

Frequently Asked Questions (January 2026)

BACKGROUND ON THE PROGRAMMATIC CONSULTATION/CONFERENCE

On December 13, 2024, the U.S. Fish and Wildlife Service (FWS) finalized the 2024 Programmatic Biological Opinion/Conference Opinion (PBO/PCO) for Transportation Projects in the Range of the Endangered Indiana Bat, Endangered Northern Long-Eared Bat (NLEB), and Proposed Endangered Tricolored Bat (TCB) under section 7(a)(2) of the Endangered Species Act of 1973, as amended (ESA). The range-wide PBO/PCO is available on the FWS website at: <https://www.fws.gov/program/endangered-species/bat-consultation-conservation-strategy>. The programmatic consultation covers actions that are expected to result in classifications of “no effect” (NE), “may affect, not likely to adversely affect” (NLAA), and “may affect, likely to adversely affect” (LAA) with and without avoidance and minimization measures (AMMs). A User’s Guide and additional guidance documents (e.g., AMMs; Bridge, Culvert, and Structure Assessment Form; Post Assessment Discovery of Bats Form; Mitigation Information; and flowcharts) are also available on the FWS website.

GENERAL QUESTIONS ON USE OF THE PROGRAMMATIC CONSULTATION

Q: When does the range-wide PBO/PCO take effect?

A: The range-wide PBO/PCO became effective on December 13, 2024.

Q: Can agencies use existing consultation procedures in lieu of the range-wide PBO/PCO?

A: The range-wide PBO/PCO is just one tool available for agencies to use in meeting their ESA section 7 consultation requirements. Coordination with the local FWS Field Office is recommended to confirm the most appropriate tool available.

Q: What is the anticipated consultation timeframe for projects that use the range-wide PBO/PCO?

A: If a project **does not** require informal or formal consultation for listed species or designated critical habitats that are not the subject of this range-wide PBO/PCO, the anticipated consultation timeframes are based on the effects determinations for the covered bats species:

- If a “no effect” (NE) determination is made for the Indiana bat, NLEB, and TCB, consultation is not required.
- If a “may affect, not likely to adversely affect” (NLAA) determination is made, there is a 14-calendar day project-level evaluation period afforded to the FWS. If the FWS does not reach out to the agency within that 14-calendar day period, no further consultation is required.
- If a “may affect, likely to adversely affect (LAA) determination is made, the local FWS Field Office will respond within 30 calendar days¹ (instead of the standard 135 calendar days).

However, if a project **does** require informal or formal consultation for other listed species or designated critical habitats, the Transportation Agencies should coordinate with the local FWS Field Office because other consultation procedures and timelines may apply.

¹ 30-day time-period begins when the local FWS Field Office receives the effects determination letter (through the IPaC Assisted Determination Key process) or a complete Project Submittal Form.

Q: Does the range-wide PBO/PCO only apply to projects submitted by Federal agencies or State DOTs?

A: Any project proponent may access the FWS's Information for Planning and Consultation (IPaC) Assisted Determination Key (Dkey) for the range-wide PBO/PCO, but only Federal Highway Administration (FHWA), Federal Rail Administration (FRA), Federal Transit Administration (FTA), and Designated Non-federal Representatives (e.g. State DOTs) may officially submit a project through the IPaC system. Consultants are **not** designated non-federal representatives. IPaC can be accessed here: <https://ipac.ecosphere.fws.gov/>. The Dkey will be available if your project is in the range of one of the covered bat species.

Q: Does this range-wide PBO/PCO apply to projects without a federal nexus?

A: No. The range-wide PBO/PCO applies only to projects with a federal nexus, such as those with FHWA, FRA, or FTA involvement. Maintenance projects without a federal nexus are not included.

Q: Is new road/rail construction (new alignment) covered under the range-wide PBO/PCO?

A: Yes. New road/rail construction is covered under the range-wide PBO/PCO. Disturbance is limited to 20 acres of tree removal per 5 miles of the road/rail corridor for each project and all applicable AMMs.

Q: What should agencies do for projects that are identified as outside the scope of the range-wide PBO/PCO?

A: For projects that do not receive an effects determination from the IPaC Dkey, please coordinate with the local FWS Field Office.

Q: If your project is outside of the Area of Interest for one of the covered bat species (e.g. TCB) but a survey for the other bat species (e.g. Indiana bat or NLEB) detected/observed the species (e.g. TCB), how should they submit their project?

