

<i>NATIONAL MARINE FISHERIES SERVICE POLICY 03-101</i> Effective on: July 22, 2020	
To be reviewed on: July 1, 2022	
Habitat Conservation and Restoration	
Habitat Conservation Policy	
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SUMMARY OF REVISIONS: 03-101 has undergone substantial revisions. The policy was first drafted in November 1983; it has been renewed periodically, with the most-recent renewal in January 2010. Revisions to the policy include the following: consideration of essential fish habitat (EFH) in habitat conservation (EFH provisions were added to the Magnuson-Stevens Fishery Conservation and Management Act following the policy’s initial implementation), removal of outdated figures and statistics, and stronger connections to the NOAA Habitat Policy (NAO 216-117) and other NOAA/NMFS policies and programs established since 1983. (M. Lennox/E. Farr, July 1, 2020)	

I. Introduction

The Habitat Conservation Policy provides a framework for the National Marine Fisheries Service (NMFS) to address the nation’s habitat conservation challenges. Habitat conservation includes both protection and restoration of habitat. NMFS will fully exercise its authorities to achieve habitat conservation for fisheries and protected resources by working with partners, advancing habitat science, and applying landscape-scale and ecosystem-based approaches to management.

Healthy habitat provides the foundation for thriving commercial and recreational fisheries and sustainable seafood production, is key to the recovery and conservation of protected species, and is critical to the U.S. economy, supporting resilient communities and coastal and ocean ecosystems. NMFS has primary federal responsibility for the stewardship of living marine resources, habitats, and ecosystems under numerous federal laws. This responsibility extends to the conservation of habitats from rivers and estuaries to the deep ocean and Great Lakes. NMFS is also responsible for advancing science and technology to support effective habitat conservation.

Effective habitat conservation is challenging. Riverine, estuarine, and marine habitats are

threatened by development, climate change, resource extraction, and pollution. Coastal wetland loss¹; changing temperature regimes, acidification, coastal storms, and sea-level rise²; continued water quality degradation, oil spills, and contaminant releases³; underwater noise⁴; and barriers to aquatic connectivity between habitats⁵ all pose challenges to healthy habitats. With widespread habitat loss, fragmentation, and deterioration, we are losing the natural infrastructure that provides the nation with important ecological and societal benefits.

This policy tiers from the NOAA National Habitat Policy (Administrative Order 216-117), which directs NOAA to “utilize the agency’s full array of mission interests, mandates, and resources to protect, maintain, and restore habitats that support resilient and thriving marine and coastal resources, communities, and economies.” This policy also affirms the NOAA Habitat Blueprint⁶ framework, which guides strategic coordination across the agency and with partner organizations to address the growing challenge of habitat loss and degradation.

II. Objective

This policy guides NMFS’ efforts to conserve habitats that support fisheries, protected resources, and coastal communities. To implement this policy, NMFS will do the following:

- Fully exercise NMFS’ authorities to achieve the greatest conservation outcomes.
- Foster and leverage partnerships to advance habitat conservation.
- Apply innovative, landscape-scale approaches to habitat protection and restoration.
- Integrate habitat considerations into fisheries management through ecosystem-based fisheries management.
- Guide and support habitat science that informs resource management decisions.

¹T.E. Dahl and S.M. Stedman. 2013. Status and trends of wetlands in the coastal watersheds of the Conterminous United States 2004 to 2009. U.S. Department of the Interior, Fish and Wildlife Service and National Oceanic and Atmospheric Administration, National Marine Fisheries Service. (46 p.)

² USGCRP, 2017: Climate Science Special Report: Fourth National Climate Assessment, Volume I [Wuebbles, D.J., D.W. Fahey, K.A. Hibbard, D.J. Dokken, B.C. Stewart, and T.K. Maycock (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, 470 pp, DOI: 10.7930/J0J964J6.

