



Endangered Species Act



The purpose of the federal Endangered Species Act (ESA) is to conserve the ecosystems upon which threatened and endangered (TES) species depend and to conserve and recover listed species. Listed species can be either “threatened” or “endangered”. All species of plants and animals, except pest insects, are eligible for listing as threatened or endangered.

- Threatened – means a species is likely to become endangered within the foreseeable future.
- Endangered – means the species is in danger of extinction throughout all or a significant portion of its range.



Section 7 Consultation

If an action or project is proposed that may impact endangered species, when there is a federal funding nexus, Federal Emergency Management Agency (FEMA), as the lead agency, must begin a three-step process called a Section 7 consultation. Steps 1 and 2 are called an informal consultation. FEMA will contact Cal OES if a Section 7 consultation is required for a project they are funding and the local agency, will in turn, be notified. *If there is no federal funding nexus, and FEMA is not involved, then the local or other lead agency is responsible for Section 7.*

- ☑ Step 1-Initial Review of Project Area/Actions - FEMA asks US Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) if any endangered species may be present in the project area. USFWS and NMFS must respond within 30 days.
- ☑ Step 2- USFWS Requests Additional Information - FEMA must respond to USFWS and NMFS requests for additional information. USFWS and NMFS may request a Biological Assessment (BA). The BA is used to help determine whether the proposed action is “likely to adversely affect” a listed species and critical habitat.
- ☑ Step 3-Formal Consultation - If the project may affect threatened or endangered species then a formal consultation must be initiated. FEMA will send a written request to USFWS to initiate formal consultation. When formal consultation is completed, USFWS will issue a Biological Opinion (BO), which will often include species impact mitigation. The mitigation measures must be followed in carrying out the project. The Section 7 formal consultation process is mandated to last no more than 90 days with an additional 45 days for NMFS and USFWS to prepare the BO. This may be subject to time extensions.



Violations of the ESA can result in prosecution.

Failure to comply with ESA can result in deobligations of federal/state funding.



Additional Resources

CalOES Factsheets
 Environmental Justice
 Environmental Rules
 Historic Properties
 Wetlands Protection
 Stream Erosion

Websites

Cal OES
<http://www.caloes.ca.gov/>

FEMA Region IX (Environmental)
<https://www.fema.gov/fema-region-ix-environmental-planning-and-historic-preservation-program>

Fish and Wildlife Service
endangered.fws.gov

National Marine Fisheries Service
www.nmfs.noaa.gov



QUESTIONS?

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