



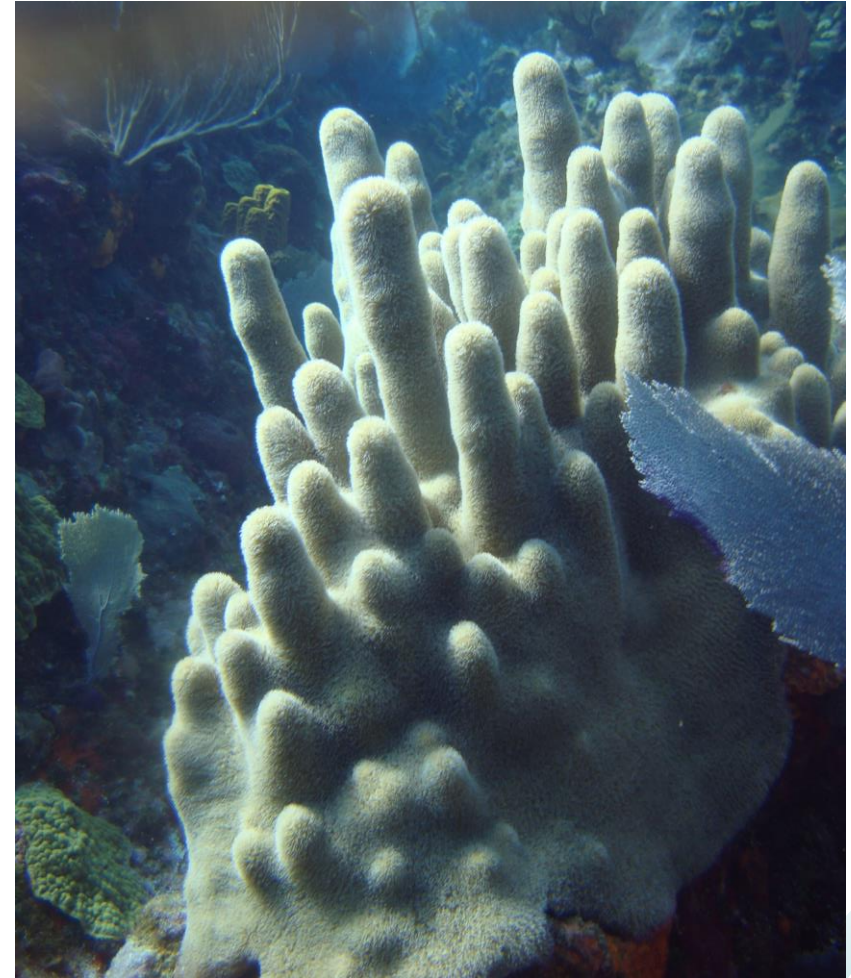
**NOAA
FISHERIES**

Proposed Rule to Change the ESA Status of Pillar Coral from Threatened to Endangered

September 27, 2023
Alison Moulding

Agenda

- Background on Listing Species under the ESA
- Extinction Risk of Pillar Coral
- Effects of a Change in Status
- How to Submit Public Comments



How Do Species Become Protected Under the Endangered Species Act?

NOAA scientists are required to use the *best scientific and commercial information available* as the basis for listing decisions. The ESA prohibits us from considering the economic impact of listing a particular species.

A species must be listed if it is threatened or endangered due to any of the following five factors:

- A. Present or threatened destruction, modification, or curtailment of its habitat or range
- B. Overutilization for commercial, recreational, scientific, or educational purposes
- C. Disease or predation
- D. Inadequacy of existing regulatory mechanisms
- E. Other natural or human-made factors affecting its continued existence.



What is the Difference between Endangered and Threatened?

Endangered: a species is considered “endangered” if it is in danger of extinction throughout all or a significant portion of its range.

- An “endangered species” is interpreted to be **presently at risk of extinction**.
- Endangered species are automatically protected by prohibitions of several types of "take" – including harming, harassing, collecting, or killing, under Section 9 of the ESA.

Threatened: defined as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range."

- A “threatened species” is interpreted as a species that is **not currently at risk of extinction but is likely to become so in the foreseeable future**.
- Threatened species can receive protections through separate regulations issued under Section 4(d) of the ESA. **These regulations occur separately from the listing.** Also called 4(d) rules, they can include the same prohibitions under Section 9 of the ESA.
 - 4(d) rules allows us to **customize** prohibitions and regulate activities to provide for the conservation of threatened species.

Pillar Coral ESA Background

2009: NOAA Fisheries received a petition to list 83 species, including pillar coral, as threatened or endangered throughout all or a significant portion of their range under the ESA.

