

attendees and does not provide opportunities for dialogue and information exchange. NMFS believes that the traditional public hearing format can be improved upon by also including opportunities for individuals to discuss specific elements of the proposals with agency staff in small groups. The "open-house" format of the public meetings, described below, will enhance the ability of the public to engage effectively in the rulemaking process, while respecting their valuable time and resources.

#### Meeting Format

NMFS believes that the proposed hatchery listing policy and the subsequent proposed listing determinations for 27 West Coast ESUs of salmon and *O. mykiss* (see 69 FR 33101; June 14, 2004) are important to salmon recovery. Public engagement on these intimately related proposals will be combined into the same public meetings to make efficient use of the agency's and the public's time and resources.

*Afternoon Practitioners' Sessions* – Afternoon sessions (1:30 p.m. to 4:30 p.m.) will be provided for local practitioners and stakeholders involved with managing the ESA on a regular basis, including: tribal governments; forestry and agricultural interests; home builders and developers; the sport and commercial fishing community; the environmental community; the business community; utility and special districts; local government elected officials and their staff; other locally-based Federal and state agencies; and public interest groups. The structure of these afternoon meetings will be tailored to allow practitioners and NMFS staff to discuss the specific issues that are of local concern. Attendance at the afternoon sessions will be on a pre-registration basis. Information on attending the practitioners' afternoon sessions is available from NMFS upon request (see **FOR FURTHER INFORMATION CONTACT**, above) as well as on the Internet at <http://www.nwr.noaa.gov/AlseaResponse/meetings.html/>.

*Evening Open House and Public Testimony* – Evening "open house" sessions designed for broader public participation will be conducted on the same day as the afternoon practitioners' sessions. The "open house" format will provide the general public with an opportunity to meet with NMFS staff in small groups on specific topics in order to learn more about the proposals and their possible impacts on their communities. These evening meetings will also provide opportunities for the public to make formal recorded

comments on the proposals. The preferred means of providing public comment for the official record is via written testimony prepared in advance of the meeting. In addition, blank "comment sheets" will be provided at the evening meetings for those without prepared written comments, and facilities will also be provided for recording oral testimony. The evening sessions will be open from 6:30 p.m. to 9:30 p.m. Because these sessions will be designed as open houses where the public can move from "station" to "station" and discuss their particular interests with NMFS staff, members of the local community can come and go from the meeting as they please. For those who are interested, there will also be a short presentation on the proposed hatchery listing policy and the proposed listing determinations from NMFS beginning at 6:30 p.m. NMFS hopes that this format will allow busy community members to participate without necessarily attending the entire evening. Members of the public wishing to attend the evening open house meetings will receive the notification through advertising. NMFS Northwest Region's web page (<http://www.nwr.noaa.gov/AlseaResponse/meetings.html/>), and public notices published in their community. There is no need to register; just drop in anytime during the course of the evening event.

#### Meeting Dates & Locations

Public meetings, including both afternoon practitioners' (1:30 p.m. to 4:30 p.m.) and evening open house sessions (6:30 p.m. to 9:30 p.m.), will be held at eight locations in the Pacific Northwest from mid-September to mid-October. The specific dates and locations of these meetings are listed below:

(1) September 14, 2004, at the Chelan County Public Utility District (PUD) Auditorium, 327 N. Wenatchee Ave., Wenatchee, WA 98801.

(2) September 16, 2004, at the Red Lion Hotel Columbia Center, N. 1101 Columbia Center Blvd, Kennewick, WA 99336.

(3) September 22, 2004, at the Shilo Inn Hotel, 536 SW Elizabeth, Newport, OR 97635.

(4) September 28, 2004, at the Stagecoach Inn, 201 Highway 93 North, Salmon, ID 83467.

(5) September 30, 2004, at the Red Lion Hotel, 621 21st St., Lewiston, ID 83501.

(6) October 5, 2004, at the Radisson Hotel (SeaTac Airport), 17001 Pacific Highway South, Seattle WA 98118.

(7) October 7, 2004, at Umpqua Community College, 1140 College Rd., Roseburg, OR 97470.

(8) October 13, 2004, at the Portland Building, 1120 SW 5th Ave, Portland, OR 97204.

Directions to the meeting locations can be obtained on the Internet at <http://www.nwr.noaa.gov/AlseaResponse/meetings.html/>. Dates and locations of public hearings to be held in California will be announced in a subsequent Federal Register notice.

