

Section 7 of the Endangered Species Act (ESA) and Essential Fish Habitat (EFH) Emergency Consultation

The purpose of this document is to inform Federal On-Scene Coordinators (FOSCs) of the potential need to conduct emergency consultations in accordance with 50 Code of Federal Regulations (CFR) § 402.05 and 50 CFR § 600.920(a)(1). This National Response Team (NRT) Emergency Consultation Form for both ESA emergency consultations and EFH coordination is provided to assist FOSCs through the emergency consultation process. Whenever an **FOSC** makes a determination that **federal response actions may affect ESA-listed (threatened or endangered) species and/or designated Critical Habitat** or may adversely affect **EFH**¹, the action agency (U.S. Coast Guard (USCG) within the coastal zone, Environmental Protection Agency (EPA) within the inland zone, Department of Defense, and Department of Energy) shall initiate emergency consultation protocols as appropriate. The **FOSC** initiates this emergency consultation **as soon as practicable, via email to the Services**, after the response is initiated. If the FOSC determines consultations are not practicable during emergency response operations, refer to the NRT's Post-Response Procedures guidance for ESA Section 7 and EFH compliance requirements.

The three ESA thresholds, which are used to determine action necessary by the FOSC, are:

- (1) **No Effect** (none at all, negative or positive);
- (2) **May Affect; Not Likely to Adversely Affect**, (NLAA); and
- (3) **May Affect; Likely to Adversely Affect** (LAA).

The two EFH thresholds, which are used to determine action necessary by the FOSC, are:

- (1) **Would Not Adversely Affect**; and
- (2) **May Adversely Affect** (**Adverse Effects** are any effect that reduces the quality or quantity of EFH).

ESA Section 7 consultation is completed through the regional offices of the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (DOC-NMFS), and the Department of the Interior, U.S. Fish and Wildlife Service (DOI-USFWS). These agencies are referred to as “the Services.” **The FOSC should ensure that the following are completed during emergency response actions:**

- Provide a description of the emergency to the Services;
- Check Geographic Response Strategies (GRS), Environmental Response Management Application (ERMA), EFH Mapper, NMFS ArcGIS Viewer, Environmental Conservation Online System (ECOS), and Information for Planning and Consultation (IPAC) for all listed species, designated Critical Habitats, and designated EFH, along with the contacts for each of the Services.
- Provide an evaluation of the emergency response actions and their potential impacts, if any, on listed and endangered species, and designated Critical Habitats, and/or EFH. **The scope of the**

¹ NMFS supplies an EFH mapping tool for assistance in identifying EFH. EFH Mapping tool link: <https://www.habitat.noaa.gov/application/efhmapper/index.html>. FWS also provides the IPaC Species List Tool at <https://ipac.ecosphere.fws.gov/>.

consultation is focused on the agency's response actions during an emergency, NOT the emergency itself.

- If pre-spill planning consultations were completed with the Services, employ Best Management Practices (BMPs) specified in the pre-spill planning consultation Biological Opinion (BO)/EFH consultation and document how the Services' recommendations were implemented to minimize "effects." These BMPs may be incorporated into the GRSs, Area Contingency Plans (ACPs), and Regional Contingency Plans (RCPs) as appropriate.
 - (1) If a BO is completed, implement *reasonable and prudent measures and terms and conditions*, which **must be completed** by the FOSC. Additional *conservation recommendations* may also be included in a BO and remain **discretionary** to the FOSC.
 - (2) If a Letter of Concurrence (LOC) is completed, implement any applicable conservation measures.
 - (3) Any documents that result from Emergency Consultations should be incorporated into GRSs, ACPs, RCPs, and any pre-spill planning efforts, as appropriate.
- Depending on the scale and scope of emergency response actions, pre-spill planning consultations can minimize the level of effort of emergency consultation(s) and, in certain circumstances, even alleviate the need for emergency consultation(s). (The pre-spill planning consultation covers all potential response actions that may be implemented during the emergency response).
- If pre-spill planning consultations have not been completed, provide a comparison of the emergency response actions as described above with any other pre-planned or ongoing countermeasures and mitigation information to the Services.

