

From Bruce Kadzban, Local Agency Program Section Administrator

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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](#)

Use these special provisions as advised during the NEPA process. The local agency is responsible for making sure these special provisions are included if necessary.

Before submitting, the Local Agency (LA) needs to add its name in the blank space at the top of each Special Provision. Otherwise, do not modify the content of the special provision.

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 when this species is reported on a state species review. If this special provision is not used, the local agency shall consult with DNR on required restrictions and conservation measures, and 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, the LA is required by the Fish and Wildlife Service (FWS) or DNR to provide wildlife exclusion fencing. This special provision, in coordination with MDOT's Local Agency Endangered Species Biologist, takes the place of consultation.
3. Tree Removal and Clearing for Local Agency Only
In April 2024, FWS updated its official ruling and habitat model for Northern Long-eared, Tri-colored, and Indiana bat species, which removed many tree cutting restrictions, specific only to bats. 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. Using 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.