

SERO Protected Resources Division Briefing Document June 2022 SAFMC Council Meeting

Endangered Species Act (ESA) Actions Related to Listing and Rulemaking:

Queen Conch Status Review [New]

- NOAA Fisheries is completing a status review of queen conch (*Strombus gigas*) to determine whether listing the species as endangered or threatened under the Endangered Species Act (ESA) is warranted. This review was initiated in December 2019.
- Queen conch are found throughout the Caribbean and in the Gulf of Mexico (Flower Garden Banks National Marine Sanctuary), south Florida, the Bahamas, and Bermuda.
- If after considering the Status Review and ongoing conservation efforts, NOAA Fisheries determines that the petitioned request (i.e., listing the queen conch under the ESA):
 - Is not warranted, we publish a negative 12-month finding in the Federal Register.
 - Is warranted, we publish a 12-month finding/Proposed Rule in the Federal Register and request public comments on the proposal to list (as threatened or endangered). One or more public hearings may be held.

Determination on Critical Habitat for Threatened Caribbean Corals [No Change]

- On November 27, 2020, NOAA Fisheries published a proposed rule to designate critical habitat for five ESA-listed Caribbean Corals (*Orbicella annularis*, *O. faveolata*, *O. franksi*, *Dendrogyra cylindrus*, and *Mycetophyllia ferox*) within U.S. waters of Florida, Puerto Rico, U.S. Virgin Island, Navassa Island, and Flower Garden Banks. The proposed coral critical habitat consists of substrate and water column habitat characteristics essential for the reproduction, recruitment, growth, and maturation of the listed corals.
- The Federal Register Notice and supporting information is available [here](#). General information on Critical Habitat is available [here](#).
- The public comment period closed January 26, 2021, and we received 21,108 comments
- The ESA requires that we publish our final determinations within 1 year of the proposed rules.

5-Year Status Review on 7 Threatened Coral Species [Timing Updated]

- In January 2021, NOAA Fisheries announced a [5-year review](#) of staghorn coral (*Acropora cervicornis*), elkhorn coral (*Acropora palmata*), pillar coral (*Dendrogyra cylindrus*), rough cactus coral (*Mycetophyllia ferox*), lobed star coral (*Orbicella annularis*), mountainous star coral (*Orbicella faveolata*), and boulder star coral (*Orbicella franksi*) under the Endangered Species Act of 1973 (ESA).
- The 60-day public comment period for the status review closed March 8, 2021.
- The status review is projected to be completed this summer.
- If a change in status is recommended for any of the 7 threatened coral species through the review process, there would be a separate rule-making process with opportunity for public comment.

Nassau Grouper Critical Habitat [No Change]

- NOAA Fisheries entered into a settlement agreement on December 22, 2020 stipulating that NOAA Fisheries must submit a proposed determination concerning the designation

of critical habitat for the Nassau grouper to the Federal Register by December 30, 2022. If NOAA Fisheries determines to propose critical habitat, NOAA Fisheries must submit for publication in the Federal Register a proposed critical habitat rule on that same date, and (to the extent a proposed rule has been published) a final rule by December 29, 2023.

- To determine potential critical habitat areas, we are currently reviewing available data on the Nassau grouper (e.g., information that was completed in support of the ESA listing, the proposed and final listing rules for Nassau grouper, recent biological surveys and reports, and peer-reviewed literature).
- Potential critical habitat areas include the Southeast coast of Florida, areas around Puerto Rico, areas around the U.S. Virgin Islands.
- Fishery Management Councils and the public will have the opportunity to provide comments if critical habitat is proposed (i.e., a comment period will automatically be included if a rule is published).

● **ESA Section 7-Related Actions and Other ESA News:**

Dolphin Wahoo FMP Consultation [No Change]

- SERO SFD in its role as the action agency is working to complete a draft biological assessment for the consultation on the fishery.

Coastal Migratory Pelagic Resources (CMPR) Consultation [No Change]

- SERO Protected Resources Division is working on an amendment to the CMPR FMP to address oceanic whitetip sharks and giant manta ray.