More guidance regarding Section 7 consultation can be found in the 2001 Inter-agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan (2001 MOA) and the NRT's National Environmental Compliance (NEC) Subcommittee ESA guidance page at [NRT.org](https://nrt.org)². EFH consultations should be completed simultaneously with ESA Section 7 consultations.

Emergency Consultation Form

This form is intended for documentation of emergency response actions that may or are likely to affect:

- Species listed as endangered or threatened under the ESA;
- Designated Critical Habitat under the ESA; and
- Fishery habitat designated as EFH under section 305 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

This form is intended to provide as much detailed information as possible to the Services within 48 hours of the federal action agency undertaking emergency response actions. It is not intended to be comprehensive and **responders should not delay emergency response actions while awaiting a response from the Services**. This form may be used to assist FOSCs in meeting their statutory

² National Response Team (NRT) National Environmental Compliance (NEC) Homepage link: [https://nrt.org/Main/Resources.aspx?ResourceType=Endangered%20Species%20Act%20\(ESA\)%20Section%207&ResourceSection=2](https://nrt.org/Main/Resources.aspx?ResourceType=Endangered%20Species%20Act%20(ESA)%20Section%207&ResourceSection=2)

obligations to conduct emergency consultation under Section 7 of the ESA and/or designated EFHs. This form is also designed to document communication efforts between the Action Agencies and the Services as well as provide a consistent template for the Services to use in compiling relevant information and recommendations during emergency response operations.

- USFWS ESA emergency contact: (email) (phone)
- NMFS ESA emergency contact: (email) (phone)
- NMFS EFH emergency contact: (email) (phone) (reference below link)

<https://www.fisheries.noaa.gov/contact-directory/regional-essential-fish-habitat-coordinators>

Note: The Services will review the supplied information and respond with BMPs to mitigate potential impacts to any ESA-listed (threatened or endangered) species and/or designated Critical Habitat and/or EFH. The BMPs are then incorporated into response actions and species specialists may be brought into the response to provide additional oversight and guidance via Pollution Removal Funding Authorization (PRFA).

Once this form is submitted, the Services will consider the proposed response actions and use ATTACHMENT 2: DOCUMENTATION OF ESA SECTION 7 AND EFH EMERGENCY CONSULTATION DURING EMERGENCY RESPONSE ACTIVITIES – USFWS/NMFS RESPONSE.

For all consultations:

The regional NOAA Scientific Support Coordinator (SSC) and/or DOI Regional Environmental Officer **shall** be informed whenever the FOSC engages in emergency consultation with the Services.

The NOAA SSC may be able to facilitate communications between the USCG and the Services; however, it is the sole responsibility of the FOSC to initiate, conduct, and complete the consultation.

The DOI Regional Environmental Officer may also be able to facilitate communications between the action agencies and USFWS.

U. S. Coast Guard (USCG) District Incident Management and Preparedness Advisors (IMPAs) and District Response Advisory Teams (DRATs) are excellent resources for all required consultations (ESA, EFH, State Historic Preservation Office (SHPO), and Tribal Historic Preservation Office (THPO)).

The USCG IMPA and DRAT are available 24/7 via District command centers.

Note: This is a guidance document only. Units are encouraged to modify this document as they see fit to suit the needs of their respective Regions or Areas.

ESA SECTION 7 / EFH FORM INSTRUCTIONS

In using the below ESA Section 7/EFH Form, FOSCs (or their designated representative) should complete the Cover Memo and Attachment 1 after initial contact is made to the Services. Attachment 1 should be filled out with the best available information at the time of the response and should account for all response actions taken or being considered.

Attachment 2 is intended to be submitted blank to the Services by the FOSC (or their designated representative), so the Services can both acknowledge the request for consultation as well as begin to consider the FOSC's actions or proposed actions during the emergency response.

ESA SECTION 7/EFH FORM COVER MEMO

FROM: FOSC U.S. Coast Guard/EPA	Name: Click or tap here to enter text. Email: Click or tap here to enter text.	T: Click or tap here to enter text. C: Click or tap here to enter text.
TO: NOAA Scientific Support Coordinator	Name: Click or tap here to enter text. Email: Click or tap here to enter text.	T: Click or tap here to enter text. C: Click or tap here to enter text.
TO: DOI Regional Environmental Officer	Name: Click or tap here to enter text. Email: Click or tap here to enter text.	T: Click or tap here to enter text. C: Click or tap here to enter text.

