

2.2 PROTECTED SPECIES

This section of the report summarizes information on protected species interactions in fisheries managed under the PRIA FEP. Protected species covered in this report include sea turtles, seabirds, marine mammals, elasmobranchs, and precious corals. Most of these species are protected under the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and/or the Migratory Bird Treaty Act (MBTA). A list of protected species found in or near PRIA waters and a list of critical habitat designations in the Pacific Ocean are included in Appendix B.

2.2.1 Monitoring Protected Species Interactions in the PRIA FEP Fisheries

This report monitors the status of protected species interactions in the PRIA FEP fisheries using proxy indicators such as fishing effort and changes in gear types as these fisheries do not have observer coverage. Logbook programs are not expected to provide reliable data about protected species interactions due to the lack of active fisheries in these areas.

2.2.1.1 FEP Conservation Measures

Bottomfish, precious coral, coral reef, and crustacean fisheries managed under this FEP have not had reported interactions with protected species, and no specific regulations are in place to mitigate protected species interactions. Destructive gear such as bottom trawls, bottom gillnets, explosives, and poisons are prohibited under this FEP, and these prohibitions benefit protected species by preventing potential interactions with non-selective fishing gear.

2.2.1.2 ESA Consultations

ESA consultations were conducted by NMFS and the U.S. Fish and Wildlife Service (USFWS; for species under their jurisdiction) to ensure ongoing fisheries operations managed under the PRIA FEP are not jeopardizing the continued existence of any ESA-listed species or adversely modifying critical habitat. The results of these consultations, conducted under section 7 of the ESA, are briefly described below and summarized in Table 3.

NMFS concluded on January 16, 2015 that all fisheries managed under the PRIA FEP have no effects on ESA-listed reef-building corals. NMFS concluded in an informal consultation dated February 20, 2015 that all fisheries managed under the PRIA FEP are not likely to adversely affect the Indo-West Pacific DPS of scalloped hammerhead shark.

Table 1. Summary of ESA consultations for PRIA FEP Fisheries

| Fishery | Consultation Date | Consultation Type ^a | Outcome ^b | Species |
|----------------------|-------------------|--------------------------------|----------------------------|---|
| Bottomfish | 3/8/2002 | BiOp | NLAA | Loggerhead sea turtle, leatherback sea turtle, olive ridley sea turtle, green sea turtle, hawksbill sea turtle, humpback whale, blue whale, fin whale, sei whale, sperm whale |
| Coral reef ecosystem | 3/7/2002 | LOC | NLAA | Loggerhead sea turtle, leatherback sea turtle, olive ridley sea turtle, green sea turtle, hawksbill sea turtle, humpback whale, blue whale, fin whale, sei whale, sperm whale |
| | 5/22/2002 | LOC (USFWS) | NLAA | Green, hawksbill, leatherback, loggerhead and olive ridley turtles, Newell's shearwater, short-tailed albatross, Laysan duck, Laysan finch, Nihoa finch, Nihoa millerbird, Micronesian megapode, 6 terrestrial plants |
| | 9/18/2018 | No effect memo | No effect | Oceanic whitetip shark, giant manta ray |
| Crustacean | 9/28/2007 | LOC | NLAA | Loggerhead sea turtle, leatherback sea turtle, olive ridley sea turtle, green sea turtle, hawksbill sea turtle, humpback whale, blue whale, fin whale, sei whale, sperm whale |
| | 9/18/2018 | No effect memo | No effect | Oceanic whitetip shark, giant manta ray |
| Precious coral | 10/4/1978 | BiOp | Does not constitute threat | Sperm whale, leatherback sea turtle |
| | 12/20/2000 | LOC | NLAA | Humpback whale, green sea turtle, hawksbill sea turtle |
| | 9/18/2018 | No effect memo | No effect | Oceanic whitetip shark, giant manta ray |
| All fisheries | 1/16/2015 | No effect memo | No effect | Reef-building corals |
| | 2/20/2015 | LOC | NLAA | Scalloped hammerhead shark (Indo-west Pacific DPS) |

^a BiOp = Biological Opinion; LOC = Letter of Concurrence

^b LAA = likely to adversely affect; NLAA = not likely to adversely affect.

Bottomfish Fishery

In a biological opinion issued on March 3, 2002, NMFS concluded that the ongoing operation of the Western Pacific Region's bottomfish and seamount fisheries is not likely to jeopardize the continued existence of five sea turtle species (loggerhead, leatherback, olive ridley, green, and hawksbill turtles) and five marine mammal species (humpback, blue, fin, sei, and sperm whales)

Crustacean Fishery

An informal consultation completed by NMFS on September 28, 2007 concluded that PRIA crustacean fisheries are not likely to adversely affect five sea turtle species (loggerhead, leatherback, olive ridley, green, and hawksbill turtles) and five marine mammal species (humpback, blue, fin, sei, and sperm whales).

On September 18, 2018, NMFS concluded that PRIA crustacean fisheries will have no effect on the oceanic whitetip shark and giant manta ray.

Coral Reef Fishery

An informal consultation completed by NMFS on March 7, 2002 concluded that fishing activities conducted under the Coral Reef Ecosystems FMP are not likely to adversely affect five sea turtle species (loggerhead, leatherback, olive ridley, green, and hawksbill turtles) and five marine mammal species (humpback, blue, fin, sei, and sperm whales).

