

programming. To facilitate the development of a thorough record, the deadline for filing comments in response to the NPRM is extended to January 4, 2008, and the deadline for filing reply comments is extended to January 22, 2008.

**DATES:** Comments are due on or before January 4, 2008; reply comments are due on or before January 22, 2008.

**ADDRESSES:** You may submit comments, identified by MB Docket No. 07-198, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** David Konczal, [David.Konczal@fcc.gov](mailto:David.Konczal@fcc.gov), of the Media Bureau, Policy Division, (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Order in MB Docket No. 07-198, DA 07-4688, released on November 20, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

### Summary of the Order

1. On October 1, 2007, the Commission released an NPRM in MB Docket No. 07-198 on revisions to the

Commission's program access and retransmission consent rules and whether it may be appropriate to preclude the practice of programmers to tie desired programming with undesired programming. The NPRM set deadlines for filing comments and reply comments at 30 and 45 days, respectively, after publication of the NPRM in the **Federal Register**. A summary of the NPRM was published in the **Federal Register** on October 31, 2007 (72 FR 61590, October 31, 2007). Accordingly, the comment filing dates were established as November 30, 2007 for comments and December 17, 2007 for reply comments.

2. On November 2, 2007, Fox Entertainment Group, Inc. and Fox Television Holdings, Inc. (collectively, "Fox") and Viacom Inc. ("Viacom") filed requests for a 45-day extension of the comment deadline. Similar requests were subsequently filed by NBC Universal, Inc. ("NBCU") and The Walt Disney Company ("Disney"). The parties argue that the issues raised in the NPRM are highly complex and that a 30-day comment period does not enable them to gather the necessary data to respond effectively. The parties argue that additional time will enable them to survey executives in their broadcast and cable divisions and to retain experts to perform economic analyses. The parties state that additional time to respond to the NPRM will serve the public interest by facilitating a more complete record. Fox also contends that the holiday season compounds the difficulties of responding to the NPRM by the comment deadline. Viacom argues that the issues raised in a recent class action lawsuit filed against Viacom and others regarding the offering of bundled and tiered programming packages are closely related to the issues raised in the NPRM. Viacom requests an extension of the comment deadline to ensure a coordinated and comprehensive response to this lawsuit and to the NPRM. The parties further assert that a 45-day extension of the comment deadline will cause no hardship or prejudice to other interested parties or to the Commission.

3. As set forth in Section 1.46 of the Commission's Rules, the Commission's policy is that extensions of time for filing comments in rulemaking proceedings shall not be routinely granted. 47 CFR 1.46. In this case, however, an extension of the comment and reply comment period is warranted to enable commenters to gather sufficient data, including economic analyses, to facilitate the development of a thorough record in response to the issues raised in the NPRM. We decline, however, to grant the full 45-day

extension requested by the parties. With the additional extension granted herein, interested parties will now have a total of 65 days to prepare comments. We believe that this provides parties with ample time to respond to the issues raised in the NPRM.

4. Accordingly, we hereby grant the Motions for Extension of Time filed in MB Docket No. 07-198 by Disney, Fox, NBCU, and Viacom to the extent detailed above. The time for filing comments is extended to January 4, 2008, and the time for filing reply comments is extended to January 22, 2008.

5. This action is taken pursuant to authority found in Sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), and Sections 0.61, 0.283, and 1.46 of the Commission's rules, 47 CFR 0.61, 0.283, and 1.46.

6. Specific instructions for filing comments are located at paragraphs 26-27 of the item as published in the **Federal Register** and at paragraphs 139-142 of the item as released by the Commission and that appears on the Commission's Web site: [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-07-169A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-07-169A1.doc).

Federal Communications Commission.

**Steven A. Broecker**,

*Senior Deputy Chief, Policy Division, Media Bureau.*

[FR Doc. E7-25130 Filed 12-27-07; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 226

[Docket No. 071214845-7848-01]

RIN 0648-XE13

#### Listing Endangered and Threatened Wildlife and Designating Critical Habitat; 90-day Finding for a Petition to Revise the Critical Habitat Designation for the Leatherback Turtle

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

**ACTION:** Notice of petition finding; request for information and comments.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), announce a 90-day finding for a petition to revise leatherback turtle (*Dermochelys coriacea*) critical habitat under the Endangered Species Act of 1973, as

amended (ESA). The leatherback turtle is currently listed as endangered throughout its range, and critical habitat consists of Sandy Point Beach and adjacent waters, St. Croix, U.S. Virgin Islands. The petition seeks to include waters along the U.S. West Coast as critical habitat. We find that the petition presents substantial scientific information indicating that the petitioned action may be warranted.

