

Information taken from the Ohio FWS website:

S7 Consultation Technical Assistance

Step-by-Step Instructions

Overview

Context

The Endangered Species Act of 1973 (ESA) mandates all Federal departments and agencies to conserve listed species and to utilize their authorities in furtherance of the purposes of the ESA. The ESA provides specific mechanisms to achieve its purposes and Section 7 is one of those. Section 7 requires that Federal agencies develop a conservation program for listed species (i.e., Section 7(a)(1)) and that they avoid actions that will further harm species and their critical habitat (i.e., Section 7(a)(2)). The section 7 consultation process described here applies to the second requirement - Section 7(a)(2).

Section 7(a)(2) Mandate

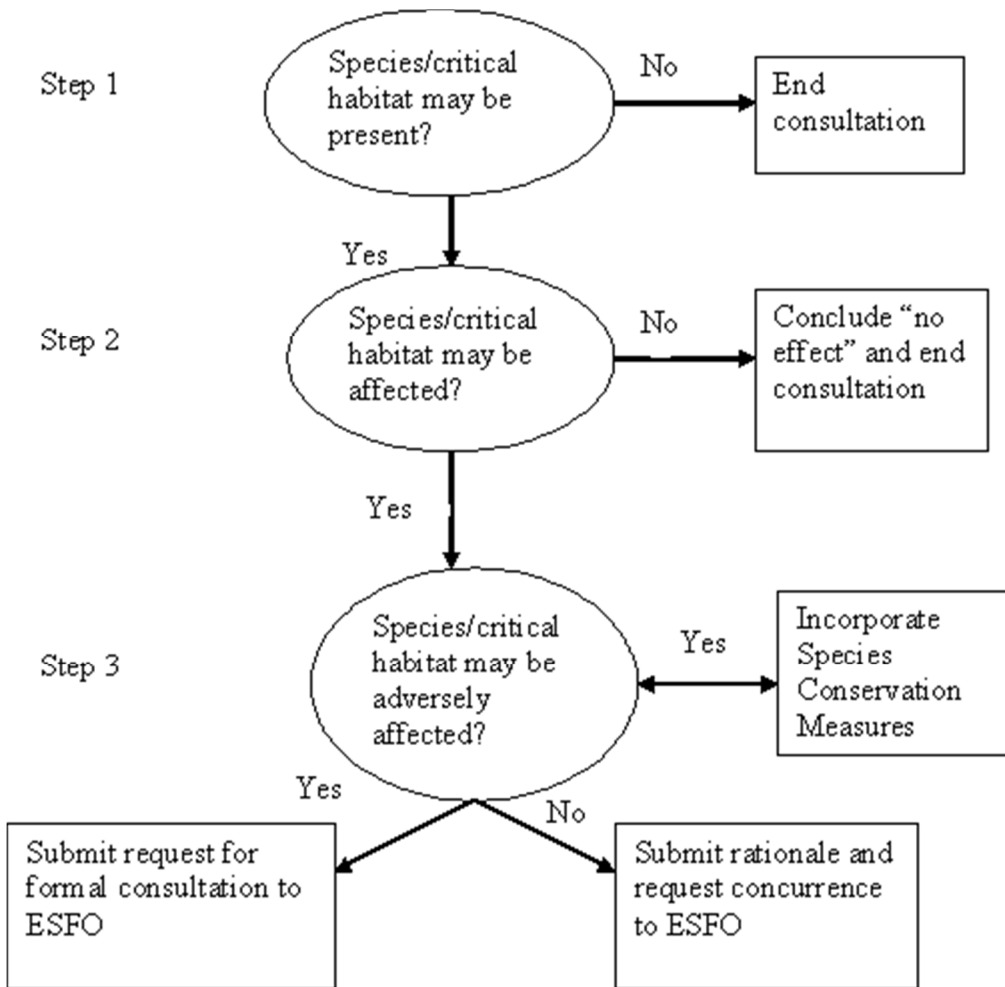
Section 7(a)(2) directs all Federal agencies to insure that any action they authorize, fund, or carry-out does not jeopardize the continued existence of an endangered or threatened species or designated or proposed critical habitat (collectively, referred to as protected resources). The implementing regulations, 50 CFR 402, specify how Federal agencies are to fulfill their section 7 consultation requirements.

Section 7(a)(2) Responsibilities

Under the implementing regulations (50 CFR 402), Federal agencies must review their actions and determine whether the action may affect federally listed and proposed species or proposed or designated critical habitat. To accomplish this, Federal agencies must request from the Service a list of species and critical habitat that may be in the project area or they can request our concurrence with their species list. The Service must respond to either request within 30 days.

Once a species list is obtained or verified as accurate, Federal agencies need to determine whether their actions may affect any of those species or their critical habitat. If no species or their critical habitat are affected, no further consultation is required. If they may be affected, consultation with the Service is required. This consultation will conclude either informally with written concurrence from the Service or through formal consultation with a biological opinion provided to the Federal agency.

The Section 7(a)(2) process consists of two phases: informal and formal consultation. This web site addresses the informal consultation phase. Informal consultation involves 3 steps.



NOTE: If at anytime additional information is needed or you want personal assistance, you may contact us. Using this site in no way precludes project proponents from receiving personal assistance from our [Ecological Services \(ES\) Field Offices](#).

Step 1. Based on your project type (listed below), either contact the appropriate Ecological Services Field Office or proceed to Step 2:

- For **wind energy projects**, contact the [Ecological Services Field Office](#) located in the state where the project would occur for assistance.
- For **projects installing towers that use guy wires or are over 200 feet in height**, contact the [Ecological Services Field Office](#) located in the state where the project would occur for assistance.
- For **all other projects**, continue with [Step 2](#).

