

Executives' Association" (RLEA). It is the Board's understanding that RLEA no longer exists, and it is proposed that section 1150.20(a)(2)(xi) be removed. The regulations, however, still provide labor interests with notice of proposed abandonments or discontinuances, because current section 1150.20(a)(2)(xiii) requires service on "[t]he headquarters of all duly certified labor organizations that represent employees on the affected rail line."<sup>1</sup> This paragraph also contains language that should be moved for clarity: "For the purposes of this subsection 'directly affected states' are those in which any part of the line sought to be abandoned is located." This language would be more appropriate in section 1150.20(a)(2)(ii), and the Board proposes to move the substance of that language to that location. Finally, we propose to redesignate sections 1150.20(a)(2)(xii) and (xiii) as sections 1150.20(a)(2)(xi) and (xii), respectively. The Board certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities, because the rule simply removes an obsolete reference and makes technical changes. The Board seeks comments on all matters raised by this notice.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### List of Subjects in 49 CFR Part 1152

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, and Uniform System of Accounts.

Decided: August 25, 2003.

By the Board, Chairman Nober.

**Vernon A. Williams,**  
Secretary.

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend part 1152, of title 49, chapter X, of the Code of Federal Regulations as follows:

#### PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

1. The authority citation for Part 1152 continues to read as follows:

**Authority:** 11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 701 note (1995) (section 204 of the ICC

Termination Act of 1995), 721(a), 10502, 10903–10905, and 11161.

2. Section 1152.20 is amended by removing paragraph (a)(2)(xi) and redesignating paragraphs (a)(2)(xii) and (xiii) as paragraphs 1150.20(a)(2)(xi) and (xii), respectively.

3. Revise § 1150.20(a)(2)(ii) and newly redesignated § 1150.20(a)(2)(xii) to read as follows:

§ 1152.20 Notice of intent to abandon or discontinue service.

(a) \* \* \*

(2) \* \* \*

(ii) The Governor (by certified mail) of each state directly affected by the abandonment or discontinuance (for the purposes of this paragraph (a)(2) "states directly affected" are those in which any part of the line sought to be abandoned is located);

\* \* \* \* \*

(xii) The headquarters of all duly certified labor organizations that represent employees on the affected rail line.

\* \* \* \* \*

[FR Doc. 03–22292 Filed 8–29–03; 8:45 am]

BILLING CODE 4915–00–P

#### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018–AI04

#### Endangered and Threatened Wildlife and Plants; Proposed Removal of the Scarlet-chested Parakeet and Turquoise Parakeet from the List of Endangered and Threatened Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to remove the scarlet-chested parakeet (*Neophema splendida*) and the turquoise parakeet (*Neophema pulchella*) from the List of Endangered and Threatened Wildlife established under the Endangered Species Act of 1973, as amended (Act), because the endangered designation no longer correctly reflects the current conservation status of these birds. Our review of the status of these species shows that the wild populations of these species are stable or increasing, trade in wild-caught specimens is strictly limited, and the species are protected through domestic regulation within the range country (Australia) and through additional national and international

treaties and laws. This determination is based on available data indicating that these species have recovered.

**DATES:** We must receive your written comments on this proposed rule by December 1, 2003 in order to consider them. We must receive your written request for a public hearing by October 17, 2003.

**ADDRESSES:** Submit comments, information, questions, and hearing requests to the Chief, Division of Scientific Authority; U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 750; Arlington, VA 22203; fax, 703–358–2276; E-mail, [ScientificAuthority@fws.gov](mailto:ScientificAuthority@fws.gov). Comments and materials received will be available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, VA, address. **FOR FURTHER INFORMATION CONTACT:** Dr. Michael D. Kreger, Division of Scientific Authority (See **ADDRESSES** section; phone, 703–358–1708; fax, 703–358–2276; E-mail, [ScientificAuthority@fws.gov](mailto:ScientificAuthority@fws.gov)).

