

Instructions for Conducting Endangered Species Act Project Reviews in Michigan using IPaC

U.S. Fish and Wildlife Service
Michigan Ecological Services Field Office
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Under section 7 of the Endangered Species Act of 1973 (ESA), a Federal agency or its designated representative must determine whether their proposed projects may affect threatened and endangered species or designated critical habitat. In addition to the ESA, section 404 of the Clean Water Act of 1977 (CWA) regulates the discharge of dredged or fill material into waters (including wetlands) of the United States. Regulations require that activities permitted under the CWA (including wetland permits issued by the Michigan Department of Environment, Great Lakes, and Energy) do not jeopardize the continued existence of species listed as endangered or threatened.

The U.S. Fish and Wildlife Service (Service) developed the online Information for Planning and Consultation (IPaC) tool to help streamline the ESA review process. IPaC can assist users through the section 7 consultation process when a Federal agency authorizes, funds, permits, or carries out an action. Other project proponents without a Federal nexus may also use IPaC to review proposed projects for potential impacts to Federally-listed threatened and endangered species. The following instructions outline the process for how to use IPaC to obtain an Official Species List and use available assisted determination keys in order to help them make determinations on effects to listed species.

This guide is intended to help Federal action agencies or their designated representatives, project proponents, and consultants complete project reviews under the ESA and obtain official documentation to ensure that their proposed projects will be in compliance with the ESA. These instructions were developed by the U.S. Fish and Wildlife Service (USFWS)'s Michigan Ecological Services Field Office (MIFO) for projects located in the state of Michigan and may not be applicable to other states.

Process Overview and Summary

- 1) Define the Action and Action Area of your project
- 2) Obtain a Species List in IPaC
- 3) Evaluate effects to threatened and endangered (TE) species and designated critical habitat, using one of the following options:
 - a. Use Determination keys (Dkeys) in IPaC, if available and applicable, to evaluate effects to listed species, and/or
 - b. Evaluate the effects outside of IPaC
- 4) Additional consultation with the USFWS (when needed)

If you use a Dkey and your output letter indicates no further action is needed for all species, your TE review is complete (please note we will contact you within 30 days if we have questions about the project and also refer to the instructions in your letter if something about your project or potential effects to listed species changes). If you choose not to use available Dkeys, your project does not qualify for a Dkey, or your Dkey output letter indicates further action is needed for one or more species, you should continue on to another option in order to evaluate the effects of your

projects to those species. If you evaluate the details of your project and conclude “no effect,” document your findings, and your TE review is complete. If you cannot conclude “no effect,” you should coordinate/consult with the MIFO.

Step 1. Define the Action and Action Area of your Project

Before you begin working in IPaC, you need to consider the Action Area and “effects of the Action” as they are defined under the ESA’s regulations. The Action Area includes all areas to be affected directly or indirectly by the Action and not merely the immediate area involved in the Action (Figure 1). For example, for a culvert replacement that will change water-level elevations, the Action Area not only includes the areas where the culvert replacement will occur, but also the areas where water-levels will change. Other effects included in an Action Area are those that occur downstream of the immediate project boundary (e.g., areas affected by sedimentation, water quality changes, etc.). In another example, a construction project includes loud sounds. In this example, the Action Area encompasses all of the areas impacted by the sound. Lastly, the Action Area also includes areas that are used to help offset project impacts (e.g., areas where species are to be relocated, mitigation areas, etc.).

The Action Area is also determined by the “effects of the Action.” The effects include all consequences to listed species or critical habitat that are caused by the proposed Action, including the consequences of other activities that are caused by the Action but that are not part of the action. A consequence is caused by the proposed Action if it would not occur but for the proposed Action and it is reasonably certain to occur. Effects of the Action may occur later in time and may include consequences occurring outside the immediate area involved in the Action. For example, a Federal agency is funding work to improve roads in a remote area so that larger trucks can access an area for aggregate mining. The aggregate mining would not occur “but for” the proposed road improvements, and existing plans for the aggregate mining make it reasonably certain to occur. The aggregate mine is included in the Action Area, and any consequences to listed species or critical habitat caused by the mining would be considered within the effects of the Action when answering questions within IPaC.

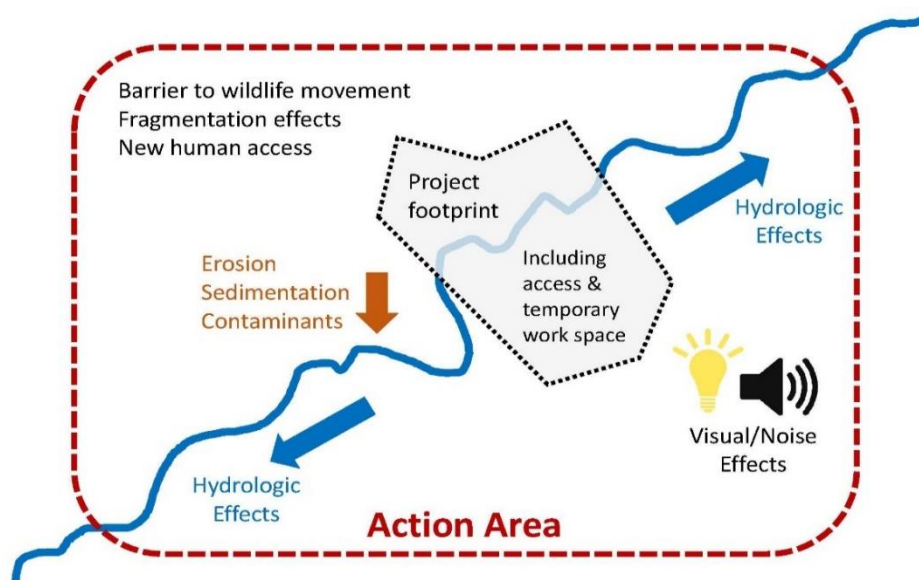


Figure 1. The Action Area includes the extent of direct and indirect impacts of the Action. Image credit to the Eliese Dykstra with the New England Ecological Services Field Office.

Step 2. Obtain an Official Species List

All Federal projects must request an official species list. Although this is not a requirement for non-Federal projects, we highly recommend generating an official species list for all projects (and we will require it should you need to reach out to USFWS about your project for any reason).

