

registrant of an antimicrobial pesticide product. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### *B. How Can I Access Electronic Copies of this Document and Other Related Information?*

In addition to using [regulations.gov](http://www.regulations.gov), you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr>.

## II. What Action is EPA Taking?

Section 25(a)(2) of FIFRA requires the Administrator to provide the Secretary of Agriculture with a copy of any draft proposed rule at least 60 days before signing it for publication in the **Federal Register**. Similarly, section 21(b) of FIFRA requires the Administrator to provide the Secretary of Health and Human Services with a copy of any draft proposed rule pertaining to a public health pesticide at least 60 days before signing it for publication in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If either Secretary comments in writing regarding the draft proposed rule within 30 days after receiving it, the Administrator shall include in the proposed rule when published in the **Federal Register** the comments of the Secretary and the Administrator’s response to those comments. If the Secretary does not comment in writing within 30 days after receiving the draft proposed rule, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30-day period.

## III. Do Any Statutory and Executive Order Reviews Apply to this Notification?

No. This document is not a proposed rule, it is merely a notification of submission to the Secretaries of Agriculture and Health and Human Services. As such, none of the regulatory assessment requirements apply to this document.

### List of Subjects in Parts 158 and 161

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: February 25, 2008.

**Debra Edwards,**

*Director, Office of Pesticide Programs.*

[FR Doc. E8-4144 Filed 3-4-08; 8:45 am]

**BILLING CODE 6560-50-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 223 and 224

[Docket No. 080110038-8248-01]

RIN 0648-XF03

#### Listing Endangered and Threatened Wildlife and Designating Critical Habitat; 90-day Finding for a Petition to Reclassify the Loggerhead Turtle in the Western North Atlantic Ocean

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

**ACTION:** 90-day petition finding; request for information and comments.

**SUMMARY:** We, NMFS, announce the 90-day finding for a petition to reclassify loggerhead turtles (*Caretta caretta*) in the western North Atlantic Ocean as a Distinct Population Segment (DPS) with endangered status and designate critical habitat under the Endangered Species Act of 1973, as amended (ESA). The loggerhead is currently listed as threatened throughout its range. We find that the petition presents substantial scientific information indicating that the petitioned action may be warranted.

We have initiated a review of the status of the species to determine whether the petitioned action is warranted and to determine whether any additional changes to the current listing of the loggerhead turtle are warranted. To ensure a comprehensive review, we solicit information and comments pertaining to this species from any interested party.

**DATES:** Written comments and information related to this petition finding must be received [see **ADDRESSES**] by May 5, 2008.

**ADDRESSES:** You may submit comments, identified by “0648-XF03”, by any one of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Fax: 978-281-9394, Attention: Barbara Schroeder
- Mail: Information on paper, disk, or CD-ROM should be addressed to the

Director of the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

#### FOR FURTHER INFORMATION CONTACT:

Barbara Schroeder by phone 301-713-2322, fax 301-427-2522, or e-mail [barbara.schroeder@noaa.gov](mailto:barbara.schroeder@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the ESA (16 U.S.C. 1531 *et seq.*) requires us to make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Our implementing regulations (50 CFR 424.14) define “substantial information” as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In determining whether substantial information exists, we take into account several factors, including information submitted with, and referenced in, the petition and all other information readily available in our files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If we find that a petition presents substantial information indicating that the requested action may be warranted, we are also required to conduct a status review of the species. The determination of whether the petitioned action is warranted must be made within 1 year of the receipt of the petition.

##### Analysis of Petition

On November 16, 2007, we received a petition from Oceana and the Center for Biological Diversity requesting that loggerhead turtles in the western North Atlantic Ocean be reclassified as a DPS (see *Petition Finding* section below for discussion on Distinct Population

Segments) with endangered status and that critical habitat be designated.