This is an:

- Initial Report
 Updated Report

INCIDENT DETAILS	
Name of Incident: Click or tap here to enter text.	
Date of Incident: Click or tap to enter a date.	Time of Incident: Click or tap here to enter text.
Incident Type (e.g., vessel grounding, vessel collision, pipeline, transfer): Click or tap here to enter text.	
Product(s) Released/Discharged: Click or tap here to enter text.	
Volume Released/Discharged (indicate whether gallons or barrels): Click or tap here to enter text.	
Potential Volume (indicate whether gallons or barrels): Click or tap here to enter text.	
Has the release/discharge been stopped, continuing, or is the status unknown? Click or tap here to enter text.	
Is the release/discharge contained, spreading, or is the status unknown? Click or tap here to enter text.	

INCIDENT DETAILS

Indicate which Geographic Response Strategies exist for the area affected or potentially affected by the release/discharge:

Click or tap here to enter text.

Indicate which, if any, Response Actions have been or are being deployed:

Click or tap here to enter text.

CENTER LOCATION

Latitude (example: 40°10'8" N or 40.17):

Click or tap here to enter text.

Longitude (example: 74°51'53" W or -73.14):

Click or tap here to enter text.

Nearest Landmark/Town:

Click or tap here to enter text.

Location Type	Name/Landmarks
(Check all that apply below)	
<input type="checkbox"/> Port/Industrial/Canal	Click or tap here to enter text.
<input type="checkbox"/> Riverine	Click or tap here to enter text.
<input type="checkbox"/> Inshore/Estuarine	Click or tap here to enter text.
<input type="checkbox"/> Nearshore/Coastal	Click or tap here to enter text.
<input type="checkbox"/> Offshore/EEZ	Click or tap here to enter text.
<input type="checkbox"/> Lake/Lacustrine (freshwater)	Click or tap here to enter text.
<input type="checkbox"/> Wetland (freshwater)	Click or tap here to enter text.

ATTACHMENT 1: DOCUMENTATION OF ESA SECTION 7 AND EFH EMERGENCY CONSULTATION DURING EMERGENCY RESPONSE ACTIVITIES – FOSC INITIAL

Date of Transmittal: Click or tap to enter a date. **Time of Transmittal:** Click or tap here to enter text.

DESCRIPTION OF INCIDENT (Include Incident Command System (ICS) Form 201, other ICS forms as appropriate, or include hand drawn or digitally inserted map of incident action area): Be as complete as possible. Include detailed information on initial impacts, and other relevant information.

Click or tap here to enter text.

RESPONSE ACTIONS

This is an:

Initial List of Response Actions

Updated List of Response Actions

Action (check all that apply)	Details/Notes
<input type="checkbox"/> Barriers/Berms/Fences	Click or tap here to enter text.
<input type="checkbox"/> Booming (Containment/Exclusion)	Click or tap here to enter text.
<input type="checkbox"/> Dispersants	Click or tap here to enter text.
<input type="checkbox"/> Flooding/Flushing	Click or tap here to enter text.
<input type="checkbox"/> In-situ Burning	Click or tap here to enter text.
<input type="checkbox"/> Manual Oil Removal/Cleaning	Click or tap here to enter text.
<input type="checkbox"/> Net Use or Trawling	Click or tap here to enter text.
<input type="checkbox"/> Nutrient Enrichment/Bioremediation	Click or tap here to enter text.
<input type="checkbox"/> Oiled Vegetation Cutting/Removal	Click or tap here to enter text.
<input type="checkbox"/> Oiled Debris Removal	Click or tap here to enter text.
<input type="checkbox"/> Physical Herding	Click or tap here to enter text.
<input type="checkbox"/> Pre-oiling Debris Removal	Click or tap here to enter text.
<input type="checkbox"/> Sand Blasting	Click or tap here to enter text.
<input type="checkbox"/> Sediment Removal/Dredging	Click or tap here to enter text.
<input type="checkbox"/> Sediment Reworking/Tilling	Click or tap here to enter text.
<input type="checkbox"/> Shoreline Cleaning	Click or tap here to enter text.
<input type="checkbox"/> Skimming	Click or tap here to enter text.
<input type="checkbox"/> Solidifiers	Click or tap here to enter text.
<input type="checkbox"/> Sorbents (specify type in notes – e.g., sausage, pom-pom, particulate: Bagasse, peat moss, natural/organic, etc.)	Click or tap here to enter text.
<input type="checkbox"/> Steam Cleaning	Click or tap here to enter text.
<input type="checkbox"/> Surface Washing Agent/ Chemical Shoreline Cleaners	Click or tap here to enter text.

