



Sand Skink and Blue-tailed Mole Skink Species Conservation and Consultation Guide:

*Consultation/Coordination with
the Service*

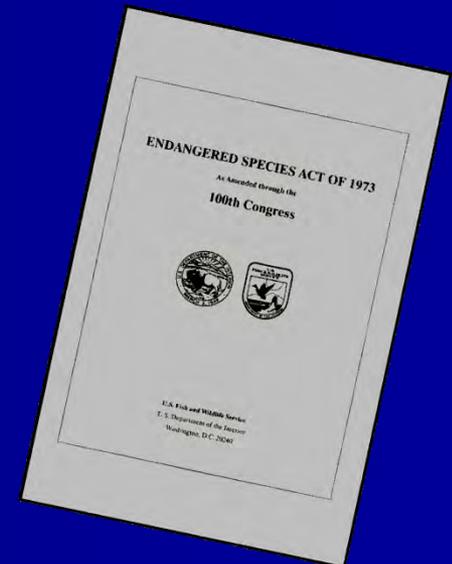


Legislation Related to Consultation and Coordination with the Service

Endangered Species Act of 1973

as amended (87 Stat. 884; 16 U.S.C. 1531 *et seq.*)

- Section 7. Interagency Cooperation
- Section 9. Prohibited Acts
- Section 10. Exceptions





Section 9 of the Endangered Species Act Prohibited Acts

- Section 9 indicates that it is unlawful for any person to take a federally listed species except by special exemption (*i.e.*, permit or authorization)
- Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct.
- Harm is further defined by the Service as an act that kills or injures a listed species, and includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.
- Incidental take is defined as take that is incidental to, and not the purpose of activity.



Section 7 of the Endangered Species Act Interagency Cooperation

- Requires Federal agencies to consult with the Service to ensure their actions do not jeopardize federally listed species.
- If the Federal action is likely to result in incidental take of a Federally listed species, the Service analyzes the action's effects in a Biological Opinion. The purpose of the biological opinion is to determine if the project will jeopardize the existence of the species. Federal actions that jeopardize the survival of the species cannot go forward as proposed.
- The incidental take statement (ITS) of the Biological Opinion provides authorization for incidental take of the species
- The ITS also contains terms and conditions the action agency must comply with to minimize take to the species.



Section 10 of the Endangered Species Act Exceptions

- Relates to projects without a Federal nexus that may adversely affect a federally listed species (*i.e.*, those projects or actions that are not proposed, permitted, or funded by a Federal agency).
- Does not specifically require consultation with the Service, although we strongly recommend that non-federal project proponents request technical assistance from the Service before proceeding with their project
- Allows for issuance of an incidental take permit (ITP) for take of a federally listed species (Special exemption to prohibition against take stated in Section 9 of the Act).



Section 10 of the Endangered Species Act Exceptions

- To obtain ITP, the applicant is required to develop and implement a Habitat Conservation Plan (HCP) that minimizes and mitigates incidental take resulting from a project to the maximum extent practicable.
- Project cannot jeopardize the survival of the species.



Coordinating actions with the Service that have potential to affect skinks

- Contact a Service biologist (by phone or email) to determine what type of information is needed by the Service to review your project and assess its impacts to federally listed skinks (Early discussions with the Service can reduce the need for additional RAIs and responses)



Coordinating actions with the Service that have potential to affect skinks

- Next, send a written correspondence to the Service requesting that we review your project and assess its impact to federally listed skinks.



Coordinating actions with the Service that have potential to affect skinks

The written correspondence to the Service should provide:

A detailed description of the proposed project, including:

- Project purpose
- Project design
- Project location, soil types, elevation and habitat types
- Maps and figures as appropriate



Coordinating actions with the Service that have potential to affect skinks

A description of listed skink species and habitat that could be affected by the project

- indicate if project is located in skink consultation area
- note if project will affect skink habitat (soil types, ≥ 82 feet elevation)
- state if you will conduct pedestrian/ coverboard surveys to determine skink status or assume presence

* This is all the info needed for non-federal actions



Coordinating actions with the Service that have potential to affect skinks

If the project is a federal action, the federal action agency should then evaluate the effects of the proposed action on skinks.