A: Consult with your local FWS Field Office on the ESA determination for the detected/observed species. For project submission, the project proponent can use either the project submittal form or IPaC. If the determination is LAA, the local FWS Field Office can provide that concurrence in their response verification letter. If the determination is NLAA, the local FWS Field Office can provide that concurrence in an email. The project proponent can upload the email under the list of "Supporting Documents" via the "Documents" button on the project home page.

TRICOLORED BATS

Q: How should we handle projects involving the TCB, given its proposed status as an endangered species?

A: To avoid potential delays in project delivery, it is recommended the programmatic consultation be used for the TCB. The intention is to use the PCO now, given that the species could become listed during the course of a project. Should the TCB be listed, the PCO would be converted into a PBO.

Q: Can you confirm that AMMs are required for TCBs via the PCO, despite only being proposed, to avoid reinitiation requirements if/when a final rule is published?

A: Correct. If you comply with all the requirements of the PCO, then for the TCB, the individual project would be covered when the PCO is converted to a PBO by the FWS. FHWA, FRA, and FTA would be carrying out the request to FWS should the TCB be listed.

Q: Is compensatory mitigation required for the TCB even though it is a proposed species?

A: No. Compensatory mitigation for the TCB is currently not required by the range-wide PBO/PCO.

Q: Can you define what FWS considers a "tree" for the purposes of consultation on the TCB. The FWS's Range-wide Bat Survey Guidelines indicates TCBs prefer larger diameter trees and roosts > 16 feet from the ground, but that they also roost in smaller diameter trees and provide 4 inches as an example. Is it correct to assume that small trees less than 4 inches in diameter can be considered unsuitable for consultation purposes under the range-wide PBO?

A: For additional details regarding each species' potential suitable summer habitat, refer to the FWS's Range-wide Bat Survey Guidelines, and coordinate with the local FWS Field Office.

Q: Will previously completed Dkeys cover impacts to the TCB should it be listed?

A: No. The TCB was not included in the amended February 5, 2018, Programmatic Biological Opinion (dated March 23, 2023) and its associated Dkey. Thus, impacts to the TCB were not analyzed. However, the local FWS Field Office may have covered the TCB in an individual project specific conference. If the transportation agency did not provide a determination for the TCB and receive FO concurrence, and the species becomes listed, a re-evaluation may be needed to address potential impacts.

However, your project is covered if you used the current Dkey associated with the range-wide PBO/PCO, dated December 13, 2024. If the TCB becomes listed, the Transportation Agencies will send a request to the FWS to convert the PCO for the TCB to a PBO and request individual projects that received response letters from the FWS be converted. If the FWS reviews the proposed action and finds that there have been no significant changes in the action as planned or in the information used during the PCO, the FWS will confirm the PCO as a PBO and no further ESA section 7 consultation will be necessary.

TREES

Q: If trees do not have features for suitable roosting, are they still considered suitable habitat (note that suitable foraging habitat may have different characteristics than suitable roosting habitat)?

A: Since suitable features can be very difficult to assess (especially with larger numbers of trees), all trees that meet each species' potential suitable summer habitat descriptions are considered suitable habitat (including minimum diameter at breast height [DBH] criteria). For further descriptions, refer to the FWS's Range-wide Bat Survey Guidelines (<https://www.fws.gov/media/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>).

Q: How is "documented habitat" defined/determined?

A: For purposes of the range-wide PBO/PCO documented habitat is defined in the glossary as an area that has been documented to be used by the Indiana bat, NLEB, or TCB and is a subset of a known maternity colony home range.

Documented habitat includes:

1. Any suitable habitat² within 0.25 miles (0.4 km) of a capture or acoustic detection location;
2. Any suitable habitat within 0.25 miles (0.4 km) of an identified roost tree;
3. Any suitable habitat within 0.25 miles (0.4 km) of roost tree/area predicted based on radio telemetry biangulation/triangulation.

Q: Where can we find information on known/documentated habitat?

A: We recommend you coordinate with your local FWS Field Office and follow their guidance.

Q: Does tree removal during the active season always result in a "May Affect, LAA" finding, regardless of proximity to the road?

A: Yes, tree removal during the active season results in a "may affect, LAA" finding, regardless of its proximity to the existing road.

Q: How should tree trimming be handled in relation to tree removal?

A: For purposes of the range-wide PBO/PCO, tree trimming should be treated the same as tree removal, because tree trimming can still cause significant disturbances to bats.

BRIDGES/CULVERTS/STRUCTURES

Q: Are bridge, culvert, and structure assessments required?

