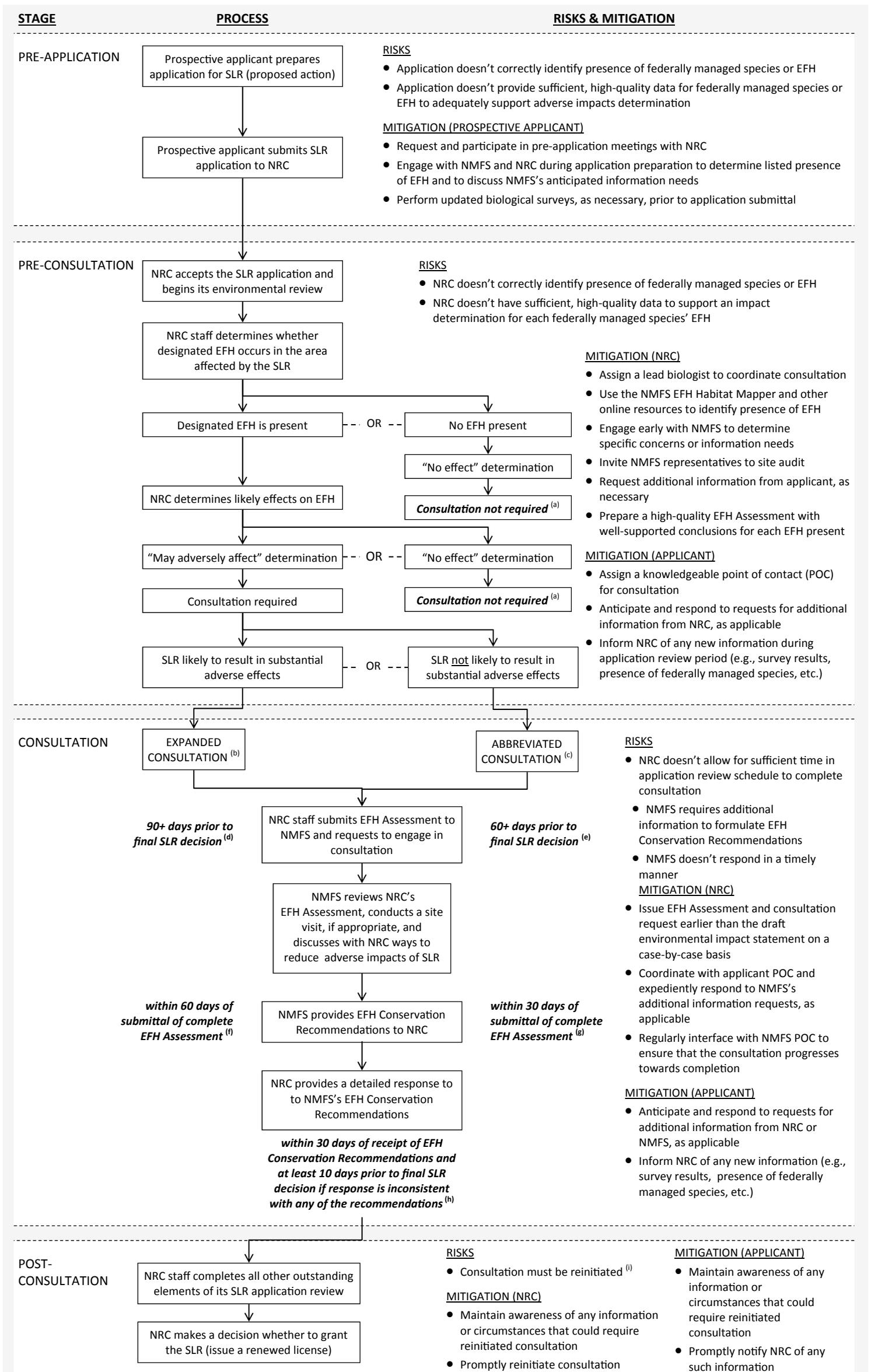


# Essential Fish Habitat (EFH) Consultation Flow Chart

## Subsequent License Renewal (SLR) Consultation, Risks, and Mitigation



# Essential Fish Habitat (EFH) Consultation Flow Chart

## Subsequent License Renewal (SLR) Consultation, Risks, and Mitigation

### Notes and References

#### Notes

- <sup>(a)</sup> **Consultation not required:** EFH Consultation is only required for actions authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken that may adversely affect EFH (50 CFR 600.920(a)(1)).
- <sup>(b)</sup> **Expanded consultation:** Expanded consultation must be used for Federal actions that would result in substantial adverse effects to EFH. Expanded consultation allows maximum opportunity for the National Marine Fisheries Service (NMFS) and the Federal agency to work together to review the action's impacts on EFH and to develop EFH Conservation Recommendations. (50 CFR 600.920(i)).
- <sup>(c)</sup> **Abbreviated consultation:** Abbreviated consultation is appropriate for Federal actions that may adversely affect EFH but do not have the potential to cause substantial adverse effects on EFH. For example, the abbreviated consultation procedures should be used when the adverse effect(s) of an action could be alleviated through minor modifications. (50 CFR 600.920(h)).
- <sup>(d)</sup> **90+ days prior to final SLR decision:** The Federal agency must submit its EFH Assessment to NMFS as soon as practicable, but at least 90 days prior to a final decision on the action (50 CFR 600.920(i)(4)).
- <sup>(e)</sup> **60+ days prior to final SLR decision:** The Federal agency must submit its EFH Assessment to NMFS as soon as practicable, but at least 60 days prior to a final decision on the action (50 CFR 600.920(h)(4)).
- <sup>(f)</sup> **Within 60 days of submittal of completed EFH Assessment:** Under expanded consultation, NMFS must respond within 60 days of submittal of a complete EFH Assessment unless consultation is extended by agreement between NMFS and the Federal agency (50 CFR 600.920(i)(4)).
- <sup>(g)</sup> **Within 30 days of submittal of completed EFH Assessment:** Under abbreviated consultation, NMFS must respond in writing within 30 days (50 CFR 600.920(h)(4)).