Marine Mammal Protection Act (MMPA) Actions and Other MMPA News:

Atlantic Large Whale Take Reduction Team [Updated]

- **Phase 1:** Risk reduction from Northeast lobster & Jonah Crab trap/pot fisheries
 - Minimum target from 2019 ALWTRT meeting
 - Completed September 17, 2021 via [Final Rule](#)
- **Phase 2:** Risk reduction from all other ALWTRT coast-wide fisheries:
 - Coast-wide gillnet
 - Multi-species trap/pot
 - Mid-Atlantic lobster
 - New risk reduction estimate due to new population data
 - **Meeting held May 9-13, 2022--Key outcomes available soon**
 - Southeast measures discussed focused around precautionary measures-
 - Continue to move forward with ropeless research with black sea bass fishery
 - Consolidate a single Southeast trap pot area spanning from NE Florida to NC that would require weak rope, weak links, and single pots
 - **Follow-up meeting will occur to discuss final Team recommendations.**
- **Phase 3:** remaining risk from NE lobster and Jonah crab to hit 90% estimated reduction

needed to reduce mortalities and serious injuries in US commercial fisheries to PBR level

Consideration of Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule [No Change]

- NOAA Fisheries is continuing to evaluate options for further reducing lethal vessel strikes in U.S. waters, including examining the potential need for changes to both regulatory and non-regulatory efforts. We anticipate release of a proposed rule in late spring of this year.

Right Whale Caving Season [Updated]

- During the 2021 North Atlantic right whale calving season, 19 live calves were identified.

North Atlantic Right Whale Unusual Mortality Event (UME) [No Change]

- Elevated North Atlantic right whale mortalities began in 2017, primarily in Canada, and triggered the declaration of an Unusual Mortality Event. From 2017-2021, there were 34 mortalities and 16 serious injuries.
- The leading category for the cause of death for this UME is “human interaction,” specifically from entanglements or vessel strikes.
- More information can be found at: <https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-north-atlantic-right-whale-unusual-mortality-event>.

Pelagic Longline Take Reduction Plan Proposed Rule Development [No Change]

- NMFS published a proposed rule to amend the PLTRP which included removing the CHSRA and associated requirements, implementation of terminal gear in the NEC, MAB, SAB, and FEC Pelagic Longline fishing areas as well as changes to mainline length requirements in the MAB.
- NMFS is preparing the final rule.

Bottlenose Dolphin Take Reduction Plan [No Change]

Report to Congress Regarding Interactions Between Bottlenose Dolphins and Sharks and Commercial, For-Hire, and Private Recreational Fisheries in the Gulf of Mexico and South Atlantic [New]

- The report to congress was due to Congress March 27, 2022.

In the News- [Recent Sperm Whale Strandings in Florida Keys](#)

- Sperm whales are typically found in deep ocean waters far offshore. Greatest densities of sperm whales are in the central Northern Gulf of Mexico near Desoto Canyon as well as near the Dry Tortugas (Roberts et al. 2016).
- On May 4, a female sperm whale newborn calf was reported swimming off Key Largo, about 90 miles northeast from the more recent stranding. Although an aerial survey of the area was conducted to attempt to locate the calf’s mother, no other whales were sighted. The small whale ended up stranding along a shallow tidal flat offshore of Pennekamp

State Park and dying on its own. Responders collected samples and performed a necropsy to determine its cause of death. Results from those analyses are pending.

- On May 10, 2022, a 47-year old male sperm whale stranded in the shallows of Mud Keys, a group of islands just north of Key West. Biologists found a mass of intertwined line, net pieces, and plastic bag type material in this adult whale's stomach. This debris likely interfered with the whale's ability to digest food and absorb nutrition, leading to its emaciated condition and subsequent stranding. Further diagnostic analyses on tissues collected during the necropsy is needed to confirm the cause(s) leading to its stranding and death.

MMPA List of Fisheries – [Updated]

- The [final 2022 List of Fisheries](#) published on April 19, 2022.

National Deterrents Meeting--[New]

- The Alaska Regional Office hosted a National Deterrents Meeting open to all regions and fishermen on June 1 and 2.
- Because the dates weren't conducive to Southeast fishermen, there was minimal Southeast fishermen participation.
- This national workshop was preliminary opportunity to hear from diverse fishing communities; we will follow up with a workshop specific to the Southeast Region. Our intention is to better engage Southeast fishermen on this issue at a more convenient date with ample notice.

Special Topics of Potential Interest:

Offshore Wind Projects in the Southeast [New]

- Several offshore wind projects are in various stages of development in the South Atlantic. NOAA Fisheries is working with BOEM on the Kitty Hawk North, Kitty Hawk South, and Carolina Long Bay Offshore Wind Projects.
- For the Kitty Hawk North and South projects, only EFH will have ESA and MMPA actions will be handled by the Office of Protected Resources in Silver Spring. The Southeast Region will handle all aspects of the Carolina Long Bay project.