitted “occupied” from maternity roost tree

Due Diligence

Landowners and managers must take reasonable efforts to determine if hibernacula or maternity roost trees are present on their lands

Documentation is key.

Questions & Concerns:

- Implementation issues
- Consistency
- Data access and availability
- What is reasonable?

What's Next?

- Species Status Review
 - FWS must review at least once every 5 years
 - If “uplisted” – all 4(d) exemptions would be void
- Lawsuit Pending
 - Center for Biological Diversity and 3 others
 - NLEB should be endangered
 - 4(d) rule unlawful

SAF Policy Team

National Staff:

- John Barnwell, Director
- Danielle Watson, Assistant Director
- Brian Bartels, Henry Clepper Intern

Committee on Forest Policy

- Chris Farley (Chair): Colorado/DC
- Diane Vosick: Arizona
- John Hancock: Virginia
- Eric Carlson: Colorado/NY
- Tamara Cushing: Oregon
- Tedrick Ratcliff: Mississippi
- Charles Mark: Idaho
- Bob Malmshemer: New York
- Helge Eng: California
- Katie Fernholz: Minnesota

Thank You!

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