³ Wilhelmsson, D. Thompson, R.C., Holmström, K., Lindén, O., Eriksson-Hägg, H. 2013. Marine Pollution. Pages 127-169 in K. J. Noone et al, editors. Managing Ocean Environments in a Changing Climate. Sustainability and Economic Perspectives. DOI: 10.1016/B978-0-12-407668-6.00006-9

⁴ Gedamke, J., Harrison, J., Hatch, L., et al. 2016. Ocean Noise Strategy Roadmap. NOAA. https://cetsound.noaa.gov/Assets/cetsound/documents/Roadmap/ONS_Roadmap_Final_Complete.pdf

⁵ Larinier, M. 2001. Environmental Issues, Dams and Fish Migration. FAO Fisheries Technical Paper, 419, 45–89. <http://www.fao.org/docrep/004/Y2785E/y2785e03>

⁶ habitatblueprint.noaa.gov

III. Authorities and Responsibilities

NMFS is responsible for conserving habitat under a suite of mandates.⁷ The Office of Habitat Conservation (OHC) has key responsibilities to implement this policy in partnership with other NMFS headquarters offices, regional and field offices, and science centers. NMFS will work across the agency to implement its habitat conservation authorities in coordination with the habitat science, conservation, and management activities and expertise of other NOAA line offices. In addition, this policy recognizes the authorities and responsibilities of other federal natural resource management agencies, regional fishery management councils (councils), interstate marine fisheries commissions (commissions), states, tribes, and advisory bodies, and will work in partnership with those entities, as appropriate.

The following principles will guide NMFS' decision-making and activities in the execution of its habitat stewardship responsibilities:

1. Fully exercise NMFS' authorities to achieve the greatest conservation outcomes.

NMFS will coordinate across its programs and offices to bring all of its authorities to bear in habitat conservation. Because most of NMFS' programs under its broad mandates are affected by habitat considerations, NMFS will work to ensure that habitat is considered and integrated into decision-making throughout its programs. This includes coordinating funding decisions, consultation actions, management decisions, science priorities, and engagement with other agencies and partners.

To maximize the impact of its mandates, NMFS will advocate for and implement a range of best practices, including but not limited to the following:

- Work in a coordinated manner across mandates and programs on actions that may impact habitat by engaging early in the planning process, building on prior coordination and accomplishments, and assessing cumulative impacts of programs and actions. Early coordination ensures that habitat conservation measures meet mutual goals and are incorporated at a time when NMFS may be most successful in modifying programs or actions, before significant effort and resources are invested.
- Develop consistent and complementary conservation recommendations across NMFS' mandates, including essential fish habitat (EFH) provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA); consultation, recovery, and conservation provisions of the Endangered Species Act (ESA); fishway provisions of the Federal Power Act (FPA); and other mandates.
- Apply NMFS' regulatory mandates and non-regulatory programs in a complementary manner to advance habitat conservation and amplify NOAA trust resource protection and restoration outcomes.

⁷ NMFS habitat conservation mandates include: Clean Water Act (33 U.S.C. §1251 et seq.); Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3951-3956); Commerce and Trade: Department of Commerce – Chesapeake Bay Office (15 U.S.C. §1511d); Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) (42 U.S.C. §9601 et seq.); Coral Reef Conservation Act (16 U.S.C. §6401 et seq.); Endangered Species Act (16 U.S.C. §1531 et seq.); Energy Policy Act (42 U.S.C. §13201 et seq.); Federal Power Act (16 U.S.C. §791-828c); Fish and Wildlife Coordination Act (16 U.S.C. §661-667e); Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1801 et seq.); Marine Mammal Protection Act (16 U.S.C. §1361 et seq.); National Environmental Policy Act (42 U.S.C. §4321 et seq.); Oil Pollution Act (33 U.S.C. §2701-2761)

- Consider avoidance, minimization, and then compensatory or offsetting measures for negative impacts to habitat, consistent with applicable authorities. In applying this mitigation sequence, NMFS will generally recommend avoiding impacts to high value habitats.
- Prioritize habitat protection and restoration efforts that deliver the greatest conservation value for fisheries, species recovery, and ecosystem services.
- Consider and integrate the impacts of climate change across NMFS' habitat mandates and programs.

