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Biological Opinion Update Scallop FMP

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Timeline for the new Biological Opinion

- NMFS GARFO reinitiated formal consultation on February 14, 2020 due to the exceedance of the ITS
- New opinion to be completed prior to July 1, 2021 court ordered deadline for the remanded ITS
 - includes a new take monitoring plan for sea turtles formulated to address the court's concerns
 - developed in consultation with SFD, PRD, and NEFSC staff
- New opinion replaces the previous 2012 opinion and most recently amended ITS from 2018



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Contents of the new Biological Opinion

- Introduction
- Consultation History
- Description of the Proposed Action
- Status of Listed Species and Critical Habitat
- Environmental Baseline
- Climate Change
- Effects of the Proposed Action
- Cumulative Effects
- Integration/Synthesis of Effects (Jeopardy Analysis)
- Conclusion
- Incidental Take Statement, RPMs, T&Cs, and CRs



Incidental Take Statement (ITS)

Takes of sea turtles and Atlantic sturgeon in the scallop fishery to be exempted over a five-year period

	Total Take	Lethal Take
Sea Turtles		
Loggerhead, NWA DPS	Dredge: 1,095 Trawl: 13	Dredge: 385 Trawl: 6
Leatherback	Dredge: 1 (observed) Trawl: 1	Dredge: 1 (observed) Trawl: 1
Kemp's ridley	Dredge: 28 (5 observed) Trawl: 2	Dredge: 11 (4 observed) Trawl: 1
Green, North Atlantic DPS	Dredge: 1 (observed) Trawl: 1	Dredge: 1 (observed) Trawl: 1
Any combination of turtle species	Vessel strike: 2	Vessel strike: 2
ESA-listed Fish		
Atlantic sturgeon, any combination of five listed DPSs	Dredge and trawl (combined): 5	Dredge and trawl (combined): 1 every 20 years

*based on Murray 2020 estimates, past NEFOP data, stranding/PIM data, other info



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Reasonable and Prudent Measures and Terms and Conditions (RPMs/T&Cs)

- Refinement of the RPMs and T&Cs and alignment with those in the Batched Fisheries Opinion
 - done to better clarify roles and responsibilities as well as focus on efforts to best minimize and monitor take
 - NEFMC staff were informally briefed on the measures in April 2021, per guidance in NMFS Policy Directive 01-117 (Integration of ESA Section 7 and MSA)
- RPM/T&C subject areas include:
 - (1) Gear Research, (2) Ecological Studies, (3) Handling, (4) Monitoring, (5) Outreach, (6) Population Assessments



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Reasonable and Prudent Measures and Terms and Conditions (RPMs/T&Cs)

- Gear Research
 - Review observed takes to see if any changes needed for dredge or trawl gear, ongoing TED studies for trawls
- Ecological Studies
 - Focus on cooperative research already underway and feasible future studies to test Murray bycatch model assumptions
- Handling
 - Continue to provide handling and resuscitation guidance
- Monitoring
 - Continue to ensure adequate observer coverage, tagging and genetic sampling efforts, and post-interaction mortality determinations
- Outreach
 - Ensure correct gear codes entered on VTRs, proper chain mat/TDD specs
- Population Assessments
 - Support NEFSC's development of updated loggerhead PVA



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New and improved take monitoring plan

- Relies on Kimberly Murray's (NEFSC) five-year bycatch estimation model for sea turtle interactions in scallop dredge and bottom trawl gears
 - due to increased predictive certainty of her model, we have determined it to be the best available method for estimating and monitoring takes going forward
 - next five-year bycatch estimates will be produced by 2025 for trawls and 2026 for dredges (trawl gear period to cover 2019-2023, dredge gear period to cover 2020-2024)
- Continuing to monitor NEFOP data for leatherback, Kemp's ridley, and green turtle takes in dredge gear
- No longer using a dredge effort surrogate



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Biological Opinion reinitiation triggers

Per 50 CFR 402.16, reinitiation of formal consultation is required where discretionary federal agency involvement or control over the action has been retained (or is authorized by law) and if:

- (1) the amount or extent of incidental take exempted in this Opinion is exceeded;
- (2) 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) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this Opinion; or
- (4) a new species is listed or critical habitat designated that may be affected by the action.



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Questions?