#### SUPPLEMENTARY INFORMATION:

#### Background

##### Scarlet-Chested Parakeet

The splendid or scarlet-chested parakeet (*Neophema splendida*) is found from the interior southwest to southeast Australia in arid mixed mallee eucalypt (*Eucalyptus salubris*)—mulga (*Acacia* spp.) woodlands with an understory of *Triodia* spp. hummock grassland (Higgins 1999). Its habitat preference is burnt areas. It is frequently found in open areas (Garnett and Crowley 2000). The species breeds between August and January and lays four to six eggs. It may be nomadic in response to environmental conditions (e.g., rainfall; Collar 1997). Collar (1997) notes that the birds are generally rare, but large numbers have occurred in certain years, which suggests that the populations may increase relatively quickly and the species may not be as rare as thought in the more remote parts of its range. The size of the species' range is stable, but the distribution of the population within the range fluctuates according to environmental conditions such as grazing and fire regimes (Garnett and Crowley 2000).

##### Turquoise Parakeet

The turquoise parakeet (*Neophema pulchella*) is found in southeastern Australia from southeast Queensland to northern Victoria. It is found in open forest, woodland, and native grasslands, where it is patchily distributed (Collar 1997). It feeds on seeds, fruits, and flowers; breeds from August to

<sup>1</sup> Similar language for giving notice to labor representatives is found at sections 1121.4(h), 1150.32(e), 1150.35(c)(3), 1150.42(e), 1150.45(c)(3) and 1151.2(a)(6) concerning acquisition or operation of rail lines or feeder line applications.

December and lays four to five eggs; and is mostly sedentary, with local dispersals resulting from rainfall which stimulates production of food such as seeds (Collar 1997). The species declined to near extinction from 1880 through the 1920s, possibly because of habitat clearance, drought, or an epidemic, but recovered rapidly after 1930 (Collar 1997; Garnett and Crowley 2000). Numbers appear to be greatest in protected reserves, indicating that surrounding agricultural land may reduce foraging opportunities (Collar 1997). The size of the species' range is stable, and the area of population distribution within the range is increasing (Garnett and Crowley 2000).

#### Previous Federal Actions

The scarlet-chested parakeet and the turquoise parakeet of the genus *Neophema* are listed under the Endangered Species Act of 1973 (Act) (16 U.S.C. 1531 *et seq.*) as endangered throughout their entire ranges. The scarlet-chested parakeet was listed on December 2, 1970 (35 FR 18320). The turquoise parakeet was listed on June 2, 1970 (35 FR 8495). Both species were originally listed under the Endangered Species Conservation Act of 1969 (Pub. L. 91-135, 83 Stat. 275 (1969)) as part of a list of species classified as endangered. This list was absorbed into the current Act. The endangered listing under the Act prohibits imports, exports, and re-exports of the species into or out of the United States as well as interstate and foreign commerce. On July 1, 1975, the scarlet-chested parakeet was placed in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES; 42 FR 10465; February 22, 1977). On June 6, 1981, the turquoise parakeet was also added to CITES Appendix II. Listing in CITES Appendix II allows for regulated commercial trade based on certain findings. Furthermore, because no wild-caught specimens of these two species are in international trade, and they only occur in trade as captive-bred specimens, they were included in the approved list of captive-bred species under the regulations of the Wild Bird Conservation Act of 1992 (WBCA; 16 U.S.C. 4901-4916). Inclusion in this list allows for imports of these species without requiring a WBCA permit.

On September 22, 2000, we announced a review of all endangered and threatened foreign species in the Order Psittaciformes (parrots, parakeets, macaws, cockatoos, and others; also known as psittacine birds) listed under the Act (65 FR 57363). Section 4(c)(2) of the Act requires such a review at least

once every 5 years. The purpose of the review is to ensure that the Lists of Endangered and Threatened Wildlife (50 CFR 17.11) accurately reflect the most current status information for each listed species. We requested comments and the most current scientific or commercial information available on these species, as well as information on other species that may warrant future consideration for listing. If the present classification of species is not consistent with the best scientific and commercial information available at the conclusion of this review, we may propose changes to the list accordingly. One commenter suggested that we review the listing of these species and provided enough scientific information, including information and correspondence with Australian Government officials, to merit review of these species by the Service.

The Australian Government classifies the conservation status of the scarlet-chested parakeet as "Least Concern" and the turquoise parakeet as "Near Threatened." "Least Concern" indicates that the habitat in which the species occurs or the species' population density within the habitat has not declined by more than half of the size that it was a century ago. This is the lowest level of species risk. "Near Threatened" indicates that the habitat within the range and/or the size of the population within the available habitat is probably less than half of what it was a century ago. *The Action Plan for Australian Birds 2000* (Garnett and Crowley 2000), a strategic document produced by Environment Australia to recommend actions to government and non-government organizations in establishing national conservation priorities, includes recommendations for these species. The plan, however, is not a regulatory document, and the conservation priority for least concerned and near threatened birds is low (P. Blackwell, Environment Australia, pers. comm. with M. Kreger, DSA, 2002).

