



**NOAA  
FISHERIES**

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# South Atlantic Region, Protected Resources, Overview and Update

Protected Species Committee Meeting

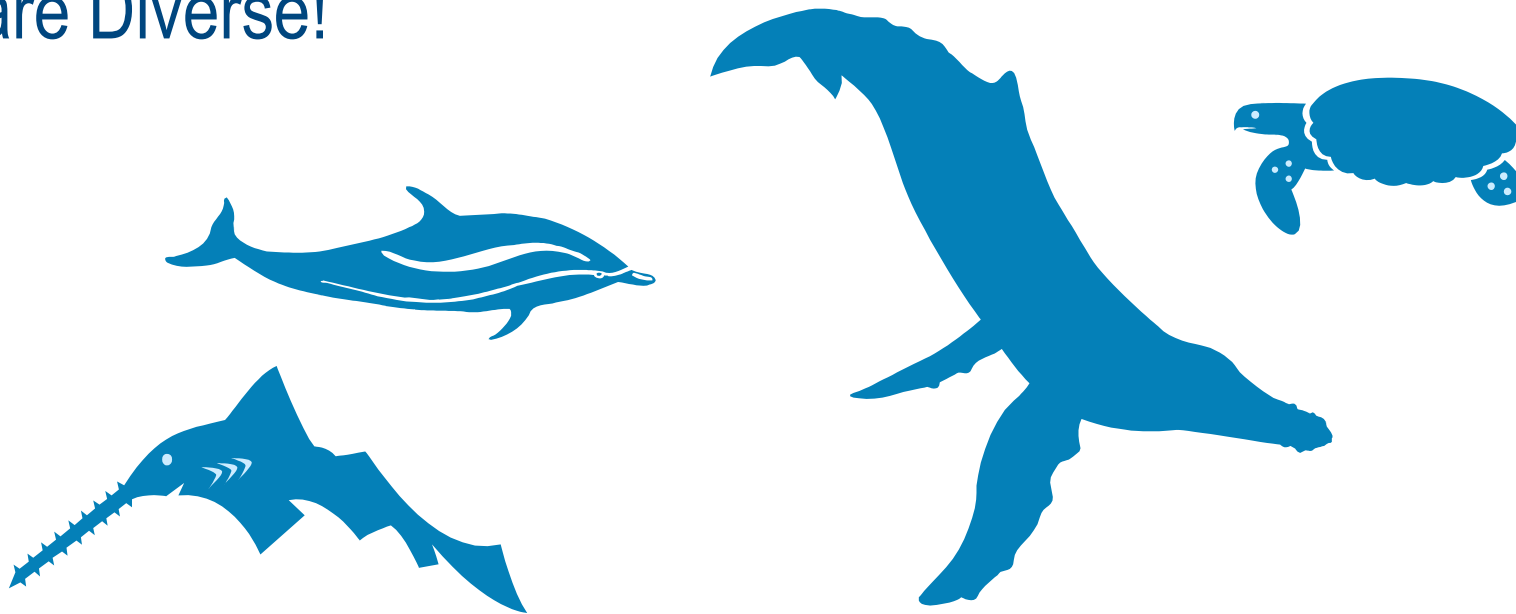
June 13, 2013

# Presentation Overview

- South Atlantic Protected Species and Critical Habitat
- Endangered Species Act and Fisheries
- Marine Mammal Protection Act and Fisheries
- Requested Updates from NMFS on:
  - Atlantic sturgeon listing and implication
  - New and revised coral listings proposed
  - **Right whales and black sea bass pots**
  - Status reviews for Nassau grouper and river herring

# Protected Species in the South Atlantic Region

- Mammals, and turtles, and fish! Oh My!! And corals.. and a plant too... Protected species in the Southeast are Diverse!

