

**PROGRAMMATIC SECTION 7 CONSULTATION ON
MUNICIPAL CONSTRUCTION PROJECTS
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

Purpose of Programmatic Consultation

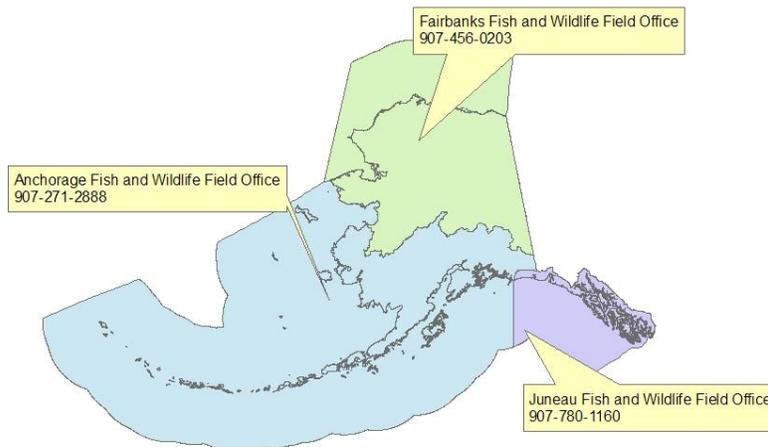
The purpose of this Programmatic Consultation is to provide criteria that will allow you to determine whether your project(s) may have any effect on listed species or critical habitat. Projects satisfying the following “no effect” criteria will not require further review under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq., as amended; ESA) by either the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS).

Section 7 Consultation

NMFS and the FWS share responsibility for implementing the ESA. FWS trust resources under the ESA include birds, amphibians, plants, insects, terrestrial reptiles, terrestrial mammals, most freshwater fish, and a few marine mammals: sea otter (*Enhydra lutris*), polar bear (*Ursus maritimus*), pacific walrus (*Odobenus rosmarus divergens*), and Florida manatee (*Trichechus manatus latirostrus*). The NMFS manages the remainder of listed marine mammals, sea turtles, marine fish plants, and invertebrates, and shares management responsibility with the FWS on some anadromous fish.

The State of Alaska is served by three field offices of the FWS, which are responsible for consultation under the ESA. Each FWS field office has the lead for a specific geographic area within the state. The Fairbanks Fish and Wildlife Field Office (FFWFO) is responsible for the interior, northwestern, and far northern portions of Alaska. The Anchorage Fish and Wildlife Field Office (AFWFO) is responsible for the Aleutian Islands, south-western, and south-central Alaska to the Yakutat forelands. The Juneau Fish and Wildlife Field Office (JFWFO) is

responsible for south-east Alaska and the protected waters thereof (Fig. 1).



NMFS's regional offices in Juneau are responsible for section 7 consultations for southeast Alaska. The Anchorage field office of NMFS covers consultations for the remainder of the state.

Figure 1. Areas of Alaska covered by each of the U.S. Fish and Wildlife Service Ecological Services field offices.

Section 7(a) of the ESA directs all Federal agencies to conserve species listed as threatened or endangered. Those agencies, in consultation with NMFS and the FWS, must ensure that their actions will not jeopardize the continued existence of any ESA-listed species. Before starting an action, the Federal agency or their non-federal representative obtains a list of threatened, endangered, proposed, and candidate species and their designated critical habitat that may be present in the project action area. Based on its analysis, the Federal agency makes one of three determinations of effect for listed species.

- “**No effect**” is the appropriate conclusion if the proposed action will not affect listed species/critical habitat. If a “no effect” determination is made, the Federal agency is not obligated to contact the FWS for concurrence.
- When effects to listed species are expected to be insignificant or discountable, the action agency should make a “**not likely to adversely affect**” determination and contact FWS and/or NMFS, as appropriate, for written concurrence with that determination.
- If adverse effects to listed species are likely to occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, then the action agency should make a determination of “**likely to adversely affect**”. If a determination of “likely to adversely affect” is made, the Federal agency must initiate formal consultation with FWS and/or NMFS as appropriate.

Formal consultation is a process by which the Services assesses the action’s potential to jeopardize the listed species, to result in the destruction or adverse modification of critical habitat, or to result in incidental take of a listed species. Formal consultation concludes when the FWS or NMFS issues a biological opinion concerning their respective trust species.

Species Protected Under ESA

A complete list of endangered, threatened, proposed and candidate species found in Alaska is included with this letter (see Table A). The list may also be found on the internet at <http://alaska.fws.gov/fisheries/endangered/>.