The petition contains a detailed description of the species' natural history and status, including information on distribution and movements, population structure, behavior, population status and trends, and factors contributing to the current status of the species in the western North Atlantic Ocean. The petitioners assert that the western North Atlantic loggerhead is discrete from loggerhead populations found elsewhere due to physical, genetic, physiological, ecological, and behavioral factors, and they provide information they believe supports this assertion. The petitioners further assert that the western North Atlantic loggerhead population is both biologically and ecologically significant relative to the species. The petitioners maintain that the western North Atlantic loggerhead nesting population has undergone a marked decline in recent decades, and cite coastal development, bycatch in fisheries, marine pollution, and global warming as primary threats to the population. The petitioners provide information on the western North Atlantic loggerhead relative to the ESA section 4(a)(1) factors and assert that the western North Atlantic loggerhead population warrants an endangered listing.

Finally, the petitioners request that, if the western North Atlantic loggerhead is not determined to meet the DPS criteria, loggerheads throughout the Atlantic Ocean be designated as a DPS and listed as endangered.

#### **Petition Finding**

Based on the above information and criteria specified in 50 CFR 424.14(b)(2), we find the petitioners present substantial scientific and commercial information indicating that a reclassification of the loggerhead in the western North Atlantic Ocean as a DPS and listing of that DPS as endangered may be warranted. The ESA defines a "species" as "...any subspecies of fish or wildlife or plants and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." NMFS and the U.S. Fish and Wildlife Service (the Services) published a joint policy defining the phrase "distinct population segment" on February 7, 1996 (61 FR 4722). Two elements are considered in a decision on whether a population segment qualifies as a DPS under the ESA: discreteness of the population segment in relation to the remainder of the species and significance of the population segment to the species. If a population segment qualifies as a DPS,

the conservation status of that DPS is evaluated to determine whether it is threatened or endangered. Under section 4(b)(3) of the ESA, an affirmative 90-day finding requires that we commence a status review on the loggerhead turtle. The Services recently completed a 5-year review of the loggerhead turtle, as required under section 4(c)(2) of the ESA (NMFS and U.S. Fish and Wildlife Service, 2007). This review recommended that a full status review of the loggerhead be conducted in accordance with the DPS policy. We have initiated this review, and, once it has been completed, we will make a finding on whether reclassification of the loggerhead in the western North Atlantic Ocean as endangered is warranted, warranted but precluded by higher priority listing actions, or not warranted, as required by section 4(b)(3)(B) of the ESA. The review will also consider whether any additional changes to the current globally threatened listing for the loggerhead are warranted.

There is no critical habitat designated for the loggerhead turtle. The ESA currently requires us to make a critical habitat determination concurrent with listing determinations. The ESA defines "critical habitat" as

"...the specific areas within the geographical area occupied by the species, at the time it is listed... on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and... specific areas outside the geographical area occupied by the species at the time it is listed... upon a determination by the Secretary that such areas are essential for the conservation of the species."

#### **Section 4(a)(1) Factors and Basis for Determination**

Under section 4(a)(1) of the ESA and the implementing regulations at 50 CFR 424.11(c), a species shall be reclassified if the Secretary of Commerce or the Secretary of the Interior, as appropriate, determines, based on the best scientific and commercial data available after conducting a review of the species' status, that the species is threatened or endangered because of any of the following factors: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence.

#### **Information Solicited**

To ensure that the status review is complete and based on the best available data, we solicit information and comments on whether loggerhead turtles in the western North Atlantic Ocean, or any other area, qualify as a DPS and, if so, whether it should be classified as threatened or endangered. Specifically, we are soliciting information in the following areas relative to loggerheads in the western North Atlantic and elsewhere: (1) Historical and current population status and trends; (2) historical and current distribution; (3) migratory movements and behavior; (4) genetic population structure; (5) current or planned activities that may adversely impact loggerheads; and (6) ongoing efforts to protect loggerheads.

We also request information on areas within U.S. jurisdiction that may qualify as critical habitat for loggerhead turtles, both in the western North Atlantic Ocean and elsewhere within the species' range. Areas that include the physical and biological features essential to the conservation of the species that may require special management considerations or protection should be identified. Areas outside the present range should also be identified if such areas are essential to the conservation of the species. Essential features include, but are not limited to: (1) space for individual growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and development of offspring; and (5) habitats that are protected from disturbance or are representative of the historical, geographical and ecological distributions of the species (50 CFR 424.12).

