

Department of Transportation
 Programmatic Consultation Guidance

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- Attachment 1: Interagency Teams**
- Attachment 2: Examples of Key Programmatic Strategies**
- Attachment 3: Template for Programmatic Biological Opinion**

Attachment 4: Template for Biological Assessment**Attachment 5: Template for Programmatic Biological Opinion Compliance Letter****Summary**

The U.S. Fish and Wildlife Service (Service) will work with Federal Highway Administration and state Department of Transportation agencies (Agencies) to expedite programmatic consultations by identifying procedures and establishing mechanisms for implementing future projects and associated conservation activities. Through the mechanism of early, coordinated reviews, there will be parallel environmental reviews, fewer environmental conflicts, better species protection, better decision documents, reduced costs, greater predictability and certainty for all parties, and reduced time to implement needed transportation projects. As the Agencies, specifically state Department of Transportation agencies, utilize this guidance for projects, they maintain a continuing Federal nexus (*i.e.*, Federal involvement or funding), therefore, informal or formal consultation under section 7 of the Act will always be required when listed or proposed species and/or designated or proposed critical habitat may be affected by projects. In addition, although a state Department of Transportation agency may be designated as a non-Federal representative, under 50 CFR §402.08, to conduct information gathering or preparation of a biological assessment, the Federal Highway Administration is required to maintain the lead in the consultation process.

The overall purpose of these expedited programmatic consultations is similar to that described for early consultation in 50 CFR §402.11(a): “to reduce the likelihood of conflicts between listed species or critical habitat and proposed actions,” thus producing more positive environmental results and increasing the efficiency of the consultation process. This will be accomplished through: (1) utilizing applicable plans and guidance to design projects that avoid or minimize adverse effects on listed, proposed, and candidate species, and reduce levels of incidental take of these species; and (2) enabling the section 7 review process to proceed quickly and efficiently. This programmatic consultation guidance will facilitate the implementation of the Transportation Equity Act for the 21st Century.

Introduction

Service Field Offices (FO), and Regional Offices, as appropriate, will work with the Agencies to establish agreements to develop criteria to be used to design and implement projects and associated conservation actions within a specific geographic area in a manner consistent with requirements of sections 7(a)(1) and 7(a)(2) of the Endangered Species Act of 1973, as amended (Act). The Service Director’s Order 108 gives guidance on how to establish these agreements. This Order provides uniform guidance for implementing reimbursable funding agreements between the Service and State Departments of Transportation. A critical part of this Order is cooperative Service participation “in the pre-scoping and scoping stages of transportation planning, when environmental concerns can be resolved most effectively.” Thus, the Service would be initially engaged by the Agencies at the earliest stage of planning efforts and then would remain engaged throughout the process. A key element to this