



**NOAA
FISHERIES**



SERO Protected Resources Update

December SAFMC Meeting

Jennifer Lee
Fisheries Biologist
Protected Resources/Fisheries Liaison
Southeast Regional Office
Protected Resources Division (PRD)

Presentation Overview

- 2024 ESA Listing and Critical Habitat Rulemaking Recap
- Reinitiation of Section 7 on the Island-Based FMPs
- Recovery Updates For:
 - Queen Conch
 - Oceanic whitetip shark
 - Giant manta ray
- ESA and MSA Integration Policy Directive



Figure 1: Juvenile queen conch in seagrass (Photo: Jennifer Doerr, NOAA-SEFSC).



Giant manta ray in Flower Garden Banks National Marine Sanctuary. Credit: NOAA/George Schmahl



Oceanic whitetip shark. Credit: NOAA Fisheries

2024 ESA Listing and Critical Habitat Rulemaking Recap

- Completed:
 - Nassau grouper Critical Habitat (Effective February 1, 2024)
 - Final Rule (89 FR 126, 01/02/2024)
 - Queen conch Listing as Threatened under the ESA (Effective March 15, 2024)
 - Final Rule (89 FR 11208; 02/14/2024)
- Pending Final Agency Decisions
 - Proposed Reclassification of Pillar Coral from Threatened to Endangered
 - Proposed Rule (88 FR 59494, 08/29/2023)
 - Comments received available at [regulations.gov](https://www.regulations.gov)
 - Green Sea Turtle Critical Habitat
 - Proposed Rule (88 FR 46572, 07/19/2023)
 - Comments available at [regulations.gov](https://www.regulations.gov)



Pillar coral with fish. Credit: NOAA Fisheries



Sect. 7 Consultation Reinitiation

- NOAA Fisheries' evaluated the 3 Comprehensive Island FMPs via the September 21, 2020 Batched Biological Opinion.
- Reinitiation of the Opinion is required because there are new listed species (i.e, Queen conch) and critical habitat (i.e., for 5 Caribbean Corals and Nassau grouper) which may be affected by Island FMP fisheries.
- Sustainable Fisheries and Protected Resources Divisions collaborated in advance on Section 7 action plans to help prepare for reinitiation.
- SFD has already requested reinitiation and met reinitiation data needs to move forward in the process.
 - SFD prepared an Biological Assessment for queen conch; for the other species/ SFD and PRD agreed to use data in recent rulemakings.
- PRD has a team of biologists working to complete this consultation.
 - Anticipate first draft this spring?
- SERO will continue keep the Council informed per the revised ESA MSA integration policy as the consultation progresses.

Action Agency:	National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), Southeast Regional Office (SERO), Sustainable Fisheries Division (F/SER2)
Activity:	Endangered Species Act (ESA) Section 7 Consultation on the authorization and management of the Puerto Rico fishery under the Puerto Rico Fishery Management Plan (FMP), the St. Thomas/St. John fishery under the St. Thomas/St. John FMP, and the St. Croix fishery under the St. Croix FMP SERO-2019-04047
Consulting Agency:	NOAA, NMFS, SERO, Protected Resources Division (F/SER3)
Date Issued:	09/21/2020
Approved By:	<div> <div>CRABTREE ROY</div> <div>E.DR.1365849559</div> <div>Digitally signed by CRABTREE ROY E.DR.1365849559 DN: cn=CRABTREE ROY E.DR.1365849559, o=NOAA, ou=NOAA, email=roy.e.d@noaa.gov</div> </div> <div>Roy E. Crabtree, Ph.D. Regional Administrator</div>

§ 402.16 Reinitiation of consultation.

- (a) Reinitiation of consultation is required and shall be requested by the Federal agency, where discretionary Federal involvement or control over the action has been retained or is authorized by law and:
- (1) If the amount or extent of taking specified in the incidental take statement is exceeded;
 - (2) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
 - (3) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or
 - (4) If a new species is listed or critical habitat designated that may be affected by the identified action.



