

Southeast Regional Office (SERO), Protected Resources Division (PRD)
Briefing for the September 2026 SAFMC Meeting

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

Final Rule to Rescind the Regulatory Definition of “Harm” under the Endangered Species Act (ESA). [New]

- On July 14, 2026, NOAA Fisheries and the U.S. Fish and Wildlife Service (FWS) published a final rule ([91 FR 43300](#)) to rescind the definition of harm under the ESA.
- The final rule rescinded the broad 1999 regulatory definition of "harm," meaning indirect habitat modification or degradation alone no longer counts as a "take". Instead, a "take" now requires a direct, intentional act against an animal.
- The final rule will be effective September 14, 2026.

Proposed Rule to Revise ESA Section 4 Regulations [No Updates]

- On November 21, 2025, NOAA Fisheries and the published a proposed rule to revise regulations governing listing, delisting, and critical habitat determinations made pursuant to section 4 of the ESA ([90 FR 5260](#)).
- The proposed revisions to the regulations clarify and interpret portions of the Act concerning the procedures and criteria used for listing, reclassifying, and delisting species on the Lists of Endangered and Threatened Wildlife and Plants and designating critical habitat.
- On December 2 and 3, NOAA Fisheries and FWS hosted joint webinars on these and other proposed ESA regulations; a recording of the presentation and compiled information regarding these rules is available [here](#).
- Public comments on these proposals were solicited through December 22, 2025.
- NOAA Fisheries anticipates the final rule being completed sometime Fall 2026.
- Additional information is available [here](#).

Smalltooth Sawfish Recovery Plan Update [No Updates]

- SERO is updating the Smalltooth Sawfish Recovery Plan and supporting documents, including the Recovery Status Review and the Draft Recovery Implementation Strategy since the last revisions were completed in 2018.
- The goal of the recovery plan is to rebuild and assure the long-term viability of the U.S. DPS of smalltooth sawfish in the wild, allowing initially for reclassification from endangered to threatened status. The plan provides additional detail on how the objectives, criteria, and actions address the species’ status and the causal listing/delisting factors.
- An opportunity for public review and comment will be provided, in accordance with Section 4(f)(4) of the ESA, upon the publication of the draft recovery plan. All input received during this period will be considered prior to completion and approval of the plan.
- SERO PRD’s goal is to have the draft of the revised recovery plan ready for public review and comment by the end of the calendar year.
- More information is available [here](#).

Draft Giant Manta Ray Recovery Plan and 5-Year Review [No Updates]

- On October 15, 2024, NOAA Fisheries announced the availability of a Draft Recovery Plan for the threatened giant manta ray (*Mobula birostris*) and also the initiation of a 5-year review for the species ([89 FR 82991](#)). The Draft Recovery Plan and supporting documents, including the Recovery Status Review and the Draft Recovery Implementation Strategy, are available [here](#).
- NOAA Fisheries solicited review and comment from the public and all interested parties on the Draft Recovery Plan through December 16, 2024. To ensure that the 5-year review is complete and based on the best available scientific and commercial information, NOAA Fisheries also solicited new information concerning the status of the giant manta ray.
- The giant manta ray draft recovery plan published and public comment is closed. Six public submissions of information were submitted and are available [here](#). A letter from Southern Shrimp Alliance was received and will be considered in the development of the final recovery plan.
- The National and Southeast Giant Manta Ray Recovery Coordinators have both retired; these positions are currently unfilled.

Petition to Downlist the Carolina Distinct Population Segment of Atlantic Sturgeon from Endangered to Threatened under the ESA [Updated]

- On January 28, 2026, NOAA Fisheries received a petition (dated January 25, 2026) to downlist Atlantic Sturgeon in the Carolina distinct population segment on behalf of a group of NC licensed commercial fishermen.
- SERO PRD is evaluating whether the petition presents substantial information that the petitioned action may be warranted.
- Within 90 days (to the maximum extent practicable), NOAA Fisheries must publish a finding (i.e., a “90 day finding”) in the Federal Register that states our decision whether to accept the petition.
- On July 22, 2026, we received an NOI from SharkBite Enterprises LL/DBA Sharkbite Seafood because we have not yet published our 90-day finding on the petition.
- The petition and more information on ESA petitions is available [here](#).

Oceanic Whitetip Shark Proposed 4(d) Rule [No Updates]

- 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 is now closed. NOAA Fisheries received over 49,000 comments on the proposed protective regulations for the oceanic whitetip shark from the public and interested parties from May 14, 2024 to September 15, 2024.

- 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.
- NOAA Fisheries, Office of Protected Resources (Headquarters), is leading this rulemaking process; however, due to staffing reductions and competing priorities, the development of the final is delayed.
- Additional information on conservation and management for oceanic whitetip sharks may be reviewed [here](#).

Proposed Rule to Designate Marine Critical Habitat for Six Distinct Population Segments (DPSs) of Green Sea Turtles in U.S Waters [No Updates]

- 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, NOAA Fisheries is 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. NOAA Fisheries is 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).
- Final designation by NOAA Fisheries and the U.S. Fish and Wildlife Service is pending, and not anticipated by the end of this year.

