

direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: February 1, 2012.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2012-10103 Filed 4-26-12; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MB Docket No. 12-92; RM-11650; DA 12-552]

#### Radio Broadcasting Services; Centerville and Midway, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by Katherine Pyeatt, proposing the allotment of Channel 267A at Midway, Texas, as its first local service; and the substitution of Channel 232A for vacant Channel 267A at Centerville, Texas to accommodate the proposed Midway allotment. Channel 267A can be allotted to Midway consistent with the minimum distance separation requirements of the Rules with a site restriction 7.6 kilometers (4.7 miles) northwest of the community. The reference coordinates for Channel 267A at Midway are 31-03-42 NL and 95-49-06 WL. Additionally, Channel 232A can be allotted to Centerville consistent with the minimum distance separation requirement of the Rules with a site restriction 10.6 kilometers (6.6 miles) northwest of Centerville. The reference coordinates for Channel 232A at Centerville are 31-19-03 NL and 96-03-54 WL.

**DATES:** Comments must be filed on or before May 29, 2012, and reply comments on or before June 13, 2012.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th

Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Katherine Pyeatt, 2215 Cedar Springs Road, #1605, Dallas, Texas 75201.

**FOR FURTHER INFORMATION CONTACT:**  
Rolanda F. Smith, Media Bureau, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 12-92, adopted April 5, 2012, and released April 6, 2012. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 Twelfth Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or via email [www.BCPIWEB.com](http://www.BCPIWEB.com). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.  
Federal Communications Commission.  
**Nazifa Sawez,**  
*Assistant Chief, Audio Division, Media Bureau.*

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336 and 339.

### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 267A and by adding Channel 232A at Centerville; and by adding Midway, Channel 267A.

[FR Doc. 2012-10269 Filed 4-26-12; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R8-ES-2012-N073; FF0800000-FXES11130800000C4-123]

#### Endangered and Threatened Wildlife and Plants; 5-Year Reviews of Species in California and Nevada

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

**ACTION:** Notice of 5-year reviews.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, are initiating 5-year reviews for 25 species under the Endangered Species Act of 1973, as amended (Act). We conduct these reviews to ensure that our classification of species on the Lists of Endangered and Threatened Wildlife and Plants as threatened or endangered is accurate. A 5-year review assesses the best scientific and commercial data available at the time of the review. We are requesting any information that has become available since our last 5-year review of each of these species. Based on review results, we will determine whether we should change the listing status of any of these species. In this notice, we also announce 5-year reviews that were completed for 28 species in California and Nevada between March 17, 2011, and February 29, 2012.

**DATES:** To ensure consideration, please send your written information by June 26, 2012.

**ADDRESSES:** For how and where to send comments or information, *see* "VIII., Contacts."

**FOR FURTHER INFORMATION CONTACT:** For species-specific information, contact the appropriate person listed under "VIII., Contacts." For contact information about completed 5-year reviews, *see* "IX., Completed 5-Year Reviews."

Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at (800) 877–8337 for TTY assistance.

#### SUPPLEMENTARY INFORMATION:

##### I. Why do we conduct 5-year reviews?

Under the Act (16 U.S.C. 1531 *et seq.*), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Then, under section 4(c)(2)(B), we determine whether to remove any species from the List (delist), to reclassify it from endangered to threatened, or to reclassify it from

threatened to endangered. Any change in Federal classification requires a separate rulemaking process.

In classifying, we use the following definitions, from 50 CFR 424.02:

(A) *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, that interbreeds when mature;

(B) *Endangered species* means any species that is in danger of extinction throughout all or a significant portion of its range; and

(C) *Threatened species* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

We must support delisting by the best scientific and commercial data

available, and only consider delisting if data substantiate that the species is neither endangered nor threatened for one or more of the following reasons (50 CFR 424.11(d)):

(A) The species is considered extinct;

(B) The species is considered to be recovered; or

(C) The original data available when the species was listed, or the interpretation of data, were in error.

Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing the species we are reviewing.

##### II. What species are under review?

This notice announces our active 5-year status reviews of the species in Table 1.

