NOAA Habitat Conservation
Conserving Habitat for Future Generations

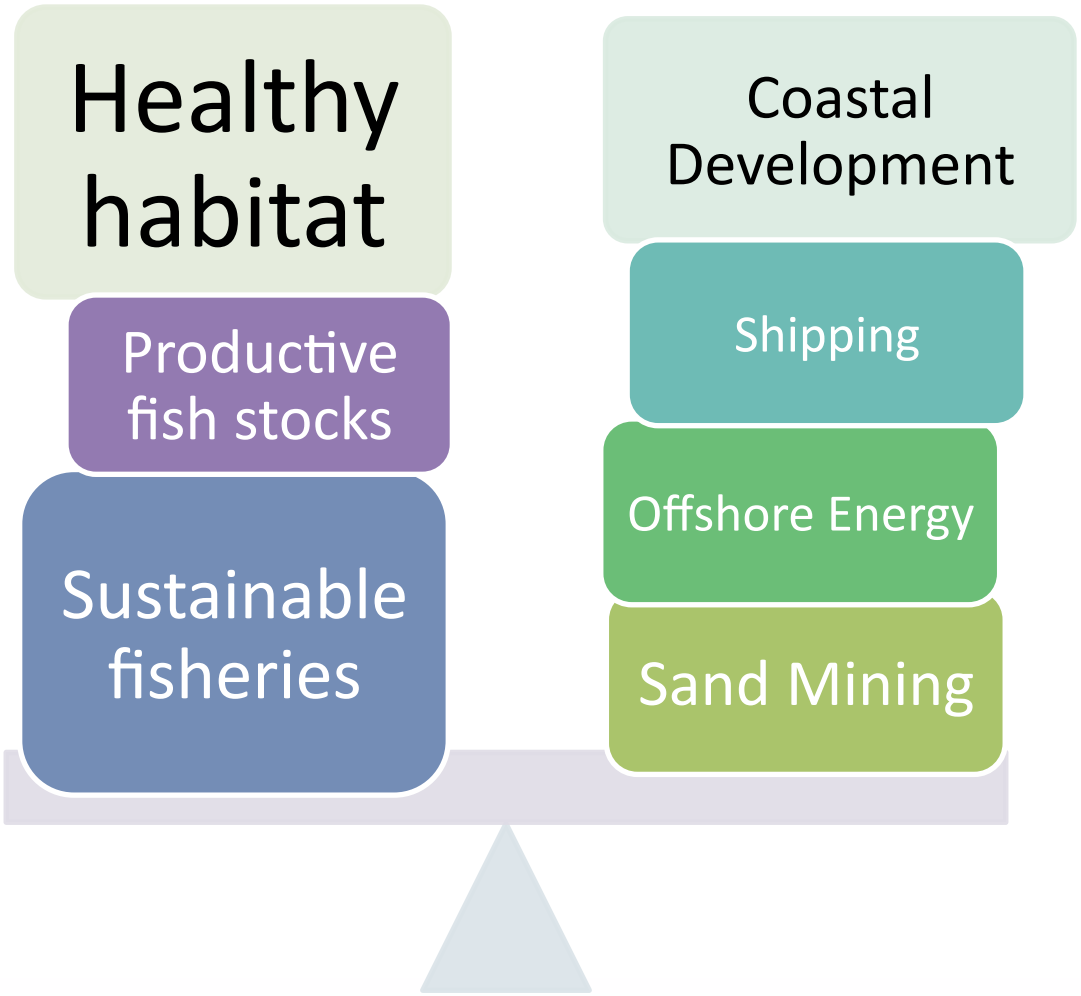
Habitat Protection in the Magnuson-Stevens Act:

Opportunities and requirements for habitat conservation

Terra Lederhouse
Office of Habitat Conservation
June 27, 2013

NOAA FISHERIES SERVICE

Competing uses for marine resources



Habitat and Fisheries Management in the Magnuson-Stevens Act

"…direct and indirect habitat losses… have resulted in a diminished capacity to support existing fishing levels."

- MSA § (2)(a)(2)

"One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats."