We request that all data, information, and comments be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. All submissions should contain the submitter's name, address, and any association, institution, or business that the person represents. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address (see **ADDRESSES**).

#### **Peer Review**

For listings, delistings, and reclassifications under the ESA, the Services issued a joint policy for peer review of the scientific data (59 FR 34270, July 1, 1994). On January 14,

2005, the Office of Management and Budget (OMB) published its Final Information Quality Bulletin for Peer Review (70 FR 2664). The intent of the peer review policy and the OMB Information Quality Bulletin for Peer Review is to ensure that listings are based on the best scientific and commercial data available. We are soliciting the names of recognized experts in the field that could serve as peer reviewers for the loggerhead status review. Independent peer reviewers will be selected from the academic and scientific community, applicable tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

#### References Cited

National Marine Fisheries Service and U.S. Fish and Wildlife Service. 2007. Loggerhead sea turtles (*Caretta caretta*) 5-year review: summary and evaluation. 65 pp.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: February 28, 2008.

**Samuel D. Rauch, III,**

Deputy Assistant Secretary for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E8-4231 Filed 3-4-08; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 070717351-7373-01]

RIN 0648-AV64

#### Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program

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

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

**SUMMARY:** NMFS proposes regulations to modify both the Individual Fishing Quota (IFQ) Program and the Community Development Quota (CDQ) Program for the fixed-gear commercial Pacific halibut and sablefish fisheries. This action would amend current regulations to remove a prohibition against the use of longline pot fishing gear in the Bering Sea sablefish IFQ and sablefish CDQ fisheries in the month of June. This action also would add regulatory provisions to allow members

of the National Guard and military reserves who are mobilized to active duty to temporarily transfer their annual halibut and sablefish IFQ to other eligible IFQ recipients. This action is necessary to increase the efficiency of fishermen operating longline pot vessels in the Bering Sea sablefish fishery and to allow guardsmen and reservists to accrue some economic benefit from their annual IFQ if unable to harvest it due to military service. This proposed action is intended to promote the conservation and management provisions in the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) and the Northern Pacific Halibut Act of 1982 (Halibut Act).

**DATES:** Comments must be received no later than April 4, 2008.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-AV64" by any of the following methods:

- Webform at the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Mail: P.O. Box 21668, Juneau, AK 99802.
- Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.
- Fax: 907-586-7557.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change.

NMFS will accept anonymous comments. Attachments to electronic comments must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) file formats to be accepted.

Copies of the Categorical Exclusion (CE), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from the North Pacific Fishery Management Council (Council) at 605 West 4th, Suite 306, Anchorage, Alaska 99501-2252, 907-271-2809, or the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, and on the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS at the above address, and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or by fax to 202-395-7285.

#### FOR FURTHER INFORMATION CONTACT:

Obren Davis, 907-586-7228 or [obren.davis@noaa.gov](mailto:obren.davis@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) in the Exclusive Economic Zone (EEZ) under the BSAI FMP. The FMP was prepared by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson-Stevens Act) and is implemented by regulations at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. NMFS manages fishing for sablefish (*Anoplopoma fimbria*) through regulations established under the authority of the Magnuson-Stevens Act. Sablefish is managed as a groundfish species under the FMP, as well as under the IFQ Program (described below) that allocates sablefish and Pacific halibut (*Hippoglossus stenolepis*) harvesting privileges among U.S. fishermen.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention) and the Halibut Act. The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by these two officials, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62 (72 FR 11792; March 14, 2007). Federal regulations governing the halibut fisheries in the BSAI management area appear at 50 CFR parts 300 and 679.

#### Background and Need for Action

##### A. The IFQ Program

The Council, under the authority of the Halibut Act (with respect to Pacific halibut) and the Magnuson-Stevens Act (with respect to sablefish), adopted the IFQ Program in 1991. The Halibut and Sablefish IFQ Program established a limited access system for managing the fixed gear Pacific halibut fishery in Convention waters in and off Alaska and sablefish fisheries in waters of the EEZ, located between 3 and 200 miles off Alaska. The IFQ Program was approved by NMFS in January 1993, and promulgated in Federal regulation on November 9, 1993 (58 FR 59375). Fishing under the Halibut and Sablefish