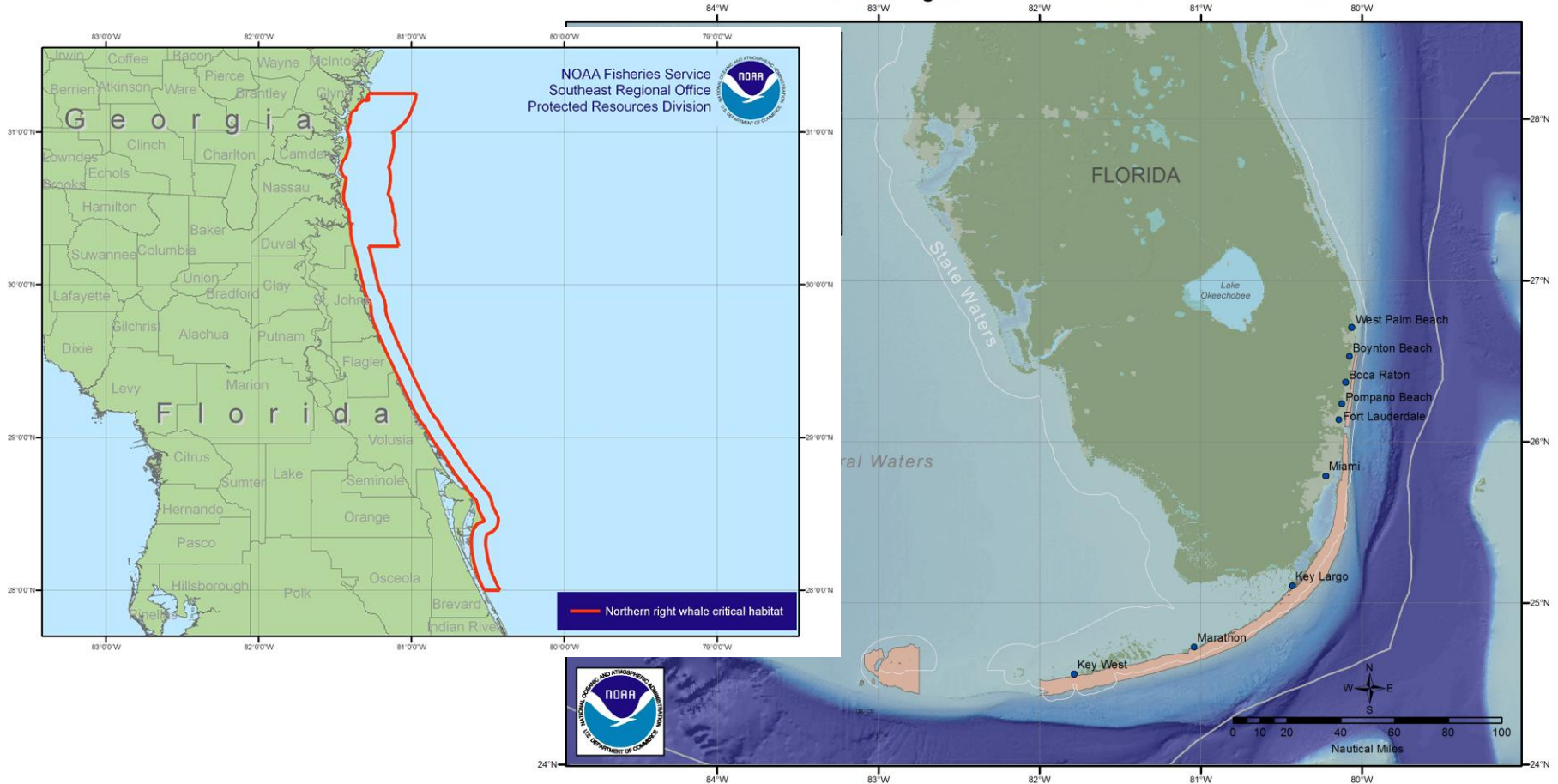


# Protected Species in the South Atlantic Region

- Protected under the ESA and MMPA
  - **Whales:** blue, fin, humpback, right, sei, and sperm
- Protected under the ESA
  - **Sea turtles:** green, hawksbill, Kemp's ridley, leatherback, loggerhead
  - **Fish:** Atlantic sturgeon, and shortnose sturgeon, smalltooth sawfish
  - **Corals:** Elkhorn and staghorn
  - **Plants:** Johnson's sea grass
- Protected Under the MMPA
  - Pilot whales, Bottlenose dolphins, and 23 more!