Procedure For Section 7 Determination

In order to determine whether your project qualifies as a “no effect” project, thereby making it unnecessary for you to pursue section 7 consultation, answer the questions below and follow the guidance at the end of each statement. Note that this programmatic consultation only applies to construction activities within the existing village footprint. Existing village footprint is defined as areas within a village’s existing road network and all areas within the existing perimeter of a village (calculated by connecting all outlying development with straight lines). Activities outside the existing village footprint are not covered by this consultation.

1. Is the project outside the range of listed or candidate species or within designated critical habitat? (Review Table B and choose the appropriate response below)

A. **Yes, the project is in a location listed in Table B** and is therefore outside the range of listed species. The project will have **no effect** on listed species or designated critical habitat and there is no need to consult with FWS or with NMFS.

B. **No, the project is not in a location listed in Table B.** (go to step 2).

2. The project location is not listed in Table B, therefore, it is within the range of listed species. Depending on the nature of the project, it may require further consultation. Review Table C and then choose the appropriate response below.

A. **Yes, the project matches a project description in Table C.** Therefore, the project will have no effect on listed species and there is no need to consult with FWS or with NMFS.

B. **No, the project description does not match a project description in Table C.** Therefore, it does not qualify as a “no effect” and you must initiate consultation.

It is likely that further review of your project will result in a determination that the project is *not likely to adversely affect* listed species, and the section 7 consultation for the project will remain informal and relatively simple. However, any project that may result in “take” of one or more individuals of a listed species would result in a determination that the work is *likely to adversely affect* the species/habitat. In such cases, a formal consultation must be initiated prior to committing resources to the project.

In the rare cases where a formal consultation is required, you should prepare a Biological Assessment prior to initiating consultation. A Biological Assessment contains the following elements: 1) Project description; 2) Site specific information; 3) Effects of the action; 4) Anticipated incidental take; 5) Conservation measures; and 6) Determination of effect. For an explanation of these elements, refer to <http://www.fws.gov/southwest/es/arlingtontexas/components.htm> .

You may wish to contact the appropriate FWS field office and NMFS for technical assistance in your effects determinations. See Table D and Table E for contact information.

Reinitiation Triggers

This programmatic section 7 consultation on municipal construction activities for the HUD is valid through December 2013. However, if new species are listed that may be affected by projects covered under this programmatic consultation or additional information on listed or proposed species becomes available, then this programmatic consultation should be reinitiated. After December 31, 2013, HUD should contact the staff of AFWFO for programmatic review (907-271-2888).

Table A. Endangered, Threatened, Proposed, Candidate, and Delisted Species In Alaska, (Updated February, 2011)