A: The range-wide PBO/PCO does not require bridge, culvert, or structure assessments. However, if you do not conduct an assessment, it's assumed that >5 bats are using the bridge, culvert, or structure.

Q: Are bridge, culvert, and structure assessments required if the Presence/Absence (P/A) mist-net or acoustic survey is negative?

A: Yes, unless you coordinate with your local FWS Field Office. P/A mist-net or acoustic surveys indicate probable absence during the active season. Depending on your location, bats use bridge, culvert, or structure during times other than the active season (e.g. winter) thus, a negative P/A mist-net or acoustic survey does not automatically mean bats are not using the bridge, culvert, or structure.

Q: Will a bridge, culvert, or structure replacement project in which bats are not using the bridge, culvert, or structure result in a "no effect" determination?

A: No. If there are no signs of bats or bat use, the appropriate determination is NLAA. Please see Table 3 and the top of page 10 of the User's Guide.

Q: Is there guidance on surveying large culverts during active or inactive seasons?

A: Survey guidance should be based on the most current FWS's Range-wide Bat Survey Guidelines - Appendix "Assessing & Surveying Bridges & Culverts for Bat Use" ([Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines | U.S. Fish & Wildlife Service](#)). Local FWS Field Offices can provide additional guidance for specific timing, considering regional variations in species' ranges.

² <https://www.fws.gov/library/collections/range-wide-indiana-bat-and-northern-long-eared-bat-survey-guidelines>

Q: Is there a maximum distance into a culvert that needs to be assessed for bat use, especially for long culverts (e.g., 1/4 mile)?

A: Yes, the entire length of the culvert should be assessed for bat use, as bats can roost throughout long structures. It is important to survey the full culvert to ensure accurate results and avoid overlooking potential roosting areas.

Q: Is there a minimum size for culverts to be considered unlikely to provide suitable roosting habitat for the Indiana bat, NLEB, and TCB?

A: Yes, see the appendix, "Assessing & Surveying Bridges & Culverts for Bat Use" in the FWS bat survey guidelines ([Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines | U.S. Fish & Wildlife Service](#)) for the minimum size per species. Culverts that do not meet the minimum diameter/height and length dimensions will be considered unlikely to provide suitable roosting habitat for the Indiana bat, NLEB, and TCBs. Thus, an assessment will not be required for culverts that do not meet the minimum dimensions.

Q: Do minimum culvert sizes apply to steel culverts as well?

A: Potentially, we recommend you coordinate with your local FWS Field Office.

Q: If the amount of freeboard (e.g. a culvert with 2 feet of water and only 2 feet of air space) is less than the minimum species-specific culvert size, can it be considered unsuitable habitat?

A: We recommend you coordinate with your local FWS Field Office.

Q: Is there a specific season during which bridges, culverts, or structures should be assessed to determine presence, or can the bridge bat assessment occur at any time of year?

A: Due to the numerous factors influencing bat use of bridges and culverts, both seasonally and geographically, the appropriate time of year for assessments should be coordinated with your local FWS Field Office and respective state wildlife agency(ies).

Q: Does maintaining suitable roosting habitat apply if only a small number of bats are observed using the bridge?

A: No. Maintaining suitable roosting habitat is required if a **large number** (this is defined in the range-wide PBO/PCO as >5 bats) of bats are using the bridge, culvert, or structure.

Q: What steps should an agency take if they find evidence of bats during bridge, culvert, or structure construction, but are unsure of the bat species?

A: The agency should either assume presence (large number) of Indiana bats, NLEBs, or TCBs or conduct a more thorough evaluation of the site (e.g., visual inspection of bats on bridge or more intensive surveys, guano sampling for species identification etc.) to determine what species are using the bridge. See the FWS Range-wide Bat Survey Guidelines for additional details.

Q: What additional considerations should be made if an agency plans to demolish a building or other structure as part of a transportation project?

A: Structures should be evaluated using the same protocol as bridges/culverts; if a structure shows signs of use by bats, the agency should coordinate with your local FWS Field Office and respective state wildlife agency(ies).

Q: Who can perform a bridge, culvert, or structure bat assessment?

A: See “Personnel” of the Appendix; “Assessing & Surveying Bridges & Culverts for Bat Use” in the FWS’s survey guidelines in ([Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines | U.S. Fish & Wildlife Service](#)).

Q: Can any bridge, culvert, or structure work be done during the active bat season on a bridge that has been determined to be suitable habitat (i.e., evidence of bat usage was discovered)?

