

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

Endangered Species Act (ESA) Listing Actions

Petition to List Nassau Grouper Under the ESA

- 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 late summer/early fall.

Atlantic Sturgeon

- ASMFC, in cooperation with the NMFS and states, is initiating a stock assessment for Atlantic sturgeon that is anticipated to be complete in 2017.

Atlantic Sturgeon Critical Habitat

- 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

- NMFS published a proposed rule to revise North Atlantic right whale critical habitat on February 20, 2015 (80 FR 9314). 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 rule, issued pursuant to a court-approved settlement agreement, would expand the critical habitat to roughly 29,945 square nautical miles, and include northeast feeding areas in the Gulf of Maine/Georges Bank region and calving grounds from southern North Carolina to northern Florida.
- Comments on this proposal must be received by April 21, 2015.

Corals

- NMFS will finalize the recovery plan for elkhorn and staghorn corals by March 7, 2015.

- On January 13, 2015, NMFS published an advanced notice of rulemaking and request of information on corals (80 FR 1616). The notice and request can be found here: <https://www.federalregister.gov/articles/2015/01/13/2015-00366/advanced-notice-of-proposed-rulemaking-and-request-for-information-for-the-issuance-of-protective>
- The notice alerts agencies that NMFS is considering proposing protective regulations for the recently listed coral species and also requests information and input to help identify actions that could impact the threatened status of the corals in addition to information about on-going conservation efforts. Five of the 20 recently listed coral species can be found in the South Atlantic region: 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*). These newly listed species are in addition to two species already listed as threatened: elkhorn coral (*Acropora palmata*) and staghorn coral (*A. cervicornis*). The comment period closes March 16.
- 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.

Yellowtail damselfish

- On September 13, 2012, NMFS received a petition from the Center for Biological Diversity to list eight reef fish of the family *Pomacentridae* as endangered or threatened under the Endangered Species Act of 1973 (ESA).
- There was only one petitioned species in the Atlantic/Caribbean, yellowtail damselfish (*Microspathodon chrysurus*).
- NMFS published a negative 90-day finding on February 18, 2015 (80 FR 8619). The notice may be found here: <https://www.federalregister.gov/articles/2015/02/18/2015-03326/endangered-and-threatened-wildlife-90-day-finding-on-a-petition-to-list-yellowtail-damselfish-as>

ESA Section 7 FMP Consultations

Coastal Pelagic Resources Fishery Management Plan Formal Consultation

- Consultation was initiated to address the listing of 5 DPSs of Atlantic sturgeon under the ESA Atlantic sturgeon.
- PRD has drafted a new opinion, currently under review, that will address all ESA listed species that may be affected and will replace the previous 2007 opinion.

Marine Mammal Protection Act Actions

2015 List of Fisheries (LOF)

- MMPA 2015 Final LOF was published on January 2, 2015 (79 FR 77919). There are no major changes to SE fisheries. The Final Rule may be found here: <https://www.federalregister.gov/articles/2014/12/29/2014-30375/list-of-fisheries-for-2015>

Marine Mammal Authorization Program (MMAP)

- All Category I and II fisheries were registered with the MMAP by January 1, 2015. The Marine Mammal Protection Act requires that NOAA Fisheries annually registers all Category I and II fishermen for the MMAP. The MMAP provides an exemption to fishermen if they accidentally kill or seriously injure a marine mammal while fishing. Category I and II fishermen must carry an Authorization Certificate aboard while fishing to prove they are registered with the MMAP, report all fishing-related marine mammal injuries or deaths within 48 hours of returning to port, and carry a fishery observer if selected by NOAA Fisheries.

Pelagic Longline Take Reduction Team (PLTRT)

- A December 1-3, 2015, in-person meeting of Pelagic Longline Take Reduction Team is being planned. The location is not yet firmed up, but we expect it will be in the mid-Atlantic area (perhaps Virginia Beach or Norfolk).
- A March 30, 2015 Webinar is planned. Given the shift in the in-person meeting timing from this spring to December, the Agency will hold a Team webinar to provide a range of Take Reduction Plan-related updates.
- A workshop was held with PLL fishermen on Feb. 18, 2015 in Washington, NC. The purpose was to engage fishermen and seek their input into possible changes to terminal tackle (and other ideas) to reduce mortalities and serious injuries of marine mammals in the pelagic longline fishery.

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

- The BDTRP final rule to amend the BDTRP to reduce bottlenose dolphin serious injuries and mortalities in Virginia pound net gear published on February 9, 2015 (80 FR 6925) and will be effective on March 11, 2015.
- NMFS is planning to convene the BDTRT for a webinar meeting in Summer 2015 to discuss conservation measures needed to help the BDTRP meet its mandated goals.

Atlantic Large Whale Take Reduction Plan (ALWTRP)

- The Atlantic Large Whale Take Reduction Team met in Providence, RI from January 12-14. Team objectives included review, discussion, and feedback on vertical line exemptions. The team was also provided with an overview of the upcoming regulatory Amendment 16 for the black sea bass fishery in Southeast. Finally, Team guidance was solicited on future Team direction and initiatives, with a particular focus on monitoring results and Team effectiveness. A full overview of the objectives and key outcomes, including on Amendment 16, is available at: http://www.greateratlantic.fisheries.noaa.gov/protected/whaletrp/docs/Jan%202015%20Meeting/2015_jan_full_team_summary.pdf