2012: NOAA Fisheries published a proposed rule to list pillar coral as Endangered and opened a public comment period

2014: NOAA Fisheries published a final rule listing pillar coral as Threatened

2023: NOAA Fisheries published a proposed rule to change the status of pillar coral from Threatened to Endangered and opened a **public comment period through October 30, 2023**



Why are We Proposing a Change in Status for Pillar Coral?

- A requirement of the ESA is to review the status of listed species at least every 5 years
- The 5-year review is intended to make sure that the listing classification of a species is accurate
- NOAA Fisheries announced a 5-year review in January 2021 and completed it in August 2022
- The 5-year review recommended a change in status based on the best scientific and commercial data available concerning the threats to the listed species and efforts being made to protect the species



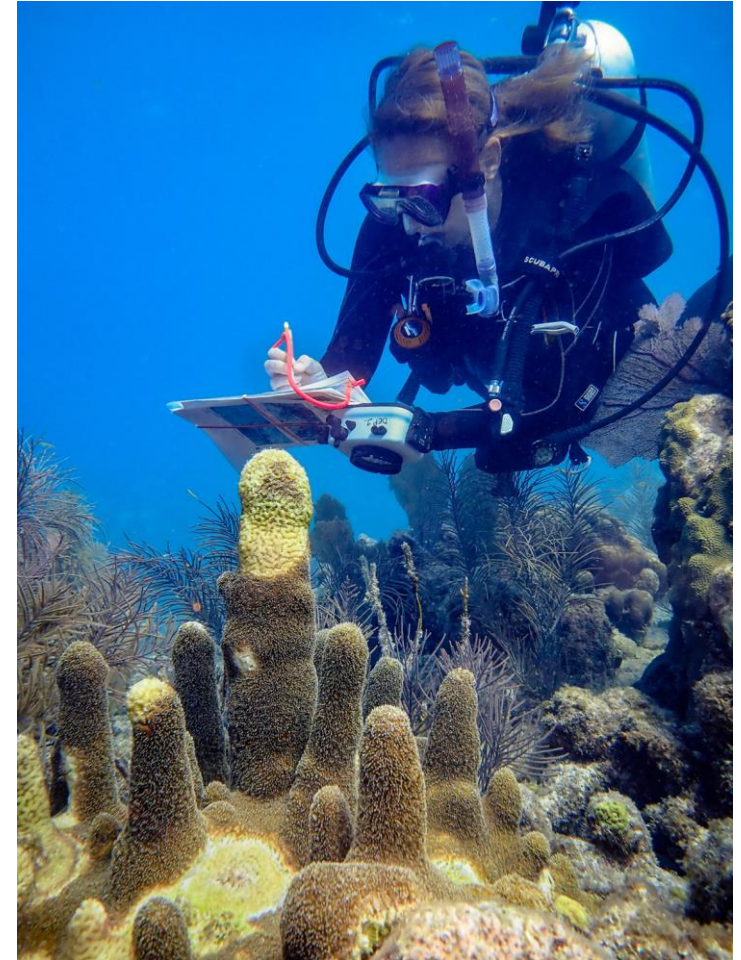
Risk of Extinction

Threats

- Ocean Warming
- Ocean Acidification
- Disease *
- Nutrient Enrichment
- Sedimentation
- Trophic Effects of Fishing
- Inadequacy of Regulatory Mechanisms to Address Global Threats

Demographic Factors

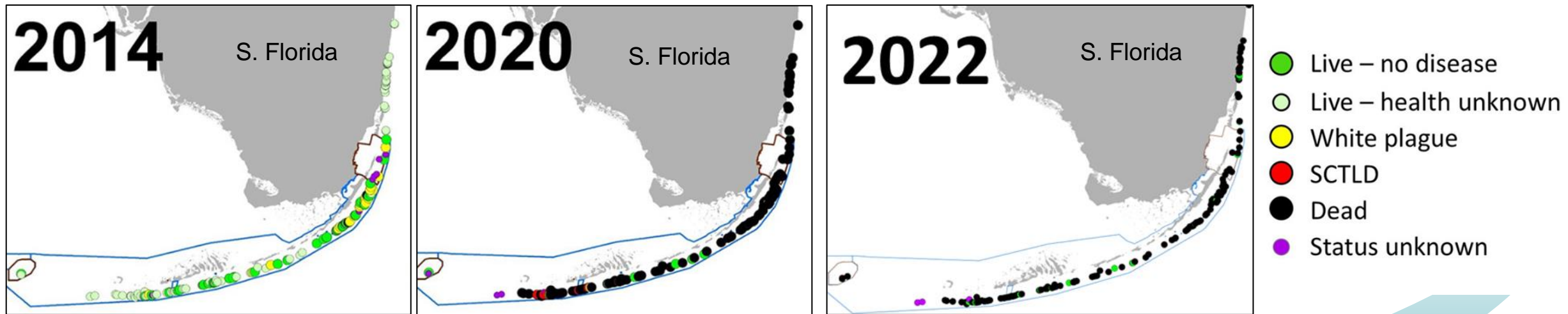
- Uncommon to rare occurrence
- Low sexual recruitment
- Declines in abundance and distribution *



