

## Stress

### Information Provided in the Petition

The petitioners provide information linking various habitat changes with increased stress levels for the Wyoming pocket gopher. They briefly describe the types of effects that stress from various sources may have on a species.

### Analysis of Information Provided in the Petition and Information Readily Available

Stress may increase due to habitat changes that are addressed in Factor A above. Other sources of stress are not described in the petition to an extent that allows us to discern whether the conservation status of the Wyoming pocket gopher is affected by stress levels. Based on the information provided in the petition, we determined that the petition does not present substantial information indicating that listing the Wyoming pocket gopher may be warranted due to stress.

### Continued Oil and Gas Development Information Provided in the Petition

The petitioners describe the level of energy development that has occurred in various parts of Wyoming and some of the ecological consequences of that development. They note that the entire range of the Wyoming pocket gopher is leased for oil and gas development.

### Analysis of Information Provided in the Petition and Information Readily Available

We addressed the impacts of oil and gas development in Factor A above, and did not find a description of any additional impacts in the petition under Factor E.

### Summary of Factor E

We found no documentation to support the petitioners' suggestion that effects from small populations, climate change, increased stress, or oil and gas leasing (in itself) are significant to the degree that other natural or manmade factors are affecting the continued existence of the Wyoming pocket gopher. On the basis of our evaluation of the information presented in the petition and readily available, we determined that the petition does not present substantial information indicating that listing the Wyoming pocket gopher may be warranted due to other natural or manmade factors. However, we will assess the issues raised by the petitioners more thoroughly during our status review of the species.

## Finding

We reviewed the petition, supporting information provided by the petitioners, and information in our files, and evaluated that information to determine whether the sources cited support the claims made in the petition. We find the petitioners presented substantial information under Factor A indicating that listing the Wyoming pocket gopher as threatened or endangered under the Act may be warranted due to habitat threats resulting from oil and gas exploration and development, particularly given the limited range and uncertain status of the species. Based on the amount of Federal land leased for energy development and general interest in energy extraction, the likelihood for energy development throughout the species' range is high. Although not supported with sufficient information, the petitioners also presented information about the susceptibility of the species to stochastic events due to its small population size and limited distribution (see Factor E). In our 12-month finding, we will further investigate and analyze this potential vulnerability. The petitioners' claim that regulatory mechanisms are inadequate for the Wyoming pocket gopher is not supported with sufficient information, but we will also assess this factor more thoroughly during our status review of the species.

Based on this review and evaluation, we find that the petition presents substantial scientific or commercial information indicating that listing the Wyoming pocket gopher may be warranted. Therefore, we are initiating a status review to determine whether listing the Wyoming pocket gopher under the Act is warranted. As part of our status review of the Wyoming pocket gopher, we will examine available information on the threats to the species and make a final determination on whether the species is warranted for listing as threatened or endangered under the Act. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information regarding the Wyoming pocket gopher (as described above under the Information Solicited section).

The "substantial information" standard for a 90-day finding is in contrast to the Act's "best scientific and commercial data" standard that applies to a 12-month finding as to whether a petitioned action is warranted. A 90-day finding is not a status assessment of the species and does not constitute a status review under the Act. Our final determination as to whether a

petitioned action is warranted is not made until we have completed a thorough status review of the species, which is conducted following a positive 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a positive 90-day finding does not mean that the 12-month finding also will be positive.

The petitioners requested that critical habitat be designated for this species. If we determine in our 12-month finding that listing the Wyoming pocket gopher is warranted, we will address the designation of critical habitat to the maximum extent prudent and determinable at the time of the proposed rulemaking.

## References Cited

A complete list of all references cited in this document is available upon request from the Wyoming Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

## Author

The primary authors of this document are staff members of the Wyoming Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

**Authority:** The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 2, 2009.

**Kenneth Stansell,**

*Acting Director, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 92

[FWS-R7-MB-2008-0099; 91200-1231-9BPP L2]

RIN 1018-AW29

#### Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2009 Season

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

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, are reopening the public comment period on our proposed rule to establish migratory bird subsistence harvest regulations in Alaska for the 2009 season. This action

will allow all interested parties an additional opportunity to comment on our proposal. The initial public comment period for the proposed rule ended on January 20, 2009. If you submitted comments previously, or in the interim, then you do not need to resubmit them because we have already incorporated them into the public record and we will fully consider them in preparation of our final determination.

**DATES:** We will accept comments received or postmarked on or before March 12, 2009.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: RIN 1018-AW29, Division of Policy and Directives Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Fred Armstrong, (907) 786-3887, or Donna Dewhurst, (907) 786-3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503.

#### SUPPLEMENTARY INFORMATION:

##### Background

We, the U.S. Fish and Wildlife Service, published a proposed rule in the **Federal Register** on December 18, 2008 (73 FR 76994), to propose migratory bird subsistence harvest regulations in Alaska for the 2009 season. The proposed regulations would enable the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These proposed regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. This rulemaking proposes region-specific regulations that would go into effect on April 2, 2009, and expire on August 31, 2009.

We are reopening the public comment period on our proposed rule for an additional 30 days (see **DATES** section) in response to written requests for additional time to comment that we received during the initial public comment period.

##### Public Comments Solicited

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

We will post your entire comment—including your personal identifying information—on <http://www.regulations.gov>. If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Office of the Alaska Migratory Bird Co-management Council, 1011 E. Tudor Rd., Anchorage, AK 99503 (877) 229-2344.

##### Author(s)

The primary authors of this package are the staff members of the Office of the Alaska Migratory Bird Co-Management Council.

##### Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to “issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.”

Dated: January 30, 2009.

**Jane Lyder,**

*Assistant Deputy Secretary.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 648

[Docket No. 090122047-9050-01]

RIN 0648-XM11

##### Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2009 Georges Bank Cod Hook Sector Operations Plan and Agreement, and Allocation of Georges Bank Cod Total Allowable Catch

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This proposed rule provides interested parties an opportunity to comment on the proposed sector operations plan and supplemental environmental assessment (EA) prior to final approval or disapproval of the sector operations plan and allocation of a Georges Bank (GB) cod total allowable catch (TAC) to the GB Cod Hook Sector (Hook Sector) for fishing year (FY) 2009.

Amendment 13 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) implemented the Hook Sector and authorized annual allocation of up to 20 percent of the GB cod TAC to the Hook Sector. Pursuant to that authorization, a representative of the Hook Sector has submitted an operations plan and sector agreement (contract), and requested an allocation of GB cod to the Hook Sector for FY 2009.

**DATES:** Written comments must be received on or before February 25, 2009.

**ADDRESSES:** You may submit comments, identified by 0648-XM11, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>,
- *Fax:* (978) 281-9135, Attn: Mark Grant,
- *Mail:* 55 Great Republic Drive, Gloucester, MA 01930.

*Instructions:* All comments received are part of the public record and will