A: Above bridge deck or culvert work where construction equipment or materials do not extend to the underside of deck or within the culvert where bats may be located (e.g., materials that may drip down to underside of deck or within the culvert) and does not include vibration or noise above existing background levels, including general traffic (e.g., road line painting, wing-wall work) is allowed. Below bridge deck or culvert work that is conducted away from roosting bats and does not involve vibration or noise above existing background levels, including general traffic (e.g., wing-wall work, some abutment, beam end, scour, or pier repair) is also allowed.

Q: Is an occupied bridge, culvert, or structure required to continue to provide suitable habitat post construction?

A: Yes, if it is being used by a large number (>5) of any of the covered bat species, then as stated in Bridge, Culvert, and Structure AMM 1b and 3b, one must ensure suitable roosting habitat is still available within the bridge, culvert, or structure once construction/replacement is complete. Suitable roosting sites may be incorporated into the design of a new bridge, culvert, or structure.

Q: How should agencies address inability to survey an entire bridge when portions of the bridge are inaccessible or unsafe to access during the inspection?

A: See Step 3 of the Appendix, “Assessing & Surveying Bridges & Culverts for Bat Use” in the FWS’s survey guidelines ([Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines | U.S. Fish & Wildlife Service](#)) for alternative survey methods to determine bat use. Additionally, we recommend you coordinate with your local FWS Field Office.

HABITAT ASSESSMENT (TREES)

Q: What guidance should agencies consult for habitat assessment protocols, such as the appropriate time-of-year and time-of-day to conduct assessments?

A: The FWS’s bat survey guidelines ([Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines | U.S. Fish & Wildlife Service](#)) provides information on habitat assessments, including definitions of what qualifies as habitat and guidance on how to identify habitat. Habitat assessments should occur during the day, when visibility is highest, and should ideally occur when trees do not have foliage. If there are trees that meet the minimum DBH criteria for suitable roosting habitat on a project site, it is

likely that the site will be considered suitable habitat. In this case, a State DOT should coordinate with the local FWS Field Office prior to conducting habitat assessments.

Q: If a project seeks to remove a small number of trees, may tree inspections be used to determine that the trees are unsuitable bat habitat assuming they lack typical roost tree characteristics (e.g., cracks/crevices/cavities, peeling bark, etc.)?

A: For additional details regarding each species' potential suitable summer habitat, coordinate with the local FWS Field Office.

Q: Can new surveys be used to demonstrate that former bat habitat is no longer occupied (e.g., if white nose syndrome has caused declines in a population)?

A: One year of negative surveys is not generally sufficient to invalidate a previous positive survey. Even when following FWS survey protocols, individual surveys are not sufficient to determine if a site is still occupied. In addition, Indiana bats, NLEBs, and TCBs show a high level of fidelity to maternity sites, in some cases even as habitat becomes degraded. To address these challenges, agencies should coordinate with their local FWS Field Office and refer to the FWS bat survey guidelines ([Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines | U.S. Fish & Wildlife Service](#)), specifically Appendix G, The Outer-tier Guidance, to determine what is required to determine if existing surveys are still valid.

Q: For acoustic surveys, does the person collecting field data need to be a qualified biologist, or does that requirement only apply to the individual analyzing the survey results?

A: See the FWS's bat survey guidelines ([Range-wide Indiana Bat and Northern long-eared Bat Survey Guidelines | U.S. Fish & Wildlife Service](#)) for information on qualifications.

NOISE

Q: What constitutes noise above background levels beyond 100 feet and is, therefore, outside the scope of the range-wide PBO/PCO if occurring during the bat pupping season?

A: Some activities are restricted beyond 100 feet of the road/rail surface during the pup season, including percussive activities that include noise and vibration above existing background levels. These include, but are not limited to pile driving, rock drilling, hoe ramming, jackhammering, and blasting.

LIGHTING

Q: Can you confirm that we are allowed to replace lighting that does not conform with Lighting AMM2 if the number of lights and/or location of lights does not change. Or is the expectation that non-conforming lighting be brought into conformance during replacement?

A: If the replacement of permanent lighting does not increase baseline light conditions, then Lighting AMM 2 is not required.

AVOIDANCE AND MINIMIZATION MEASURES

Q: If an agency is unable to implement all applicable AMMs, should the agency consult with the local FWS Field Office?

A: Yes, if they cannot implement the required AMMs, consultation with the local FWS Field Office is required.