In scheduling these public meetings, NMFS has anticipated that many affected stakeholders and members of the public may prefer to discuss the proposed hatchery listing policy directly with staff during the public comment period. These public meetings are not the only opportunity for the public to provide input on this proposal. The public and stakeholders are encouraged to continue to comment and provide input to NMFS on the proposals (via correspondence, e-mail, and the Internet; see **ADDRESSES**, above) up until the scheduled close of the comment period on October 20, 2004.

#### References

Copies of the **Federal Register** notices and related materials cited in this document are available on the Internet at <http://nwr.noaa.gov>, or upon request (see **ADDRESSES** section above).

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

Dated: August 25, 2004.

**Donna Wieting,**

*Acting Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 04-19870 Filed 8-30-04; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 051804D]

#### Notice of Availability of the Draft Revised Recovery Plan for the North Atlantic Right Whale

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

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

**SUMMARY:** NMFS announces the availability for public review of the draft revised Recovery Plan (Plan) for the North Atlantic Right Whale (*Eubalaena glacialis*). NMFS is soliciting review and comment from the public and all

interested parties on the Plan, and will consider all substantive comments received during the review period before submitting the Plan for final approval.

**DATES:** Written comments on the revised Recovery Plan must be received no later than 5 p.m., eastern standard time, on November 1, 2004.

**ADDRESSES:** Written comments should be sent to: Chief, Marine Mammal Conservation Division, Attn: North Atlantic Right Whale Recovery Plan, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via e-mail to the following address: [Narw.Comments@noaa.gov](mailto:Narw.Comments@noaa.gov). Interested persons may obtain the Plan for review from the above address; the Plan is also available on-line from the Office of Protected Resources web site at the following URL: <http://www.nmfs.noaa.gov/pr/PR3/recovery.html>

**FOR FURTHER INFORMATION CONTACT:** Michael Payne, Chief, Marine Mammal Conservation Division, (301) 713-2322 x101, e-mail [michael.payne@noaa.gov](mailto:michael.payne@noaa.gov); or Phil Williams, Chief, Endangered Species Division, (301) 713-1401 x145, e-mail [phil.williams@noaa.gov](mailto:phil.williams@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Recovery Plans (1) describe actions considered necessary for the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), (2) establish criteria for the downlisting or delisting of such species, and (3) estimate the time and costs required to implement recovery actions. The ESA requires the development of Recovery Plans for listed species unless such a plan would not promote the recovery of a particular species. Section 4(f) of the ESA, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. NMFS will consider all substantive comments and information presented during the public comment period in the course of finalizing this Recovery Plan.

Right whales were listed as endangered under the Endangered Species Conservation Act in June 1970 (35 FR 8495). Right whales in the North Pacific and North Atlantic were until recently considered a single species (*E. glacialis*), while the southern right whale (*E. australis*) was considered a separate, but closely related species. The 1991 Recovery Plan for the Northern Right Whale (*E. glacialis*)

addressed right whales throughout the northern hemisphere. However, recent genetic studies provide strong evidence of separate specific status for North Atlantic and North Pacific right whales, and accordingly have suggested changing the binomial for the North Pacific population. The set of taxonomic classifications put forth were accepted by the International Whaling Commission. NMFS revised the List of Threatened and Endangered Wildlife to reflect this on April 10, 2003 (68 FR 17560). The revised classifications are as follows: the North Atlantic right whale (*E. glacialis*); the North Pacific right whale (*E. japonica*); and the Southern right whale (*E. australis*). These classifications will be used for the purposes of this Plan, and for those of a separate plan being drafted for the North Pacific right whale. Therefore, this revised Plan addresses only status, recovery actions needed, and criteria for the North Atlantic right whale.

Historically depleted by commercial whaling, the North Atlantic right whale population at present numbers approximately 300 individuals, and is impacted both directly and indirectly by human activities primarily in the form of vessel collisions and entanglement in fishing gear. These impacts have contributed to a lack of recovery for the species.

A recovery plan was completed for the Northern right whale (*Eubalaena glacialis*) in 1991, which referred to the North Atlantic right whale as a population. NMFS has revised the Plan according to: public comments received, recent information, and a recently revised plan format. In particular, NMFS further refined recovery criteria for the species and has revised the Plan accordingly. Once finalized, NMFS will use this Plan to guide research and conservation activities designed to promote the recovery of North Atlantic right whales.