- Go to the IPaC website (<https://ipac.ecosphere.fws.gov/>). Select **GET STARTED**.
- You will be asked to define your project location (i.e., Action Area as described above). You can do this one of several ways:
 - Method 1: Use the **Find Location** box by entering an address or latitude and longitude (in decimal degrees). Then use the **Define Area** box by using the drawing tools to draw the boundary of your project area.
 - Method 2: You may use the **Upload Shape File** button if you have a GIS shape file of your project area using a .zip folder containing all necessary files.
 - Method 3: You may use the **Select by County** button if you are uncertain of your specific project location. You may also use the **Select by State** button for a general list of species statewide.
- Confirm your project location by selecting **Continue**. You may also select **Start Over** if you need to redefine your project location.

Once you have defined your project location, you will be taken to a page which provides information regarding the resources in the area. You can use the navigation on the left-hand side of the page to explore the resources present within your defined project area. Click on the species to learn more about it, including project design guidelines (for some species) and a description of suitable habitat.

In order to obtain an official species list to be used for official ESA review, follow the instructions below.

- Click **Define Project** on the left-hand side of the page.
- Log-in with your existing IPaC account or create an account in order to proceed.
- Create a **Project Name** using the following suggested naming convention. Suggested format is: Name of your agency or company, project proponent (if applicable), project name, project code and/or application/permit I.D. number (e.g., U.S. Army Corps of Engineer permit number or Michigan's Department of Environment, Great Lakes and Energy (EGLE) permit application number).
 - Ex 1: Big Tree Consulting, City of Big Trees, Happy Lane Development, EGLE permit HGYL-6789-FAKE1
 - Ex 2: Army Corps of Engineers, Big Development Company, Big Wetland Fill Project, PN 2022-01002
 - Ex. 3: NRCS, Smith Grassland Project, G678Smith
- For **Project Description**, be sure to include details on the various components of your project, timing, and duration. Please be sure your description addresses the full "effects of the Action" as described above in Step 1 (i.e., includes any applicable secondary actions). Include details on tree clearing, if applicable (e.g., how many trees or acres will be cut and during what date range). If there

is not enough detail entered for the project description, we will not be able to verify that your determinations are valid (so please be sure to enter sufficient details about your project).

- Click **Start Review** on the right-hand side of the page.
- Click **Continue** on the page which describes the steps of the ESA Review process.
- You will be prompted to request a species list. Click **Yes, Request A Species List**.
- Fill in all relevant **Contact Information**. Verify your project name, description, and location. Provide your lead agency and a project classification.
- Click **Submit Official Species List Request**.

This request will automatically generate a project tracking number (i.e., consultation code) for your project and will automatically generate an official letter from the USFWS which includes an official species list that is valid for 90 days. This letter will be sent to you at the e-mail address you provided with your IPaC account.

If you need to update the species list, select “**Need an updated species list?**” on the IPaC homepage page. You will need the consultation code and e-mail address used to request the original species list. The consultation code and e-mail address are listed in the official letter. You will get an updated species list under the same consultation code that makes project tracking easier.

Step 3. Evaluate Project for Potential Effects to Listed Species and Designated Critical Habitat

You will have two general ways you can approach evaluating the proposed project for effects to the species and critical habitat on your Species List: (1) IPaC Determination Keys or (2) Internal Evaluation Process. In some cases you may choose to use more than one option. For example, you might use a Determination Key for some species and an Internal Evaluation Process for others.

Option 1: Use an IPaC Determination Key (if available and applicable)

Determination Keys (Dkeys) are logically structured sets of questions designed to assist users in determining if a project qualifies for a pre-determined consultation outcome based on existing programmatic consultations or internal USFWS standing analyses. Qualifying projects can generate USFWS concurrence letters instantly through IPaC. Dkeys provide consistent and transparent outcomes, and significantly reduce the time to complete consultation for qualifying projects.

Three Dkeys are available for projects in Michigan. Please note that only one assisted determination key may be completed per species for each project, so you should carefully review the descriptions of all available determination keys to select the most appropriate key for your project. Completing a key for a species will disable other keys that cover the same species for your project.

In Michigan, **we recommend using the All-Species Michigan Endangered Species Dkey for projects in Michigan**. The Range-wide Northern Long-eared Bat Determination Key is integrated into the All-Species Dkey as an option. Federally-funded transportation projects may use the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects to assist in making a determination for listed bats, but additional consultation may be necessary for other species (see

Table 1).

Table 1. Description of Dkeys available in Michigan. Generally, the All-Species Michigan Determination key is your best option.

Name of key available in MI	Species covered	Types of projects that the key covers	Types of projects that do not qualify
All-Species Michigan Dkey	All listed, proposed, and candidate species in MI	Routine, small-scale projects in some areas of Michigan may be able to get concurrence if applicants agree to certain conservation measures for some species. Includes federal transportation projects and projects with potential effects to northern long-eared bat (NLEB).	Wind energy development; aerial or other broad application of chemicals; large groundwater withdrawals; long-term (i.e., greater than 10 years) permits (e.g., FERC hydropower licenses)
FHWA, FRA, FTA Programmatic Consultation for Transportation Projects	Indiana bat and northern long-eared bat (NLEB)	Federal transportation projects with potential effects to listed bats. Note that this key does not cover other Federally listed species that may be affected by project activities. Therefore, additional consultation or coordination may be necessary for other species.	Projects other than Federally funded or authorized transportation projects
Range-wide Northern Long-eared Bat Dkey	Northern long-eared bat (NLEB)	Projects with potential effects (e.g., tree clearing) to NLEB. Note that this key is integrated within the All-Species Michigan Determination Key. Therefore, if your species lists includes more species than just NLEB, use the All-Species Michigan Dkey instead.	Intentional take of any species, wind energy development
Draft Range-wide Northern Long-eared and Tricolored Bat Dkey	Northern long-eared bat (NLEB) and tricolored bat (TCB)	Projects with potential effects (e.g., tree clearing) to NLEB and TCB. Note that if finalized, this key will be integrated within the All-Species Michigan Determination Key. Therefore, if your species lists includes more species than just NLEB and TCB, use the All-Species Michigan Dkey instead.	Intentional take of any species, wind energy development

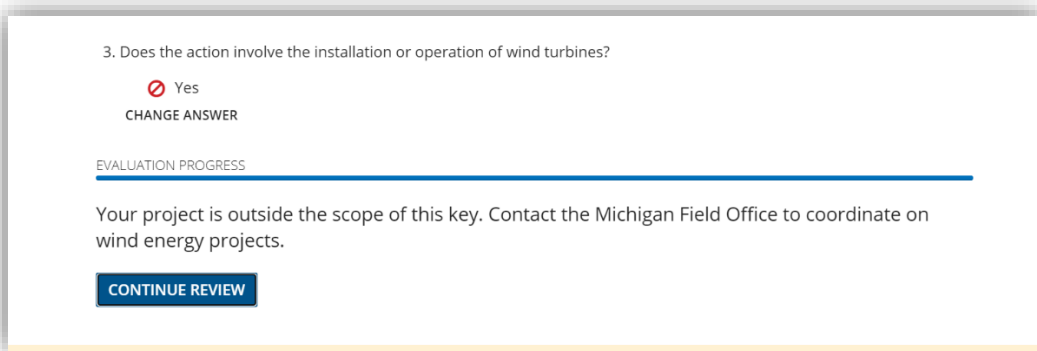
To use a Dkey, follow the instructions below:

- After requesting a species list, you can click **Next Step: Determination Keys**. Or, from

the **Project Home**, Click **Start Review**.