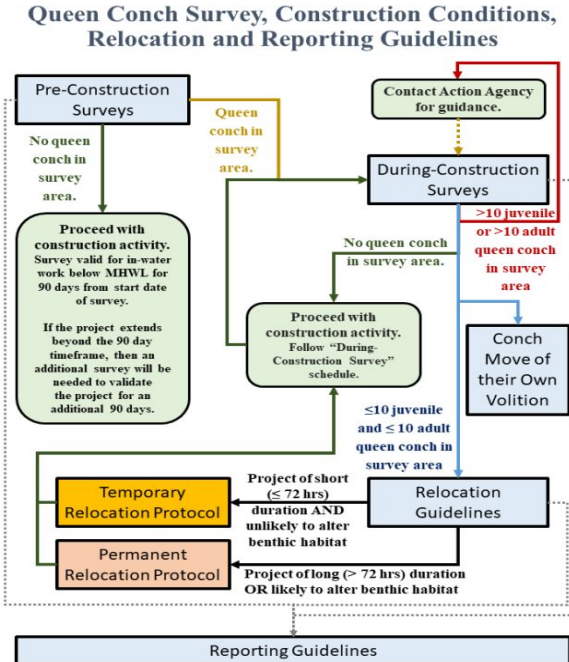
Queen Conch Recovery Workshops

- Queen Conch U.S. Recovery Workshops:
 - Four In-Person US Recovery Workshops completed: 2 in Puerto Rico (May 7th and 9th), 1 in Florida (May 22nd); 1 in St. Croix (May 30th)
 - Eastern PR - over 50, Western PR - over 70, Florida - Over 20, St. Croix - Over 30
 - Stakeholders from various sectors participated in all four workshops. Representatives from the fishing community, distributors, managers, scientists, NGOs, and enforcement agents were all represented.
- Started International Recovery Workshops:
 - Recovery workshop held in Gosier, Guadeloupe on November 5th
 - Over 30 participants
 - Stakeholders from various sectors participated, including widespread representation from many jurisdictions throughout range of queen conch
 - Engagement with the Dutch Caribbean Nature Alliance in St. Martin and Saba.
- Workshop Next Steps:
 - Continue to engage with partners, both nationally and internationally
 - Hold several virtual workshops with more technical themes (mainly focused scientific and enforcement feasibility)
 - Finalize workshops report and disseminate among agencies and with Councils
 - Use information for recovery plan development and any 4(d) regulations if pursued



Queen Conch Guidance For Section 7 Biologists and Federal Agencies

- Section 7 guidance for federal action agencies and section 7 consultation biologists developed
 - Federal agency guidance shared with U.S. Army Corps of Engineers (USACE) for input and suggestions
- Guidance posted online in September to alleviate “consultation needs”
 - [Queen Conch Consultation Framework](#)
 - [Queen Conch Survey, Construction Conditions, Relocation, and Reporting Guidelines](#)
- Updated guidance to be posted in December based on input from USACE and others.



Oceanic Whitetip Shark **Final** Recovery Plan and Notice of Initiation of 5-Year Review

- July 11, 2024: NOAA Fisheries adopted the OWT Recovery Plan
- As required by the ESA, the draft plan contains the following three components:
 - a description of site-specific management actions necessary for the conservation and survival of the species (recovery actions);
 - objective, measurable criteria that, when met, will allow the species to be removed from the endangered and threatened species list; and
 - estimates of the time and funding required to achieve the plan's goals.
- NOAA Fisheries is required by the ESA to conduct 5-year reviews to ensure that the listing classification of a species as threatened or endangered under the ESA is accurate.
- Relatively limited U.S. Caribbean data on OWT and fishery interactions. In the Batched Biological Opinion, SERO determined approval of the FMPs and associated fisheries in the U.S. Caribbean Exclusive Economic Zone (EEZ) is likely to adversely affect OWT based on take data in federal recreational fisheries.
- NOAA Fisheries accepted information relevant to the 5-year review through September 9, 2024