The Plan includes the following prioritized objectives to recover the North Atlantic right whale: (1) Minimize sources of human-caused death, injury, and disturbance; (2) develop demographically-based recovery criteria; (3) identify, characterize, protect, and monitor important habitats; (4) monitor the status and trends of abundance and distribution of the western North Atlantic right whale population; (5) and coordinate Federal, state, international, and private efforts to implement the Recovery Plan. The ultimate goal of the Plan is to promote the recovery of the North Atlantic right whale to a level sufficient to warrant its removal from the List of Endangered and Threatened Wildlife and Plants

under the Act. The intermediate goal is to reclassify the species from endangered to threatened.

Criteria for reclassification of the North Atlantic right whale are included in the Plan. In summary, the North Atlantic right whale may be reclassified from endangered to threatened when all of the following have been met: (1) the population structure of right whales (including, but not limited to, such parameters as abundance, growth rate, age structure, gender ratios) is indicative of a biologically significant increasing population; (2) the population has increased for a period of 20 years at an average rate of increase of 2 percent per year or more; (3) all five listing factors are addressed; and (4) given current and projected conditions, the population has no more than a 1 percent chance of quasi-extinction in 100 years. For the purposes of the Plan, quasi-extinction is defined by NMFS as a small, critical population threshold whose lower boundary may be unacceptable for the continued survival of a species. For instance, this could be the population size at which factors such as demographics, inbreeding depression, or behavioral constraints prohibit survival (Ginzburg *et al.*, 1982 as cited in Burgman *et al.*, 1993).

Criteria for delisting the North Atlantic right whale are not included in the Plan because the current abundance of North Atlantic right whales is an order of magnitude less than an abundance at which NMFS would consider delisting the species, and decades of population growth likely would be required before the population could attain such an abundance. In addition, conditions related to delisting are now too distant and hypothetical to realistically develop specific criteria. Such criteria will be included in a future revision of the Recovery Plan well before the population is at a level when delisting becomes a reasonable decision.

#### Comments and Responses

Previous public comments have been incorporated into the current updated version of the Plan. NMFS published a notice of availability of a revised draft Recovery Plan for the western North Atlantic right whale (2001 draft Plan) in the **Federal Register** on July 11, 2001 (66 FR 36260) and extended the comment period on the draft Plan on August 22, 2001 (66 FR 44115). Comments were received from 15 individuals and organizations during the comment period. Reviewers' comments and NMFS' response to the comments are discussed in this document.

The majority of comments involved updates to, or modifications of, the introductory sections of the Plan on right whale distribution, abundance, and human impact. These sections have been modified accordingly. A number of commenters commended NMFS for preparing the revised Plan and indicated that the revision was an improvement over the current (prepared in 1991) Northern Right Whale Recovery Plan.

*Comment 1:* Many commenters suggested NMFS include specific actions and tasks in the Plan, particularly actions to reduce right whale fishing gear entanglements and ship collisions. With regard to reducing ship strikes, these suggested actions included, among others, such things as restricting ship speed where right whales occur; limiting ship traffic where right whales occur; requiring fixed shipping routes to and from east coast ports; and complete avoidance by ships of areas used by right whales for feeding, nursing, and traveling. With regard to reducing entanglement in fishing gear, recommendations for specific actions included, among others, such things as prohibiting all fishing operations in waters where right whales occur; requiring knotless buoy weak links; prohibiting single lobster traps and requiring single buoy lines to multiple lobster traps; elimination of all vertical lines and fixed gear that pose a threat of entanglement; requiring remote and time-release lines; and requiring the removal of lobster gear in areas where whales are sighted.

*Response:* NMFS has considered including these specific actions in the Plan. However, many of these specific measures are being identified and implemented through other processes. For example, NMFS has developed and published in the **Federal Register** an advance notice of proposed rulemaking with proposed regulatory measures to implement a comprehensive ship strike reduction strategy which includes a number of the actions identified by commenters (69 FR 30857, 1 June 2004; public comment period extended July 9, 2004 (69 FR 41446)). In addition, NMFS identifies, assesses, develops, and implements commercial fishing operations regulations through the Atlantic Large Whale Take Reduction Plan (50 CFR 229.32). Through this process and related processes, including consultations on Federal actions under section 7 of the ESA, fishing gear advisory groups, various workshops, and other means, NMFS has implemented a number of restrictions, and is contemplating or in the process of implementing others. Therefore,

NMFS believes that the wording in the Plan is sufficiently rigorous without including specific measures being identified and implemented through other processes (e.g., specific types of changes to fishing operations). The Plan requires identifying means to: reduce the effects of human activities (i.e., entanglements and ship collisions), monitor the program being used and, if not sufficiently rigorous, implement more stringent measures to reduce or eliminate threats.

