

SERO, Protected Resources Division's Briefing Document for the March 6, 2017 SAFMC Protected Resources Committee Meeting

Endangered Species Act (ESA) Listing Actions and Other Rulemaking

Sea Turtle Conservation and Recovery Actions in Relation to the Southeastern United States Shrimp Fishery [Updated]

- On December 16, 2016, NOAA Fisheries published a proposed rule that, if implemented, would require all shrimp trawlers using skimmer trawls, pusher-head trawls, and wing nets to use TEDs designed to exclude small turtles in their nets.
- Public hearings were held during January 2017 in Louisiana, Mississippi, Alabama, and North Carolina.
- The comment period on the proposed rule ends on February 14, 2017, after which time NOAA Fisheries will compile all comments and new information to determine if a final rule is warranted.

2017 Annual Determination (AD) to Implement the Sea Turtle Observer Requirement [Updated]

- On August 3, 2007, NOAA Fisheries finalized a regulation to require fishing vessels subject to U.S. jurisdiction that are identified through the AD process to take observers upon request (50 CFR 222.402(a)(4)). As specified in the regulation, the AD is published annually, and NOAA Fisheries will identify fisheries for inclusion based on the extent to which: (1) the fishery operates in the same waters and at the same times as sea turtles are present; (2) the fishery operates at the same time or prior to elevated sea turtle strandings; (3) the fishery uses a gear or technique that is known or likely to result in incidental take of sea turtles based on documented or reported takes in the same or similar fisheries; and (4) NOAA Fisheries intends to monitor the fishery and anticipates that it will have the funds to do so.
- On March 19, 2015, NOAA Fisheries published the Final 2015 AD (80 FR 14319) which identified 14 fisheries for inclusion. Once a fishery is included on the AD, it is required to carry observers upon NOAA Fisheries' request for a period of five years. Thus, these 14 fisheries will remain on the AD for a period of five years, through December 31, 2019.
- The 2017 Annual Determination (AD) (81 FR 90330, December 14, 2016) provided notification that we will not identify additional fisheries to observe beyond what is listed on the 2015 AD.

Final Rule Listing Oceanic Whitetip Sharks

- On December 29, 2016, NOAA Fisheries proposed listing the oceanic whitetip shark (*Carcharhinus longimanus*) as threatened under the Endangered Species Act.
- Based on the best scientific and commercial information available, including the status review report, and after taking into account efforts being made to protect the species, we have determined that the oceanic whitetip shark warrants listing as a threatened species. We conclude that the oceanic whitetip shark is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.

- We are soliciting information to assist in this listing determination, the development of proposed protective regulations, and the designation of critical habitat in the event this proposed listing determination is finalized. Comments on this proposed rule must be submitted by March 29, 2017
- The petition, status review report, Federal Register notices, and the list of references electronically on the Office of Protected resources Web site:
<http://www.nmfs.noaa.gov/pr/species/fish/oceanic-whitetip-shark.html>

Atlantic Sturgeon Critical Habitat

- NOAA Fisheries proposed designation of Atlantic sturgeon critical habitat in June 2016. The public comment period was open for 105 days and three public hearings were held in June in GA, SC, and NC.
- 17 units of critical habitat are currently proposed, ranging from the Roanoke River, NC, to the St. Marys River GA/FL. Critical habitat designations are only proposed for rivers; no estuary or marine habitats are proposed for designation.
- NOAA Fisheries is reviewing the information received during the public comment period and will make any appropriate changes to the final rule. The final rule is expected in late May or early June 2017.

ESA Section 7-Related Actions

Reinitiation of Additional FMP Consultations [Editorial Update only]

- Section 7 consultation on several SA and SA/Gulf of Mexico FMPs (Coastal Migratory Pelagic, Dolphin-Wahoo, Spiny Lobster FMPs) has been reinitiated and/or is needed to address newly listed species/DPSs (e.g., Green sea turtle NA and SA DPSs, Nassau grouper). SERO is currently prioritizing completion of these and all other SERO federal fishery consultations.

Marine Mammal Protection Act Actions and News

MMPA List of Fisheries (LOF) for 2017[Updated]

- The MMPA requires that NMFS evaluate U.S. fisheries annually and classify each as Category I, Category II, or Category III based on the extent of mortality or serious injury of marine mammals caused by each fishery. Category I and II fisheries are required to register with NMFS to lawfully incidentally take marine mammals, carry observers if requested by NMFS, and may be subject to a Take Reduction Plan.
- In the Final 2017 LOF (82 FR 3655, January 12, 2017), NOAA Fisheries added the Florida Keys stock of bottlenose dolphin to the list of stocks incidentally killed or injured in the Category III Florida spiny lobster trap/pot fishery based on the location and gear description in a 2013 stranding report (Waring et al., 2016), but the fishery remains a Category III; there are no reclassifications for South Atlantic Region fisheries. The effective date was delayed to 28 Feb, 2017 as a result of the White House memorandum published January 20, 2017 entitled “Regulatory Freeze Pending Review.”

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

- SERO is working in a proposed rule to update regulatory and non-regulatory requirements of the Pelagic Longline Take Reduction Plan based on consensus recommendations from the Pelagic Longline Take Reduction Team after meetings in December 2015 and September and October 2016 (recommendations can be found in the Key Outcomes Memorandums at <http://www.nmfs.noaa.gov/pr/interactions/trt/pl-trt.html>).

New Northeast Trap/Pot Gear Marking Requirement of Potential Interest to BSB Fishers [New]

- Any trap/pot fished (i.e., mainly lobster) in Jordan Basin overlapping Offshore Trap/Pot Waters (which equates to about a 725 sq mi area) within in Northeast waters currently is required to be marked with a color combo of purple and black. This is the same as the color pattern for Black Sea Bass (BSB) pot marking. Although the color combination is the same, the size of the markings are different. The ALWTRP requires gear in Jordan Basin to have a 6in black mark and a 6in purple mark, whereas BSB now requires a 12in black mark (per ALWTRP requirements) and 12in purple mark (per new SAFMC requirement). For the location of the Jordan Basin, please see page 12 in the below link: https://www.greateratlantic.fisheries.noaa.gov/protected/whaletrp/eis2013/voli/chapter-11-frfa_feis_2014_v_1.pdf

Bottlenose Dolphin Take Reduction Plan [New]

- The next meeting of the BDTRT will be an in-person meeting December 5-7, 2017. The main purpose of the meeting will be to assess the Bottlenose Dolphin Take Reduction Plan progress in meeting its short- and long-term goals for each affected strategic stock of bottlenose dolphins.