2. Foster and leverage partnerships to advance habitat conservation.

Partnerships are fundamental to all NMFS activities to ensure a network of healthy habitats. To implement this policy, NMFS will work closely with partners to develop and advance shared research and conservation priorities, implement habitat protection and restoration projects, leverage and coordinate resources, and enhance stakeholder and community engagement to maximize impact. NMFS' partners include groups such as other NOAA programs and line offices; federal, state, and local agencies; tribes; councils; commissions; commercial and recreational fishing constituencies; non-governmental organizations; academic institutions; private industry; and the public.

NMFS must work through partnerships and across jurisdictional boundaries to achieve its mandates. Under the MSA, for instance, NMFS manages the harvest of fishery resources in federal waters, but many of these species spend a portion of their life cycle in habitats located in state waters. These habitats are often home to forage species that are important prey for NOAA trust resources, linking inshore habitat conservation and offshore fish productivity. Habitat for fishery resources and critical habitat for protected species also often extends across jurisdictional boundaries within the United States Exclusive Economic Zone (EEZ) or into international waters. NMFS uses established partnerships and restoration expertise to recover injured natural resources for communities that depend on them following an oil spill, vessel grounding, or hazardous waste incident, whose impacts frequently extend beyond federal waters. NMFS recognizes a need for management throughout a species' range and coordinates with relevant partners to protect and restore habitats.

Recognizing the need for more concerted efforts to conserve habitat, NMFS takes a place-based approach to habitat solutions in targeted areas to maximize its investments and the benefits to federally protected and managed species, commercial and recreational fishery resources, and coastal communities.

To further foster and leverage partnerships, NMFS will do the following:

- Build and strengthen partnerships that advance habitat efforts with multiple benefits to marine resources, ocean users, and coastal communities.
- Leverage the technical expertise, resources, and on-the-ground relationships of partners to advance conservation outcomes.
- Provide technical expertise and resources to partners to advance conservation outcomes.
- Partner with other NOAA programs with place-based management responsibilities (e.g., National Marine Sanctuaries, Marine National Monuments, and National

Estuarine Research Reserves) to focus habitat conservation in areas that meet multiple management objectives.

- Apply the Habitat Blueprint through place-based habitat conservation efforts that leverage expertise and resources across NOAA to advance shared priorities.

3. Apply innovative, landscape-scale approaches to habitat protection and restoration.

A landscape-scale approach to management considers the connections between a continuum of watershed, coastal, and marine environments and accounts for the interactions among these environments. Addressing habitat conservation challenges at a landscape scale enables NMFS to implement solutions that address a wide range of stressors and that result in ecologically and societally meaningful outcomes. Landscape-scale approaches can protect and restore habitats for federally protected and managed species, build ecosystem and community resilience, enable response and long-term recovery for habitats damaged by disasters, improve water supply reliability for fish and human users, and inform coastal and ocean resource management efforts.

To encourage and support the application of innovative landscape-scale approaches, NMFS will do the following:

- Collaborate with partners with jurisdiction over, or interests that span, land and water to advance habitat conservation at the landscape scale, including advancing habitat conservation within large regional partnerships (e.g., Chesapeake Bay Program, National Estuary Programs).
- Participate in existing landscape-scale governance structures, science-based decision-making processes, recovery plans, and funding mechanisms to advance shared habitat priorities.
- Apply lessons from place-based habitat efforts at the landscape scale, where appropriate.
- Incorporate principles of climate adaptation, resilience, and mitigation in landscape-scale initiatives to ensure long-term viability of habitat conservation efforts.
- Prioritize large-scale habitat protection and restoration projects that result in interconnected healthy habitats across a landscape.

4. Integrate habitat considerations into fisheries management through ecosystem-based fisheries management.

NMFS recognizes the interconnectedness of an ecosystem, and provides frameworks for integrating habitat considerations into decision-making. Habitat is a foundation of productive fisheries. The integration and consideration of habitat information in ecosystem science and management decisions, within NMFS' legal and policy frameworks, will enable NMFS to better meet its mandates to sustainably manage the nation's living marine resources.

