

Informal / Expedited Consultation Process

Frequently Asked Questions & Checklist

NOAA Fisheries Alaska Region

Revised June 2023

When is an informal consultation appropriate?

Informal consultations are appropriate for actions that may affect, but are “not likely to adversely affect,” ESA-listed species or critical habitat. It is appropriate to determine the action is “not likely to adversely affect” ESA-listed species or critical habitat if all potential stressors will have insignificant effects, effects that will be extremely unlikely to occur, or the impacts of the action will be entirely beneficial. At the conclusion of informal consultation, NOAA Fisheries issues a Letter of Concurrence (LOC).

When is an expedited informal consultation appropriate?

For projects that are “not likely to adversely affect” listed species AND are routine, non-controversial, and pose minimal threats, the project may qualify for an expedited informal consultation if the action agency provides a very thorough and complete consultation request package. This ultimately allows NOAA Fisheries to respond with a rapid 1-2 page Letter of Concurrence response. If the consultation request does not adequately outline the required criteria outlined below, NOAA Fisheries may decide that in order to fulfill ESA regulatory requirements, expedited consultation is not appropriate and we will write an LOC that contains the required information and level of analysis.

The expedited consultation process aims to streamline Endangered Species Act (ESA) section 7 consultations for routine, non-controversial actions that pose minimal threats to listed resources. This process can significantly reduce the time it takes for NOAA Fisheries to issue a letter of concurrence.

What criteria/information must be included in the consultation request in order for a consultation to be considered for the expedited informal consultation process?

To initiate an expedited informal consultation, the action agency provides a request document that adequately addresses the following five criteria:

1. An adequate description of the proposed action, including location, timing, duration, and mitigation measures.
 - **Activities:** Include all activities associated with the project. For example, a dock replacement project should discuss not only the pile driving but also pile removal, vessel activity, dredging, drilling, screeding, fill placement, armoring, etc. that may be involved. In addition, if activities that occur subsequent to the completion of the project would not happen at that location *but for*

the project itself, those subsequent activities must be described (and impacts from the subsequent activity evaluated in the Effects of the Action section). For example, a harbor expansion project that will increase the number of vessels operating out of that harbor must consider the effects of that additional vessel traffic.

- **Location:** Submit maps and figures of the project location to facilitate the process and reduce the communication back and forth to obtain additional information.
 - **Timing and Duration:** Specify the maximum calendar date range during which the work will be conducted and along with the number of days work will be conducted. If the work will occur during specific portions of a tide cycle only, please specify.
 - **Mitigation Measures:** Provide a detailed account of all mitigation measures. These mitigation measures must be sufficient to ensure that project effects on listed species are insignificant or extremely unlikely to occur.
 - **Action area:** The action area is distinct from and larger than the project footprint or project area because project effects usually extend beyond the area in which work is occurring. The action area extends out to a point where no measurable effects from the project are expected to occur. The entirety of the area affected by project related sound, vessel traffic, turbidity, contaminants, subsequent human use, etc., all need to be considered when determining the action area.
2. Identification of each ESA-listed species and/or designated critical habitat that may be affected by the action.
 - Include action area specific information on the presence of ESA-listed species. This includes anecdotal sighting information.
 3. An adequate discussion of each potential effect on the ESA-listed species and/or essential features of designated critical habitat along with an adequate rationale why the effects would be extremely unlikely to occur, insignificant (too small to meaningfully measure or detect), or wholly beneficial.
 - Evaluate both direct and indirect effects to ESA-listed species, such as acoustic impacts, visual disturbance, habitat alteration, effects to prey species, effects from pollution (containments, trash, debris), vessel strike, and long term impacts from the development (for example, a dock expansion project may cause increased boat traffic in the area which may increase impacts on listed species).
 4. Certification that the action agency has used the best scientific and commercial data available.

Informal / Expedited Checklist

Use the following checklist to ensure all information has been identified and evaluated for the ESA Section 7 consultation.

Type of Information Needed		Included in request?	
Proposed Action <i>description of all project components</i>	Project Location	Latitude and Longitude	
		Waterbody	
		Figure displaying project location	
	Construction Schedule	Months/seasons of in-water work	
		Duration of in-water work	
		Specify whether work is limited to daylight and good visibility conditions	
	Project <i>(see specific activity information below)</i>	Detailed description of the purpose	
		Description of the existing facilities	
		Indicate new, repair, and/or replacement structures.	
		Step-by-step construction methodology	
		Demolition or removal of existing structures	
		Location of structures	
		Sound source level(s) for each in-water activity	
	Pile Driving	Pile material	
		Installation/Removal methods (impact, vib, DTH etc.)	
		Number of piles	
		Pile size	
		Noise attenuation devices to be used	
	Dredging / Fill Placement	Dredge type (hopper, clamshell, etc.)	
		Area to be dredged or filled (sq ft.)	
		Volume to be dredged or filled (cubic yards)	
		Spoil disposal method	
	Other in-water structures	Type of structure(s) (e.g. boat basin, riprap, seawall)	
		Square and/or linear feet of structure(s)	
		Number of new vessels/slips, if any	
	Vessel Activity	Type of vessels	
		Number of vessels	
		Frequency of vessel usage	
		Maximum speed of vessels	
	Action Area	Describe and provide a map of the area that includes all direct and indirect effects of the project that will occur (includes effects from vessel activity).	

		If there are underwater acoustic impacts, the action area extends to 120 dBrms re 1µPa or approaching ambient noise levels.	
		Reasonable justification (ideally quantitative) for extent of action area and includes references.	
	Mitigation Measures	List all mitigation and monitoring measures to be used to avoid the likelihood of adverse effects to listed species or critical habitat. NMFS can provide recommended mitigation measures.	
		Include any measures to report marine mammal observations to NOAA fisheries.	
Listed Species & Critical habitat	Listed species	Description of all potentially affected species, including presence and distribution in the area.	
	Critical Habitat	Indicate if the action area overlaps with critical habitat and list the physical and biological features (PBFs).	
Effects of the Action	Potential Stressors Identifies and evaluates exposure to all stressors and response of on listed species/ critical habitat.	Acoustic Impacts (of all in-water activities)	
		Visual Disturbance	
		Habitat Alteration	
		Effects to Prey Species	
		Pollution (containments, trash, debris)	
		Vessel Strike	
		Critical habitat (impacts to each PBF)	
		Other Direct/Indirect Effects	
	Mitigation Measures	Indicate how any mitigation measures will avoid the likelihood of adverse effects to listed species and/or critical habitat	
	References	Provide scientific references/reports/papers to support the analysis. This includes references for sound source levels used to determine thresholds.	
Insignificant and/or Extremely unlikely to occur	Indicate why each stressor/effect will have an insignificant impact (too small to detect or measure) and/or is extremely unlikely to occur.		
Conclusion	Effects Determination	Action agency's effects determination on each species/critical habitat	