

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

This guidance document primarily covers bat expectations for WisDOT's transportation projects under the federal Endangered Species Act. Limited information for compliance with the WI Endangered Species Law is provided in this document, as project teams are expected to follow the DNR/DOT Cooperative Agreement Endangered Resources Review process.

Index to sections:

- [General Updates/Expectations](#)
- [Consultation/IPaC Determination Keys](#)
- [Habitat](#)
- [Bridge/Culvert/Structure/Building Inspections](#)
- [Avoidance and Minimization Measures \(AMMs\)](#)
- [Compensatory Mitigation](#)
- [Environmental Document](#)
- [Borrow/Waste and Temporary Support Activity Sites](#)

General Updates/Expectations

1. What is the current federal status of the northern long-eared bat (NLEB) and tricolored bat (TCB)?

In March 2023, the northern long-eared bat's "endangered" listing status was effective under the federal Endangered Species Act (ESA).

U.S. Fish and Wildlife Service (USFWS) proposed to list the tricolored bat as federally endangered in September 2022. The final listing rule has not been published. Until that final rule is published and effective, the tricolored bat is considered "proposed endangered".

2. How do I know which projects overlap with the NLEB and/or TCB federal ranges?

In summer 2024, USFWS updated their federal ranges for NLEB and TCB and they are no longer statewide. The USFWS Information for Planning and Consultation (IPaC) Official Species List (OSL) contains the most up-to-date species information for a specific project. The following range maps may also be useful to project teams for general project planning purposes:

<https://www.fws.gov/species/northern-long-eared-bat-myotis-septentrionalis/map>
<https://www.fws.gov/species/tricolored-bat-perimyotis-subflavus/map>

If there is no project overlap with either range per the IPaC Official Species List, then there are no federal ESA bat requirements. An OSL is considered valid for 90 days. Please note that there may be WI Endangered Species Law requirements, follow the DNR Endangered Resources Review process.

3. What is required for the tricolored bat on projects while it is considered proposed for listing?

ESA Section 7 requires federal agencies (e.g., Federal Highway Administration) to confer with USFWS on any action that is likely to jeopardize the continued existence of tricolored bat. This expectation applies to WisDOT projects that have a federal nexus (e.g., funding, approvals, permits).

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

Section 7 *consultation* for the tricolored bat cannot be completed until a final listing rule is published and effective (date TBD). Section 7 *conferencing* can be completed in the interim to facilitate the consultation requirement once TCB is listed.

The Programmatic Conference Opinion (PCO) obtained by Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA) for transportation projects within the range of the tricolored bat, provides a streamlined conferencing option through an IPaC determination key (d-key) for many FHWA, FRA, FTA projects. Federal projects with adverse effects not covered by the PCO may also elect to initiate individual formal conferencing. Discuss the project with the WisDOT region environmental coordinator (REC) and statewide ecologist, as appropriate.

Non-federal projects do not have a legal requirement under ESA to address TCB at this time. However, it is expected that the NLEB/TCB Rangewide Determination Key is completed to prepare projects for the anticipated listing, see Q 4. There may also be WI Endangered Species Law requirements, follow DNR Endangered Resources Review process.

Consultation/IPaC Determination Keys

4. What ESA consultation/conferencing process should be used for NLEB/TCB?

Option 1: First, determine if the project is eligible to use the [FHWA, FRA, FTA Programmatic for Transportation Projects Affecting NLEB, I-Bat, or TCB](#) determination key. This process is completed online [USFWS IPaC](#). This determination key can be used for projects with FHWA, FRA or FTA funding/approvals/authorizations. If one of those three federal agencies is not involved in the project, then it is not eligible for this process (e.g., FAA projects or non-federal projects), see Option 2. Additionally, some projects are outside of the scope the programmatic biological/conference opinion (PBO/PCO), see Option 2.

