## Federal action review under the Endangered Species Act

This flow-chart diagrams the federal action review process set forth in section 7(a)2 of the Endangered Species Act and 50 CFR Part 402

The Endangered Species Act prohibits federal agencies from jeopardizing the continued existence of a species or destroying or adversely modifying designated critical habitat. To ensure this doesn't happen, the Act lays out a review, or consultation, process enabling federal agencies, through interaction with the U.S. Fish and Wildlife Service, to identify and address the impacts of their actions.

Green boxes

Responsibility of the U.S. Fish and Wildlife Service

Yellow boxes
Responsibility of the action
agency or designee

Federal action—A federal agency No effect—There are no effects, beneficial or adverse, on the species or critical habitat, typically because species habitat or critical habitat are (action agency) seeks to fund, permit, not present. The action agency does not need to consult with FWS, however they must document how they reached this determination. or implement a project, in whole or part. May affect, not likely to adversely affect—Effects to FWS cannot concur based on information provided the species or critical habitat are either wholly benefi-A list of potentially impacted species/ Additional information requested. **Action agency Project** cial with no adverse effects throughout implementacritical habitat is developed—The FWS has requests FWS review under tion, so miniscule they're undetectable and therefore action agency identifies the area to be concurrence 60 days to **FWS concurs** insignificant, or so unlikely they're discountable. The impacted by their project and deterthe ESA on their derespond action agency must document how they reached this mines if it overlaps with the Fish and concludes termination FWS does not concur—Information provided indicates determination and provide it when they seek concur-Wildlife Service-designated ranges of the project is likely to adversely affect a species or critical rence from the FWS. any federally threatened or endanhabitat, requiring formal consultation. gered species or any designated criti-Steps in the blue box are called "informal consultation" cal habitat\*. To expedite the process, an official species list can be generated using the Information for Planning and Consultation (IPAC) online tool, If the project chang-Service provides a biological es or other species ipac.ecosphere.fws.gov. It's prudent to Agency submits their biologi**opinion**—This discusses the include species or critical habitat proin the project area May affect, likely to cal assessment and requests baseline of the species/critical are listed before FWS has 30 days to review the assessposed for protection. adversely affect—The formal consultation and a habitat, describes the effects of project completion, ment for completeness, 90 days to proposed project may the action on the species/critical **FWS opinion** —The biological there is an obligation consult with the action agency, 45 days result in adverse effects assessment typically includes habitat, offers the FWS's opinion to reinitiate this proto the species or critical to issue a biological opinion. The initial Action agency documents an effect the details of the project, on whether the project will jeopcess. Action agencies habitat. If adverse 30-day review may be concurrent with determination for each species/ how it will impact listed speardize the existence of a species can proactively adeffects are unavoidable. the 90 days of consultation if the ascritical habitat on the prepared list cies/critical habitat, and or destroy/adversely modify dress potential imreview begins a formal The action agency assess their project sessment is found to be complete. measures the agency is taking critical habitat, and may authorpacts to species prophase. to see if and how individuals of a speize limited incidental take\*\* of to decrease impacts. posed for the threatcies will be impacted, if the habitat the species. ened and endanthey actively use will be impacted (e.g. gered species list, water, air, light, or sound pollution; or If possible, FWS works avoiding the need to **Insufficient information**—FWS requests the degradation or elimination habitat with the action agency to reinitiate should features such as food or shelter), or if additional information make project modificathose species be critical habitat will be impacted. tions to decrease impacts listed. If the action will jeopardize the existence of a listed species or one proposed for to listed species or critical Steps in the pink box listing, or destroy or adversely modify designated or proposed critical habitat, the habitat. are called "formal FWS will provide reasonable and prudent alternatives to avoid that outcome. consultation"

<sup>\*</sup>Critical habitat—Formally designated areas essential to the conservation of the species, some of which may require special management considerations or protection. Outside the consultation process, the designation has no bearing on private lands.

\*\*Take—Harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engaged in and such conduct.