ESA Section 7-Related Actions and Other ESA Species News

Proposed Rule to Revise ESA Section 7 Regulations [No Updates].

- On November 21, 2025, NOAA Fisheries and FWS published a proposed rule to revise regulations pursuant to section 7 of the ESA ([90 FR 52600](#)).

- On December 2 and 3, NOAA Fisheries and FWS hosted joint webinars on these proposed ESA regulations; a recording of the presentation and compiled information regarding these rules is available [here](#).
- Public comments on these proposals were solicited through December 22, 2025.
- NOAA Fisheries anticipate the final rule being completed by Fall 2026.

Snapper Grouper FMP Reinitiation to Address Giant Manta Rays and Oceanic Whitetip Sharks [No Updates]

- SERO PRD is required to amend the previous 2016 Opinion to evaluate the effects of the fisheries on giant manta rays and oceanic whitetip sharks. Our information suggests that giant manta rays are likely to be adversely affected by the authorization of federal snapper-grouper fisheries and oceanic whitetip sharks may be affected but are not likely to be adversely affected.
- SERO PRD has expanded the scope of the reinitiation to update data on all listed species affected so that the new opinion is based on the best available data for all listed species.

Reinitiation of Section 7 Consultation on Southeast Shrimp Fisheries Managed under the MSA in the Gulf of Mexico and South Atlantic Region [No updates]

- Reinitiation of formal Section 7 consultation on the authorization of the southeast shrimp fisheries managed under the MSA and implementing regulations is required to address giant manta ray unanticipated mortalities in shrimp trawls and new information on both giant manta rays and smalltooth sawfish.
- SERO, in collaboration with the SEFSC and with the SAFMC and Gulf Council, is continuing to develop information necessary to initiate formal section 7 consultation.

Coastal Migratory Pelagic Resources (CMP) Fishery Management Plan Consultation Reinitiation Evaluation [No Updates]

- ESA section 7 regulations (50 CFR §402.16) require reinitiation of consultation if specific new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered.
- SERO is evaluating new information available on recreational cobia fishery interactions with giant manta rays off the east coast of Florida (see earlier information on Braun et al. (2024)) relative to the current biological opinion on the FMP determine if the data triggers reinitiation of formal Section 7 consultation on the Gulf and South Atlantic CMP FMP. The feedback received by the CMP and its AP indicated the practice of targeting cobia via casting directly towards at giant manta rays is predominately a nearshore state waters practice. SERO will be completing and documenting its evaluation soon and will share its reinitiation finding with the SAFMC once completed.

Dolphin Wahoo FMP Consultation [No Updates]

- 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 completed a partial draft of the Dolphin-Wahoo consultation. However, due to staffing

reductions and competing Section 7 fishery consultation priorities, SERO PRD does not anticipate completing this consultation before the end of the year.

American Elasmobranch Society (AES) Special Symposium—“Learning from Unusual Sawfish Mortality Events: Causes, Effects, and Conservation Applications”

- On July 11, 2026, AES held the special symposium in New Orleans as part of its annual meeting.
- The symposium featured researchers in the fields of ecology, toxicology, and veterinary science as well as government officials, conservationists, and aquarists.
- The goal of this symposium was to share information on the unprecedented sawfish mortalities from the “spinning fish” events of 2024/2025, reassess the overall threat of extinction, and plan for more effective responses.
- All of the abstracts and presentations are now available on the [Symposium 2026-AES](#) page.

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

Atlantic Large Whale Take Reduction Team [Updated]

- A Notice of Intent (NOI) to Prepare an Environmental Analysis Assessing Modifications to the Atlantic Large Whale Take Reduction Plan to Reduce Mortality and Serious Injury of Large Whales in Commercial Trap/Pot and Gillnet Fisheries along the U.S. East Coast was filed in the Federal Register on August 17th, 2026. The NOI initiated a 60-day scoping period during which we are asking the public to identify issues we should address and the impacts of the measures they would like us to consider by submitting written comments through [regulations.gov](#) through October 16th, 2026.
- The ALWTRT held multiple informational webinars over the summer, including “Right Whale Monitoring and Detection Along the East Coast” and “Entanglement Mitigation Approaches in Canada, the U.S. West Coast, and the Southeast”. Information about upcoming webinars, and recordings of previous webinars can be found on the [ALWTRT webpage](#).
 - There will be an informational webinar on the ALWTRP scoping period on September 18th.
 - Informational webinars on the Decision Support Tool are scheduled for Wednesday, September 9th; Tuesday, September 15th; and Tuesday, September 29th.

MMPA List of Fisheries [No Updates]

Marine Mammal Stock Assessment Reports [No Updates]

Marine Mammal Authorization Program [No Updates]

Bottlenose Dolphin Take Reduction Plan [No Updates]

Pelagic Longline Take Reduction Plan [No Updates]