Commercial exports of these species from Australia have been prohibited since 1962. The prohibition is covered under Australia's Environment Protection and Biodiversity Act 1999. Although there are recommended actions for protection of both species under *The Action Plan for Australian Birds 2000* (Garnett and Crowley 2000), Australia has no recovery plan for either. Both species are, however, protected by State legislation and may not be trapped from the wild for commercial purposes (G. Maynes, Environment Australia, pers. comm. with M. Kreger, DSA, 2002). The 2000 IUCN (International Union for

Conservation of Nature and Natural Resources) Red List of Threatened Species downlisted the scarlet-chested parakeet from vulnerable (facing high risk of extinction in the wild in the medium-term future, but not very high or extremely high) to lower risk/near threatened (taxa that do not qualify as Conservation Dependent, but which are close to qualifying as vulnerable). This status was maintained in the 2002 IUCN Red List of Threatened Species. The turquoise parakeet is not included in the 2002 IUCN Red List of Threatened Species.

#### Summary of Factors Affecting the Scarlet-Chested Parakeet *Neophema splendida* and the Turquoise Parakeet *Neophema pulchella*

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth five factors to be used in determining whether to add, reclassify, or remove a species from the List of Endangered and Threatened Wildlife and Plants. These factors and their applicability to populations of the scarlet-chested parakeet and the turquoise parakeet of Australia are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

##### *Scarlet-Chested Parakeet*

The scarlet-chested parakeet population has increased rapidly in favorable conditions such as increased rainfall (Collar 1997; Garnett and Crowley 2000), but habitat clearance has fragmented roosting and foraging habitat in southern South Australia and northwest Victoria. This species is frequently found in open agricultural areas during years of unusually high nest production likely due to competition among birds for optimal nest sites and foraging areas in forests. Thus, livestock grazing and burn management to clear land for agriculture may reduce habitat availability (Garnett and Crowley 2000). However, most of the species' foraging, roosting, and nesting habitat is outside agricultural areas, and the area over which the species flies is so vast (range exceeds 2,000 km<sup>2</sup>) that fires would not likely adversely affect a significant portion of the population (Snyder *et al.* 2000). *The Action Plan for Australian Birds 2000* (Garnett and Crowley 2000) recommends maintaining low fire frequency and grazing rates throughout the range of the species, particularly in protected reserves in Murray Mallee. It

also recommends determining environmental correlates of patterns of abundance in the Great Victoria Desert. However, these recommendations are voluntary, and because the species is categorized as least concern, it is not a high conservation priority for the Australian Government. Because of the area of occupancy and observed flock sizes, researchers think as many as 10,000 breeding-age birds may exist. This estimate is not reliable because of the lack of research on patterns of abundance and movement of this species; however, even if the population is smaller, there is no reason to suspect a decline (Snyder *et al.*, 2000). According to C. Mobbs, Deputy Director, Wildlife Protection, Environment Australia (faxed letter to aviculturist M. Runnals, 1999), this species is considered common with a stable population in the wild.

#### *Turquoise Parakeet*

Much of the turquoise parakeet's habitat available before the 1890s has been cleared for agriculture, preventing the species' recovery in more than half of its former range. However, the population is rapidly increasing, with as many as 20,000 breeding-age birds (Garnett and Crowley 2000). An additional habitat threat is the loss of hollow trees necessary for nesting in forests managed for timber, but the species can be prolific when nestboxes are substituted. Poorly managed burn regimens tend to encourage shrubby vegetation that outcompetes the grassy understory required by parrots for foraging (Garnett and Crowley 2000). *The Action Plan for Australian Birds 2000* (Garnett and Crowley 2000) recommends conserving native pasture and promoting its use, maintaining a buffer zone around known nesting areas, and improving fire management to encourage forage diversity. However, these recommendations are voluntary, and because the turquoise parakeet is categorized as near threatened, it is not a high conservation priority for the Australian Government.