NMFS will implement ecosystem-based fisheries management through the following actions:

- Prioritize habitat conservation activities in an ecosystem context that accounts for the relationships among habitats, species, and human communities, considering risks, vulnerabilities, and trade-offs for optimizing benefits to the ecosystem.
- Identify opportunities to incorporate habitat information into fisheries management,

with an understanding that habitat sustains fisheries productivity. This may include species and stock assessments, catch advice, spatial management, ecosystem status reports, and other avenues.

- Coordinate across regional offices, science centers, and partners to advance science and data collection that will help inform the councils' decision-making, including required updates of EFH under the MSA, identification of Habitat Areas of Particular Concern that meet ecosystem goals, and protection of deep-sea coral.
- Work with councils and commissions to develop habitat conservation objectives and priorities linked to fishery management outcomes.

5. Guide and support habitat science that informs resource management decisions.

NMFS will apply a systematic and strategic approach to habitat science to inform effective decision-making, including understanding riverine, estuarine, and marine habitat distribution, utilization, quality, and interactions. NMFS will prioritize its science based on the needs of NMFS decision-makers and management partners and use a more integrated approach for planning and conducting habitat science, in alignment with the Habitat Blueprint. Connecting habitat science with management needs and disseminating information to the public is and will remain one of NMFS' primary objectives. NMFS and the councils are required to base decisions on the best available science.⁸ It is NMFS' responsibility to conduct relevant, timely, and transparent science to evaluate potential impacts of conservation and management measures on living marine resources and their supporting ecosystems, and to reduce management uncertainty.

To advance habitat science that informs resource management, NMFS will coordinate across science centers, regional offices, councils, and partners to identify and invest in habitat science priorities that align with NMFS activities. This may include efforts in the following areas:

- Determine relationships between habitat and living marine resource productivity and sustainability.
- Define interactions between human actions (e.g., fishing gear effects, aquaculture production, infrastructure development, anthropogenic noise) and habitats.
- Determine habitat distribution, quality, and vulnerability.
- Assess current and future impacts of climate change on habitats.
- Evaluate ecological and socio-economic value of habitat protection and restoration actions.
- Investigate ecological effectiveness of conservation actions to inform best practices.

IV. Measuring Effectiveness of the Policy

NMFS will conduct continual evaluation of the effectiveness of the principles in this policy and will adapt accordingly. To assess the level of implementation of the policy, and to measure its effectiveness, NMFS will apply the following methods:

- Conduct habitat program reviews and implement recommendations from those

⁸ 50 C.F.R. § 600.315 2020.

reviews.

- Track consultations across NMFS' mandates; identify and learn from successful examples of when NMFS' authorities were fully exercised to achieve greater conservation outcomes.
- Monitor the success of restoration measures.
- Work closely with and obtain frequent feedback from NMFS offices, regions, science centers, and partners on policy implementation successes and challenges.

This policy will be reviewed biennially and will be updated if necessary in accordance with the NMFS Policy Directive System procedures.

V. References

NOAA Habitat Policy (NAO 216-117)

NOAA Habitat Blueprint (<https://www.habitatblueprint.noaa.gov/about-the-habitat-blueprint/>)

Procedural directives will be issued to implement this policy as needed.

Definitions:

The definitions in this section are provided for the purposes of this Policy only, and are not meant to interpret or supersede the meaning of terms that are defined by other NMFS statutory or regulatory authorities.

Conservation: A general term for the collective practices, plans, policies, and science that are used to manage NOAA trust resources. Habitat conservation includes protection and restoration.

Critical Habitat: A term used under the Endangered Species Act (16 U.S.C. 1532(5)(A) that means “(i) the specific areas within the geographical area occupied by the species at the time it is listed . . . on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed . . . upon a determination by the Secretary that such areas are essential for the conservation of the species.”

