

Memorandum of Agreement
Among The
Federal Highway Administration, Alabama Division,
State of Alabama Department of Transportation,
And
Department of Interior, US Fish and Wildlife Service
Alabama Field Office

December 2013
Revised September 2018

This Memorandum of Agreement (MOA) is being instituted among the Federal Highway Administration (FHWA), Alabama Department of Transportation (ALDOT), and the United States Fish and Wildlife Service (USFWS) to help streamline ALDOT projects and activities, which typically result in no adverse effects to threatened or endangered plant and animal species and/or their critical habitats in Alabama.

PURPOSE:

The USFWS is charged with the protection of fish and wildlife resources, particularly wetlands and threatened and endangered species and their habitats. Within this task, the USFWS provides comments to ALDOT regarding the potential effects of many specific highway-related construction activities, which are Federally-funded by the Federal-aid Highway Program through the FHWA and executed by ALDOT. It is recognized that certain categories of ALDOT activities typically result in no effect to listed species and critical habitat, and that a detailed project review by USFWS is not warranted for such projects. This MOA is intended to define the categories of projects and activities that do not require consultation from USFWS.

SCOPE:

This MOA does not supersede the responsibilities and obligations of FHWA, ALDOT, and USFWS, which are mandated by the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), or related regulations and agency policies. The following categories of projects have been evaluated in accordance with these statutes, regulations, and policies, and a conclusion reached by FHWA, ALDOT, and USFWS that specific work within these categories will result in no effect to threatened/endangered species and/or their critical habitats. As a result, this MOA constitutes programmatic coordination pursuant to the Fish and Wildlife Coordination Act and a programmatic consultation pursuant to Section 7 of the Endangered Species Act.

CATEGORIES OF EXEMPTION:

The categorical exemptions are based on the following project LIMITS: 1) not requiring work involving equipment in or disturbance to waters of the United States, and 2) work remains within the existing right-of-way (ROW) limits (to include temporary and permanent easements) and/or acquired ROW which would not exceed 75 feet wide and one mile in length¹. Some categorical exemptions have ADDITIONAL LIMITS noted. All roadway work within the listed range for the gopher tortoise and outside of the front slope of the existing roadway will require coordination with ALDOT Environmental Technical Section.

A. Bridge and Bridge-related Projects:

1. Typical bridge repair projects provided that construction debris or other construction-related materials and equipment are prevented from entering the waterway through the use of best management practices designed for highway construction and an assessment of the immediate work area to determine the presence of endangered species. If endangered species are found to be present, appropriate measures will be taken ADDITIONAL LIMITS: confined to the structure above the waterline and to existing ROW. Activities within this category include the following:
 - a. Bridge deck repair (scarification, patching, replacement, etc.)
 - b. Installation and repair of expansion joints
 - c. Removal and replacement of asphalt on bridge and roadway approaches
 - d. Removal, replacement, and repair of beams
 - e. Removal and replacement of bridge deck cantilevers
 - f. Modification of piers and abutments above the surface of the water
 - g. Repair and replacement of bridge rails and approach guardrails
 - h. Patching of substructures and installation of impact attenuators, provided substrate work is not involved and downstream flow not
 - i. Sand blasting, painting, or sealing of any bridge structure located above or adjacent to the water's surface provided a containment system is in place, per SECTION 521, STEEL BRIDGE COATING, ALDOT Standard Specifications for Highway Construction, Current Edition
2. Correcting bridge and culvert scour areas and controlling erosion is an accepted practice when public safety is at risk and the U.S. Army Corps of Engineers has issued a Clean Water Act (CWA) Section 404 permit for impacts to the waters of the US. ADDITIONAL LIMITS: confined to existing ROW.
 - a. When local scour has occurred around bents/piers (including in-stream bents/piers), the use of riprap to stabilize bents/piers is to be performed in accordance with FHWA's fifth edition of HEC-18 entitled "Evaluating

¹ Language based on Programmatic Biological Opinion for Transportation Projects in the Range of the Indiana Bat and Northern Long-Eared Bat, Revised February 2018.