Oceanic Whitetip Shark Proposed 4(d) Rule

- On May 14, 2024, NOAA Fisheries published a proposed rule to issue protective regulations under section 4(d) of the Endangered Species Act (ESA) for the conservation of the threatened oceanic whitetip shark (*Carcharhinus longimanus*) ([89 FR 41979](#)). NOAA Fisheries also announced the availability of a draft environmental assessment (EA).
- The proposed regulations would apply all of the ESA Section 9 prohibitions (pertaining to take) for endangered species to this threatened species, with limited exceptions for scientific research and law enforcement activities that contribute to the conservation of the species.
- The comment period is now closed. NOAA Fisheries received over 49,000 comments on the proposed protective regulations for the oceanic whitetip shark from the public and interested parties from May 14, 2024 to September 15, 2024.
- NOAA Fisheries will consider all relevant information, comments, and recommendations received before reaching a final decision on ESA section 4(d) regulations for the oceanic whitetip shark.
- Additional information on conservation and management for oceanic whitetip sharks may be reviewed [here](#).

Giant Manta Ray Draft Recovery Plan and Notice of Initiation of 5-Year Review

- October 15, 2024: Announced the availability of Draft Recovery Plan for giant manta ray ([89 FR 82991](#)) and initiation of 5-Year Status Review
- The Draft Recovery Plan contains the following three components:
 - a description of site-specific management actions necessary for the conservation and survival of the species (recovery actions);
 - objective, measurable criteria that, when met, will allow the species to be removed from the endangered and threatened species list; and
 - estimates of the time and funding required to achieve the plan's goals.
- NOAA Fisheries is required by the ESA to conduct 5-year reviews to ensure that the listing classification of a species as threatened or endangered under the ESA is accurate.



Giant Manta Ray **Draft** Recovery Plan and Notice of Initiation of 5-Year Review

- The Original Giant Manta Ray Status Review and Draft Recovery plan have little information on giant manta rays in the U.S. Caribbean.
- Although giants manta rays are vulnerable to incidental hooking, entanglement, and vessel strikes, NOAA Fisheries does not currently have any bycatch data from the U.S Caribbean and in the 2020 Batched Biological Opinion made a “not likely to adversely affect” finding for giant manta rays.
- NOAA Fisheries is soliciting review and comment from the public and all interested parties on the Draft Recovery Plan through December 16, 2024. Comments and new information are also solicited and will be considered in the 5-year review, as applicable.



NOAA
FISHERIES

Revised ESA and MSA Integration Policy Directive

- The revised policy directive, effective October 3, 2024 further improves coordination between NOAA Fisheries and the Councils during the Endangered Species Act section 7 consultation process.
- Includes information on the unique role of Councils, the basic principles of the ESA, the mechanics of the section 7 consultation process, and the roles of NOAA Fisheries, Sustainable Fisheries and Protected Resources Offices/Divisions and the Councils in section 7 consultation.
- Promotes early coordination with Councils throughout the section 7 consultation process, includes recommendations for Council involvement in designing fishery management measures needed to minimize adverse effects on listed species and critical habitat, and communicates the parameters of engagement given statutory and regulatory requirements and timeframes.
- Includes new guidance on Section 7 action plans and document new information considerations
- The full policy directive publication is available [here](#).

Department of Commerce · National Oceanic & Atmospheric Administration · National Marine Fisheries Service	
<i>NATIONAL MARINE FISHERIES SERVICE POLICY 01-117</i>	
Effective on: October 3, 2024	
To be reviewed on: October 1, 2029	
Fisheries Management	
Integration of Endangered Species Act Section 7 with Magnuson-Stevens Act Processes	
NOTICE: This publication is available at: https://www.fisheries.noaa.gov/national/laws-and-policies/policy-directive-system	
Author name: Marla Hamilton, Tanya Dobrzynski, Marian Macpherson, Stephanie Hunt, Jason Kahn, Lisamarie Carrubba	
Office: Protected Resources, Sustainable Fisheries	
Certified by: Kimberly Damon-Randall, Kelly Denit	
Office: Protected Resources, Sustainable Fisheries	
Type of Issuance: Revision	
SUMMARY OF REVISIONS:	
Revised September 2024 to reflect changes to further improve coordination with the Magnuson-Stevens Fishery Conservation and Management Act Fishery Management Councils during the Endangered Species Act section 7 consultation process as it relates to Council actions. This procedural directive was initially issued on January 19, 2015 and last renewed September 2018.	

