

FDOT Tricolored Bat Consultation Guidance (January 2025)

This guidance is adopted from the December 2024 coordination between OEM and USFWS (attached for reference). The black text below is verbatim from the letter. The blue text is guidance.

This guidance is not intended to change the intent of the coordination, but to provide additional direction to FDOT staff and consultants regarding effect determinations, project consultation, documentation within Natural Resources Evaluations (NRE), natural resource tech memos, NEPA documents, PD&E Studies, or USACE permit applications.

On September 13, 2022 the U.S. Fish and Wildlife Service (FWS) announced a proposal to list the tricolored bat (*Perimyotis subflavus*) as endangered under the Endangered Species Act (ESA). The Florida Department of Transportation (FDOT) consulted with the United States Fish and Wildlife Service (FWS) on December 3, 2024, to discuss procedures that will be followed for FDOT projects in the preparation for potential ESA listing for the tricolored bat.

Step 1: Review the list below and make the appropriate selection for the project.

1. If the [USFWS Information for Planning and Consultation \(IPaC\)](#) tool does not return the potential for the tricolored bat to be in the project limits, the project will have **no effect** on the species and no further action is required.
2. If a project area does not contain suitable habitat for the tricolored bat the project will have **no effect** on the species and no further action is required. The Indiana Bat and Northern Long-eared Bat Survey Guidance, Appendix A Habitat Assessments protocol may be useful in determining suitable habitat.
3. If the project does not require tree trimming or work on a culvert (3 feet or greater in diameter and longer than 25 feet (7.6 meters)) or bridge, then the project will have **no effect** on the species and no further action is required.
4. Upon listing of the tricolored bat, if the project contains suitable habitat and requires tree trimming and/or clearing, FDOT will not conduct tree trimming/clearing activities during the tricolored bat pup season (May 1st to July 15th) and when bats may be in torpor (when temperatures are below 45 degrees Fahrenheit).
5. Upon listing of the tricolored bat, if the project contains suitable habitat and FDOT needs to trim or clear trees or perform work on bridges/culverts during the maternity season and/or when the temperature is below 45 degrees Fahrenheit, then FDOT will survey the project area for evidence of the tricolored bat. The Indiana Bat and Northern Long-eared Bat Survey Guidance (USFWS), appendix J acoustic survey protocol in the year-round range (mist netting is not being conducted in Florida at this time), will be used for areas with tree trimming/clearing. For bridges and culverts, the Indiana Bat and Northern Long-eared Bat Survey Guidance, appendix K, Assessing Bridges and Culverts for Bats, will be used.
 - a. If the surveys result in no tricolored bats detected, then FDOT can proceed with the project activities. Negative results from bridge/culvert surveys are valid for 2 years. Negative results for acoustic surveys are valid for 5 years. However, negative results for either survey may be invalidated if additional tricolored bat survey data is submitted to FWS showing

presence of the species within the vicinity of the project area. Additional survey work by FDOT, or application of the avoidance and minimization measures noted in #4, may be required if updated detections are reported, and may result in reinitiation of consultation with FWS.

b. If the surveys result in positive detections of the tricolored bat, FDOT will implement conservation measures such as: not conducting tree trimming/clearing activities during the tricolored bat pup season (May 1st to July 15th) when pups are not volant and not able to escape disturbance; similarly avoid tree trimming/clearing activities when the temperatures are below 45 degrees Fahrenheit when bats may be in torpor and unresponsive to disturbance.

*Step 2: For selections 1 – 3, note the **anticipated no effect** determination within the environmental documentation (e.g., tech memo, Type 1 CE, NRE) or permit application, including the associated justification based on the selection.*

For selections 4 or 5:

*If the project being considered is **currently in the PD&E phase**, include this statement in the NRE and make the following commitment:*

*The anticipated effect determination is **may affect not likely to adversely affect**. As the timeline for construction is better defined, FDOT will adhere to the applicable commitment below: (then restate #4 **and** the entirety of 5 above verbatim).*

*If the project being considered is **currently in the Design phase**, include the below statement in the permit application (and any associated updates to the NRE) and make the following commitment:*

*The anticipated effect determination is **may affect not likely to adversely affect**. FDOT will adhere to the following commitment: (restate EITHER #4 or #5 as applicable to the project. **DO NOT LIST BOTH**).*

Projects with NREs will follow the standard consultation process with USFWS.

The following may be noted within the Implementation Measures section of the NRE:

FDOT contractors must adhere to FDOT's Contractor Requirements for Unanticipated Interaction with Protected Species. These requirements are included in FDOT's Standard Specifications for Road and Bridge Construction and apply to all FDOT construction projects.



Florida Department of Transportation

RON DESANTIS
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

JARED W. PERDUE, P.E.
SECRETARY

December 12, 2024

Robert Carey
U.S. Fish and Wildlife Service
Division Manager, Environmental Review and Consultations

RE: Tricolored bat Avoidance and Minimization Measures for FDOT projects

Dear Mr. Carey,

On September 13, 2022 the U.S. Fish and Wildlife Service (FWS) announced a proposal to list the tricolored bat (*Perimyotis subflavus*) as endangered under the Endangered Species Act (ESA). The Florida Department of Transportation (FDOT) consulted with the United States Fish and Wildlife Service (FWS) on December 3, 2024, to discuss procedures that will be followed for FDOT projects in the preparation for potential ESA listing for the tricolored bat.