Ecosystem-Based Fisheries Management: Ecosystem-based fisheries management is defined as a systematic approach to fisheries management in a geographically-specified area that contributes to the resilience and sustainability of the ecosystem; recognizes the physical, biological, economic, and social interactions among the affected fishery-related components of the ecosystem, including humans; and seeks to optimize benefits among a diverse set of societal goals.

Ecosystem Services: Ecosystem services are the benefits humans derive from different aspects of ecosystem structure and function. These can be partitioned into (1) Provisioning Services, (2) Supporting Services, (3) Regulating Services and (4) Cultural Services.

Essential Fish Habitat: Those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity (Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.).

Federal Waters: Waters in the exclusive economic zone of the United States between the seaward boundary of each of the coastal states and 200 nautical miles offshore. Most coastal states’ boundaries are at 3 nautical miles offshore, except for Texas, western Florida, and Puerto Rico, which claim a 9 nautical mile belt.

Habitat: Habitat is defined as coastal rivers and watersheds, estuaries, the Great Lakes, and marine waters; bottom zones through the water column; and an area’s physical, geological, chemical, and biological components.

Habitat Areas of Particular Concern: Habitat areas of particular concern are discrete subsets of essential fish habitat that provide extremely important ecological functions or are especially vulnerable to degradation. The habitat area of particular concern designation does not provide additional protection or restrictions upon an area, but can help prioritize conservation efforts. Habitat areas of particular concern are described in the implementing regulations of the essential fish habitat provisions at 50 C.F.R. § 600.815.

Habitat Blueprint: The NOAA Habitat Blueprint is a forward-looking framework for NOAA to think and act strategically across programs and with partner organizations to address the growing challenge of coastal and marine habitat loss and degradation. It provides a three-pronged approach and a set of guiding principles to (1) apply a place-based approach to habitat conservation; (2) implement a systematic and strategic approach to habitat science; and (3) strengthen policy and legislation.

Habitat Conservation: Habitat conservation includes both habitat protection and habitat restoration.

Habitat Protection: Habitat protection refers to a suite of tools used to reduce or avoid impacts to coastal habitats, such as designation of protected areas or special management areas, land conservation (acquisition of land or conservation easements, e.g., purchase of development rights), as well as permit reviews and consultations which can result in project modifications or mitigation to offset impacts.

Habitat Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural and/or historic functions to a degraded habitat or an area where these functions once existed.

Landscape-scale: Landscape-scale is defined here as a continuum of ecosystems (including the watershed, coastal, and marine environments) and human systems characterized by common management concerns.

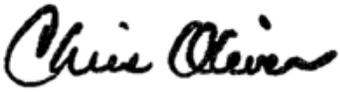
Living Marine Resources: Commercial and recreational fishery resources, endangered and threatened marine species, marine mammals and marine turtles, and living habitats (e.g., marshes, mangroves, seagrass beds, coral reefs).

Natural Infrastructure: Natural infrastructure refers to healthy ecosystems, including forests, wetlands, floodplains, dune systems, and reefs, which provide multiple benefits to communities, including storm protection through wave attenuation or flood storage capacity and enhanced water services and security.

NOAA Trust Resources: Living marine resources and their habitats, including commercial and recreational fishery resources (marine fish and shellfish, including diadromous fish species); endangered and threatened marine species (including diadromous fish species) and their designated critical habitats; marine mammals and marine turtles; marshes, mangroves, seagrass beds, coral reefs, and other coastal habitats; areas identified as essential fish habitat; areas within essential fish habitat identified as Habitat Areas of Particular Concern; marine habitats and resources associated with National Marine Sanctuaries, Marine National Monuments, and other protected places; and aquatic habitats and resources associated with the Great Lakes.

Protected Species: Any species which is protected by either the Endangered Species Act or the Marine Mammal Protection Act, and which is under the jurisdiction of the National Marine Fisheries Service. This includes all threatened, endangered, and candidate species, as well as all cetaceans and pinnipeds.

Resilience: Resilience is defined here as the ability to adapt to changing conditions and withstand and rapidly recover from disruption due to emergencies.

Signed 

7/22/2020

Chris Oliver
Assistant Administrator for Fisheries

Date