Scour at Bridges". Based on this manual, the top width (W) of the local scour hole from each side of the bent/pier is calculated to be 2.8 times the scour depth (ys).

$$W = 2.8y_s$$

The local scour hole should be lined with filter-fabric (lap and tucked) and rip-rap should be applied to fill the local scour hole to the top width calculated using the formula above not to exceed 10' from any face of the bent/pier foundation and limited to no more than one bent/pier. This exception is not intended to include contraction (channel) scour which is removal of material from the bed and banks across all or most of the channel width. In an emergency, areas with contraction scour may be remediated as required, after which USFWS should be notified. In non-emergency situations, areas with contraction scour should not be remediated until after consulting USFWS

- b. When local scour has occurred at culvert inlets and outlets, the use of riprap is to be performed in accordance with FHWA's third edition of HEC-14 entitled "Hydraulic Design of Energy Dissipaters for Culverts and Channels". For inlets, rip-rap should be placed 1 times the culvert rise (D) perpendicular from the toewall. For outlets, Based on Table 10.1 from HEC-14, the apron length should be 6 times the culvert rise (D) perpendicular from the toewall for rip-rap which ALDOT typically uses for such repairs. The benefits of placing rip-rap in this manner are: it brings the grade up to the lip of the culvert as much as feasible to provide a beneficial effect for aquatic species migration; provides structural stability for the culvert; serves as an energy dissipater system, thus reducing downstream flow velocities and potential scour. The USFWS should be consulted in any situation which requires aprons larger than indicated above.
3. Bridge inspections including any portion of bridge piers located under the water's surface provided no soil or substrate is disturbed.
 4. Placement of riprap adjacent to existing bridge abutments to repair/prevent scour and protect the integrity of the structure. ADDITIONAL LIMITS: confined to existing ROW.
 - a. Work is limited to the distance necessary to correct the problem
 - b. Work may not extend past the historic (pre-storm) shoreline location (Limited to 10 feet into the channel)
 - c. No equipment is allowed in the stream channel
 5. Maintenance of roadway ditches and catch basins provided that 1) the original size and dimensions are not increased, 2) work is confined to sloped ditches that only convey water for a short period of time during storm events, and 3) no work occurs within 50 feet of any perennial stream.

B. Highway Modernization:

1. Resurfacing, restoration, safety widening, additional lanes.
2. Removal and replacement of existing pavement provided all old pavement is properly disposed, per current regulations.
3. Installation of fencing, pavement markings, striping, rumble strips and stripes, and other improvements.
4. Adding intersection turning lanes, installing roundabouts or improving intersection turning radius.
5. Replacement, installation and extension of drainage pipes/relief culverts provided the Corps of Engineers has issued a CWA Section 404 permit for impacts to the waters of the US. LIMITS: does not pertain to pipes/culverts with active streams.
6. Replacement, installation and extension of drainage pipes/culverts for active streams that are 48 inches or less in diameter provided the Corps of Engineers has issued a CWA Section 404 permit for impacts to the waters of the US.

C. Safety, Traffic Control, and Lighting:

1. Installation, replacement, or modification of traffic control signals or information signs, such as Intelligent Transportation Systems (ITS), fog detection systems, traffic information systems, flashing lights, and reflectors.
2. Installation and repair of guardrails, cable barriers, and jersey barriers.
3. Addition of intersection and roadway lighting. ADDITIONAL LIMITS: Coastal roadways within Baldwin and Mobile Counties that require replacement or new lighting within 2500 feet of the mean high tide line are not cleared by this MOA but require a separate coordination with the USFWS.
4. Installation of railroad signals, signs, and warning devices at crossings.
5. Emergency relief projects for periodic natural disasters.

D. Other:

1. Enhancement of Rest Areas (e.g., repaving, landscaping, lighting, building demolition, replacement or additions, sidewalk refurbishing).
2. Installation of noise walls. ADDITIONAL LIMITS: confined to existing ROW and no waters of the US are involved.

3. Mechanical removal of vegetation along existing roadways or under bridges. ADDITIONAL LIMITS: confined to existing ROW and no waters of US are involved.
4. Any project not involving construction activities, earth moving activities, or disturbances of any kind, such as planning and research activities, grants for training, engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed, and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
5. Acquisition of land for hardship or protective purposes provided acquisition will not limit the evaluation of alternatives including shifts in alignment, which may be required in the NEPA process for a planned construction project.

GENERAL PROVISIONS:

The FHWA, ALDOT, and USFWS will review this MOA every five years for revisions, as appropriate. Revisions may be requested at any time by either agency. All revisions will be made in writing and require the concurrence of all agencies involved. Either agency may withdraw from this agreement with 30 days written notice to all agencies involved.

AGREEMENT BY:



U.S. Fish and Wildlife Service, Alabama Field Office

William J. Pearson
 William J. Pearson, Field Supervisor

Date: 12/20/2018



Alabama Department of Transportation

John R. Cooper
 John R. Cooper, Director

Date: _____



Federal Highway Administration

Mark D. Bartlett
 Mark D. Bartlett, Division Administrator

Date: 1/3/2019