

SERO, Protected Resources Division's Briefing Document for the September 15, 2016 SAFMC Protected Resources Committee Meeting

Endangered Species Act (ESA) Listing Actions and Other Rulemaking

*Caribbean or Lesser Electric Ray (*Narcine bancrofti*) Listing Petition Found Not Warranted*

- On July 22, 2016, NMFS published a 12-month “not warranted” finding in response to an ESA listing petition submitted by WildEarth Guardians and Defenders of Wildlife (81 FR 47763).
- The lesser electric ray is a small, shallow-water ray species found in the Western Atlantic from North Carolina, through the Gulf of Mexico, the Caribbean, the Lesser and Greater Antilles and the north coast of South America. The species, characterized by a dorsal surface with small, dark, incomplete circles, is generally found on sandy bottoms associated with barrier beach surf zones and adjacent passes. The lesser electric ray has ability to emits shocks (typically between 14-37 volts) as a way to stun its prey and for defense.
- NMFS completed a comprehensive status review of the species and considered the best scientific and commercial data available. NMFS found that the petition's claims that the populations had declined by up to 98 percent in the Northern Gulf of Mexico since 1972 proved to be based on a misinterpretation of the data rather than the actual status of the species. Based on a complete analysis of all available time-series data, there is no evidence of a decline in the population of the lesser electric ray and no evidence that any of the ESA section 4(a)(1) factors have contributed to endangerment of the species. The final status review is posted at http://sero.nmfs.noaa.gov/protected_resources/listing_petitions/archive/documents/cer_status_review__2016.pdf

Nassau Grouper Listed as Threatened under the ESA

- On June 29, 2016, NMFS published a Final Rule in the Federal Register listing Nassau grouper as a threatened species under the ESA, effective July 29, 2016, due to a decline in its population (81 FR 42268). The Final Rule, Fisheries Bulletin, and FAQs are available at <http://sero.nmfs.noaa.gov/>
- The greatest threats to Nassau grouper are fishing at spawning aggregations and inadequate law enforcement.
- The species is and will continue to be restricted from harvest under state, territorial, and federal fishery management plans. NMFS will consider whether development of a 4(d) rule could provide additional benefits,
- As a listed species, federal action agencies will need to ensure that any actions they carry out, authorize, or fund do not jeopardize the continued existence of Nassau grouper.

Sea Turtle Conservation and Recovery Actions in Relation to the Southeastern United States Shrimp Fishery [Updated]

- On March 15, 2016, NMFS published a Notice of Intent in the Federal Register for preparation of a DEIS to reduce incidental bycatch and mortality of sea turtles in the Southeastern U.S. shrimp fisheries; the associated scoping document and FAQs are posted our SERO Protected Resources webpage: http://sero.nmfs.noaa.gov/protected_resources/sea_turtle_protection_and_shrimp_fisheries/
- Five public scoping meetings were held April 13-21. The comment period closed on April 29, 2016.
- The draft EIS will evaluate a range of reasonable alternatives in light of concerns regarding the effectiveness of existing turtle excluder device (TEDs). Potential new TED requirements could apply to vessels fishing in state and federal waters.

- The draft DEIS and proposed rule should be completed sometime in mid-December 2016.

ESA Section 7-Related Actions

South Atlantic Snapper Grouper Fishery ESA Section 7 Consultation

- On February 11, 2016, SERO Sustainable Fisheries Division requested reinitiation under Section 7(a)(2) of the ESA on the FMP for the Snapper-Grouper Fishery. A draft biological opinion is in review.

Reinitiation of Additional FMP Consultations

- Reinitiation of Section 7 consultation on several SA and SA/Gulf of Mexico FMPs (Coastal Migratory Pelagic, Dolphin-Wahoo, Spiny Lobster) is needed to address newly listed species/DPSs (e.g., Green sea turtle NA and SA DPSs, Nassau grouper). With the Snapper-Grouper biological opinion nearing completion, SERO is currently prioritizing completion of these consultations.

Marine Mammal Protection Act Actions

Proposed Rule for MMPA List of Fisheries (LOF) for 2017

- On August 15, 2016, NMFS published the proposed LOF for 2017.
- The MMPA requires that NMFS evaluate U.S. fisheries annually and classify each as Category I, Category II, or Category III based on the extent of mortality or serious injury of marine mammals caused by each fishery. Category I and II fisheries are required to register with NMFS to lawfully incidentally take marine mammals, carry observers if requested by NMFS, and may be subject to a Take Reduction Plan.
- NMFS is proposing to add the Florida Keys stock of bottlenose dolphin to the list of stocks incidentally killed or injured in the Category III Florida spiny lobster trap/pot fishery based on the location and gear description in a 2013 stranding report (Waring et al., 2016), but there are no proposed reclassifications for South Atlantic Region fisheries.
- Comments on the proposed rule must be received by September 14, 2016.