



# NOAA Fisheries Service

## *Acropora* spp. Proposed Listing under the ESA Frequently Asked Questions

### Background



Photo credit: W. Jaap

On March 4, 2004, the Center for Biological Diversity (CBD) petitioned NOAA Fisheries Service to list three *Acropora* spp., elkhorn, staghorn, and fused-staghorn coral, as either threatened or endangered under the ESA and to designate critical habitat. On June 23, 2004, NOAA Fisheries Service made a positive 90-day finding (69 FR 34995) that CBD presented substantial information indicating that the petitioned actions may be warranted and announced the initiation of a formal status review by convening an Atlantic *Acropora* Biological Review Team (BRT). Their status review (available at <http://sero.nmfs.noaa.gov/pr/protres.htm>) incorporates and summarizes the best available scientific and commercial data to date; and it addresses the status of the species, the five ESA listing factors, and current regulatory, conservation and research efforts that may yield protection.

### What was NOAA Fisheries Service's determination?

On March 3, 2005, NOAA Fisheries Service made a determination that both elkhorn (*A. palmata*) and staghorn (*A. cervicornis*) corals are likely to become in danger of extinction throughout all or a significant portion of their range in the foreseeable future from a combination of factors. Therefore, NOAA Fisheries Service has determined that the two species should be proposed for listing as threatened. NOAA Fisheries Service also determined that fused-staghorn coral (*A. prolifera*) is a hybrid and does not constitute a species. NOAA Fisheries Service relied on the status review developed by the BRT in coming to these conclusions. A *Federal Notice* announcing this determination will be published March 18, 2005.

### What happens now that NOAA Fisheries Service has determined the two corals should be listed under the ESA?

NOAA Fisheries Service will promptly publish a proposed rule to add these species to the Endangered Species List as threatened.

### Will there be a chance for the public to comment on the proposed rule?

The proposed rule will include numerous ways that the public can comment on the proposed action. NOAA Fisheries Service will provide various ways for the public to comment via mail, email, the Federal eRulemaking Portal, and fax as well as verbal comments during scheduled public hearings.

### What happens after the comment period?

Within one year of publishing the proposed listing rule, NOAA Fisheries Service will publish in the *Federal Register* a notice to finalize the proposed rule, withdraw the proposed rule, or if there is substantial scientific disagreement about the available information, extend the deadline for a final determination up to six months.



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<http://sero.nmfs.noaa.gov/pr/protres.htm>

## Are there any special considerations once the species are listed as threatened or endangered?

When a species is listed as *endangered* under the ESA, it automatically receives certain protections, including the prohibition for anyone under the jurisdiction of the United States to “take” the species. The term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. When a species is listed as *threatened*, those same protections are not automatically transferred to the species. NOAA Fisheries Service must propose and publish a special rule to issue protective regulations and exemptions that it finds necessary and appropriate to provide for the conservation of threatened species. This is called a 4(d) rule, as it is required by section 4(d) of the ESA.

## Will NOAA Fisheries Service propose a 4(d) rule?

Since NOAA Fisheries Service is proposing a threatened status for both species, we anticipate proposing a 4(d) rule to issue protective regulations and exemptions subsequent to publishing the proposed listing rule. During the development of the 4(d) rule, NOAA Fisheries Service will contact and coordinate with State/Territory and federal resource managers to identify activities that may adversely affect the species as well as potential take exemptions.

## Will NOAA Fisheries Service propose Critical Habitat?

A final rule designating critical habitat of an endangered or threatened species shall be, to the maximum extent prudent, published concurrently with the final rule listing the species. If at that time critical habitat is undeterminable, the period may be extended by not more than one additional year.

## Will NOAA Fisheries Service develop a Recovery Plan for the two species?

NOAA Fisheries Service is required to develop a recovery plan after a species is added to the Endangered Species List. 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 ESA are no longer needed. Although recovery *actions* can, and should, start immediately upon listing a species as endangered or threatened under the ESA, prompt development and implementation of a recovery *plan* will ensure that recovery efforts target limited resources effectively and efficiently into the future. The recovery plan serves as a road map for species recovery – it lays out where we need to go and how best to get there. NOAA Fisheries Service expects to convene a recovery team to develop the recovery plan for the two species, contingent upon receiving appropriations.

## Who should be contacted for more information?

The Southeast Region Protected Resources Division is the lead in developing the rules and all subsequent management actions for these species. For more information, please contact:

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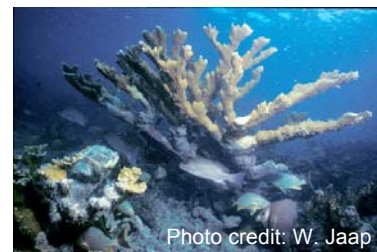


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