- Direct effects are those effects that are caused by the proposed action, occur at the time of construction, are primarily habitat based, and are reasonably certain to occur.
- Indirect effects are those effects that result from the proposed action, are later in time, and are reasonably certain to occur.
- Cumulative effects are the effects of all future state, tribal, local, or private actions reasonably certain to occur (note: differs from NEPA definition)



Coordinating actions with the Service that have potential to affect skinks

.....and describe measures proposed to avoid and minimize the action's effects on skinks



Coordinating actions with the Service that have potential to affect skinks

Finally, the federal action agency should provide their determination on how action will affect skinks and justify that determination

- “no effect”
- “may affect, not likely to adversely affect”
- “may affect, likely to adversely affect”
(incidental take likely, request initiation of formal consultation)



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Conservation Measures



Conservation Measures

Measures that project proponents may incorporate into their projects in order to avoid, minimize, compensate, and mitigate the adverse effects of their projects on listed skinks.



Avoidance and Minimization

- Design project to completely avoid areas known to contain skinks
 - Locate activities likely to disturb or compact soil outside of skink habitat (e.g., use of heavy equipment, material storage, etc.)
 - Designate any areas to be avoided as environmentally sensitive, and sign and fence to prevent accidental disturbance during project activities
- Design project to minimize amount of occupied skink habitat affected



HABITAT COMPENSATION

In order to mitigate or offset impacts to skinks and skink habitat, currently occupied and unprotected skink habitat off site should be acquired, protected and maintained in perpetuity

