

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Parts 223 and 224**

RIN 0648–XT12

**Petition To List 83 Species of Coral as Threatened or Endangered Under the Endangered Species Act (ESA)**

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

**ACTION:** Notice of availability of reports, request for information, and notice of public listening sessions and scientific workshops.

**SUMMARY:** We, NMFS, issue this document to request information from the public on a Status Review Report and a draft Management Report we prepared in response to a petition from the Center for Biological Diversity (CBD) to list 83 coral species as threatened or endangered under the Endangered Species Act (ESA) and to notify the public about future public listening sessions and scientific workshops on this topic. The Status Review Report examines the biology of, threats to, and extinction risk of 82 coral species, while the draft Management Report describes existing regulatory mechanisms and ongoing conservation efforts to manage and conserve these species throughout the Caribbean and Indo-Pacific. Collectively, these two reports constitute the best available scientific and commercial information that we have compiled to date on the 82 species of coral under review.

The review of the status of these species is a major undertaking because of the large number and geographically dispersed nature of coral species involved. Therefore, with the approval of a federal court, NMFS and CBD have agreed to an extension of the previously approved deadline for issuing the 12-month finding on this petition. We are using this extension to allow additional opportunity for the public to provide us with information that may further inform our 12-month finding as to whether the petitioned action is or is not warranted. In addition, we will hold two public listening sessions and two public scientific workshops, during which we will explain the evaluation process and the public and experts will have opportunity to provide any additional relevant information on this matter.

**DATES:** Comments on the documents and additional papers, reports, and

information must be received by July 31, 2012. Dates, times, and location information for public listening sessions and scientific workshops will be announced in a subsequent **Federal Register** document.

**ADDRESSES:** You may obtain a copy of the Status Review Report of 82 Candidate Coral Species Petitioned Under the U.S. Endangered Species Act (Status Review Report) and the draft Management Report for 82 Corals Status Review under the Endangered Species Act: Assessment of Existing Regulatory Mechanisms and Conservation Efforts (Management Report) by visiting the internet at: [http://www.nmfs.noaa.gov/stories/2012/04/4\\_13\\_12corals\\_petition.html](http://www.nmfs.noaa.gov/stories/2012/04/4_13_12corals_petition.html).

The two reports may also be viewed, by appointment, during regular business hours, at: NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd. Suite 1110, Honolulu, HI 96814; or NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

You may submit information, identified by 0648–XT12, on the Status Review Report and the draft Management Report by any of the following methods:

- **Electronic Submission:** Submit all electronic information via electronic mail to [NMFS.82Corals@noaa.gov](mailto:NMFS.82Corals@noaa.gov).
- **Mail:** Submit written comments to Regulatory Branch Chief, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office, 1601 Kapiolani Blvd. Suite 1110, Honolulu, HI 96814, Attn: 82 coral species; or to Assistant Regional Administrator for Protected Resources, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; Attn: 82 coral species.
- **Fax:** 808–973–2941; Attn: Protected Resources Regulatory Branch Chief, or 727–824–5309; Attn: Assistant Regional Administrator for Protected Resources.

**FOR FURTHER INFORMATION CONTACT:** Chelsey Young, NMFS, Pacific Islands Regional Office, 808–944–2137; Lance Smith, NMFS, Pacific Island Regional Office, 808–944–2258; Jennifer Moore, NMFS, Southeast Regional Office, 727–824–5312; or Marta Nammack, NMFS, Office of Protected Resources, 301–427–8469.

**SUPPLEMENTARY INFORMATION:****Background**

This request for information is not part of any rulemaking action, but is issued to assist us in determining the most appropriate course of action on a petition we received to list 83 species of

coral in the Caribbean and Indo-Pacific as threatened or endangered under the ESA. On February 10, 2010, we published a 90-day finding on the petition in the **Federal Register**, concluding that the petition presented substantial scientific or commercial information indicating that listing may be warranted for 82 of the 83 petitioned species (75 FR 6616). The 90-day finding was followed by a public comment period, during which we received approximately 400 public comments.

We also established a Biological Review Team (BRT) composed of Federal scientists to examine the status of the 82 coral species in question and evaluate, based on the best available scientific information, the extinction risk for each species. The BRT was not charged with making recommendations for listing. In September 2011, after being peer-reviewed by the Center for Independent Experts, we finalized the Status Review Report, which is a technical document approximately 450 pages in length (excluding references). Separately, NMFS' Pacific Islands and Southeast Regional offices drafted a Management Report (approximately 130 pages, excluding references and an appendix) to evaluate management activities affecting coral species across their range, including existing regulatory mechanisms and conservation efforts. Together, these two reports constitute the best available scientific and commercial information that we have compiled to date on the 82 species of coral under review.

On September 27, 2011, CBD sued us challenging our failure to make a 12-month finding as to the 82 coral species. Shortly thereafter, we entered into a stipulated settlement agreement with CBD in which we agreed to submit our 12-month finding to the **Federal Register** for publication on or before April 15, 2012. The U.S. District Court for the Northern District of California (court) entered this stipulated settlement agreement on November 8, 2011. Subsequent discussions between CBD and us resulted in the court modifying the deadline to require us to submit our 12-month finding to the **Federal Register** on or before December 1, 2012. The court also ordered that we publish the Status Review Report and draft Management Report for public comment on or before April 15, 2012.

