

FHWA Process for Section 7 ESA Consultation: A Streamlined Tool

Melissa Toni, FHWA
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USFWS Process, 7- Steps

Step 1: Mapping: Determine Action Area.

Step 2: Mapping: Plug it into the IPaC System.

Step 3: Mapping: Contact NYNHP.

Step 4: Is there suitable habitat?

Step 5: Is there Critical Habitat?

Step 6: Bald Eagles- Are we are within 660' of a nest?

Step 7: Submission: To FHWA.

FHWA ESA Process

- Step 1. Are there ESA species mapped for the Project Area?
- Step 2. Determine the “effects” of the project for each species listed in IPaC. Use the “Species Specific Worksheets” in the packet.
- Step 3. Documentation.

Two Types of “No Effects”

You can reach a No Effect determination if:

- The nature of the activity has no chance of impacting the species, even if the species or habitat is present.

“No Effect, Activity-Based”

- The Project Area does not contain suitable habitat.

“No Effect, No Suitable Habitat”

Step 1. Are there ESA species mapped for the Project Area?

Use IPaC (<http://ecos.fws.gov/ipac/>) and conduct a New York Natural Heritage Program database search.

- A) No- ESA does not apply. No documentation is required.
- B) Yes- Go to Step 2.

Step 2: Determine the “effects” of the project for each species listed in IPaC.

Each species- specific worksheet package includes:

- A key that leads you to a determination,
- an accompanying flow-chart,
- species specific info such as methods on determining suitable habitat, and
- any forms that may streamline the process.

Step 2: Northern Long-eared Bat

- 1. Is the project on the Activity-based “No Effect” list?
 - Yes: “No Effect, Activity-Based”
 - No: Go to 2.
- 2. Is the project within 0.25 miles of known hibernacula or 150 feet of known roost trees?
 - Yes: Follow the 7-step process.
 - No: Go to 3.
- 3/4. Assume habitat exists? or habitat assessment (SHAFT) concludes habitat exists?
 - Yes: Go to 5.
 - No: “No Effect, No Suitable Habitat”

Step 2: Northern Long-eared Bat

- 5. Tree Removal: Between May 1 and July 31?
 - Yes: Follow the 7-step process.
 - No: Go to 6.
- 6. Tree Removal: Between April 1 and April 30, or between August 1 and Sept 30?
 - Yes: This is a “May Affect”- Complete the 30-day form.
 - No: Go to 7.
- 7. Tree Removal: Between October 1 and March 31?
 - Yes: Complete the Rangewide 14-day form.
 - No: Go to 8.

Step 2: Northern Long-eared Bat

- 8. Does the project involve bridge work between March 31 and October 1 of a given year?
 - Yes: Complete the Bridge/Bat Survey Form within 1 year prior to the start of the work.
 - No: No additional documentation.

Species- Specific Worksheet package also contains NLEB Suitable Habitat Assessment Form for Trees (NLEB SHAFT), in addition to all of the forms mentioned previously.

Step 2: Other Species

- Indiana Bat
- Bog Turtle
- Mollusks (mussels, etc.)
- Karner Blue Butterfly
- Atlantic and Shortnose Sturgeon

Step 3. Documentation

- ESA Transmittal Sheet
- 14-Day Form (NLEB and Ibat)- MA, NLAA
- 30-Day Form (NLEB)- MA
- Habitat Assessments (different for each species)
- BE (All other species)- MA, NLAA
- BA (MA, Likely to Adversely Affect)

Section 7 ESA Process: ESA Transmittal Sheet

Step 3: Documentation. Please check the appropriate boxes below and complete the documentation as described.

	ESA Does Not Apply	No Effect, Activity-Based	No Effect, No Suitable Habitat	MA, NLAA, 14-Day Form	MA, NLAA, 30 Day Form	MA, NLAA, Traditional 7-step Process	Bridge/Bat Survey Form	MA, LAA
Northern Long-eared Bat								
Indiana Bat								
Bog Turtle				NA	NA		NA	
Mollusks (Dwarf Wedge Mussel, Rayed Bean, Clubshell, Chittenango Ovate Amber Snail)				NA	NA		NA	
Karner Blue Butterfly				NA	NA		NA	
Sturgeon (Shortnose Sturgeon, Atlantic Sturgeon)				NA	NA		NA	
Piping Plover				NA	NA		NA	
Red Knot				NA	NA		NA	
Other listed species (Please list)				NA	NA		NA	
Documentation Required	No Documentation	NYSDOT retains the Species-Specific Worksheet in their files.	NYSDOT submits "No Suitable Habitat Determination" to FHWA for "No Effect" Concurrence.	NYSDOT submits 14-day Form to the USFWS w/ cc: to Area Engineer.	NYSDOT submits 30-day Form to FHWA, who submits it to USFWS for concurrence.	NYSDOT submits either BE or BA to FHWA, who submits to USFWS for concurrence.	NYSDOT submits Bridge/Bat Survey Form to FHWA to request "No Effect" Concurrence.	NYSDOT submits BA to FHWA for Initiation of Formal Consultation with USFWS.

Instructions for Use: This Summary Sheet is sent to FHWA for all submissions, except "ESA Does Not Apply" and "No Effect, Activity-Based". The package should include all documentation for all species requiring concurrence so that FHWA can make one ESA determination. The Summary Sheet is also sent to the USFWS if any submissions are required to that agency. Again, if there are multiple species involved, please submit an entire ESA

Questions?