Option 2: Projects not eligible for Option 1 may be eligible for the [NLEB/TCB Rangewide Determination Key](#) in IPaC. This key can be used for Section 7 consultation (federal projects) or non-federal coordination. It can produce a “no effect” or “may affect but is not likely to adversely affect” determination for both species. A “May affect” result or a notification that the project is outside the scope of the key require project teams continue to Option 3 below.

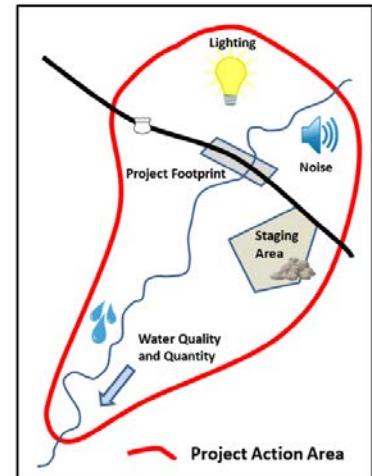
Option 3: Projects must complete informal/formal Section 7 consultation (federal projects) or non-federal coordination for NLEB/TCB by email following the processes described in [FDM 24-10-10](#).

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

5. Are the activities of concern for bats limited to the roadway?

No. Project proponents must consider the entire action area. The project's action area includes all geographic areas to be affected directly or indirectly by the project and not only the immediate area involved in the action. The project's action area may be larger than the project footprint or area of ground disturbance. Consider how far the effects of noise, light, vibration and other stressors from the proposed action may extend into the surrounding environment. See figure from the [FHWA, FRA, FTA bat programmatic user's guide](#).



6. Can consultants complete the determination keys on WisDOT's behalf?

Consultants can be added as a member to existing IPaC projects by WisDOT staff. They can respond to determination key questions and generate letters, but they cannot submit the consultation materials to USFWS through IPaC system or via email as they are not designated non-federal representatives. Consultants should notify the WisDOT REC when they have completed the determination key. The d-key concurrence/verification requests will then be submitted to FWS by the REC. USFWS concurrence verification is not required for "no effect" determinations and the d-key process is complete when the "no effect" letter is generated by a consultant in IPaC.

Habitat

7. What is the difference between suitable summer habitat, documented habitat, and NHI occurrences?

Suitable habitat means that NLEB and/or TCB *could* be present. Documented habitat and Natural Heritage Inventory (NHI) occurrences mean that NLEB and/or TCB are *known* to have been present in those locations. Absence of known occurrences or documented habitat does not mean there is no suitable summer habitat for bats.

Definition of suitable summer habitat: refer to the [USFWS survey protocol](#) for the current definitions for each bat species.

Examples of unsuitable habitat:

- Individual trees that are greater than 1,000 feet from forested/wooded areas;
- Trees found in highly-developed urban areas (e.g., street trees, downtown areas); and
- A pure stand of less than 3-inch dbh (diameter at breast height) trees that are not mixed with larger trees

Documented roosting or foraging habitat is where bats have been captured/detected. For the FHWA, FRA, FTA programmatic determination key, it specifically means:

- Any suitable habitat within 0.25 miles (0.4 km) of a capture or acoustic detection location;
- Any suitable habitat within 0.25 miles (0.4 km) of an identified roost tree;

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

- Any suitable habitat within 0.25 miles (0.4 km) of roost tree/area predicted based on radio telemetry biangulation/triangulation.

NHI occurrence data consists of known NLEB/TCB hibernacula and roosts that are tracked by DNR in their Natural Heritage Inventory (NHI) database. This data is considered confidential and is provided to WisDOT in a generalized/buffered manner. Endangered resource reviews (ERRs) conducted by DNR for WisDOT projects use NHI occurrence data and will reference the 0.5 mile buffer that coincides with the *FHWA, FRA, FTA Programmatic Consultation for Transportation Projects Affecting NLEB, I-Bat or TCB* determination key threshold.

Bridge/Culvert/Structure/Building Inspections

8. Is a bat inspection required for all bridges/culverts/structures?

If no bats appear in the project's IPaC official species list, and no bat requirements are noted in the DNR ERR letter, then there are no bat requirements or bat inspection necessary.

