

SERO Protected Resources Division's Briefing Document December 2017 SAFMC Meeting

Endangered Species Act (ESA) Listing Actions and Other Rulemaking

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

- 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.
- OMB has deemed this rule significant, and the final rule is currently under OMB review.

Atlantic Sturgeon Critical Habitat [Updated]

- On August 17, 2017, NOAA Fisheries published a final rule designating critical habitat for the five Distinct Population Segments (DPSs) of Atlantic sturgeon, effective September 18, 2017 (82 FR 39160).
- Fourteen units of critical habitat were designated in the Southeast, covering more than 2,996 miles of important coastal river habitat from the Roanoke River, NC, to the St. Marys River GA/FL. Critical habitat designations are only for the main stem of rivers; no estuary or marine habitats were designated.
- Critical habitat areas in coastal rivers were identified based on physical and biological features, such as substrate type in the river bed, water temperature, dissolved oxygen, and salinity, that are essential to the conservation of Atlantic sturgeon, particularly for spawning and development.

Application of Revised Listing Petition Regulations (50 CFR 424.14) Implementation [New]

- In 2016, NOAA Fisheries and U.S. Fish and Wildlife Service revised our joint regulations concerning the procedures by which we evaluate listing petitions under the ESA for the following reasons: (1) to improve the content and specificity of petitions, and (2) to enhance the efficiency and effectiveness of the petition process to support species conservation (81 FR 66461).
- For a petition to list, delist, or reclassify a species, or for petitions to revise critical habitat, petitioners must provide notice to the State agency responsible for the management and conservation of fish, plant, or wildlife resources in each State where the species that is the subject of the petition occurs. This notification must be made at least 30 days prior to submission of the petition.
- On October 12, 2017, SERO received its first petition since the new regulations went into effect, a petition to list Cuvier's beaked whales as an endangered or threatened DPS in the Gulf of Mexico.
- We encourage State directors to take a proactive role in providing petitioners and NOAA Fisheries with information on the subject species.

ESA Section 7-Related Actions

FMP Consultations [Updated]

- NOAA Fisheries completed an Amendment to the 2015 Biological Opinion on the Continued Authorization of the FMP for Coastal Migratory Pelagic Resources in the Atlantic and Gulf of Mexico on November 13, 2017. Consultation on the FMP was reinitiated because of the final rules to list green sea turtle DPSs and Nassau grouper under the ESA. The Amended Biological Opinion concluded that the CMP fishery's continued authorization is not likely to adversely affect Nassau grouper and is likely to adversely affect but is not likely to jeopardize the North

Atlantic and South Atlantic DPSs of green sea turtle. A revised Incidental Take Statement was issued.

- Section 7 consultation on other SA and SA/Gulf of Mexico FMPs (Wahoo, Spiny Lobster FMPs) has been reinitiated and/or is needed to address newly listed species/DPSs. SERO is currently prioritizing completion of these and all other SERO federal fishery consultations.

Marine Mammal Protection Act (MMPA) Actions and News

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

- Since June 7, 2017, elevated North Atlantic right whale mortalities have occurred primarily in Canada. A total of 15 confirmed dead stranded whales (12 in Canada; 3 in the U.S.), and five live whale entanglements in Canada have been documented as of November 1, 2017. An additional whale stranded in the U.S. in April of this year prior to the start of the UME bringing the annual total to 16 confirmed dead stranded whales (12 in Canada; 4 in the U.S.). More information on this UME is provided at:
<http://www.nmfs.noaa.gov/pr/health/mmume/2017northatlanticrightwhaleume.html>
- The most recent North Atlantic right whale population estimate is about 458 whales, which is up from around 270 in 1990, but has shown a consistent decline since the 2010 estimate of 483.

List of Fisheries (LOF) 2018 [New]

- On October 12, 2017, NOAA Fisheries published its proposed LOF for 2018, as required by the MMPA (82 FR 47424). The comment period closed on November 13, 2017.
- The MMPA requires that NOAA Fisheries 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 NOAA Fisheries to lawfully incidentally take marine mammals, carry observers if requested by NOAA Fisheries, and may be subject to a Take Reduction Plan.

Final 2016 Marine Mammal Stock Assessment Reports (SARs) [Updated]

- The Marine Mammal Protection Act requires NOAA Fisheries and the U.S. Fish and Wildlife Service to prepare SARs for all marine mammal stocks occurring in waters under U.S. jurisdiction. SARs must be reviewed annually for strategic stocks and at least once every three years for other stocks. If the status of a marine mammal stock has changed or its status can be determined more accurately, the stock's report must be revised.
- NOAA Fisheries issued a notice announcing availability of the final 2016 SARs and response to public comments on June 27, 2017 (82 FR 29039).

Pelagic Longline Take Reduction Plan Proposed Rule Development [No change]

- 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 after meetings in December 2015 and September and October 2016 (recommendations can be found in the Key Outcomes Memorandums at <http://www.nmfs.noaa.gov/pr/interactions/trt/pl-trt.html>).

Bottlenose Dolphin Take Reduction Plan (BDTRT) [No Change]

- The next meeting of the BDTRT will be an in-person meeting December 5-7, 2017. The main purpose of the meeting will be to assess the Bottlenose Dolphin Take Reduction Plan progress in meeting its short- and long-term goals for each affected strategic stock of bottlenose dolphins.