ESA Requirements for WV SCMRA Permitting

West Virginia Department of Environmental Protection
DMR Virtual Industry Training

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Regulatory Requirements for Endangered Species Under WV SCMRA

- West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA) §38-2-3.18

“When the proposed mining operation will affect threatened or endangered species of plants or animals or their critical habitats, the application shall describe control measures, management techniques, and monitoring methods to be employed in order to protect or enhance such species and habitats. Endangered or threatened species are as listed by the Director of the Interior under the Endangered Species Act of 1973 (16 U.S.C. 1521 et seq).”
Regulatory Requirements for Endangered Species Under WV SCMRA

• Protection of fish, wildlife, and related environmental values
  • Operators are required to minimize disturbance of/and adverse impacts on fish, wildlife, and related environmental values.
  • “Take” of an endangered or threatened species is prohibited and in violation of the Endangered Species Act of 1973.
  • Mining activities are prohibited that are likely to jeopardize the continued existence of endangered or threatened species.
  • Operators are required to avoid disturbances to, enhance where practicable, and restore habitats of unusually high value for fish and wildlife.
Qualifying Permit Types Under WV SCMRA – When Are Consultations Required?

- New SMAs (MR4)
- Amendments (MR4)
- Reprocessing (MR21)
- Significant Revisions (MR4PR)
- Significant IBRs (MR4PR)
- Renewals (MR17)
Qualifying Permit Types Under WV SCMRA – When Are Consultations Required?

- IF WVDNR LIR Checked **YES** for Rare, threatened, or endangered species
  - Insignificant IBRs (MR4PR)
  - Prospects <250 tons (MR3)
  - Incidental Coal Removal (MR4C)
Qualifying Permit Types Under WV SCMRA – When Are Consultations Required?

- IF WVDNR LIR Checked **YES** for Rare, threatened, or endangered species
  - Insignificant IBR and Prospects <250 tons **May** qualify for exemption **IF**
    - Prospects that do not propose any disturbance;
    - IBR’s for areas already disturbed;
    - IBR’s for the deletion of acres only; or
    - IBR’s immediately necessary for environmental and/or Health and safety reasons.
  - Contact DMR ESA Biologist
Requests for Endangered Species Consultation – What is Included in a Complete Submission?

- **MR-27 Form** *(Fillable - Updated 4/2020)*
  - Request for Endangered Species Consultation
  - DMR Forms - https://dep.wv.gov/dmr/dmr%20forms/Pages/default.aspx
  - Details specific information required

1. Applicant information

2. Consultants information (if using consultant)
Requests for Endangered Species Consultation – What is Included in a Complete Submission?

- **MR-27 Form** (Fillable - Updated 4/2020)
  3. Information about the project
     a) Type, Name and Location of operation
     b) Acreage, Latitude and Longitude, Nearest PO, County

4. Proposal/Drainage Map (Minimum scale 1” = 500’)

5. USGS Map (Scale 1” = 2000’)

![MR-27 Form Image](image-url)
Requests for Endangered Species Consultation – What is Included in a Complete Submission?

- **MR-27 Form** (Fillable - Updated 4/2020)
  - 6. WVDNR Lands Inquiry Response
  - 7. Percentage and acreage presently forested >5” DBH
  - 8. Presence or absence of caves, portals or openings (mining or other)
    - IPaC tool
    - Supplemental Document (not on DEP site, contact us)
Requests for Endangered Species Consultation – Additional Information

• When applicable, provide additional supporting documentation such as:

  • Approved PEPs with signoff closure for the project (only applies to Amendments, Renewals, Significant Revisions, and Significant IBRs).

  • Prior survey results (bat – valid 5 years, and crayfish – valid 2 years)

  • Closure Letters from USFWS, etc.
Requests for Endangered Species Consultation – Where to Submit Consultation Requests?

• Complete Application Packet Materials are to be submitted electronically ONLY. All requested materials are to be submitted to the Endangered Species Consultation e-mail address at: End.Species.Coal@wv.gov.

For additional information or questions contact one of the following ESA Specialists:

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Consultation

In Review
What to Expect in 2021

• ESS submission of Required PEP monitoring
  • Consultations still electronically submitted

• ESA Request Guidance

• Aquatic PEP Guidance
  • Guide PEP development
  • WV listed aquatic species

• Endangered Species Website
  • Quick access to Materials
  • WV Listed species
  • Links to other websites (i.e., WVDNR LIR, IPaC, etc.)
Questions?

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