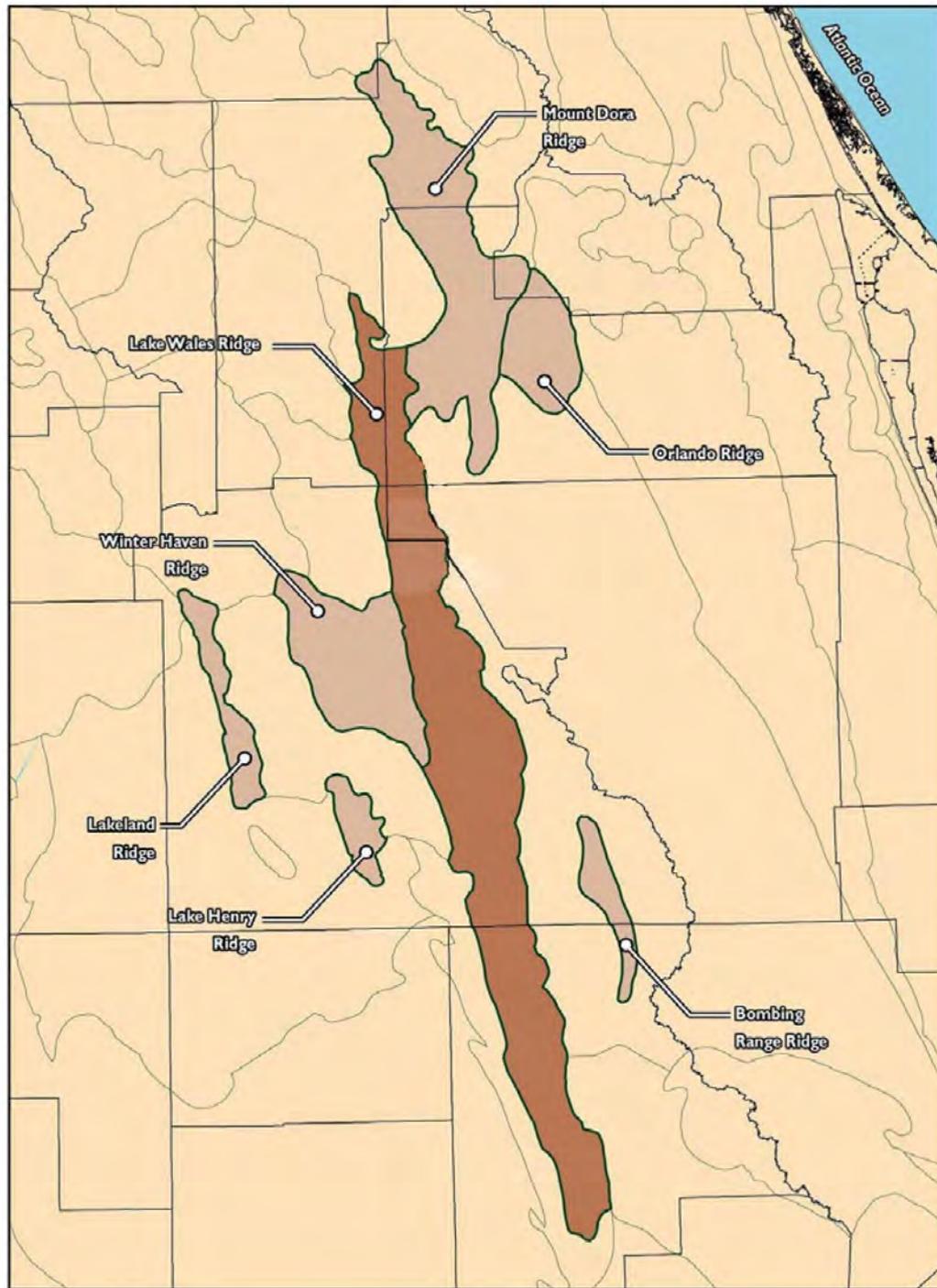




HABITAT COMPENSATION

The Service's order of preference for location is:

- 1) on the same ridge as the impact (preferably within the same genetic unit)
- 2) on the ridge adjacent to the impact
- 3) elsewhere in the range of the listed skink being affected by the proposed action





HABITAT COMPENSATION

If project is covered by a regional HCP (statewide, multi-county, *etc.*), provide habitat compensation consistent with the HCP



HABITAT COMPENSATION

Presented in order of the Service's Preference

- 1) Acquire credits at a Service-approved conservation bank
- 2) Protect, restore, and perpetually manage occupied skink habitat that is off-site and adjacent to existing conservation lands
- 3) Protect, restore, and perpetually manage occupied skink habitat that is off-site and not adjacent to existing conservation lands
- 4) On-site Habitat Compensation
(*only acceptable in rare cases).



HABITAT COMPENSATION

Service requirements for habitat compensation areas

- 1) Protection of site in perpetuity
- 2) Restoration of the site, if needed
- 3) Management of the site in perpetuity
- 4) Detailed Restoration/Management Plan
- 5) Funding for restoration/management



HABITAT COMPENSATION

Protection of site in perpetuity

- Conservation easement preferred
- Granted to a Service-approved government or private non-profit entity
- Third-party rights of enforcement for the Service
- Recorded in the county in which the protected property is located.
- Deed restrictions, restrictive covenants, or other mechanisms may be considered.



HABITAT COMPENSATION

Detailed restoration/management plan

- Native plant restoration
- Prescribed burns
- Mowing and mechanical treatment
- Exotic and invasive vegetation control
- Identification of the managing entity
- Monitoring and reporting schedule



HABITAT COMPENSATION

Funding for Restoration/Long-Term Management Activities

- Held by private non-profit entity
- Non-wasting trust fund should consider:
 - restoration/maintenance costs
 - taxes and insurance costs
 - fee charged by the trust holder
 - Anticipated interest and inflation rates
- A letter of credit, a bond, or other mechanisms may be considered.



HABITAT COMPENSATION

- Approved Conservation Banks
 - Hatchineha Ranch
 - Morgan Lake Wales Preserve
 - Scrub
- Pending Conservation Banks
 - Sebring Scrub
 - Tiger Creek
- <http://geo.usace.army.mil/ribits/index.html>



QUESTIONS?