*Comment 2:* NMFS received comments recommending the removal of specific actions. Several commenters recommended deleting the action to assess intermodal transport to explore ways to reduce ship traffic in certain areas.

*Response:* NMFS agrees and the Plan has been modified. This action has been deleted.

*Comment 3:* Several commenters pointed out an inconsistency in the 2001 draft Plan regarding the inadequacy of existing regulatory mechanisms to protect right whales (one of the factors considered in listing or delisting a species). Specifically, the draft indicated that existing regulations were adequate, but further regulation may be needed.

*Response:* NMFS changed the recovery criteria in the Plan to address this comment.

*Comment 4:* With regard to the draft recovery criteria in the 2001 draft Plan, NMFS received few comments. One commenter stated “. . . the identified approach and criteria seem reasonable.”

*Response:* NMFS has further refined recovery criteria for the species and has revised the Plan accordingly.

*Comment 5:* With regard to the recovery criteria, two commenters recommended using “generation-time” rather than years.

*Response:* NMFS recognizes this as an approach that has been used in developing some recovery criteria, however, information on age at sexual maturity and other potential measures of generation time is imprecisely known in right whales. In addition, adopting the use of generation time as a unit of time for a temporal unit would be counter to the conclusions of the workshop convened by NMFS in February 2001 to develop reclassification criteria for endangered large whale species and much of the scientific literature on this issue. The 100-year criteria is more conservative than generation time and, therefore, ultimately more protective of the severely depleted North Atlantic right whale.

*Comment 6:* A number of comments concerned the designation of priorities in the implementation schedule, as well as comments aimed at clarifying the content of the table of priorities. For example, the suggestion was made to elevate the task of identifying features of right whale habitat from priority 2 to 1.

*Response:* These suggestions have been accepted and changes have been made accordingly, while also adhering to recovery planning guidelines which provide that priority 1 recovery actions are “Actions that must be taken to prevent extinction or to prevent the species from declining irreversibly.”

*Comment 7:* One commenter requested that the section on “Early Warning Surveys” (surveys that are used to determine the locations of right whales and to pass the sighting information onto mariners) be revised to indicate that (a) the main purpose of the flights is to warn mariners, and (b) that information on ship strike “near misses” be collected in a standardized way.

*Response:* These suggested changes have been made by incorporating the recommendations into specific tasks in the Recovery Program section of the Plan on reducing ship strikes.

*Comment 8:* Several commenters requested a change in the Plan to indicate that right whale photo-identification data and sighting and other information apropos to Geographic Information System studies be provided to curators of such information in a timely manner.

*Response:* NMFS has made these changes in the Recovery Program section of the Plan.

*Comment 9:* Comments were received regarding statements made in the Plan about U.S. Navy operations, specifically about the need for NMFS to have a better understanding of the types of activities undertaken by the Navy in waters where right whales occur.

*Response:* Portions of the Plan have been modified to address the concern in this comment. For example, the threats section of the Plan on “Underwater Explosive Activities” now states “As described in Appendix A, the Navy has consulted with NMFS under section 7 of the ESA on the potential effect of some of its operations on protected species. In addition, all Navy operations that introduce loud sounds into the marine environment are subject, under the MMPA, to application for and provision of small take letters of authorization from NMFS. The Navy has made a number of significant modifications to its operations to facilitate protection of right whales in their critical habitat in the SEUS. The NMFS and Navy both

understand the need to continue to keep an open dialogue, or possible formal or informal section 7 consultations, with regard to Navy operations and to evaluate ways to mitigate possible environmental impacts of the operations throughout the eastern seaboard.”

*Comment 10:* Several commenters indicated that voluntary measures (as identified in the 2001 draft Plan) to reduce ship strikes would not be adhered to by the shipping industry, and therefore, should not be considered.

*Response:* NMFS has modified the Plan by removing the task to implement voluntary ship strike reduction measures. See also response to Comment 1 regarding an advance notice of proposed rulemaking on ship strike reduction measures.

*Comment 11:* Several commenters indicated that the section of the Plan on compliance and enforcement of various right whale protective regulations needed to be amended and expanded.

*Response:* Changes have been made to the section on enforcement in the Recovery Program section of the Plan by adding a task to: “Review and assess the implementation and efficacy of the enforcement programs and take steps to improve the enforcement measures if deficiencies are identified.” The level of support of this element has been increased in the implementation plan.

*Comment 12:* Comments from two people indicated that an assessment of the boundaries of critical habitat in the northeast U.S., as well as those in the southeast U.S., should be made.

