

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

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

*Draft Giant Manta Ray Recovery Plan [New]*

- On October 15, 2024, NOAA Fisheries announced the availability of a Draft Recovery Plan for the threatened giant manta ray (*Mobula birostris*) ([89 FR 82991](#))
- As required by the ESA, the draft plan contains the following three components:
  - 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; and
  - estimates of the time and funding required to achieve the plan's goals.
- NOAA Fisheries is soliciting review and comment from the public and all interested parties on the Draft Recovery Plan through December 16, 2024.
- The Draft Recovery Plan and supporting documents, including the Recovery Status Review and the Draft Recovery Implementation Strategy, are available [here](#).

*Notice of Initiation of a 5-Year Review for the Giant Manta Ray [New]*

- On October 15, 2024, NOAA Fisheries announced the initiation of a 5-year review for the threatened giant manta ray (*Mobula birostris*) ([89 FR 82991](#)).
- NOAA Fisheries is required by the ESA to conduct 5-year reviews to ensure that the listing classification of a species as threatened or endangered under the ESA is accurate. This will be the first 5-year review of this species since it was listed in 2018 under the ESA.
- To ensure that the 5-year review is complete and based on the best available scientific and commercial information, NOAA Fisheries is soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry environmental entities, and any other interested parties concerning the status of the giant manta ray.
- Comments and information submitted will be considered in the 5-year review, as applicable.

*Giant Manta Ray ESA Section 4(d) Rule Development [New]*

- NOAA Fisheries is considering developing protective regulations under section 4(d) of the ESA for giant manta ray to manage activities to help preserve and recover the species. Regulations under section 4(d) of the ESA can extend some, or all, of the section 9 “take” prohibitions to threatened species. The term “take” means to harass, hunt, shoot, capture, trap, kill, collect, wound, harm, or pursue an ESA-listed species, or attempt any of these activities.
- If a proposed rule is developed, NOAA Fisheries would publish it in the Federal Register and solicit public comments under the normal rulemaking process.
- More information on 4(d) rules is available [here](#).

#### *Oceanic Whitetip Shark 5-Year Review [Updated]*

- On July 11, 2024, NOAA Fisheries announced the initiation of a 5-year review for the oceanic whitetip shark (*Carcharhinus longimanus*) (89 FR 56865).
- NOAA Fisheries is required by the ESA to conduct 5-year reviews to ensure that the listing classification of a species as threatened or endangered under the ESA is accurate. This will be the first review of this species pursuant to this provision of the ESA since it was listed in 2018 under the ESA.
- NOAA Fisheries accepted information relevant to the 5-year review submitted through September 9, 2024. Public submissions of information are available [here](#).

#### *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 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.
- 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). NOAA Fisheries will publish the final rule to designate critical habitat as soon as possible.

#### *Pillar Coral Up-listing Proposed Rule [No Updates]*

- 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, and held a virtual public hearing on the proposed rule on September 26, 2023.
- The 90-day public comment period closed on October 31, 2023. NOAA Fisheries is 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 Species News**

##### *POLICY 01-117: Integration of Endangered Species Act Section 7 with Magnuson-Stevens Act Processes*

- This procedural directive was initially issued on January 19, 2015 and renewed in September 2018. The new revised policy directive, effective October 3, 2024 further improves coordination between NOAA Fisheries and the Councils during the Endangered Species Act section 7 consultation process as it relates to Council actions. .
- The policy directive includes information on the unique role of Councils, the basic principles of the ESA, the mechanics of the section 7 consultation process, and the roles of NOAA Fisheries, (Offices of Sustainable Fisheries (SF) and Protected Resources (PR)) and the Councils in section 7 consultation.

- The policy directive promotes early coordination with Councils throughout the section 7 consultation process, includes recommendations for Council involvement in designing fishery management measures needed to minimize adverse effects on listed species and critical habitat, and articulates the parameters of engagement given statutory and regulatory requirements and timeframes.
- The full policy directive publication is available [here](#).

*New Information Available on Giant Manta Ray Important Habitat and on Recreational Cobia Fishing Impacts*

- The east coast of central and northern Florida (between Indian River Lagoon and the Florida/Georgia border) may serve as an important reproductive and feeding habitat for giant manta rays ([Pate 2024](#)). The recreational anglers who target cobia in this region do so by seeking out the manta rays that cobia often follow and associate with, and casting at or near them. [Braun et al. \(2024\)](#) documents that this activity is resulting in the entanglement, injury, and disturbance to giant manta rays in this region.
- The study found that 86% of anglers interviewed had either hooked or their charters had hooked manta rays while targeting cobia and 93% had observed manta rays with hooks and training lines. Also concentrated vessel activity near giant manta rays is a vessel strike concern; anglers have reported seeing an average maximum of 22 boats (range: 1-50) surrounding a single ray or group of manta rays at the same time (Braun et al. 2024).

*Coastal Migratory Pelagic Resources (CMP) Fishery Management Plan Consultation Reinitiation Evaluation*

- 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.
- The Southeast Regional Office 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 reinitiation of formal Section 7 consultation on the Gulf and South Atlantic CMP FMP is warranted.

*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 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 [No Updates]*

- 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 [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 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 [No Updates]*

- 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 148 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](#).
- NOAA Fisheries is developing a draft plan for meetings in 2025 with the goal of the Team making recommendations for additional measures to reduce entanglement risk and expect to have a more detailed timeline by the end of the year.

*Bottlenose Dolphin Take Reduction Plan [Updated]*

- In-person meeting currently being planned for late 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.

*MMPA List of Fisheries – [Updated]*

- NOAA will host an informational webinar on the Marine Mammal Protection Act and List of Fisheries on November 19, 2023 at 3:30pm. Additional information can be found [here](#).

*Pelagic Longline Take Reduction Plan [Updated]*

- 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](#).

*Marine Mammal Stock Assessment Reports [No Updates]*