

Appendix 2

Legislative Mandates for Habitat

There are several legislative mandates that apply to habitat. This list emphasizes those mandates that apply to the National Oceanic and Atmospheric Administration (NOAA) and summarizes the specific aspects that apply to habitat. In many or most cases, the laws cited do considerably more than just deal specifically with habitat. The agencies within NOAA that lead in each instance are typically the National Marine Fisheries Service (NMFS) or the National Ocean Service (NOS). The primary mandates discussed in this report, shown in bold below, and include the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, and the Endangered Species Act.

Acts and Executive Orders	Summary	Lead in NOAA	Date
Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act)	Requires NOAA to support the interjurisdictional fishery management efforts of the Atlantic States Marine Fisheries Commission, and when regulating interjurisdictional fisheries, to do so in coordination with Commission fishery management plans. The Act also allows NOAA to issue a fishing moratorium in state waters if a state does not comply with a Commission Plan to the extent that the state's compliance is necessary for the conservation of the fish species.	NMFS	1993 (as amended)
Coastal Wetlands Planning, Protection, and Restoration Act	Established a task force that includes NOAA (represented by NMFS) to develop a comprehensive approach to restoring and preventing loss of coastal wetlands in Louisiana.	NOAA	1990
Coastal Zone Management Act	Provides for the management of the Nation's coastal resources, including the Great Lakes, and balances economic development with environmental conservation. Established the National Coastal Zone Management Program and the National Estuarine Research Reserve System. The Act also enables states to conserve habitat through the federal permitting process.	NOS	1972 (as amended)
Comprehensive Environmental Response, Compensation, and Liability Act (Superfund Act)	Requires NOAA to seek damages from those who have released hazardous substances that have caused injury to natural resources (e.g. habitats). Accordingly, NOAA (NOS) determines injuries to natural resources and seeks recoveries from the potentially responsible parties to restore, replace, or acquire the equivalent of natural resources and to cover the costs of damage assessment. (NMFS assists in developing and implementing restoration in certain cases.)	NOS	1980

Acts and Executive Orders	Summary	Lead in NOAA	Date
Coral Reef Conservation Act	Requires NOAA to establish a national program to conserve coral reefs and coral reef ecosystems. The Act authorizes NOAA to: 1) Map, monitor, assess, restore, and conduct scientific research that benefits the understanding, sustainable use, and long-term conservation of coral reefs and coral reef ecosystems; 2) Enhance public awareness, education, understanding, and appreciation of coral reefs and coral reef ecosystems; 3) Provide assistance to States in conserving coral reefs and living marine resources; and 4) Engage in cooperative conservation and management of coral reefs and coral reef ecosystems with local, regional or international programs and partners. The Act also authorizes NOAA to provide financial assistance for coral reef conservation projects and award grants for emergencies to address unforeseen or disaster-related circumstances pertaining to coral reefs and coral reef ecosystems. There is also a coral reef conservation fund administered by NOAA and a non-profit organization to build public-private partnership to reduce and prevent degradation of coral reefs and associated reef habitats, and solicit donations.	NOS	2000
Coral Reef Protection, Executive Order 13089	Established the interagency U.S. Coral Reef Task Force and charged it with developing and implementing a comprehensive program of mapping and monitoring of U.S. coral reefs, research on coral reef ecosystem degradation, and development of mitigation and restoration measures. In addition, directs federal agencies with actions that may affect U.S. coral reef ecosystems to: 1) Identify actions that may affect coral reef ecosystems; 2) Apply authorities to ensure that those actions do not degrade such ecosystems; and 3) Utilize programs and authorities to protect and enhance such ecosystems.	NMFS and NOS share lead	1998
Endangered Species Act	Provides for the conservation of endangered and threatened species as well as the ecosystems and habitats upon which they depend. Habitat of listed species necessary for breeding, spawning, rearing, migrating, feeding, or sheltering is protected under the Endangered Species Act.	NMFS	1973 (as amended)
Estuary Restoration Act	Established Estuary Habitat Restoration Council that includes NOAA, and authorizes funding for a comprehensive program to restore habitat in America's estuaries.	NOS	2000
Federal Power Act	Provides authority to include conditions for fish protection in licenses issued by the Federal Energy Regulatory Commission for non-federal hydropower projects.	NMFS	1920
Fish & Wildlife Coordination Act	Directs federal agencies to consult with NMFS or the U.S. Fish and Wildlife Service as appropriate before undertaking any water resource development project to ensure that wildlife conservation receives equal consideration and is coordinated with other project features.	NMFS	1958
Federal Water Pollution Control Act (Clean Water Act)	Provides for federal regulation of water quality through measures such as water quality standards, discharge limits, and permits, as well as permits to dredge and fill waters of the United States, including wetlands.	NMFS	1972

