

SERO Protected Resources Division Briefing Document December 2019 SAFMC Meeting

Endangered Species Act (ESA) Listing and Rulemaking

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

- On December 16, 2016, NOAA Fisheries published a proposed rule that, if implemented, would require all shrimp trawlers using skimmer trawls, pusher-head trawls, and wing nets to use TEDs designed to exclude small turtles in their nets.
- A NOA for the FEIS published in the Federal Register on November 15th.
- The Final Rule is expected to publish in mid December .

Revised ESA Section 4 and Section 7 Regulations [Update]

- On August 27, 2019, FWS/NMFS published two Final Rules revising portions of our regulations that implement sections 4 and 7 of the ESA.
- The revisions to the Section 4 regulations clarify, interpret, and implement portions of the Act concerning the procedures and criteria used for listing or removing species from the Lists of Endangered and Threatened Wildlife and Plants and designating critical habitat.
- The revisions to the Section 7 regulations clarify, interpret, and implement portions of the Act concerning the interagency cooperation procedures.
- The Final rules each had an effective date of September 26, 2019; the effective date of the Section 7 rule was delayed until October 28, 2019; the rules are available at <https://www.federalregister.gov/documents/2019/08/27/2019-17518/endangered-and-threatened-wildlife-and-plants-regulations-for-listing-species-and-designating> and <https://www.federalregister.gov/documents/2019/08/27/2019-17517/endangered-and-threatened-wildlife-and-plants-regulations-for-interagency-cooperation>

ESA Section 7 Related Actions and News

FMP Consultations [No change]

- Section 7 consultations on SA and Joint SA/Gulf of Mexico FMPs (Wahoo, Spiny Lobster FMPs) have been reinitiated to address newly listed species/DPSs. With multiple SERO fisheries consultations reinitiated in the Southeast to address recent revised/new listings (e.g., Oceanic whitetip, Giant Manta Rays); consultation timelines are extended.

Marine Mammal Protection Act (MMPA) Actions and News

MMPA List of Fisheries Proposed Rule [New]

- The 2020 proposed List of Fisheries published in the Federal Register on October 10th and comments were accepted through November 12, 2019. Here is a link to the FR notice: [84 FR 54543; October 10, 2019](https://www.federalregister.gov/documents/2019/10/10/2019-20443/mmpa-list-of-fisheries-2020-proposed-rule). The 2020 proposed LOF can be found on our website in two places.
 - Under rules and regulations - <https://www.fisheries.noaa.gov/action/mmpa-list-fisheries-2020-proposed-rule>
 - On the LOF page - <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-protection-act-list-fisheries>
- The number of vessels/persons data and list of species and/or stocks incidentally killed or injured in Fisheries occurring within the South Atlantic Region but there were no classification changes this year.

Atlantic Large Whale Take Reduction Team [Update]

- The DEIS for the ALWTRP is expected in late 2019. Public input is possible at this stage.
- The proposed rule is expected to publish by early 2020. Public comment is also possible at this stage.

North Atlantic Right Whale Unusual Mortality Event (UME) [Update]

- Elevated North Atlantic right whale mortalities began in 2017, primarily in Canada, and were declared a UME. Since June 7, 2017, elevated North Atlantic right mortalities have been documented, primarily in Canada and were declared an [Unusual Mortality Event](#). In 2017, there was a total of 17 confirmed dead stranded whales (12 in Canada; 5 in the United States). In 2018, three whales stranded in the United States. In 2019, there have been 10 right whale deaths as of 9/30/2019 (9 in Canada; 1 in the United States). The preliminary cause of death for three of the 2019 NARW strandings were consistent with vessel strike injuries, five are still pending, and two are undetermined. The current total mortalities for the UME is 30 dead stranded whales (21 in Canada; 9 in the United States). More information on this UME is provided at: <https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2019-north-atlantic-right-whale-unusual-mortality-event>.
- The most recent North Atlantic right whale population estimate is about 412 whales. The population has been in decline since 2010.

Humpback Whale UME [No change]

- Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida.
- A portion of the whales have shown evidence of pre-mortem vessel strike; however, this finding is not consistent across all of the whales examined, so more research is needed.
- As part of the UME investigation process, NOAA assembled an independent team of scientist to coordinate with the Working Group on Marine Mammal UMEs to review the data collected, sample stranded whales, and determine the next steps for the investigation.

Minke Whale UME [No change]

- Since January 2017, elevated minke whale mortalities have occurred along the Atlantic coast from Maine through South Carolina. While minke whales are protected under the MMPA, the species is not listed as endangered or threatened under the ESA.
- A portion of the whales have shown evidence of pre-mortem vessel strike; however, this finding is not consistent across all of the whales examined, so more research is needed.
- As part of the UME investigation process, NOAA is assembling an independent team of scientist to coordinate with the Working Group on Marine Mammal UMEs to review the data collected, sample stranded whales, and determine the next steps for the investigation.

Pelagic Longline Take Reduction Plan Proposed Rule Development [Update]

- The Pelagic Longline Take Reduction Team met via Webinar on September 26, 2019. Key outcomes from the meeting is available here: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/pelagic-longline-take-reduction-plan>. SERO is working on a proposed rule to update regulatory and non-regulatory requirements of the Pelagic Longline Take Reduction Plan based on consensus recommendations from the Pelagic Longline Take Reduction Team.

SERO anticipates scheduling a Team webinar during the public comment period for the Proposed Rule in early 2020.

Bottlenose Dolphin Take Reduction Plan [No Updates]

- A Bottlenose Dolphin Take Reduction Team meeting via webinar was held August 26. The purpose was to provide an opportunity for ongoing discussions in support of the Bottlenose Dolphin Take Reduction Plan implementation and monitoring. Key outcomes from the meeting will be available here: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/bottlenose-dolphin-take-reduction-plan>. The last Team meeting was an in-person meeting held December 5-7, 2017, to discuss modified or additional conservation measures to reduce gillnet bycatch of bottlenose dolphin estuarine stocks in North Carolina to levels required by the MMPA. The Team provided NOAA Fisheries with consensus recommendations for additional conservation measures, particularly related to North Carolina gillnet fisheries. The proposed rule to consider and analyze the Team's recommendations is in development.