

Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C 1801 et seq.)

- Establishes jurisdiction over marine fisheries in the U.S. exclusive economic zone through Fishery Management Plans (FMPs)
- Reauthorized in 1996 and added provision for “essential fish habitat (EFH)”
 - Councils amend FMPs to identify and describe EFH
 - Federal action agencies consult with NMFS
 - NMFS obligated to provide habitat conservation recommendation

Magnuson-Stevens Fishery Conservation and Management Act

- Requires consultation with NOAA Fisheries on projects that may adversely affect EFH
- Arises when EFH and habitat areas of particular concern (HAPC) overlap with areas of proposed aquaculture/shellfishing
- What are legal requirements with regard to conservation recommendations for a particular proposed action?

Definition of Essential Fish Habitat (EFH)

“Essential fish habitat means those *waters and substrate necessary* to fish for *spawning, breeding, feeding, or growth to maturity.*”

- ***Waters***: aquatic areas and associated physical, chemical, and biological properties used by fish.
- ***Substrate***: includes sediment, hard bottom, structures underlying the waters, and associated biological community
- ***Necessary***: habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem
- ***Spawning, breeding, feeding, or growth to maturity***: covers a species' full life cycle

EFH Consultation Summary

- Notification that the proposed action “may adversely affect EFH”
- EFH assessment: written assessment of the effect of the action (party performing action)
- EFH Conservation Recommendations: recommended measures to conserve EFH (NMFS)
- Response to conservation recommendations (party performing action)

EFH Consultation: Examples of Potential Impacts

- Impacts to subaquatic vegetation (SAV)
- Resuspension of sediments, pollutants, nutrients
- Restrictions to migration
- Thermal impacts
- Habitat alteration
- Other

Definition of Adverse Effect

“any impact reducing EFH quality and/or quantity”

- May include direct and indirect impacts
- Can be physical, chemical, or biological alterations of the waters or substrate
- Can include loss or injury to benthic organisms, prey species and their habitats, and other ecosystem components
- Result from actions occurring within EFH or outside of EFH
- Can include site-specific or habitat-wide impacts
- Can result from individual, cumulative, or synergistic consequences of actions

EFH Consultation: The EFH Assessment

- Describes the action
- Analyzes the potential adverse effects of the action on EFH and managed species
- Conclusions regarding the effects of the action on EFH
- Level of detail appropriate to the complexity and magnitude of the potential adverse effects of the action

Factors for Conducting EFH Analysis

- **Proximity:** how close are the proposed actions and its likely effects to the designated EFH?
- **Distribution:** What will likely be the geographic extent of the action and its likely effects?
- **Nature:** What type of effect do you predict?
- **Intensity:** How much and how severely EFH in the action area will likely be affected?
- **Timing:** When will the likely effects occur in relation to EFH use?
- **Frequency:** How often are the actions and its potential disturbances likely to occur?
- **Duration:** How long would the effects likely last?

Available EFH Tools:

- Habitat Conservation Division website:
 - <http://www.habitat.noaa.gov/protection/efh/index.html>
 - Guide to EFH designations
 - Guide to EFH species
 - Guide to EFH consultations
 - EFH and Critical Habitat Comparisons
- NOAA Fisheries EFH Mapper:
 - http://sharpfin.nmfs.noaa.gov/website/EFH_Mapper/map.aspx