Step 2. Determine whether a listed or proposed species or designated or proposed critical habitat may be present within the action area.

A. Check the [species list](#) to determine whether any species or critical habitat may be present in the county(ies) of the proposed project.

- If no species or critical habitat is listed, conclude "no species present" and **document your finding**. No further consultation required.
- If any species or critical habitat is listed, print the species list and continue to B.

B. If a listed/proposed species or critical habitat is in the county where your project is located and your project is any of the following:

- within a developed area,
- a HUD project,
- a pipeline project,
- a buried utilities project,
- a telecommunication project, or
- a request for a Conditional Letter of Map Revision (CLOMR) from FEMA,

then [follow this link for instructions specific to those types of projects](#).

If your project type is not listed above, continue to C.

C. Go to the pertinent [species information pages](#), define your action area, and cross-reference the species information with your knowledge of the project site.

- If suitable habitat is not present in the action area, conclude "species and critical habitat not present" and document your finding. No further consultation is required.
- If suitable habitat is present, but data (e.g., surveys) indicate species and critical habitat are absent from the action area, conclude "species and critical habitat not present" and document your finding. No further consultation required.
- If suitable habitat is present, and no other data indicate species or critical habitat are absent, conclude "species or critical habitat may be present" and proceed to [Step 3](#).
- If suitable habitat is present, and no other data indicate species or critical habitat are absent, you may conduct a survey to determine whether listed species or critical habitat are present. Please contact the [Ecological Services Field Office](#) located in the state where the project would occur for more information.

Step 3. Determine whether the proposed action may affect listed or proposed species or designated or proposed critical habitat.

In [step 2](#), you defined your action area and concluded that a listed resource "may be present." In this step, you will determine whether your project "may affect" species or critical habitat. There are two possible determinations in this step: "no effect" or "may affect."

To assist with making this determination, we suggest the following:

A. Describe the proposed action. In your description, identify the timing, location, and when applicable, the frequency and intensity, of the proposed action.

B. Determine whether listed resources will be exposed to the proposed action or to any of the environmental changes that are likely to occur. You should assess the potential for the action to affect any life stage of the species.

- If species or critical habitat will not be exposed directly or indirectly to the proposed action or any resulting environmental changes, conclude "no effect" and document your finding. No further consultation required. For your convenience, we provide an example of a ["no effect" document](#) for your use.
- If species or critical habitat may be exposed, continue.

C. Determine if those species or critical habitat exposed will respond upon exposure. Review the pertinent species information page and review other relevant sources of information (e.g., conduct a literature search for the specific stressor or environmental change to which the species will be exposed).

- If the best available data indicate that the species and critical habitat will not respond in any manner, conclude "no effect" and document your finding. No further consultation required. For your use, [an example of a "no effect" document is provided](#).
- If data indicate the species and habitat may respond upon exposure, or if data are equivocal or lacking to justify a determination of "no effect", conclude "may affect" and proceed to Step 3.
 - If surveys are lacking, it may be appropriate to conduct surveys to determine whether listed species are present. Please contact the [Ecological Services Field Office](#) nearest the project for more information.

Step 4. Determine whether listed or proposed species or designated or proposed critical habitat may be adversely affected.

In [Step 3](#), you determined that a species or critical habitat may be exposed and may respond in some way to the proposed action or the environmental changes likely to result from the proposed action. The next step is describing the manner in which the listed resources will respond. Specifically, you are assessing whether the species/critical habitat is "not likely to be adversely affected" or "likely to be adversely affected." Consider the following in making your finding:

A. When you are basing your determination on effects to the species' habitat rather than to the species itself, you need to conduct a two-part assessment:

- (1) determine how the habitat will respond to the proposed action (for example, changes in habitat quality, quantity, availability or distribution), and
- (2) assess how the species is expected to respond to these habitat changes.

B. Critical habitat analyses focus on how the proposed action will affect the constituent elements of the critical habitat.

C. An action warrants a "may affect, not likely to be adversely affected" finding when its effects are wholly beneficial, insignificant or discountable.

Note: The threshold for a "likely to adversely affect" determination is an adverse effect to one or more individuals. Also, adverse effect is not synonymous with the term "**take**." Adverse effects can occur even if take is unlikely.

- If the listed resource is likely to respond in only a **beneficial manner**, conclude "not likely to adversely affect" and submit your finding and supporting rationale to the appropriate ES Field Office and request concurrence.
- If the listed resource is likely to respond in a negative manner but such responses are expected to be **insignificant**, conclude "not likely to adversely affect" and submit your finding and supporting rationale to the appropriate ES Field Office and request concurrence.
- If the listed resource is likely to respond in a negative manner but the likelihood of either exposure or such a response is **discountable**, then conclude "not likely to adversely affect" and submit your finding and supporting rationale to the appropriate ES Field Office and request concurrence.

You may submit your request electronically to the [ES Field Office](#) nearest your project area. For your assistance, an example letter and template are provided.

[Template \(Word\)](#) - [Example Letter \(PDF\)](#)

D. If you cannot conclude that the response will be wholly beneficial, insignificant, or discountable, check the [Species-Specific Section 7 Guidance and Conservation Measures](#) to determine whether there any measures that may be implemented to avoid or minimize the negative effects.

- If you modify your proposed action to include conservation measures to implement, assess how exposure and response are anticipated to change. Repeat Step 3 and document your conclusion, as appropriate. Be sure to identify the specific conservation measures you intend to incorporate and their associated biological consequences.

E. If you cannot conclude that the response will be wholly beneficial or insignificant, or that the exposure or response is discountable, contact the appropriate [ES Field Office](#) for assistance.