

Southeast Regional Office (SERO), Protected Resources Division (PRD)
Briefing for September 2024 SAFMC Meeting

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

Oceanic Whitetip Recovery Plan [New]

- On July 11, 2024, NOAA Fisheries announced the availability of the Recovery Plan for the Oceanic Whitetip Shark (*Carcharhinus longimanus*) (89 FR 56865), which was listed as threatened under the ESA on January 30, 2018. The recovery plan is a guidance document that outlines a strategy and describes the actions necessary to recover the species.
- As required by the ESA, the Recovery Plan contains:
 - a description of site-specific management actions necessary for the conservation and survival of the species (recovery actions);
 - objective, measurable criteria that, when met, will allow the species to be removed from the endangered and threatened species list;
 - estimates of the time and funding required to achieve the plan's goals.
- The Recovery Plan and supporting documents, including the Recovery Status Review and the Recovery Implementation Strategy, are available on the NOAA Fisheries oceanic whitetip shark profile website at <https://www.fisheries.noaa.gov/species/oceanic-whitetip-shark#conservation-management>.

Initiation of Oceanic Whitetip Shark 5-Year Review [New]

- On July 11, 2024, NOAA Fisheries also announced the initiation of a 5-year review for the oceanic whitetip shark (*Carcharhinus longimanus*).
- NOAA Fisheries is required by the ESA to conduct 5-year reviews to ensure that the listing classifications of species to ensure that the listing classification of a species as threatened or endangered under the ESA is accurate.
- Information relevant to the 5-year review may be submitted before September 8, 2024, via: <https://www.regulations.gov>.

Oceanic Whitetip Shark Proposed 4(d) Rule {Updated}

- On May 14, 2024, NOAA Fisheries published a proposed rule to issue protective regulations under section 4(d) of the Endangered Species Act (ESA) for the conservation of the threatened oceanic whitetip shark (*Carcharhinus longimanus*) ([89 FR 41979](#)). The proposed regulations would apply all of the ESA Section 9 prohibitions (pertaining to take) for endangered species to this threatened species, with limited exceptions for scientific research and law enforcement activities that contribute to the conservation of the species.
- In that same Federal Register Notice, NOAA Fisheries also announced the availability of a draft environmental assessment (EA) that analyzes the environmental impacts of promulgating these regulations.
- The comment period on this proposed rule was initially set to close on July 15, 2024. On July 10, 2024, at the request of the Western Pacific Fishery Management Council, NOAA Fisheries extended the public comment period by 60 days to September 15, 2024, and announced that they would be holding one or more public hearings on the proposed rule.

- NOAA Fisheries will consider all relevant information, comments, and recommendations received before reaching a final decision on ESA section 4(d) regulations for the oceanic whitetip shark.
- For additional information on conservation and management for oceanic whitetip sharks please visit: <https://www.fisheries.noaa.gov/species/oceanic-whitewtip-shark/conservation-management>

Proposed Rule to Designate Marine Critical Habitat for Six Distinct Population Segments (DPSs) of Green Sea Turtles in U.S Waters [Timing Updated]

- On July 19, 2023, NOAA Fisheries published a proposed rule to designate new areas of critical habitat and modify existing critical habitat for threatened and endangered distinct population segments (DPSs) of the green sea turtle (*Chelonia mydas*), in areas under U.S. jurisdiction, pursuant to the ESA (88 FR 46572).
- In 2016, NOAA Fisheries and the USFWS listed distinct population segments (DPSs) of green sea turtles, which triggered the requirement to designate critical habitat to the maximum extent prudent and determinable for DPSs in areas under U.S. jurisdiction.
- For the green sea turtle North Atlantic DPS, we are proposing to designate marine critical habitat in: (1) nearshore waters (from the mean high water line to 20 meters depth) off the coasts of Florida, Texas, North Carolina, and Puerto Rico.; and (2) Sargassum habitat (from 10 meters depth to the U.S. Exclusive Economic Zone) in the Gulf of Mexico and Atlantic Ocean. We are also proposing to modify designated critical habitat in the coastal waters surrounding Culebra Island, Puerto Rico; however, this critical habitat designation remains in effect during this rulemaking process.
- NOAA Fisheries and the US Fish and Wildlife Service (USFWS) share jurisdiction of sea turtles under the Endangered Species Act. The USFWS overseeing their protection and recovery on nesting beaches, and NOAA Fisheries providing oversight in the marine environment.
- The U.S. Fish and Wildlife concurrently proposed to designate terrestrial critical habitat for green sea turtle DPSs (88 FR 46376)
- NOAA Fisheries and U.S. Fish and Wildlife hosted public hearings to receive comments on these proposed designations. The public comment period closed on October 17, 2023.
- NOAA Fisheries and US Fish and Wildlife received many public comments on their proposed marine and terrestrial critical habitat designations (over 45,000 comments combined). We are still considering those comments and will publish the final rule to designate critical habitat as soon as possible.