- Select **Evaluate** for the appropriate Dkey
- Review the key description and click **Check If My Project Qualifies**

You will be asked Qualification Interview questions to determine whether the key applies to your project. The Dkey will ask you a series of yes/no questions. Select the appropriate radio button to indicate your response. If you make an incorrect selection, you can click on Change Answer to go back and change your response. If you answer questions that indicate the key does not apply, you will be notified that your project is outside the scope of the key and will not be allowed to continue (Figure 2).



3. Does the action involve the installation or operation of wind turbines?

Yes
CHANGE ANSWER

EVALUATION PROGRESS

Your project is outside the scope of this key. Contact the Michigan Field Office to coordinate on wind energy projects.

CONTINUE REVIEW

Figure 2. Screenshot example of a project that does not qualify for a Dkey. For this key, projects involving the installation or operation of wind turbines do not qualify and must consider impacts to threatened and endangered species outside of the Dkey.

If your project qualifies for the Dkey, you will also be asked questions to help you reach an effects determination for species that are on your species list and covered by the key. You may be offered conservation measures to help avoid adverse effects to listed species. Continue to answer yes/no questions about your project, including whether you are willing to agree to conservation measures. For some questions, you can click on hyperlinks or hover over underlined text to get additional clarification. Some questions, called “semantic questions”, are answered for you automatically based on previous input or spatial data embedded within the Dkey.

After you finish answering questions about your project, you will be given a preliminary determination for species covered by the Dkey. IPaC can then generate a letter for your records with the determinations and copy of all of the questions and answers about your project.

- Select **Generate Letter** to receive a copy of the letter. At any time from your **Project Home Page**, you can view the species list and letter in **Documents**.

There are five types of letters that can be generated by a Dkey (Table 2), depending on the species in your action area and the determinations you get. “No effect” and “not likely to adversely affect (NLAA)” determinations will generate letters that document your ESA compliance. Be advised that some letters may require a verification period (i.e., if there is a Federal nexus).

If you receive a “**May Affect (MA)**” determination, review your letter carefully. There are 2 types of “May Affect” letters: 1) MA Consistency and 2) MA Verification letters. For MA Consistency letters, a “MA” determination means that you could not get to a “NLAA” or “no effect” determination using the automated system. This could be because 1) based on the nature of your

project or its location, a project-level review is needed, 2) you didn't agree to conservation measures offered for listed species on your species list, or 3) there is a potential for impacts that need further evaluation. For MA verification letters, the "may affect" determination applies to a candidate or proposed species, or a non-essential experimental population, and no additional action is needed for ESA compliance.

Your Dkey output letter will record how you answered each question and include your responses at the end of your letter. The All-Species Michigan Dkey output letters also include a summary of conservation measures section.

The Michigan Field Office receives copies of all IPaC-generated output letters. We routinely review all NE ("no effect") Consistency, NLAA Consistency, NLAA Concurrence, and MA Verification letters. A biologist will reach out to the project proponent within 30 days via email (from MIFO_Dkey@fws.gov) if we have questions about the project description, answers to question, or determinations. If the project proponent does not respond to our timely request for additional information, we consider the IPaC-generated letter invalid. **We do not routinely review MA Consistency letters.** The MA Consistency letter provides instructions on next steps, i.e., please reach out to MIFO_Dkey@fws.gov with a copy of your IPaC-generated MA Consistency letter and ask for assistance with your project. They will advise you on why you received a "may affect" determination and next steps to conclude consultation.

If you have enough information to conclude "**no effect**" for those species for which you received a "**may affect**" determination, you may do so using [Option 2, Make a Determination on Your Own](#). For example, if the project area does not have suitable habitat for a listed species and there are no potential indirect effects (e.g., changes to hydrology), then "no effect" is the appropriate determination. USFWS concurrence is not required for "no effect" determinations.

If you have site-specific information that leads you to believe another determination is more appropriate for your project (i.e., there are important aspects of your project that were not fully evaluated by the Dkey), you can and should proceed based on the best available information.

If additional coordination with MIFO is needed ([See Step 4](#)), please include a copy of your letter in your correspondence with our office as it will help expedite our review of your project. If you have questions specific to the All-Species Michigan Dkey, send questions to MIFO_Dkey@fws.gov.

Finally, remember that if your project doesn't qualify for a determination key, or if you prefer for any reason, you can proceed to [Option 2, Make a Determination on Your Own](#).

Table 2. Five types of letters generated by the All-Species Michigan Determination Key. The MA Consistency letters are the only letters that the Michigan Field Office does not routinely audit/review, and the only one for which additional effort is required.

File name	Subject line	Comments
NE Consistency Letter_ Michigan Federal Endangered Species Determination Key DATE	Subject: Consistency letter for PROJECT NAME	NE determination for all species/critical habitats. No additional action is needed.
NLAA Consistency Letter_All Species Michigan Determination Key DATE	Subject: Consistency letter for PROJECT NAME	Non-Federal projects; NLAA or NE determination for all species/critical habitats. No additional action is needed.
NLAA Concurrence Letter_ All Species Michigan Determination Key DATE	Subject: Verification letter for PROJECT NAME	Federal project; NLAA or NE for all species/critical habitats. 30-day verification period.
MA Verification Letter_ All Species Michigan Determination Key DATE	Subject: Verification letter for PROJECT NAME	NE or NLAA for all listed species/critical habitats; candidate or experimental populations get MA. No additional action is needed. 30-day verification period.
MA Consistency Letter_All Species Michigan Determination Key DATE	Subject: Consistency letter for PROJECT NAME	Dkey could not provide automated clearance for at least one species; section 7 consultation NOT complete for projects with Federal nexus. Not reviewed by MIFO automatically depending on workload.