Therefore, we find that the populations of these species are stable or increasing despite some habitat loss.

#### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

*The Action Plan for Australian Birds 2000* does not indicate overutilization as a threat to these species (Garnett and Crowley 2000). Both species are strictly protected by Australian State legislation and may not be trapped from the wild for commercial purposes (Environment Protection and Biodiversity Act 1999).

Since 1990, there has been no trade in wild-caught specimens of these species, according to the World Conservation Monitoring Centre (WCMC) and the Service's Law Enforcement Management Information System (LEMIS) databases, probably because these species breed readily in aviculture (Brown *et al.* 1994; Dingle 2000; Vriends 2000). The WCMC database indicates that the only specimens of these species traded internationally between 1990 and 1999 were captive-bred (9,980 scarlet-chested parakeets; 12,001 turquoise parakeets). Therefore, we find that overutilization for commercial, recreational, scientific, or educational purposes is not a threat to wild turquoise parakeets or scarlet-chested parakeets.

#### C. Disease or Predation

No threats from disease or predation have been reported for scarlet-chested parakeets (Garnett and Crowley 2000; Snyder *et al.* 2000). The turquoise parakeet was driven to near extinction in the early 1900s due to introduced herbivores, drought, and possibly an epidemic. However, the numbers are recovering rapidly, and the species is locally common (Collar 1997). The birds are vulnerable to predation by foxes because they nest close to the ground in hollow eucalyptus trees and stumps, but fox predation is not considered a threat to the survival of this species.

Therefore, we have no evidence, at this time, that disease and predation are significant factors affecting scarlet-chested parakeets or turquoise parakeets.

#### D. The Inadequacy of Existing Regulatory Mechanisms

As noted under Previous Federal Actions above, the Australian Government prohibits the commercial export of these species. Domestic use of these species is regulated by Australian State laws. Internationally, both species are listed in CITES Appendix II, which regulates their international commerce. Appendix-II specimens cannot be traded without a permit from the Management Authority of the exporting country. One consideration for approving or denying an export permit is whether or not the proposed export may be detrimental to the survival of the species in the wild.

The United States has additional domestic measures that regulate the trade of these species. The Lacey Act prohibits the import, export, transport, possession, sale, or purchase of birds or their products in violation of State, Federal, or foreign laws or regulations. If these species are removed from the List of Endangered and Threatened

Wildlife, Endangered Species Act protection would no longer apply. In addition, the Wild Bird Conservation Act of 1992 requires a WBCA import permit for wild-caught specimens of these species.

Because the only international trade in these species is limited to captive-bred specimens and specimens not of Australian origin, because the species are prohibited from commercial export in Australia, and because stricter domestic measures govern the importation of these species in the United States, the existing regulatory mechanisms appear to be sufficient.

#### E. Other Natural or Manmade Factors Affecting its Continued Existence

The scarlet-chested parakeet may be affected by competition with Bourke's parakeet (*Neopsephotus bourkii*) where permanent water has been provided by humans in semi-arid rangelands (Landsberg *et al.* 1997). Such competition, however, does not appear to be detrimental at a specieswide level. There is no information to indicate any other natural or manmade factors that affect the continued existence of these species.

#### Summary of Findings

We have carefully assessed the best available biological and conservation status information regarding the past, present, and future threats faced by the scarlet-chested and turquoise parakeets. We find few threats to the species in the wild. Enforcement of existing national and international laws and treaties has minimized the potential impact of trade, and wild populations are stable or increasing, with more than 20,000 breeding-age turquoise parakeets and 10,000 breeding-age scarlet-chested parakeets. In the 2002 IUCN Red List of Threatened Species, the turquoise parakeet is not listed and the scarlet-chested parakeet is included only as lower risk/near threatened. On the basis of this evaluation, we propose to remove *Neophema pulchella* and *Neophema splendida* from the List of Endangered and Threatened Wildlife under the Act.

#### Effects of This Rule

This rule, if made final, would revise 50 CFR 17.11(h) to remove the scarlet-chested parakeet and the turquoise parakeet from among the species included in the List of Endangered and Threatened Wildlife. Because no critical habitat was ever designated for these species, this rule would not affect 50 CFR 17.95.

