

Ecology

Programmatic Agreements

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Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat

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OVERVIEW

This guidebook describes Programmatic Agreements (PAs) that apply to ecology resources potentially occurring on GDOT projects but is not comprehensive of all PAs in use by GDOT. The following table lists these PAs and the participating agencies to which each PA applies. Please note that PAs involving the Federal Highway Administration (FHWA) may not apply to projects that do not receive federal funding.

Table 1 – Programmatic Agreements by Participating Agency

Programmatic Agreements	Participating Agency
Joint Coordination Procedures for the Endangered Species Act (ESA) and Fish and Wildlife Coordination Act (FWCA)	GDOT, FHWA, GADNR WRD, and USFWS
Local Coordination Procedures (LCP) for Section 404(B)(1) of the Clean Water Act	GDOT, FHWA, and USACE
Programmatic Biological Opinion for Transportation Projects in the Range of the Indiana Bat and Northern Long-Eared Bat	USFWS, FHWA, FRA, and FTA
Programmatic Biological Evaluation on the Effects of Transportation Activities and Projects Regularly Undertaken in North Carolina, South Carolina, and Georgia	NOAA Fisheries and FHWA
Programmatic EFH Assessment for Transportation Activities and Projects Regularly Undertaken in North Carolina, South Carolina, and Georgia	NOAA Fisheries and FHWA

EFH – Essential Fish Habitat; FRA – Federal Railroad Administration; FTA – Federal Transit Administration; GADNR – Georgia Department of Natural Resources; WRD – Wildlife Resources Division; NOAA - National Oceanic and Atmospheric Administration; USACE – US Army Corps of Engineers; USFWS – US Fish and Wildlife Service

LOCAL COORDINATION PROCEDURES

The August 2019 LCP is a framework for coordination by GDOT, FHWA, and USACE to improve consistency and streamline the permitting process for GDOT projects under Section 404(b)(1) Guidelines of the Clean Water Act. The LCP applies to projects involving substantial impacts to waters of the US, typically major widening or new location projects.

Local Coordination Procedures,
GDOT Office of Environmental Services

JOINT COORDINATION PROCEDURES

The January 2021 JCP clarifies GDOT procedures for consultation with FHWA, WRD, and USFWS that satisfy the requirements of Section 7 of the ESA, the FWCA, Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, Georgia Endangered Wildlife Act, and Georgia Wildflower Preservation Act. The JCP includes Standard Operating Procedures (SOPs) based on the level of agency consultation or coordination, which are referenced in the Ecology Assessment of Effects Guidebook, Protected Species Guidebook, and Miscellaneous Resources Guidebook.

Joint Coordination Procedures,
GDOT Office of Environmental Services

Programmatic Species Determinations

The JCP includes a SOP for Programmatic Determinations for Listed Species that details the applicability and procedure for determining whether an action qualifies for a Programmatic No Effect (PNE) or Programmatic May Affect (PMA) determination. The JCP lists GDOT activities that may qualify for PNE, as well as species and critical habitat exceptions to PNE. The JCP also lists PMA determinations established between GDOT and FHWA.

Programmatic No Effect

The SOP for Programmatic Determinations for Listed Species includes a table (Table 1) that lists the PNE categories and associate activities with a brief description of each. The Ecologist should verify that all project activities are included in the table to be eligible for a PNE. Prior to making a PNE determination the Ecologist should reference another table in the SOP (Table 2 of the SOP), which lists species and critical habitat exceptions to PNE activities. However, special provisions can be used in some cases to ensure that project activities will have no effect to species and critical habitat listed in Table 2. These special provisions would allow the project to remain eligible for a PNE determination.

Programmatic May Affect

Table 3 lists PMA Agreements that have been developed to standardize avoidance and minimization measures (AMMs) for specific project activities. The Ecologist should verify that all project activities are included in the applicable PMA Agreement to be eligible for a PMA. Each agreement details the methodology to be applied when applying the programmatic determination, and describes cases in which a PMA determination will be applied for each species.

Programmatic FWCA Coordination

The JCP SOP for Interagency Coordination Pursuant to the FWCA includes a process for programmatic FWCA coordination for GDOT projects. The SOP lists the eligibility criteria for programmatic FWCA coordination and describes the procedure for documenting programmatic criteria in the Ecology Resource Survey and Assessment of Effects Report (ERS AOE) and Environmental Commitments Table. The Miscellaneous Resources Guidebook also provides additional information regarding FWCA procedures for GDOT projects.

RANGE-WIDE PROGRAMMATIC CONSULTATION FOR INDIANA BAT AND NORTHERN LONG-EARED BAT

Based on the November 2016 FHWA, FRA, and FTA Programmatic Biological Assessment for Transportation Projects in the Range of the Indiana Bat and Northern Long-eared Bat; and the February 2018 USFWS Programmatic Biological Opinion (BO), the range-wide programmatic consultation can be used for projects that may affect Indiana bats (*Myotis sodalis*) and/or northern long-eared bats (*Myotis septentrionalis*). This programmatic consultation may only be utilized on projects that receive funding from FHWA, FRA, or FTA. The USFWS developed an Assisted Determination Key in the Information for Planning and Consultation (IPaC) website to identify a project's effect determination under the BO and required AMMs for electronic submittal.