SPECIES MANAGED BY U.S. FISH AND WILDLIFE SERVICE ¹				
SPECIES AND STATUS	DATE OF STATUS	CRITICAL HABITAT DESIGNATION DATE	LEAD OFFICE for RECOVERY	RANGE IN ALASKA
Endangered				
Short-tailed albatross (<i>Phoebastria albatrus</i>)	7/31/00	n/a	Anchorage	U.S. Territorial waters, Gulf of Alaska, Aleutian Islands, Bering Sea Coast, Japan, Russia, high seas
Eskimo curlew (<i>Numenius borealis</i>)	3/11/67	n/a	Fairbanks	No longer occurs in Alaska
Aleutian shield fern (<i>Polystichum aleuticum</i>)	2/17/88	n/a	Anchorage	Adak Island
Threatened				
Spectacled eider (<i>Somateria fischeri</i>)	5/10/93	2/6/01	Fairbanks	Western and Northern Alaska (coastal)
Steller's eider (<i>Polysticta stelleri</i>)	6/11/97	2/2/01	Fairbanks	Southwestern, Western and Northern Alaska
Northern Sea otter (<i>Enhydra lutris kenyoni</i>) (Southwest Alaska population)	8/9/05	10/8/09	MMM ²	Aleutian Islands, Alaska Peninsula, Kodiak Island
Polar bear (<i>Ursus maritimus</i>)	5/15/08	11/24/2010	MMM ²	On sea ice and coastline of Chuckchi and Beaufort seas
Candidate				
Kittletz's Murrelet (<i>Brachyramphus brevirostris</i>)	4/4/04	n/a	Anchorage	Coastal waters in southern and northwestern Alaska
Yellow-Billed Loon (<i>Gavia adamsii</i>)	3/25/09	n/a	Fairbanks	<u>Breeding</u> : Arctic tundra lakes; <u>Wintering</u> : Kodiak, Prince William Sound, Southeast AK
Pacific walrus (<i>Odobenus rosmarus divergens</i>)	2/10/11	n/a	MMM ²	Continental shelf waters Bering & Chukchi Seas
Delisted				
Arctic peregrine falcon (<i>Falco peregrinus tundrius</i>)	10/5/94	n/a	Fairbanks	Northern and Western Alaska
American peregrine falcon (<i>Falco peregrinus anatum</i>)	8/25/99	n/a	Fairbanks	Interior Alaska
Aleutian Canada goose (<i>Branta canadensis leucopareia</i>)	3/20/01	n/a	Anchorage	Aleutian Is., Semidi Is.
SPECIES MANAGED BY NATIONAL MARINE FISHERIES SERVICE ^{1,3}				
SPECIES AND STATUS	FREQUENCY OF OCCURRENCE		RANGE IN ALASKA	
Endangered				
Cook Inlet beluga whale (<i>Delphinapterus leucas</i>)	Regular		Cook Inlet	
Steller sea lion (<i>Eumetopias jubatus</i>) west of 144°	Regular		Bering Sea, N. Pacific	
Blue whale (<i>Balaenoptera musculus</i>)	Rare		Bering Sea, Gulf of Alaska, N. Pacific	
Bowhead whale (<i>Balaena mysticetus</i>)	Regular		Chukchi Sea, Beaufort Sea	
Fin whale (<i>Balaenoptera physalus</i>)	Regular		Chukchi Sea, Bering Sea, Gulf of Alaska, N. Pacific	
Humpback whale (<i>Megaptera novaeangliae</i>)	Regular		Bering Sea, Gulf of Alaska, N. Pacific	
North Pacific right whale (<i>Eubalaena japonica</i>)	Rare		Bering Sea, Gulf of Alaska, N. Pacific	
Sperm whale (<i>Physeter macrocephalus</i>)	Regular		Bering Sea, Gulf of Alaska, N. Pacific	
Sei whale (<i>Balaenoptera borealis</i>)	Rare		Gulf of Alaska, N. Pacific	
Leatherback sea turtle (<i>Dermochelys coriacea</i>)	Rare		Gulf of Alaska	
Threatened				
Steller sea lion (<i>Eumetopias jubatus</i>) east of 144°	Regular		Bering Sea, Gulf of Alaska, N. Pacific	
Loggerhead sea turtle (<i>Caretta caretta</i>)	Rare		Gulf of Alaska	
Green sea turtle (<i>Chelonia mydas</i>) (incl. <i>agassizi</i>)	Rare		Gulf of Alaska	
Proposed				
Bearded seal (<i>Erignathus barbatus nauticus</i>)	Regular		Bering, Chukchi and Beaufort Seas	
Ringed seal (<i>Phoca hispida hispida</i>)	Regular		Bering, Chukchi and Beaufort Seas	
Candidate				
None				
Delisted				
Gray whale (<i>Eschrichtius robustus</i>)	Regular		Chukchi Sea, Bering Sea, Gulf of Alaska, N. Pacific	

¹Under the Endangered Species Act of 1973, as amended, the National Marine Fisheries Service is responsible for listed anadromous and marine fishes and marine mammals other than sea otters, manatees, and dugongs.

²Marine Mammals Management, FWS Alaska (Region 7) Regional Office

³A number of listed trout and salmon species that spawn in the lower 48 Pacific Northwest may occur in Alaskan waters during the marine phase of their life cycle. For information on these, you may visit the NMFS Northwest Region website:

http://www.nmfs.noaa.gov/prot_res/overview/es.html or call (907) 586-7221.

