Figure 2 – Program Administration for ESA Section 7 Compliance with USFWS Step 1 Project Proponent contacts Corps, NOAA RC, and/or USFWS (Action Agencies) for CWA or RHA permitting and/or project funding Step 2 Action Agencies coordinate to evaluate project eligibility for the Program and to determine the Lead Agency for ESA Section 7 compliance: If Project Proponent has applied for a CWA Section 404 or RHA Section 408 permit to the Corps, Corps will typically be the Lead; or · If NOAA RC provides funding, it will typically be the Lead; or · If USFWS provides funding, it will typically be the Lead; or · If the project is on USFWS property, USFWS will be the Lead; or · If a federal agency that is not a part of this programmatic consultation (i.e., Late-Arriving Action Agency) is funding, overseeing, or carrying out a qualifying project, then they will typically be the Lead Step 3 Obtain an Official Species List from the USFWS Information for Planning and Consultation (IPaC) online tool to identify the listed species of interest and evaluate their potential to occur on-site (https://ipac.ecosphere.fws.gov/) If ESA Section 7(a)(2) Review Determine General Protection Measures and Species Protection Measures that are applicable based on the Form is project type, site specific constraints, project location, and species with potential to occur onsite incomplete, Lead In coordination with the Lead Agency, Project Proponent initiates Technical Assistance¹ with appropriate USFWS Agency will notify Ecological Services (ES) Field Office², as necessary, to discuss project-specific needs and/or identify the applicable Project Proponent **Protection Measures** where additional Prepare and submit ESA Section 7(a)(2) Review Form to Lead Agency³ information is needed Step 4 • The goal is that within 30 calendar days of receiving the Form, and in no more than 60 days, the Lead Agency will (1) review the Form for completeness, (2) if the Form is complete, submit the Form to USFWS ES to request concurrence of coverage under the Programmatic Biological Opinion (PBO), and (3) notify the Project Proponent if their Form is complete or incomplete.43 The goal is that within 30 calendar days of receiving the Lead Agency's request, and in no more than 60 days, USFWS ES will respond to the Lead Agency and the Lead Agency will notify the Project Proponent in writing via email about their project's coverage under the PBO.⁴⁵ V Step 5 Project Proponent implements the project as described on the approved ESA Section 7(a)(2) Review Form. Report all injury or mortality of listed species to USFWS ES within 48 hours. Submit the Post-Construction Report Form to USFWS ES (and copy the Action Agency) by December 1st. If there is ongoing revegetation or species monitoring beyond the report due date, provide a report annually on December 1st until success criteria have been met, or monitoring has ceased.6

Step 6

All Action Agencies utilizing the PBO will meet annually in January to discuss implementation, cumulative impacts, and identify any need for changes to the program and process.

ACRONYMS

Corps United States Army Corps of Engineers CWA Clean Water Act ES Ecological Services Program ESA Endangered Species Act **IPaC** Information for Planning and Consultation NOAA RC National Oceanic and Atmospheric Administration Restoration Center PRO Programmatic Biological Opinion Rivers and Harbors Act **USFWS** United States Fish and Wildlife Service

LEGEND

Action to be completed by Project Proponent

Action to be completed by Action Agencies

- Technical Assistance may include a variety of coordination steps, such as discussions with the Project Proponent, coordination with the Action Agencies and USFWS ES, a field visit to the project site.
- The appropriate USFWS ES Field Office is based on the location of the Proposed Project. See Figure 1.
- Ideally, the Project Proponent will submit the completed ESA Section 7(a) (2) Review Form and the Clean Water Act permit application concurrently. USFWS Programs have delegated Section 7(a)(2) authority and will serve the role of USFWS ES for their respective projects.
- Project Proponent may not implement their project until all applicable federal, state, and local permits are obtained.
- 5. Written concurrence (i.e., electronically signed ESA Section 7(a)(2) Review Form package) via email from USFWS ES is required for the project to be covered under the PBO. Response times will depend upon the nature of the project and the amount of coordination that has occurred prior to submitting the ESA Section 7(a)(2) Review Form.
- 6. All revegetated areas will be maintained and monitored for a minimum of 2 years after replanting is complete, or until success criteria are met, to ensure that the revegetation effort is successful. The standard for success is 60% cover compared to pre-project conditions at the project site or at least 60% cover compared to an intact, local reference site. If an appropriate reference site or pre-project conditions cannot be identified, success criteria will be developed for review and approval on a project-by-project basis, based on the specific habitat impacted and known recovery times for that habitat and geography.