

U.S. Fish and Wildlife Service
New Jersey Field Office Project Screening Questions

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This document is for use under Step 3 of our online *New Jersey Field Office Project Review Guide*. (Step 3 is *Determine if Service Review is Needed*.)

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DEFINITIONS

Action area - all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action. [50 CFR Section 402.02]. Further clarification is provided by the the national consultation FAQ, “The action area is defined by regulation as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR Section 402.02). This analysis is not limited to the “footprint” of the action nor is it limited by the Federal agency's authority. Rather, it is a biological determination of the reach of the proposed action on listed species. Subsequent analyses of the environmental baseline, effects of the action, and levels of incidental take are based upon the action area. The documentation used by a Federal action agency to initiate consultation should contain a description of the action area as defined in the Services' regulations and explained in the Services' consultation handbook. If the Services determine that the action area as defined by the action agency is incorrect, the Services should discuss their rationale with the agency or applicant, as appropriate. Reaching agreement on the description of the action area is desirable but ultimately the Services can only consult when an action area is defined properly under the regulations.” Please see our online *New Jersey Field Office Project Review Guide* for specific guidance on delineating action areas in New Jersey.

Conference - a process of early interagency cooperation involving informal or formal discussions between a Federal agency and the Services pursuant to section 7(a)(4) of the Act regarding the likely impact of an action on proposed species or proposed critical habitat. Conferences are: (1) required for proposed Federal actions likely to jeopardize proposed species, or destroy or adversely modify proposed critical habitat; (2) designed to help Federal agencies identify and resolve potential conflicts between an action and species conservation early in a

project's planning; and (3) designed to develop recommendations to minimize or avoid adverse effects to proposed species or proposed critical habitat.

Conservation measures - are actions to benefit or promote the recovery of listed species that are included by the Federal agency as an integral part of the proposed action. These actions will be taken by the Federal agency or applicant, and serve to minimize or compensate for, project effects on the species under review. These may include actions taken prior to the initiation of consultation, or actions which the Federal agency or applicant have committed to complete in a biological assessment or similar document.

Is likely to adversely affect - the appropriate finding in a biological assessment (or conclusion during informal consultation) if any adverse effect to listed species may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not: discountable, insignificant, or beneficial (see definition of “is not likely to adversely affect”). In the event the overall effect of the proposed action is beneficial to the listed species, but is also likely to cause some adverse effects, then the proposed action “is likely to adversely affect” the listed species. If incidental take is anticipated to occur as a result of the proposed action, an “is likely to adversely affect” determination should be made. An “is likely to adversely affect” determination requires the initiation of formal section 7 consultation.

Is not likely to adversely affect - the appropriate conclusion when effects on listed species are expected to be discountable, insignificant, or completely beneficial. Beneficial effects are contemporaneous positive effects without any adverse effects to the species. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur.

Jeopardize the continued existence of - to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species. [50 CFR Section 402.02]

May affect - the appropriate conclusion when a proposed action may pose any effects on listed species or designated critical habitat. When the Federal agency proposing the action determines that a “may affect” situation exists, then they must either initiate formal consultation or seek written concurrence from the Services that the action “is not likely to adversely affect” [see definition above] listed species.

No effect - the appropriate conclusion when the action agency determines its proposed action will not affect a listed species or designated critical habitat. (Proposed projects in New Jersey can be considered “no effect” if iPac returns a report of “There are no listed species found within the vicinity of your project,” so long as the “project location” entered into iPac represents the comprehensive action area, and not just the footprint of disturbance.)