Abundance, Trends, and Distribution

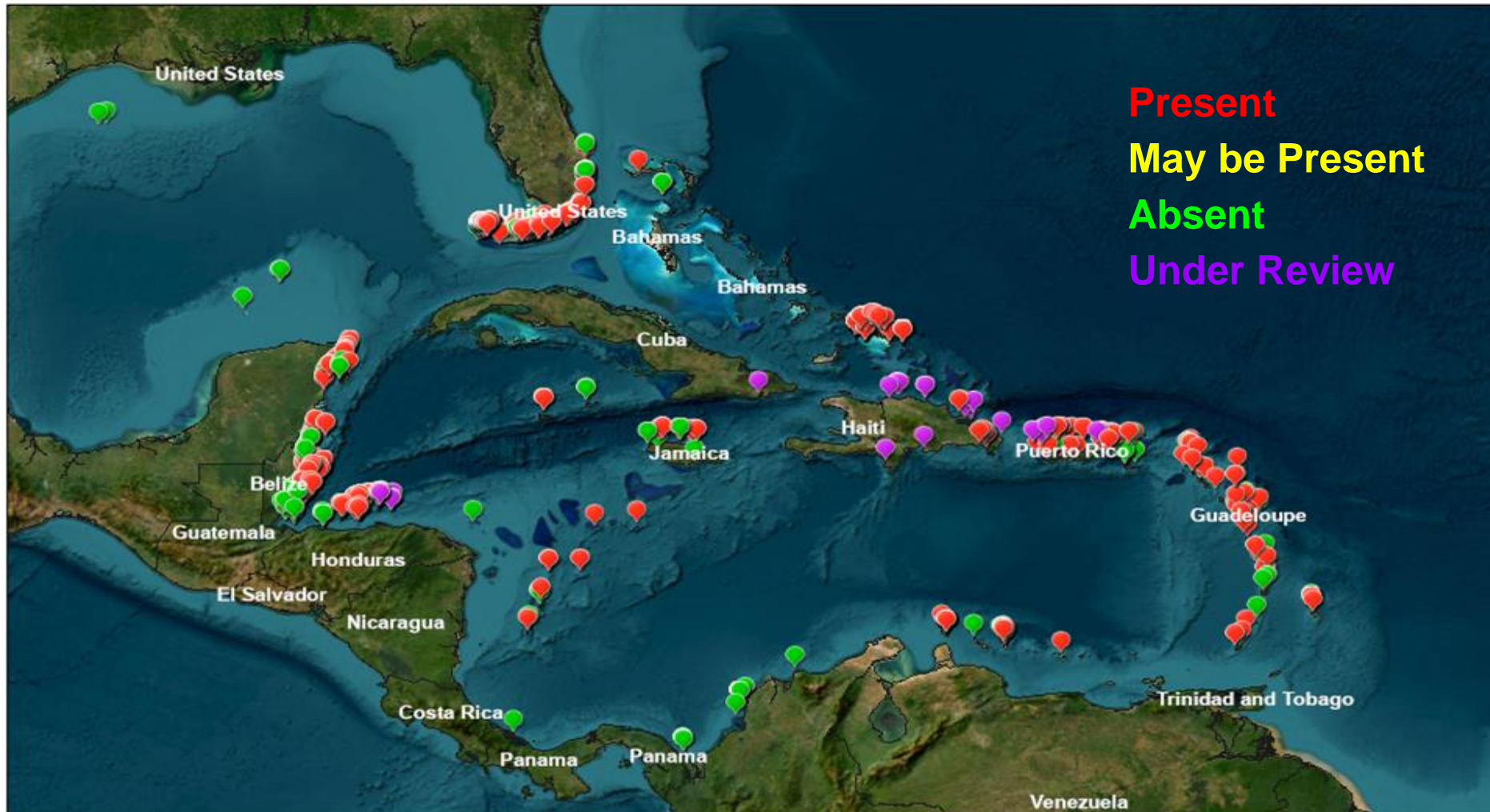
Declining trend in Colombia and Florida with severe losses in Florida

- Colombia: between 2002 & 2012 - reduced spatial extent, smaller colonies, higher partial mortality
- FL: 2013-2020 - 94% tissue loss, 93% colony loss, 86% genotype loss



Maps modified from Neely et al. 2021 and Neely 2023

Stony Coral Tissue Loss Disease



Kramer, P.R., Roth, L., and Lang, J. 2019. Map of Stony Coral Tissue Loss Disease Outbreak in the Caribbean. www.agrra.org. ArcGIS Online. August 24, 2023