The response to the petition to list 83 coral species is one of the most complex listing processes we have ever undertaken. Given the petition's scale and the precedential nature of the issues, we have determined that our decision-making process would be

strengthened if we take additional time to allow the public, non-federal experts, non-governmental organizations, state and territorial governments, and academics to review and provide information related to the Status Review Report and draft Management Report prior to issuing our 12-month finding. We will hold listening sessions and scientific workshops in the Southeast region and Pacific Islands region and will then consider the information gathered through these venues and through written submissions to inform our 12-month finding and, if appropriate, a proposed listing rule.

We expect that this outreach effort will allow the public to understand more clearly the context in which this petition is being evaluated and the basis and rationale supporting our 12-month finding. We also expect this process will ensure that any additional relevant scientific information available is brought to our attention. This document is not part of the usual rulemaking process and is unique to NMFS' response to the petition to list 83 coral species. Thus, the additional outreach conducted in this case does not establish precedent for any other ESA-listing process.

#### Information Solicited

We are particularly interested in receiving information on the following:

(1) Relevant scientific information collected or produced since the completion of the Status Review Report (2011) or any relevant scientific information not included in the Report; and

(2) Relevant management information not included in the draft Management Report, such as descriptions of regulatory mechanisms for greenhouse gas emissions globally, and for local threats in the 83 foreign countries and the U.S. (Florida, Hawaii, Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, and Northern Mariana Islands), where the 82 coral species collectively occur.

Although this action is not a rulemaking, we will accept information received in response to this solicitation and will take such information into account, along with the information received on the 90-day finding (75 FR 6616; February 10, 2010), when we make our 12-month finding on whether CBD's petitioned action is warranted. If you have submitted information during the previous comment period, there is no need to re-submit it. We request that all information submitted be accompanied by supporting documentation such as maps, bibliographic references, or reprints of

pertinent publications. If possible, comments should include the heading of the relevant section of the Status Review Report or draft Management Report. Please submit any information to the **ADDRESSES** listed above.

#### Public Listening Sessions and Scientific Workshops

In addition to soliciting input from the public on the Status Review Report and draft Management Report, we will hold one public listening session and one scientific workshop in each of the two relevant regions: the Southeast and Pacific Islands, during which we will explain the evaluation process and the public and experts will have opportunity to provide any additional relevant information on this matter. Dates, times, and locations of these meetings will be announced in a subsequent **Federal Register** document and on our Web site at: [http://www.nmfs.noaa.gov/stories/2012/04/4\\_13\\_12corals\\_petition.html](http://www.nmfs.noaa.gov/stories/2012/04/4_13_12corals_petition.html).

We have not yet published a proposed listing rule for the 82 coral species. Therefore, we cannot consider comments on whether a determination should be made as to whether some or all of the petitioned corals are an endangered or threatened species. The ESA also prohibits us from taking economic or social impacts into consideration in any listing decisions. Accordingly, we cannot consider comments on these matters.

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

Dated: April 12, 2012.

**Alan D. Risenhoover,**

*Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

**RIN 0648-XA975**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries in the Bering Sea and Aleutian Islands

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

**ACTION:** Notice; intent to prepare an environmental impact statement, request for comments.

**SUMMARY:** NMFS, in consultation with the North Pacific Fishery Management Council (Council), announces its intent to prepare an environmental impact statement (EIS) on Steller sea lion protection measures for the Bering Sea and Aleutian Islands management area (BSAI) groundfish fisheries, in accordance with the National Environmental Policy Act of 1969. The proposed action would restrict groundfish fishing in the BSAI to ensure the groundfish fisheries are not likely to result in jeopardy of continued existence or adverse modification or destruction of designated critical habitat (JAM) for the western distinct population segment (DPS) of Steller sea lions. The western DPS of Steller sea lions is listed as endangered under the Endangered Species Act (ESA) and NMFS must ensure that the groundfish fisheries are not likely to result in JAM for this DPS. NMFS intends to work with stakeholders to develop fisheries restrictions that avoid the likelihood of JAM and minimize the potential economic impact on the fishing industry to the extent practicable while meeting the requirements of the ESA. The analysis in the EIS will determine the impacts to the human environment resulting from this proposed action and the alternatives. In scoping for the EIS, NMFS will accept written comments from the public to determine the issues of concern; the appropriate range of management alternatives; and the direct, indirect, and cumulative impacts. NMFS, in coordination with the Council, will conduct a public meeting at the October 2012 Council meeting to inform the public of this proposed action and alternatives, present issues and potential impacts, and gather public comment.

**DATES:** Written comments must be received by 5 p.m. Alaska Standard Time (AST), October 15, 2012.

**ADDRESSES:** You may submit comments on this action, identified by NOAA-NMFS-2012-0013, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2012-0013 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on that line.

- **Mail:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: