



**NOAA
FISHERIES**

Pacific Islands
Regional Office

ESA, MMPA, and EFH Consultations for Renewable Ocean Energy Projects



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NOAA Fisheries' Statutory Authorities

Endangered Species Act (ESA)

- Section 7 of the **ESA** requires Federal agencies to consult with NOAA Fisheries whenever they are authorizing, funding, or carrying out an action that may affect listed marine species.
- Federal agencies must also ensure that their actions do not destroy or adversely modify designated critical habitat of ESA-listed species.

Marine Mammal Protection Act (MMPA)

- Prohibits "take" of all marine mammals, unless authorization is granted.

Magnuson-Stevens Fishery Conservation and Management Act (MSA)

- Federal action agencies which fund, permit, or undertake activities that may adversely affect Essential Fish Habitat (**EFH**) are required to consult with NOAA Fisheries regarding the potential effects of their actions on **EFH**.

Endangered Species Act (ESA)

ESA-listed marine species found in Hawai'i's nearshore waters:

- Hawaiian monk seal (E)
- Humpback whale (E)
- Green turtle (T)
- Hawksbill turtle (E)
- Hawai'i insular false killer whale (E)
- Proposed listing of 3 species of coral in Hawaii as "threatened" (11/30/2012):
Acropora paniculata *Montipora dilatata/flabellata(turgescens)* *Montipora patula(/verrilli)*



- NOAA Fisheries has been petitioned to redesignate critical habitat for the Hawaiian monk seal in the Main Hawaiian Islands. Proposed rule designates monk seal critical habitat in waters from 500m depth to 5m inland from the shoreline. Assessing public comments and incorporating current scientific information before making a final determination.

Marine Mammal Protection Act (MMPA)

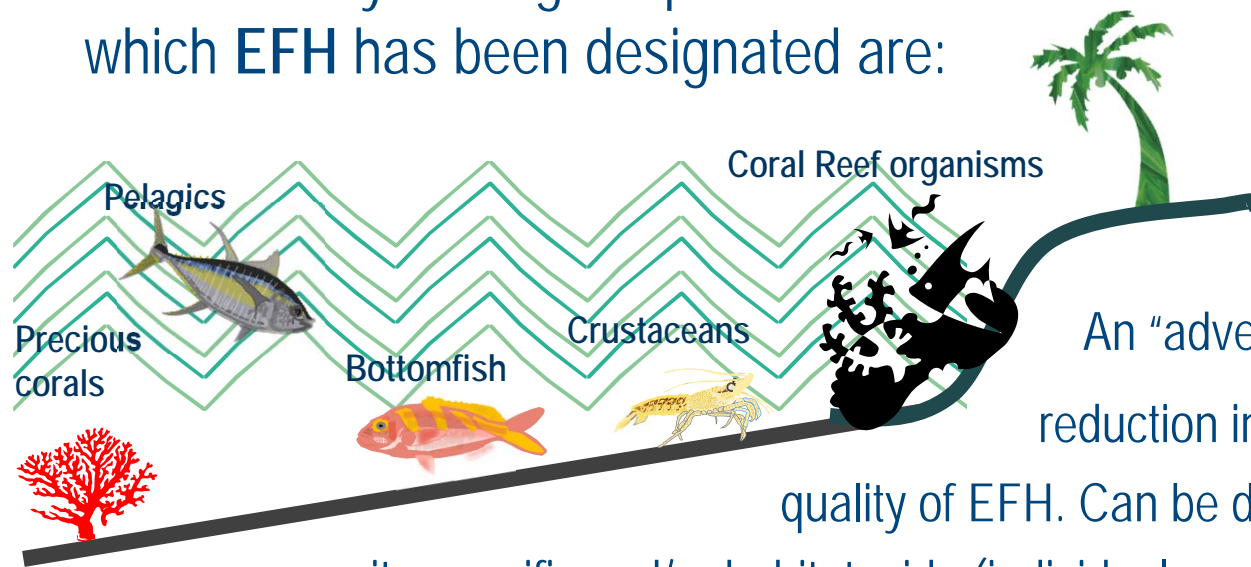
- Letter of Authorization (LOA)
- Authorization of maritime activities that may result in “take” of marine mammals.
- Regulations must be promulgated and published in the Federal Register detailing the methods, region, means of effecting the least possible impact, and monitoring and reporting requirements.
- Incidental Harassment Authorization (IHA)
- Authorization to take small numbers of marine mammals by “harassment.”

**Any taking of marine mammals listed as threatened or endangered under the ESA must be authorized under both the ESA and MMPA*

For more information on MMPA authorizations go to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>

Essential Fish Habitat (EFH)

- EFH is defined as those waters and substrate necessary for federally managed species to spawn, breed, feed, and/or grow to maturity
- The federally managed species in our Pacific Islands Region for which EFH has been designated are:



An "adverse effect" is a reduction in quantity and/or quality of EFH. Can be direct and/or indirect; site-specific and/or habitat-wide (individual, cumulative, synergistic).

- The EFH consultation process assists the action agency in avoiding, minimizing, and offsetting potential impacts to EFH.

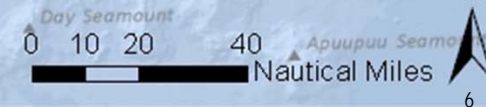
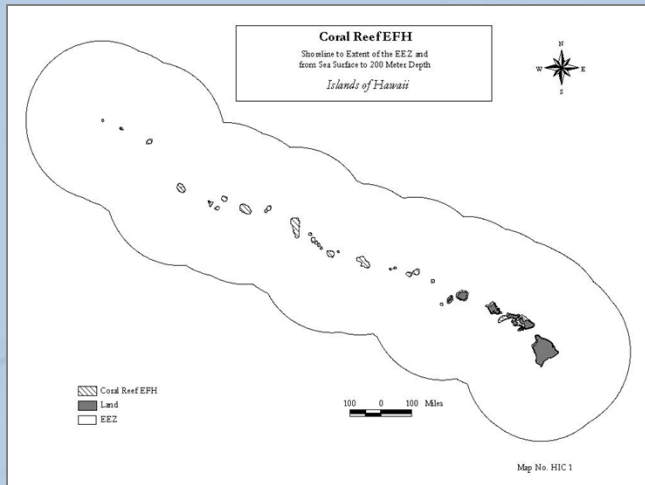
Questions on EFH? Please contact Danielle.Jayewardene@noaa.gov

EFH designations in Hawaii:

Known precious coral beds, e.g. Auau

Water column from shoreline out to 200 mile/EEZ

All bottom from 0m to 400 m depth



Undersea Power Cable Potential Impacts

to Protected Marine Species, Critical Habitat, and EFH

Installation (laying/burying cable)

- Noise (dredging, blasting, ship traffic) may result in temporary or permanent habitat abandonment, behavioral changes
- Siltation/Turbidity effects to marine species' foraging habitat and EFH
- Destruction of coral and benthic habitats (EFH)

Operation (high electromagnetic fields)

- Effects to navigation and homing abilities of sea turtles and marine mammals
- Attraction of sharks, rays/repulsion of other fish species
- Effects unknown on other species and/or life stages (not well studied)

Maintenance

- Noise
- Ship traffic