We are initiating a review of the critical habitat of the species to determine whether the petitioned action is warranted. To ensure a comprehensive review, we solicit information and comments pertaining to this species' essential habitat needs from any interested party.

**DATES:** Written comments and information related to this petition finding must be received [see **ADDRESSES**] by February 26, 2008.

**ADDRESSES:** You may submit comments, identified by [0648-XE13], by any one of the following methods: (1) Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal at <http://www.regulations.gov>; (2) Fax: 301-427-2522, attention: Therese Conant; and (3) mail: addressed to the Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

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:** Therese Conant by phone 301-713-2322, fax 301-427-2522, or e-mail [therese.conant@noaa.gov](mailto:therese.conant@noaa.gov); Christina Fahy by phone 562-980-4023, fax 562-980-4027, or e-mail [christina.fahy@noaa.gov](mailto:christina.fahy@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Critical habitat is defined in the ESA (16 U.S.C. 1531 *et seq.*) as:

“(i) 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 (ii) 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.”

Our implementing regulations (50 CFR 424.12) describe those essential physical and biological features to include, but not be limited to: (1) space for individual and population growth, and normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distribution of a species. We are required to focus on the primary constituent elements (PCEs), which best represent the principal biological or physical features. PCEs may include, but are not limited to: nesting grounds, feeding sites, water quality, tide, and geological formation. Our implementing regulations (50 CFR 424.02) define “special management considerations or protection” as any method or procedure useful in protecting physical and biological features of the environment for the conservation of the species.

Section 4(b)(2) of the ESA requires us to designate and make revisions to critical habitat for listed species based on the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any particular area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines that the failure to designate such area as critical habitat will result in the extinction of the species concerned. We are required to consider whether the petition contains information indicating that areas petitioned contain physical and biological features essential to, and that may require special management to provide for, the conservation of the species. Section 4(b)(3)(D)(i) of the ESA requires us to make a finding as to whether a petition to revise critical habitat presents substantial scientific information indicating that the revision 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 revision may be warranted, within 12 months after receiving the petition, we are required to determine how we intend to proceed with the requested revision and promptly publish notice of such intention in the **Federal Register**. See ESA Section 4(b)(3)(D)(ii).

##### **Analysis of Petition**

On October 2, 2007, we received a petition from the Center for Biological Diversity, Oceana, and Turtle Island Restoration Network (Petitioners) to revise the leatherback sea turtle critical habitat designation. Current critical habitat consists of terrestrial shoreline at Sandy Point Beach, St. Croix, U.S. Virgin Islands (50 CFR 17.95), and adjacent waters up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17° 42'12" N. and 64° 50'00" W (50 CFR 226.207). The Petitioners seek to revise the critical habitat designation to include the area we currently manage under the authority of the Magnuson-Stevens Fishery Conservation and Management Act to reduce leatherback interactions in the California/Oregon drift gillnet fishery targeting swordfish and thresher shark. This area encompasses roughly 200,000 square miles (321,870 km<sup>2</sup>) of the Exclusive Economic Zone from 45° deg; N latitude about 100 miles (160 km) south of the Washington/Oregon border southward to Pt. Sur and along a diagonal line due west of Pt. Conception, California, and west to 129° W longitude. Under the current regulations implementing the Highly Migratory Species Fishery Management Plan, drift gillnet gear is prohibited in this area from August 15<sup>th</sup> through November 15<sup>th</sup> (50 CFR 660.713).

The petition contains a detailed description of the species' natural history and status, including information on distribution and movements, feeding and prey selection, reproduction, population status and trends, and factors contributing to the current status of the species in the Pacific Ocean. The petition describes the marine area off Oregon and California as unique, characterized by

distinctive oceanographic and geomorphic features that create a dynamic and highly productive ecosystem. The petition describes oceanographic conditions such as upwellings (i.e., the movement of nutrient-rich subsurface waters to the surface) that favor increased zooplankton production. The petitioners cite studies indicating a positive relationship with leatherback presence and these conditions (Benson *et al.*, 2007a) and that leatherbacks migrate to and forage in the area (Benson *et al.*, 2007b).

