



# essential fish habitat

*what fishermen  
should know*

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Protection of the nation's fishery habitat is something fishermen have wanted for a long time. Now there's a law to do just that. The Magnuson-Stevens Fishery Conservation and Management Act requires the federal government to identify essential fish habitat and make conservation

recommendations to agencies whose actions could damage it. But as with many new laws, there are misunderstandings about who is affected and how. Fishermen, especially, want to know how the new law will affect their fishing practices—for example, in "habitat areas of particular concern." It's time to clear up the misunderstandings.

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## Fundamentals

*What, exactly, is "essential fish habitat"?*

It's the waters and bottom (such as sand, sea grass, or coral) necessary to a species' spawning, breeding, feeding, or growth to maturity—its full life cycle.

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*Does "habitat area of particular concern" mean the same thing as "essential fish habitat"?*

No, habitat areas of particular concern have special properties. They may be so designated because they're relatively rare or have an especially important ecological function. Perhaps it's the type and extent of activities that will be stressing the habitat, or a particular sensitivity to contaminants. For example, a portion of New England's Georges Bank and some shallow-water Mid-Atlantic areas have this designation to protect juvenile cod, and sandbar shark nurseries and pupping areas.

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*Is essential fish habitat the same thing as the Endangered Species Act's "critical habitat"?*

Not at all. "Critical habitat" applies only to the relatively few species listed under the ESA (for example, some Pacific salmon), and most such critical habitat is probably also essential fish habitat. But the Magnuson-Stevens Act works to keep resources healthy up front. Offsetting the impact of human activities on fish habitat will help prevent the need to list new fish species under the Endangered Species Act.

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## Federal Roles

*What does this new law require the government to do?*

NOAA Fisheries and the Regional Fishery Management Councils have three roles. First, they describe and identify essential habitat for all fish and shellfish stocks managed under federal fishery management plans. Most of this work has already been completed. Second, they must identify measures to conserve, restore, or enhance essential fish habitat in fishery management plans and amendments. And third, they recommend actions that will minimize the adverse effects of fishing on habitat. Most recommendations respond to requests for consultations by federal agencies (for example, the Corps of Engineers or Environmental Protection Agency) if it appears that a project may affect fish habitat. And some will occur when a Council or NOAA Fisheries learns of other federal or state activities that may harm federally managed fish stocks.

*Do these "recommendations" have the same effect as regulations?*

No. Recommendations aren't binding, but federal agencies must now give them due weight in decision-making. In recommending alternative actions, the Councils and NOAA Fisheries try to define clearly the fishery species affected and the specific biological or ecological consequences of the adverse activity.

Let's take as an example a request for permission to dredge a channel in a muddy area near eelgrass beds. Eelgrass is used in early spring by spawning and juvenile winter flounder, a federally managed species, but since the channel itself isn't in the eelgrass beds, this shouldn't present a problem. However, the dredging could stir up large amounts of mud and bottom debris that might smother winter flounder eggs and juveniles in the nearby eelgrass. So in this case, NOAA Fisheries would recommend not dredging during the spring months when winter flounder are spawning and eggs are developing.

## Fishing Impacts

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*Why is fishing considered an activity that may be harmful to habitat?*

Fishermen have long complained that certain kinds of coastal development contribute to depleted fisheries resources. But damage may also result from fishing itself, as when one fishery unwittingly injures the habitat of its target species or species fished by others. Sometimes, gear crushes bottom-dwelling organisms, vessels scrape fragile reefs, and boats leak fuel into bays and marshes.

The intent of the Magnuson–Stevens Act, though, is to regulate only those gears and activities that reduce an essential habitat's capacity to support fish and shellfish—not practices that produce inconsequential changes in the habitat. But if fishing adds to degradation from development or other activities, the combined impact may be devastating, especially in vulnerable areas designated as habitat areas of particular concern or when stocks are already depleted.

*How do you know whether a particular gear damages habitat?*

The Councils must determine how different fishing methods affect essential fish habitat. A surprising amount of information on impacts of fishing is available, but sometimes, researchers must undertake special studies of these effects. Research is especially important where the gear of one fishery affects the habitat of another, or where both fishing and nonfishing activities affect essential fish habitat, causing cumulative impacts. And as new gear is developed or techniques change, research is needed to see if a fishery management plan needs amending.

*Will there be fishing restrictions in areas designated as essential fish habitat?*

In a few cases, that could happen. But an area's designation as essential fish habitat doesn't in itself indicate what kind of fishing will—or will not—be allowed, or change the authority of the Councils and NOAA Fisheries to regulate fishing gear and methods. The new law's intent is to highlight the importance of essential fish habitat for fisheries, and the need for the Councils and NOAA Fisheries to take these designations into account in considering both fishing and nonfishing effects on habitat.

*Will overfished stocks' essential fish habitat be treated differently?*

Some of these waters may be afforded additional protection from harmful fishing practices. But the new law's real importance to overfished resources is that it lets fishery managers see how degraded habitat can delay rebuilding these stocks. They can then take steps to minimize the activities that are causing the degradation.

*Will this new law really have any substantial benefits to fisheries?*

Absolutely! Our experience to date shows that once agencies, developers, and fishermen understand how a proposed project may harm fish habitat, they find ways to minimize or avoid the damage. And some types of habitat disturbance may actually have positive benefits. Fishery managers must consider the cumulative impacts of multiple fishing practices as well as nonfishing activities. Eventually, fishermen everywhere will see healthier habitats and more abundant fish stocks.

## Fishermen's Voices

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The Magnuson–Stevens Act encourages active participation by fishermen on essential fish habitat issues. Councils will identify potential adverse actions and make conservation recommendations, so getting on their habitat mailing lists is a must for learning about meetings and public reviews. The Councils and regional NOAA Fisheries offices can also provide information about proposed regulations that may affect fish habitat. The NOAA Fisheries habitat staff welcomes the opportunity to answer questions about the essential fish habitat process and specific consultations. Contacts are listed on the back page.



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