If bats are identified in either the IPaC OSL or through DNR ERR, the structure will either need a bat inspection or the project team can assume bats are present (no inspection). There are couple exceptions:

- If NLEB is the only bat species included in the IPaC OSL and there are no bat requirements in the DNR ERR, and there is no suitable habitat within 1000 ft of the bridge/culvert/structure, no inspection would be necessary and bat presence in structures does not need to be assumed. Habitat determination needs confirmation by the REC.
- The culvert does not meet the minimum dimensions to be suitable for bats as noted in Q 9.

There are a few scenarios where assuming presence (no inspection) would be appropriate:

- Project commits to completing **any** disruptive work on the bridge/culvert/structure during the inactive season (November 1 – April 14). Other restrictions/mitigation measures may also apply.
- Project activities conducted during the active season (April 15 – October 31) on the bridge/culvert/structure will not cause **any** stressors to bats (potential to harass/disturb) which includes noise/vibration above background levels. This will only be a very limited set of projects (e.g. line painting). See [FHWA, FRA, FTA bat programmatic user's guide](#) for details. Needs confirmation by REC.
- It is not safe/feasible to inspect the structure. Bat presence will be assumed and effects resulting from disruptive work/structure removal are considered adverse when they occur during the bat active season.

9. Are all culverts considered suitable for bats?

No, some culverts have dimensions that make them unsuitable for one or both federally protected bat species. The following suitability criteria were obtained from the [USFWS survey protocol](#):

If a culvert meets the following criteria, it may be considered suitable for bats:

- 1) The minimum entrance height/diameter is:

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

- Equal to or greater than 4.5 feet for NLEB
- Equal to or greater than 3 feet for TCB;

and

2) the culvert is 23 feet or greater in length.

If the culvert is smaller in one or both of the above-listed dimensions, then it is considered unsuitable. Culverts with entrance heights/diameters between 3 ft and 4.5 ft would be considered suitable for TCB, but not NLEB.

10. When must bat inspections be completed?

There is no time of year requirement for bat inspections; however, inspections during the bat active season (April 15 – October 31) are preferred. A valid inspection is necessary to complete bat determination key, which must be completed prior to completion of the environmental document.

11. How long are bat inspections valid?

Bat inspections resulting in probable absence are valid for 2 years. Note, if the project is within 1 mile of a NHI bat occurrence (from DNR ERR) then building inspections are only valid for 1 year per the DNR cave bat broad incidental take authorization.

12. Who can conduct a bat inspection?

Minimally, bat inspectors must have viewed the [USFWS bats and transportation structure inspection video](#). Design consultants/engineers, ecological consultants, region environmental coordinators, region maintenance engineers, interns, LTEs, etc. may complete the inspections, provided they fully understand the features they are supposed to be looking for and that they implement required safety precautions (see Q 14).

It may be possible to combine bat inspections with asbestos inspections. Refer to the following guidance: [Decision Tree for combining bat and asbestos inspections for bridges and culverts](#)

WisDOT does not expect DNR to conduct bridge/culvert/structure inspections for WisDOT's ESA compliance. DNR's comments are certainly appropriate for state compliance with state regulations but currently alone cannot be used for the federal programmatic consultation process.

13. What guidance and training are available for inspectors?

The current USFWS guidance for bat inspections can be found in **Appendix K** of the [USFWS survey protocol](#). WisDOT anticipates publishing a bat inspection guidance document in late 2025 that will provide more details/considerations specific to WisDOT. This document will supplement the USFWS guidance in Appendix K.

14. What safety precautions are necessary for structure inspections?

Precautions include but are not limited to the following:

- WisDOT employees must follow department safety directives.