TABLE 1—CURRENT LISTING STATUS OF SPECIES UNDER 5-YEAR STATUS REVIEW, INCLUDING 5 ANIMAL SPECIES AND 20 PLANT SPECIES IN CALIFORNIA AND NEVADA

Common name	Scientific name	Status	Where listed	Final listing rule
<b>ANIMALS</b>				
Independence Valley speckled dace	<i>Rhinichthys osculus lethoporus</i> ...	Endangered .....	U.S.A. (NV) .....	October 10, 1989 (54 FR 41448).
Paiute cutthroat trout .....	<i>Oncorhynchus clarki seleniris</i> .....	Threatened .....	U.S.A. (CA) .....	July 16, 1975 (40 FR 29863).
Riverside fairy shrimp .....	<i>Streptocephalus woottoni</i> .....	Endangered .....	U.S.A. (CA) .....	August 3, 1993 (58 FR 41384).
San Diego fairy shrimp .....	<i>Branchinecta sandiegonensis</i> .....	Endangered .....	U.S.A. (CA) .....	February, 3 1997 (62 FR 4925).
Sierra Nevada bighorn sheep .....	<i>Ovis canadensis sierrae</i> .....	Threatened .....	U.S.A. (CA) .....	January 3, 2000 (65 FR 20).
<b>PLANTS</b>				
Ben Lomond wallflower .....	<i>Erysimum teretifolium</i> .....	Endangered .....	U.S.A. (CA) .....	February 4, 1994 (59 FR 5499).
Burke's goldfields .....	<i>Lasthenia burkei</i> .....	Endangered .....	U.S.A. (CA) .....	December 2, 1991 (56 FR 61173).
Butte County meadowfoam .....	<i>Limnanthes floccosa</i> subsp. <i>californica</i> .	Endangered .....	U.S.A. (CA) .....	June 8, 1992 (57 FR 24192).
Colusa grass .....	<i>Neostapfia colusana</i> .....	Threatened .....	U.S.A. (CA) .....	March 26, 1997 (62 FR 14338).
Contra Costa goldfields .....	<i>Lasthenia conjugens</i> .....	Endangered .....	U.S.A. (CA) .....	June 18, 1997 (62 FR 33029).
Few-flowered navarretia .....	<i>Navarretia leucocephala</i> subsp. <i>pauciflora</i> .	Endangered .....	U.S.A. (CA) .....	June 18, 1997 (62 FR 33029).
Greene's tectoria .....	<i>Tectoria greenei</i> .....	Endangered .....	U.S.A. (CA) .....	March 26, 1997 (62 FR 14338).
Island barberry .....	<i>Berberis pinnata</i> subsp. <i>insularis</i>	Endangered .....	U.S.A. (CA) .....	July 31, 1997 (62 FR 40954).
Island phacelia .....	<i>Phacelia insularis</i> var. <i>insularis</i> ....	Endangered .....	U.S.A. (CA) .....	July 31, 1997 (62 FR 40954).
Lyon's pentachaeta .....	<i>Pentachaeta lyonii</i> .....	Endangered .....	U.S.A. (CA) .....	January 29, 1997 (62 FR 4172).
Marsh sandwort .....	<i>Arenaria paludicola</i> .....	Endangered .....	U.S.A. (CA) .....	August 3, 1993 (58 FR 41378).
Menzies' wallflower .....	<i>Erysimum menziesii</i> .....	Endangered .....	U.S.A. (CA) .....	June 22, 1992 (50 FR 27848).
Peirson's milk-vetch .....	<i>Astragalus magdalenae</i> var. <i>peirsonii</i> .	Threatened .....	U.S.A. (CA) .....	October 6, 1998 (63 FR 53596).
Purple amole .....	<i>Chlorogalum purpureum</i> .....	Threatened .....	U.S.A. (CA) .....	March 20, 2000 (65 FR 14878).
Sacramento Orcutt grass .....	<i>Orcuttia viscida</i> .....	Endangered .....	U.S.A. (CA) .....	March 28, 1997 (62 FR 14338).
San Bernardino bluegrass .....	<i>Poa atropurpurea</i> .....	Endangered .....	U.S.A. (CA) .....	September 14, 1998 (63 FR 49006).
Sebastopol meadowfoam .....	<i>Limnanthes vinculans</i> .....	Endangered .....	U.S.A. (CA) .....	December 2, 1991 (56 FR 61173).
Sonoma sunshine .....	<i>Blennosperma bakeri</i> .....	Endangered .....	U.S.A. (CA) .....	December 2, 1991 (56 FR 61173).
Vail Lake ceanothus .....	<i>Ceanothus ophiochilus</i> .....	Threatened .....	U.S.A. (CA) .....	October 13, 1998 (63 FR 54956).
Willowy monardella .....	<i>Monardella viminea</i> .....	Endangered .....	U.S.A. (CA) .....	October 13, 1998 (63 FR 54938).

