

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

December 2013

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 following categorical exemptions are based on the project 1) not requiring work in or disturbance to waters of the United States, and 2) all work remains within the existing rights-of-way limits.

A. Bridge and Bridge-related Projects:

1. Typical bridge repair projects confined to the structure above the waterline with no disturbance to the waterway or area outside of the existing right-of-way (ROW) limits 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. Activities within this category include the following:
 - Bridge deck repair (scarification, patching, replacement, etc.)
 - Installation and repair of expansion joints
 - Removal and resurfacing of bridge and approach roadway pavement
 - Patching of substructures
 - Removal, replacement, and repair of beams
 - Removal and replacement of bridge deck cantilevers
 - Modification of piers and abutments above the surface of the water
 - Repair and replacement of bridge and approach guardrails
 - Installation of impact attenuators, provided substrate work is not involved and downstream flow not affected
 - 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, 2012 Edition
2. Correcting bridge scour areas and controlling erosion provided 1) no waters of the US are involved, and 2) no additional ROW needed.
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.
 - Work is limited to within 40 feet upstream and 40 feet downstream of the structure
 - Work may not extend past the historic shoreline location
 - 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.
6. Replacement of overpasses that span roadways and railways provided no waters of the U.S. are involved.

B. Highway Modernization:

1. Resurfacing, restoration, or adding 2-foot safety widening provided all work remains within existing ROW limits.

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 where no land acquisition, traffic disruption, or change in access will occur.
4. Adding intersection turning lanes or improving intersection turning radius provided work is confined to existing ROW limits.

C. Safety, Traffic Control, and Lighting:

1. Installation, replacement, or modification of traffic control signals or information signs within existing ROW limits, 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 lighting provided that work is confined to existing ROW limits.
4. Installation of railroad signals, signs, and warning devices at crossings where no land acquisition, traffic disruption, or change in access will occur.
5. Emergency relief projects for periodic natural disasters.

D. Other:

1. Enhancement of Rest Areas (e.g., repaving, landscaping, lighting, building replacement or additions, sidewalk refurbishing).
2. Installation of noise walls provided that work is confined to existing ROW and no waters of the U.S. are involved.
3. Mechanical removal of vegetation along roadways or under bridges provided that work is confined to existing ROW and no waters of the U.S. 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:



Alabama
Division

U.S. Department
of Transportation
**Federal Highway
Administration**

Federal Highway Administration, Alabama Division

Mark D. Bartlett
Mark D. Bartlett, Division Administrator

Date: 12-2-2013



State of Alabama, Department of Transportation

John R. Cooper
John R. Cooper, Director

Date: 12/2/13



US Fish and Wildlife Service, Alabama Field Office

William J. Pearson
William J. Pearson, Field Supervisor

Date: 12/2/2013