- <sup>(h)</sup> **Within 30 days of receipt of EFH Conservation Recommendations and at least 10 days prior to final SLR decision if response is inconsistent with any of the recommendations:** As required by section 305(b)(4)(B) of the Magnuson-Stevens Act, the Federal agency must provide a detailed response in writing to NMFS and to any Council commenting on the action under section 305(b)(3) of the Magnuson-Stevens Act within 30 days after receiving any EFH Conservation Recommendation(s). Such a response must be provided at least 10 days prior to final approval of the action if the response is inconsistent with any of NMFS's EFH Conservation Recommendations, unless NMFS and the Federal agency have agreed to use alternative time frames for the Federal agency response. The response must include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on EFH. In the case of a response that is inconsistent with the EFH Conservation Recommendations, the Federal agency must explain its reasons for not following the recommendations, including the scientific justification for any disagreements with NMFS over the anticipated effects of the action and the measures needed to avoid, minimize, mitigate, or offset such effects. (50 CFR 600.920(k))
- <sup>(i)</sup> **Consultation must be reinitiated:** A Federal agency must reinitiate consultation with NMFS if the agency substantially revises its plans for an action in a manner that may adversely affect EFH or if new information becomes available that affects the basis for NMFS's EFH Conservation Recommendations (50 CFR 600.920(l)).

#### References

Magnuson–Stevens Fishery Conservation and Management Act, as amended (16 U.S.C § 1801 et seq.)

50 CFR 600. Code of Federal Regulations, Title 50, Wildlife and Fisheries, Part 600, “Magnuson–Stevens Act Provisions.”

Essential Fish Habitat Consultation Guidance. Version 1.1. NMFS, April 2004. Available at <[http://www.habitat.noaa.gov/pdf/efh\\_consultation\\_guidance\\_v1\\_1.pdf](http://www.habitat.noaa.gov/pdf/efh_consultation_guidance_v1_1.pdf)>.

Preparing Essential Fish Habitat Assessments: A Guide for Federal Action Agencies. Version 1. NMFS, February 2004. Available at <<http://www.habitat.noaa.gov/pdf/preparingefhassessments.pdf>>.