**Table B. Villages and towns in Alaska
that are outside the range of listed species and candidate species**

Akiachak	Dora Bay	Kasilof	Napakiak	Selawik
Akiak	Dot Lake	Kenny Lake	Napaskiak	Seward
Alcan	Eagle	Kern	Naukati	Shaktoolik
Algaaciq (Saint Mary's)	Eagle Village	Ketchikan	Nenana	Shungnak
Allakaket	Edna Bay	King Island	New Stuyahok	Slana
Ambler	Eielson AFB	Klawock	Newhalen	Sleetmute
Anaktuvuk Pass	Elim	Klukwan	Nikolai	Soldotna
Anchorage	English Bay	Kobuk	Nome	Solomon
Aniak	Ester	Kokhanok	Nondalton	St. Mary's (Algaaciq)
Annette	Evansville	Koliganek	Noorvik	Stevens Village
Anvik	Fairbanks	Koyuk	North Pole	Stony River
Atmautluak	Ferry	Kupreanof	Northway Junction	Susitna
Beaver	Flat	Kwethluk	Northway Village	Takotna
Bethel	Fort Greely	Labouchere Bay	Nulato	Talkeetna
Bettles	Fort Yukon	Lake Minchumina	Nunapitchuk	Tanacross
Big Lake	Freshwater Bay	Lignite	Ophir	Tanana
Birch Creek	Galena	Lime Village	Palmer	Telida
Bird	Game Creek	Livengood	Paxson	Teller
Brevig Mission	Glennallen	Long Island	Pedro Bay	Tenakee Springs
Candle	Grayling	Lower Tonsina	Petersville	Tetlin
Cantwell	Gulkana	Lutak	Pilot Station	Thorne Bay
Central	Harding Lake	Manley Hot Springs	Pitkas Point	Tonsina
Chalkyitsik	Healy	Manokotak	Point Baker	Tuluksak
Chickaloon	Healy Lake	Marys igloo	Polk Inlet	Tuntutuliak
Chicken	Holbart Bay	McCarthy	Poorman	Two Rivers
Chistochina	Holy Cross	McGrath	Port Alexander	Upper Kalskag
Chitina	Hope	McKinley Park	Port Alsworth	Venetie
Chuloonawick	Houston	Mendeltna	Port Clarence	Wasilla
Circle	Huslia	Mentasta Lake	Port Protection	Whale Pass
Circle Hot Springs	Hydaburg	Metlakatla	Portage	Whitestone Logging
Coffman Cove	Hyder	Meyers Chuck	Rampart	Willow
Council	Igiugig	Moose Creek	Red Devil	Wiseman
Craig	Juneau	Moose Pass	Rowan Bay	Wrangell
Cube Cove	Kachemak	Mosquito Lake	Ruby	
Delta Junction	Kaltag	Mountain Village	Salcha	
Diomede (Inalik)	Kasaan	Napaimute	Saxman	

Table C. Projects Within Listed Species Range, Candidate Species Range or Critical Habitat & Proposed Action NOT Requiring Informal Consultation

Type of Project	Proposed Action
housing	Repairs, upgrades or modifications to personal residence including foundation, boardwalks, decks, steps and landings; new construction within existing village footprint*
community buildings, clinics, multi-purpose centers, tribal offices, and daycare facilities	Repairs, upgrades or modifications to buildings including foundation, boardwalks, decks, steps and landings; new construction within existing village footprint*
sanitary facility	Water line and/or sewer line upgrades for residential, community or commercial properties within existing village footprint*
land fill	Modification to existing landfill within existing village footprint* that results in refuse becoming unavailable to wildlife
water reservoir	Non-fenced to allow flightless birds to enter and exit area; within existing village footprint*
water tower	Construction or upgrades within existing village footprint* that do not require aviation lighting.
fuel tank	Upgrade, replacement or repairs of residential tanks within existing village footprint* provided catastrophic failure will not result in petroleum release into nearby marine waters, flowing waters, standing water, or wetlands
boardwalk	New construction, upgrades, or maintenance within existing village footprint*
<p>* Existing village footprint – means all areas within a village existing road network and all areas within the existing perimeter of a village (calculated by connecting all outlying development with straight lines). If a new road must be constructed to access a site, and if the new road extends beyond the existing village perimeter, then the site is considered outside the existing village footprint and therefore not covered by this programmatic section 7 consultation.</p>	

Table D. Consultation Contact Information for the U.S. Fish and Wildlife Service

	Office	Address	Telephone Number	Fax Number
AFWFO	Anchorage Fish and Wildlife Field Office	605 West 4 th Ave. Room G-61 Anchorage, AK 99501	907-271-2888	907-271-2786
FFWFO	Fairbanks Fish and Wildlife Field Office	101 12 th Ave. Room 110 Fairbanks, AK 99701	907-456-0203	907-456-0208
JFWFO	Juneau Fish and Wildlife Field Office	3000 Vintage Blvd. Suite 201 Juneau, AK 99801	907-780-1160	907-586-7099

Table E. Consultation Contact Information for the National Marine Fisheries Service

	Office	Address	Telephone Number	
NMFS	Anchorage Field Office	222 West 7 th Avenue, Box 43 Anchorage, AK 99513	907-271-5006	
NMFS	Protected Resources Division	P.O. Box 21668 Juneau, AK 99802	907-586-7235	

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