

# IPaC Determination Key<sup>1</sup> Letters and the Consultation Process Frequently Asked Questions

Type of Species/Critical Habitat Determination Received from IPaC <sup>2</sup> ----->	<b>Technical Assistance</b>  <b>No Effect/No Take</b>	<b>NLAA Concurrence Verification</b>  <b>May Affect, Not Likely to Adversely Affect (NLAA)</b>	<b>Technical Assistance</b>  <b>No Take w/ Conservation Measures OR Federal Agency Needs to Complete D-Key</b>	<b>Technical Assistance</b>  <b>May Affect</b>
Who do these letters apply to?	Applies to Federal OR non-Federal projects	Applies to <b>Federal projects</b> only	Applies to Federal OR non-Federal projects	Applies to Federal OR non-Federal projects
Example file name of letter	YYYYMMDD_NE_TA_TRI_CLR_BAT_RW.pdf	YYYYMMDD_NLAA_Concurrence_NE_REGION_SA.pdf	YYYYMMDD_NLAA_TA_TRI_CLR_BAT_RW.pdf	YYYYMMDD_MA_TA_NE_REGION_SA.pdf
Why is IPaC delivering a particular determination?	From the IPaC Official Species List (OSL) <sup>3</sup> , species/critical habitat is/are <b>not</b> present, OR species habitat <sup>4</sup> is <b>not</b> present, OR species/critical habitat and/or species habitat <b>is</b> present, but there are <b>no adverse or beneficial impacts anticipated whatsoever</b> .	Project is within the predicted range of species and/or critical habitat(s) and may be within potential or known species/critical habitat location/buffer(s).	Project is within the predicted range of species and/or critical habitat(s) and may be within potential or known species/critical habitat location/buffer(s).	Project is within the predicted range of listed species and may be within potential or known species/critical habitat location/buffer(s).  Consider whether to <b>recommend species/habitat surveys</b> .  Project received a May Affect determination due to a component being outside the scope of the D-Key questions.
Do conservation measures need to be applied?	<b>No</b>	<b>Yes</b> , they will be implemented for project, which are embedded in D-Key questions.	<b>Yes</b> , they will be implemented for project, which are embedded in D-Key questions.	<b>Yes</b> , a project may be NLAA/No Take with their implementation, which avoids take OR Likely to Adversely

<sup>1</sup> Currently for R5, there are three determination keys (D-Key) available for Federal agencies/project sponsors to use in the Service's Information, Planning and Consultation (IPaC) program: 1) the Northeast Endangered Species D-key (NE D-Key), 2) the Northern Long-Eared and Tricolored Bat Rangewide D-Key (NLEB/TCB D-Key), and 3) the Federal Highway Administration/Federal Railroad Administration/Federal Transit Administration Bat Programmatic Biological Opinion (PBO) D-Key (FHWA/FRA/FTA D-Key). **The D-Key letter determinations and consultation process outlined in this document apply to the NE D-Key and NLEB/TCB D-Key.** Please see the user guide for projects specific to the FHWA/FRA/FTA PBO, here: <https://www.fws.gov/program/endangered-species/bat-consultation-conservation-strategy>.

<sup>2</sup> IPaC D-Key letters may have a mix of federally listed/proposed species and/or critical habitat(s) effects determinations (e.g., No Effect, NLAA, May Affect) included in a single output letter.

<sup>3</sup> The IPaC OSL is auto-generated through the Service's online consultation program that identifies federally listed/proposed/candidate species and/or critical habitat(s) to consider potential impacts for individual projects. For more information, see: <https://ipac.ecosphere.fws.gov/>.

<sup>4</sup> The probable absence of species and/or their suitable habitat should be based on a description of project area conditions, species/habitat surveys, and/or your knowledge of the project area/surrounding landscape.

				Affect (LAA)/Take, even with their implementation.
Do projects need Field Office (FO) review?	<p><b>No</b>, projects can proceed if <b>all species and/or critical habitat(s) on IPaC OSL are No Effect</b>; otherwise, additional review may be needed for those species/critical habitats not receiving a No Effect determination.</p>	<p><b>No</b>, Federal agencies/designated non-Federal representatives (NFR)<sup>5</sup> must wait 15 days for projects using the NLEB/TCB D-Key and 30 days for use of the NE D-Key before proceeding with their work. During this period, FOs may audit a project to see if determination(s) is/are appropriate.</p> <p>Projects can proceed if Federal agency/NFR completes the d-key and receives an official IPaC auto-generated response letter w/NLAA determination(s).</p>	<p><b>No</b>, a project can proceed if a NLAA determination is given for species/critical habitat(s) under <b>Section 10</b> = no take. A wait period for FOs to audit projects do not apply.</p> <p><b>No</b>, projects under <b>Section 7</b> receiving a NLAA TA letter most likely means that a non-Federal entity used a D-Key and has not been designated a NFR by the Federal agency. If this is the case, the Federal agency will need to finalize D-Key or can use FO agreed-upon form<sup>6</sup> (e.g., SLOPES<sup>7</sup>) to complete consultation (completing D-Key is preferred) in order for the project to proceed. Once the Federal agency converts the NLAA TA letter to a NLAA Concurrence letter, the 15-day (for NLEB/TCB D-Key) and 30-day (for NE D-Key) wait period begins for FO audit.</p>	<p><b>Yes</b>, the timeline for consultations is:</p> <p><u>Informal Consultation:</u></p> <ul style="list-style-type: none"> <li>- 30-days for non-Fed projects</li> <li>- 60-days for Federal projects</li> <li>- Consultation could be through another streamlined mechanism</li> </ul> <p><u>Formal Consultation:</u></p> <ul style="list-style-type: none"> <li>- 135-days for Federal projects</li> <li>- Multi-year for non-Federal projects (e.g., habitat conservation plans [HCPs])</li> <li>- Take coverage could be provided by another mechanism (e.g., programmatic biological opinions, programmatic HCPs)</li> </ul> <p><b>For informal consultation</b>, a letter response is needed by FO <b>OR</b> can use FO agreed-upon streamlined project review form (e.g., SLOPES) to complete consultation.</p> <p><b>For projects resulting in Take</b>, drafting a biological opinion (Section 7) <b>OR</b> working with a project sponsor to develop an HCP (Section 10) may be the next step in process.</p>

<sup>5</sup> A NFR refers to a person designated by a Federal agency as its representative to conduct informal consultation and/or to prepare a biological assessment. Federal agencies must state in writing (i.e., in email, letter, regulation) that the NFR is acting on their behalf for purposes of informal consultation and provide that to the FO for their records.

<sup>6</sup> If using a FO agreed-upon form, then the project will need review by the FO.

<sup>7</sup> SLOPES stands for Standard Local Operating Procedures for Endangered Species and is a streamlined Section 7 consultation process developed between FOs and U.S. Army Corps of Engineer Districts.