# Critical Habitat in the South Atlantic Region

Elkhorn and Staghorn Coral Critical Habitat - Florida Unit



# MMPA & Fisheries

- Main Issues=Entanglement in nets and line; dolphin depredation/predation
- Management via:
  - List of Fisheries/Marine Mammal Authorization Program
  - Take Reduction Plans (TRPs)
    - Atlantic Large Whale TRP
      - SG Black Sea Bass Pots, CMPR gillnet
    - Bottlenose Dolphin TRP
    - Atlantic HMS Pelagic Longline TRP



# ESA and Fisheries

- Threat: Hooking and entanglement of ESA-listed species in fishing gear
- Management via:
  - Section 7 consultations and 10(a)(1) B permits
  - ESA 4(d) rules addressing threats to threatened species

# ESA & Fisheries: Section 7 Requirements

- **Section 7(a)(1) Affirmative Conservation Mandate:** All Federal agencies shall use their authorities to carry out their programs for the conservation of endangered & threatened species.
- **Section 7(a)(2) Duty to Avoid Jeopardy:** Each federal agency must insure that any action authorized, funded, or carried out by them is not likely to jeopardize the continued existence of any T/E species.
- **Section 7(b)(3):** At the conclusion of formal consultation, a written statement detailing how the action will affect T/E species must be issued





# Reinitiation of Formal Consultation Criteria

- Requires reinitiation of formal consultation if discretionary involvement or control over an action is retained and:
  - the amount or extent of the incidental take is exceeded;
  - new information reveals effects of the agency action that may affect T/E species or Critical Habitat (CH) in a manner or to an extent not previously considered
  - the agency action is subsequently modified in a manner that causes an effect to the T/E species or CH not previously considered
  - if a new species is listed or critical habitat designated that may be affected by the identified action

# South Atlantic FMPs with Biological Opinions

- Spiny Lobster (August 2009)
- Stone Crab (September 2009)
- CMPR (2007)-Reinitiation ongoing
- Snapper-Grouper (June 2006)
- Shrimp (May 2012)—Reinitiation ongoing
- Dolphin/Wahoo (May 2003)