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

- Inspectors must use all necessary/appropriate personal protective equipment (e.g., safety vests/pants, protective footwear, air meters).
- Inspectors should develop a communication plan for fieldwork with their supervisor.
- Inspectors should take appropriate steps to plan out their fieldwork (e.g., where will they park their vehicle, how they will access a structure, what safety/environmental concerns may exist at the structure, how will they minimize their personal risk for these concerns, what is their emergency plan, etc.).
- Inspectors must be aware of their surroundings (e.g., fall/trip hazards, dangerous plants/animals) and remain aware of dynamic conditions around them (e.g., live traffic, stream flow, ice, unstable surfaces).
- Inspectors must not enter/access a location/space that is risky/unsafe or that they are not trained/equipped to access. Consider the non-inspection option (i.e. assume bat presence) for these structures.
- Inspectors must understand how to determine if a space is considered “confined” based on their agency/company safety directives/policies.
- Inspectors must not enter a confined space or permit-required confined space without completing confined space training and following confined space safety directives/policies.

15. What special safety concerns exist for working in environments where bats are present?

Bats may carry rabies, which is generally fatal to humans if medical treatment is not sought promptly after exposure. Do not touch/handle bats (live or dead).

Bat guano (droppings) can carry histoplasmosis, a fungus that can cause respiratory infections in humans. In spaces where there is notable quantity of bat guano, it is recommended to wear a PPE such as a dust mask/respirator and disposable gloves.

It is recommended to clean/decontaminate equipment/gear after working in known bat roosting locations. This can help prevent the spread of *Pseudogymnoascus destructans*, the fungus that causes white nose syndrome in bats. For more information, see <https://www.whitenosesyndrome.org/>.

16. What additional precautions are necessary when working around railroads?

If all necessary elements of the structure can be safely and adequately inspected for evidence of bats using visual aid tools, such as binoculars, and remain further than 25-ft from the track centerline, then railroad coordination is likely not required, but discuss with the REC and region railroad coordinator. If inspection work needs to occur within 25-ft of the track centerline or there are site-specific concerns, discuss requirements with REC and region railroad coordinator. Right-of-entry permits are not required by State Statute. However, railroad coordination and potentially railroad-supplied flaggers may be necessary. Railroad Protective Liability Insurance is needed for non-WisDOT staff conducting inspections. If coordination with the railroad is necessary, allow several weeks lead time. See [FDM 17-55 Property \(wisconsin.gov\)](#) and [FDM 9-10 Public Relations \(wisconsin.gov\)](#).

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

17. What bat guidance is available for demolishing buildings?

[Overview of bat inspections for building demolitions](#)

[Bat inspections for building demolitions - Q&A](#)

18. Bats and/or evidence of bats are found during an inspection, what is the next step?

If bats are present, take photos to aid in species identification. These photos can be shared with the DNR transportation liaison to have DNR experts identify species, if possible.

If the bat species can successfully be identified and it is determined not to be NLEB or TCB, then this information can be used to respond “no” to the determination key question asking if there were any signs of NLEB/TCB roosting in/under the structure. No restrictions are necessary for the structure from the federal regulatory perspective. However, minimization measures are required under Wisconsin Endangered Species Law; follow the [cave bat BITP/A](#).

If bats are not found, but bat guano is found, take photos of the guano with a coin for scale. These photos can be shared with the DNR transportation liaison to have DNR experts determine if the samples are from big brown bat or other bats (NLEB/TCB included). Distinction between the other bat species cannot be made from guano photos.

If the species cannot be successfully identified from photos of bats or guano, other options such as an emergence survey or guano genetic testing could be completed. These measures will have added cost, timing constraints, and their validity would be subject to approval by FWS. The alternative to undertaking additional studies/investigation is to assume NLEB/TCB presence. Discuss options with the REC/CO Ecologist to determine the best course of action for the project. If any bat is observed on a structure, minimization measures are required under Wisconsin Endangered Species Law; follow the [cave bat BITP/A](#).

Avoidance and Minimization Measures (AMMs)

19. What are avoidance and minimization measures?

Avoidance and minimization measures (AMMs) are environmental commitments that are agreed upon by WisDOT during ESA consultation, which includes the bat determination keys (e.g., avoidance of tree clearing during bat active season). These AMMs must be included in the environmental document as commitments and are implemented during design and construction, as appropriate.