##### III. What information do we consider in our review?

We consider all new information available at the time we conduct a 5-year status review. We consider the best

scientific and commercial data that has become available since our current listing determination or most recent status review, such as:

(A) Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

(B) Habitat conditions, including but not limited to amount, distribution, and suitability;

(C) Conservation measures that have been implemented that benefit the species;

(D) Threat status and trends (see five factors under heading “IV., How Do We Determine Whether a Species Is Endangered or Threatened?”); and

(E) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

We specifically request information regarding data from any systematic surveys, as well as any studies or analysis of data that may show population size or trends; information pertaining to the biology or ecology of these species; information regarding the effects of current land management on population distribution and abundance; information on the current condition of habitat; and recent information regarding conservation measures that have been implemented to benefit the species. Additionally, we specifically request information regarding the current distribution of populations and evaluation of threats faced by the species in relation to the five listing factors (as defined below and in section 4(a)(1) of the Act) and the species' listed status as judged against the definition of threatened or endangered. Finally, we request recommendations pertaining to the development of, or potential updates to, recovery plans and additional actions or studies that would benefit these species in the future.

#### **IV. How do we determine whether a species is endangered or threatened?**

Section 4(a)(1) of the Act requires that we determine whether a species is endangered or threatened based on one or more of the five following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

Under section 4(b)(1) of the Act, we must base our assessment of these factors solely on the best scientific and commercial data available.

#### **V. What could happen as a result of our review?**

For each species under review, if we find new information that indicates a change in classification may be warranted, we may propose a new rule that could do one of the following:

(A) Reclassify the species from threatened to endangered (uplist);

(B) Reclassify the species from endangered to threatened (downlist); or

(C) Remove the species from the List (delist).

If we determine that a change in classification is not warranted, then the species remains on the List under its current status.

#### **VI. Request for New Information**

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See “III., What Information Do We Consider in Our Review?” for specific criteria. If you submit information, support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

Submit your comments and materials to the appropriate Fish and Wildlife Office listed under “VIII., Contacts.”

#### **VII. Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

#### **VIII. Contacts**

Send your comments and information on the following species, as well as requests for information, to the corresponding contacts/addresses. You may view information we receive in response to this notice, as well as other documentation in our files, at the following locations by appointment, during normal business hours.

For the Menzies' wallflower, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and

Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521. Information may also be submitted electronically at [arcata@fws.gov](mailto:arcata@fws.gov). To obtain further information, contact Kathleen Brubaker at (707) 822–7201.

For the Peirson's milk-vetch, Riverside fairy shrimp, San Bernardino bluegrass, San Diego fairy shrimp, Vail Lake ceanothus, and Willowy monardella, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Suite 101, Carlsbad, CA 92011. Information may also be submitted electronically at [fw8cfwocomments@fws.gov](mailto:fw8cfwocomments@fws.gov). To obtain further information, contact Bradd Baskerville-Bridges at the Carlsbad Fish and Wildlife Office at (760) 431–9440.

For the Independence Valley speckled dace and Paiute cutthroat trout, send information to State Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, Nevada 89502–7147. Information may also be submitted electronically at [fw1nfwo\\_5yr@fws.gov](mailto:fw1nfwo_5yr@fws.gov). To obtain further information, contact Jill Ralston at the Nevada Fish and Wildlife Office at (775) 861–6300.

For the Burke's goldfields, Butte County meadowfoam, Colusa grass, Contra Costa goldfields, few-flowered navarretia, Greene's tectoria, Sacramento Orcutt grass, Sebastopol meadowfoam, and Sonoma sunshine, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825. Information may also be submitted electronically at [fw1sf05year@fws.gov](mailto:fw1sf05year@fws.gov). To obtain further information, contact Josh Hull at the Sacramento Fish and Wildlife Office at (916) 414–6600.

For the Ben Lomond wallflower, island barberry, island phacelia, Lyon's pentachaeta, marsh sandwort, purple amole, and Sierra Nevada bighorn sheep, send information to Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003. Information may also be submitted electronically at [fw8vfw05year@fws.gov](mailto:fw8vfw05year@fws.gov). To obtain further information on the animal species, contact Mike McCrary at the Ventura Fish and Wildlife Office at (805) 644–1766. To obtain further information on the plant species, contact Connie Rutherford at the Ventura Fish and Wildlife Office at (805) 644–1766.