<http://sero.nmfs.noaa.gov/pr/Section7FisheryBiologicalOpinions.htm>

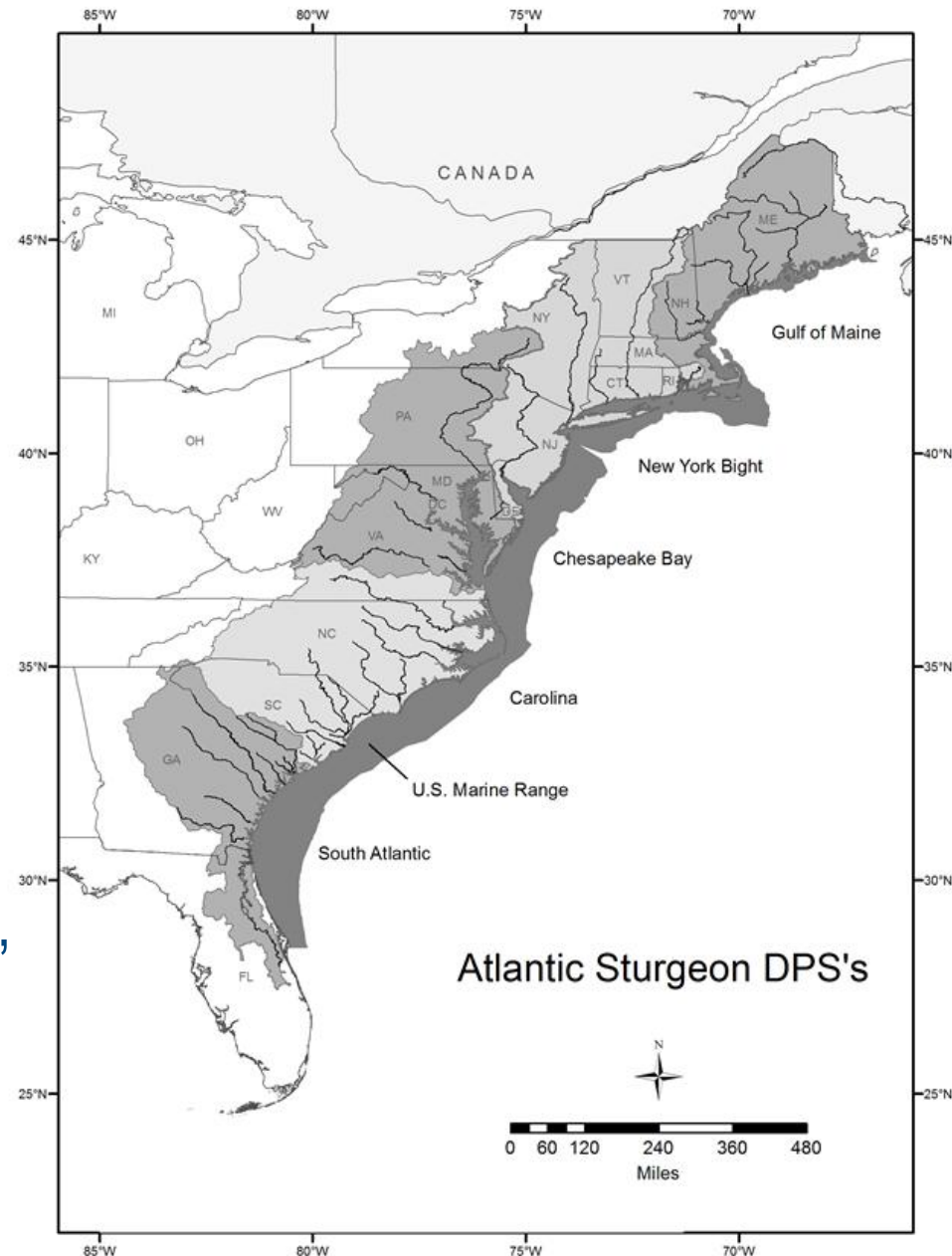


# Atlantic sturgeon



# Effective April 6, 2012

- 5 Distinct Population Segments (DPS):
  - Threatened = Gulf of Maine
  - Endangered = New York Bight, Chesapeake Bay, Carolina, South Atlantic
- In “marine range” (i.e. offshore) all DPSs mingle with each other , therefore all DPSs in South Atlantic Region



# Addressing Bycatch in the South Atlantic Region

- Completed first consultation on South Atlantic Shrimp fisheries (May 2012 opinion)
- CMPR consultation ongoing
- Bycatch estimates based on SEFSC observed CPUEs and total fishing effort
- Worked with GADNR on their state fisheries and issued a Section 10 permit
- Now working with the States of NC and SC

# Estimating Effects of CMPR gillnets

- Since 2002, the Shark Gillnet Observer Program has observed only two Atlantic sturgeon captures in the mackerel gillnet fishery
- Both captures occurred in 2011 and were released alive; capture rate of 0.0267 sturgeon per mackerel gillnet trip
- Based on 2011 NMFS unpublished data:
  - Approximately 76% of all reported Spanish mackerel landings and 85% of all reported king mackerel landings occurred in areas south of the known range of Atlantic sturgeon
  - 900 mackerel gillnet trips, 225 presumed within Atlantic sturgeon range, therefore 6 captures estimated
  - Mean percent composition estimate for each Atlantic sturgeon DPS is: 2% St. John (Canadian population), 11% Gulf of Maine DPS, 49% New York Bight DPS, 14% Chesapeake Bay DPS, 20% South Atlantic DPS