On May 22, 2002, the USFWS concurred with the determination of NMFS that the activities conducted under the Coral Reef Ecosystems FMP are not likely to adversely affect listed species under USFWS's exclusive jurisdiction (i.e., seabirds and terrestrial plants) and listed species shared with NMFS (i.e., sea turtles).

On September 18, 2018, NMFS concluded that PRIA coral reef ecosystem fisheries will have no effect on the oceanic whitetip shark and giant manta ray.

Precious Coral Fishery

An informal consultation completed by NMFS on December 20, 2000 concluded that PRIA precious coral fisheries are not likely to adversely affect humpback whales, green turtles, or hawksbill turtles.

On September 18, 2018, NMFS concluded that PRIA precious coral reef fisheries will have no effect on the oceanic whitetip shark and giant manta ray.

2.2.1.3 Non-ESA Marine Mammals

The MMPA requires NMFS to annually publish a List of Fisheries (LOF) that classifies commercial fisheries in one of three categories based on the level of mortality and serious injury of marine mammals associated with that fishery. PRIA fisheries are not classified under the LOF due to the lack of active commercial fisheries.

2.2.2 Status of Protected Species Interactions in the PRIA FEP Fisheries There are currently no bottomfish, crustacean, coral reef, or precious coral fisheries operating in the PRIA and no historical observer data are available for fisheries under this FEP. No new fishing activity has been reported, and there is no other information to indicate that impacts to protected species from PRIA fisheries have changed in recent years.

2.2.3 Identification of Emerging Issues

Table 4 summarizes current candidate ESA species, recent listing status, and post-listing activity (critical habitat designation and recovery plan development). Impacts from FEP-managed fisheries on any new listings and critical habitat designations will be considered in future versions of this report.

Table 2. Status of candidate ESA species, recent ESA listing processes, and post-listing activities.

| Species | | Listing Process | | | Post-Listing Activity | |
|------------------------|--|---|---|--|--|--|
| Common Name | Scientific Name | 90-Day Finding | 12-Month Finding / Proposed Rule | Final Rule | Critical Habitat | Recovery Plan |
| Oceanic whitetip shark | <i>Carcharhinus longimanus</i> | Positive (81 FR 1376, 1/12/2016) | Positive, threatened (81 FR 96304, 12/29/2016) | Listed as threatened (83 FR 4153, 1/30/18) | Designation not prudent; no areas within US jurisdiction that meet definition of critical habitat (85 FR 12898, 3/5/2020) | In development; recovery planning workshops convened in 2019; draft plan anticipated in late 2020. |
| Giant manta ray | <i>Manta birostris</i> | Positive (81 FR 8874, 2/23/2016) | Positive, threatened (82 FR 3694, 1/12/2017) | Listed as threatened (83 FR 2916, 1/22/18) | Designation not prudent; no areas within US jurisdiction that meet definition of critical habitat (84 FR 66652, 12/5/2019) | Recovery outline published 12/4/19 to serve as interim guidance until full recovery plan is developed. |
| Corals | N/A | Positive for 82 species (75 FR 6616, 2/10/2010) | Positive for 66 species (77 FR 73219, 12/7/2012) | 20 species listed as threatened (79 FR 53851, 9/10/2014) | In development, proposed rule anticipated by July 2020 | In development, expected TBA, interim recovery outline in place |
| Cauliflower coral | <i>Pocillopora meandrina</i> | Positive (83 FR 47592, 9/20/2018) | Proposed rule anticipated by June 2020 | TBD | N/A | N/A |
| Giant Clams | <i>Hippopus hippopus</i> , <i>H. porcellanus</i> , <i>Tridacna costata</i> , <i>T. derasa</i> , <i>T. gigas</i> , <i>T. squamosa</i> , and <i>T. tevoroa</i> | Positive (82 FR 28946, 06/26/2017) | TBD (status review ongoing) | TBD | N/A | N/A |
| Green sea turtle | <i>Chelonia mydas</i> | Positive (77 FR 45571, 8/1/2012) | Identification of 11 DPSs, endangered and threatened (80 FR | 11 DPSs listed as endangered and threatened (81 FR | In development, proposal expected TBA | TBA |

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|------------------------|-----------------------------|--|--|---------------------|-----|-----|
| | | | 15271, 3/23/2015) | 20057, 4/6/2016) | | |
| Leatherback sea turtle | <i>Dermochelys coriacea</i> | Positive 90-day finding on a petition to identify the Northwest Atlantic leatherback turtle as a DPS (82 FR 57565, 12/06/2017) | TBA (status review and 12-month finding anticipated in 2020) | TBA | N/A | N/A |

2.2.4 Identification of Research, Data, and Assessment Needs

[THIS SECTION WILL BE UPDATED FOLLOWING THE PLAN TEAM MEETING]

The following research, data, and assessment needs for insular fisheries were identified by the Council’s Protected Species Advisory Committee and Plan Team:

- Improve the precision of commercial and non-commercial fisheries data to improve understanding of potential protected species impacts.
- Define and evaluate innovative approaches to derive robust estimates of protected species interactions in insular fisheries.