If these species are removed from the List of Endangered and Threatened Wildlife, Endangered Species Act

protection would no longer apply. The Endangered Species Act currently prohibits the export, import, and interstate commerce of specimens unless certain biological and legal criteria are met, including a demonstrable benefit to the wild population. However, the protections under the Lacey Act and the Wild Bird Conservation Act (for wild-caught specimens only) would remain unchanged. These species are prohibited from commercial export by the Government of Australia and receive additional domestic protection through the Australian States. Removing these species from the List of Endangered and Threatened Wildlife does not alter or supersede their designations as near threatened (turquoise parakeet) and least concern (scarlet-chested parakeet) by the Government of Australia. In addition, removing them from the List will not increase the level of trade in wild-caught specimens or decrease the level of protection provided by CITES.

#### Public Comments Solicited

We will accept written comments and information during this comment period from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party. In particular, we are seeking comments concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the scarlet-chested parakeet and the turquoise parakeet;
- (2) Additional information concerning the range, distribution, and population size of the scarlet-chested parakeet and the turquoise parakeet;
- (3) Current planned activities in the habitat and their possible impacts on the scarlet-chested parakeet and the turquoise parakeet; and
- (4) Impacts on the species caused by removing them from the List of Endangered and Threatened Wildlife.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Any persons commenting may request that we withhold their home addresses, and we will honor these requests to the extent allowable by law. In some circumstances, we may also withhold a commenter's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from

individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m. at the Division of Scientific Authority (see **ADDRESSES** section).

You may also request a public hearing on this proposal. Your request for a hearing must be made in writing and filed within 45 days of the date of publication of this proposal in the **Federal Register**. Address your request to the Division of Scientific Authority (see **ADDRESSES** section).

#### Peer Review

Under our peer review policy (59 FR 34270; July 1, 1994), we will solicit the expert opinions of three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy, population models, and supportive biological and ecological information on this proposed rule. The purpose of such review is to ensure that we base listing decisions on scientifically sound data, assumptions, and analysis. To that end, we will send copies of this proposed rule to these peer reviewers immediately following publication in the **Federal Register**.

#### Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to the following: (1) Are the requirements of the rule clear? (2) Is the discussion of the rule in the Supplementary Information section of the preamble helpful to understanding the rule? (3) What else could we do to make the rule easier to understand?

#### National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

#### References Cited

Brown, P.B., M.C. Holdsworth, and D.E. Rounsevell. 1994. Captive breeding and release as a means of increasing the orange-bellied parrot population in the

wild, pages 135–141, in *Reintroduction Biology of Australian and New Zealand Fauna*. M. Serena, ed. Surrey Beatty & Sons: New South Wales. Pp. 135–141.

Collar, N.J. 1997. Scarlet-chested parakeet (*Neophema splendida*), pages 383–384, in *Handbook of the Birds of the World*. Vol. 4. Sandgrouse to Cuckoos. J. del Hoyo, A. Elliott, and J. Sargatal, eds. Lynx Edicions, Barcelona.

Collar, N.J. 1997. Turquoise parakeet (*Neophema pulchella*), page 383, in *Handbook of the Birds of the World*. Vol. 4. Sandgrouse to Cuckoos. J. del Hoyo, A. Elliott, and J. Sargatal, eds. Lynx Edicions, Barcelona. P. 383.

Dingle, S. 2000. Turquoise parakeet: *Neophema pulchella*. The AFA Watchbird 27(2):12.

Garnett, S.T., and G.M. Crowley 2000. The Action Plan for Australian Birds 2000. Environment Australia, Canberra.

Higgins, P.J. (Ed.) 1999. Handbook of Australian, New Zealand and Antarctic Birds. Vol. 4. Parrots to Dollarbird. Oxford University Press, Melbourne.

International Union for Conservation of Nature and Natural Resources. 2002. 2002 IUCN Red List of Threatened Species. IUCN, Gland, Switzerland.

Juniper, T., and M. Parr. 1998. Pages 365–366 in *Parrots: A Guide to Parrots of the World*. Yale University Press, New Haven and London, pages 365–366.

Landsberg, J., C.D. James, S.R. Morton, T.J. Hobbs, J. Stol, A. Drew, and H. Tongway. 1997. The effects of artificial sources of water on rangeland biodiversity. Report to Environment Australia, Canberra.