- MSA § (2)(a)(9)

Habitat and Fisheries Management in the Magnuson-Stevens Act

1996 Sustainable Fisheries Act

- Bycatch
- Rebuilding
- Essential Fish Habitat

2006 MSA Reauthorization Act

- Community-Based Restoration Program
- Deep-sea Coral Research & Technology Program
- Deep-sea coral protection

Essential Fish Habitat

"*Essential fish habitat* means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." - MSA §3 (10)

Key points to remember:

- Habitat = more than the bottom
- Can be within state waters
- Federally managed species only

Joint responsibility to conserve EFH

Council responsibilities *(with help from NOAA)*:

1. Describe and identify EFH by life stage
2. Develop maps to display geographic locations of EFH
3. Designate Habitat Areas of Particular Concern (HAPCs)
4. Minimize adverse effects of fishing on EFH
5. Review new information and update EFH descriptions at least every 5 years

NOAA & Council responsibilities:

6. NOAA **must** consult on non-fishing actions that may adversely affect EFH
7. Councils **may** consult on non-fishing actions, and **must** consult on impacts to diadromous fish habitat

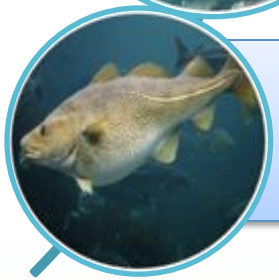
1. Describe & identify EFH by lifestage

Atlantic cod EFH

Eggs: Surface waters around the perimeter of the Gulf of Maine, Georges Bank, and eastern continental shelf off southern New England. SST below 12°C, water depths <110 meters, and salinity 32-33‰. Cod eggs are most often observed beginning in the fall, with peaks in the winter and spring.

Larvae: Pelagic waters of the Gulf of Maine, Georges Bank, and eastern continental shelf off southern New England. SST <10°C, water depths 30-70 meters, and salinity 32-33‰. Cod larvae are most often observed in the spring.

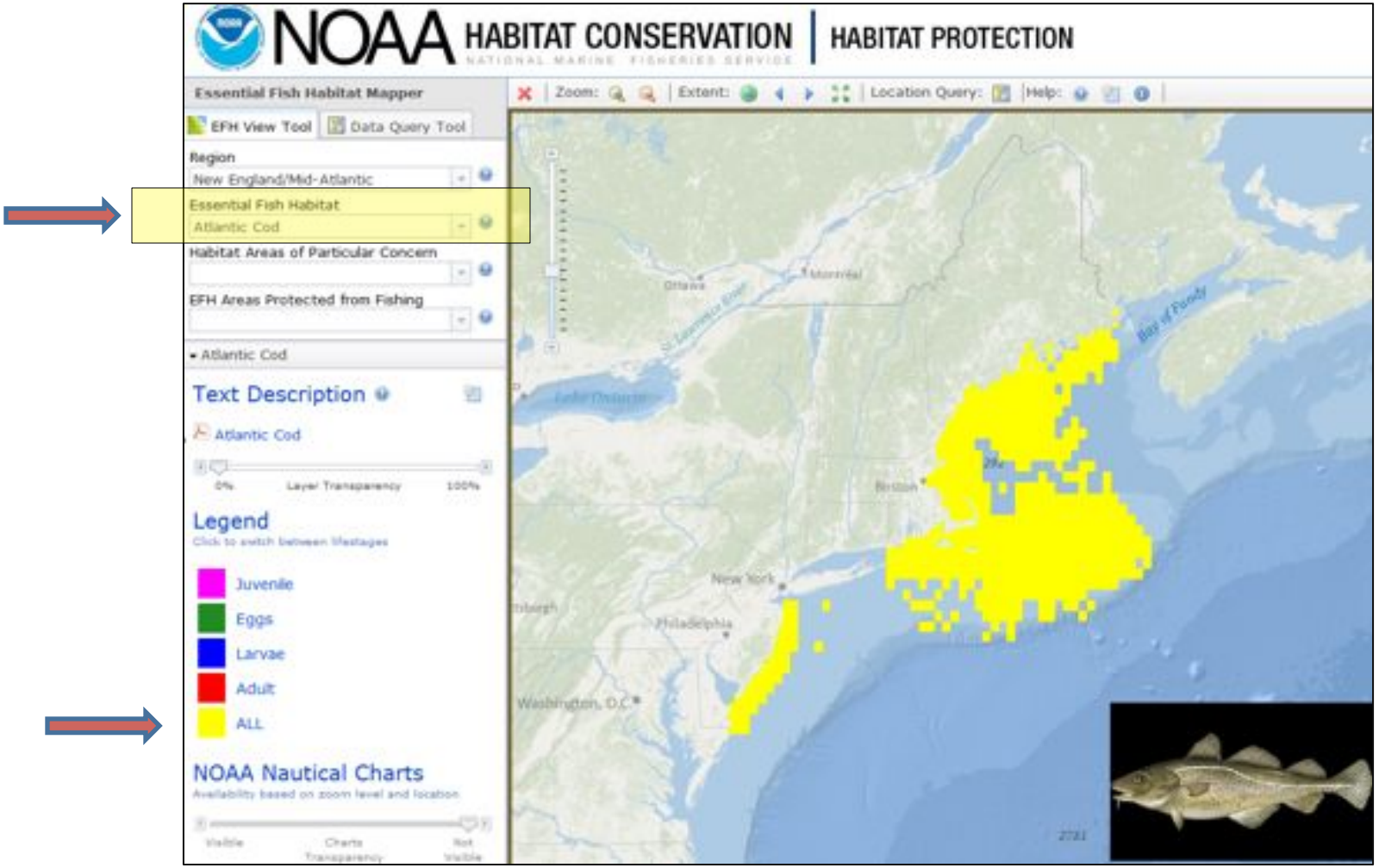
Juveniles: Bottom habitats with a substrate of cobble or gravel in the Gulf of Maine, Georges Bank, and eastern continental shelf off southern New England. Water temperatures below 20°C, depths 25 - 75 meters, and salinity 30 - 35‰.