1. If the USFWS [Information for Planning and Consultation](#) (IPaC) tool does not return the potential for the tricolored bat to be in the project limits, the project will have no effect on the species and no further action is required.
2. If a project area does not contain suitable habitat for the tricolored bat the project will have no effect on the species and no further action is required. The [Indiana Bat and Northern Long-eared Bat Survey Guidance](#), Appendix A Habitat Assessments protocol may be useful in determining suitable habitat.
3. If the project does not require tree trimming or work on a culvert (3 feet or greater in diameter and longer than 25 feet (7.6 meters)) or bridge, then the project will have no effect on the species and no further action is required.
4. Upon listing of the tricolored bat, if the project contains suitable habitat and requires tree trimming and/or clearing, FDOT will not conduct tree trimming/clearing activities during the tricolored bat pup season (May 1st to July 15th) and when bats may be in torpor (when temperatures are below 45 degrees Fahrenheit).
5. Upon listing of the tricolored bat, if the project contains suitable habitat and FDOT needs to trim or clear trees or perform work on bridges/culverts during the maternity season and/or when the temperature is below 45 degrees Fahrenheit, then FDOT will survey the project area for evidence of the tricolored bat. The Indiana Bat and Northern Long-eared Bat Survey Guidance (USFWS), appendix J acoustic survey protocol in the year-round range (mist netting is not being conducted in Florida at this time), will be used for areas with tree trimming/clearing. For bridges and culverts, the Indiana Bat and Northern Long-

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- b. If the surveys result in positive detections of the tricolored bat, FDOT will implement conservation measures such as: not conducting tree trimming/clearing activities during the tricolored bat pup season (May 1st to July 15th) when pups are not volant and not able to escape disturbance; similarly avoid tree trimming/clearing activities when the temperatures are below 45 degrees Fahrenheit when bats may be in torpor and unresponsive to disturbance.

In addition to the procedures listed above, FDOT contractors must adhere to FDOT's Contractor Requirements for Unanticipated Interaction with Protected Species. These requirements are included in FDOT's Standard Specifications for Road and Bridge Construction and apply to all FDOT construction projects. See [Unanticipated Interaction with Protected Species](#).

FDOT is dedicated to adhering to the regulations under the ESA. We appreciate FWS's willingness to partner with FDOT towards the conservation and recovery of the tricolored bat while assisting FDOT with our transportation goals.

FDOT is requesting your concurrence on the procedures outlined above. FDOT will adhere to these procedures until a programmatic agreement for the Tricolored bat has been executed. If you have any questions, please contact me at Jennifer.Marshall@dot.state.fl.us

Sincerely,

DocuSigned by:



D881D38487C64B2...
Jennifer Marshall

Director, Office of Environmental Management

JM/thc

Kuhn-Hendricks, Katlin

Subject: FW: [EXTERNAL] Tricolored Bat Avoidance and Minimization Measures for FDOT Projects

From: Carey, Robert L <robert_carey@fws.gov>

Sent: Tuesday, December 17, 2024 7:38 AM

To: Marshall, Jennifer <Jennifer.Marshall@dot.state.fl.us>

Cc: Cantrell, Mark A <mark_a_cantrell@fws.gov>; Ketzler, Lorraine P <lorraine_p_ketzler@fws.gov>; Cornwell, Katasha <Katasha.Cornwell@dot.state.fl.us>; Clark, Thu-Huong <Thu-Huong.Clark@dot.state.fl.us>

Subject: Re: [EXTERNAL] Tricolored Bat Avoidance and Minimization Measures for FDOT Projects

EXTERNAL SENDER: Use caution with links and attachments.

Hello Jennifer,

Thank you for sending this information. Please accept this email as concurrence from the Service that these measures will avoid and minimize adverse impacts to tri-colored bats during projects conducted by FDOT. I appreciate all the work and collaboration that went into finalizing this approach. We look forward to continuing to work with you moving forward. Thank you.

Robert L. Carey
Manager, Division of Environmental Review
Florida Ecological Services Field Office
U.S. Fish and Wildlife Service
Gainesville, Florida

(530) 340-2496 Cell

NOTE: This email correspondence and any attachments to and from this sender is subject to the Freedom of Information Act (FOIA) and may be disclosed to third parties.

From: Marshall, Jennifer <Jennifer.Marshall@dot.state.fl.us>

Sent: Friday, December 13, 2024 2:21 PM

To: Carey, Robert L <robert_carey@fws.gov>

Cc: Cantrell, Mark A <mark_a_cantrell@fws.gov>; Ketzler, Lorraine P <lorraine_p_ketzler@fws.gov>; Cornwell, Katasha <Katasha.Cornwell@dot.state.fl.us>; Clark, Thu-Huong <Thu-Huong.Clark@dot.state.fl.us>

Subject: [EXTERNAL] Tricolored Bat Avoidance and Minimization Measures for FDOT Projects

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hello Bob,

Please see the attached letter regarding avoidance and minimization measures for the tricolored bat on FDOT projects. These measures are a proactive approach to addressing the tricolored bat prior to ESA listing and was done in consultation with USFWS. These measures will allow for FDOT projects to continue construction if conditions are met.

We are requesting you concurrence on the procedures outlined in the letter at your earliest convenience. Please note that FDOT will adhere to these procedures until a programmatic agreement for the tricolored bat is executed. Please do not hesitate to contact me if you have any questions.

Thank you,
Jennifer

Jennifer Marshall, P.E.
Director, Office of Environmental Management

Florida Department of Transportation

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