Reinitiation instructions and how to update Dkey letters:

The Service recommends that you [contact our office](#) or re-evaluate the project in IPaC if the scope or location of the project is changed; new information reveals that the Action may affect listed species or designated critical habitat in a manner or to an extent not previously considered; the Action is modified in a manner that causes effects to listed species or designated critical habitat; or a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with our office should take place before project changes are final or resources committed.

To update your analysis to include new information about your project, follow these instructions:

- From the **Project Home** screen in IPaC, select **Resume Review** button on right side of screen.
- Select **Evaluate Determination Keys** link.
- Click the **View/Modify** button under the completed Determination Key.
- Scroll to the end of the questions and select **Change Answers** to modify your previous responses. When prompted, click the **Yes, Invalidate Documents** button.
- Find the first question that you need to change your answers to and select **Change Answer** under the question. You will need to answer subsequent questions again, and IPaC will generate a new letter based on your current responses (your previous letter is no longer valid).
- For additional information on updating your Dkey output letter, including information on versioning, click [here](#).

Beta/testing environment:

IPaC has two platforms available for action agencies to use: production (or live) IPaC and beta IPaC. Production IPaC is found at <https://ipac.ecosphere.fws.gov/> and is intended to be used for real projects where the action agency is ready to analyze a project and send official documents to USFWS. On production IPaC, Official Species Lists and Dkey documents are automatically sent to the local field office for their review and are logged in USFWS's internal project tracking system.

Beta IPaC is found at <https://ipacb.ecosphere.fws.gov/> and is intended to be used for testing and training. Beta IPaC has the same functionality as production IPaC, but no official correspondence is created or distributed. Beta IPaC is highly recommended for new users or users who want to test different options in the system. Beta-generated documents cannot be used for official correspondence or project determinations and should only be used for testing. The version in beta is similar to the production version (but not always identical); only the production version should be used for project review.

USFWS offers several on-demand IPaC and ESA section 7 training videos. Links are available through the IPaC homepage (<https://ipac.ecosphere.fws.gov/>) under "Helpful Videos."

Note about IPaC's Consultation Package Builder:

In IPaC, after evaluating Dkeys, you may be given the option of using the Consultation Package Builder (CPB). The CPB, IPaC's newest functionality, is an interactive, step-by-step process that helps IPaC users prepare full consultation packages while leveraging USFWS data and recommendations, including conservation measures designed to help users avoid or minimize effects to listed species.

For projects in Michigan, we recommend using our available All-species Michigan DKey. Because of the availability of this Dkey, **we do not recommend using the CPB at this time** (Figure 3).

After completing a Dkey, you can click **Exit Review** to return to your **Project Home**.



Figure 3. Recommended workflow in IPaC for Michigan. Complete steps one and two. At step three, click "Exit Review". We do not recommend continuing with the Consultation Package Builder unless otherwise advised by the Michigan Field Office.

Option 2: Apply Internal Evaluation Process (i.e., make a determination on your own)

Once you obtain your official species list, you are not required to continue in IPaC, although in most cases using a Dkey should expedite your review. If you choose to make an effects determination on your own, you may do so. If the project is a Federal action, you should review our [section 7 step-by-step instructions](#) before making your determinations.

Step 4: Additional Consultation with USFWS (when required)

When a project may affect listed species or designated critical habitat, and you do not have a Dkey output that indicates no further consultation is needed, then consultation with USFWS will be required for any actions with a Federal nexus. In addition to the ESA, regulations require that activities permitted under the Clean Water Act, including wetland permits issued by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) not jeopardize the continued existence of species listed as endangered or threatened. EGLE may require documentation from the USFWS regarding potential impacts to listed species as part of their permit application process. For projects without a Federal nexus that may adversely affect a listed species, please contact our office to assist you in determining recommended next steps.

When additional consultation with USFWS is required, the preferred method for submitting your project description and effects determination (if concurrence is needed) is electronically to EastLansing@fws.gov. Please submit your IPaC-generated species list with your request, the name of anyone at our office with whom you may have corresponded on the project, and any IPaC-generated Dkey output letters. After submitting your project electronically to this email address, your project will be assigned to a biologist, and the review process will be initiated. When inquiring about the status of your project, please include the Consultation Code from your IPaC letter.

Information Needed for Consultation with USFWS (50 CFR 402.14(c)(1))

- (i) A description of the proposed action, **including any measures intended to avoid, minimize, or offset effects of the action.** Consistent with the nature and scope of the proposed action, the description shall provide sufficient detail to assess the effects of the action on listed species and critical habitat, including:
 - (A) The purpose of the action;
 - (B) The duration and timing of the action;
 - (C) The location of the action;
 - (D) The specific components of the action and how they will be carried out;
 - (E) Maps, drawings, blueprints, or similar schematics of the action; and
 - (F) Any other available information related to the nature and scope of the proposed action relevant to its effects on listed species or designated critical habitat.
- (ii) A map or description of all areas to be affected directly or indirectly by the Federal action, and not merely the immediate area involved in the action (i.e., the Action Area as defined at 50 CFR 402.02).
- (iii) Information obtained by or in the possession of the Federal agency and any applicant on the listed species and designated critical habitat in the Action Area (as required by paragraph (c)(1)(ii) of this section), including available information such as the presence, abundance, density, or periodic occurrence of listed species and the condition and location of the species' habitat, including any critical habitat.

- (iv) A description of the effects of the action and an analysis of any cumulative effects.
 - (v) A summary of any relevant information provided by the applicant, if available.
 - (vi) Any other relevant available information on the effects of the proposed action on listed species or designated critical habitat, including any relevant reports such as environmental impact statements and environmental assessments.
- (2) A Federal agency may submit existing documents prepared for the proposed action such as NEPA analyses or other reports in substitution for the initiation package outlined in this paragraph (c). However, any such substitution shall be accompanied by a written summary specifying the location of the information that satisfies the elements above in the submitted document(s).

FWS Michigan Field Office Contact Information

If you are following up with a question on a Determination key letter or a specific determination, contact MIFO_Dkey@fws.gov. The person monitoring this mailbox can help you understand how to use the Dkey and answer questions about a Dkey output letter.

If you were unable to use a Dkey or need to request concurrence on a “not likely to adversely affect” determination, contact EastLansing@fws.gov. They will assign your project to an available biologist to follow up with you. Please include your species list or ECOSphere Project code.