Adults: Bottom habitats with a substrate of rocks, pebbles, or gravel in the Gulf of Maine, Georges Bank, southern New England, and the middle Atlantic south to Delaware Bay.

Water temperatures <10°C, depths 10 - 150 meters, and a wide range of oceanic salinities.

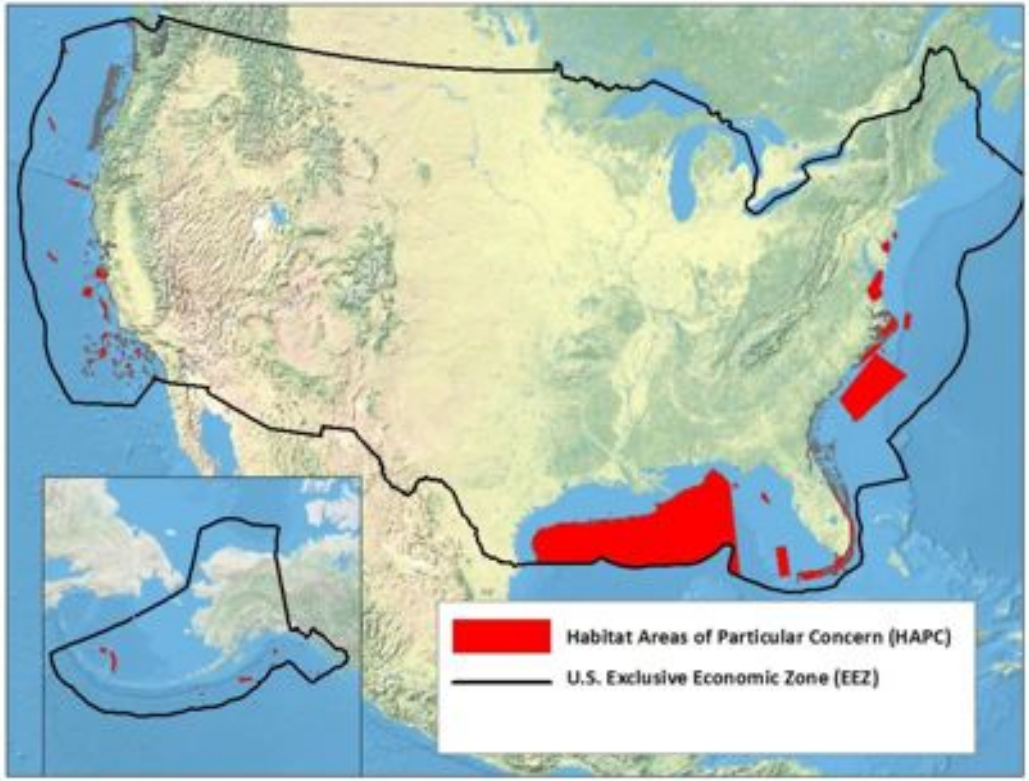
2. Map geographic location of EFH



Visit the EFH Mapper at www.habitat.noaa.gov/efhmapper

3. Designate HAPCs

- Habitat Areas of Particular Concern (HAPCs) are subsets of EFH
- Purpose is to focus conservation efforts
- HAPC Criteria
  - Ecological functions provided
  - Sensitivity to human-induced degradation
  - Rarity of habitat type
  - Stress from development activities
- Discretionary



