ESA Consultation Works.

Don't Weaken It in the Name of Permitting Reform.



Federal projects and wildlife protection can —and routinely do—move forward together.

Congress is considering a number of changes to the Endangered Species Act's consultation process as part of the Senate permitting package.

Before lawmakers rewrite a process designed to prevent federal actions from driving species toward extinction, they should look at the evidence: ESA consultation is not stopping or substantially delaying projects. It helps agencies identify wildlife conflicts early, solve problems and keep projects moving.

What consultation actually does

When a federal agency builds, funds or approves a project that could affect a threatened or endangered species, Section 7 of the ESA requires consultation with the U.S. Fish and Wildlife Service or NOAA Fisheries. The goal is straightforward: make sure federal actions do not jeopardize listed species or destroy the critical habitat they need to survive.

Most consultations are informal. Agencies and wildlife experts identify potential conflicts and work through them early. When impacts may be more significant, formal consultation provides a closer review. Even then, a serious conflict rarely stops a project: the wildlife agencies can identify reasonable and prudent alternatives that protect species while allowing the project to proceed.

THE EVIDENCE IS CLEAR

88,290
consultations examined, including every FWS consultation over a more than 7-year period.

0
projects stopped or significantly delayed through the consultation process.
- *0.03% resulted in jeopardy or adverse-modification findings.*

2 months
the median time for *formal* consultation

2 weeks
the median time for *informal* consultation
- More than 90% of the consultations were informal

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Even the rarest conflicts can be solved

Of the 88,290 consultations examined, only two formal consultations found that the project would jeopardize the species as it was proposed. Neither finding ultimately stopped the project. One moved forward through a revised Biological Opinion; the other proceeded using a reasonable and prudent alternative.

Consultation is designed to identify serious wildlife impacts—and find a path forward.

Why this matters now

The Senate permitting package proposes significant changes to ESA consultation. Defenders opposes weakening this proven safeguard when the evidence does not show that consultation is a permitting obstacle Congress needs to fix.

For decades, consultation has provided federal agencies with scientific expertise to identify threats to imperiled wildlife while allowing transportation, infrastructure, energy and other projects to proceed. Changing that process risks sacrificing meaningful wildlife protections without addressing the real causes of permitting delays.

A better path: invest in what works

Congress can make permitting more efficient without weakening the ESA. Federal wildlife agencies need adequate staffing, resources, technology improvements and scientific capacity to review projects quickly and effectively. The record shows that even under serious resource constraints, consultations are generally completed on time and projects overwhelmingly move forward.

FASTER PERMITTING AND STRONG WILDLIFE PROTECTIONS ARE NOT MUTUALLY EXCLUSIVE.

For more than 50 years, ESA consultation has helped deliver both.

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MORE RECENT DATA TELL THE SAME STORY

Defenders **analyzed more than 20,000 formal and informal consultations** involving the Federal Highway Administration between 2015 and early 2022:

80+%
of formal consultations were **completed within the statutory deadline.**

Just over one month
The median completion time of *formal* consultations.

Two weeks
The median completion time of *informal* consultations.

Sources

- Malcom, J.W. & Li, Y.-W. (2015), "Data contradict common perceptions about a controversial provision of the U.S. Endangered Species Act." Proceedings of the National Academy of Sciences.
- Defenders of Wildlife analysis of Federal Highway Administration ESA consultations, 2015–early 2022.
- 2023 testimony of former U.S. Fish and Wildlife Service Director Martha Williams.
- Bipartisan American Affordability and Jobs Act of 2026, Senate permitting package released Sept. 30, 2026.