20. How do I determine which AMMs are required for my project?

The responses selected during completion of the determination key dictate which avoidance and minimization measures apply to a project. The agreed upon AMMs are summarized in the determination key letter generated by IPaC. Some of the AMM language used in the letters appears to be paraphrased. To ensure full AMM is incorporated into commitments, utilize the full text from this document: <https://www.fws.gov/sites/default/files/documents/2024-12/appendix-c-avoidance-and-minimization-measures-december-2024.pdf>. Minor rewording or restructuring of the AMM language may be done to ensure it is incorporated into the environmental document as a firm, actionable commitment. Not all of the AMMs in this document will apply to every project.

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

When DNR indicates that the project is within the buffer of NHI bat occurrence record, also refer to the [DNR cave bat BITP/A](#) for state AMMs.

21. What are the key dates for NLEB/TCB in ESA AMMs?

Active season: April 15 – October 31

Inactive season: November 1 – April 14

Maternity roost (pup) season: June 1 – August 15

When DNR indicates that the project is within the buffer of a NHI bat occurrence record, also refer to the [DNR cave bat BITP/A](#) for state date restrictions.

22. What options are available if the project schedule does not allow the let contractor to clear trees during the bat inactive season (November 1 – April 14)?

The following options are in no particular order. Feasibility, usefulness, and cost will vary by project, discuss these options with a REC/Ecologist as appropriate:

- Utilize the region's indefinite delivery/indefinite quantity (ID/IQ) tree clearing contract to remove trees during the inactive season.
- Coordinate with county highway department/local municipality to remove trees during the inactive season.
- Utilize ecological services contract consultant to remove trees during the inactive season.
- Proceed with a "may affect and is likely to adversely affect" (LAA) determination under the FHWA, FRA, FTA programmatic consultation determination key or individual formal consultation— note there is compensatory mitigation for NLEB (see Q 24).
- Utilize ecological services or design contract to conduct a bat presence/absence survey.
 - P/A surveys require adherence to the [USFWS summer survey protocol](#) and approval of the survey plan by USFWS/DNR prior to conducting the survey.
 - If the survey indicates NLEB/TCB presence, then active season tree clearing continues to be an adverse effect on bats. Projects teams can address this through inactive season clearing (re-consider the first three bullets above) or complete formal consultation/conference (fourth bullet).
 - A positive survey can also result in higher compensatory mitigation costs for NLEB as some habitat areas will be considered documented habitat (see Q 7).

23. How do I address conflicting tree clearing windows for bats and rusty patched bumble bee (RPBB)?

Tree clearing during the inactive season for bats (November 1 – April 14) conflicts with the overwintering period for RPBB queens (October 11 through April 14). Projects with >0.25 acre of RPBB overwintering habitat impact during the overwinter period will need to be consulted with USFWS outside of the RPBB determination key.

A potential AMM to minimize impacts for both species is to have trees manually felled (3-ft high stump allowed) during the bat inactive season but not removed or grubbed. The removal and grubbing would occur during the RPBB active season (April 15 – October 10). USFWS must concur with this approach.

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

This option may not be feasible for RPBB overwintering habitat that is also RPBB nesting habitat (upland forest edges), as the active season grubbing and ground disturbance may result in RPBB underground nest impacts.

Project teams may also consider active season tree clearing for bats if covered under the FHWA, FRA, FTA bat programmatic as LAA (see Q 24 regarding compensatory mitigation). Other solutions may be possible to minimize the risk of take for both species and can be discussed with the REC/Ecologist.

Compensatory Mitigation

24. What is compensatory mitigation and why is it being required for my project?

Compensatory mitigation (or compensation) is an additional step in the mitigation sequence that is used to offset remaining unavoidable **adverse** impacts after all appropriate avoidance and minimization measures have been applied to a project.