Snyder, N., P. McGowan, J. Gilardi, and A. Grajal (eds.). 2000. Page 56 in *Parrots: Status Survey and Conservation Action Plan 2000–2004*. IUCN, Gland, Switzerland and Cambridge, U.K., 180p.

Friends, M.M. 2000. The five popular Australian grass parakeets. The AFA Watchbird 27(2):45–48.

#### Author

The primary author of this rule is Dr. Michael D. Kreger, Division of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (703–358–1708).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

#### Regulations Promulgation

We propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—[AMENDED]**

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. We propose to amend § 17.11(h) by removing the entries for “Parakeet, scarlet-chested (*Neophema splendida*)” and “Parakeet, turquoise (*Neophema pulchella*)” under “BIRDS” from the List of Endangered and Threatened Wildlife.

Dated: August 19, 2003.

**Marshall P. Jones, Jr.,**

*Deputy Director, Fish and Wildlife Service.*

[FR Doc. 03–22225 Filed 8–29–03; 8:45 am]

**BILLING CODE 4310–55–P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[ID 082503D]

**RIN 0648–AQ98**

**Fisheries of the Exclusive Economic Zone off Alaska; Individual Fishing Quota Program; Community Purchase**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Availability; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) has submitted Amendment 66 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This amendment would modify the Individual Fishing Quota (IFQ) Program by revising the definition of an eligible quota share holder to allow eligible communities in the Gulf of Alaska (GOA) to purchase and hold sablefish quota share (QS) for lease to and use by community residents.

**DATES:** Comments on Amendment 66 must be received at the following address by November 3, 2003.

**ADDRESSES:** Comments on the FMP amendment may be mailed to Sue

Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Durall. Comments may be delivered in person or by courier to the Federal Building, 709 West 9th St., Room 413–1, Juneau, AK, 99801. Comments also may be sent via facsimile to (907) 586–7557, Attn: Lori Durall. Copies of Amendment 66 to the FMP and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action by the Council and NMFS are available from NMFS at the above address, or by calling the Alaska Region, NMFS, at (907) 586–7228.

**FOR FURTHER INFORMATION CONTACT:**

Glenn Merrill, (907) 586–7228, or [glenn.merrill@noaa.gov](mailto:glenn.merrill@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any FMP or FMP amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that the Secretary, upon receiving an FMP, immediately publish a notice in the **Federal Register** that the FMP or amendment is available for public review and comment.

Amendment 66 was adopted by the Council in April 2002. If approved by NMFS, this amendment would allow certain remote communities to designate non-profit entities to purchase and hold QS and lease the resulting IFQ to community residents. To be eligible for this community purchase program, a community would have to have of population of less than 1,500 people, no road access to larger communities, and have direct access to marine waters of the GOA. Further, the Council determined which communities would meet these criteria and this list of eligible communities would be specified in the implementing rules. A non-profit entity of an eligible community also would have to meet criteria to receive QS by transfer and would have to submit annual reports. These non-profit entities would be subject to restrictions

on the amount of quota they may hold individually and in the aggregate, on the sale of QS, and the leasing of IFQ.

Amendment 66 would be necessary to allow sablefish QS to be purchased and held by eligible communities because the current FMP limits the transfer of QS, with certain exemptions, to individuals and not corporate entities. The IFQ Program for Pacific halibut is implemented under authority of the North Pacific Halibut Act of 1982 (Halibut Act) instead of the Magnuson-Stevens Act, and the Council does not have a halibut fishery management plan. If this proposed policy change is approved, however, the halibut and sablefish components would be implemented with the same rules. Amendment 66, and its companion regulatory amendment for halibut also is designed to comply with the Magnuson-Stevens Act mandate that Regional Councils must take into account the importance of fishery resources to communities in order to provide for the sustained participation of such communities, and to the extent practicable, minimize adverse economic impacts on such communities.

Public comments are being solicited on the amendment through the end of the comment period (see **DATES**). A proposed rule that would implement the amendment may be published in the **Federal Register** for public comment following NMFS' evaluation under Magnuson-Stevens Act procedures. All comments received by the end of the comment period whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision on the amendment. To be considered in the approval/disapproval decision on the amendment, comments must be received by the close of business on the last day of the comment period on the amendment; that does not mean postmarked or otherwise transmitted by that date.

Dated: August 27, 2003.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 03–22343 Filed 8–29–03; 8:45 am]

**BILLING CODE 3510–22–S**