All electronic information must be submitted in Text format or Rich Text format. Include the following identifier in the subject line of the email: Information on 5-year review for [NAME OF SPECIES], and include your name and return address in the body of your message.

#### IX. Completed 5-Year Reviews

We also take this opportunity to inform the public of 5-year reviews that we completed between March 17, 2011, and February 29, 2012, for 28 species in California and Nevada (Table 2).

Reviews for these 28 species can be

found at <http://www.fws.gov/endangered/species/index.html>. Any recommended change in listing status resulting from these completed reviews will require a separate rulemaking process.

**TABLE 2—SUMMARY OF 28 SPECIES IN CALIFORNIA AND NEVADA FOR WHICH 5-YEAR REVIEWS WERE COMPLETED BETWEEN MARCH 17, 2011 AND FEBRUARY 29, 2012**

Common name	Scientific name	Recommendation	Lead fish and wildlife office	Contact
<b>ANIMALS</b>				
Alameda whipsnake (=striped racer).	<i>Masticophis lateralis euryxanthus</i>	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Buena Vista Lake shrew .....	<i>Sorex ornatus relicus</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
California freshwater shrimp ..	<i>Syncaris pacifica</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Little Kern golden trout .....	<i>Oncorhynchus aguabonita whitei</i> .	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Lotis blue butterfly .....	<i>Lycaeides argyrogynomon lotis</i> .	No status change .....	Arcata .....	Kathleen Brubaker, (707) 822–7201.
Morro Bay kangaroo rat .....	<i>Dipodomys heermanni morroensis</i> .	No status change .....	Ventura .....	Mike McCrary, (805) 644–1766.
Peninsular bighorn sheep .....	<i>Ovis Canadensis</i> .....	No status change .....	Carlsbad .....	Bradd Baskerville-Bridges, (760) 431–9440.
Stephens' kangaroo rat .....	<i>Dipodomys stephensi</i> .....	Downlist .....	Carlsbad .....	Bradd Baskerville-Bridges, (760) 431–9440.
<b>PLANTS</b>				
Ash Meadows sunray .....	<i>Enceliopsis nudicaulis</i> var. <i>corrugata</i> .	No status change .....	Nevada .....	Jill Ralston, (775) 861–6300.
Bakersfield cactus .....	<i>Opuntia treleasei</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Beach layia .....	<i>Layia carnosa</i> .....	Downlist .....	Arcata .....	Kathleen Brubaker, (707) 822–7201.
Ben Lomond spineflower .....	<i>Chorizanthe pungens</i> var. <i>hartwegiana</i> .	No status change .....	Ventura .....	Connie Rutherford, (805) 644–1766.
Coyote ceanothus .....	<i>Ceanothus ferrisiae</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Encinitas baccharis .....	<i>Baccharis vanessae</i> .....	No status change .....	Carlsbad .....	Bradd Baskerville-Bridges, (760) 431–9440.
Fleshy owl's-clover .....	<i>Castilleja campestris</i> subsp. <i>succulenta</i> .	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Gambel's watercress .....	<i>Nasturtium gambelii</i> .....	No status change .....	Ventura .....	Connie Rutherford, (805) 644–1766.
Gaviota tarplant .....	<i>Deinandra increscens</i> subsp. <i>villosa</i> .	No status change .....	Ventura .....	Connie Rutherford, (805) 644–1766.
Hoffmann's rock-cress .....	<i>Arabis hoffmannii</i> .....	No status change .....	Ventura .....	Connie Rutherford, (805) 644–1766.
Howell's spineflower .....	<i>Chorizanthe howellii</i> .....	No status change .....	Arcata .....	Kathleen Brubaker, (707) 822–7201.
Kneeland prairie pennycress	<i>Thlaspi californicum</i> .....	No status change .....	Arcata .....	Kathleen Brubaker, (707) 822–7201.
Marin dwarf-flax .....	<i>Hesperolinon congestum</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Pedate checkermallow .....	<i>Sidalcea pedata</i> .....	No status change .....	Carlsbad .....	Bradd Baskerville-Bridges, (760) 431–9440.
Pennell's bird's-beak .....	<i>Cordylanthus tenuis</i> subsp. <i>capillaris</i> .	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
San Mateo woolly sunflower ..	<i>Eriophyllum latilobum</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Sonoma alopecurus .....	<i>Alopecurus aequalis</i> var. <i>sonomensis</i> .	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Tiburon mariposa lily .....	<i>Calochortus tiburonensis</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Vine Hill clarkia .....	<i>Clarkia imbricata</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.
Yellow larkspur .....	<i>Delphinium luteum</i> .....	No status change .....	Sacramento .....	Josh Hull, (916) 414–6600.