Compensatory mitigation is now required for **active season tree clearing** in **NLEB suitable habitat** under the FHWA, FTA, FTA bat programmatic (not TCB at this time). Refer to the following tables:

- Table 1: Tree removal/trimming activities in the user's guide: <https://www.fws.gov/sites/default/files/documents/2025-01/user-guide-for-range-wide-programmatic-consultation-for-indiana-bat-january-2025.pdf>
- Compensation ratios: <https://www.fws.gov/media/compensatory-mitigation-ratios-indiana-and-northern-long-eared-bats-table-3-biological>

25. How are compensatory mitigation payments made?

FHWA and USFWS have worked with The Conservation Fund to develop a [Bat In-Lieu Fee \(ILF\) program](#). A payment can be made to this ILF to fulfill the compensatory mitigation expectation from the FHWA, FRA, FTA bat programmatic for NLEB. It can also be used for compensatory mitigation resulting from formal consultation outside of the bat programmatic. Coordinate with REC/Ecologist for further details if the determination key indicates a need for compensatory mitigation. Payments would be made by the WisDOT region office using project funds, not central office.

- Fee schedule: <https://www.fws.gov/sites/default/files/documents/2024-12/2025-ibat-nleb-ilf-exhibit-e-fee-schedule.pdf>

Environmental Document

26. Can I use the NEPA Categorical Exclusion Checklist (CEC) if my project receives a “may affect and is likely to adversely affect” (LAA) determination through the FHWA, FRA, FTA Programmatic for Transportation Projects Affecting NLEB, I-Bat, or TCB Determination Key?

If the project qualifies for a NEPA categorical exclusion under 23 CFR 771.117(c)(22-23), receiving a LAA determination does not affect the use of the CEC.

WisDOT Transportation Projects and Federally Protected Bats

Frequently Asked Questions

If the project plans to use (c)(26-28), a LAA determination would make the project ineligible for the proposed categorical exclusion as it would exceed the environmental impact criteria under 23 CFR 771.117(e). The project may be eligible for categorical exclusion (d)(13). The WisDOT NEPA liaison and FHWA must approve the use of the CEC template for (d)(13).

27. Can I use the bat determination keys if the project will be processed under the DNR Delegated Design Concurrence (DDDC)?

Yes, the revised *FHWA, FRA, FTA Programmatic for Transportation Projects Affecting NLEB, I-Bat, or TCB* and NLEB/TCB Rangewide determination keys reference bat element occurrence data from WI DNR in the background. The d-key will automatically answer distance-based questions, thus a NHI review from DNR is not necessary to complete the bat d-keys.

Borrow/Waste and Temporary Support Activity Sites

28. Are borrow/waste or temporary support activity (TSA) sites covered by the WisDOT's bat consultation?

Scenario 1: The borrow/waste/TSA site is located within the right of way and is included in the project's action area for consultation (e.g., determination key, formal consultation, etc.), then it is covered under WisDOT's consultation. All avoidance and minimization measures would also apply to the site(s). If the location is determined after consultation has been completed, consultation must be amended to include the site(s).

Scenario 2: WisDOT is directing a contractor to utilize a specific site (off ROW, privately-owned parcel) and it is included in the project's action area for consultation (e.g., determination key, formal consultation, etc.), then it is covered under WisDOT's consultation. All avoidance and minimization measures would also apply to the site(s). If the site is determined after consultation has been completed, consultation must be amended to include the site.

Scenario 3: Contractor proposed TSA sites would not be included in the project's action area for consultation (e.g., determination key, formal consultation). It is the contractor's responsibility to follow federal/state regulations, conduct required agency coordination, obtain necessary permits/clearances, and follow required avoidance/minimization measures. Non-federal entities, like contractors, are not able to independently utilize the *FHWA, FRA, FTA Programmatic Consultation for Transportation Projects Affecting NLEB, TCB or Indiana Bat* determination key; however, they can use the *NLEB/TCB Rangewide* determination key.