Use the MIFO_Dkey@fws.gov mailbox: For questions related to a Dkey output letter or how to use the Dkey

Use the EastLansing@fws.gov mailbox: For assistance outside of a Dkey; for requests for concurrence on NLAA determinations; if advised to do so by the MIFO_Dkey@fws.gov mailbox

Frequently Asked Questions (FAQs) about the All-Species Michigan Determination Key

What do I do if my project doesn't qualify to use the All-Species Michigan Dkey?

If your project doesn't qualify for the All-Species Michigan Dkey, you can use other available Dkeys, but you will have to consider other species on your species list separately. For those species not covered by available Dkeys, we recommend you make a determination on your own following the instructions [above](#). If you need assistance, please reach out to EastLansing@fws.gov.

What do the determinations mean?

No effect (NE) means there will be no impacts, positive or negative, to Federally-listed species or designated critical habitat from the proposed Action.

Not likely to adversely affect (NLAA) means that all effects to Federally-listed species or designated critical habitat from the proposed Action would be insignificant, discountable, and/or completely beneficial. For projects with a Federal nexus, there is a 30-day "verification" period for NLAA determinations when using the All-Species Michigan Dkey; after 30-days, if you do not hear otherwise from our office, you can assume our concurrence. Concurrence on NLAA determinations outside the All-Species Michigan Dkey can take up to 60 days.

May affect (MA) means that the Dkey could not rule out the potential for adverse effects. In some cases (i.e., MA Verification letters), no additional ESA compliance is needed because the species that received the MA determination are candidate or proposed species, or a non-essential experimental population. Other times, additional coordination/information is required in order to complete the review (i.e., MA Consistency letters).

What if I think the project will have "no effect" on listed species? Should I answer "no" to the first question in the Dkey? What does "any possible effects" mean?

If you have enough information to conclude the project will have "no effect" on listed species, you can make a "no effect" determination. USFWS concurrence is not required for "no effect" determinations. Remember that very small or highly unlikely effects are defined by the ESA's regulations as "not likely to adversely affect" instead of "no effect" (see definitions above). If the project area does not have suitable habitat for a listed species and there are no potential indirect effects (e.g., changes to hydrology), then "no effect" is the appropriate determination. We do not provide concurrence on no effect determinations. If you are making a "no effect" determination, we recommend that you document your determination and rationale for your records.

If you would like an official letter from USFWS (or need compliance documentation for an application or funding opportunity), and if you are unsure whether there could be any effects (including those that are insignificant, discountable, or beneficial), we recommend you answer yes to the first question (see below) in the All-Species Michigan Determination Key. You may

be able to get a NE Consistency letter by answering questions about your project and whether suitable habitat is present (depending on your project location).

If you answer no to question 1, you will not be able to get a letter from our office, but you can still document your “no effect” determination and rationale for your records. In this case, do not print a screenshot from IPaC that shows that our Dkey does not apply to your project; this only indicates that you are not using our Dkey to assist you in making an effects determination (it does not document your “no effect” determination). Instead, we recommend you add a note to the file documenting the lack of suitable habitat or other rationale to support your “no effect” determination.

Question 1: Are there any possible effects to any listed species or to designated critical habitat from your project or effects from any other actions or projects subsequently made possible by your project? Select "Yes" even if the expected effects to the species or critical habitat are expected to be 1) extremely unlikely (discountable), 2) can't meaningfully be measured, detected, or evaluated (insignificant), or 3) wholly beneficial. Select "No" to confirm that the project details and supporting information allow you to conclude that listed species and their habitats will not be exposed to any effects (including discountable, insignificant, or beneficial effects) and therefore, you have made a "no effect" determination for all species. If you are unsure, select YES to answer additional questions about your project.

Why can't I get a “no effect” letter for my project in an already-developed area?

We updated our Dkey in late 2021 to remove the “already-developed area” questions that previously gave no effect determinations for all species. We made this update because people were misinterpreting our meaning of “already-developed area”, leading to incorrect determinations. There is suitable habitat for listed species in some areas that might mistakenly be considered “already-developed”. For example, listed mussels might occur in a stream or river flowing through a city. We tried revising the language and eventually decided to remove these questions. As described in previous FAQs, you can still use our Dkey to assist you in making a “no effect” determination by answering yes to the first question in the Dkey and answering subsequent questions about your project.

Who do I email if I need more help?

If you have a Dkey question for a Michigan project, email MIFO_Dkey@fws.gov. For concurrence requests by a Federal agency or for technical assistance outside of a Dkey, please email EastLansing@fws.gov and include your official species list.

Reaching out to MIFO_Dkey@fws.gov or EastLansing@fws.gov will ensure your project is properly tracked and assigned. Please do not reach out to multiple biologists in our office on the same project. Reaching out to multiple people causes duplication of effort and will delay our response. The MIFO_Dkey@fws.gov or EastLansing@fws.gov mailboxes will assign and forward your request to a biologist who can assist you, if necessary.

Should I generate a letter if I reach a preliminary determination of “may affect”?

Yes. After answering questions in the All-Species Michigan Dkey, if you reach a preliminary determination of may affect (Figure 1), please proceed by clicking **Save and**

Continue and Generate Letter. If the species for which you received a MA determination are candidate or proposed species, or a non-essential experimental population, you will receive a MA Verification letter and typically no additional coordination is required. See the next question/answer if you receive a MA Consistency letter.

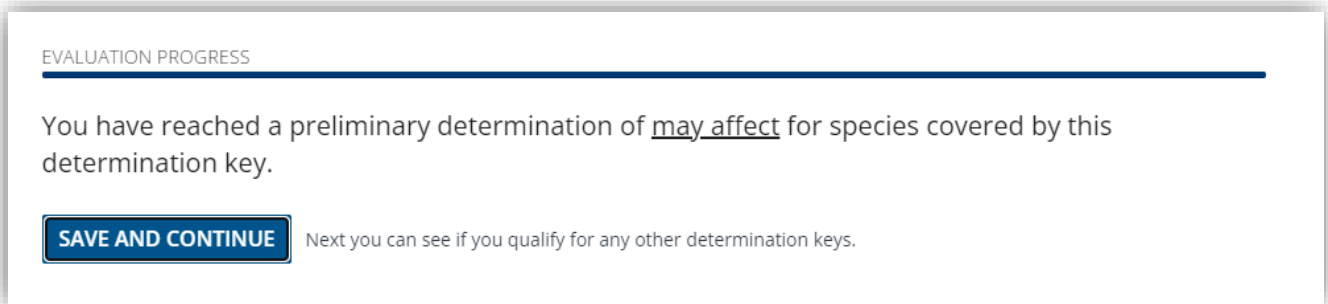


Figure 1. Screenshot showing the prompt when a preliminary determination of may affect has been reached. Don't panic. Click save and continue to generate your letter.

