

Science, Service, Stewardship



Atlantic bluefin tuna petition and NMFS response

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Petition Process



- Any interested person can petition the Secretary of Interior and/or Commerce to list a species under the Endangered Species Act (ESA)
- Upon receiving a petition, the Secretary must make a finding within **90 days** (to the maximum extent practicable) as to whether the petition presents “substantial scientific or commercial information indicating that the petitioned action **may be warranted.**”



Substantial information

Defined as “the amount of information that would lead a **reasonable person** to believe that the measure proposed in the petition **may be warranted.**”

Must be information **in the petition** or contained in our files **at the time we receive the petition**



Negative 90 day finding



- Petition and/or information readily available in our files **does not** contain substantial scientific or commercial information indicating the petitioned action may be warranted
- Publish a notice in the *Federal Register* announcing the negative finding
- End of the process



Positive 90 day finding



- Petition and/or information readily available in our files **does** contain substantial scientific or commercial information indicating the petitioned action may be warranted
- Publish positive 90 day finding in the *Federal Register*
- Information may be solicited in the *FR* notice to address data gaps
- Species becomes a NMFS **Candidate Species**



Positive finding continued

- Initiate a review of the status of the species concerned
- Status review team (SRT) or Biological Review Team (BRT) may be formed
- SRT/BRT compiles available information, conducts threats assessment/extinction risk analysis, submits report to NMFS to make listing determination
- 12 months from **date of receipt of petition** – determination by NMFS as to whether listing is warranted must be published in *FR* (proposed rule if listing is determined to be warranted)



ESA definitions

Species = includes any subspecies of fish or wildlife or plants, and any distinct population segment (DPS) of any species or vertebrate fish or wildlife which interbreeds when mature

Endangered species = any species which is in danger of extinction throughout all or a significant portion of its range

Threatened species = any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range



Five Factors in the ESA

- A. the 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. the inadequacy of existing regulatory mechanisms;
- E. other natural or manmade factors affecting its continued existence



CBD petition

- Received on 5/24/10
- Petition to list the global species or any distinct population segments (DPS) of bluefin tuna as either T or E
- Overfishing, habitat destruction (including impacts from DWH oil spill), and inadequacy of existing regulatory mechanisms identified as primary threats



Petitioners noted:

- Significant declines in eastern and western stock abundance
- ICCAT management measures perceived as not effective at addressing overfishing globally
- Unknown effects from oil spill on spawning ground in the Gulf of Mexico
- Information suggesting at least 2 DPSs – eastern and western



NMFS Response

- Positive 90-day finding concluding that petition presents substantial information indicating petitioned action **may be warranted** published on September 21, 2010 (75 FR 57431)
- 90-day finding sought scientific and commercial information for the status review until **November 22, 2010**
- NMFS initiated a status review with a status review team (SRT)



NMFS response continued

- SRT is comprised of all federal NMFS employees
- Experts from outside federal government were able to submit info in response to the 90-day finding and some were asked to present info to the team
- NMFS is holding 5 listening sessions with fishermen to obtain additional information which will be incorporated into a section in the status review report



Status Review Team Members

Ms. Kim Blakenbeker	NMFS, IA, HQ
Dr. Craig Brown	NMFS, SEFSC
Ms. Kimberly Damon-Randall	NMFS, PRD, NERO
Dr. Guillermo Diaz	NMFS, ST/HMS, HQ
Ms. Sarah Laporte	NMFS, PRD, NERO
Ms. Sarah McLaughlin	NMFS, HMS, NERO
Mr. Mark Murray-Brown	NMFS, HMS, NERO
Ms. Marta Nammack	NMFS, OPR, HQ
Dr. Clay Porch	NMFS, SEFSC
Ms. Margo Schulze-Haugen	NMFS, HMS, HQ



Status Review Process

- Determine the “species” (e.g., full species, subspecies, DPS)
- Compile best available scientific and commercial information on the status, abundance and trends
- Five factor analysis
- Conduct a threats assessment or extinction risk analysis (may be quantitative or qualitative)



Status Review Process continued

- Consider ongoing or planned protective efforts
- Present available information on habitat needed for survival and recovery
- SRT will not make a recommendation as to whether listing the species is warranted
- Under the ESA, **economic impacts of a listing cannot** be considered
- Status review report is independently peer reviewed



Next Steps

- SRT will provide NMFS with a status review report (SRR)
 - February - report complete
 - March – report independently peer reviewed
 - April – report given to the agency
- NMFS will use the SRR to make a listing determination (e.g., listing is or is not warranted)
- NMFS will publish this determination 12 months after receiving the petition (by **5/24/11**)



Possible outcomes

- NMFS proposes to list the **species** as **endangered**
- 60 to 90 day public comment period, public hearings
 - NMFS must make a final determination no later than one year after proposed rule
 - If final rule is endangered, all **take** is automatically prohibited
 - Take defined as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.”



Possible outcomes continued

- Take from bycatch or incidental catch in non-directed fisheries prohibited unless authorized through Section 7 or 10 of the ESA
- NMFS must designate critical habitat at time of final listing (to maximum extent prudent) and initiate recovery planning



Possible outcomes continued

- NMFS proposes to list the species as **threatened**
- Secretary of Commerce must promulgate protective regulations that are necessary and advisable for the conservation of the species (e.g., a **4(d) rule**)
 - Directed take, bycatch, importation and exportation most likely prohibited (unless authorized through Section 7 or 10)
 - Critical habitat designated
 - Recovery planning initiated

NMFS determines that listing is **not warranted**





Discussion topics

- General impressions of the abundance and distribution of Atlantic bluefin tuna over time
- Trend observed in bluefin tuna catches over time
 - Perception of the cause – change in abundance, shift in distribution, change in availability, gear changes, regulatory effects, etc.
- Bluefin tuna “hot spots”
 - Locations (Inshore or offshore)
 - Spatial and temporal fluctuations
- Average size of bluefin tuna being caught by different gear types or fisheries
- Other information relevant to the review of the status of bluefin tuna
(Note: this does not include economic impacts or opinions on the validity of the petition).