

# DEPARTMENT of the INTERIOR

FISH AND WILDLIFE SERVICE

news release

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Levitt 202/343-5634

## NEW REGULATIONS NOW REQUIRE CONSULTATION ON ENDANGERED SPECIES AND FEDERAL PROJECTS

Regulations which require all Federal agencies to consult with the U.S. Fish and Wildlife Service when their activities or programs may affect endangered or threatened species or their critical habitats have been published in final form by the Interior Department agency.

The regulations were initially proposed January 28, 1977, and took effect upon their publication in the January 4, 1978, Federal Register. They reflect the comments of Federal and State agencies as well as environmental and industrial groups and concerned citizens.

Section 7 of the Endangered Species Act of 1973 prohibits Federal agencies from authorizing, funding, or carrying out any action that may jeopardize the continued existence of listed species or destroy or modify their critical habitat. The regulations provide a process by which Federal departments and agencies can fulfill their obligations under Section 7. They also provide flexibility to permit most Federal actions to be carried out without jeopardizing the continued existence of endangered or threatened plants and animals.

Under the new regulations, when the Fish and Wildlife Service receives a request for consultation from another Federal agency, it is required to evaluate an activity's impact within 60 days. At that time, the Service can determine that the activity will have no impact on endangered species,

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that it will actually benefit the species, or that it is likely to have a harmful effect. The Service can also request that further studies be undertaken in order for it to render its final biological opinion. After receipt of this additional information, the Service must respond within 60 days.

To expedite the consultation process, the new regulations include a provision whereby other Federal agencies, with the assistance of the Fish and Wildlife Service, can develop their own counterpart regulations. This might be necessary when the agency must respond or carry out its activities in a time period shorter than 60 days.

Another provision allows consultation on a number of similar individual activities within a given geographical area or administrative unit. For example, a number of timber sales on Federal lands could be considered during one consultation as opposed to consulting on each one.

In addition, if the Fish and Wildlife Service learns of a Federal activity or program which is being carried out that might affect a listed species or its habitat, the Service will request consultation. Until consultation has been completed, the Federal agency must not make a firm commitment of resources which would foreclose the consideration of other options to the planned activity.

Regulations also contain the procedures the Service uses in determining critical habitat.

Since the passage of the Act, the Fish and Wildlife Service has carried out over 4,500 consultations with other Federal agencies and departments using the same general procedures contained in the regulations published. Only three have resulted in some kind of litigation.

Previously, Federal agencies operated under guidelines which were not mandatory. An ad hoc committee composed of representatives of 12 Federal agencies assisted the Service in developing the guidelines which were transmitted to all Federal departments. The extensive development period leading to final regulations was necessary because of the complexities and controversial issues surrounding Section 7 of the Act.

The Service believes that most Federal agencies are now familiar with Section 7. In addition to the extensive public comment period, a number of agencies were involved in meetings which led to the development of these regulations. Two Office of Management and Budget "Quality of Life Reviews" were also conducted.