Acts and Executive Orders	Summary	Lead in NOAA	Date
Harmful Algal Blooms and Hypoxia Research and Control Act	Established an interagency task force, chaired by the Secretary of Commerce, to assess ecological and economic impacts of marine and freshwater harmful algal blooms, identify alternatives for reducing, mitigating, and controlling those impacts, and examine the social and economic costs and benefits of such alternatives. The Act also charges the task force to assess the ecological and economic impacts of hypoxia (reduced oxygen concentration within sea water, caused in part by the presence of harmful algal blooms) in U.S. coastal waters, identify alternatives for reducing, mitigating and controlling hypoxia, and examine the social and economic costs and benefits of such alternatives. Finally, the Act charges the task force to assess hypoxia in the Northern Gulf of Mexico, specifically the sources and loads of nutrients transported to the Gulf by the Mississippi River, the effects of nutrient load, methods for reducing nutrient loads, and social and economic costs and benefits of such alternatives.	NOS	1998 (as amended)
Magnuson-Stevens Fishery Conservation and Management Act	Provides for U.S. management authority over fishing within the U.S. Exclusive Economic Zone (typically 5.6–370 km [3–200 nautical miles [nmi] from shore), all anadromous fish throughout their migratory range (except when in foreign waters), and all fish on the Continental Shelf. Also established eight Regional Fishery Management Councils with responsibility for the preparation of fishery management plans to prevent overfishing while achieving optimum yield from U.S. Fisheries in their regions. Defines Essential Fish Habitat (EFH) and includes provisions for conserving EFH through the following: 1) Identification and description of EFH for species managed under fisheries management plans; 2) Minimization of fishing impacts on EFH to the extent practicable; 3) Identification of non-fishing impacts; and 4) Requiring federal action agencies to consult with NMFS on actions that may adversely affect EFH. The Act was recently reauthorized but did not include any changes that would affect existing EFH regulations, guidance, or management approaches.	NMFS	2007 (as amended and reauthorized on 12 January 2007 and previously amended by the Sustainable Fisheries Act in 1996)
Marine Mammal Protection Act	Provides for the protection of marine mammals. Places restrictions on any habitat alteration that could adversely impact a marine mammal by disrupting behavioral patterns that include, but are not limited to, migration, breathing, nursing, breeding, feeding, and sheltering.	NMFS	1972 (as amended)
Marine Protected Areas, Executive Order 13158	Directed the Departments of Commerce and Interior to establish a national system of marine protected areas (MPA). Requires federal action agencies to identify actions that affect MPA resources and, to the maximum extent practicable, avoid harm to MPA resources when taking such actions.	NOS	2000
National Environmental Policy Act	Requires federal action agencies to analyze the environmental effects of proposed actions on the human environment. The analysis must include consideration of the environmental effects of a range of alternatives for the proposed actions.	NOAA	1969

Acts and Executive Orders	Summary	Lead in NOAA	Date
National Marine Sanctuaries Act (Title III of the Marine Protection, Research, and Sanctuaries Act)	Provides for protection of areas designated as marine sanctuaries due to their special natural or cultural resource qualities by the following methods: 1) Requiring NOAA to issue regulations and providing for civil penalties; 2) Requiring NOAA to seek damages from those who have injured sanctuary resources (NOAA uses the money mainly to restore the injured resources); and 3) requiring other federal agencies to consult with NOAA if they are proposing an action likely to injure sanctuary resources and, should they fail to follow NOAA's recommendations, to restore any injured sanctuary resources.	NOS	1972 (as amended)
Non-indigenous Aquatic Nuisance Prevention and Control Act	Established a task force co-chaired by NOAA to: 1) Prevent introduction and dispersal of aquatic nuisance species in U.S. waters; 2) Monitor, control, and study such species; 3) Conduct research concerning environmental risks and impacts associated with the introduction of aquatic nuisance species in U.S. waters; 4) Disseminate related information; and 5) Provide competitive research grants (administered through the National Sea Grant College Program and the Cooperative Fishery and Wildlife Research Units) to study all aspects of aquatic nuisance species.	NMFS	1990
Oil Pollution Act	Requires NOAA to seek damages from those who have released oil and caused injury to natural resources. Accordingly, NOAA (NOS) determines the injuries to natural resources and seeks recoveries from the potentially responsible parties to restore, replace, or acquire the equivalent of natural resources and to cover the costs of damage assessment.	NOS	1990