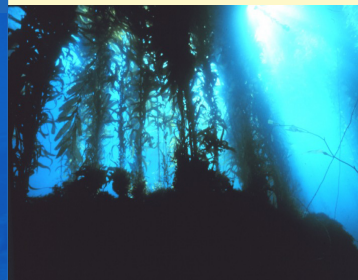
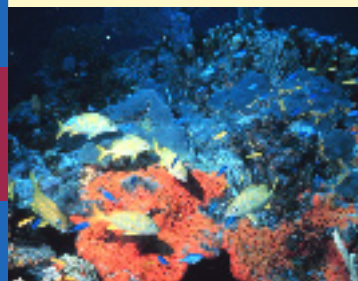


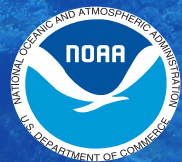


NOAA
National Marine
Fisheries Service



**ESSENTIAL FISH HABITAT
AND CRITICAL HABITAT:**

A comparison





WHAT IS ESSENTIAL FISH HABITAT?

Essential fish habitat (EFH) is identified for species managed in Fishery Management Plans under the Magnuson-Stevens Fishery Conservation and Management Act. Essential fish habitat is the habitat necessary for managed fish to complete their life cycle, thus contributing to a fishery that can be harvested sustainably. EFH applies to each life stage of approximately 1,000 managed species. Different life stages of the same species often use different habitats. The National Marine Fisheries Service (NMFS) has interpreted through regulation that EFH must be described and identified for each federally managed species at all life stages for which information is available.

How is EFH designated? Essential fish habitat must be described and identified in Fishery Management Plans. In 2002, NMFS began to require that the plans also contain maps of EFH. To facilitate access to EFH information, NMFS has made many of the EFH descriptions and maps available via the Web at:

<http://www.nmfs.noaa.gov/habitat/habitatprotection/efh/index.htm>

What protections does EFH designation provide? The Magnuson-Stevens Act requires NMFS to work with other Federal agencies to conserve and enhance EFH. As a result, whenever Federal agencies authorize, fund, or carry out actions that may adversely impact EFH, they must consult with NMFS regarding the impact of their activities on EFH. NMFS must provide the consulting Federal agency with EFH conservation recommendations for any action that would adversely affect EFH. Within 30 days of receiving these recommendations, the consulting action agencies must provide a detailed response in writing to NMFS that includes measures proposed to avoid, minimize, or offset the impact of proposed activities on EFH.



WHAT IS CRITICAL HABITAT?

Critical habitat (CH) is designated for the survival and recovery of species listed as threatened or endangered under the Endangered Species Act (ESA). Critical habitat includes those areas occupied by the species, in which are found physical and biological features that are essential to the conservation of an ESA listed species and which may require special management considerations or protection. Critical habitat may also include unoccupied habitat if the Secretary determines that the unoccupied habitat is essential for the conservation of the species.

How is critical habitat designated? Critical habitat is designated by regulation at the time a species is listed under the ESA unless it is not prudent to do so or it is not determinable at the time. If it is not determinable, then NMFS must designate CH no later than one year after publication of a final listing. After identifying areas that meet the definition of CH, NMFS conducts an analysis to determine whether the economic, national security, or other relevant impacts of designating some areas as CH outweigh the benefits to the species. If so, NMFS may exclude such areas from the final CH designation. Each proposed and final regulation is published in the Federal Register. The final CH designation is also published in the Code of Federal Regulations (50 CFR 226). Critical habitat descriptions and maps can be viewed at:

<http://www.nmfs.noaa.gov/pr/species/habitat.htm>

What protections does a critical habitat designation provide? Whenever Federal agencies authorize, fund, or carry out actions that may adversely modify or destroy critical habitat, they must consult with NMFS under Section 7 of the ESA. If NMFS determines the action is likely to adversely modify or destroy CH, NMFS will develop reasonable and prudent alternatives in cooperation with the Federal agency to ensure the purpose of the proposed action can be achieved without adversely modifying or destroying critical habitat. If the action is not likely to adversely modify or destroy critical habitat, NMFS will include in its biological opinion a statement concerning any incidental take that may be authorized and will specify terms and conditions to ensure the agency is in compliance with the opinion.

What is the regulatory impact of EFH and CH? For EFH: Conservation recommendations provided by NMFS to other Federal agencies on impacts to EFH are advisory. However, if the Federal agency does not adopt the recommendations in its required response to NMFS it must provide a written explanation of its decision. If the consulting Federal agency incorporates NMFS' recommendations as permit conditions, the permittee must comply with the conditions. For CH: Any terms or conditions or reasonable and prudent alternatives issued in a NMFS biological opinion must be adhered to by the consulting Federal agency. If those conditions or alternatives are not implemented, the agency is deemed out of compliance with the opinion and any destruction or adverse modification of CH would be unauthorized.

What about salmon? A few species, such as some Pacific salmon, are part of Federally managed fisheries and also have populations listed as endangered or threatened. These Pacific salmon have both designated CH and EFH, which may be similar, but often are not identical. Critical habitat was designated for Pacific salmon beginning in 1991. Essential fish habitat for Pacific salmon was identified and described in 1998 for marine and freshwater areas and extends from the Exclusive Economic Zone into freshwater streams.

There is a good deal of overlap between designated EFH and CH in the freshwater environment. To streamline the consultation process, NMFS attempts to conduct EFH and ESA Section 7 consultations in conjunction with each other whenever possible.

SUMMARY COMPARISON OF DIFFERENCES:

	Essential Fish Habitat	Critical Habitat
Statutory authority	Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Endangered Species Act
Types of species	All Federally managed fish under the MSA	Species listed as threatened or endangered under the ESA
Number of species	Nearly 1,000 species and their various life stages	64 species listed as threatened or endangered by NMFS, 36 of which have designated CH
Federal consultations	NMFS provides conservation recommendations to other Federal agencies	NMFS provides mandatory terms and conditions or reasonable and prudent measures to other Federal agencies
Where to look for maps and descriptions	Essential fish habitat must be described, identified, and mapped in Federal Fishery Management Plans	Critical habitat must be designated and mapped through regulations published in the Code of Federal Regulations

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