Pillar Coral Up-listing Proposed Rule [Not Updated]

- On August 10, 2022, NOAA Fisheries published a 5-year review for seven species of Caribbean coral (<https://www.fisheries.noaa.gov/resource/document/caribbean-corals-5-year1-review>). A 5-year review is a periodic analysis of a species' status conducted to ensure that the listing classification of a species as threatened or endangered under the US Endangered Species Act of 1973 is accurate. The review evaluated information that had become available since the last status review conducted in 2014.
- NOAA Fisheries determined that the classification for pillar coral (*Dendrogyra cylindrus*) should be considered for up-listing from threatened to endangered due to loss in the northern portion of

its range, the low and declining population, the susceptibility to stony coral tissue loss disease, and the rapid spread of the disease to most areas of the Caribbean.

- NOAA Fisheries published a proposed rule to change the status of pillar coral from threatened to endangered under the ESA in the Federal Register on August 29, 2023
- We held a virtual public hearing on the proposed rule on September 26, 2023.
- The 90-day public comment period closed on October 31, 2023. We are currently reviewing and considering all public comments received during the public comment period. We will consider the public comments received and any new data that may have become available to make a final decision.

ESA Section 7-Related Actions and Other ESA News:

Reinitiation of Section 7 Consultation on Southeast Shrimp Fisheries Managed under the MSA in the Gulf of Mexico and South Atlantic Region [Updated]

- Reinitiation of Section 7 consultation on the authorization of the southeast shrimp fisheries managed under the MSA and implementing regulations is needed to address giant manta ray unanticipated mortalities in shrimp trawls and new information on both giant manta rays and smalltooth sawfish.
- In December 2023, an updated population viability model for smalltooth sawfish was published: <https://www.sciencedirect.com/science/article/pii/S2351989423003803>). This new information was presented to the SAFMC Shrimp Advisory Panels (AP) in April.
- SERO PRD presented an update on the consultation at the August Gulf Council meeting and that presentation is available [here](#).
- We anticipate completing the consultation reinitiation package early 2025. We will continue to collaborate with, and keep updated, both the GMFMC and SAFMC during this development.

Snapper Grouper FMP Reinitiation to Address Giant Manta Rays and Oceanic whitetip sharks [Updated]

- SERO PRD is amending the previous 2016 Opinion to evaluate the effects of the fisheries on giant manta rays and oceanic whitetip sharks. Our information suggests that (2) giant manta rays are likely to be adversely affected by the authorization of federal snapper-grouper fisheries and (2) oceanic whitetip sharks are not likely to be adversely affected.
- SERO PRD recruited a Section 7 consultation biologist from the Greater Atlantic Regional Office to draft the amendment; SERO PRD is currently review the draft.

Dolphin Wahoo FMP Consultation [Updated]

- With assistance from Council staff, SERO SFD in the role of action agency developed a draft biological assessment for the consultation on the fishery using information from Dolphin Wahoo FMP Amendment 10.
- SERO PRD recruited a Section 7 consultation biologist from the Greater Atlantic Regional Office who has completed a partial draft of the Dolphin-Wahoo consultation. SERO PRD staff are reviewing the sections drafted and working to determine next steps for completing the draft.

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

Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule [Updated]

- The final rule to modify North Atlantic right whale vessel speed regulations is now with the White House Office of Information and Regulatory Affairs, part of the Office of Management and Budget (OMB). The OMB Unified Agenda estimates November 2024 to complete the final rule to modify North Atlantic right whale vessel speed regulations. We refer you to OMB for further questions about the Unified Agenda.

North Atlantic Right Whale Unusual Mortality Event (UME) [Updated]

- Elevated North Atlantic right whale mortalities began in 2017 and triggered the declaration of an Unusual Mortality Event. From 2017 to date, there have been 142 documented dead, serious, or sublethal injuries or illnesses. 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 [here](#).

Atlantic Large Whale Take Reduction Team [Updated]

- On August 29, 2024 there was a webinar for the ALWTRT by MITRE on “Updates on the Assessments of Acoustic Interoperability Standards of On Demand Gear.” Additional details can be found [here](#).

Bottlenose Dolphin Take Reduction Plan [No Updates]

- The Spring 2024 webinar has been postponed.
- Winter or early Spring in-person meeting currently being planned for early 2025.
- Team membership is currently being updated to replace or add additional seats in areas of the Mid-Atlantic to ensure adequate expertise and representation given dolphin bycatch trends in and around the Chesapeake Bay area.

Pelagic Longline Take Reduction Plan [Updated]

- On July 3, 2024, NOAA fisheries announced the publication of a final rule delaying the effective date of terminal gear requirements contained in 50 CFR 229.36(d) that was published in a final rule to amend the Pelagic Longline Take Reduction Plan (PLTRP) at 88 FR 36965 on June 6, 2023.
- Due to hook manufacturing delays, pelagic longline fishermen were unable to acquire and transition to using hooks that met the amended regulatory requirements of the PLTRP in advance of the previously effective date of July 8, 2024. Therefore, terminal gear requirements contained in 50 CFR 229.36(d) are now delayed until January 1, 2025.
- The final rule can be found [here](#).