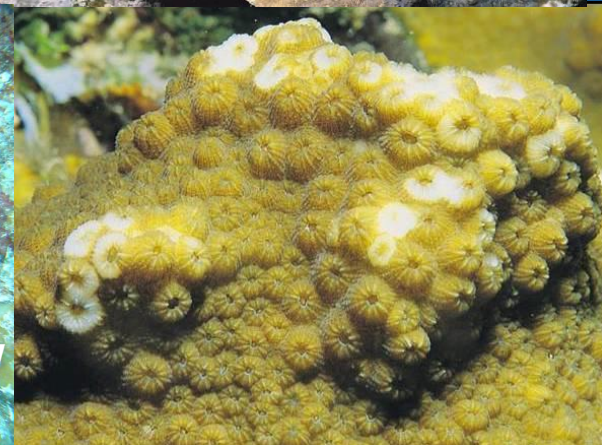


# Questions?





# Coral Update



For photo credits, see the 2011 Status Review





# Corals: Proposed ESA Listing

- On December 7, 2012, we published a Proposed Rule to list 12 corals as Endangered
  - 5 Caribbean: *Montastraea annularis*, *M. faveolata*, *M. franksi*, *Dendrogyra cylindrus*, and *Mycetophyllia ferox*
  - 7 Indo-Pacific
- We are also Proposing to reclassify elkhorn (*Acropora palmata*) and staghorn (*A. cervicornis*) corals from Threatened to Endangered
- We are also Proposing to list 54 corals as Threatened
  - 2 Caribbean: *Agaricia lamarcki* and *Dichocoenia stokesi*
  - 52 Indo-Pacific
- We determined listing of 16 species in Indo-Pacific are Not Warranted
- 90-day comment period closed April 6, 2013.
- Final listing decision due by December 2013

# Basis of proposal?

## Status of coral species, and threats to coral species:



NOAA Technical Memorandum NMFS-PIFSC-27

September 2011

### Status Review Report of 82 Species of Corals Under the U.S. Endangered Species Act



Russell E. Brainard, Charles Birkeland, C. Mark Eakin,  
Paul McElhany, Margaret W. Miller, Matt Patterson,  
and Gregory A. Piniak

Pacific Islands Fisheries Science Center  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration  
U.S. Department of Commerce

## Management of threats to coral species:

### Management Report for 82 Corals Status Review under the Endangered Species Act:

Existing Regulatory Mechanisms  
(per Endangered Species Act § 4(a)(1)(D), 16 U.S.C. § 1533(a)(1)(D))  
and Conservation Efforts  
(per Endangered Species Act § 4(b)(1)(A), 16 U.S.C. § 1533(b)(1)(A))

November 2012



Coral bleaching, Guam  
By David Burdick, NOAA Photo Library

Pacific Islands Regional Office  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration  
Department of Commerce

# Supplemental Information Report

- New information was identified as part of NOAA's Public Engagement process (April-July 2012)
  - NOAA was provided or we identified approximately 400 relevant scientific articles, reports, or presentations either produced since the *Status Review Report* was finalized or not originally included in the report
  - NOAA gathered approximately 42,000 public comments
- *Supplemental Info Report* available online

# General Implications If Corals are Listed

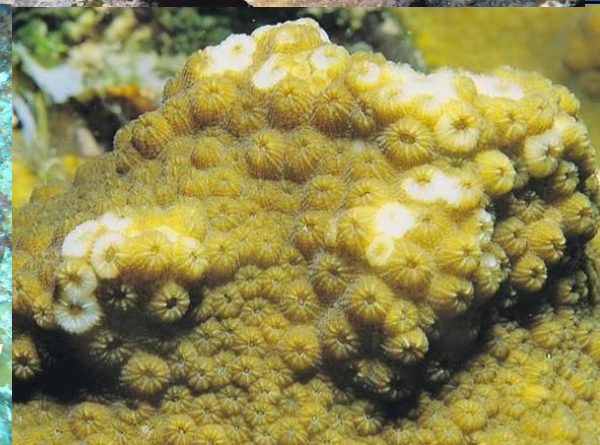
	Endangered	Threatened
Increased protection from impacts from federal activities	✓	✓
Restrictions on removal, harm, transport, or sale	✓	*
Development of Recovery Plans	✓	✓
Potential funding for State, Territorial, and Commonwealth fisheries & wildlife agencies	✓	✓

# Implications Specific to the South Atlantic Region

- If new and revised listings occur, reinitiation of formal section 7 consultation expected on the spiny lobster fishery
- Reinitiation of formal consultation may also be necessary on CMPR fisheries



