

## **Nassau Grouper Listing under the Endangered Species Act Frequently Asked Questions**

### **What was NOAA Fisheries' listing determination?**

- We are publishing a final rule to list Nassau grouper as *threatened* under the Endangered Species Act.

### **Why? What led to this determination?**

- After reviewing the best scientific and commercial data available, including the status review and comments received on the proposed rule, we have determined that the Nassau grouper meets the definition of a threatened species.
- The species possesses life history characteristics that increase vulnerability to harvest, including the formation of spawning aggregations (areas where males and females gather to reproduce).
- Directed harvesting greatly diminished the population of Nassau grouper and eliminated many spawning aggregations.
- Nassau grouper are slow growing fish that take a long time to mature.
- Despite conservation efforts, the population has yet to recover.

### **What are the differences between a threatened species versus an endangered species?**

- A threatened species is not in immediate danger of becoming extinct but is at risk of becoming endangered over the foreseeable future.
- An endangered species is currently at risk extinction.
- An endangered species is afforded higher protections under the Endangered Species Act (ESA), including prohibitions on import, export, and “take”.
- These prohibitions are not automatically set in place for threatened species.

### **What are the greatest threats to Nassau grouper?**

- Fishing at spawning aggregations
- Inadequate law enforcement

### **What additional regulatory steps happen, now that NOAA Fisheries has listed Nassau grouper as threatened under the ESA?**

- This rule will not result in any changes to Nassau grouper regulations for U.S. fishermen. The species is and will continue to be restricted from harvest under state, territorial, and federal fishery management plans.
- We will need to reassess some federal fishery management plans through the [ESA Section 7 consultation](#) process.
- We will assess whether and where critical habitat (those areas that contain the physical and biological features essential to the conservation of a species) should be designated.
  - We are soliciting information from the public that may be relevant to the designation of critical habitat for Nassau grouper, including information on physical or biological features essential to the species' conservation, areas containing these features, and potential impacts of a designation.
  - Information can be submitted by:  
[Electronic Submissions](#): Submit all electronic comments via the Federal eRulemaking Portal. Go to <http://www.regulations.gov/> -

[/docketDetail;D=NOAA- NMFS-2015-0130](#), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

Mail: NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701

- We will consider whether development of a 4(d) rule could provide additional benefits to the species.

#### **What is a 4(d) rule and will NOAA Fisheries propose one?**

- A 4(d) rule provides regulations necessary for the conservation of any threatened species.
  - May be used to extend any or all of the protections for an endangered species to a threatened species.
- These rules allow us to issue protective regulations and exemptions, after listing a species as threatened.
- During the development of a 4(d) rule, we would contact and coordinate with state, territorial, and federal resource managers to identify activities that adversely affect the threatened species and additional regulatory protections that may be necessary.
- If we believe additional regulations are necessary, we would first publish a proposed rule, including opportunities for public comments.

#### **What does a threatened status for Nassau grouper mean for the fishing industry?**

- Harvest and possession of Nassau grouper is currently prohibited in the United States, Puerto Rico, and the U.S. Virgin Islands, so the listing should have little effect on our domestic fisheries.
- Nassau grouper is an iconic reef fish that is still targeted in commercial fisheries of some Caribbean countries, some of which may still export Nassau grouper to the U.S.

#### **What does a threatened status for Nassau grouper mean for trade with foreign nations?**

- Listing Nassau grouper as threatened will not immediately impact trade.
- If we develop a 4(d) rule, it could be used to regulate imports and exports, if necessary and advisable for the conservation of Nassau grouper.

#### **What does a threatened status for Nassau grouper mean for coastal development in the U.S. or its territories?**

- As a *listed* species, federal action agencies will need to ensure that any actions they carry out, authorize, or fund do not jeopardize the continued existence of Nassau grouper. This may require further ESA Section 7 consultation for coastal projects in South Florida (e.g., Florida Keys), Puerto Rico, and the U.S. Virgin Islands, but only for those projects that have a federal component and that may affect Nassau grouper.

#### **What is critical habitat and why isn't NOAA Fisheries proposing critical habitat at the same time as the Rule?**

- Critical habitat is those areas that contain the physical and biological features essential to the conservation of a species and that may require special management considerations or protection.
- At this time, NOAA Fisheries finds that critical habitat designations are not determinable. More information is required to identify the physical and biological features essential to the conservation of Nassau grouper. When critical habitat is not determinable, NOAA

Fisheries has not more than one year from the date the final rule publishes to make a critical habitat determination.

**What is recovery and will NOAA Fisheries develop a recovery plan for the species?**

- Recovery is the process by which listed species and their ecosystems are restored and their future is safeguarded to the point that protections under the Endangered Species Act are no longer needed.
- NOAA Fisheries Service is required to develop a recovery plan after a species is added to the Endangered Species List.
- NOAA Fisheries expects to convene a recovery team to develop the recovery plan for Nassau grouper.
- The recovery plan serves as a road map for species recovery.
  - Lays out where we need to go and how best to get there.
  - Ensures that recovery efforts target limited resources effectively and efficiently into the future.
- Recovery actions can, and should, start immediately after listing even while the recovery plan is in development.

**Who should be contacted for more information?**

The Southeast Region Protected Resources Division is the lead in developing the listing rule and all subsequent rules. For more information, please contact:

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**Background/Timeline:**

**On September 3, 2010**, we (NOAA Fisheries) received a petition from WildEarth Guardians to list speckled hind (*E. drummondhayi*), goliath grouper (*E. itajara*), and Nassau grouper (*E. striatus*) as threatened or endangered under the ESA.

**October 10, 2012**, we published a 90-day finding with our determination that the petition presented substantial scientific and commercial information indicating that the petitioned action may be warranted for Nassau grouper (77 FR 61559). The 90-day finding requested scientific and commercial information from the public to inform a Status Report for the species. We received information from the public in response to the 90-day finding and considered the public responses in the status review.

**On September 2, 2014**, following completion of the Nassau grouper status review, we published a proposed rule to list Nassau grouper as a threatened species (79 FR 51929). During a 90-day comment period, we solicited comments on our proposal from the public and any other interested parties. We received 17 written comments.

**December 9, 2014**, we held a public hearing in St. Thomas, U.S. Virgin Islands for the purpose of accepting comments on the proposed rule to list Nassau grouper as a threatened species.