

OVERVIEW

Protected Resources Committee Meeting

September 19, 2013

The Charleston Marriott Hotel
170 Lockwood Boulevard
Charleston, SC

The Protected Resources Committee will meet to discuss South Atlantic protected species, and receive updates on associated regulatory/management actions that the Council should be knowledgeable of when managing South Atlantic fisheries. The Committee will be briefed by SERO Protected Resources Division staff on (A) any ongoing consultations, including the formal consultation in process for Coastal Migratory Pelagics (CMP). Following, Protected Resources Division staff will (B) provide a presentation on biology and behavior of right whales. The Committee will receive a briefing on (C) the Atlantic Large Whale Take Reduction Plan, including the recent proposed rule and information on the co-occurrence model. Council staff will also provide (D) an update on the Endangered Species Act (ESA) Working Group, a collaborative group made up of members of the Council Coordination Committee (CCC) and the Marine Fisheries Advisory Committee (MAFAC). Additional briefings will include (E) the listing determination of River Herring, (F) the status review for American Eel, (G) proposed loggerhead sea turtle critical habitat, and (H) the Atlantic Sturgeon stock assessment update. The Committee will discuss potential action for each item and provide guidance to staff, and address issues under Other Business as needed.

A. Ongoing Formal Consultations

In June 2013, the Council approved a motion that stated: The Council will receive status updates from Protected Resources Division staff at each Council meeting while there are ongoing formal consultations. The intent of the motion was to allow Council members the opportunity to stay updated and provide input during the consultation process.

Currently a formal consultation is underway for the Coastal Migratory Pelagics (CMP) fishery, triggered by the listing in 2012 of the Carolina and South Atlantic distinct population segments (DPSs) of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) as endangered under the ESA. Staff from the SERO Protected Resources Division will provide the Committee with an update on the consultation and record input from Committee members for consideration during the consultation.

REQUIRED COMMITTEE ACTION: Provide input on the consultation, discuss and take action as necessary.

B. Right Whales (Attachment 1)

In June 2013, the Committee discussed interactions of the black sea bass pot fishery with right whales, and requested additional information on right whales. Staff from the SERO Protected Resources Division will provide a presentation on biology and behavior of Right Whales to inform black sea bass pot risk.

REQUIRED COMMITTEE ACTION: Discuss and take action as necessary.

C. Atlantic Large Whale Take Reduction Plan (Attachments 2a/2b and 3)

In July 2013, NMFS published a proposed rule to amend the regulations implementing the Atlantic Large Whale Take Reduction Plan. This proposed rule revises the management measures for reducing the incidental mortality and serious injury to the North Atlantic right whale (*Eubalaena glacialis*), humpback whale (*Megaptera novaeangliae*), and fin whale (*Balaenoptera physalus*) in commercial trap/pot and gillnet fisheries to meet the goals of the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA). The measures identified in the Plan are also intended to benefit minke whales (*Balaenoptera acutorostrata*), which are not strategic, but are known to be taken incidentally in commercial fisheries. Staff from the SERO Protected Resources Division will provide an overview of the proposed rule and potential impacts on fisheries in the South Atlantic region.

In June 2013, the Committee requested additional information on how right whale interactions with black sea bass pots are estimated, including a presentation on the co-occurrence model. Staff from the SERO Protected Resources Division will present information on the biology and behavior of right whales that contribute to understanding of how right whales could interact with fisheries, and demonstrate how the co-occurrence model was developed and is used to estimate right whale interactions with the black sea bass pot fishery. The co-occurrence model is used for all large whales but PRD staff will focus on how the model is used in the South Atlantic region.

REQUIRED COMMITTEE ACTION: Discuss and take action as necessary.

D. ESA Working Group (Attachment 4)

As an outcome of the 2012 annual Council Coordination Committee (CCC) meeting, a letter was sent to National Oceanic and Atmospheric Administration head Jane Lubchenco requesting the CCC and the Marine Fisheries Advisory Committee (MAFAC) establish of a joint working group to make recommendations on increasing transparency and improving confidence in ESA consultations on fishery management plans. The Working Group was convened in October 2012 by NMFS to increase confidence in the science and process used for Section 7 consultations under the ESA on Magnuson-Stevens Fishery Conservation and Management Act fishery management actions. Membership included MAFAC, NMFS, and CCC members. The Working Group has met via webinar and at joint meetings, and it currently working on recommendations to provide to NMFS to improve the ESA consultation process. Council staff will provide a briefing on the ESA Working Group progress and next steps.

REQUIRED COMMITTEE ACTION: Discuss and take action as necessary.

E. River Herring (Attachment 5)

In November 2011 NMFS published the 90-day finding of a petition to list alewife (*Alosa pseudoharengus*) and blueback herring (*A. aestivalis*), collectively referred to as river herring, as threatened under the ESA. In August 2013 NMFS announced that listing river herring as either threatened or endangered under the federal Endangered Species Act was not warranted at this time. However, the agency has provided funding to the Atlantic States Marine Fisheries Commission and will be working with the Commission and other partners to implement a coordinated coast-wide effort to continue to address data gaps and proactively conserve river herring and their habitat.

REQUIRED COMMITTEE ACTION: Discuss and take action as necessary.

F. American Eel

In September 2011, the U.S. Fish and Wildlife Service issued a 90-day finding on a petition to list American eel (*Anguilla rostrata*) as threatened under the ESA, which concluded that sufficient information existed to conduct a status review for American Eel and issue a 12-month finding. In August 2012, The Center for Science, Accuracy, and Reliability filed a complaint against the Secretary of the Interior to compel the agency to meet the requirements of publishing the finding on the status review within 12 months. A stipulated settlement agreement was filed in April 2013 that requires USFWS to publish the finding of the status review for American Eel by September 30, 2015.

REQUIRED COMMITTEE ACTION: Discuss and take action as necessary.

G. Critical Habitat for Loggerhead Sea Turtles (Attachments 6a/6b)

The U.S. Fish and Wildlife Service (Service) has begun the process of identifying coastal beach habitat important for the recovery of the threatened Northwest Atlantic Ocean population of loggerhead sea turtles, as directed by the Endangered Species Act (ESA). The agency has preliminarily identified portions of island and mainland coastal beaches in six states to propose as critical habitat, and is seeking public comment on the proposed rule published in March 2013. The draft economic analysis of the proposed designation has been released and the comment period was extended to September 16, 2013. Additional information is available at <http://tinyurl.com/USFWSLoggerheadCritHabitat>.

REQUIRED COMMITTEE ACTION: Discuss and take action as necessary.

H. Atlantic Sturgeon Stock Assessment Update

The Atlantic States Marine Fisheries Commission will begin work on the 2014 benchmark stock assessment for Atlantic sturgeon (*Acipenser oxyrinchus*). The assessment will be used to evaluate the health of the stock and inform the management of this species. The data workshop was held in Providence, Rhode Island, on August 19-22, 2013.

REQUIRED COMMITTEE ACTION: Discuss and take action as necessary.