What do I do if I get a MA Consistency Letter?

If you receive a MA Consistency letter, it means that at least one species was not able to conclude ESA review using the All-Species Michigan Dkey. The MA Consistency letter provides instructions on next steps. Please reach out to MIFO_Dkey@fws.gov with a copy of your IPaC-generated MA Consistency letter and ask for assistance with your project. They will advise you on why you received a “may affect” determination and next steps to conclude consultation. Although the Michigan Field Office reviews all other types of letters generated by the All-Species Michigan Dkey, we generally only provide assistance on MA Consistency letters if you reach out to us and ask for help.

Why do you have to have 30 days before project implementation for the project to qualify to use the All-Species Michigan Determination Key?

Endangered species consultation must be completed before taking any action that may have effects to listed species. The Service needs 30 days to review projects before we can verify conclusions in some Dkey output letters. Therefore, the All-Species Michigan Dkey is only applicable if the project has not yet started and with a 30-day review (or verification) period, to allow for conclusion of the section 7 consultation process. For urgent matters that require assistance more quickly, reach out to EastLansing@fws.gov.

What do I need to do for listed bats in Michigan?

Use the All-Species Michigan Dkey, which integrates the Range-wide Northern Long-eared Bat key to enable effects to northern long-eared bat to be evaluated simultaneously with other listed species on your species list. If the tricolored bat (currently proposed for listing as endangered) is Federally listed as endangered, the Draft Range-wide Northern Long-eared and Tricolored Bat Dkey will also be integrated into the All-Species Michigan Dkey. Using the All-Species Michigan Dkey will give you the best available options and greatest flexibility in terms of conservation measures to avoid impacts to listed bats. You can also use the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects Determination Key for transportation projects, if applicable, although you will have to consider other species (if on

your species list) separately. Note that the All-Species Michigan Dkey does cover effects to Federal transportation projects and is also an option for projects funded, authorized, or carried out by the FHWA, FRA, or FTA.

If I used the Range-wide Northern Long-eared Bat Dkey to evaluate effects to northern long-eared bat, can I use the Michigan All-Species Dkey to evaluate effects to other listed species/critical habitats?

No; when you complete a Dkey, all other keys covering the same listed species/habitats are disabled. The only available Michigan key that allows users to simultaneously evaluate effects to all listed species and critical habitats is the All-Species Michigan Dkey. If you completed a different key and wish to complete the All-Species Michigan Dkey instead, we recommend that you delete your previous evaluation in order to enable use of the All-Species Michigan Dkey.

To delete a previous Dkey evaluation:

- From the **Project Home** screen in IPaC, select **Resume Review** button on right side of screen
- Select the **Delete Evaluation** button
- Reevaluate your Project using the preferred Dkey. You will have to start over by answering all questions again and generating a new letter.

Why did I get different determinations for Indiana bat and northern long-eared bat using the All-Species Michigan Dkey?

There are several possible reasons you may have received different determinations for the listed bats. One possibility is that your answers to the Dkey questions indicated the presence of potential habitat for one species and not the other, as the definitions of suitable habitat differ slightly between the two species. Another possibility is that you received an “interim consultation period” determination for northern long-eared bat. On March 31, 2023, the northern long-eared bat was reclassified from a threatened species to an endangered species (87 FR 73488, 88 FR 4908). This reclassification changed the northern long-eared bat’s protections under the ESA, removing the previous 4(d) rule, as these can only be applied to threatened species. As with the Indiana bat, unpermitted take of northern long-eared bat occurring on or after March 31, 2023, is now prohibited by section 9 of the ESA. To assist with the transition from the 4(d) rule, the Service developed an [Interim Consultation Framework](#) that considers projects that are consistent with the 4(d) rule. The Interim Consultation Framework and associated Standing Analysis only consider and address the effects of covered actions that are expected to occur from March 31, 2023, until April 1, 2024; however, we are extending the interim northern long-eared bat tools and guidance until summer 2024 (at which time we expect final tools to be issued). The new tools will be posted on the Service’s Northern Long-eared Bat page.

Your project may be consistent with a “not likely to adversely affect” (NLAA) determination under the Interim Consultation Framework regardless of the specific conservation measures you plan to implement for bats, depending on the location of your project. Please note that if new information about your action indicates listed bats may be present and adversely affected in a manner not previously considered, you should reinitiate consultation with our office. For

more information on how to avoid adverse effects to listed bats, please refer to the guidance available on the Service's [Northern Long-eared Bat page](#).

Will my NLAA determination for northern long-eared bat remain valid after the Interim Consultation Period is over?

The northern long-eared bat Interim Consultation Framework and associated Standing Analysis only consider and address the effects of covered actions that are expected to occur from March 31, 2023, until April 1, 2024 (and extended until summer 2024 when final tools are issued). Depending on final USFWS guidance for the northern long-eared bat, reinitiation may be required for projects extending beyond summer 2024 that previously received a NLAA determination for the species (either through the All-Species Michigan Dkey or the Range-wide Northern Long-eared Bat Dkey).

If you completed the All-Species Michigan Dkey and your project activities will continue after April 1, 2024, we recommend that you refer to the language in your autogenerated letter to determine whether reinitiation of consultation for the northern long-eared bat may be necessary. If your letter includes information on the northern long-eared bat Interim Consultation Framework, we recommend reaching out to this office to inquire about the need for reinitiation. If you received a NLAA determination for the northern long-eared bat using the All-Species Michigan Dkey and your letter does not include information on the northern bat Interim Consultation Framework, reinitiation is unlikely to be required. In other words, due to the agreed-upon conservation measures (e.g., timing restrictions on cutting potential northern long-eared bat roost trees), your NLAA determination remains valid after the Interim Consultation Period is over). If you received an NLAA determination for Indiana bat, your NLAA determination for northern long-eared bat remains valid after the Interim Consultation Period is over.

If you received an automated NLAA determination through the Range-wide Northern Long-eared Bat Dkey during the interim consultation period, and your project will continue after summer 2024, you may have received an email from MIFO_Dkey@fws.gov about the potential need to reinitiate consultation. We recommend that you contact this office to determine if reinitiation for the northern long-eared bat may be required.

When should a Federally-funded transportation project use the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects Dkey instead of the All-Species Michigan Dkey?