RESPONSE ACTIONS

This is an:

Initial List of Response Actions

Updated List of Response Actions

Action (check all that apply)	Details/Notes
<input type="checkbox"/> Surface Collecting Agents/ Herders	Click or tap here to enter text.
<input type="checkbox"/> Trenching	Click or tap here to enter text.
<input type="checkbox"/> Vessel/Container Removal	Click or tap here to enter text.
<input type="checkbox"/> Vacuuming	Click or tap here to enter text.
<input type="checkbox"/> Other	Click or tap here to enter text.

Additional information on response actions:

Click or tap here to enter text.

WILDLIFE RESPONSE ACTIONS

This is an:

- Initial List of Response Actions Updated List of Response Actions

Action (check all that apply)	Details/Notes
<input type="checkbox"/> Aerial Surveys	Click or tap here to enter text.
<input type="checkbox"/> Vessel Surveys	Click or tap here to enter text.
<input type="checkbox"/> Capture and Relocation	Click or tap here to enter text.
<input type="checkbox"/> Capture and Rehabilitation	Click or tap here to enter text.
<input type="checkbox"/> Deterrence/Hazing	Click or tap here to enter text.
<input type="checkbox"/> Nest Protection	Click or tap here to enter text.
<input type="checkbox"/> Necessary Holding Location	Click or tap here to enter text.
<input type="checkbox"/> Other	Click or tap here to enter text.

Additional information on wildlife response actions:

Click or tap here to enter text.

VESSELS/VEHICLES	
Vessel/Vehicles (check all that apply)	Details/Notes
<input type="checkbox"/> Airplanes	Click or tap here to enter text.
<input type="checkbox"/> ATVs	Click or tap here to enter text.
<input type="checkbox"/> Boats	Click or tap here to enter text.
<input type="checkbox"/> Unmanned Aerial Vehicles (UAVs) or Unmanned Aerial Systems (UASs)	Click or tap here to enter text.
<input type="checkbox"/> Heavy Equipment	Click or tap here to enter text.
<input type="checkbox"/> Helicopters	Click or tap here to enter text.
<input type="checkbox"/> Staging Areas	Click or tap here to enter text.
<input type="checkbox"/> Truck or other automobile	Click or tap here to enter text.

HABITAT TYPES CHECKLIST (Optional – fill out if known)	
Habitat Type (check all that apply)	Habitat Exposed/Not Exposed to response action(s) or vehicles/vessels?
<input type="checkbox"/> Beach	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Coastal Lagoon	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Dune	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Submerged Aquatic Vegetation	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Intertidal/Mud Flats	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Lake/Lacustrine (freshwater)	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Riverine/Riparian (freshwater)	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Rocky Intertidal	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Salt/Tidal Marsh	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Wetland (freshwater)	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Marine (open water)	<input type="radio"/> Exposed <input type="radio"/> Not Exposed
<input type="checkbox"/> Other (enter below): Click or tap here to enter text.	<input type="radio"/> Exposed <input type="radio"/> Not Exposed

HABITAT TYPES CHECKLIST (Optional – fill out if known)

Habitat Type (check all that apply)	Habitat Exposed/Not Exposed to response action(s) or vehicles/vessels?
<input type="checkbox"/> Other (enter below): Click or tap here to enter text.	<input type="radio"/> Exposed <input type="radio"/> Not Exposed

ESSENTIAL FISH HABITAT (Applies to Inland and Coastal Zones – fill out if known)

Are the response actions below in the vicinity of a designated EFH (can use NMFS EFH Mapper or technical assistance)?