## X. Authority

We publish this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 30, 2012.

**Margaret T. Kolar,**

*Acting Regional Director, Pacific Southwest Region, U.S. Fish and Wildlife Service.*

[FR Doc. 2012-10212 Filed 4-26-12; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 640

RIN 0648-BB44

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 11

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

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

**SUMMARY:** NMFS announces that the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 11 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP) for review, approval, and implementation by NMFS. Amendment 11 proposes to limit spiny lobster fishing using trap gear in certain areas in the exclusive economic zone off the Florida Keys to protect threatened species of corals.

**DATES:** Written comments must be received on or before June 26, 2012.

**ADDRESSES:** You may submit comments on the amendment identified by "NOAA-NMFS-2011-0223" by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the "Instructions" for submitting comments.
- *Mail:* Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**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 (enter N/A in the required field if you wish to remain anonymous).

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2011-0223" in the search field and click on "search." After you locate the document "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 11," click the "Submit a Comment" link in that row. This will display the comment web form. You can then enter your submitter information (unless you prefer to remain anonymous), and type your comment on the web form. You can also attach additional files (up to 10MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this notice will not be considered.

For further assistance with submitting a comment, see the "Commenting" section at <http://www.regulations.gov/#faqs> or the Help section at <http://www.regulations.gov>.

Electronic copies of Amendment 11 may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727-824-5305, or email: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The spiny lobster fishery of the Gulf of Mexico (Gulf) and the South Atlantic is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR parts 622 and 640 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

## Background

As required under the Endangered Species Act (ESA), NMFS completed a formal consultation, and resulting biological opinion, on the continued authorization of the Gulf of Mexico and South Atlantic spiny lobster fishery in 2009 (<http://sero.nmfs.noaa.gov/pr/esa/Fishery%20Biops/Final%20SL%20BO.pdf>). The biological opinion contained specific terms and conditions required to implement the prescribed reasonable and prudent measures (RPMs), including creation of new or expansion of existing closed areas to protect coral and implementation of trap

line-marking requirements. These actions were originally included in Amendment 10 to the FMP; however, the Councils chose to take no action in Amendment 10 to the FMP to allow for additional stakeholder input into the development of any potential areas closed to spiny lobster harvest and trap line-marking requirements.

## Actions Contained in Amendment 11

Amendment 11 considered actions to prohibit spiny lobster trap fishing in designated areas in the Florida Keys to protect threatened *Acropora* species of coral and to require markings on lobster trap lines unique to the spiny lobster fishery.

### Lobster Trap Gear Closed Areas

The ESA requires analyses to determine whether, and to what extent, fishing operations impact threatened species such as threatened staghorn and elkhorn corals. The 2009 biological opinion on the spiny lobster fishery requires NMFS and the Councils to work together to protect areas of staghorn and elkhorn coral. RPMs included expansion of existing or creation of new areas closed to lobster trap fishing where colonies of these threatened coral species are present.

Staff from the Councils and NMFS worked with various stakeholders to develop the proposed lobster trap gear closed areas. Areas were chosen to protect colonies with high conservation value and areas of high coral density. Lobster trap fishing would be prohibited in the proposed closed areas. The 60 proposed closed areas would cover 5.9 mi<sup>2</sup> (15.3 km<sup>2</sup>) and are distributed throughout the Florida Keys.

### Spiny Lobster Trap Line Markings

As described in Amendment 11, trap lines or rope are consistently found as marine debris and most frequently recovered without the buoys or traps still attached. These conditions cause significant difficulty for NMFS and other agencies when determining if line found in the environment, or entangling protected species, originated from the spiny lobster trap fishery. Trap line marking requirements are intended to allow greater accuracy in identifying fishery interaction impacts to benthic habitats and protected species by leading to more targeted measures to reduce the level and severity of those impacts. However, costs and labor for the spiny lobster fishery to mark their lobster trap gear could be high, with little evidence of the durability of the markings. The Florida Fish and Wildlife Conservation Commission is currently conducting a study of various methods