For most transportation projects, we recommend using the All-Species Michigan Dkey since it will assist you in making determinations for all species on your official species list. Some federally-funded transportation projects may prefer to use the FHWA, FRA, FTA Programmatic Consultation for Transportation Projects Dkey. The FHWA Dkey may be the best option for Federally-funded transportation projects that only wish to consult on listed bats and have made no effect determinations for all other species on their official species list. This Dkey may also be preferable if your project will have adverse effects to Federally listed bats and you wish to mitigate for those impacts through the use of the [Range-Wide Indiana Bat and](#)

[Northern Long-Eared Bat In-Lieu Fee Program](#). Please [reach out to our office](#) if you are unsure which Dkey is appropriate for your project.

For projects replacing or modifying bridges or culverts, when is a structure assessment recommended?

The Michigan Field Office recommends bridge assessments be conducted before bridge work on suitable bridges and culverts in Michigan. Suitable bridges include those located below the third county tier of Michigan, within 1,000 feet of suitable forested habitat, and that contain suitable roosting spaces (e.g., expansion joints, cracks/crevices). We consider suitable culverts to be box culverts 5 – 10 feet tall, 300 feet or longer, located below the third county tier of Michigan, within 1,000 feet of suitable forested habitat, and that contain suitable roosting spaces. If you are doing bridge or culvert work on a suitable structure during the active season for bats, you will need a structure assessment to get concurrence through the Michigan Dkey. If work is taking place during the inactive season and will not modify roosting spaces, or if a bridge or culvert doesn't meet the definition of suitable, then an assessment for bats would not be necessary to get concurrence through the Michigan Dkey. In Michigan, we recommend structure assessments occur during the summer roosting season, from May 15 – August 15. [Guidance](#) and [survey forms](#) for structure assessments are available on our [website](#).

What happens when the status of a species changes? Do I need to update my determination key evaluation?

50 CFR §402.16 directs federal agencies that reinitiation of consultation is required and shall be requested by the Federal agency or by the Service, where discretionary Federal involvement or control over the Action has been retained or is authorized by law and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency Action that may affect listed species or critical habitat in a manner or to an extent not considered; (3) the agency Action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered; or (4) a new species is listed or critical habitat designated that may be affected by the Action.

Similarly, for non-Federal projects, we would recommend project proponents make a determination as to whether your ongoing project is reasonably certain to result in incidental take of any listed species, including newly listed species.

For a species to be listed as threatened or endangered under the ESA, the FWS must first publish a proposed rule. Proposed species are generally included in our All-Species Determination Key. We recommend considering proposed species during project planning so that reinitiation is not needed if a final rule listing the species is published. If you received an NE or NLAA determination in your IPaC-generated letter for a proposed species, and there is no new information or circumstance that meet the reinitiation triggers, then no additional action is needed.

In summary, the Service recommends that you [contact our office](#) or re-evaluate the project in any of the reinitiation triggers are met, including the publication of a final rule listing a species or designated critical habitat; or reclassification of a species from threatened to endangered as needed.

How often is the All-Species Michigan Determination key updated?

We update it regularly, as needed, to ensure it provides an accurate analysis and appropriate determinations. When new species are listed, or a species' status changes, we update the Dkey to reflect those changes. You can check the release date for the Dkey in in your IPaC-generated letter in the footer section, or in step 2 **Evaluate determination keys** in IPaC, under the name of the determination key (Figure 2).

The Endangered Species Act does not establish protections or consultation requirements for candidate species. Some Federal and State agencies may have policy requirements to consider candidate species in planning. We encourage implementing measures that will remove or reduce threats to these species and possibly make listing unnecessary. Please refer to our recommendations in the Monarch and Pollinators section, below.

Bald and Golden Eagles:

Bald eagles, golden eagles, and their nests are protected under the Bald and Golden Eagle Protection Act (54 Stat. 250, as amended, 16 U.S.C. 668a-d) (Eagle Act). The Eagle Act prohibits, except when authorized by an Eagle Act permit, the "taking" of bald and golden eagles

DKey Version Publish Date: 11/30/2023

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Endangered Species Act Review

← BACK EXIT REVIEW

- 1 Request an official species list Skipped — 2 Evaluate Determination Keys — 3 Analyze project (optional) — 4 Download documentation

Step 2: Evaluate determination keys

The U.S. Fish and Wildlife Service has performed up-front analyses for certain project types, agencies, and species. The analyses have been compiled into *determination keys*, a simple interview process to help you arrive at a recommended determination for some species in your project area.

Any single species or critical habitat may only have a single effect determination. Once a species or critical habitat has been covered through use of a DKey, other DKeys covering that same species or critical habitat will be unavailable and greyed out.

- All Species Michigan Determination Key

Release date: April 18, 2024

This key is intended to streamline review of projects for potential effects to Federally listed threatened and endangered species and designated critical habitat. This key covers all Michigan species and incorporates the rangewide NLEB dkey as an option.

EVALUATE

SKIP / DOES NOT APPLY

Figure 4. Two screenshots showing Dkey version or release date. Top shows a Dkey output letter with the footer indicating release date; in IPaC; you can also see the Dkey release date on the Step 2 overview page.

When do I need to update my IPaC-generated Dkey letter? How do I update it?

The Service recommends that you [contact our office](#) or re-evaluate the project in IPaC if the scope or location of the project is changed; new information reveals that the Action may affect listed species or designated critical habitat in a manner or to an extent not previously considered; the Action is modified in a manner that causes effects to listed species or designated critical habitat; or a new species is listed or critical habitat designated. If any of the above conditions occurs, additional consultation with our office should take place before project changes are final or resources committed.

Change/Modify (using these instructions will preserve the version of the Dkey from when you initially entered your project)

To update your analysis to include new information about your project, follow these instructions:

- From the **Project Home** screen in IPaC, select **Resume Review** button on right side of screen.
- Select **Evaluate Determination Keys** link.
- Click the **View/Modify** button under the completed Determination Key.
- Scroll to the end of the questions and select **Change Answers** to modify your previous responses. When prompted, click the **Yes, Invalidate Documents** button.
- Find the first question that you need to change your answers to and select **Change Answer** under the question. You will need to answer subsequent questions again, and IPaC will generate a new letter based on your current responses (your previous letter is no longer valid).

There are times when you will want to use the most current and updated version of the Dkey (e.g., when a new species is listed that was not previously considered). To do this, you will have to delete your previous Dkey evaluation.

Delete Previous Evaluation (using these instructions will update the version of Dkey to the current one)

- From the **Project Home** screen in IPaC, select **Resume Review** button on right side of screen. You may have to select “Evaluate Determination key” hyperlink. Then click on the **View/Modify** button for the key you initially used.
- Scroll to the bottom of the next page. Select the **Delete Evaluation** button (Figure 3)
- Reevaluate your Project using the newer version of the Dkey. You will have to start over by answering all questions again and generating a new letter.