Take - to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct. [ESA Section 3(19)]. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. Harass is defined by FWS as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering. [50 CFR Section 17.3]

SCREENING INSTRUCTIONS

1. **Optional habitat screening.** Before proceeding to the Screening Questions, below, project proponents can elect to screen the action area for suitable habitats for certain species. Under the circumstances listed here, you can conclude “no effect“ for that species. Then proceed to the Screening Questions to screen the rest of the species returned in your IPaC report. **Please note:** the action area is generally larger than the project footprint; see our online *New Jersey Field Office Project Review Guide* for guidance on delineating the action area. If portions of the project’s action area cannot be accessed/surveyed, the project proponent should assume presence of suitable habitat and proceed to the Screening Questions.
 - o Bog turtle – proposed activities are “no effect“ if there is no suitable habitat within the action area as determined by a Phase 1 survey conducted by a recognized, qualified surveyor.
 - o Piping plover – proposed activities are “no effect“ if there is no dry beach within the action area (*i.e.*, if the mean high water line reaches to a boardwalk, bulkhead, seawall, other artificial structure, or to a steep, stabilized, densely vegetated dune).
 - o Red knot – proposed activities are “no effect“ if the action area lacks ALL of the following: unstabilized dune, dry beach, and sparsely vegetated intertidal habitat of any kind (*e.g.*, beach “swash” zone, sand flat, mud flat, algal flat, shoal, sand spit, islet, peat bank, tidal marsh blowouts/pans).
 - o Swamp pink – proposed activities are “no effect“ if there are no forested wetlands within the action area.
 - o Sensitive joint-vetch – proposed activities are “no effect“ if there is no fresh or brackish tidal marsh within the action area.
 - o Seabeach amaranth – proposed activities are “no effect“ if there is no dry beach within the action area (*i.e.*, if the mean high water line reaches to a boardwalk, bulkhead, seawall, other artificial structure, or to a steep, stabilized, densely vegetated dune).
2. In the list of Screening Questions below, locate each species returned on your IPaC report (other than those that were determined “no effect“ based on a habitat screening, above). **Please note about critical habitat:** Each species returned in the IPaC report must be screened regardless of the IPaC results regarding designated critical habitat. Species for which no critical habitat has been designated should still be screened. Likewise, species should be screened even if IPaC indicates that the action area is outside of any designated critical habitat.
3. For each species indicated in your IPaC report, begin with Screening Question 1 and proceed through the questions until reaching ONE of the following conclusions for that species.
 - o Submit project information
 - o No effect
 - o Use the appropriate IPaC Determination Key (bats only)
 - o The project follows the 4(d) rule (northern long-eared bat only)
4. If you reach a conclusion to follow one of the IPaC Determination Keys (bats only), follow the instructions in that key, THEN complete screening of all other species listed on your IPaC report using the questions below.
5. If you reach of a conclusion of “submit project information” for ONE OR MORE of the listed species indicated in your IPaC report, then follow the instructions under Step 4 (*Submit Project Information*) of our online *New Jersey Field Office Project Review Guide*.

6. No Endangered Species Act review is needed if ALL species listed on your IPaC report reach one of the following conclusions:
- “No effect“ OR
 - “The project follows the NLEB 4(d) rule” OR
 - A “may affect” notification submitted through one of the IPaC Determination Keys.

In this case, print the No Effect Letter for your files and proceed with Step 6 of our online *New Jersey Field Office Project Review Guide*. (Step 6 is *Protect Other Wildlife Resources*).

SCREENING QUESTIONS

Bog Turtle

Screening Question #1: Does the project include activity in or within 500 feet of a freshwater wetland?

Yes = Submit project information to NJFO.

No = Go to Question 2.

Screening Question #2: Does the project involve ground disturbance; new impervious surface (≥ 0.25 acre net gain); storm water changes (e.g., new outfalls, increased volume or rate of discharge); waste water discharges; ground or surface water withdrawals; water impoundment or diversion (temporary or permanent); bridges over water bodies; culverts; and/or water control structures?

Yes = Submit project information to NJFO.

No = Go to Question 3.

Screening Question #3: Does the project involve storage, use, or transport of herbicides, pesticides, petroleum products, or other potential environmental contaminants?

Yes = Submit project information to NJFO.

No = No effect.

Eastern Black Rail

Screening Question #1: Does the project include activity in or within 500 feet of an emergent (i.e., herbaceous) wetland (e.g., tidal or non-tidal; saline, brackish, or fresh)?

Yes = Submit project information to NJFO.

No = No effect.