The Petitioners claim the petitioned area provides space for population growth and normal behavior and is a known crucial feeding site for leatherbacks. The Petitioners believe the area contains physical and biological features essential to the conservation of leatherback sea turtles. They offer that the PCEs should be those habitat components that are essential for feeding, resting, migrating, and include all marine waters, along with associated marine aquatic flora and fauna in the water column, and the underlying marine benthic community. The petitioners argue that the area requires special management considerations as evidenced by the existing measures to reduce leatherback interactions with fisheries. They claim the area should be managed for other fisheries, marine debris, vessel strikes, oil spills, coastal development, and changing ocean conditions brought on by global warming.

Finally, the Petitioners request that, if we determine some portion of the petitioned area does not meet the criteria for critical habitat, we analyze whether some subset of this area should be designated as critical habitat.

#### Petition Finding

Based on the above information and information readily available in our files, and pursuant to criteria specified in 50 CFR 424.14(c), we find the petitioners present substantial scientific information indicating that a revision to the critical habitat designation for leatherbacks may be warranted. Our Southwest Fisheries Science Center has conducted research on leatherbacks foraging within and migrating through the petition area. Several female leatherbacks nesting in Indonesia made trans-Pacific post-nesting migrations to foraging areas off the coasts of Oregon and Washington (Benson *et al.*, 2007a; Benson unpublished data, 2007). Benson *et al.*, (2007b) found that leatherbacks associate with areas along the U.S. West Coast where nutrient-rich, upwelling water is entrained nearshore.

These areas provide increased retention of zooplankton, larval fish, crabs, and gelatinous organisms and represent important foraging grounds for leatherbacks.

To ensure that the review to revise critical habitat for leatherbacks is complete and based on the best available data, we solicit information and comments on whether the petitioned area, or some subset, or some adjacent areas along the U.S. West Coast, qualify as critical habitat. Areas that include the physical and biological features essential to the conservation of the species and that may require special management considerations or protection should be identified. As stated earlier, essential features include, but are not limited to, space for individual growth and for normal behavior, food, water, air, light, minerals, or other nutritional or physiological requirements, cover or shelter, sites for reproduction and development of offspring, and 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. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address (see **ADDRESSES**).

#### Peer Review

OMB issued its Final Information Quality Bulletin for Peer Review on December 16, 2004. The Bulletin went into effect June 16, 2005, and generally requires that all “influential scientific information” and “highly influential scientific information” disseminated on or after that date be peer reviewed. Because the information used to evaluate this petition may be considered “influential scientific information,” we solicit the names of recognized experts in the field that could serve as peer reviewers of such information we may disseminate as we evaluate this petition. 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

Benson, S.R., K.A. Forney, J.T. Harvey, J.V. Carretta, and P.H. Dutton. 2007a. Abundance, distribution, and

habitat of leatherback turtles (*Dermodochelys coriacea*) off California, 1990–2003). Fisheries Bulletin. 105:337–347.

Benson, S.R., P.H. Dutton, C. Hittipeuw, B. Samber, J. Bakarbesy, and D. Parker. 2007b. Post-Nesting Migrations of Leatherback Turtles (*Dermodochelys coriacea*) from Jamursba-Medi, Bird’s Head Peninsula, Indonesia. Chelonian Conservation and Biology. 6(1):150–154.

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

Dated: December 20, 2007.

**Samuel D. Rauch III,**

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

[FR Doc. E7–25268 Filed 12–27–07; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

**RIN 0648–AU29**

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 15A

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

**ACTION:** Notice of Availability of Amendment 15A to the South Atlantic Snapper-Grouper Fishery Management Plan; request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) has submitted Amendment 15A to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 15A proposes actions to update management reference points for snowy grouper, black sea bass, and red pogy based on the most recent stock assessments; modify rebuilding schedules for snowy grouper and black sea bass; define rebuilding strategies for snowy grouper, black sea bass, and red pogy; and redefine the minimum stock size threshold for the snowy grouper stock. The measures contained in the subject amendment are intended to satisfy a U.S. District Court Order to establish rebuilding plans for South Atlantic snowy grouper and black sea bass and for the Secretary of Commerce (Secretary) to approve,