32. The tricolored bat was proposed for listing as endangered on September 13, 2022. In Michigan, the tricolored bat was rare pre-white nose syndrome (WNS) and is exceedingly rare post-WNS. The species has been observed in 12 Michigan counties to date, largely during the fall or winter. With very few exceptions, the species has not been observed in Michigan in the summer months, and no maternity colonies have been found. During winter, tricolored bats hibernate in caves, abandoned mines, and abandoned tunnels ranging from small to large in size. During spring, summer and fall months, they roost primarily among leaf clusters of live or recently dead deciduous/hardwood trees.

Are you making a no effect determination on this project for the tricolored bat?

Yes

CHANGE ANSWERS

Conservation measures

CM_42

Listed bats: The action will not include temporary or permanent lighting of roadway(s), facility(ies), and/or parking lot(s).

Determination result

You have reached a determination of may affect - not likely to adversely affect based on this determination key. Review the guidance below and request USFWS concurrence for this project.

Based on the answers provided, the proposed Action is consistent with a determination of "may affect, but not likely to adversely affect" for at least one species as outlined in the U.S. Fish and Wildlife Service's Michigan Determination Key for project review and guidance for federally listed species.

VIEW CONCURRENCE LETTER

If you no longer wish to use this key for your project, you can delete your evaluation. This will make the concurrence letter created as part of this evaluation no longer valid, but it will still be accessible on the [documents](#) page.

DELETE EVALUATION

RETURN TO DETERMINATION KEYS

Figure 3. Screenshot of 2 options to update a Dkey letter. Change Answers will allow you to change your answers (and preserves the existing version of the key), whereas Delete Evaluation will update the version -- but you will have to start over.

Why do I get different questions when I enter new projects?

The All-Species Michigan Determination Key leverages spatial data to ensure the user gets the questions that are applicable to their project area. Depending on where your project occurs, and what the project includes, you will get questions unique to those circumstances.

It is also possible that the Dkey has been updated since you last entered a project, e.g., the underlying logic has changed based on new information, or there are new questions because a new species has been listed. You can check the release date for the Dkey in IPaC in step 2 **Evaluate determination keys** in IPaC, under the name of the determination key, or in an IPaC-generated letter (also shown above in Figure 2).

Is my project (e.g., solar panel installation, development of a land management plan) considered a long-term project?

Question 3 asks “*Is the action the approval of a long-term (i.e., in effect greater than 10 years) permit, plan, or other action? (e.g., a new or re-issued hydropower license, a land management plan, or other kinds of documents that provide direction for projects or actions that may be conducted over a long term (>10 years) without the need for additional section 7 consultation).*”

The intent for this question is getting at projects that will be implemented over a long period of time, such as a new or reissued hydropower license. Those licenses are issued covering a long timeframe, and due to complexity and duration, require consultation outside of a determination key.

Solar panel installation is considered a long-term project if you are continuously expanding the project over a period greater than 10 years (i.e., if you’re adding 10 acres of new panels to your project area every 10 years over a 50-year period). Routine maintenance and upkeep of existing solar panels over a period of ten years or greater is not what we mean by a long-term project.

For land management plans, we expect Federal agencies to consult in the future on implementation of the actions within the management plan (because this, too, is a federal action). If the action agency is developing a plan for a private landowner, with no expectation of a future Federal nexus for implementation, the Federal action agency can answer the questions in the Dkey assuming all actions will be implemented and agreeing to all relevant conservation measures for implementation to ensure proper ESA compliance related to their management plan (i.e., implementation would not occur *but for* the writing of the management plan).

Does my project have a Federal nexus?

A project has a Federal nexus if it is funded, authorized, or carried out by a Federal agency. The Endangered Species Act requires action agencies to consult or confer with the Service when there is discretionary Federal involvement or control over the action, whether apparent (issuance of a new federal permit), or less direct (state operation of a program that retains federal oversight, such as the National Pollution Discharge Elimination System Program).

Why does the FWS recommend using wildlife-friendly erosion control materials?

Some commonly used erosion control blankets have a layer of plastic mesh to provide stability. This plastic mesh can harm wildlife and degrade into microplastics that in up in aquatic habitats.

Wildlife safe materials are those that are 100% biodegradable, made from natural fibers, and use a loose weave (often called leno weave) that allow animals to wiggle free. To minimize wildlife entanglement and plastic debris pollution, choose temporary erosion and sediment control products that either do not contain netting, or that contain netting manufactured from 100% biodegradable non-plastic materials such as jute, sisal, or coir fiber. Degradable, photodegradable, UV-degradable, oxo-degradable, or oxo-biodegradable plastic netting (including polypropylene, nylon, polyethylene, and polyester) are not acceptable alternatives.

All netting materials used should have a wildlife-safe, loose-weave design with movable, non-welded joints between the horizontal and vertical twines, allowing the twines to move independently and thus reducing the potential for wildlife entanglement. Erosion control blankets and mats should be staked down to the ground and secured with wooded stakes and have the edges buried. Netting that is elongated (rectangular), not square, reduce wildlife entanglements. Avoid the use of silt fences reinforced with metal mesh or plastic mesh. When no longer required, temporary erosion and sediment control products should be promptly removed, usually as soon as vegetation establishes in the soil.

For more information: <https://www.fws.gov/initiative/protecting-wildlife/make-change-wildlife-friendly-erosion-control-products>

What do I do if there are technical issues (i.e., IPaC is down) or I need more help with the IPaC application?

If there are known issues, there will be a banner on the IPaC home page alerting you to the known issue and estimated time to resolution. Often times, you can wait a day or two and the issues will be resolved. If you are still having trouble, you can email the help desk <https://ecos.fws.gov/ecp/help>. There are FAQs on the IPaC home screen that can also help you troubleshoot: <https://ipac.ecosphere.fws.gov/>.

How should I answer the following question if my project isn't near a river or stream, but it is near another waterbody like a lake?: "Does your project have the potential to indirectly impact the stream/river or the riparian zone?"

The riparian zone is the area immediately adjacent to a river or stream. If your project will impact the riparian area near a perennial flowing body of water, like a stream, creek, or river, answer yes. You can answer no if your projects is within or adjacent to an inland lake or if it is a seasonal (intermittent or ephemeral) stream.

Have another question you'd like us to answer?

Send your question to MIFO_Dkey@fws.gov, and we'll add it to this list of resources in our next revision!