Piping Plover

Screening Question #1: Does the project include activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or intertidal habitat (e.g., beach “swash” zone) AND/OR involve dredging within 0.5 mile of the Mean Lower Low Water line?

Yes = Submit project information to NJFO.

No = Go to Question 2.

Screening Question #2: Will the project involve new or expanded human access to any beach; activities audible or visible from any beach or intertidal habitat; low-flying aircraft; and/or fireworks displays?

Yes = Submit project information to NJFO.

No = Go to Question 3.

Screening Question #3: Does the project involve a new or enlarged wind turbine?

Yes = Submit project information to NJFO.

No = Go to Question 4.

Screening Question #4: Does the project involve transport or storage of petroleum products and/or spill response planning?

Yes = Submit project information to NJFO.

No = No effect.

Rufa Red Knot

Screening Question #1: Does the project include activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or sparsely vegetated intertidal habitat of any kind (e.g., beach “swash” zone, sand flat, mud flat, algal flat, shoal, sand spit, islet, peat bank, tidal marsh blowout/pan) AND/OR involve dredging within 0.5 mile of the Mean Lower Low Water line?
Yes = Submit project information to NJFO.
No = Go to Question 2.

Screening Question #2: Will the project involve new or expanded human access to any beach or intertidal habitat; activities audible or visible from any beach or intertidal habitat; low-flying aircraft; and/or fireworks displays?
Yes = Submit project information to NJFO.
No = Go to Question 3.

Screening Question #3: Does the project involve a new or enlarged wind turbine?
Yes = Submit project information to NJFO.
No = Go to Question 4.

Screening Question #4: Does the project involve transport or storage of petroleum products and/or spill response planning?
Yes = Submit project information to NJFO.
No = Go to Question 5.

Screening Question #5: Does the project involve any impacts to horseshoe crabs (e.g., potential blockage, entrapment or entanglement of adults; potential entrainment or crushing of larvae; harvest or collection for any purpose)?
Yes = Submit project information to NJFO.
No = No effect.

Indiana Bat

Screening Question #1: Is the project funded or authorized by the Federal Highway Administration, the Federal Railroad Administration, or the Federal Transit Administration?
Yes = Use the IPaC Determination Key to comply with the 2018 revised FHWA/FRA/FTA Programmatic Biological Opinion.
No = Go to Question 2.

Screening Question #2: Does the project involve activity in/near a cave or mine tunnel (excluding tunnels that are 100% sealed or are completely flooded)?
Yes = Submit project information to NJFO.
No = Go to Question 3.

Screening Question #3: Does the project involve tree clearing?
Yes = Go to Question 4.
No = Go to Question 6.

Screening Question #4: Will the tree clearing be conducted during the restricted season as per the dates listed below? (See the separate Bat Municipality List.)
Yes = Submit project information to NJFO.
No = Go to Question 5.

Recommended Indiana bat seasonal restrictions:

In municipalities with hibernation occurrence: April 1 - November 15.

In municipalities with maternity occurrence: April 1 - September 30.

In municipalities with both hibernation and maternity occurrence: April 1 - November 15. In areas of potential occurrence (i.e., all areas returned by IPaC but not on the bat municipality list): April 1 - September 30.

Screening Question #5: Is the tree clearing over 1 acre in Morris, Somerset, or Sussex Counties; or over 5 acres elsewhere?
Yes = Submit project information to NJFO.
No = Go to Question 6.

Screening Question #6: Does the project involve use of pesticides OR a new or enlarged wind turbine?

Yes = Submit project information to NJFO.

No = Go to Question 7.

Screening Question #7: Will any new artificial lighting be directed toward suitable habitat, or installed without downward facing shields?

Yes = Submit project information to NJFO.

No = No effect.

Northern Long-eared Bat

Screening Question #1: Is the project funded or authorized by the Federal Highway Administration, the Federal Railroad Administration, or the Federal Transit Administration?

Yes = Use the IPaC Determination Key to comply with the 2018 revised FHWA/FRA/FTA Programmatic Biological Opinion.

No = Go to Question 2.

