

Threatened Elkhorn & Staghorn Corals and the Endangered Species Act (ESA)

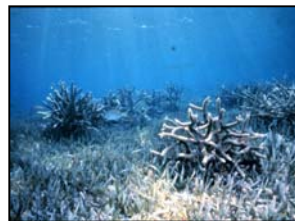
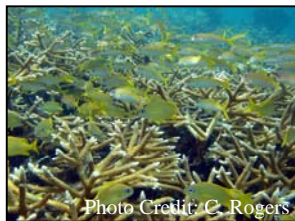
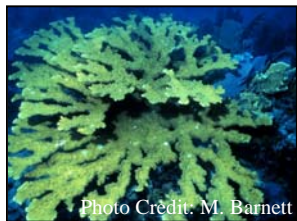
Frequently Asked Questions

Background

On March 4, 2004, the Center for Biological Diversity (CBD) petitioned NOAA Fisheries Service to list three *Acropora* sp., 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/esa/acropora.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. NOAA Fisheries Service relied on the status review developed by the BRT in coming to these conclusions. After considering input received during the proposed rule public comment period and at four public comment hearings, NOAA Fisheries Service published its final determination to list these species as threatened in the *Federal Register* on May 9, 2006 (71 FR 26852).



What happens now that these two corals are listed as threatened under the ESA?

When NOAA Fisheries Service lists a species 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 exceptions that it finds necessary and advisable 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.



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

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

Because NOAA Fisheries Service finalized a threatened status for both species, we are proposing a 4(d) rule that extends all of the prohibitions listed in section 9(a)(1) of the ESA, including prohibitions on take to both corals. The proposed 4(d) rule also includes exceptions to the ESA section 9 prohibitions on import, export, and take for certain activities that provide for the conservation of listed corals. Under specified conditions these excepted activities are: (1) scientific research & enhancement activities conducted under six specific existing Federal, state, or territorial research permitting programs; and (2) restoration activities carried out by an authorized (under current laws) Federal, state, territorial, or local natural resource agency. This proposed 4(d) rule is based on our evaluation of status of each species, on the threats and stressors affecting the species, and on the input received during seven public workshops held in May 2006.

Will NOAA Fisheries Service designate Critical Habitat?

At the time of the listing, NOAA Fisheries Service found that critical habitat designations are not determinable because more information was required to identify those physical and biological features essential to the conservation of the species. Currently, NOAA Fisheries Service is in the process of developing a proposed critical habitat rule, which will be published the *Federal Register* by January 31, 2008. NOAA Fisheries Service will solicit public comment and subsequently publish a final rule.

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 has convened a recovery team to develop the recovery plan for the two species.

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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NOAA Fisheries Service

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