

## Vermont Procedures for Considering Threatened and Endangered Species in NRCS Assisted or Funded Projects

As a federal agency NRCS must follow requirements set forth in Section 7 of the Endangered Species Act of 1973. This section requires all federal agencies to insure that its actions and activities do not jeopardize the continued existence of threatened or endangered species or result in the destruction of habitat critical to their survival.

NRCS policy (GM 190 Part 410.22(b), [http://policy.nrcs.usda.gov/scripts/lpsis.dll/GM/GM\\_190\\_410\\_b.htm](http://policy.nrcs.usda.gov/scripts/lpsis.dll/GM/GM_190_410_b.htm)) provides additional guidance for the conservation of threatened and endangered species. It states that we will assist in the conservation of these species and avoid or prevent activities detrimental to such species. It also states that this policy includes not only federally listed species but species that are designated as rare, threatened, endangered, etc. by state agencies.

For all project type activities and non-project type projects (e.g. watershed planning) NRCS will determine if the proposed activity will have a probable effect on threatened or endangered species. This assessment will be included as part of an Environmental Impact Statement (EIS), Environmental Assessment (EA) or an Environmental Evaluation (EE). These assessments will be performed at the appropriate organizational level (state or local field office). For all site specific projects, including NRCS assisted projects on private land, the initial step is the completion of an Environmental Evaluation (EE) that includes consideration of threatened and endangered species.

All available information should be reviewed to determine if a federal or state listed species, or its critical habitat, is likely to be present on the proposed project area. We are also required to determine and if the proposed project might have some indirect or cumulative effect on listed species. The primary source of information used in this evaluation is the Significant Habitat Maps maintained by the Vermont Natural Heritage Program (Ecological Science Reference #34). These maps are available in each field office in both a hardcopy and electronic form. These maps show the approximate location of listed species and rare and unique habitats. For rivers and streams one dot may represent species or communities present along extended distances of the waterway.

Everett Marshall with the Vermont Nongame and Natural Heritage Program should be contacted if a dot appears on the map in the general vicinity of the proposed project. A written request to Everett should be made requesting further information on the plant, animal or natural community; this request should contain the following information:

- 1) The person and agency requesting the information, including address and phone number,
- 2) a description of the proposed project
- 3) a map of the proposed project area, preferably a 7.5 min. topographic map,
- 4) a statement on how the information will be used; and
- 5) a date when the information is needed by.

Everett Marshall can be contacted at:

Vermont Nongame and Natural heritage Program  
Department of Fish and Wildlife  
103 So. Main Street  
Waterbury, VT 05671-0501  
Ph. 802-241-3295  
Everettm@fwd.anr.state.vt.us

There are several other sources of information that should be used to determine if the presence of a listed species, or a rare or unique community might be present in the project area. This includes local plant and community inventories, landowner or other local personal knowledge, and references such as “Wetlands, Woodlands, Wildlands” (Ecological Science Technical Reference available at all Vermont NRCS offices) and “Threatened and Endangered Species of Vermont that may occur on Soil Conservation Service Project Sites”(Ecological Science Reference #29).

All NRCS employees, third party vendors, and partner agencies providing conservation planning assistance should work towards recognizing rare and unique community types within their District. NRCS field employees are not expected to recognize all animal and plant threatened and endangered species. Employees are expected to be able to recognize the more commonly encountered threatened and endangered species in their District.

#### Determination of No Potential Impact

After reviewing all available information no listed species, or rare or unique communities are indicated in the project area then a determination of no potential impact can be documented on the Environmental Evaluation (EE) and no further consultation is required.

In some situations a determination of no potential impact is appropriate even when a listed species or its habitat is located in the project area. This is a site specific determination that should only be made in consultation with the appropriate state or federal biologists and the NRCS state office. In these cases the EE should clearly indicate that the proposed project will not affect the listed species or significantly modify its habitat, who was consulted and that the project can continue. The biologists consulted on the project should provide NRCS documentation on their decisions including the scope of work that this decision is valid under.

#### Possible Presence of Listed Species or Rare or Unique Community

In some cases information may indicate the possible presence of a listed species. This could occur in situations where a rare or unique community type is located in the project area. Many of these community types contain rare, threatened or endangered species. In

these cases the Environmental Specialist or Biologist at the state office should be contacted early on during the planning stage of the project.

#### Documented Presence of a State Listed Species

On occasion a state listed rare, threatened or endangered species, or its critical habitat, will be identified in the project area. The first alternative is to offer the landowner a relocated or alternative practice that will still solve the resource concern and meet the needs of the landowner and protect the listed species. Seriously consider canceling the practice if it cannot be relocated and an alternative practice is not available. Based on a landowner request NRCS can initiate further consultation with the Vermont Nongame and Natural Heritage Program to avoid destruction of the species or initiate mitigation measures. The NRCS state office should be notified of these situations before requesting further consultations.

#### Documented Presence of a Federally Listed Species

On occasion a federally listed threatened or endangered species, or its critical habitat, will be identified in the project area. The first alternative is to offer the landowner a relocated or alternative practice that will still solve the resource concern and meet the needs of the landowner and protect the listed species. Seriously consider canceling the practice if it cannot be relocated and an alternative practice is not available. Based on a landowner request NRCS can initiate formal consultation with the U.S. Fish and Wildlife Service (USFWS) to avoid destruction of the species or initiate mitigation measures. A factsheet on formal consultations with the USFWS is included in this section of the FOTG. The NRCS state office should make these formal requests.