Response Actions	Yes/Unknown: Technical Assistance is needed to determine need for consultation. If pre-spill planning is complete, utilize and implement BMPs.	No/Not Used: No further action needed.
Barriers/Berms/Fences	<input type="radio"/> Yes	<input type="radio"/> No
Booming (Containment/Exclusion)	<input type="radio"/> Yes	<input type="radio"/> No
Dispersants	<input type="radio"/> Yes	<input type="radio"/> No
Flooding/Flushing	<input type="radio"/> Yes	<input type="radio"/> No
In-situ Burning	<input type="radio"/> Yes	<input type="radio"/> No
Manual Oil Removal/Cleaning	<input type="radio"/> Yes	<input type="radio"/> No
Net Use or Trawling	<input type="radio"/> Yes	<input type="radio"/> No
Nutrient Enrichment/Bioremediation	<input type="radio"/> Yes	<input type="radio"/> No
Oiled Vegetation Cutting/Removal	<input type="radio"/> Yes	<input type="radio"/> No
Oiled Debris Removal	<input type="radio"/> Yes	<input type="radio"/> No
Physical Herding	<input type="radio"/> Yes	<input type="radio"/> No
Pre-oiling Debris Removal	<input type="radio"/> Yes	<input type="radio"/> No
Sand Blasting	<input type="radio"/> Yes	<input type="radio"/> No
Sediment Removal/Dredging	<input type="radio"/> Yes	<input type="radio"/> No
Sediment Reworking/Tilling	<input type="radio"/> Yes	<input type="radio"/> No
Shoreline Cleaning	<input type="radio"/> Yes	<input type="radio"/> No

ESSENTIAL FISH HABITAT (Applies to Inland and Coastal Zones – fill out if known)

Are the response actions below in the vicinity of a designated EFH (can use NMFS EFH Mapper or technical assistance)?

Response Actions	Yes/Unknown: Technical Assistance is needed to determine need for consultation. If pre-spill planning is complete, utilize and implement BMPs.	No/Not Used: No further action needed.
Skimming	<input type="radio"/> Yes	<input type="radio"/> No
Solidifiers	<input type="radio"/> Yes	<input type="radio"/> No
Sorbents	<input type="radio"/> Yes	<input type="radio"/> No
Steam Cleaning	<input type="radio"/> Yes	<input type="radio"/> No
Surface Washing Agent/Chemical Shoreline Cleaners	<input type="radio"/> Yes	<input type="radio"/> No
Surface Collecting Agents/Herders	<input type="radio"/> Yes	<input type="radio"/> No
Trenching	<input type="radio"/> Yes	<input type="radio"/> No
Vessel/Container Removal	<input type="radio"/> Yes	<input type="radio"/> No
Vacuuming	<input type="radio"/> Yes	<input type="radio"/> No
Other (enter below): Click or tap here to enter text.	<input type="radio"/> Yes	<input type="radio"/> No
Wildlife Response Actions		
Aerial Surveys	<input type="radio"/> Yes	<input type="radio"/> No
Vessel Surveys	<input type="radio"/> Yes	<input type="radio"/> No
Capture and Relocation	<input type="radio"/> Yes	<input type="radio"/> No
Capture and Rehabilitation	<input type="radio"/> Yes	<input type="radio"/> No
Deterrence/Hazing	<input type="radio"/> Yes	<input type="radio"/> No
Nest Protection	<input type="radio"/> Yes	<input type="radio"/> No
Necessary holding location	<input type="radio"/> Yes	<input type="radio"/> No
Other (enter below): Click or tap here to enter text.	<input type="radio"/> Yes	<input type="radio"/> No

ATTACHMENT 2: DOCUMENTATION OF ESA SECTION 7 AND EFH EMERGENCY CONSULTATION DURING EMERGENCY RESPONSE ACTIVITIES - USFWS/NMFS RESPONSE

Date of Transmittal: Click or tap to enter a date.

FROM:	Name: Click or tap here to enter text. Email: Click or tap here to enter text.	T: Click or tap here to enter text. C: Click or tap here to enter text.
TO: FOSC U.S. Coast Guard/EPA	Name: Click or tap here to enter text. Email: Click or tap here to enter text.	T: Click or tap here to enter text. C: Click or tap here to enter text.
Name of Incident: Click or tap here to enter text.		

Recommendations (may include information on species and designated Critical Habitats in the area, suggested conservation measures, etc.):

Click or tap here to enter text.