Timeline

August 29, 2023

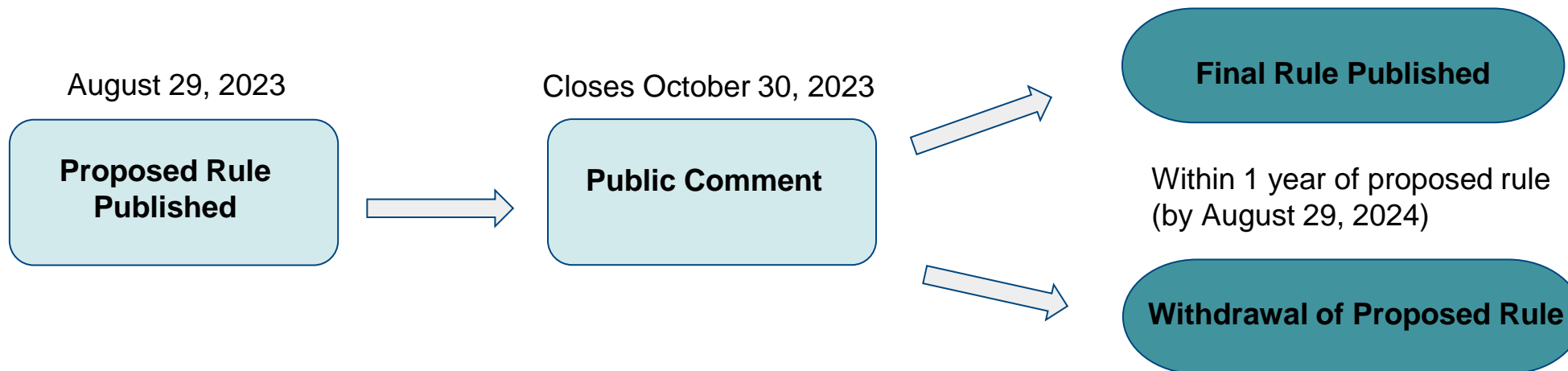
Proposed rule issued to change the status of pillar coral to Endangered

October 30, 2023

60 day comment period closes

By August 29, 2024

Final determination on whether to change the status of pillar coral under the ESA



What Happens if Pillar Coral is Listed as Endangered?

Endangered species are **automatically afforded protections** under Section 9 of the Endangered Species Act (ESA). For endangered animals, including any parts or products, the ESA prohibits:

- **Importing** to or **exporting** from the U.S.
- Delivering, receiving, carrying, transporting, or shipping in interstate or foreign **commerce** in the course of commercial activity
- **Selling or offering for sale** in interstate or foreign commerce
- **Taking** in the U.S., its territorial sea, or upon the high seas
- Possessing, selling, delivering, carrying, transporting, or shipping such species **taken illegally**

What is Take?

Defined as:

to harass, **harm***, pursue, hunt, shoot, **wound**, **kill**, trap, capture, or **collect**, or to attempt to engage in any such conduct.

**Harm is defined as:*

any act which actually **kills or injures**

What does the Listing Mean for Research and Conservation?

- Scientific research and enhancement activities involving take, import, or export of coral species that are listed as **endangered** would require an ESA Section 10(a)(1)(A) permit.
 - Collection including colonies, fragments, gametes, or tissue samples
 - Restoration including outplanting, reattachment, and stabilization
 - Experiments that manipulate pillar coral or their environment
- During the proposed rule stage, there are no changes to permit requirements for scientific research and enhancement activities for pillar coral. Prohibitions requiring an ESA Section 10(a)(1)(A) permit would go into effect when/if a final rule to list pillar coral as endangered goes into effect.



What does the listing mean for Federal Agency consultations under ESA Section 7?

- Federal agencies that authorize, fund, or carry out activities that may affect pillar coral will continue to consult with NMFS. Consultation requirements and processes will not change with a change in status of pillar coral from Threatened to Endangered.
- If a project is likely to result in adverse effects to pillar coral and is not likely to jeopardize its continued existence, a biological opinion will be issued with terms and conditions set forth by NMFS in an incidental take statement.



Next Steps

- **Public Comment Period**
 - Closes midnight **October 30, 2023**
- **Final Listing Determination / Final Rule**
 - Consider public comments and make a decision to finalize or withdraw the listing status change (**by August 29, 2024**)
 - Final rule / listing determination will address public comments
 - Final rule will specify when the change of status will go into effect (usually 30 days later)



Submit a Written Comment

Electronic Submission

Visit <https://www.regulations.gov> and search for **NOAA–NMFS–2023–0002**.
Click on the “Comment” icon and complete the required fields.
Enter or attach your comments.

Email

Submit written comments to alison.moulding@noaa.gov

Comments accepted through midnight EDT on **October 30, 2023**

