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New Environmental Special Provisions

In collaboration with numerous regulatory agencies, MDOT's Local Agency Environmental Unit developed special provisions designed to streamline the National Environmental Policy Act (NEPA) process. These special provisions can be found at the following links:

- [Eastern Fox Snake Protection for Local Agency Projects Only](#)
- [Tree Removal and Clearing for Local Agency Projects Only](#)
- [Wildlife Exclusion Fencing for Local Agency Projects Only](#)

Incorporate these special provisions into projects as advised during the NEPA process. When providing final documents into ProjectWise, the local agency is responsible for making sure these special provisions are included if necessary.

The content of the special provisions should not be modified without coordination with the MDOT Local Agency Environmental Unit.

Additional information

1. Eastern Fox Snake Protection for Local Agency Projects Only
Using this special provision eliminates the need for consultation with the Department of Natural Resources (DNR) when a transportation project intersects known Eastern Fox Snake habitat, or this species is reported on a state species review. If you cannot incorporate this special provision, it is still the responsibility of the local agency to consult with DNR over restrictions and conservation measures or apply for permits as needed.
2. Wildlife Exclusion Fencing for Local Agency Projects Only
When transportation projects intersect Eastern Massasauga Rattlesnake or protected turtle habitat they are required by the Fish and Wildlife Service or DNR to use wildlife exclusion fencing. This special provision in combination with coordination from MDOT's Local Agency Endangered Species Biologist takes the place of consultation and provides a relatable document for construction specific requirements.
3. Tree Removal and Clearing for Local Agency Only
In April 2024, Fish and Wildlife Service updated their official ruling and habitat model for Northern Long-eared, Tri-colored, and Indiana bat, which removed many tree cutting restrictions, specific only to bats, across the state. The previous bat restriction served as blanket coverage for all species which fulfilled NEPA's mandates to plan for all protected wildlife. Now that blanket coverage no longer applies, laws outside the Endangered Species Act (ESA) must be considered, primarily the Migratory Bird Treaty Act (MBTA). Although some birds are protected by ESA when they receive a federal threatened or endangered status, all birds (with a very few invasive exceptions) are federally protected through MBTA, which is separate from ESA and thus separate from IPaC. The use of this special provision and keeping to the winter tree cutting dates will eliminate any regulatory consultation regarding tree removals.

If you have questions or need additional information, please contact Landon Johnson at JohnsonL26@Michigan.gov.