Q: Can any work be done within 0.5 mile of a known hibernaculum and still fall under the range-wide PBO/PCO?

A: Yes. However, only projects that cause no stressors to the Indiana bat, NLEB, or TCB, as described in the range-wide BA/PBO/PCO (i.e., do not involve slash pile burning, ground disturbance, vibrations, noise above existing background levels, temporary or new/additional permanent lighting, tree removal/trimming, or bridge, culvert, or structure activities).

COMPENSATORY MITIGATION QUESTIONS

Q: When is compensatory mitigation needed?

A: Compensatory mitigation is required for impacts to Indiana bats and NLEBs when tree removal/trimming activities result in a likely to adversely affect determination. An exemption for NLEB applies for tree removal/trimming activities in the inactive season. Mitigation requirements are identified in the response letter from the FWS. Compensatory mitigation is NOT required for bridge, culvert, or structure work or for impacts to TCB. See Table 2 of the User's Guide.

Q: What is the purpose of the "Pup Season" in the mitigation ratio table (Table 3) of the range-wide PBO/PCO?

A: The "Pup Season" corresponds to the mitigation ratio numbers in the "(.)" This distinction considers the sensitive times of the year when bats are more vulnerable.

Q: What is the penalty for not paying mitigation fees?

A: If mitigation fees are not paid, the project is NOT in compliance with the requirements of the range-wide PBO/PCO and the incidental take is not covered. Therefore, the project is not in compliance with section 7(a)(2) of the ESA.

Q: Is compensatory mitigation paid directly to the FWS?

A: No. Mitigation is not directly paid to the FWS. Payment processes vary depending on the mitigation mechanism that is used.

Q: Can a project use a mitigation bank within the state and still be eligible for the range-wide PBO/PCO?

A: Yes, a project can use a mitigation bank within the state, but it must meet the criteria outlined by the range-wide PBO/PCO.

Q: Does the local FWS Field Office or do the Transportation Agencies decide the compensatory mitigation amount? Does the FWS verification letter state the amount of mitigation required?

A: The amount of mitigation required is laid out in Tables 3 and 4 of the range-wide PBO/PCO. The mitigation requirements are included in the response verification letter from the local FWS Field Office, which also includes the Incidental Take Statement for the project.

Q: If a tree is being trimmed and not fully removed, is mitigation still required, since technically you are not removing the habitat?

A: Potentially, tree trimming can impact roosting habitat for bats, especially if it involves extensive trimming. Trimming is considered similar to tree removal in this context because it can reduce available roosting sites for bats. However, periodic limb removal, especially if minimal, may not require mitigation if it does not significantly impact roosting habitat. As mentioned earlier, if limbs are removed extensively or in a way that affects the bats' roosting habitat, mitigation may still be required. We recommend you coordinate with your local FWS Field Office.

IPaC Dkey

Q: Is the use of the IPaC system required?

A: No. However, we strongly recommend the use of the IPaC system and the Dkey for the range-wide PBO/PCO over submitting a hard copy project submittal form. In addition, we recommend you coordinate with your local FWS Field Office if you choose not to use the IPaC system. Some FWS Field Offices may require the use of the IPaC system.

Q: Are previously completed versions of the Dkey still valid?

A: Yes, previously completed versions are valid as long as one of the reinitiation triggers has not been met. For projects that used the 2023 PBO and have a response letter from the FWS, they should follow the conditions of that PBO and do not need to mitigate for NLEB.

Q: Can we test the FWS's range-wide PBO/PCO Dkey on projects, and what is the process?

A: Yes, you can run projects through the Dkey in IPaC-beta (<https://ipacb.ecosphere.fws.gov/>). It is intended for testing only and has all the same functionality available in the IPaC-production (live) site. IPaC-beta will not write records to our database. If you wish to use the Dkey to submit your project, you need to use IPaC-production (<https://ipac.ecosphere.fws.gov/>).

Q: Is a consultant the designated non-federal representative or would that be the DOT?

A: Consultants are NOT designated non-federal representatives. The State DOT is the designated non-federal representative. A project can only be officially submitted to the FWS by the lead federal agency or designated non-federal representative. If a consultant is filling out the DKey in IPaC, it is important that they add one or more of their representatives as members to the project so the representatives can officially submit the project to the FWS. See the User's Guide, Section 3, for additional information and the March 2025 webinar (starting ~ minute 27:20) <https://www.youtube.com/watch?v=14YG2LjW3Uc>.