4. Minimize fishing impacts on EFH

Councils are required to minimize, *to the extent practicable*, adverse effects caused by fishing

- MSA § 303(a)(7)

Alaska Seamount Habitat Protection Area

Fishing with bottom contact gear prohibited to protect deep-sea corals and EFH for groundfish, king crab, and Pacific salmon

Since 2004, NOAA and the Councils have protected nearly 1 billion acres of EFH from harmful fishing practices.

5. Review and update every 5 years

- ✓ EFH descriptions
- ✓ EFH maps
- ✓ Impacts of fishing on EFH
- ✓ Non-fishing related threats to EFH

6. NOAA consults on non-fishing activities

Federal agencies **must** consult with NOAA on actions that may *adversely affect* EFH

- 5,000+ federal actions every year
- Non-binding conservation recommendations
- Federal agencies required to respond

7. Councils comment on non-fishing activities

Councils **may** comment on actions that may affect the habitat of a fishery resource under its authority - MSA §305 (b)(3)(A)

Councils **must** comment on actions that are likely to substantially affect the habitat of anadromous fish - MSA §305 (b)(3)(B)

Winthrop Beach Restoration

Mass. sought permit to mine offshore sand & gravel

NEFMC weighed in on impacts to juvenile cod EFH

Result: Army Corps denied permit; alternative source of substrate identified.

See **50 CFR §600.30** *Council comments and recommendations to Federal and state agencies*

EFH Consultation process

1) **Action agency (AA) provides notification to NOAA**
   Early coordination important

2) **AA submits EFH Assessment to NOAA**
   At least 90 days prior to a final decision on action

3) **NOAA provides EFH Conservation Recommendations, if necessary**
   Within 30-60 days of receiving the completed EFH Assessment
   - **Avoid** impact to EFH
   - **Minimize** impact to EFH
   - **Offset** unavoidable impact to EFH

4) **AA Responds to NOAA**
   Within 30 days of receiving EFH CRs, at least 10 days prior to final approval

EFH Consultation: Adverse Effect

Adverse effect:

Any impact reducing EFH quality and/or quantity

- Direct impacts (e.g. contamination, physical disruption, etc.)
- Indirect impacts (loss of prey, reduction in species' fecundity, etc.)
- Site-specific impacts
- Habitat-wide impacts (including individual, cumulative, or synergistic)
- Actions occurring within or outside of EFH

See **50 CFR §600.810**

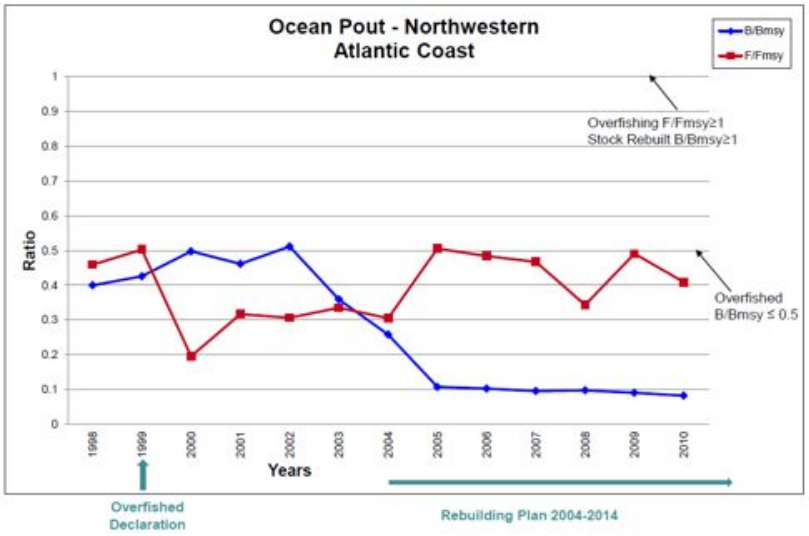
Other MSA Habitat Authorities | *Bycatch*

