

How To Guide for submission of Natural Resource Evaluations to the National Marine Fisheries Service (NMFS) for Endangered Species Act (ESA) and Essential Fish Habitat (EFH) Consultations

The Endangered Species Act and Magnuson-Stevens Fishery Conservation and Management Act (MSA) are separate legislative acts protecting different resources and have different consultation timeframes. FDOT develops a Natural Resource Evaluation (NRE) document to conduct consultation under both acts. See [PD&E Manual Part 2, Chapter 16 and Chapter 17](#) for more information. This document outlines the submission process to NMFS for the NRE to complete consultation under each act.

The District should coordinate ESA and EFH consultation requests with the NMFS ETAT member as technical assistance prior to submitting consultation requests. When all information needed to make an ESA effect determination or to begin EFH consultation is available, and the District is ready to request consultation from NMFS follow the applicable steps below.

ESA Expedited Informal Consultation

All informal consultations must be submitted in the expedited consultation format. The District submits the NRE to the NMFS ETAT member via email or through the EST. Using the information in the NRE, NMFS ETAT members draft the expedited consultation document on FDOT's behalf. Then the ETAT sends the expedited document to the FDOT District. If the District is satisfied with the document, the appropriate District staff transfer the document to FDOT letterhead, sign and date it and submit the ESA consultation request to NMFS through the portal email at nmfs.ser.esa.consultations@noaa.gov (copy and paste link in the email) and cc the ETAT member for that District. Please note that the response from the portal email is a stock response that is automatically sent when an ESA Section 7 consultation request is submitted to the portal email. It does not apply to FDOT projects as they are prioritized in terms of being assigned to the ETAT shortly after they are received by way of the cc. Therefore, the Districts can ignore the stock response.

Please also note, the portal email inbox restricts file sizes to 25mb. Any larger files will need to be shared on a data-sharing portal (e.g., FDOT Document Transfer Appliance (FTA)) or can be sent through the EST to the respective ETAT. However, when sending the document through the EST, the District must always send a consultation request email through the portal email at the above address with the cc to the appropriate ETAT member. If the email requesting consultation does not go through the portal, the request will not be logged into the NMFS system and no official request for consultation will exist.

Guidance titled “[*Information Required for NMFS Transportation Liaisons to Generate an ESA Section 7 Informal Expedited Consultation Document*](#)” is available to reference for what information is required for an expedited review and can be found in Section 6 of the document link. All the information listed in the guidance is required for NMFS to complete their expedited informal template and process the letter of concurrence. Responses such as “TBD” or “the contract is not yet let” are not sufficient responses to any of the requested items. In these cases, the project is not ready for an ESA Section 7 consultation and technical assistance would be the appropriate path forward.

ESA Formal Consultation

When **formal ESA consultation** is required, the District should provide OEM with the completed NRE (Biological Assessment), and cover letter requesting formal ESA consultation. If EFH consultation is also required, the District will provide a second cover letter requesting EFH consultation. OEM will submit the NRE, formal ESA consultation cover letter, and the EFH cover letter (when applicable) to NMFS on behalf of the District through the EST. OEM will also submit the ESA formal consultation request letter through the portal email at the above address to log the request into the NMFS system.

Essential Fish Habitat Consultation

When consultation on Essential Fish Habitat (EFH) from NMFS is required a separate cover letter is needed requesting review for concurrence under the MSA. For EFH consultation both the cover letter requesting consultation and concurrence and the NRE can be submitted through the EST to the appropriate ETAT member (by the District when not submitted by OEM as noted in the ESA Formal Consultation section of this document).

Additional Support and Reinitiation

If the District has questions about the information needed to submit a request for consultation or the information needed is unavailable and the district wishes to delay consultation until a later project phase, **technical assistance** can be requested from the NMFS ETAT. The NRE and request for technical assistance/ deferred consultation can be provided to the ETAT through the EST. Technical assistance requests are not submitted through the email portal. The ETAT will review and provide comments that identify additional information needs or address the request to reinitiate consultation at a later project phase. If reinitiation of consultation is requested, a technical assistance response from the ETAT should be obtained stating that deferring consultation is acceptable until more project specific information is available. The correspondence should be placed in the

project file and a commitment to reinitiate consultation with NMFS should be made in the environmental document and in the corresponding PCR.

NMFS ETAT Reviewers (April, 2024)

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<https://www.fisheries.noaa.gov/consultations/how-submit-consultation-request-southeast>

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