



# Endangered Species Act



There is a federal and a California Endangered Species Act (ESA) whose purposes are to conserve and sustain the habitats of and special status terrestrial, avian, and aquatic species. Special status species for either act are classified as either:

- Threatened, likely to become endangered in the future, or
- Endangered, in danger of extinction throughout all or a portion of its range.



Each ESA allows for the protection of “candidate species,” species for future consideration. The U.S. Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) administer the federal and state ESAs, respectively, in accordance with their 2015 Memorandum of Agreement.

The Federal Emergency Management Agency (FEMA) is the lead agency for federal ESA compliance for declared disasters that have the potential to impact a federally listed or candidate species. Otherwise, the local or state agency is the lead agency and initiates the process for proclaimed disasters. An ESA “Section 7 Consultation” may be required for the federal ESA compliance process and comprises three steps: Steps 1 and 2, *informal consultation*, and, Step 3, *formal consultation* (see below).

## Federal ESA Section 7 Consultation

☑ **Step 1-Review of Project Area/Actions.** FEMA consults with the USFWS and/or the National Marine Fisheries Service (NMFS). Within 30 days, the special status species in the project area are identified for FEMA.

☑ **Step 2-Requests for Information.** FEMA receives and responds to USFWS and NMFS requests for additional information, and/or a Biological Assessment (BA), an analysis of the proposed action is “likely to adversely affect” a listed species or critical habitat requiring a formal consultation (or not).

☑ **Step 3-Formal Consultation.** If a listed species or habitat may be affected, FEMA initiates a formal consultation with the USFWS and NMFS in writing. The ESA Section 7 consultation process is mandated to last no more than 90 days, where after 45 days NMFS and USFWS will prepare a Biological Opinion (BO). The mitigation measures for the proposed action are identified in the BO and must be implemented. Time extensions may be allowed for this process.

## Additional Resources:

### Websites

[Cal OES](#)

[FEMA Region IX \(Environmental\)](#)

[CDFW](#)

[U.S. Fish and Wildlife Service](#)

[National Marine Fisheries Service](#)



- ☛ Violations of the ESA can result in prosecution.
- ☛ Failure to comply with ESA can result in de-obligation of federal or state funding.

## QUESTIONS?

Contact:



**Patricia Nelson**

Cal OES,  
 Environmental Officer  
 (916) 845-8738  
[Patricia.nelson@caloes.ca.gov](mailto:Patricia.nelson@caloes.ca.gov)