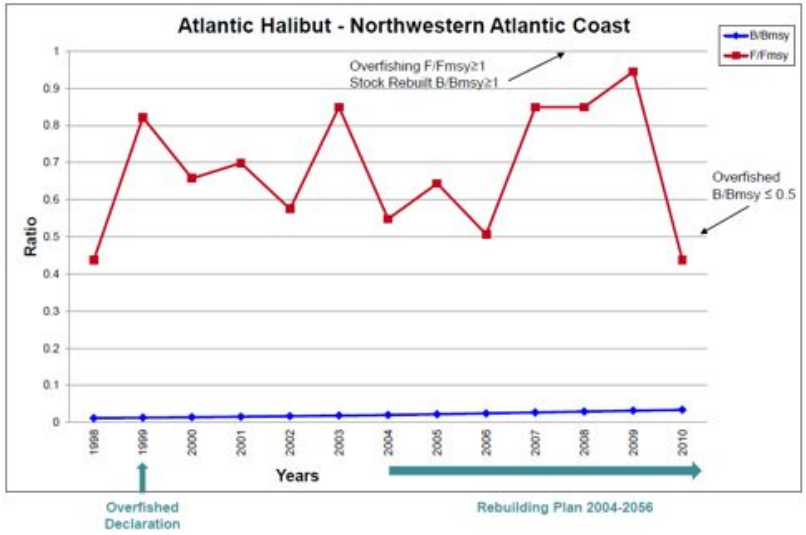
Conservation and management measures shall, to the extent practicable, **minimize bycatch**

- MSA §301(a)(9)

Other MSA Habitat Authorities | *Rebuilding*

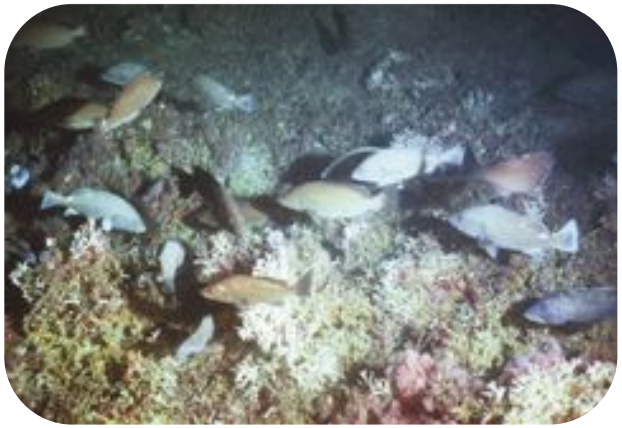
FMPs shall contain **conservation and management measures** to prevent or end overfishing and **rebuild the fishery** - MSA § 303(a)(10)



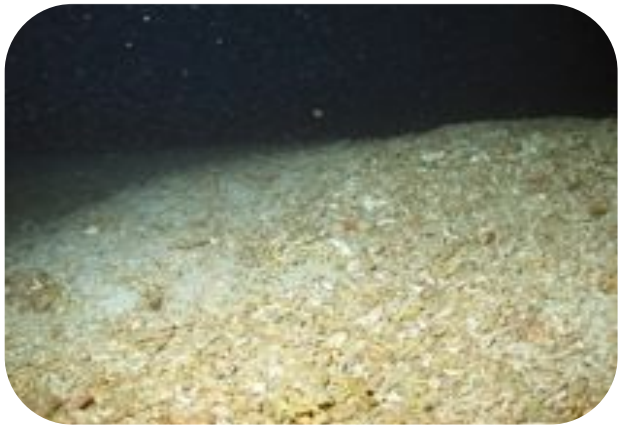


Other MSA Habitat Authorities | *Deep-sea coral zones*

Councils **may** designate zones to **protect deep sea corals** from physical damage from fishing gear - MSA § 303(b)(2)(B)



Un-trawled



Trawled

Final thoughts:

Habitat conservation is a tool for rebuilding and maintaining sustainable fisheries

EFH is just one of many habitat tools

NOAA and fishery management councils can be partners in habitat conservation