

U. S. Fish and Wildlife Service Interim Policy

For the

Review of Highway Transportation Projects in Indiana

5/29/2013

The intent of this interim policy is to make early coordination more efficient by reducing and streamlining the flow of early coordination between USFWS, INDOT and other coordinating agencies. The potential to impact wildlife habitat is the guiding criteria on when and how coordination should be initiated with the USFWS. This policy is intended to fulfill legal requirements for coordination under Section 7 of the Endangered Species Act (ESA). This policy can be used by all state, local and/or county highway agencies within the State of Indiana to fulfill early coordination with the USFWS.

This interim policy is an excerpt from the 09-27-2010 Draft Programmatic Agreement developed between INDOT and the USFWS and has been modified to reflect our current policy direction for the review of highway transportation projects in Indiana.

Classification of Coordination Types with U.S. Fish & Wildlife Service

There will be two types of coordination with the USFWS.

A. Programmatic Coordination

If construction activities meet the criteria established below, the USFWS agrees that the potential for impacts from these types of projects is minimal. In these cases, "**Programmatic Coordination**" constitutes the USFWS's early coordination roll, including Section 7 consultation requirements of the ESA of 1973, as amended. For these projects, no submittal of information to the USFWS is necessary. However, the standard recommendations as listed in Appendix A of this document should be included in the NEPA document. Only those projects that meet ALL of the following criteria qualify for programmatic coordination. If it is unclear whether the project fits under the below criteria, contact the appropriate USFWS office for clarification.

1. The project impacts less than 0.5 acre of forested R/W (temporary and/or permanent), all of which is within 75 feet of the edge of the existing roadway or pavement.
2. The project impacts less than 300 feet of natural perennial and intermittent streams without relocation, with the following exceptions:
 - a. Assumed non-jurisdictional roadway ditches.
 - b. Assumed jurisdictional waterways in disturbed areas where no wooded riparian habitat exists such as maintained legal and/or agricultural drains or waterways within residential, commercial and/or urban areas.
3. The project impacts less than 0.1 acre of wetlands, including both permanent and temporary impacts.
4. The project does not occur in the streams listed in Appendix B.
5. The project does not occur in the National Lakeshore in Lake, Porter, and LaPorte Counties
6. The project does not impact a **surface karst feature** within the Karst region of Indiana as discussed in Appendix C.

7. The project does not impact any natural area or wildlife habitat protected under the Federal Highway Administration's Section 4(f) Evaluation (49 USC Section 303, 23CFR 774) and/or Section 6(f) (16 USC Section 4601-F) of the Land and Water Conservation Fund Act.

B. Full Coordination

For all projects which do not qualify for programmatic coordination, an early coordination letter should be provided to the USFWS describing the entire project and its impacts to wildlife habitats within the project's impact area. If a response letter is deemed necessary, the USFWS will provide it within 30 days of receipt of the early coordination letter; otherwise, after 30 days, the preparer will incorporate the standard recommendations listed in Appendix A of this guidance into the NEPA document and Section 7 requirements will be considered fulfilled. In these cases the USFWS has determined that the project does not require a site-specific response.

If the USFWS requests an extension of time to provide their response, a reasonable extension of time shall be given, if possible.

Section 7 Evaluation

The USFWS concurs that projects that qualify for Programmatic Coordination or receive no USFWS response to full coordination have an effect determination of "Not Likely to Adversely Affect" any Endangered or Threatened species. This determination will satisfy requirements under the authority of the ESA of 1973, as amended.

Project Impact Modifications

If, during the development of the proposed project, changes occur that result in exceeding any of the criteria listed in Section A, or additional impacts are identified that could affect a threatened or endangered species, the project should not advance until full coordination is conducted with the USFWS.

If new information becomes available concerning federally listed species, proposed species, or other significant fish and wildlife resources, which might preclude the use of this interim policy, or require that the policy be amended (e. g. new counties or waterways be added), it will be the responsibility of the USFWS to inform INDOT as soon as possible. If INDOT staff discovers that such changes may affect a project that has already completed consultation, INDOT should notify the USFWS to reinitiate Section 7 consultation.

Appendix A

Standard Recommendations

1. Do not clear trees or understory vegetation outside the construction zone boundaries. **(This restriction is not related to the “tree clearing” restriction for potential Indiana Bat habitat.)**
2. Restrict below low-water work in streams to placement of culverts, piers, pilings and/or footings, shaping of the spill slopes around the bridge abutments, and placement of riprap.

Culverts should span the active stream channel, should be either embedded or a 3-sided or open-arch culvert, and be installed where practicable on an essentially flat slope. When an open-bottomed culvert or arch is used in a stream, which has a good natural bottom substrate, such as gravel, cobbles and boulders, the existing substrate should be left undisturbed beneath the culvert to provide natural habitat for the aquatic community.

3. Restrict channel work and vegetation clearing to the minimum necessary for installation of the stream crossing structure.
4. Minimize the extent of hard armor (riprap) in bank stabilization by using bioengineering techniques whenever possible. If rip rap is utilized for bank stabilization, extend it below low-water elevation to provide aquatic habitat.
5. Implement temporary erosion and sediment control methods within areas of disturbed soil. All disturbed soil areas upon project completion will be vegetated following INDOT's standard specifications.
6. Avoid all work within the inundated part of the stream channel during the fish spawning season (April 1 through June 30); except for work within sealed structures such as caissons or cofferdams that were installed prior to the spawning season. No equipment shall be operated below Ordinary High Water Mark during this time unless the machinery is within the caissons or on the cofferdams.
7. Evaluate wildlife crossings under bridge/culverts projects in appropriate situations. Suitable crossings include flat areas below bridge abutments with suitable ground cover, high water shelves in culverts, amphibian tunnels and diversion fencing.

Appendix B:

Waterways

Programmatic Coordination does NOT apply for the following waterways and full coordination is required if impacts occur below the ordinary high water mark.

Streams and Rivers

Note: This involves work in the streams listed below and in all tributaries within 200' of the confluence.

Blue River, including South Fork (Crawford, Harrison,
Eel River (Miami, Wabash Counties)
Flatrock River (Shelby County)
Fish Creek (Steuben County and LaGrange)
Lost River (Martin, Orange Counties)
Ohio River
Patoka River (Gibson, Pike Counties)
Pigeon River
Salamonie River

Sugar Creek (Johnson, Shelby Counties)
Tippecanoe River
Wabash River
White River Main channel (Gibson, Pike, Knox
Counties)
White River East Fork (downstream from Williams
Dam)

Appendix C:

Karst Region

Programmatic Coordination does NOT apply in the Karst Region where surface karst features will be affected, and Full Coordination is required.

Note: The existing Karst Agreement was developed between INDOT, USFWS, Indiana Department of Environmental Management (IDEM) and Indiana Department of Natural Resources (IDNR) to ensure the development of State highway projects evaluated and considered remediation for potential impacts to Karst features within the designated "Karst Region" of Indiana. The document is binding on the projects developed by INDOT and although recommended, it is not binding on local, LPA and/or city/county highway projects.

Karst regions are located within the following counties

Putnam
Morgan
Owen
Monroe
Greene

Martin
Lawrence
Orange
Dubois
Washington

Floyd
Harrison
Crawford