*Response:* The Plan has been revised in the Recovery Program section to address the concerns raised in this comment.

#### Public Comments Solicited

NMFS solicits written comments on the draft Revised Recovery Plan. All substantive comments received by the data specified above will be considered prior to final approval of the Plan.

#### Authority

The authority for this action is section 4(f) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*)

#### Literature Cited

Burgman, M.A., S. Ferson, and H.R. Akcakaya. 1993. *Risk Assessment in Conservation Biology*. Chapman & Hall, University Press, Cambridge. p14.

Ginzburg, L.R., L.B. Slobodkin, K. Johnson, and A.G. Bindman. 1982. Quasiextinction probabilities as a measure of impact on population growth. *Risk Analysis*. 21: 171–81.

National Marine Fisheries Service. 1991. Recovery Plan for the Northern

Right Whale (*Eubalaena glacialis*).

Prepared by the Right Whale Recovery Team for the National Marine Fisheries Service, Silver Spring, Maryland. 86pp.

Dated: August 25, 2004.

#### Donna Wieting,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–19775 Filed 8–30–04; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 040517149–4242–02; I.D. 050304C]

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the United States; Essential Fish Habitat; Re-opening Comment Period

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

**ACTION:** Notice to re-open comment period; receipt of rulemaking petition to protect deep-sea coral and sponge habitat; request for comments.

**SUMMARY:** The NMFS announced in the *Federal Register* on June 14, 2004, the receipt of a petition for rulemaking under the Administrative Procedure Act. Oceana, a non-governmental organization, petitioned the U.S. Department of Commerce to promulgate a rule to protect deep-sea coral and sponge habitats in the U.S. Exclusive Economic Zone (EEZ). The public comment period for that notice closed August 13, 2004. By this notice, NMFS announces the re-opening of the public comment period on the rulemaking petition to protect deep-sea coral and sponge habitat and to ensure thorough public comment.

**DATES:** Written comments will be accepted through October 15, 2004.

Comments that were received between August 13, 2004, and August 31, 2004 will also be deemed timely received.

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

- E-mail: [DSC-EFH@noaa.gov](mailto:DSC-EFH@noaa.gov). Include in the subject line of the e-mail comment the following identifier: DSC Petition.

- Mail: Rolland A. Schmitten, Director, Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC, 1315 East-West Highway, Silver Spring, MD 20910.

- Fax: (301) 427–2572.

The complete text of Oceana’s petition is available via the internet at the following web address: [http://www.nmfs.noaa.gov/habitat/habitatconservation/DSC\\_petition/Oceana](http://www.nmfs.noaa.gov/habitat/habitatconservation/DSC_petition/Oceana). In addition, copies of this petition may be obtained by contacting NMFS at the above address.

**FOR FURTHER INFORMATION CONTACT:** Tom Hourigan at 301–713–3459 ext. 122.

**SUPPLEMENTARY INFORMATION:** On June 14, 2004 (69 FR 32991), NMFS announced the receipt of a rulemaking petition to protect deep-sea coral and sponge habitat and requested comments until August 13, 2004. NMFS received a request to extend the public comment period to allow more time to review of existing science and to address the petition’s requests. NMFS decided to re-open the comment period from August 31, 2004 to October 15, 2004 to allow Fishery Management Councils, Federal agencies, science organizations, and the general public more time to consider the petition’s recommendations to ensure thorough public comment. Comments that were received between August 13, 2004, and August 31, 2004 will also be deemed timely received.

The petition filed by Oceana states that deep-sea coral and sponge habitat are comprised of long-lived, slow-growing organisms that are especially vulnerable to destructive fishing practices, such as the use of bottom-tending mobile fishing gear. The petition cites that without immediate protection, many of these sensitive deep-sea coral and sponge habitats will suffer irreparable harm.

The petition cites specific legal responsibilities of NMFS for essential fish habitat (EFH) and Habitat Areas of Particular Concern (HAPCs) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the EFH guidelines at 50 CFR 600, subparts J and K, and concludes that NMFS must: identify and describe deep-sea coral and sponge habitats as EFH; designate some, if not all, of these habitat types as HAPCs; take appropriate measures to minimize to the extent practicable adverse fishing effects on this EFH; and protect such habitat from other forms of destructive activity. The petition gives a short overview of known deep-sea coral and sponge habitat in regions off the mainland United States, including areas known in the Alaska, Pacific, Northeast and Mid-Atlantic, Southeast, and Gulf of Mexico fishery management regions. The petition asserts that deep-sea coral and sponge habitats satisfy the definition of EFH in the Magnuson-