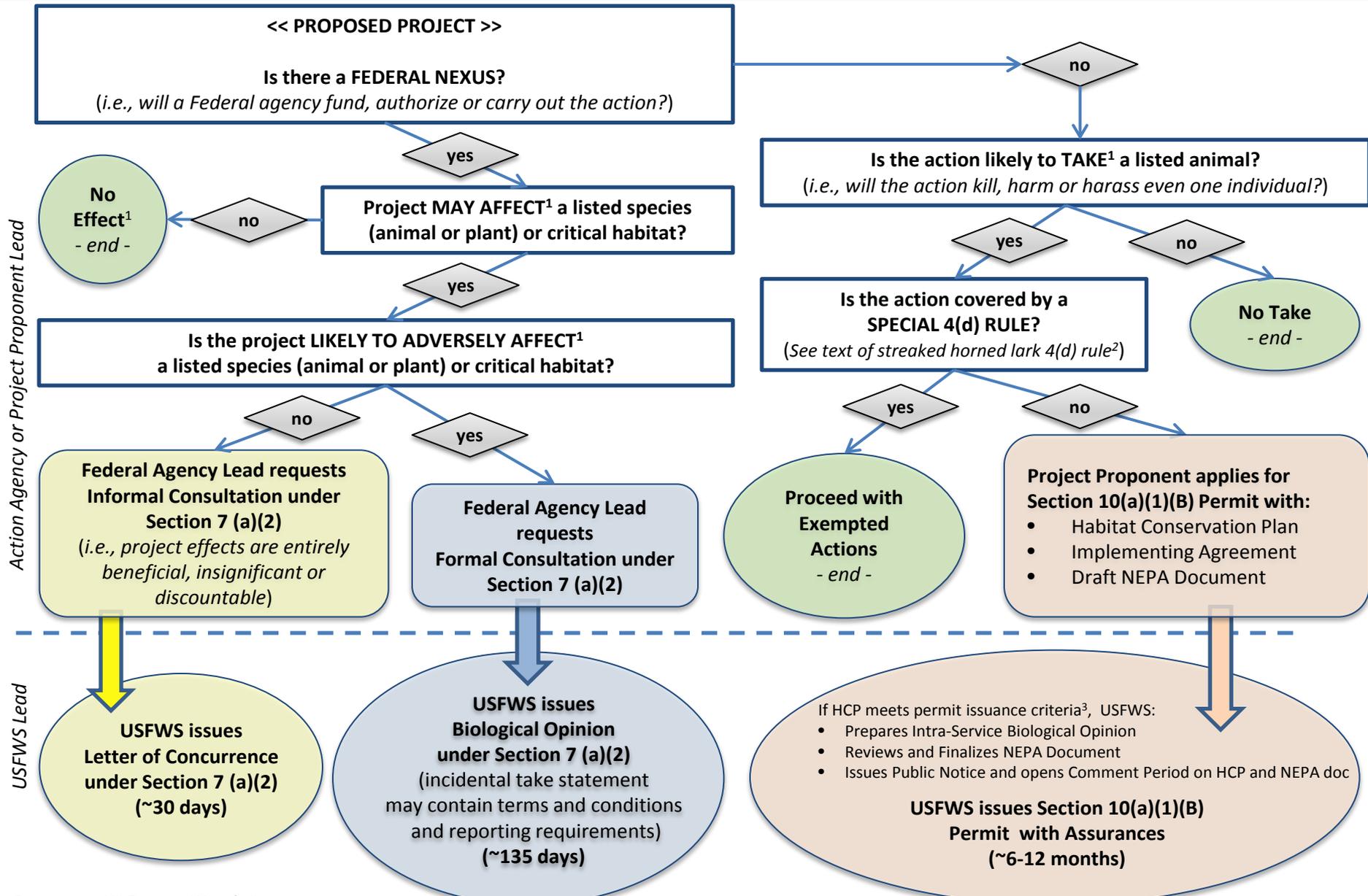


# ENDANGERED SPECIES ACT

## Decision Flow Chart for Airports with Federally-Listed Species



Action Agency or Project Proponent Lead

USFWS Lead

## <sup>1</sup>Definition of key terms

No effect: The appropriate conclusion when the action agency determines that the proposed action will not affect listed species or critical habitat. This means NO effect whatsoever. (Interagency Consultation Handbook, Ch. 3)

May affect, not likely to adversely affect (NLAA): The appropriate conclusion when effects on listed species are expected to be discountable, or 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. (Interagency Consultation Handbook, Ch. 3)

May affect, likely to adversely affect (LAA): The appropriate conclusion 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 also is likely to cause some adverse effects, then the proposed action "is likely to adversely affect" the listed species. An "is likely to adversely affect" determination requires formal section 7 consultation. (Interagency Consultation Handbook, Ch. 3)

Take: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. (Endangered Species Act, sections 9 & 2)

Harm: To perform an act that kills or injures wildlife; may include significant habitat modification or degradation when it kills or injures wildlife by significantly impairing essential behavioral patterns including breeding, feeding, or sheltering. (50 CFR 17.3)

Harass: To intentionally or negligently, through act or omission, create the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns such as breeding, feeding, and sheltering. (50 CFR 17.3)

## <sup>2</sup> Excerpt from the 4(d) rule for the streaked horned lark:

What activities are allowed on airports on non-Federal lands?

- (i) Incidental take of the streaked horned lark will not be a violation of section 9 of the Act, if the incidental take results from routine management activities associated with airport operations to minimize hazardous wildlife, consistent with regulations at 14 CFR 139.337.
- (ii) Hazardous wildlife is defined by the Federal Aviation Administration as species of wildlife, including feral animals and domesticated animals not under control, that are associated with aircraft strike problems, are capable of causing structural damage to airport facilities, or act as attractants to other wildlife that pose a strike hazard. Routine management activities include, but are not limited to, the following:
  - (A) Routine management, repair, and maintenance of roads and runways (does not include upgrades or construction of new roads or runways);
  - (B) Control and management of vegetation (grass, weeds, shrubs, and trees) through mowing, discing, herbicide application, or burning;
  - (C) Hazing of hazardous wildlife; and
  - (D) Habitat modification and management of sources of forage, water, and shelter to reduce the attractiveness of the area around the airport for hazardous wildlife.
- (iii) Incidental take of larks caused by accidental aircraft strikes at airports on non-Federal lands is also exempted from the prohibitions of section 9 of the Act.

Citation: US Fish and Wildlife Service. 2013. Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Taylor's Checkerspot Butterfly and Threatened Status for the Streaked Horned Lark. Federal Register 78(192): 61452-61503. October 3, 2013.

## <sup>3</sup> Section 10(a)(1)(B) permit issuance criteria (50 CFR 17.22):

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such takings;
- The applicant will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided;
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild;
- Other measures as required