

Reclamation Advisory Memorandum RAM # 142

Kentucky Energy and Environment Cabinet Department for Natural Resources

From: Carl E. Campbell, Commissioner

Date: September 18, 2009

Subject: Range-Wide Indiana Bat Protection and Enhancement Guidelines

In 1996, the U.S. Fish and Wildlife Service (FWS) issued a Biological Opinion (BO) for the Office of Surface Mining (OSM) that stated that impacts from surface mining would not jeopardize or adversely affect federally listed species as long as the state regulatory authority and local FWS office worked together to create Protection and Enhancement measures for each species.

The 1996 BO requires that each state regulatory authority (RA) “must implement and require compliance with any species-specific protective measures developed by the FWS field office and the regulatory authority with the involvement, as appropriate, of the permittee and OSM.”

Due to inconsistent practices regarding protective measures for the Indiana Bat (*Myotis sodalis*) among the coal states and FWS field offices, the 2009 Guidelines were developed by a working team consisting of representatives from state regulatory authorities, FWS and OSM. These Guidelines will help to ensure consistency, protection of the species, and meet the intent of the 1996 Biological Opinion. **This guidance document will be implemented for all applications regarding new permits, amendments and renewals received after the October 1, 2009 effective date.**

The guidance is based on the best information currently available. However, new research efforts may result in additional knowledge about the species, so future revisions to this document may be necessary. This guidance is not all-inclusive, and certain measures may not be practicable for all mining projects. Therefore, discussions between the applicant and RA/FWS are encouraged to identify additional measures, not addressed in this document, which may protect the Indiana bat. The Range-Wide Indiana Bat Protection and Enhancement Guidelines may be found at [OSMRE web site link](#) or [DNR web site link](#).

In an effort to improve efficiency of project review, the agencies have agreed that satisfactory coordination and implementation of required measures will satisfy the Section 7 consultation requirement for coal mining-related actions of other Federal agencies, including the U.S. Army Corps of Engineers permitting process for Section 404 of the Clean Water Act. This will provide a consistent level of review, avoid redundant review by the FWS, and provide applicants with the reassurance that last minute changes will not occur.

If you have questions about the issues discussed in this RAM, please contact the Division of Mine Permits, Critical Resources Review Section, 2 Hudson Hollow, Frankfort, Kentucky 40601 or call (502) 564-2320.

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