

SERO, Protected Resources Division's Briefing Document for the September 14, 2015 SAFMC Protected Resources Committee Meeting

Endangered Species Act (ESA) Listing Actions

Petition to List Nassau Grouper Under the ESA [No Change from June briefing]

- NMFS published a proposed rule to list Nassau grouper as a Threatened under the ESA on September 2, 2014 (79 FR 51929). The proposed rule can be found here: http://sero.nmfs.noaa.gov/protected_resources/listing_petitions/documents/79_fr_51929_nassau_grouper_12-month_finding.pdf
- NMFS determined listing was appropriate because spawning aggregations have been reduced in size and number due to fishing pressure and existing management measures are inadequate to protect these aggregations. The status report informing these determinations can be found here: http://sero.nmfs.noaa.gov/protected_resources/listing_petitions/documents/biological_report.pdf
- The 120-day comment period ended on December 31, 2014. During the comment period NMFS sought information on spawning aggregations, threats to the species, and conservation efforts aimed at protecting Nassau grouper.
- We received 13 substantive comments, including the SAFMC's comments.
- We expect to publish a final determination in fall.

Atlantic Sturgeon Critical Habitat [No change since March briefing]

- NMFS has made preliminary determinations regarding Atlantic sturgeon critical habitat and is now evaluating the potential economic impacts of a critical habitat designation.
- NMFS is working with the Department of Defense and the U.S. Coast Guard to evaluate any national security impacts related to Atlantic sturgeon critical habitat designation.
- The Natural Resources Defense Council (NRDC) and the Delaware Riverkeeper Network filed a lawsuit on March 18, 2014, against NMFS for failure to designate Atlantic sturgeon critical habitat. The NRDC and NMFS developed a settlement agreement that was approved by the court on December 3, 2014. The Southeast Region and the Greater Atlantic Region must submit proposed rules designating critical habitat to the Federal Register by November 30, 2015. Final rules must be submitted to the Federal Register within 12 months of publication of the proposed rules.

North Atlantic Right Whale Critical Habitat [No change from June briefing document]

- On February 20, 2015 (80 FR 9314), NMFS published a proposed rule to replace critical habitat for right whales in the North Atlantic with two new areas. The proposed rule can be found here: <https://www.federalregister.gov/articles/2015/02/20/2015-03389/endangered-and-threatened-species-critical-habitat-for-endangered-north-atlantic-right-whale>.
- The areas under consideration as critical habitat contain approximately 29,945 square nautical miles of marine habitat, and include northeast feeding areas in the Gulf of Maine/Georges Bank region and calving grounds from southern North Carolina to northern Florida.
- The comment period closed on April 21, 2015. NMFS is considering comments and hopes to publish a final rule in early 2016.

Corals [Updated only to share recovery outline announcement that we missed in June briefing]

- NMFS is working on steps to designate critical habitat for the five newly listed coral species. Identification of essential features and analysis of the economic impact of critical habitat designation are currently underway.

- On March 18, 2015, NMFS posted a recovery outline for lobed star coral (*Orbicella annularis*), mountainous star coral (*O. faveolata*), boulder star coral (*O. franksi*), pillar coral (*Dendrogyra cylindrus*), and rough cactus coral (*Mycetophyllia ferox*) on its website. The recovery outline guides recovery until a final recovery plan is approved. It can be found at http://sero.nmfs.noaa.gov/protected_resources/coral/documents/recovery_outline.pdf.

Green Sea Turtles [Proposed Rule Comment Period/Timeline Update and New Nesting Numbers]

- On March 23, 2015 NMFS published a proposed rule to remove the current range-wide listing for green turtles and, in its place, list eight DPSs as threatened and three as endangered (80 FR 15271). Individuals from two of the proposed DPSs, the North Atlantic (NA) and South Atlantic (SA), have the potential to occur in the Southeast Region. Both the NA and SA DPS have large populations sizes, increasing population trends, and share the same ESA designation of “threatened.” It is expected that any analysis of potential impacts based on the current listing status for green turtles would apply similarly to the new DPSs if listed as proposed. Therefore, no new analysis would likely be necessary upon finalization of the DPS listing.
- The comment period on the proposed rule has been extended through September 25, 2015. <https://www.federalregister.gov/articles/2015/08/26/2015-21150/endangered-and-threatened-species-identification-and-proposed-listing-of-eleven-distinct-population>
- NMFS expects to publish the final rule by late spring.
- Green sea turtle nesting broke a record on the Brevard County portion of the Archie Carr National Wildlife Refuge, with over 12,000 nests so far this season. The statewide Florida nesting data isn't out yet, but Archie Carr is a good indicator. Green sea turtle nesting has also broken the record in Georgia. No news from SC and NC yet.

ESA Section 7 FMP Consultations and Opinions

Coastal Pelagic Resources Fishery Management Plan Formal Consultation [Updated]

- A new biological opinion was completed on June 18, 2015. A presentation on this non-jeopardy opinion will be given at this September’s Council meeting during the Protected Species Committee meeting.

Southeastern Shrimp Fisheries Biological Opinion and Draft TED Compliance Policy

- The April 18, 2014, biological opinion for the southeastern shrimp fisheries required NMFS to develop a policy specifying data requirements or minimum data standards for taking various actions (e.g., time area closures) to address non-compliance with federal turtle excluder device (TED) requirements.
- NMFS has drafted a TED compliance policy and submitted it to Gulf and Atlantic state representatives for comment. The draft policy was also posted online at: http://sero.nmfs.noaa.gov/protected_resources/sea_turtle_protection_and_shrimp_fisheries/documents/ted_compliance_policy.pdf
- NMFS is currently in the process of finalizing the TED compliance policy.

Marine Mammal Protection Act Actions

Pelagic Longline Take Reduction Team (PLTRT)[Updated]

- An in-person meeting of the PLTRT is scheduled for December 1-3, 2015 in the Norfolk, VA area.

Bottlenose Dolphin Take Reduction Plan and Team (BDTRP/T)

- A BDTRT webinar meeting is scheduled for November 6, 2015 to update the Team on pertinent topics related to the take reduction plan.

Atlantic Large Whale Take Reduction Plan (ALWTRP)

- NMFS is transitioning into more of an ALWTRP “monitoring” phase (as opposed to the previous “developmental” phase). Consequently, no in-person meetings are presently planned. However, a November ALWTRT webinar is planned so NMFS can touch base with and update the Team on potential new developments.

MMPA Regulations

- On August 22, 2015, NMFS published a proposed rule (80 FR 28172) to revise regulations implementing provisions of the MMPA by reducing marine mammal bycatch associated with foreign commercial fishing operations. The proposed regulations would establish conditions for evaluating a harvesting nation’s regulatory program for reducing marine mammal incidental mortality and serious injury in fisheries that export fish and fish products to the United States.
- Public comments are accepted through November 9, 2015.
- Federal Register Link: <https://www.federalregister.gov/articles/2015/08/11/2015-19231/fish-and-fish-product-import-provisions-of-the-marine-mammal-protection-act>

List of Fisheries

- The 2016 proposed List of Fisheries will likely publish by the end of this year. No major changes for the Southeastern United States are expected.