The User's Guide for the Range-wide Programmatic Consultation for Indiana Bat and Northern Long-eared Bat should be consulted prior to completing the IPaC Assisted Determination Key. The following information is required to complete the IPaC key: USFWS early coordination list (See Ecology Resource Survey Guidebook), bridge and structure inspection and field review results, suitable summer habitat assessment results, and specific project details about the timing of proposed work, vegetation removal, and additional lighting.

The following steps should be followed when completing the key:

1. Consult the Project Manager (PM) and Design prior to entering data to verify information entered in the IPaC key is accurate. It is assumed that projects will require temporary lighting, unless the GDOT PM confirms that a special provision restricting nighttime work is appropriate for the project.

2. AMMs included in the IPaC key become firm project commitments. The Ecologist must confirm that the project and schedule can accommodate AMMs prior to completing the key. Common AMMs include but are not limited to restrictions on seasonal clearing, as well as use and design of nighttime lighting (permanent and temporary). These AMMs shall be discussed during the A3M. Completion of the IPaC key is not required prior to A3M.
3. Log into IPaC and open the project record, then choose the start review process and input the required impact information. The data entered will lead to a recommended biological determination.
4. Print/save a PDF of the key and recommended biological determination and attach to the Draft ERS AOE or Addendum for GDOT review. Do not submit the project review in IPaC for concurrence at this stage. Information entered by consultants must be verified by the GDOT Ecologist prior to transmitting the ERS AOE or Addendum to the agencies.
5. After all information has been entered and a recommended biological determination is listed, there will be an option to submit the review to USFWS for concurrence.
6. The GDOT Ecologist submits the project review for concurrence through IPaC and the system generates a consistency letter, which lists the outcome of the decision key as one of the following: No Effect (NE), Not Likely to Adversely Affect (NLAA), or Likely to Adversely Affect (LAA).
7. The USFWS will have 15 days to provide comments after which the project team will receive automatic notifications from IPaC that the project has been verified.

NOAA FISHERIES PROGRAMMATIC BIOLOGICAL EVALUATION

The September 2018 Programmatic Biological Evaluation (BE) (NLAA) on the Effects of Transportation Activities and Projects Regularly Undertaken in North Carolina, South Carolina, and Georgia (Programmatic BE) was developed by NOAA Fisheries and FHWA for common transportation projects with federal funding and/or approval. The purpose of this programmatic consultation is to streamline the Endangered Species Act consultation process required when these projects “may affect” federally listed species and critical habitats under NOAA Fisheries jurisdiction and promote better conservation outcomes for listed species and critical habitat. The Programmatic BE covers projects that will result in “no effect” or “may affect, not likely to adversely affect” listed species and critical habitat.

The Programmatic BE identifies project design criteria (PDC) intended to structure an action to avoid adverse effects to listed species and critical habitat at the individual project level and in aggregate from all projects implemented under the programmatic consultation. The Programmatic BE includes PDCs that are general for all projects, specific to common activities, and specific to common project types. The Programmatic BE also provides effect determinations if project and activity specific PDCs are followed. In-stream restrictions

during construction beyond those outlined by applicable PDCs would not be required for projects qualifying under the Programmatic BE.

For projects undertaken in or within 0.5 mile of areas where federally listed sturgeon and sea turtle species are known to occur, and/or where Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) critical habitat is designated, the Ecologist should consult with Design to verify project compliance with PDCs included in the Programmatic BE.

Under the Programmatic BE, Section 7 concurrence from NOAA Fisheries shall be issued within 15 calendar days of receipt of the submission form. If no response is received from NOAA Fisheries, then coverage under the Programmatic Informal Consultation is extended to the action and the transportation agency may proceed on the 15th calendar day. If the Programmatic BE does not apply to the project, then incorporation of as many of the PDCs as appropriate may reduce the overall consultation timeline with NOAA Fisheries and may allow for reduction of in-stream restrictions, in some cases.

PROGRAMMATIC ESSENTIAL FISH HABITAT ASSESSMENT

The October 2018 Programmatic Essential Fish Habitat (EFH) Assessment for Transportation Activities and Projects Regularly Undertaken in North Carolina, South Carolina, and Georgia (Programmatic EFH Assessment) was developed by NOAA Fisheries and FHWA for common transportation projects with federal funding and/or approval. The intent of the agreement is to reduce the number of projects subject to full EFH consultation by the NOAA Fisheries Southeast Regional Office. Procedures for Programmatic EFH Assessment are described in further detail in the Miscellaneous Resources Guidebook.

EFFECTS DETERMINATION GUIDANCE FOR ENDANGERED & THREATENED SPECIES

The USACE Savannah District and USFWS Georgia Ecological Services jointly developed Effects Determination Guidance for Endangered & Threatened Species (EDGES) to coordinate on projects that may affect species listed under the Endangered Species Act. The EDGES are species keys, which incorporate pre-agreed upon levels of effects, resulting in expedited determinations of “no effect” and “not likely to adversely affect”.

If a determination key has not been developed in IPaC for species included on a project specific list, the Ecologist should consult EDGES for available species keys. If an EDGES key is available for the target species, the Ecologist should refer to EDGES available on the USACE Savannah District Regulatory Division website to develop a biological determination. The Savannah District EDGES Applicant Coordination Slip should be submitted with the ERS AOE or Addendum to the lead Federal Agency. If a species isn't covered under EDGES, follow the JCP for agency consultation.

Guidebook Revision History

Revision Description	Relevant Sections	Revision Date
Initial Publication	All	5/20/2021