

National Ocean Service (NOS)  
Surveying and Mapping Projects  
in U.S. Waters for Coastal and  
Marine Data Acquisition

***Environmental Compliance  
Fact Sheet***



***Endangered Species Act (ESA)***

The Endangered Species Act (ESA) of 1973 regulates the conservation of species that are endangered or threatened and the conservation of the ecosystems on which they depend. A species or subspecies is considered endangered if it is in danger of extinction throughout all or a significant portion of its range. A species or subspecies is considered threatened if it is likely to become endangered within the foreseeable future. The ESA is jointly managed by the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS). NMFS manages the conservation of marine species and some species that use both saltwater and freshwater (anadromous species), such as some species of sturgeon and salmon. USFWS manages the conservation of land and freshwater species as well as certain marine species, such as sea otters, manatees, and sea birds.

When a species is listed as endangered or threatened under the ESA, the relevant agency (NMFS or USFWS) may designate critical habitat for that species "to the maximum extent prudent and determinable." Critical habitat is specific areas that are essential to the conservation of a species.

***NOS Consultation Under ESA Section 7***

Under Section 7(a)(2) of the ESA, federal agencies must ensure that their actions are not likely to jeopardize ESA-listed species or damage designated critical habitat. Federal agencies must consult with NMFS or USFWS when an action may affect a listed species or critical habitat. Formal consultation is initiated by the preparation and submission of a Biological Assessment (BA).

In preparing the PEIS, NOS ensured that the PEIS met all requirements to serve as a BA with the Preferred/Selected Alternative, Alternative B serving as the Proposed Action for the purpose of compliance under Section 7.

***Photo Credit (left to right): NOAA; Crew and Officers of NOAA Ship Miller Freeman; and Ed Lyman, NOAA***

## NOS Consultation with NMFS Under ESA Section 7



Following the publication of the Draft PEIS, NOS initiated an informal consultation under ESA Section 7 on August 26, 2021 with NMFS. In response, NMFS provided NOS a letter of concurrence on December 14, 2022, completing the consultation for all species and critical habitat under NMFS jurisdiction.

## NOS Consultation with USFWS Under ESA Section 7



On August 26, 2021, NOS also initiated consultation under ESA Section 7 with USFWS. NOS expected that a formal consultation was required due to potential impacts to Spectacled Eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*). USFWS provided NOS with the Biological Opinion on December 20, 2023, completing the consultation for all species and critical habitat under USFWS jurisdiction.



**Outcomes:** Through the ESA consultation process, NOS developed additional mitigation measures to minimize potential impacts to ESA-listed species from NOS project activities. The NOS mitigation measures will be implemented on each project as appropriate.



**Photo Credit (top to bottom):** Mark Sullivan, NOAA; Dr. Pablo Clemente-Colon, NOAA; and Sam Farkas