# Questions?

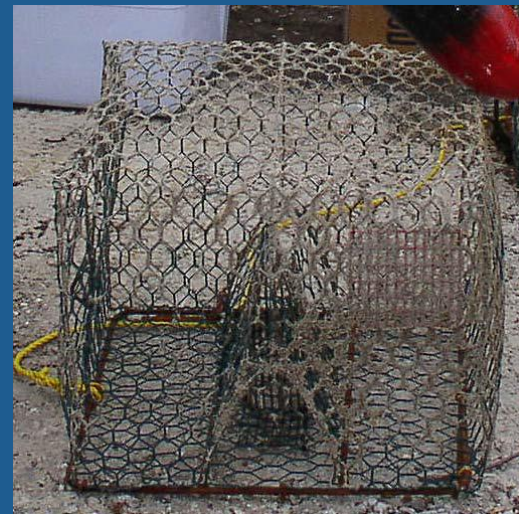


For photo credits, see the 2011 Status Review





# Right whales and black sea bass pots



# Right whale entanglements

- Entangling gear is often not assigned to a particular fishery or location because there is not enough detail from the gear (Waring et al. 2012).
- From 1997-2008, gear marking led to identifying fishery, location, and date of an entanglement in only 10% of cases (Johnson et al. 2005).
- Rope from trap/pot gear was more frequently found on entangled right whales than rope associated with gillnets when gear from entangled whales could be identified (Johnson et al. 2005).



# Atlantic Large Whale Take Reduction Plan (ALWTRP)

- A plan to reduce the risk of serious injury to or mortality of large whales due to incidental entanglement in U.S. commercial fishing gear.
- An **evolving** plan that changes as NMFS and the ALWTRT learn more about why whales become entangled and how fishing practices might be modified to reduce the risk of entanglement.
- Several components:
  - restrictions on where and how gear can be set
  - research into whale populations and whale behavior, as well as fishing gear interactions and modifications
  - outreach to inform and collaborate with fishermen
  - a disentanglement program.

# ALWTRP Background

- 2001-2003: Focused on gear modifications (weak links) to vertical line surface systems intended to reduce the risk of entanglement and/or the severity of an entanglement during surface feeding activity and seasonal and dynamic gear modifications
- 2002: ALWTRT acknowledged that further action was necessary to address entanglements from both ground line and vertical line and agreed to address ground line first
  - 2003 ground line strategy initiated (scoping, draft EIS & comment, proposed rule & comment, final EIS, final rule);
- 2009: Sinking ground line rule implemented
- Current priority is to reduce the risk of large whale entanglement in vertical lines from trap pot gear
  - Rulemaking underway; proposed rule anticipated this year

# Evaluating Vertical Line Entanglement Risks

- Vertical line Entanglement Strategy Assumptions
  - Vertical Line Entanglement is influenced by the density of whales and the density of vertical lines (both may independently affect encounter rate)
  - Density of whales and density of lines contribute equally to risk
  - Behavior of whale influences likelihood of interaction and severity of interaction (but cannot predict or manage that)
  - Age and Size of whale influence the whales ability to break free of gear
- Entanglement risk factors:
  - Line length (ft of line in water)
  - Line breaking strength
  - Weight of trap
  - Distance fishing from shore
  - Age class(es) present

# The ALWTRP and the Black Sea Bass Fishery

- The black sea bass (BSB) fishery was not fully considered by ALWTRT because during vertical line and whale co-occurrence model development, the BSB fishery was not co-occurring with large whales (i.e. the BSB fishery was not represented in the model used to develop the ALWTRT's vertical line risk reduction strategy).

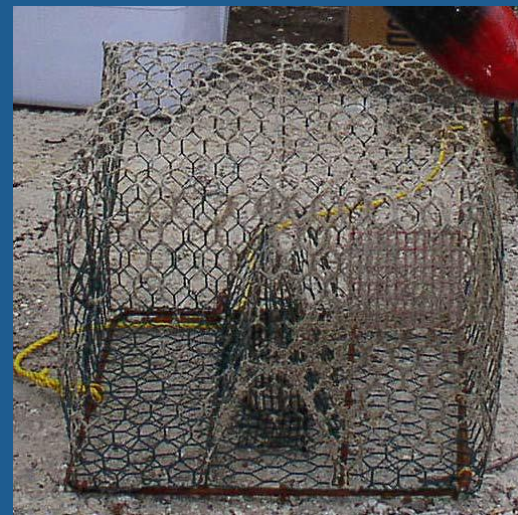
# Black Seabass Fishery Management & Right Whales

- From 2009-2012, the black sea bass pot fishery has typically been closed in the southeast during the Nov. 1 - April 30 timeframe.
- Due to the combination of endorsement reduction (Amendment 18A), other effort limiting measures (e.g. limited number of pots, etc.), and the proposed increase in the black sea bass ACL, the black sea bass trap pot fishery has a greater probability of now extending into the timeframe when large whales migrate into and inhabit Southeast waters (Nov 1-April 30)
- The Proposed November 1 – April 30 black sea bass pot gear closure in SG Am. 19 will protect large endangered whales during their migration and the calving season

# What Happens if the Council Proposes to Remove the Closure?

- Large whales and black sea bass pots will co-occur and there's high risk of entanglement
- Re-evaluation of the black sea bass pot fishery and its effects on right whales and other large whales, like endangered humpbacks, via
  - A new ESA biological opinion
  - ALWTRT Briefing and Reconsideration by the Team?
  - Right Whale Recovery Plan Implementation Team Brief and Action?