Screening Question #2: Complete the Northern Long-eared Bat 4(d) Rule determination key on IPaC. The determination key will automatically answer questions about whether your project location is within 0.25 mile of a hibernaculum or 150 feet of a maternity roost. Did the determination key evaluation return a statement that “based on its location, incidental take from the proposed project may not be excepted under the 4(d) Rule”?

Yes = Submit project information to NJFO.

No = The project is in compliance with the NLEB 4(d) rule. No further consultation/ technical assistance for this species is required.

Dwarf Wedgemussel

Screening Question #1: Does the project include activity in or within 500 feet of a freshwater river or stream?

Yes = Submit project information to NJFO.

No = Go to Question 2.

Screening Question #2: Does the project involve ground disturbance; new impervious surface (≥ 0.25 acre net gain); storm water changes (e.g., new outfalls, increased volume or rate of discharge); waste water discharges; ground or surface water withdrawals; water impoundment or diversion (temporary or permanent); bridges over water bodies; culverts; and/or water control structures?

Yes = Submit project information to NJFO.

No = Go to Question 3.

Screening Question #3: Does the project involve storage, use, or transport of herbicides, pesticides, petroleum products, or other potential environmental contaminants?

Yes = Submit project information to NJFO.

No = No effect.

Northeastern Beach Tiger Beetle

Screening Question #1: Does the project include activity in or within 500 feet of an unstabilized dune, dry beach, or intertidal habitat (e.g., beach “swash” zone) AND/OR involve dredging within 0.5 mile of the Mean Lower Low Water line?

Yes = Submit project information to NJFO.

No = Go to Question 2.

Screening Question #2: Will the project involve new or expanded human access to any beach?

Yes = Submit project information to NJFO.

No = Go to Question 3.

Screening Question #3: Does the project involve transport or storage of petroleum products and/or spill response planning?

Yes = Submit project information to NJFO.

No = No effect.

Small Whorled Pogonia

Screening Question #1: Does the project involve tree clearing or other activities in any wooded areas?

Yes = Submit project information to NJFO.

No = No effect.

Swamp Pink AND/OR Knieskern's Beaked-rush

Screening Question #1: Does the project include activity in or within 500 feet of a freshwater wetland?

Yes = Submit project information to NJFO.

No = Go to Question 2.

Screening Question #2: Does Does the project involve ground disturbance; new impervious surface (≥ 0.25 acre net gain); storm water changes (e.g., new outfalls, increased volume or rate of discharge); waste water discharges; ground or surface water withdrawals; water impoundment or diversion (temporary or permanent); bridges over water bodies; culverts; and/or water control structures?

Yes = Submit project information to NJFO.

No = Go to Question 3.

Screening Question #3: Does the project involve storage, use, or transport of herbicides, pesticides, petroleum products, or other potential environmental contaminants?

Yes = Submit project information to NJFO.

No = No effect.

American Chaffseed

Screening Question #1: Does the project involve disturbance to grassland habitat (e.g., fields, right-of-way) dominated by native herbaceous vegetation? (Grass lawn that is mowed multiple times during the growing season, and areas dominated by woody vegetation or invasive herbaceous vegetation, should NOT be considered grassland habitat.)

Yes = Submit project information to NJFO.

No = No effect.

Sensitive Joint-vetch

Screening Question #1: Does the project include activity in or within 500 feet of a brackish or freshwater tidal wetland, or any modifications / impacts to any tidal river?

Yes = Submit project information to NJFO.

No = No effect.

Seabeach Amaranth

Screening Question #1: Does the project include activity in or within 500 feet of an unstabilized dune, dry beach, wrack line, or the upper portion of an intertidal zone (e.g., beach "swash" zone) AND/OR involve dredging within 0.5 mile of the Mean Lower Low Water line?

Yes = Submit project information to NJFO.

No = Go to Question 2.

Screening Question #2: Will the project involve new or expanded human access to any beach?

Yes = Submit project information to NJFO.

No = Go to Question 3.

Screening Question #3: Does the project involve transport or storage of petroleum products and/or spill response planning?

Yes = Submit project information to NJFO.

No = No effect.