# Questions?





# Nassau Grouper Update



Photo from <http://animal.discovery.com/guides/endangered/fish/nassau-grouper.html>





# Nassau Grouper (*Epinephelus striatus*)

## Endangered Species Act Status Review

- In response to petition from WildEarth Guardians, NMFS published a positive 90-day finding and committing to a status review (October 10, 2012)
- Public comments through December 10, 2012
- SEFSC is conducting a biological assessment for Nassau grouper. The biological assessment will be used to inform the ESA status review.
- The 12-month Determination is anticipated Fall 2013:
  - Possible Decisions: Propose for listing (T or E) or Not Warranted
- Any Proposed Listing would include a 60-day public comment period.
- Public hearings may also be held to solicit public comment.

# Questions?



Photo credit: <http://animal.discovery.com/guides/endangered/fish/nassau-grouper.html>



# River Herring Update

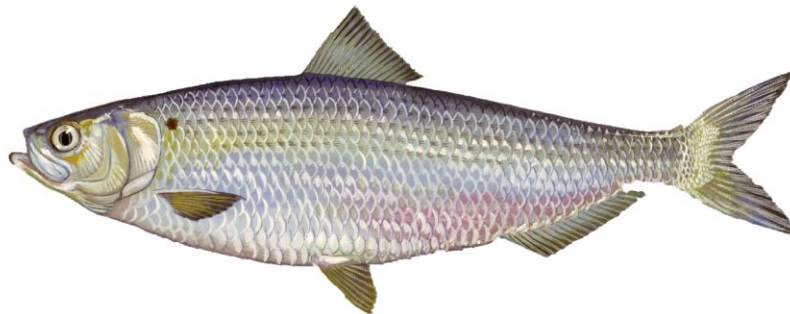


Photo credit: FWS



# River Herring Update

- On August 5, 2011, Natural Resources Defense Council petition to list alewife (*Alosa pseudoharengus*) and the blueback herring (*Alosa aestivalis*) each as threatened species under the ESA
- In November 2011, NMFS published a positive finding on the petition in indicating that the petitioned action may be warranted.
- ASMFC completed a comprehensive benchmark stock assessment for river herring in May 2012.
- NMFS is using the stock assessment as a critical component of the status review and held workshops last summer to address the gaps between what is in the stock assessment and what is needed to make an ESA listing determination.
- The workshops focused on stock structure, extinction risk and climate change. Reports from the workshops were prepared and externally peer reviewed. NMFS is currently working on completing the status review and listing determination and expects to publish the finding soon.

[http://www.nero.noaa.gov/prot\\_res/CandidateSpeciesProgram/RiverHerringSOC.htm](http://www.nero.noaa.gov/prot_res/CandidateSpeciesProgram/RiverHerringSOC.htm).

# Questions?

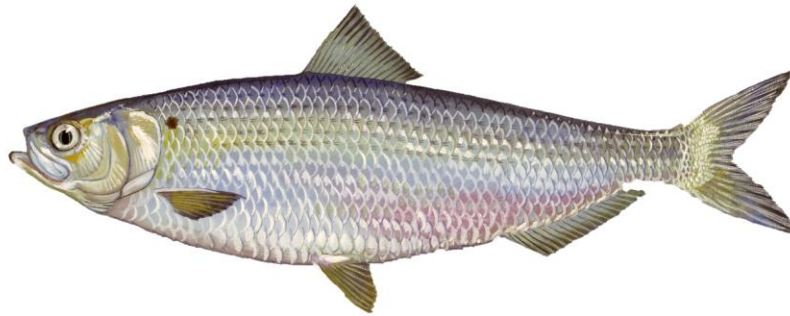


Photo credit: FWS

